S T A T E O F N E W Y O R K

8439

I N S E N A T E

July 11, 2010

Introduced by COMMITTEE ON RULES -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the state finance law, in relation to the FMAP contingency fund; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. For the purpose of maintaining a balanced budget, in the event that the federal government does not enact an extension of enhanced Federal Medicaid Assistance Percentages ("FMAP") for the state of New York by November 15, 2010, the director of the budget, upon authorization of the state legislature, shall implement across-the-board payment reductions to be made from all undisbursed general fund and state special revenue fund appropriations by $1,060,000,000 with the following exceptions: (a) payments for emergency assistance for families and payments for eligible aged, blind and disabled persons related to supplemental social security; (b) any reductions that would violate federal law; (c) payments of debt service and related expenses for which the state is constitutionally obligated to pay debt service or is contractually obligated to pay debt service, subject to an appropriation, including where the state has a contingent contractual obligation; and (d) binding, non-discretionary legal obligations, except for obligations which are binding solely as a result of state statute or regulation. Such reductions shall be made in accordance with a written across-the-board allocation plan prepared by the director of the budget, filed with the state comptroller, the chair of the senate finance committee and the chair of the assembly ways and means committee, and, after a period of review, shall be approved by the legislature. Upon such approval, the director of the budget shall prepare appropriately reduced certificates, which shall be filed with the state comptroller, the chair of the senate finance committee and the chair of the assembly ways and means committee. All amounts so reduced shall be deposited in a contingency fund established pursuant to section 99-r of the state finance law. If at any time after the effective date of this section an

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

LBD17993-03-0

extension of enhanced FMAP has been enacted by the Federal government in an amount at least as great as the amount assumed in the fiscal year two thousand ten-eleven financial plan as determined by the director of the budget, no further reductions shall occur and all payment amounts withheld pursuant to this section shall be paid to the recipients from which they were withheld. If an extension of enhanced FMAP is not enacted during the fiscal year, or an extension is enacted in an amount less than $1,060,000,000, the reductions authorized by this section shall continue until the total amount of such reductions is equal to the amount by which the extension differs from the amount assumed in the fiscal year two thousand ten-eleven financial plan as determined by the director of the budget and, notwithstanding any other provision of law to the contrary, liability for amounts due under an appropriation or other applicable provision of law shall be reduced in the amounts of the payment reduction. If, after two weeks from the date of submission of the written across-the-board allocation plan submitted to the legislature by the director of the budget, the legislature and executive cannot agree on a written across-the-board allocation plan, the director of the budget shall implement across-the-board payment reduction to be made from all undisbursed general fund and state special revenue fund appropriations by $1,060,000,000 or such lower amount which constitutes the difference between $1,060,000,000 and the amount of FMAP extension funds provided in state fiscal year two thousand ten-eleven.

S 2. The state finance law is amended by adding a new section 99-r to read as follows:

S 99-R. FMAP CONTINGENCY FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL REVENUE FUND KNOWN AS THE "FMAP CONTINGENCY FUND".

2. THE FUND SHALL CONSIST OF ALL MONIES REQUIRED BY LAW TO BE DEPOSITED TO THE FUND.

3. MONIES IN THE FUND SHALL BE DISBURSED, WHEN ALLOCATED, FOR THE PURPOSE OF MAKING PAYMENTS THAT HAD PREVIOUSLY BEEN SUBJECT TO REDUCTION PURSUANT TO LAW AS A RESULT OF FEDERAL GOVERNMENT FAILURE TO ENACT AN EXTENSION OF FEDERAL MEDICAID ASSISTANCE PERCENTAGES.

4. IF THE BALANCE IN THE FUND EXCEEDS THE AMOUNT OF DISBURSEMENTS FROM THE GENERAL FUND PROJECTED TO BE EXPENDED FOR THE NEXT SUCCEEDING QUARTERLY PERIOD, SUCH EXCESS SHALL BE TRANSFERRED TO THE GENERAL FUND.

5. IF BY JANUARY FIRST, TWO THOUSAND ELEVEN, FEDERAL MEDICAID ASSISTANCE PERCENTAGES ARE NOT EXTENDED OR ARE EXTENDED IN AN AMOUNT THAT IS LESS THAN THE AMOUNT ASSUMED IN THE FISCAL YEAR TWO THOUSAND TEN-ELEVEN FINANCIAL PLAN AS DETERMINED BY THE DIRECTOR OF THE BUDGET, ALL MONIES IN THE FUND ON SUCH DATE SHALL BE TRANSFERRED TO THE GENERAL FUND AND ANY AMOUNTS DEPOSITED IN THE FUND AFTER SUCH DATE SHALL BE TRANSFERRED TO THE GENERAL FUND UPON THE REQUEST OF THE DIRECTOR OF THE BUDGET.

S 3. This act shall take effect immediately and shall expire and be deemed repealed April 1, 2011.