

S E N A T E - A S S E M B L Y

February 1, 2011

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend chapters 50, 54, 55 and 108 of the laws of 2010, making appropriations for the support of government

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 1 of chapter 50 of the laws of 2010, enacting the  
2 the public protection and general government budget, is amended by  
3 repeal the items hereinbelow set forth in brackets and by adding to such  
4 section the other items underscored in this section.

5 PUBLIC PROTECTION AND GENERAL GOVERNMENT BUDGET  
6 DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES  
7 STATE OPERATIONS AND AID TO LOCALITIES 2010-11

8 FIRE PREVENTION AND CONTROL PROGRAM ..... 18,079,700  
9 -----

10 Special Revenue Funds - Other / Aid to Localities  
11 Miscellaneous Special Revenue Fund - 339  
12 [Local Wireless Public Safety Answering Point Account]  
13 STATEWIDE PUBLIC SAFETY COMMUNICATIONS ACCOUNT

14 For expenses of local wireless public safety  
15 answering points associated with eligible  
16 wireless 911 service costs. Notwithstand-  
17 ing any other provision of law to the  
18 contrary, for state fiscal year 2010-2011  
19 the liability of the state and the amount

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

1 to be distributed or otherwise expended by  
2 the state pursuant to section 186-f of the  
3 tax law shall be determined by first  
4 calculating the amount of the expenditure  
5 or other liability pursuant to such law,  
6 and then reducing the amount so calculated  
7 by 12.5 percent of such amount .....  
8 ..... 4,650,000  
9 For expenses of local wireless public safety  
10 answering points associated with eligible  
11 wireless 911 service costs, including but  
12 not limited to financing and acquisition  
13 costs. Notwithstanding any other provision  
14 of law to the contrary, for state fiscal  
15 year 2010-2011 the liability of the state  
16 and the amount to be distributed or other-  
17 wise expended by the state pursuant to  
18 section 186-f of the tax law shall be  
19 determined by first calculating the amount  
20 of the expenditure or other liability  
21 pursuant to such law, and then reducing  
22 the amount so calculated by 12.5 percent  
23 of such amount ..... 4,650,000  
24 -----  
25 Program account subtotal ..... 9,300,000  
26 -----

27 S 2. Section 1 of chapter 54 of the laws of 2010, enacting the health  
28 and mental hygiene budget, is amended by repealing the items hereinbelow  
29 set forth in brackets and by adding to such section the other items  
30 underscored in this section.

31 HEALTH AND MENTAL HYGIENE BUDGET  
32 OFFICE FOR THE AGING  
33 STATE OPERATIONS AND AID TO LOCALITIES 2010-11

34 COMMUNITY SERVICES PROGRAM ..... [225,259,000] 228,259,000  
35 -----

36 Special Revenue Funds - Federal / Aid to Localities  
37 Federal Health and Human Services Fund - 265

38 For programs provided under the titles of  
39 the federal older Americans act and other  
40 health and human services programs.  
41 Title III-b social services ..... 26,000,000  
42 Title III-c nutrition programs, including a  
43 suballocation to the department of health  
44 for nutrition program activities .....  
45 ..... 41,000,000  
46 Title III-e caregivers ..... 12,000,000  
47 Health and human services programs .....  
48 ..... [7,000,000] 8,000,000  
49 Nutrition services incentive program .....  
50 ..... 16,000,000  
51 For purposes of Congregate Nutritional

1 Services funded by the American recovery  
 2 and reinvestment act of 2009. Funds appro-  
 3 priated herein shall be subject to all  
 4 applicable reporting and accountability  
 5 requirements contained in such act .....  
 6 ..... 2,350,000  
 7 For purposes of Home-Delivered Nutritional  
 8 Services funded by the American recovery  
 9 and reinvestment act of 2009. Funds appro-  
 10 priated herein shall be subject to all  
 11 applicable reporting and accountability  
 12 requirements contained in such act .....  
 13 ..... 1,135,000  
 14 -----  
 15 Program fund subtotal .... [105,485,000] 106,485,000  
 16 -----

17 Special Revenue Funds - Federal / Aid to Localities  
 18 Federal Operating Grants Fund - 290  
 19 Senior Community Service Employment Account  
  
 20 For the senior community service employment  
 21 program provided under title V of the  
 22 federal older Americans act .. [7,000,000] 9,000,000  
 23 For the senior community service employment  
 24 program provided under title V of the  
 25 federal older Americans act funded by the  
 26 American recovery and reinvestment act of  
 27 2009. Funds appropriated herein shall be  
 28 subject to all applicable reporting and  
 29 accountability requirements contained in  
 30 such act ..... 900,000  
 31 -----  
 32 Program account subtotal ... [7,900,000] 9,900,000  
 33 -----

34 Total new appropriations for state operations and aid to  
 35 localities ..... [239,609,400] 242,609,400  
 36 =====

37 S 3. Section 1 of chapter 55 of the laws of 2010, enacting the trans-  
 38 portation, economic development and environmental conservation budget,  
 39 is amended by repealing the items hereinbelow set forth in brackets and  
 40 by adding to such section the other items underscored in this sciton.

41 TRANSPORTATION, ECONONMIC DEVELOPMENT AND ENVIRONMENTAL CONSERVATION  
 42 BUDGET  
 43 DIVISION OF TAX APPEALS  
 44 STATE OPERATIONS AND AID TO LOCALITIES 2010-11  
  
 45 ADMINISTRATION PROGRAM ..... [3,053,000] 3,154,000  
 46 -----  
  
 47 General Fund / State Operations  
 48 State Purposes Account - 003

1 PERSONAL SERVICE

2	Personal service--regular	..... [2,676,000]	2,777,000
3	Temporary service	..... 10,000	
4		-----	
5	Amount available for personal service	....	
6		..... [2,686,000]	2,787,000
7		-----	

8 NONPERSONAL SERVICE

9	Supplies and materials	..... 27,100	
10	Travel	..... 19,700	
11	Contractual services	..... 257,000	
12	Equipment	..... 63,200	
13		-----	
14	Amount available for nonper-		
15	sonal service	..... 367,000	
16		-----	

17	Total new appropriations for state operations and aid to		
18	localities	..... [3,053,000]	3,154,000
19		=====	

20 S 4. Section 11 of chapter 108 of the laws of 2010, making appropri-  
 21 ations for the support of government, is amended by repealing the items  
 22 herein below set forth in brackets and by adding to such section the  
 23 other items underscored in this section.

24 DEPARTMENT OF HEALTH

25	CENTER FOR COMMUNITY HEALTH PROGRAM	..... [512,727,000]	518,977,000
26		-----	

27 General Fund / Aid to Localities  
 28 Local Assistance Account - 001

29 State aid to municipalities for the opera-  
 30 tion of local health departments and labo-  
 31 ratories and for the provision of general  
 32 public health services pursuant to article  
 33 6 of the public health law for activities  
 34 under the jurisdiction of the commissioner  
 35 of health.

36 Notwithstanding any other provision of arti-  
 37 cle 6 of the public health law, a county  
 38 may obtain reimbursement pursuant to this  
 39 act, only after the county chief financial  
 40 officer certifies, in the municipal health  
 41 services plan, that county tax levies used  
 42 to fund services carried out by the county  
 43 health department have not been added to  
 44 or supplanted directly or indirectly by  
 45 any funds obtained by the county pursuant  
 46 to the Master Settlement Agreement entered  
 47 into on November 23, 1998 by the state and

1 leading United States tobacco product  
 2 manufacturers, except in the case of a  
 3 public health emergency, as determined by  
 4 the commissioner of health.

5 Notwithstanding annual aggregate limits for  
 6 bad debt and charity care allowances and  
 7 any other provision of law, up to  
 8 \$1,700,000 shall be transferred to the  
 9 medical assistance program general fund -  
 10 local assistance account for eligible  
 11 publicly sponsored certified home health  
 12 agencies that demonstrate losses from a  
 13 disproportionate share of bad debt and  
 14 charity care, pursuant to chapter 884 of  
 15 the laws of 1990. Within the maximum  
 16 limits specified herein, the department  
 17 shall transfer only those funds which are  
 18 necessary to meet the state share require-  
 19 ments for disproportionate share adjust-  
 20 ments expected to be paid for the period  
 21 January 1, 2010 through December 31, 2010.  
 22 The moneys hereby appropriated shall be  
 23 available for payment of financial assist-  
 24 ance heretofore accrued .... [284,763,000]

291,013,000

25 -----  
 26 Program account subtotal .....

487,485,000

27 ..... [481,235,000]  
 28 -----

29 ELDERLY PHARMACEUTICAL INSURANCE COVERAGE

30 PROGRAM ..... [328,350,000]

380,350,000

32 Special Revenue Funds - Other / Aid to Localities  
 33 Miscellaneous Special Revenue Fund - 339  
 34 EPIC Premium Account

35 For services and expenses of the program for  
 36 elderly pharmaceutical insurance coverage,  
 37 including reimbursement to pharmacies  
 38 participating in such program. Notwith-  
 39 standing any inconsistent provision of  
 40 law, rule or regulation to the contrary,  
 41 for the period October 1, 2010 through  
 42 March 31, 2011, for a participant in the  
 43 program for elderly pharmaceutical insur-  
 44 ance coverage whose prescription drug  
 45 expenses are paid or reimbursable under  
 46 the provisions of the medicare program,  
 47 assistance under the program for elderly  
 48 pharmaceutical insurance coverage shall be  
 49 limited to prescription drugs covered by  
 50 the participant's medicare plan and to  
 51 drugs excluded from medicare coverage in  
 52 accordance with section 1860-D-2 of the  
 53 federal social security act, and in such

1 cases the program for elderly pharmaceu-  
2 tical insurance coverage shall cover the  
3 amount that is the responsibility of the  
4 participant under the medicare plan bene-  
5 fit, subject to the participant's cost-  
6 sharing responsibility on such amount  
7 under section 247 or section 248 of the  
8 elder law; provided, however, that cover-  
9 age under the elderly pharmaceutical  
10 insurance coverage program shall be avail-  
11 able only after the participant has first  
12 exhausted the first two levels of appeal  
13 available under Part D of title XVIII of  
14 the federal social security act and the  
15 appeal has been denied; and provided  
16 further that during the medicare coverage  
17 determination and appeal period, the  
18 elderly pharmaceutical insurance coverage  
19 program shall provide up to a 90 day  
20 supply of the prescribed medication, or  
21 such lesser supply as specified on the  
22 prescription, if (i) the pharmacist noti-  
23 fies the prescriber that the participant's  
24 Medicare Part D plan and the elderly phar-  
25 maceutical insurance coverage program have  
26 denied payment for the prescribed medica-  
27 tion and that if the prescriber does not  
28 choose to change the prescription to a  
29 drug that is covered by the participant's  
30 Medicare Part D plan, a Medicare Part D  
31 appeal must be pursued and (ii) the pres-  
32 criber notifies the elderly pharmaceutical  
33 insurance coverage program of the  
34 prescriber's intent to provide necessary  
35 information and cooperation in the pursuit  
36 of the Medicare Part D appeal; and  
37 provided further that, in instances where  
38 the pharmacist is unable to immediately  
39 reach the prescriber, the elderly pharma-  
40 ceutical insurance coverage program shall,  
41 upon the request of the pharmacist,  
42 authorize a three day emergency supply of  
43 the prescribed medication; and provided  
44 further that the elderly pharmaceutical  
45 insurance coverage program shall authorize  
46 such additional 90 day supplies of the  
47 prescribed medication, or such lesser  
48 supply as specified on the prescription,  
49 and such additional three day emergency  
50 supplies as required to ensure coverage of  
51 the prescribed medication during the  
52 pendency of the Medicare Part D appeal;  
53 provided however that, if this act appro-  
54 priates sufficient additional funds to  
55 permit the elderly pharmaceutical insur-  
56 ance coverage program to provide coverage

1 for prescription drugs without regard to  
2 the limitations described in this section,  
3 then the provisions of this paragraph  
4 shall not apply and shall be considered  
5 null and void as of September 30, 2010.  
6 The moneys hereby appropriated shall be  
7 available for payment of financial assist-  
8 ance heretofore accrued .... [125,800,000] 177,800,000  
9 -----  
10 Program account subtotal .....  
11 ..... [125,800,000] 177,800,000  
12 -----

13 S 5. This act shall take effect immediately and shall be deemed to  
14 have been in full force and effect on and after April 1, 2010.