STATE OF NEW YORK

8715

IN SENATE

April 4, 2022

Introduced by Sen. KRUEGER -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT making appropriations for the support of government; 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. Legislative intent. The legislature hereby finds and declares that the enactment of these appropriations provides sufficient authority to the comptroller for the purpose of making payments for the purposes described herein until such time as appropriation bills submitted by the governor pursuant to article VII of the state constitution for the support of government for the state fiscal year beginning April 1, 2022 are enacted.

§ 2. The amounts specified in this section, or so much thereof as shall be sufficient to accomplish the purposes designated, is hereby appropriated and authorized to be paid as hereinafter provided, to the public officers and for the purpose specified, which amount shall be available for the state fiscal year beginning April 1, 2022.

ALL STATE DEPARTMENTS AND AGENCIES

For the purpose of making payments for personal service, including liabilities incurred prior to April 1, 2022, on the payrolls scheduled to be paid during the period April 1 through April 7, 2022 to state officers and employees of the executive branch, including the governor, lieutenant governor, comptroller and attorney general; and payments for services performed by mentally ill or developmentally disabled persons who are employed in state-operated special employment,

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

LBD12041-01-2

work-for-pay or sheltered workshop programs 186,000,000

For the purpose of state agencies making payments for fringe benefits assessments incurred for personal service liabilities incurred prior to April 1, 2022, and during the period April 1 through April 7, 2022 70,000,000

For the purpose of state agencies making payments for indirect cost assessments incurred for personal service liabilities incurred prior to April 1, 2022, and during the period April 1 through April 7, 2022 4,500,000

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§ 3. The amount specified in this section, or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated and authorized to be paid as hereinafter provided, to the public officers and for the purpose specified, which amount shall be available for the state fiscal year beginning April 1, 2022.

ALL STATE DEPARTMENTS AND AGENCIES

For the payment of state operations non personal service liabilities to the executive branch, including the comptroller, and the attorney general, incurred in the ordinary course of business, during the period April 1 through April 5, 2022, pursuant to existing state law and for purposes for which the legislature authorized the expenditure of moneys during the 2021-2022 state fiscal year; provided, however, that nothing contained herein shall be deemed to limit or restrict the power or authority of state departments or agencies to conduct their activities or operations in accordance with existing law, and further provided that nothing contained herein shall be deemed to supersede, nullify or modify the provisions of section 40 of the state finance law prescribing when appropriations made for the 2021-2022 state fiscal year shall have ceased to have force and effect 11,250,000

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§ 4. The amounts specified in this section, or so much thereof as shall be sufficient to accomplish the purposes designated, is hereby appropriated and authorized to be paid as hereinafter provided, to the public officers and for the purposes specified, which amount shall be available for the state fiscal year beginning April 1, 2022.

MISCELLANEOUS -- ALL STATE DEPARTMENTS AND AGENCIES

GENERAL STATE CHARGES

STATE OPERATIONS

GENERAL STATE CHARGES 56,600,000

General Fund
State Purposes Account - 10050

For employee fringe benefits according to the following project schedule including those benefits which are related to employees paid from funds, accounts, or programs where the division of the budget has issued waivers 55,300,000

Project Schedule

PROJECT	AMOUNT
For the state's contribution to employee benefit fund programs	35,000,000
For the state's contribution to the social security contribution fund	20,000,000
For the state's share of contributions to the voluntary defined contribution plan made on behalf of eligible employees pursuant to chapter 18 of the laws of 2012 who elect to participate in such plan and who are not otherwise eligible to participate in the SUNY optional retirement program	300,000
Project schedule total	55,300,000

For the payment of the metropolitan commuter transportation mobility tax pursuant to article 23 of the tax law as added by chapter 25 of the laws of 2009 on behalf of the state employees employed in the metropolitan commuter transportation district 1,300,000
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§ 5. The amounts specified in this section, or so much thereof as shall be sufficient to accomplish the purposes designated, is hereby appropriated and authorized to be paid as hereinafter provided, to the public officers and for the purposes specified, which amount shall be available for the state fiscal year beginning April 1, 2022.

DEPARTMENT OF HEALTH

AID TO LOCALITIES

CENTER FOR COMMUNITY HEALTH PROGRAM 11,200,000

General Fund
Local Assistance Account - 10000

For services and expenses related to the Indian health program. The moneys hereby appropriated shall be for payment of financial assistance heretofore accrued or hereafter to accrue (26840) 3,200,000

Special Revenue Funds - Federal
Federal USDA-Food and Nutrition Services Fund
Federal Food and Nutrition Services Account - 25022

For various federal food and nutritional services. The moneys hereby appropriated shall be available for payment of financial assistance heretofore accrued (26986) ... 8,000,000
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§ 6. The amounts specified in this section, or so much thereof as shall be sufficient to accomplish the purposes designated, is hereby appropriated and authorized to be paid as hereinafter provided, to the public officers and for the purposes specified, which amount shall be available for the state fiscal year beginning April 1, 2022.

DEPARTMENT OF MENTAL HYGIENE

OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES

AID TO LOCALITIES

COMMUNITY SERVICES PROGRAM 19,909,000

For services and expenses of the community services program, net of disallowances, for community programs for people with developmental disabilities pursuant to article 41 of the mental hygiene law, and/or chapter 620 of the laws of 1974, chapter 660 of the laws of 1977, chapter 412 of the laws of 1981, chapter 27 of the laws of 1987, chapter 729 of the laws of 1989, chapter 329 of the laws of 1993 and other provisions of the mental hygiene law. Notwithstanding any inconsistent provision of law, the following appropriation shall be net of prior and/or current year refunds, rebates, reimbursements, and credits.

Notwithstanding any other provision of law, advances and reimbursement made pursuant to subdivision (d) of section 41.15 and section 41.18 of the mental hygiene law shall be allocated pursuant to a plan and in a manner prescribed by the agency head and approved by the director of the budget. The moneys hereby appropriated are available to reimburse or advance localities and voluntary non-profit agencies for expenditures made during local fiscal periods commencing January 1, 2021, April 1, 2021 or July 1, 2021, and for advances for the 3 month period beginning January 1, 2022.

Notwithstanding the provisions of article 41 of the mental hygiene law or any other inconsistent provision of law, rule or regulation, the commissioner, pursuant to such contract and in the manner provided therein, may pay all or a portion of the expenses incurred by such voluntary agencies arising out of loans which are funded from the proceeds of bonds and notes issued by the dormitory authority of the state of New York.

Notwithstanding any other provision of law, the money hereby appropriated may be transferred to state operations and/or any appropriation of the office for people with developmental disabilities with the approval of the director of the budget.

Notwithstanding any inconsistent provision of law, moneys from this appropriation may be used for state aid of up to 100 percent of the net deficit costs of day training programs and family support services.

Notwithstanding the provisions of section 16.23 of the mental hygiene law and any other inconsistent provision of law, with relation to the operation of certified family care homes, including family care homes sponsored by voluntary not-for-profit agencies, moneys from this appropriation may be used for payments to purchase general services including but not limited to respite providers, up to a maximum of 5 days, at rates to be established by the commissioner and approved by the director of the budget in consideration of factors including, but not limited to, geographic area and number of clients cared for in the home and for payment in an amount determined by the commissioner for the personal needs of each client residing in the family care home.

Notwithstanding the provisions of subdivision 12 of section 8 of the state finance law and any other inconsistent provision of law, moneys from this appropriation may be used for expenses of family care homes including payments to operators of certified family care homes for damages caused by clients to personal and real property in accordance with standards established by the commissioner and approved by the director of the budget.

Notwithstanding any inconsistent provision of law, moneys from this appropriation may be used for appropriate day program services and residential services including, but not limited to, direct housing subsidies to individuals, start-up expenses for family care providers, environmental modifications, adaptive technologies, appraisals, property options, feasibility studies and preoperational expenses.

Notwithstanding any inconsistent provision of law except pursuant to a chapter of the laws of 2021 authorizing a 1 percent cost of living adjustment, for the period commencing on April 1, 2021 and ending March 31, 2022 the commissioner shall not apply any other cost of living adjustment for the purpose of establishing rates of payments, contracts or any other form of reimbursement.

Notwithstanding section 6908 of the education law and any other provision of law, rule or regulation to the contrary, direct support staff in programs certified or approved by the office for people with developmental disabilities, including the home and community based services waiver programs that the office for people with developmental disabilities is authorized to administer with federal approval pursuant to subdivision (c) of section 1915 of the federal social security act, are authorized to provide such tasks as the office for people with developmental disabilities may specify when performed under the supervision, training and periodic inspection of a registered professional nurse and in accordance with an authorized practitioner's ordered care.

Notwithstanding any other provision of law to the contrary, and consistent with section 33.07 of the mental hygiene law, the directors of facilities licensed but not operated by the office for people with developmental disabilities who act as federally-appointed representative payees and who assume management responsibility over the funds of a resident may continue to use such funds for the cost of the resident's care and treatment, consistent with federal law and regulations.

Funds appropriated herein shall be available in accordance with the following:

Notwithstanding any other provision of law to the contrary, funds appropriated herein are available to reimburse in- and out-of-state private residential schools, pursuant to subdivision (c) of section 13.37-a and subdivision (g) of section 13.38 of the mental hygiene law, for costs of supporting the residential and day program services available to individuals who are over the age of 21 years of age, provided that the amount paid for residential services and/or maintenance costs is net of any supplemental security income benefit to which the individual receiving services is eligible, and provided further that funding for nonresidential services will be in an amount not to exceed the maximum reimbursement for appropriate day services delivered by the office for people with developmental disabilities certified or approved providers other than in- and out-of-state private residential schools, unless otherwise authorized by the director of the budget.

Notwithstanding section 163 of the state finance law, section 142 of the economic development law, and article 41 of the mental hygiene law, the commissioner of the office for people with developmental disabilities may make the funds appropriated herein available as state aid, a loan or a grant, pursuant to terms and conditions established by the commissioner of the office for people with developmental disabilities, to cover a portion of the development costs of private, public and/or non-profit organizations, including corporations and partnerships established pursuant to the private housing finance law and/or any other statutory provisions, for supportive housing units that have been set aside for individuals with intellectual and developmental disabilities. Further, the office for people with developmental disabilities shall have a lien on the real property developed with such state aid, loans or grants, which shall be in the amount of the loan or grant, for a maximum term of 30 years, or other longer term consistent with the requirements of another regulatory agency.

For services and expenses related to the provision of residential services to people with developmental disabilities (37802) 11,014,000

For services and expenses related to the provision of day program services to people with developmental disabilities (37803) 2,674,000

For services and expenses related to the provision of family support services to people with developmental disabilities (37804) 3,732,000

For services and expenses related to the provision of workshop, day training and employment services to people with developmental disabilities. Notwithstanding any other provision of law, up to $800,000 of this appropriation may be transferred to the New York State Education Departments' Adult Career and Continuing Education Services - Vocational Rehabilitation (ACCES-VR) program to support the Long-Term Sheltered Employment program operated by FEDCAP Rehabilitation Services, Inc. (37805) 2,154,000

For other services and expenses provided to people with developmental disabilities including but not limited to hepatitis B, care at home waiver, epilepsy services, Special Olympics New York, Inc. and voluntary fingerprinting (37806) 335,000

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§ 7. No expenditure may be made from any appropriation in this act, until a certificate of approval has been issued by the director of the budget and a copy of such certificate shall have been filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee provided, however, that any expenditures from any appropriation in this act made by the legislature or judiciary shall not require such certificate.

§ 8. All expenditures and disbursements made against the appropriations in this act shall, upon final action by the legislature on appropriation bills submitted by the governor pursuant to article VII of the state constitution for the support of government for the state fiscal year beginning April 1, 2022, be transferred by the comptroller as expenditures and disbursements to such appropriations for all state departments and agencies, as applicable, in amounts equal to the amounts charged against the appropriations in this act for each such department and agency.

§ 9. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 10. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2022. Provided however sections three, five, and six of this act shall cease to have force and effect after April 5, 2022 or upon the transfer of expenditures and disbursements by the comptroller as provided in section eight of this act, whichever is sooner. Provided further however, sections two and four of this act shall cease to have force and effect after April 7, 2022 or upon the transfer of expenditures and disbursements by the comptroller as provided in section eight of this act, whichever is sooner. This act shall be deemed repealed after April 7, 2022.