

Amend Senate 2108, Assembly 4308, A BUDGET BILL, AN ACT to amend the New York Health Care Reform Act of 1996, in relation to extending certain provisions relating thereto...

Page 33,	Line 10,	After "five;" insert " <u>and</u> "
Page 33,	Line 13,	After "; and" strike out "]"
Page 33,	Line 14,	After "(iv)" strike out "["
Page 33,	Line 16,	After "two thousand seven" and before "." Insert "]"
Page 33,	Line 17,	After "(v)" strike out "]"
Page 59,	Lines 44 through 45,	Strike out " <u>and outreach and facilitated enrollment contractors pursuant to subdivision nine of this section</u> "
Page 59,	Between lines 48 and 49,	Insert <u>§ 30-a. Notwithstanding any inconsistent provision of section one hundred twelve or one hundred sixty-three of the state finance law, at the discretion of the commissioner, without a competitive bid or request for proposal process, contractual arrangements with outreach and facilitated enrollment contractors pursuant to subdivision 9 of section 2511 of the public health law in effect in two thousand seven may be extended to December thirty first, two thousand eleven to provide an uninterrupted continuation of services and may be amended as deemed necessary.</u>
Page 77,	Line 41,	After "grant period" strike out "["
Page 77,	Line 43,	After "not include" insert "["
Page 77,	Line 45,	After "(ii)" insert "]"
Page 77,	Line 51,	After "chapter" strike out "]"
Page 88,	Line 22,	After "[June thirtieth]" strike out " <u>December</u> " and insert " <u>March</u> "
Page 88,	Line 23,	After "two thousand" insert "[" and after "seven" insert "] <u>eight</u> "
Page 88,	Line 23,	After "with the following" insert " <u>, provided, however, that amounts allocated for the period January first, two thousand eight through March thirty-first, two thousand eight, shall be distributed in accordance with the provisions of subdivision five-a of section twenty-eight hundred seven-k of this article</u>
Page 89,	Line 12,	After "Paragraphs 1" strike out "and" and insert "," and after "2" insert "and 4"

Page 89,	Line 13,	After "amended and" insert "[" and after "paragraph" insert "]" and insert " <u>paragraphs</u> " and after "2" insert "and 4"
Page 89,	Line 25,	After " <u>or</u> " strike out " <u>an</u> " and insert " <u>one or more</u> " and after " <u>forty-three</u> " strike out " <u>corporation</u> " and insert " <u>corporations</u> "
Page 89,	Line 28,	After " <u>and its</u> " insert " <u>or their</u> "
Page 89,	Line 31,	After " <u>health law</u>)" insert " <u>, hereinafter referred to in the singular</u> "
Page 89,	Between lines 36 and 37,	<p>Insert "(4) In addition to any other requirements of law, rule or regulation, the following requirements shall be applicable to the public asset:</p> <p>(A) The public asset shall be transferred to the fund established pursuant to subsection (e) of section seven thousand three hundred seventeen of this chapter and the public asset shall be irrevocably dedicated to the purpose as set forth in such section;</p> <p>(B) There is hereby established a board for the purpose of advising and making decisions with respect to the investment of assets and moneys in the fund created pursuant to subsection (e) of section seven thousand three hundred seventeen of this chapter. Such board shall be composed of five members appointed as follows: three members shall be appointed by the governor; one member appointed by the temporary president of the senate; and one member appointed by the speaker of the assembly. <u>The governor shall select the chairperson to the board.</u> Each member of the board shall be appointed for a term of three years and may be reappointed at the end of said term by the same person that made the original appointment. A vacancy in the membership of the board shall be filled for the unexpired portion of the term provided for by the original appointment by the same person that made the original appointment. Each member may be removed, other than upon the expiration of his or her term, only for neglect of duty, misconduct or other good cause. Each member of the board shall be a member of the public with knowledge and expertise in capital markets and a demonstrated commitment to ensuring continued access to, and availability of, health care services and may not be an officer or employee of the state or any municipal subdivision thereof;</p> <p>(C) The members shall serve without compensation for their services as members, but shall be entitled to reimbursement for actual and necessary expenses incurred in</p>

		<p>the performance of their official duties. Such members, except as otherwise provided by law, may engage in private employment, or in a profession or business;</p> <p>(D) The board and its corporate existence shall continue until there are no longer any assets or moneys in the fund created pursuant to subsection (e) of section seven thousand three hundred seventeen of this chapter available for distribution;</p> <p>(E) The affirmative vote of three of the members shall be necessary for the transaction of any business or the exercise of any power or function of the board. The board may delegate to one or more of its members, or its agents, such powers and duties as it may deem proper;</p> <p>(F) The board shall have the power to:</p> <p>(i) direct, in [consultation] <u>conformance with investment, divestiture and asset management guidelines issued by, and with the approval of, the director of the division of the budget [regarding the anticipated schedule of payments to the state], the manner in which moneys in the fund created pursuant to subsection (e) of section seven thousand three hundred seventeen of this chapter are invested so as to maximize the value of the assets in such fund consistent with the board's statutory obligation to direct disbursements as described below and in subsection (e) of section seven thousand three hundred seventeen of this chapter. Such guidelines shall be developed in consultation with the board and the office of the State comptroller, and may consider the investment policies for public authorities issued by the comptroller;</u></p> <p>(ii) direct that disbursements be made from such fund in accordance with the direction of the director of the division of the budget and as described in subsection (e) of section seven thousand three hundred seventeen of this chapter <u>and that any divestiture or any other disposition of the asset are made with the approval of the director of the budget; and</u></p> <p>(iii) make and execute contracts and all other instruments, and to exercise such other powers, necessary or convenient for the exercise of its powers and functions, <u>provided, however, that documents related to conversions occurring after January first two thousand seven shall be approved by the director of the division of the budget.</u></p> <p>In directing investments pursuant to this subparagraph, the board shall not be limited by any restrictions on investments</p>
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		contained in any other section of law, subject only to the board's obligations and the considerations set forth above;"
Page 89,	Line 43,	After " <u>or</u> " strike out " <u>an</u> " and insert " <u>one or more</u> " and after " <u>forty-three</u> " strike out " <u>corporation</u> " and insert " <u>corporations</u> "
Page 89,	Line 46,	After " <u>and its</u> " insert " <u>or their</u> "
Page 89,	Line 49,	After " <u>health law)</u> " insert " <u>, hereinafter referred to in the singular</u> "
Page 99,	Line 1,	<p>After "§16" insert "Section 276-a of the public health law, as added by chapter 293 of the laws of 2005, is amended to read as follows:</p> <p>§ 276-a. Prescription drug retail price lists. 1. The department shall make prescription drug retail price lists of pharmacies, with the name and address of each pharmacy, available to the public in a database on its website at all times. The website shall enable consumers to search the database for drug retail prices of pharmacies selected by zip code of the pharmacy and other appropriate factors, including enabling consumers to display and compare prices for one or more selected drugs as well as for the full list. The website shall enable consumers to download and print displayed information. The website shall accommodate reasonably anticipated and actual public use of the database. The database shall display drug retail prices for the compendium of the one hundred fifty most frequently prescribed drugs received by the department from the department of education under section sixty-eight hundred twenty-six of the education law.</p> <p>2. The department shall extract pharmacy retail price information, showing the actual price to be paid to the pharmacy by a retail purchaser for any listed drug at the listed dosage, from [usual and customary price data collected by the medical assistance program under title eleven of article five of the social services law] <u>the drug retail price list collected by the department from every pharmacy under subdivision 1 of section sixty-eight hundred twenty-six of the education law.</u> The prescription drug retail price list database shall be subject to and conform with applicable state and federal requirements, including those concerning privacy, confidentiality and use of information. The commissioner shall seek a waiver of any federal requirement necessary for development and</p>

implementation of the database under this section. Upon implementation of this system, this section shall apply in place of any inconsistent provision of section sixty-eight hundred twenty-six of the education law. The prescription drug retail price list database on the department's website shall list a pharmacy's price information extracted under this subdivision as the pharmacy's retail price for each drug. The department shall update the prescription drug retail price list at least weekly using the most recent retail price for each drug for each pharmacy as reasonably practicable.

[3. Whenever the pharmacy retail price list is updated, the department shall electronically transmit to each pharmacy the data on the list applicable to that pharmacy. The pharmacy shall use that data to create the list it provides to persons under section sixty-eight hundred twenty-six of the education law.]

[4.] 3. The prescription drug retail price list database on the department's website shall contain an advisory statement by the department alerting consumers of the need to tell their health care practitioner and pharmacist about all the medications they may be taking and to ask them how to avoid harmful interactions between the drugs, if any. A pharmacy may submit to the department a brief statement, acceptable to the department, to be included on the website in conjunction with the pharmacy's prescription drug retail price information: (a) concerning discounts from its listed retail prices that may be available to consumers and (b) any limitations that the pharmacy may have as to what group or groups of customers it serves.

[5.] 4. In developing and implementing the prescription drug retail price list database system, the department may seek and shall receive the assistance of the departments of education and law.

[6.] 5. The commissioner shall provide an interim progress report concerning efforts to develop and implement the database system under this section not later than January thirty-first, two thousand six. The report shall include a projected completion date, a description of obstacles to development and implementation of the database system, and an estimate of the costs to complete the implementation of the database system.

[7.] 6. As used in this section, "pharmacy" means any place in which drugs

		<p>or prescriptions are possessed for the purpose of retailing, or in which drugs or prescriptions are retailed, or in which drugs or prescriptions are by advertising or otherwise offered for sale at retail.</p> <p>§17. Subdivision one of section 6826 of the education law, as added by chapter 284 of the laws of 2002, is amended to read as follows:</p> <p>§ 6826. Drug retail price lists. 1. Every pharmacy shall compile a drug retail price list, which shall contain the names of the drugs on the list provided by the board and the pharmacy's corresponding retail prices for each drug. Every pharmacy shall update its drug retail <u>price</u> list at least weekly and <u>transmit the drug retail price list to the department of health in a manner and frequency developed by the department of health.</u> Every pharmacy shall provide the drug retail price list to any person upon request."</p>
Page 99,	Line 1,	Before "This act" insert "§18"
Page 99,	Line 4,	After "2007" insert ", and sections sixteen and seventeen shall take effect one hundred eighty days after such sections shall have become law"
Page 99,	Line 26,	After "applicable." insert " <u>In addition to the documentation of residence and income authorized by this paragraph, the commissioner is authorized to periodically require a reasonable sample of recipients to provide documentation of residence and income at recertification.</u> "
Page 100,	Line 27,	After "applicable." insert " <u>In addition to the documentation of residence and income authorized by this paragraph, the commissioner is authorized to periodically require a reasonable sample of recipients to provide documentation of residence and income at recertification.</u> "
Page 101,	Between Lines 4 and 5,	<p>Insert "§1-f. Paragraph (w) of subdivision 4 of section 366 of the social services law, as added by chapter 16 of the laws of 2002, is amended to read as follows:</p> <p>(w) A woman who was pregnant while in receipt of medical assistance who subsequently loses her eligibility for medical assistance shall have her eligibility for medical assistance continued <u>for a period of twenty-four months</u> from the end of the month in which the sixtieth day following the end of her pregnancy occurs but only for Federal Title X services which shall continue for</p>

		<p>twenty four months therefrom, and provided further that the services are reimbursable] are eligible for reimbursement by the federal government at a rate of ninety percent; provided, however, that <u>such ninety percent limitation shall not apply to those services identified by the commissioner as services, including treatment for sexually transmitted diseases, generally performed as part of or as a follow-up to a service eligible for such ninety percent reimbursement; and provided further, however, that nothing in this paragraph shall be deemed to affect payment for such Title X services if federal financial participation is not available for such care, services and supplies [solely by reason of the immigration status of the other wise eligible woman].</u></p> <p>§1-g. Subdivision 11 of section 364-j of the social services law, as amended by chapter 16 of the laws of 2002, is amended to read as follows:</p> <p>11. Notwithstanding section three hundred sixty-six of this [chapter] <u>title</u> or any other inconsistent provision of law, participants in the managed care program under this section who have lost their eligibility for medical assistance before the end of a six month period beginning on the date of the participant's initial selection of or assignment to a managed care provider shall have their eligibility for medical assistance continued until the end of the six month enrollment period, but only with respect to family planning services provided pursuant to subparagraph (iii) of paragraph (a) of subdivision four of this section and any services provided to the individual under the direction of the managed care provider. Provided further, however, a pregnant woman with an income in excess of the medically needy income level set forth in section three hundred sixty-six of this title, who was eligible for medical assistance solely as a result of paragraph (m) or (o) of subdivision four of such section, shall continue to be eligible for medical assistance benefits only through the end of the month in which the sixtieth day following the end of her pregnancy occurs except for eligibility for Federal Title X services <u>which are eligible for reimbursement by the federal government at a rate of ninety percent</u> which shall continue for twenty-four months therefrom[, and provided further that the services are reimbursable by the federal government at a rate of ninety percent];</p>
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		<p>provided, however, that <u>such ninety percent limitation shall not apply to those services identified by the commissioner as services, including treatment for sexually transmitted diseases, generally performed as part of or as a follow-up to a service eligible for such ninety percent reimbursement; and provided further, however, that nothing in this subdivision shall be deemed to affect payment for such Title X services if federal financial participation is not available for such care, services and supplies [solely by reason of the immigration status of the otherwise eligible woman].</u></p> <p>§1-h. Subparagraph 11 of paragraph (a) of subdivision 1 of section 366 of the social services law, as amended by section 61 of part A of chapter 1 of the laws of 2002, is amended to read as follows:</p> <p>(11) for purposes of receiving family planning services eligible for reimbursement by the federal government at a rate of ninety percent, is not otherwise eligible for medical assistance and whose income is two hundred percent or less of the comparable federal income official poverty line (as defined and annually revised by the United States department of health and human services); <u>provided, however, that such ninety percent limitation shall not apply to those services identified by the commissioner of health as services, including treatment for sexually transmitted diseases, generally performed as part of or as a follow-up to a service eligible for such ninety percent reimbursement.</u> The commissioner of health shall submit whatever waiver applications as may be necessary to receive federal financial participation for services provided under this subparagraph and the provisions of this subparagraph shall be effective if and so long as such federal financial participation shall be available; or"</p>
Page 101,	Line 31,	After " <u>agencies,</u> " insert " <u>licensed home care services agencies, long term home health care programs,</u> "
Page 106,	Between Lines 44 and 45,	<p>Insert "§22-a. Section 88 of chapter 659 of the laws of 1997, constituting the Long Term Care Integration and Finance Act of 1997, as amended by chapter 346 of the laws of 2005, is amended to read as follows:</p> <p>§ 88. Notwithstanding any provision of law to the contrary, all operating demonstrations, as such term is defined in</p>

		paragraph (d) of subdivision 1 of section 4403-f of the public health law as added by section eighty-two of this act, due to expire prior to January 1, 2001 shall be deemed to expire on December 31, 2007 <u>2009.</u> "
Page 106,	Line 45,	Strike out "§22-a" and insert "§22-b"
Page 118,	Line 35,	After " <u>section</u> " strike out " <u>and the complaint in such action has been unsealed</u> "
Page 119,	Line 51,	After " <u>matters.</u> " insert " <u>If any such alternate civil remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this section.</u> "
Page 120,	Line 13,	After " <u>government,</u> " insert " <u>or if the attorney general or a local government elects to intervene in the qui tam civil action,</u> "
Page 120,	Line 16,	After " <u>action.</u> " Insert " <u>The court shall determine the percentage of the proceeds to which a person commencing a qui tam civil action is entitled, by considering the extent to which the plaintiff substantially contributed to the prosecution of the action. Where the court finds that the action was based primarily on disclosures of specific information (other than information provided by the person bringing the action) relating to allegations or transactions in a criminal, civil or administrative hearing, in a legislative or administrative report, hearing, audit or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than ten percent of the proceeds, taking into account the significance of the information and the role of the person or persons bringing the action in advancing the case to litigation.</u> "
Page 120,	Line 17,	After " <u>(b)</u> " strike out " <u>If the attorney general or a local government elects to intervene in the qui tam civil action, then the person or persons who initiated the qui tam civil action, collectively shall be entitled to receive between fifteen percent and twenty-five percent of the proceeds recovered in the action or settlement of the action.</u> "
Page 120,	Line 23,	After " <u>successful</u> " insert " <u>,</u> "
Page 120,	Line 27,	After " <u>(c)</u> " strike out " <u>The court shall</u>

		<p><u>determine the percentage of the proceeds to which a person commencing a qui tam civil action is entitled, by considering the following factors:</u></p> <p><u>(i) the extent to which the plaintiff substantially contributed to the prosecution of the action, either in time, effort or finances;</u></p> <p><u>(ii) whether the action was based primarily on disclosures of specific information or information provided by the person bringing the action, rather than information derived from public sources such as allegations or transactions in a criminal, civil or administrative hearing, in a legislative or administrative report, hearing, audit or investigation, or from the news media;</u></p> <p><u>(iii) the extent to which damage to the state or local governments could have been mitigated if the plaintiff's knowledge and information concerning the presentment of the false claim had been immediately brought to the attention of the appropriate authorities; and</u></p> <p><u>(iv) the extent to which fundamental fairness demands that a specified percentage of the proceeds be awarded to the plaintiff.</u></p> <p><u>In making such determination, the court shall give substantial deference to the recommendation of the attorney general, and to any local government that participates as a party in the action, regarding the award to the qui tam plaintiff in such cases where the attorney general and/or the local government have intervened in, or converted, the action.</u></p> <p><u>(d)"</u></p>
<p>Page 141,</p>	<p>Line 4,</p>	<p>After "<u>or a</u>" strike out "<u>life care</u>" and insert "<u>continuing care retirement</u>"</p>
<p>Page 141,</p>	<p>Line 8,</p>	<p>After "<u>to a</u>" strike out "<u>life care</u>" and insert "<u>continuing care retirement</u>"</p>
<p>Page 155,</p>	<p>Line 1,</p>	<p>After "<u>shall be</u>" insert "<u>allocated proportionally based on each eligible hospitals' total reported medicaid inpatient discharges in two thousand four, to the total reported medicaid inpatient discharges for all such eligible hospitals in two thousand four, provided, however,</u></p>

		<u>that such rate adjustments shall be"</u>
Page 156,	Between Lines 25 and 26,	Insert "1-a Sections one-f, one-g, and one-h shall take effect July 1, 2007, provided that the amendments to section 364-j of the social services law made by section two of this act shall not affect the repeal of such section and shall be deemed repealed therewith;"