

**STATE OF NEW YORK**

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**SENATE - ASSEMBLY**(Prefiled)

January 7, 2009

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend chapter 57 of the laws of 2008, relating to providing for the administration of certain funds and accounts related to the 2008-2009 budget, in relation to authorizing the state comptroller to transfer certain monies to the general fund, authorizing the state comptroller to deposit certain reimbursements to the credit of any capital projects fund, and directing the dormitory authority of the state of New York to transfer certain monies to the general fund; to amend chapter 57 of the laws of 2007 relating to the provision of funding of certain community projects, in relation to adjusting certain funding therefor; and to repeal subdivision (a) of section 1 of Part P of chapter 57 of the laws of 2007 relating to providing funding for certain community projects (Part A); to amend part NN of chapter 57 of the laws of 2008 relating to authorizing the New York state mortgage agency to transfer certain moneys and to amend the private housing finance law in relation to transferring undisbursed mortgage insurance fund reserves to the general fund and increasing the bond issuance cap for the division of housing and community renewal (Part B); to amend the executive law, in relation to authorizing the transfer of money (Part C); to amend chapter 497 of the laws of 2008, relating to the transfer of certain monies from specified accounts to the general fund (Part D); to provide for the consideration of grant applications by the council on the arts in state fiscal year 2009-2010 (Part E); to amend chapter 56 of the laws of 2008 amending the general municipal law relating to reports on the financial condition of municipalities and providing aid and incentives to the cities of Rochester, Buffalo, Lackawanna, Long Beach, Syracuse,

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

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White Plains, Yonkers and Rensselaer, in relation to aid and incentives for municipalities (Part F); in relation to the transfer of funds from the banking department account (Part G); in relation to the transfer of funds from the insurance department account (Part H); and to amend chapter 58 of the laws of 2008 amending the social services law and the public health law relating to adjustments of rates and the public health law, in relation to hospitals and the distribution of monies (Part I)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act enacts into law major components of legislation  
2 which are necessary to implement saving adjustments to the state fiscal  
3 plan. Each component is wholly contained within a Part identified as  
4 Parts A through I. The effective date for each particular provision  
5 contained within such Part is set forth in the last section of such  
6 Part. Any provision in any section contained within a Part, including  
7 the effective date of the Part, which makes a reference to a section "of  
8 this act", when used in connection with that particular component, shall  
9 be deemed to mean and refer to the corresponding section of the Part in  
10 which it is found. Section three of this act sets forth the general  
11 effective date of this act.

12

## PART A

13 Section 1. Subdivision 7 of section 3 of part RR of chapter 57 of the  
14 laws of 2008 entitled "Family Assistance", relating to providing for the  
15 administration of certain funds and accounts related to the 2008-2009  
16 budget, is amended to read as follows:

17 7. ~~[\$36,000,000]~~ \$136,000,000 from any of the office of temporary and  
18 disability assistance accounts within the federal health and human  
19 services fund (265) to the general fund.

20 § 2. Section 11-a of part RR of chapter 57 of the laws of 2008, relat-  
21 ing to providing for the administration of certain funds and accounts  
22 related to the 2008-2009 budget, is amended to read as follows:

23 § 11-a. Notwithstanding any provision of law to the contrary, the  
24 power authority of the state of New York, as deemed feasible and advis-  
25 able by its trustees, is authorized to make contributions to the state  
26 treasury to the credit of the general fund as follows: for the fiscal  
27 year commencing April 1, 2008, a total of ~~[\$60,000,000]~~ \$361,000,000,  
28 not less than \$50,000,000 of which will be paid within thirty days of  
29 the enactment of the state budget for such fiscal year, not less than  
30 \$119,000,000 shall be paid by January 30, 2009 and \$182,000,000 shall be  
31 paid by March 27, 2009; for the fiscal year commencing April 1, 2009, a  
32 total of ~~[\$35,000,000]~~ \$210,000,000, not less than ~~[\$25,000,000]~~  
33 \$103,000,000 of which will be paid within ~~[thirty]~~ one hundred eighty  
34 days of the enactment of the state budget for such fiscal year~~[, and for~~  
35 ~~the fiscal year commencing April 1, 2010, a total of \$35,000,000, not~~  
36 ~~less than \$25,000,000 of which will be paid within thirty days of the~~  
37 ~~enactment of the state budget for such fiscal year]~~ and \$107,000,000  
38 shall be paid prior to March 26, 2010.

39 § 3. Part RR of chapter 57 of the laws of 2008, relating to providing  
40 for the administration of certain funds and accounts related to the

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1 2008-2009 budget, is amended by adding a new section 50-a to read as  
2 follows:

3 § 50-a. Notwithstanding any provision of law to the contrary, upon the  
4 direction of the director of the budget the dormitory authority of the  
5 state of New York is directed to transfer \$6,500,000 from the dormitory  
6 authority corporate fiduciary fund to the state general fund (003).

7 § 4. Subdivision (a) of section 1 of part P of chapter 57 of the laws  
8 of 2007, relating to the provision of funding of certain community  
9 projects, as amended by section 1 of Part MM of chapter 59 of the laws  
10 of 2008, is amended to read as follows:

11 (a) [~~Forty-five~~ fifteen million dollars [~~(\$45,000,000)~~ (\$15,000,000)  
12 for the period April 1, 2008 through March 31, 2009, as follows: [~~twen-~~  
13 ~~ty-two~~ seven million five hundred thousand dollars [~~(\$22,500,000)~~  
14 (\$7,500,000) to account AA; and [~~twenty-two~~ seven million five hundred  
15 thousand dollars [~~(\$22,500,000)~~ (\$7,500,000) to account CC. Such trans-  
16 fers shall be made in accordance with section 99-d of the state finance  
17 law, as added by chapter 474 of the laws of 1996, as amended.

18 § 5. Subdivisions 3 and 4 of section 3 of part RR of chapter 57 of the  
19 laws of 2008 entitled "Environmental Affairs", relating to providing for  
20 the administration of certain funds and accounts related to the  
21 2008-2009 budget, is amended to read as follows:

22 3. [~~\$125,000,000~~ \$175,000,000 from the environmental protection fund  
23 (078), environmental protection transfer account (01), to the general  
24 fund.

25 4. [~~\$75,000,000~~ \$100,000,000 from the environmental protection fund  
26 (078), environmental protection transfer account (001), to the general  
27 fund.

28 § 6. This act shall take effect immediately; provided, however, that  
29 the amendments to section 3 of Part RR of chapter 57 of the laws of 2008  
30 made by sections one and five of this act shall expire on the same date  
31 as such section expires and shall be deemed repealed therewith.

32 PART B

33 Section 1. Part NN of chapter 57 of the laws of 2008 relating to  
34 authorizing the New York state mortgage agency to transfer certain  
35 moneys, section 3 as amended by chapter 284 of the laws of 2008, is  
36 amended to read as follows:

37 PART NN

38 Section 1. Notwithstanding any other provision of law, and provided  
39 that the reserves in the project pool insurance-account of the mortgage  
40 insurance fund created pursuant to section 2429-b of the public authori-  
41 ties' law are sufficient to attain and maintain the credit rating (as  
42 determined by the agency) required to accomplish the purposes of such  
43 account, the board of directors of the state of New York mortgage agen-  
44 cy, shall, as soon as practicable but not later than July 1, 2008,  
45 transfer a sum not to exceed one hundred million dollars from the  
46 project pool insurance account of the mortgage insurance fund as  
47 follows: a sum not to exceed fifty-four million dollars to the New York  
48 state housing finance agency for its Mitchell Lama Rehabilitation and  
49 Preservation Program and its All Affordable Program; a sum not to exceed  
50 six million dollars to the Long Island Housing Partnership for its  
51 Homeownership and Economic Stabilization for Long Island Program; a sum  
52 not to exceed twenty-five million dollars to the New York state housing

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1 trust fund corporation (the "corporation") for the provision of subprime  
2 foreclosure prevention services as provided in section two of this act;  
3 and a sum not to exceed fifteen million dollars to the corporation for  
4 the greater Catskills flood remediation program as provided in section  
5 three of this act.

6 § 2. Within the amounts transferred to the corporation pursuant to  
7 section one of this act for subprime foreclosure prevention services,  
8 the corporation shall, in consultation with the division of housing and  
9 community renewal, the banking department and the office of court admin-  
10 istration, develop and administer a subprime foreclosure prevention  
11 services program which shall provide assistance related to foreclosure  
12 prevention to homeowners who entered into subprime or unconventional  
13 mortgages, including grants and aid to non-profit organizations to  
14 provide counseling, mediation, legal representation, and negotiation on  
15 behalf of borrowers facing default or foreclosure, training and support  
16 for counselors, mediators, and lawyers regarding such assistance to  
17 homeowners, and credit counseling. Such assistance shall only be offered  
18 to borrowers who are natural persons who hold a subprime or unconven-  
19 tional home loan that is secured by a mortgage or deed of trust on real  
20 estate upon which there is located a structure or structures intended  
21 principally for occupancy of from one to four families and which is  
22 occupied by the borrower as the borrower's principal dwelling and is  
23 located in this state. For purposes of this section, "subprime or uncon-  
24 ventional mortgage" shall mean: for a first lien loan, one that has an  
25 annual percentage rate of three or more percentage points above the  
26 yield on treasury securities of comparable maturity measured as of the  
27 fifteenth day of the month immediately preceding the month in which the  
28 application for the loan is received by the lender; for a subordinate  
29 lien loan, one that has an annual percentage rate of five or more  
30 percentage points above the yield on treasury securities of comparable  
31 maturity measured as of the fifteenth day of the month immediately  
32 preceding the month in which the application for the loan is received by  
33 the lender; or a mortgage that is a "nontraditional mortgage" as such  
34 term is described in the "Interagency Guidance on Nontraditional Mort-  
35 gage Product Risks" issued September 29, 2006, and published in 71  
36 Federal Register, 58609, on October 4, 2006, as updated. The corporation  
37 shall develop application procedures for non-profit agencies to use to  
38 apply for funds to carry out the provisions of this section, criteria  
39 for evaluating such applications, including criteria that would encour-  
40 age collaborative applications by multiple non-profit agencies, and  
41 criteria for use by the non-profits that receive assistance pursuant to  
42 this section to rank applications for assistance from eligible homeown-  
43 ers for the provisions of subprime foreclosure prevention services, and  
44 which shall consider the need for assistance and opportunity to success-  
45 fully restructure the applicable mortgage to allow the homeowner to  
46 continue to occupy the home. The corporation, in consultation with the  
47 division of housing and community renewal, the banking department, and  
48 the office of court administration, shall submit a report to the gover-  
49 nor, the speaker of the assembly, and the temporary president of the  
50 senate on or before December 31, 2008, on the implementation of this  
51 act. Such report shall include, but not be limited to, for each provider  
52 receiving funds under this act, a description of such provider's  
53 contract amount, the specific foreclosure prevention activities  
54 performed by such provider, and the number of persons and households  
55 served by each provider and the number of requests for assistance that  
56 could not be granted. The report shall also include an analysis of mort-

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1 gage defaults in the state, the causes of such defaults, the unmet needs  
2 that exist in the state due to defaults on loans, foreclosures of homes,  
3 rates of foreclosures, the need for direct assistance to homeowners, and  
4 the ability of homeowners to successfully comply with mortgage terms or  
5 negotiate changes in their mortgages in order to remain in their homes.

6 § 3. Within the amounts transferred to the corporation pursuant to  
7 section one of this act for the greater Catskills flood remediation  
8 program, the corporation shall provide funds to the counties of Broome,  
9 Chenango, Delaware, Herkimer, Montgomery, Orange, Otsego, Schoharie,  
10 Sullivan, Tioga and Ulster, upon application by a county and within the  
11 amounts available for disbursement to such county, to enable the coun-  
12 ties to purchase and demolish one or two family homes that have been  
13 certified by the local building inspector and county emergency manage-  
14 ment director, to the satisfaction of the corporation, as having been  
15 subject to one or more incidents of flooding since April 1, 2004 and as  
16 likely to be subject to a future flood incident that would cause  
17 substantial damage thereto. Any application by a county for disbursement  
18 of funds under this act shall demonstrate, to the satisfaction of the  
19 corporation, that: (1) the home is occupied as the primary residence of  
20 an owner with a family income of up to one hundred fifty percent of the  
21 area median income as defined by the United States department of housing  
22 and urban development, provided, however, that an otherwise eligible  
23 home shall be eligible for purchase under this act if the current owner  
24 can demonstrate that the home was occupied as the owner's primary resi-  
25 dence prior to a flood event that rendered the home unsuitable for habi-  
26 tation; (2) the current appraised value of the home does not exceed two  
27 hundred fifty thousand dollars and the purchase price for the home will  
28 not exceed the appraised value less the amount of any property casualty  
29 insurance or disaster relief payments received by the owner as compen-  
30 sation for damage incurred in a flood incident; (3) all recorded liens  
31 or other encumbrances on the home will be released at closing; (4) the  
32 county provides assurances that the home will be condemned and the prop-  
33 erty will be dedicated and maintained in perpetuity for a use that is  
34 compatible with open space, recreational, flood mitigation or wetlands  
35 management practices; and (5) disbursements under this section shall be  
36 limited to the costs of acquisition of eligible homes, including legal,  
37 appraisal, recording and other transaction costs, and the costs of demo-  
38 lition. In selecting homes for purchase pursuant to this act, each  
39 county shall give preference to homes with a current appraised value of  
40 less than one hundred fifty thousand dollars and to homes that have been  
41 subject to two or more incidents of flooding since April 1, 2004. The  
42 corporation shall establish policies and procedures consistent with this  
43 section, which shall include county reporting requirements, and shall  
44 report to the governor, the speaker of the assembly, the temporary pres-  
45 ident of the senate and the director of the division of the budget on or  
46 before December 31, 2008 regarding the implementation of this section.  
47 Of the amounts transferred to the corporation pursuant to section one of  
48 this act, the amounts disbursed to counties pursuant to this section  
49 shall not exceed the following amounts: Broome, \$750,000; Chenango,  
50 \$750,000; Delaware, \$2,000,000; Herkimer, \$750,000; Montgomery,  
51 \$750,000; Orange, \$2,000,000; Otsego, \$750,000; Schoharie, \$750,000;  
52 Sullivan, \$3,750,000; Tioga, \$750,000; and Ulster, \$2,000,000.

53 § 4. Notwithstanding sections one and three of this act, the January  
54 1, 2009 undisbursed balances of the Mitchell-Lama Rehabilitation and  
55 Preservation program and the All Affordable Program, the Homeownership  
56 and Economic Stabilization for Long Island Program, and the Greater

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1 Catskills Flood Remediation program shall be transferred to the general  
2 fund no later than March 31, 2009.

3 § 5. This act shall take effect immediately.

4 § 2. Paragraph (a) of subdivision 2 of section 47-e of the private  
5 housing finance law, as amended by section 47 of part RR of chapter 57  
6 of the laws of 2008, is amended to read as follows:

7 (a) Subject to the provisions of chapter fifty-nine of the laws of two  
8 thousand, in order to enhance and encourage the promotion of housing  
9 programs and thereby achieve the stated purposes and objectives of such  
10 housing programs, the agency shall have the power and is hereby author-  
11 ized from time to time to issue negotiable housing program bonds and  
12 notes in such principal amount as shall be necessary to provide suffi-  
13 cient funds for the repayment of amounts disbursed (and not previously  
14 reimbursed) pursuant to law or any prior year making capital appropri-  
15 ations or reappropriations for the purposes of the housing program;  
16 provided, however, that the agency may issue such bonds and notes in an  
17 aggregate principal amount not exceeding two billion [~~two hundred nine-~~  
18 ~~ty-one~~] three hundred twenty-two million nine hundred forty-one thousand  
19 dollars, plus a principal amount of bonds issued to fund the debt  
20 service reserve fund in accordance with the debt service reserve fund  
21 requirement established by the agency and to fund any other reserves  
22 that the agency reasonably deems necessary for the security or marketa-  
23 bility of such bonds and to provide for the payment of fees and other  
24 charges and expenses, including underwriters' discount, trustee and  
25 rating agency fees, bond insurance, credit enhancement and liquidity  
26 enhancement related to the issuance of such bonds and notes. No reserve  
27 fund securing the housing program bonds shall be entitled or eligible to  
28 receive state funds apportioned or appropriated to maintain or restore  
29 such reserve fund at or to a particular level, except to the extent of  
30 any deficiency resulting directly or indirectly from a failure of the  
31 state to appropriate or pay the agreed amount under any of the contracts  
32 provided for in subdivision four of this section.

33 § 3. This act shall take effect immediately and shall be deemed to  
34 have been in full force and effect on and after January 1, 2009.

35 PART C

36 Section 1. Section 64 of the executive law is amended to read as  
37 follows:

38 § 64. Costs recovered. Costs recovered by the attorney-general may be  
39 applied by him in payment of the expenses incurred by him in the action  
40 or proceeding in which they are received, or of any expenditure which he  
41 is authorized to incur not otherwise provided for. He shall, at the  
42 close of each fiscal year, render to the comptroller an account of such  
43 costs received, with vouchers of such expenditures. During the fiscal  
44 year, the comptroller is authorized to transfer any amount available  
45 within the account dedicated for this purpose to the general fund, upon  
46 the request of the director of the budget. In the event insufficient  
47 cash remains in such account to meet expenditures against available  
48 appropriations from such account, the comptroller is authorized to  
49 transfer the amounts necessary to meet such expenditures from the gener-  
50 al fund; provided however that in no event shall the cumulative value of  
51 any such transfers from the general fund made to such account within a  
52 single fiscal year exceed ten percent of the value of the appropriations  
53 made in such fiscal year from such account or the cumulative balance of  
54 transfers from the account to the general fund. The comptroller shall

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1 establish such accounts and records as are necessary to provide an accu-  
2 rate accounting and reporting of the transfers to or from the general  
3 fund.

4 § 2. This act shall take effect immediately.

5

## PART D

6 Section 1. Section 2 of part B of chapter 497 of the laws of 2008,  
7 relating to the transfer of certain monies from specified accounts to  
8 the general fund, is amended to read as follows:

9 § 2. Notwithstanding any other provision of law to the contrary, and  
10 in accordance with section 4 of the state finance law, the comptroller  
11 is hereby authorized and directed to transfer upon request of the direc-  
12 tor of the budget, [~~\$40,000,000~~] \$65,000,000 on or before March 31,  
13 2009, and \$20,000,000 on or before March 31, 2010, from the miscella-  
14 neous special revenue fund (330), statewide public safety communication  
15 account (LZ) to the general fund.

16 § 2. This act shall take effect immediately.

17

## PART E

18 Section 1. Notwithstanding any other section of law to the contrary,  
19 in state fiscal year 2009-10, prior to considering new applications for  
20 funding from 2009-10 appropriations, the council on the arts shall  
21 consider applications for grants from those organizations whose applica-  
22 tions for funding from 2008-09 appropriations were not fully acted upon  
23 by the council in state fiscal year 2008-09. In all such cases, the  
24 council on the arts shall continue to follow established processes for  
25 grant review and approval.

26 § 2. This act shall take effect immediately and shall expire and be  
27 deemed repealed September 1, 2010.

28

## PART F

29 Section 1. Section 11 of part O of chapter 56 of the laws of 2008  
30 amending the general municipal law relating to reports on the financial  
31 condition of municipalities and to providing aid and incentives to the  
32 cities of Rochester, Buffalo, Lackawanna, Long Beach, Syracuse, White  
33 Plains, Yonkers and Rensselaer, is amended to read as follows:

34 § 11. 1. Notwithstanding any other law to the contrary, for the state  
35 fiscal year beginning April 1, 2009, and in each state fiscal year ther-  
36 eafter, twenty million six hundred forty thousand dollars of aid and  
37 incentives for municipalities otherwise due and payable to the city of  
38 Rochester on or before March 31 shall be paid on or before June 30 in  
39 such fiscal year upon written request by the chief elected official of  
40 such city to the director of the budget, provided such request is made  
41 no later than April 1, 2009.

42 2. Notwithstanding any other law to the contrary, for the state fiscal  
43 year beginning April 1, 2009, and in each state fiscal year thereafter,  
44 ten million five hundred forty-four thousand eight hundred five dollars  
45 of aid and incentives for municipalities otherwise due and payable to  
46 the city of Buffalo on or before March 31 shall be paid on or before  
47 June 30 in such fiscal year upon written request by the chief elected  
48 official of such city to the director of the budget, provided such  
49 request is made no later than April 1, 2009.

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1 3. Notwithstanding any other law to the contrary, for the state fiscal  
2 year beginning April 1, 2009, and in each state fiscal year thereafter,  
3 one million dollars of aid and incentives for municipalities otherwise  
4 due and payable to the city of Lackawanna on or before March 31 shall be  
5 paid on or before June 30 in such fiscal year upon written request by  
6 the chief elected official of such city to the director of the budget,  
7 provided such request is made no later than April 1, 2009.

8 4. Notwithstanding any other law to the contrary, for the state  
9 fiscal year beginning April 1, 2009, and in each state fiscal year ther-  
10 eafter, four hundred thousand dollars of aid and incentives for munici-  
11 palities otherwise due and payable to the city of Long Beach on or  
12 before March 31 shall be paid on or before June 30 in such fiscal year  
13 upon written request by the chief elected official of such city to the  
14 director of the budget, provided such request is made no later than  
15 April 1, 2009.

16 5. Notwithstanding any other law to the contrary, for the state fiscal  
17 year beginning April 1, 2009, and in each state fiscal year thereafter,  
18 five million two hundred forty-two thousand nine dollars of aid and  
19 incentives for municipalities otherwise due and payable to the city of  
20 Syracuse on or before March 31 shall be paid on or before June 30 in  
21 such fiscal year upon written request by the chief elected official of  
22 such city to the director of the budget, provided such request is made  
23 no later than April 1, 2009.

24 6. Notwithstanding any other law to the contrary, for the state fiscal  
25 year beginning April 1, 2009, and in each state fiscal year thereafter,  
26 one million dollars of aid and incentives for municipalities otherwise  
27 due and payable to the city of White Plains on or before March 31 shall  
28 be paid on or before June 30 in such fiscal year upon written request by  
29 the chief elected official of such city to the director of the budget,  
30 provided such request is made no later than April 1, 2009.

31 7. Notwithstanding any other law to the contrary, for the state fiscal  
32 year beginning April 1, 2009, and in each state fiscal year thereafter,  
33 twenty million three hundred seventy-eight thousand three hundred  
34 forty-three dollars of aid and incentives for municipalities otherwise  
35 due and payable to the city of Yonkers on or before March 31 shall be  
36 paid on or before June 30 in such fiscal year upon written request by  
37 the chief elected official of such city to the director of the budget,  
38 provided such request is made no later than April 1, 2009.

39 8. Notwithstanding any other law to the contrary, for the state fiscal  
40 year beginning April 1, 2009, and in each state fiscal year thereafter,  
41 one hundred twenty-five thousand dollars of aid and incentives for muni-  
42 cipalities otherwise due and payable to the city of Rensselaer on or  
43 before March 31 shall be paid on or before June 30 in such fiscal year  
44 upon written request by the chief elected official of such city to the  
45 director of the budget, provided such request is made no later than  
46 April 1, 2009.

47 § 2. This act shall take effect immediately.

48 PART G

49 Section 1. Notwithstanding any law to the contrary, the banking  
50 department shall finance the annual expenses related to its activities  
51 and operations through assessments on all regulated entities of the  
52 department. For state fiscal year 2008-09, the total value of the annu-  
53 al assessment will be equal to the total value of the department's  
54 enacted appropriations. In such instances where the total value of the



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1 annual industry assessment exceeds the actual annual expenses of the  
2 department's operations and activities, in accordance with section 4 of  
3 the state finance law, the comptroller is hereby authorized and directed  
4 to transfer, at the request of the director of the budget, up to \$6  
5 million from the unencumbered balance of the banking department account  
6 (339.A5) to the general fund in state fiscal year 2008-09.

7 § 2. This act shall take effect immediately.

8

## PART H

9 Section 1. Notwithstanding any law to the contrary, the insurance  
10 department shall finance the annual expenses related to its activities  
11 and operations through assessments on all regulated entities of the  
12 department. For state fiscal year 2008-09, the total value of the annu-  
13 al assessment will be equal to the total value of the department's  
14 enacted appropriations. In such instances where the total value of the  
15 annual industry assessment exceeds the actual annual expenses of the  
16 department's operations and activities, in accordance with section 4 of  
17 the state finance law, the comptroller is hereby authorized and directed  
18 to transfer, at the request of the director of the budget, up to \$4.5  
19 million from the unencumbered balance of the insurance department  
20 account (339.B6) to the general fund in state fiscal year 2008-09.

21 § 2. This act shall take effect immediately.

22

## PART I

23 Section 1. Section 11 of part C of chapter 58 of the laws of 2008  
24 amending the social services law and the public health law relating to  
25 adjustments of rates, as amended by section 4 of part F of chapter 497  
26 of the laws of 2008, is amended to read as follows:

27 § 11. 1. Notwithstanding paragraph (c) of subdivision 10 of section  
28 2807-c of the public health law, subdivision 2-b of section 2808 of the  
29 public health law, section 21 of chapter 1 of the laws of 1999, and any  
30 other contrary provision of law, but subject to subparagraph (iii) of  
31 paragraph (b) of subdivision 33 of section 2807-c of the public health  
32 law, in determining rates of payments by state governmental agencies  
33 effective for services provided on and after April 1, 2008, for inpa-  
34 tient and outpatient services provided by general hospitals, for inpa-  
35 tient services and adult day health care outpatient services provided by  
36 residential health care facilities pursuant to article 28 of the public  
37 health law, except for residential health care facilities that provide  
38 extensive nursing, medical, psychological and counseling support  
39 services to children, for home health care services provided pursuant to  
40 article 36 of the public health law by certified home health agencies  
41 and long term home health care programs, other than for services  
42 provided to home care patients diagnosed with AIDS as determined by  
43 applicable regulations, and personal care services provided pursuant to  
44 paragraph (e) of subdivision two of section 365-a of the social services  
45 law, the commissioner of health shall apply a trend factor projection  
46 equal to sixty-five percent of the otherwise applicable trend factor  
47 projection attributable to the period January 1, 2008 through December  
48 31, 2008 in accordance with paragraph (c) of subdivision 10 of section  
49 2807-c of the public health law, provided, however, that for rates of  
50 payment effective for services provided on and after ~~September 10,~~  
51 ~~2008~~ January 1, 2009, the final trend factor projections attributable  
52 to the 2008 calendar year period shall be further adjusted such that any

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1 increase to the average trend factor projections for the period April 1,  
2 2008 through December 31, 2008 shall be reduced, on an annualized basis,  
3 by one and three tenths percentage points and provided further, however,  
4 no retroactive adjustment to such 2008 trend factor projection shall be  
5 made for the period April 1, 2008 through December 31, 2008 pursuant to  
6 subparagraph 3 of paragraph (c) of subdivision 10 of section 2807-c of  
7 the public health law.

8 § 2. Subparagraph (i) of paragraph (a) of subdivision 2-b of section  
9 2808 of the public health law, as added by section 47 of part C of chap-  
10 ter 109 of the laws of 2006, is amended to read as follows:

11 (i) Subject to the provisions of subparagraphs (ii) through (vi) of  
12 this paragraph, for the two thousand seven rate period the operating  
13 cost component of rates of payment shall reflect the operating cost  
14 component of rates effective for October first, two thousand six, as  
15 adjusted for inflation in accordance with paragraph (c) of subdivision  
16 ten of section twenty-eight hundred seven-c of this article; and for the  
17 January first, two thousand eight through March thirty-first, two thou-  
18 sand nine rate period the operating cost component of rates of payment  
19 shall reflect the operating cost component of rates effective for Decem-  
20 ber thirty-first, two thousand six, as adjusted for inflation in accord-  
21 ance with paragraph (c) of subdivision ten of section twenty-eight  
22 hundred seven-c of this article.

23 § 3. Subparagraph (i) of paragraph (b) of subdivision 2-b of section  
24 2808 of the public health law, as added by section 47 of part C of chap-  
25 ter 109 of the laws of 2006, is amended to read as follows:

26 (i) Subject to the provisions of subparagraphs (ii) through (xiv) of  
27 this paragraph, for periods on and after [~~January~~] April first, two  
28 thousand nine the operating cost component of rates of payment shall  
29 reflect allowable operating costs as reported in each facility's cost  
30 report for the two thousand two calendar year, as adjusted for inflation  
31 on an annual basis in accordance with the methodology set forth in para-  
32 graph (c) of subdivision ten of section twenty-eight hundred seven-c of  
33 this article, provided, however, that for those facilities which do not  
34 receive a per diem add-on adjustment pursuant to subparagraph (ii) of  
35 paragraph (a) of this subdivision, rates shall be further adjusted to  
36 include the proportionate benefit, as determined by the commissioner, of  
37 the expiration of the opening paragraph and paragraph (a) of subdivision  
38 sixteen of this section and of paragraph (a) of subdivision fourteen of  
39 this section, and provided further that the operating cost component of  
40 rates of payment for those facilities which did not receive a per diem  
41 adjustment in accordance with subparagraph (ii) of paragraph (a) of this  
42 subdivision shall not be less than the operating component such facili-  
43 ties received in the two thousand eight rate period, as adjusted for  
44 inflation on an annual basis in accordance with the methodology set  
45 forth in paragraph (c) of subdivision ten of section twenty-eight  
46 hundred seven-c of this article and further provided, however, that  
47 rates for facilities whose operating cost component reflects base year  
48 costs subsequent to January first, two thousand two shall have rates  
49 computed in accordance with this paragraph, utilizing allowable operat-  
50 ing costs as reported in such subsequent base year period, and trended  
51 forward to the rate year in accordance with applicable inflation  
52 factors.

53 § 4. Subparagraphs (xiii), (xiv) and (xv) of paragraph (a) of subdivi-  
54 sion 6 of section 2807-s of the public health law, as added by section  
55 15 of part B of chapter 58 of the laws of 2008, are amended to read as  
56 follows:

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1 (xiii) A gross statewide amount for the period October first, two  
2 thousand eight through March thirty-first, two thousand nine, shall be  
3 ~~[sixty-four]~~ one hundred seventy-four million two hundred thousand  
4 dollars. Such amount shall be separately reported and paid in six month-  
5 ly installments by the tenth day of each month from October two thousand  
6 eight to March two thousand nine. Such reports and payments must  
7 initially be based on each payers' monthly enrollment count for the  
8 preceding month and shall be reconciled on a month to month basis to  
9 reflect the actual monthly enrollment counts for the applicable month.

10 (xiv) A gross annual statewide amount for the period January first,  
11 two thousand nine through December thirty-first, two thousand ten, shall  
12 be ~~[eight hundred nineteen]~~ nine hundred thirty-nine million dollars.

13 (xv) A gross statewide amount for the period January first, two thou-  
14 sand eleven through March thirty-first, two thousand eleven, shall be  
15 two hundred ~~[four]~~ thirty-four million seven hundred fifty thousand  
16 dollars.

17 § 5. Paragraphs (g), (h), (i), and (i-1) of subdivision 1 of section  
18 2807-v of the public health law, as amended by section 5 of part B of  
19 chapter 58 of the laws of 2008, are amended to read as follows:

20 (g) Funds shall be reserved and accumulated from year to year and  
21 shall be available, including income from invested funds, for purposes  
22 of services and expenses related to the health maintenance organization  
23 direct pay market program established pursuant to sections forty-three  
24 hundred twenty-one-a and forty-three hundred twenty-two-a of the insur-  
25 ance law from the tobacco control and insurance initiatives pool estab-  
26 lished for the following periods in the following amounts:

27 (i) up to thirty-five million dollars for the period January first,  
28 two thousand through December thirty-first, two thousand of which fifty  
29 percentum shall be allocated to the program pursuant to section four  
30 thousand three hundred twenty-one-a of the insurance law and fifty  
31 percentum to the program pursuant to section four thousand three hundred  
32 twenty-two-a of the insurance law;

33 (ii) up to thirty-six million dollars for the period January first,  
34 two thousand one through December thirty-first, two thousand one of  
35 which fifty percentum shall be allocated to the program pursuant to  
36 section four thousand three hundred twenty-one-a of the insurance law  
37 and fifty percentum to the program pursuant to section four thousand  
38 three hundred twenty-two-a of the insurance law;

39 (iii) up to thirty-nine million dollars for the period January first,  
40 two thousand two through December thirty-first, two thousand two of  
41 which fifty percentum shall be allocated to the program pursuant to  
42 section four thousand three hundred twenty-one-a of the insurance law  
43 and fifty percentum to the program pursuant to section four thousand  
44 three hundred twenty-two-a of the insurance law;

45 (iv) up to forty million dollars for the period January first, two  
46 thousand three through December thirty-first, two thousand three of  
47 which fifty percentum shall be allocated to the program pursuant to  
48 section four thousand three hundred twenty-one-a of the insurance law  
49 and fifty percentum to the program pursuant to section four thousand  
50 three hundred twenty-two-a of the insurance law;

51 (v) up to forty million dollars for the period January first, two  
52 thousand four through December thirty-first, two thousand four of which  
53 fifty percentum shall be allocated to the program pursuant to section  
54 four thousand three hundred twenty-one-a of the insurance law and fifty  
55 percentum to the program pursuant to section four thousand three hundred  
56 twenty-two-a of the insurance law;

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1 (vi) up to forty million dollars for the period January first, two  
2 thousand five through December thirty-first, two thousand five of which  
3 fifty percentum shall be allocated to the program pursuant to section  
4 four thousand three hundred twenty-one-a of the insurance law and fifty  
5 percentum to the program pursuant to section four thousand three hundred  
6 twenty-two-a of the insurance law;

7 (vii) up to forty million dollars for the period January first, two  
8 thousand six through December thirty-first, two thousand six of which  
9 fifty percentum shall be allocated to the program pursuant to section  
10 four thousand three hundred twenty-one-a of the insurance law and fifty  
11 percentum shall be allocated to the program pursuant to section four  
12 thousand three hundred twenty-two-a of the insurance law;

13 (viii) up to forty million dollars for the period January first, two  
14 thousand seven through December thirty-first, two thousand seven of  
15 which fifty percentum shall be allocated to the program pursuant to  
16 section four thousand three hundred twenty-one-a of the insurance law  
17 and fifty percentum shall be allocated to the program pursuant to  
18 section four thousand three hundred twenty-two-a of the insurance law;  
19 and

20 (ix) up to forty million dollars for the period January first, two  
21 thousand eight through December thirty-first, two thousand eight of  
22 which fifty per centum shall be allocated to the program pursuant to  
23 section four thousand three hundred twenty-one-a of the insurance law  
24 and fifty per centum shall be allocated to the program pursuant to  
25 section four thousand three hundred twenty-two-a of the insurance law[;

26 ~~(x) up to forty million dollars for the period January first, two~~  
27 ~~thousand nine through December thirty-first, two thousand nine, of which~~  
28 ~~fifty percentum shall be allocated to the program pursuant to section~~  
29 ~~four thousand three hundred twenty-one-a of the insurance law and fifty~~  
30 ~~percentum shall be allocated to the program pursuant to section four~~  
31 ~~thousand three hundred twenty-two-a of the insurance law;~~

32 ~~(xi) up to forty million dollars for the period January first, two~~  
33 ~~thousand ten through December thirty-first, two thousand ten, of which~~  
34 ~~fifty percentum shall be allocated to the program pursuant to section~~  
35 ~~four thousand three hundred twenty-one-a of the insurance law and fifty~~  
36 ~~percentum shall be allocated pursuant to section four thousand three~~  
37 ~~hundred twenty-two-a of the insurance law; and~~

38 ~~(xii) up to ten million dollars for the period January first, two~~  
39 ~~thousand eleven through March thirty-first, two thousand eleven, of~~  
40 ~~which fifty percentum shall be allocated pursuant to section four thou-~~  
41 ~~sand three hundred twenty-one-a of the insurance law and fifty percentum~~  
42 ~~shall be allocated pursuant to section four thousand three hundred twen-~~  
43 ~~ty two-a of the insurance law].~~

44 (h) Funds shall be reserved and accumulated from year to year and  
45 shall be available, including income from invested funds, for purposes  
46 of services and expenses related to the healthy New York individual  
47 program established pursuant to sections four thousand three hundred  
48 twenty-six and four thousand three hundred twenty-seven of the insurance  
49 law from the tobacco control and insurance initiatives pool established  
50 for the following periods in the following amounts:

51 (i) up to six million dollars for the period January first, two thou-  
52 sand one through December thirty-first, two thousand one;

53 (ii) up to twenty-nine million dollars for the period January first,  
54 two thousand two through December thirty-first, two thousand two;

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1 (iii) up to five million one hundred thousand dollars for the period  
2 January first, two thousand three through December thirty-first, two  
3 thousand three;  
4 (iv) up to twenty-four million six hundred thousand dollars for the  
5 period January first, two thousand four through December thirty-first,  
6 two thousand four;  
7 (v) up to thirty-four million six hundred thousand dollars for the  
8 period January first, two thousand five through December thirty-first,  
9 two thousand five;  
10 (vi) up to fifty-four million eight hundred thousand dollars for the  
11 period January first, two thousand six through December thirty-first,  
12 two thousand six;  
13 (vii) up to sixty-one million seven hundred thousand dollars for the  
14 period January first, two thousand seven through December thirty-first,  
15 two thousand seven; and  
16 (viii) up to one hundred three million seven hundred fifty thousand  
17 dollars for the period January first, two thousand eight through Decem-  
18 ber thirty-first, two thousand eight[  
19 ~~(ix) up to one hundred thirty-one million two hundred fifty thousand~~  
20 ~~dollars for the period January first, two thousand nine through December~~  
21 ~~thirty-first, two thousand nine,~~  
22 ~~(x) up to one hundred eighty-one million two hundred fifty thousand~~  
23 ~~dollars for the period January first, two thousand ten through December~~  
24 ~~thirty-first, two thousand ten, and~~  
25 ~~(xi) up to forty-five million three hundred twelve thousand five~~  
26 ~~hundred dollars for the period January first, two thousand eleven~~  
27 ~~through March thirty-first, two thousand eleven].~~  
28 (i) Funds shall be reserved and accumulated from year to year and  
29 shall be available, including income from invested funds, for purposes  
30 of services and expenses related to the healthy New York group program  
31 established pursuant to sections four thousand three hundred twenty-six  
32 and four thousand three hundred twenty-seven of the insurance law from  
33 the tobacco control and insurance initiatives pool established for the  
34 following periods in the following amounts:  
35 (i) up to thirty-four million dollars for the period January first,  
36 two thousand one through December thirty-first, two thousand one;  
37 (ii) up to seventy-seven million dollars for the period January first,  
38 two thousand two through December thirty-first, two thousand two;  
39 (iii) up to ten million five hundred thousand dollars for the period  
40 January first, two thousand three through December thirty-first, two  
41 thousand three;  
42 (iv) up to twenty-four million six hundred thousand dollars for the  
43 period January first, two thousand four through December thirty-first,  
44 two thousand four;  
45 (v) up to thirty-four million six hundred thousand dollars for the  
46 period January first, two thousand five through December thirty-first,  
47 two thousand five;  
48 (vi) up to fifty-four million eight hundred thousand dollars for the  
49 period January first, two thousand six through December thirty-first,  
50 two thousand six;  
51 (vii) up to sixty-one million seven hundred thousand dollars for the  
52 period January first, two thousand seven through December thirty-first,  
53 two thousand seven; and  
54 (viii) up to one hundred three million seven hundred fifty thousand  
55 dollars for the period January first, two thousand eight through Decem-  
56 ber thirty-first, two thousand eight[

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1 ~~(ix) up to one hundred thirty-one million two hundred fifty thousand~~  
2 ~~dollars for the period January first, two thousand nine through December~~  
3 ~~thirty-first, two thousand nine,~~  
4 ~~(x) up to one hundred eighty-one million two hundred fifty thousand~~  
5 ~~dollars for the period January first, two thousand ten through December~~  
6 ~~thirty-first, two thousand ten, and~~  
7 ~~(xi) up to forty-five million three hundred twelve thousand five~~  
8 ~~hundred dollars for the period January first, two thousand eleven~~  
9 ~~through March thirty-first, two thousand eleven].~~

10 (i-1) Notwithstanding the provisions of paragraphs (h) and (i) of this  
11 subdivision, the commissioner shall reserve and accumulate up to two  
12 million five hundred thousand dollars annually for the periods January  
13 first, two thousand four through December thirty-first, two thousand  
14 six, one million four hundred thousand dollars for the period January  
15 first, two thousand seven through December thirty-first, two thousand  
16 seven, two million dollars for the period January first, two thousand  
17 eight through December thirty-first, two thousand eight, ~~[two million~~  
18 ~~dollars for the period January first, two thousand nine through December~~  
19 ~~thirty-first, two thousand nine, two million dollars for the period~~  
20 ~~January first, two thousand ten through December thirty-first, two thou-~~  
21 ~~sand ten, and five hundred thousand dollars for the period January~~  
22 ~~first, two thousand eleven through March thirty-first, two thousand~~  
23 ~~eleven]~~ from funds otherwise available for distribution under such para-  
24 graphs for the services and expenses related to the pilot program for  
25 entertainment industry employees included in subsection (b) of section  
26 one thousand one hundred twenty-two of the insurance law, and an addi-  
27 tional seven hundred thousand dollars annually for the periods January  
28 first, two thousand four through December thirty-first, two thousand  
29 six, an additional three hundred thousand dollars for the period January  
30 first, two thousand seven through June thirtieth, two thousand seven for  
31 services and expenses related to the pilot program for displaced workers  
32 included in subsection (c) of section one thousand one hundred twenty-  
33 two of the insurance law.

34 § 6. This act shall take effect immediately; provided that the amend-  
35 ments to section 2807-s of the public health law made by section four of  
36 this act shall not affect the expiration of such section and shall be  
37 deemed expired therewith; and the amendments to paragraph (i-1) of  
38 subdivision 1 of section 2807-v of the public health law made by section  
39 five of this act shall not affect the repeal of such paragraph and shall  
40 be deemed repealed therewith.

41 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
42 sion, section or part of this act shall be adjudged by any court of  
43 competent jurisdiction to be invalid, such judgment shall not affect,  
44 impair, or invalidate the remainder thereof, but shall be confined in  
45 its operation to the clause, sentence, paragraph, subdivision, section  
46 or part thereof directly involved in the controversy in which such judg-  
47 ment shall have been rendered. It is hereby declared to be the intent of  
48 the legislature that this act would have been enacted even if such  
49 invalid provisions had not been included herein.

50 § 3. This act shall take effect immediately provided, however, that  
51 the applicable effective date of Parts A through I of this act shall be  
52 as specifically set forth in the last section of such Parts.