

9701

I N A S S E M B L Y

April 5, 2016

Introduced by M. of A. CUSICK -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law, the public authorities law, the highway law, the general municipal law, and the public buildings law, in relation to requiring the use of American made iron, steel and manufactured products in certain government contracts and establishing a rating system to prioritize the selection of such products; and to repeal certain provisions of the public authorities law and the state finance law relating thereto

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

1 Section 1. Title. This act shall be known as the "made in America
2 rating system act" or the "MARS act".
3 S 2. Section 146 of the state finance law is REPEALED and a new
4 section 146 is added to read as follows:
5 S 146. MADE IN AMERICA RATING SYSTEM. 1. USE OF AMERICAN MATERIALS.
6 (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EACH CONTRACT FOR THE
7 CONSTRUCTION, RECONSTRUCTION, ALTERATION OR IMPROVEMENT OF A PUBLIC
8 BUILDING OF PUBLIC WORKS MADE BY A PUBLIC AGENCY SHALL CONTAIN A
9 PROVISION THAT THE IRON, STEEL, AND MANUFACTURED PRODUCTS USED OR
10 SUPPLIED IN THE PERFORMANCE OF THE CONTRACT OR ANY SUBCONTRACT THERETO
11 AND PERMANENTLY INCORPORATED INTO THE PUBLIC BUILDING OR PUBLIC WORKS
12 SHALL BE AWARDED TO THE BIDDER WHOSE PRODUCT OR MATERIAL HAS THE HIGHEST
13 RATING ON THE MADE IN AMERICA RATING SYSTEM SCALE.
14 (B) THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL NOT
15 APPLY IN ANY CASE OR CATEGORY OF CASES IN WHICH IT IS FOUND THAT:
16 (I) SUCH MATERIALS AND PRODUCTS DO NOT MEET STATE STANDARDS FOR
17 CONSTRUCTION IN THE STATE; OR
18 (II) INCLUSION OF DOMESTIC MATERIAL WILL INCREASE THE COST OF THE
19 OVERALL PROJECT CONTRACT BY MORE THAN TWENTY PERCENT.
20 (C) THE MADE IN AMERICA RATING SYSTEM SHALL INCLUDE THE FOLLOWING
21 RATINGS, LISTED IN ORDER FROM HIGHEST TO LOWEST RATING:
22 (I) EMPIRE STATE AAA - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED
23 IN THE STATE AND ONE HUNDRED PERCENT OF THE RAW MATERIALS ARE AMERICAN;

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

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1 (II) EMPIRE STATE AA - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED
2 IN THE STATE AND AT LEAST SIXTY PERCENT OF THE RAW MATERIALS ARE AMERI-
3 CAN;

4 (III) EMPIRE STATE A - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED
5 IN THE STATE;

6 (IV) USA 100 - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED IN THE
7 UNITED STATES AND ONE HUNDRED PERCENT OF THE RAW MATERIALS ARE AMERICAN;

8 (V) USA 60 - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED IN THE
9 UNITED STATES AND AT LEAST SIXTY PERCENT OF THE RAW MATERIALS ARE AMERI-
10 CAN;

11 (VI) USA RATING - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED IN
12 THE UNITED STATES.

13 (D) IF IT HAS BEEN DETERMINED BY A COURT OR FEDERAL OR STATE AGENCY
14 THAT ANY PERSON INTENTIONALLY:

15 (I) AFFIXED A LABEL BEARING A "MADE IN AMERICA" INSCRIPTION, OR ANY
16 INSCRIPTION WITH THE SAME MEANING, TO ANY IRON, STEEL OR MANUFACTURED
17 PRODUCT USED IN PROJECTS TO WHICH THIS SECTION APPLIES, SOLD IN OR
18 SHIPPED TO THE UNITED STATES THAT WAS NOT MADE IN THE UNITED STATES; OR

19 (II) REPRESENTED THAT ANY IRON, STEEL OR MANUFACTURED PRODUCT USED IN
20 PROJECTS TO WHICH THIS SECTION APPLIES THAT WAS NOT PRODUCED IN THE
21 UNITED STATES, WAS PRODUCED IN THE UNITED STATES; THEN THAT PERSON SHALL
22 BE INELIGIBLE TO RECEIVE ANY CONTRACT OR SUBCONTRACT WITH THIS STATE
23 PURSUANT TO THE DEBARMENT OR SUSPENSION PROVISIONS PROVIDED UNDER
24 SECTION ONE HUNDRED THIRTY-NINE-A OF THIS ARTICLE.

25 (E) THIS SECTION SHALL BE APPLIED IN A MANNER CONSISTENT WITH THE
26 STATE'S OBLIGATIONS UNDER ANY APPLICABLE INTERNATIONAL AGREEMENTS
27 PERTAINING TO GOVERNMENT PROCUREMENT.

28 2. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING WORDS
29 SHALL HAVE THE FOLLOWING MEANINGS UNLESS SPECIFIED OTHERWISE:

30 (A) "PUBLIC AGENCY" MEANS A GOVERNMENTAL ENTITY AS THAT TERM IS
31 DEFINED IN SECTION ONE HUNDRED THIRTY-NINE-J OF THIS ARTICLE;

32 (B) "MADE IN AMERICA" MEANS: (I) IN THE CASE OF AN IRON OR STEEL PROD-
33 UCT ALL MANUFACTURING MUST TAKE PLACE IN THE UNITED STATES, FROM THE
34 INITIAL MELTING STAGE THROUGH THE APPLICATION OF COATINGS, EXCEPT METAL-
35 LURGICAL PROCESSES INVOLVING THE REFINEMENT OF STEEL ADDITIVES; AND

36 (II) IN THE CASE OF A MANUFACTURED PRODUCT, A PRODUCT WILL BE CONSID-
37 ERED MANUFACTURED IN THE UNITED STATES IF:

38 (A) ALL OF ITS MANUFACTURING PROCESSES TAKE PLACE IN THE UNITED
39 STATES, AND

40 (B) MORE THAN SIXTY PERCENT OF THE COMPONENTS OF THE MANUFACTURED
41 GOOD, BY COST, ARE OF DOMESTIC ORIGIN. IF, UNDER THE TERMS OF THIS
42 SUBPARAGRAPH, A COMPONENT IS DETERMINED TO BE OF DOMESTIC ORIGIN, ITS
43 ENTIRE COST MAY BE USED IN CALCULATING THE COST OF DOMESTIC CONTENT OF
44 AN END PRODUCT.

45 (C) "UNITED STATES" MEANS THE UNITED STATES OF AMERICA AND INCLUDES
46 ALL TERRITORY, CONTINENTAL OR INSULAR, SUBJECT TO THE JURISDICTION OF
47 THE UNITED STATES.

48 S 3. Section 2603-a of the public authorities law is REPEALED and a
49 new section 2877-a is added to read as follows:

50 S 2877-A. MADE IN AMERICA RATING SYSTEM. 1. USE OF AMERICAN MATERIALS.

51 (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EACH CONTRACT FOR THE
52 CONSTRUCTION, RECONSTRUCTION, ALTERATION OR IMPROVEMENT OF A PUBLIC
53 BUILDING OF PUBLIC WORKS MADE BY A PUBLIC AGENCY SHALL CONTAIN A
54 PROVISION THAT THE IRON, STEEL, AND MANUFACTURED PRODUCTS USED OR
55 SUPPLIED IN THE PERFORMANCE OF THE CONTRACT OR ANY SUBCONTRACT THERETO
56 AND PERMANENTLY INCORPORATED INTO THE PUBLIC BUILDING OR PUBLIC WORKS

1 SHALL BE AWARDED TO THE BIDDER WHOSE PRODUCT OR MATERIAL HAS THE HIGHEST
2 RATING ON THE MADE IN AMERICA RATING SYSTEM SCALE.

3 (B) THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL NOT
4 APPLY IN ANY CASE OR CATEGORY OF CASES IN WHICH IT IS FOUND THAT:

5 (I) SUCH MATERIALS AND PRODUCTS DO NOT MEET STATE STANDARDS FOR
6 CONSTRUCTION IN THE STATE; OR

7 (II) INCLUSION OF DOMESTIC MATERIAL WILL INCREASE THE COST OF THE
8 OVERALL PROJECT CONTRACT BY MORE THAN TWENTY PERCENT.

9 (C) THE MADE IN AMERICA RATING SYSTEM SHALL INCLUDE THE FOLLOWING
10 RATINGS, LISTED IN ORDER FROM HIGHEST TO LOWEST RATING:

11 (I) EMPIRE STATE AAA - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED
12 IN THE STATE AND ONE HUNDRED PERCENT OF THE RAW MATERIALS ARE AMERICAN;

13 (II) EMPIRE STATE AA - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED
14 IN THE STATE AND AT LEAST SIXTY PERCENT OF THE RAW MATERIALS ARE AMERI-
15 CAN;

16 (III) EMPIRE STATE A - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED
17 IN THE STATE;

18 (IV) USA 100 - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED IN THE
19 UNITED STATES AND ONE HUNDRED PERCENT OF THE RAW MATERIALS ARE AMERICAN;

20 (V) USA 60 - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED IN THE
21 UNITED STATES AND AT LEAST SIXTY PERCENT OF THE RAW MATERIALS ARE AMERI-
22 CAN;

23 (VI) USA RATING - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED IN
24 THE UNITED STATES.

25 (D) IF IT HAS BEEN DETERMINED BY A COURT OR FEDERAL OR STATE AGENCY
26 THAT ANY PERSON INTENTIONALLY:

27 (I) AFFIXED A LABEL BEARING A "MADE IN AMERICA" INSCRIPTION, OR ANY
28 INSCRIPTION WITH THE SAME MEANING, TO ANY IRON, STEEL OR MANUFACTURED
29 PRODUCT USED IN PROJECTS TO WHICH THIS SECTION APPLIES, SOLD IN OR
30 SHIPPED TO THE UNITED STATES THAT WAS NOT MADE IN THE UNITED STATES; OR

31 (II) REPRESENTED THAT ANY IRON, STEEL OR MANUFACTURED PRODUCT USED IN
32 PROJECTS TO WHICH THIS SECTION APPLIES THAT WAS NOT PRODUCED IN THE
33 UNITED STATES, WAS PRODUCED IN THE UNITED STATES; THEN THAT PERSON SHALL
34 BE INELIGIBLE TO RECEIVE ANY CONTRACT OR SUBCONTRACT WITH THIS STATE
35 PURSUANT TO THE DEBARMENT OR SUSPENSION PROVISIONS PROVIDED UNDER
36 SECTION ONE HUNDRED THIRTY-NINE-A OF THE STATE FINANCE LAW.

37 (E) THIS SECTION SHALL BE APPLIED IN A MANNER CONSISTENT WITH THE
38 STATE'S OBLIGATIONS UNDER ANY APPLICABLE INTERNATIONAL AGREEMENTS
39 PERTAINING TO GOVERNMENT PROCUREMENT.

40 2. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING WORDS
41 SHALL HAVE THE FOLLOWING MEANINGS UNLESS SPECIFIED OTHERWISE:

42 (A) "PUBLIC AGENCY" MEANS A GOVERNMENTAL ENTITY AS THAT TERM IS
43 DEFINED IN SECTION ONE HUNDRED THIRTY-NINE-J OF THIS THE STATE FINANCE
44 LAW;

45 (B) "MADE IN AMERICA" MEANS: (I) IN THE CASE OF AN IRON OR STEEL PROD-
46 UCT ALL MANUFACTURING MUST TAKE PLACE IN THE UNITED STATES, FROM THE
47 INITIAL MELTING STAGE THROUGH THE APPLICATION OF COATINGS, EXCEPT METAL-
48 LURGICAL PROCESSES INVOLVING THE REFINEMENT OF STEEL ADDITIVES; AND

49 (II) IN THE CASE OF A MANUFACTURED PRODUCT, A PRODUCT WILL BE CONSID-
50 ERED MANUFACTURED IN THE UNITED STATES IF:

51 (A) ALL OF ITS MANUFACTURING PROCESSES TAKE PLACE IN THE UNITED
52 STATES, AND

53 (B) MORE THAN SIXTY PERCENT OF THE COMPONENTS OF THE MANUFACTURED
54 GOOD, BY COST, ARE OF DOMESTIC ORIGIN. IF, UNDER THE TERMS OF THIS
55 SUBPARAGRAPH, A COMPONENT IS DETERMINED TO BE OF DOMESTIC ORIGIN, ITS

1 ENTIRE COST MAY BE USED IN CALCULATING THE COST OF DOMESTIC CONTENT OF
2 AN END PRODUCT.

3 (C) "UNITED STATES" MEANS THE UNITED STATES OF AMERICA AND INCLUDES
4 ALL TERRITORY, CONTINENTAL OR INSULAR, SUBJECT TO THE JURISDICTION OF
5 THE UNITED STATES.

6 S 4. Section 38 of the highway law is amended by adding a new subdivi-
7 sion 10 to read as follows:

8 10. USE OF AMERICAN MATERIALS. (A) NOTWITHSTANDING ANY OTHER PROVISION
9 OF LAW, EACH CONTRACT FOR THE CONSTRUCTION, RECONSTRUCTION, ALTERATION
10 OR IMPROVEMENT OF A PUBLIC BUILDING OF PUBLIC WORKS MADE BY A PUBLIC
11 AGENCY SHALL CONTAIN A PROVISION THAT THE IRON, STEEL, AND MANUFACTURED
12 PRODUCTS USED OR SUPPLIED IN THE PERFORMANCE OF THE CONTRACT OR ANY
13 SUBCONTRACT THERETO AND PERMANENTLY INCORPORATED INTO THE PUBLIC BUILD-
14 ING OR PUBLIC WORKS SHALL BE AWARDED TO THE BIDDER WHOSE PRODUCT OR
15 MATERIAL HAS THE HIGHEST RATING ON THE MADE IN AMERICA RATING SYSTEM
16 SCALE.

17 (B) THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL NOT
18 APPLY IN ANY CASE OR CATEGORY OF CASES IN WHICH IT IS FOUND THAT:

19 (I) SUCH MATERIALS AND PRODUCTS DO NOT MEET STATE STANDARDS FOR
20 CONSTRUCTION IN THE STATE; OR

21 (II) INCLUSION OF DOMESTIC MATERIAL WILL INCREASE THE COST OF THE
22 OVERALL PROJECT CONTRACT BY MORE THAN TWENTY PERCENT.

23 (C) THE MADE IN AMERICA RATING SYSTEM SHALL INCLUDE THE FOLLOWING
24 RATINGS, LISTED IN ORDER FROM HIGHEST TO LOWEST RATING:

25 (I) EMPIRE STATE AAA - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED
26 IN THE STATE AND ONE HUNDRED PERCENT OF THE RAW MATERIALS ARE AMERICAN;

27 (II) EMPIRE STATE AA - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED
28 IN THE STATE AND AT LEAST SIXTY PERCENT OF THE RAW MATERIALS ARE AMERI-
29 CAN;

30 (III) EMPIRE STATE A - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED
31 IN THE STATE;

32 (IV) USA 100 - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED IN THE
33 UNITED STATES AND ONE HUNDRED PERCENT OF THE RAW MATERIALS ARE AMERICAN;

34 (V) USA 60 - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED IN THE
35 UNITED STATES AND AT LEAST SIXTY PERCENT OF THE RAW MATERIALS ARE AMERI-
36 CAN;

37 (VI) USA RATING - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED IN
38 THE UNITED STATES.

39 (D) IF IT HAS BEEN DETERMINED BY A COURT OR FEDERAL OR STATE AGENCY
40 THAT ANY PERSON INTENTIONALLY:

41 (I) AFFIXED A LABEL BEARING A "MADE IN AMERICA" INSCRIPTION, OR ANY
42 INSCRIPTION WITH THE SAME MEANING, TO ANY IRON, STEEL OR MANUFACTURED
43 PRODUCT USED IN PROJECTS TO WHICH THIS SECTION APPLIES, SOLD IN OR
44 SHIPPED TO THE UNITED STATES THAT WAS NOT MADE IN THE UNITED STATES; OR

45 (II) REPRESENTED THAT ANY IRON, STEEL OR MANUFACTURED PRODUCT USED IN
46 PROJECTS TO WHICH THIS SECTION APPLIES THAT WAS NOT PRODUCED IN THE
47 UNITED STATES, WAS PRODUCED IN THE UNITED STATES; THEN THAT PERSON SHALL
48 BE INELIGIBLE TO RECEIVE ANY CONTRACT OR SUBCONTRACT WITH THIS STATE
49 PURSUANT TO THE DEBARMENT OR SUSPENSION PROVISIONS PROVIDED UNDER
50 SECTION ONE HUNDRED THIRTY-NINE-A OF THE STATE FINANCE LAW.

51 (E) THIS SECTION SHALL BE APPLIED IN A MANNER CONSISTENT WITH THE
52 STATE'S OBLIGATIONS UNDER ANY APPLICABLE INTERNATIONAL AGREEMENTS
53 PERTAINING TO GOVERNMENT PROCUREMENT.

54 2. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING WORDS
55 SHALL HAVE THE FOLLOWING MEANINGS UNLESS SPECIFIED OTHERWISE:

1 (A) "PUBLIC AGENCY" MEANS A GOVERNMENTAL ENTITY AS THAT TERM IS
2 DEFINED IN SECTION ONE HUNDRED THIRTY-NINE-J OF THE STATE FINANCE LAW;

3 (B) "MADE IN AMERICA" MEANS: (I) IN THE CASE OF AN IRON OR STEEL PROD-
4 UCT ALL MANUFACTURING MUST TAKE PLACE IN THE UNITED STATES, FROM THE
5 INITIAL MELTING STAGE THROUGH THE APPLICATION OF COATINGS, EXCEPT METAL-
6 LURGICAL PROCESSES INVOLVING THE REFINEMENT OF STEEL ADDITIVES; AND

7 (II) IN THE CASE OF A MANUFACTURED PRODUCT, A PRODUCT WILL BE CONSID-
8 ERED MANUFACTURED IN THE UNITED STATES IF:

9 (A) ALL OF ITS MANUFACTURING PROCESSES TAKE PLACE IN THE UNITED
10 STATES, AND

11 (B) MORE THAN SIXTY PERCENT OF THE COMPONENTS OF THE MANUFACTURED
12 GOOD, BY COST, ARE OF DOMESTIC ORIGIN. IF, UNDER THE TERMS OF THIS
13 SUBPARAGRAPH, A COMPONENT IS DETERMINED TO BE OF DOMESTIC ORIGIN, ITS
14 ENTIRE COST MAY BE USED IN CALCULATING THE COST OF DOMESTIC CONTENT OF
15 AN END PRODUCT.

16 (C) "UNITED STATES" MEANS THE UNITED STATES OF AMERICA AND INCLUDES
17 ALL TERRITORY, CONTINENTAL OR INSULAR, SUBJECT TO THE JURISDICTION OF
18 THE UNITED STATES.

19 S 5. Section 103 of the general municipal law is amended by adding a
20 new subdivision 17 to read as follows:

21 17. USE OF AMERICAN MATERIALS. (A) NOTWITHSTANDING ANY OTHER PROVISION
22 OF LAW, EACH CONTRACT FOR THE CONSTRUCTION, RECONSTRUCTION, ALTERATION
23 OR IMPROVEMENT OF A PUBLIC BUILDING OF PUBLIC WORKS MADE BY A PUBLIC
24 AGENCY SHALL CONTAIN A PROVISION THAT THE IRON, STEEL, AND MANUFACTURED
25 PRODUCTS USED OR SUPPLIED IN THE PERFORMANCE OF THE CONTRACT OR ANY
26 SUBCONTRACT THERETO AND PERMANENTLY INCORPORATED INTO THE PUBLIC BUILD-
27 ING OR PUBLIC WORKS SHALL BE AWARDED TO THE BIDDER WHOSE PRODUCT OR
28 MATERIAL HAS THE HIGHEST RATING ON THE MADE IN AMERICA RATING SYSTEM
29 SCALE.

30 (B) THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL NOT
31 APPLY IN ANY CASE OR CATEGORY OF CASES IN WHICH IT IS FOUND THAT:

32 (I) SUCH MATERIALS AND PRODUCTS DO NOT MEET STATE STANDARDS FOR
33 CONSTRUCTION IN THE STATE; OR

34 (II) INCLUSION OF DOMESTIC MATERIAL WILL INCREASE THE COST OF THE
35 OVERALL PROJECT CONTRACT BY MORE THAN TWENTY PERCENT.

36 (C) THE MADE IN AMERICA RATING SYSTEM SHALL INCLUDE THE FOLLOWING
37 RATINGS, LISTED IN ORDER FROM HIGHEST TO LOWEST RATING:

38 (I) EMPIRE STATE AAA - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED
39 IN THE STATE AND ONE HUNDRED PERCENT OF THE RAW MATERIALS ARE AMERICAN;

40 (II) EMPIRE STATE AA - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED
41 IN THE STATE AND AT LEAST SIXTY PERCENT OF THE RAW MATERIALS ARE AMERI-
42 CAN;

43 (III) EMPIRE STATE A - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED
44 IN THE STATE;

45 (IV) USA 100 - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED IN THE
46 UNITED STATES AND ONE HUNDRED PERCENT OF THE RAW MATERIALS ARE AMERICAN;

47 (V) USA 60 - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED IN THE
48 UNITED STATES AND AT LEAST SIXTY PERCENT OF THE RAW MATERIALS ARE AMERI-
49 CAN;

50 (VI) USA RATING - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED IN
51 THE UNITED STATES.

52 (D) IF IT HAS BEEN DETERMINED BY A COURT OR FEDERAL OR STATE AGENCY
53 THAT ANY PERSON INTENTIONALLY:

54 (I) AFFIXED A LABEL BEARING A "MADE IN AMERICA" INSCRIPTION, OR ANY
55 INSCRIPTION WITH THE SAME MEANING, TO ANY IRON, STEEL OR MANUFACTURED

1 PRODUCT USED IN PROJECTS TO WHICH THIS SECTION APPLIES, SOLD IN OR
2 SHIPPED TO THE UNITED STATES THAT WAS NOT MADE IN THE UNITED STATES; OR

3 (II) REPRESENTED THAT ANY IRON, STEEL OR MANUFACTURED PRODUCT USED IN
4 PROJECTS TO WHICH THIS SECTION APPLIES THAT WAS NOT PRODUCED IN THE
5 UNITED STATES, WAS PRODUCED IN THE UNITED STATES; THEN THAT PERSON SHALL
6 BE INELIGIBLE TO RECEIVE ANY CONTRACT OR SUBCONTRACT WITH THIS STATE
7 PURSUANT TO THE DEBARMENT OR SUSPENSION PROVISIONS PROVIDED UNDER
8 SECTION ONE HUNDRED THIRTY-NINE-A OF THE STATE FINANCE LAW.

9 (E) THIS SECTION SHALL BE APPLIED IN A MANNER CONSISTENT WITH THE
10 STATE'S OBLIGATIONS UNDER ANY APPLICABLE INTERNATIONAL AGREEMENTS
11 PERTAINING TO GOVERNMENT PROCUREMENT.

12 2. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING WORDS
13 SHALL HAVE THE FOLLOWING MEANINGS UNLESS SPECIFIED OTHERWISE:

14 (A) "PUBLIC AGENCY" MEANS A GOVERNMENTAL ENTITY AS THAT TERM IS
15 DEFINED IN SECTION ONE HUNDRED THIRTY-NINE-J OF THE STATE FINANCE LAW;

16 (B) "MADE IN AMERICA" MEANS: (I) IN THE CASE OF AN IRON OR STEEL PROD-
17 UCT ALL MANUFACTURING MUST TAKE PLACE IN THE UNITED STATES, FROM THE
18 INITIAL MELTING STAGE THROUGH THE APPLICATION OF COATINGS, EXCEPT METAL-
19 LURGICAL PROCESSES INVOLVING THE REFINEMENT OF STEEL ADDITIVES; AND

20 (II) IN THE CASE OF A MANUFACTURED PRODUCT, A PRODUCT WILL BE CONSID-
21 ERED MANUFACTURED IN THE UNITED STATES IF:

22 (A) ALL OF ITS MANUFACTURING PROCESSES TAKE PLACE IN THE UNITED
23 STATES, AND

24 (B) MORE THAN SIXTY PERCENT OF THE COMPONENTS OF THE MANUFACTURED
25 GOOD, BY COST, ARE OF DOMESTIC ORIGIN. IF, UNDER THE TERMS OF THIS
26 SUBPARAGRAPH, A COMPONENT IS DETERMINED TO BE OF DOMESTIC ORIGIN, ITS
27 ENTIRE COST MAY BE USED IN CALCULATING THE COST OF DOMESTIC CONTENT OF
28 AN END PRODUCT.

29 (C) "UNITED STATES" MEANS THE UNITED STATES OF AMERICA AND INCLUDES
30 ALL TERRITORY, CONTINENTAL OR INSULAR, SUBJECT TO THE JURISDICTION OF
31 THE UNITED STATES.

32 S 6. Section 8 of the public buildings law is amended by adding a new
33 subdivision 8 to read as follows:

34 8. USE OF AMERICAN MATERIALS. (A) NOTWITHSTANDING ANY OTHER PROVISION
35 OF LAW, EACH CONTRACT FOR THE CONSTRUCTION, RECONSTRUCTION, ALTERATION
36 OR IMPROVEMENT OF A PUBLIC BUILDING OF PUBLIC WORKS MADE BY A PUBLIC
37 AGENCY SHALL CONTAIN A PROVISION THAT THE IRON, STEEL, AND MANUFACTURED
38 PRODUCTS USED OR SUPPLIED IN THE PERFORMANCE OF THE CONTRACT OR ANY
39 SUBCONTRACT THERETO AND PERMANENTLY INCORPORATED INTO THE PUBLIC BUILD-
40 ING OR PUBLIC WORKS SHALL BE AWARDED TO THE BIDDER WHOSE PRODUCT OR
41 MATERIAL HAS THE HIGHEST RATING ON THE MADE IN AMERICA RATING SYSTEM
42 SCALE.

43 (B) THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL NOT
44 APPLY IN ANY CASE OR CATEGORY OF CASES IN WHICH IT IS FOUND THAT:

45 (I) SUCH MATERIALS AND PRODUCTS DO NOT MEET STATE STANDARDS FOR
46 CONSTRUCTION IN THE STATE; OR

47 (II) INCLUSION OF DOMESTIC MATERIAL WILL INCREASE THE COST OF THE
48 OVERALL PROJECT CONTRACT BY MORE THAN TWENTY PERCENT.

49 (C) THE MADE IN AMERICA RATING SYSTEM SHALL INCLUDE THE FOLLOWING
50 RATINGS, LISTED IN ORDER FROM HIGHEST TO LOWEST RATING:

51 (I) EMPIRE STATE AAA - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED
52 IN THE STATE AND ONE HUNDRED PERCENT OF THE RAW MATERIALS ARE AMERICAN;

53 (II) EMPIRE STATE AA - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED
54 IN THE STATE AND AT LEAST SIXTY PERCENT OF THE RAW MATERIALS ARE AMERI-
55 CAN;

1 (III) EMPIRE STATE A - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED
2 IN THE STATE;

3 (IV) USA 100 - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED IN THE
4 UNITED STATES AND ONE HUNDRED PERCENT OF THE RAW MATERIALS ARE AMERICAN;

5 (V) USA 60 - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED IN THE
6 UNITED STATES AND AT LEAST SIXTY PERCENT OF THE RAW MATERIALS ARE AMERI-
7 CAN;

8 (VI) USA RATING - ONE HUNDRED PERCENT OF THE PRODUCT IS ASSEMBLED IN
9 THE UNITED STATES.

10 (D) IF IT HAS BEEN DETERMINED BY A COURT OR FEDERAL OR STATE AGENCY
11 THAT ANY PERSON INTENTIONALLY:

12 (I) AFFIXED A LABEL BEARING A "MADE IN AMERICA" INSCRIPTION, OR ANY
13 INSCRIPTION WITH THE SAME MEANING, TO ANY IRON, STEEL OR MANUFACTURED
14 PRODUCT USED IN PROJECTS TO WHICH THIS SECTION APPLIES, SOLD IN OR
15 SHIPPED TO THE UNITED STATES THAT WAS NOT MADE IN THE UNITED STATES; OR

16 (II) REPRESENTED THAT ANY IRON, STEEL OR MANUFACTURED PRODUCT USED IN
17 PROJECTS TO WHICH THIS SECTION APPLIES THAT WAS NOT PRODUCED IN THE
18 UNITED STATES, WAS PRODUCED IN THE UNITED STATES; THEN THAT PERSON SHALL
19 BE INELIGIBLE TO RECEIVE ANY CONTRACT OR SUBCONTRACT WITH THIS STATE
20 PURSUANT TO THE DEBARMENT OR SUSPENSION PROVISIONS PROVIDED UNDER
21 SECTION ONE HUNDRED THIRTY-NINE-A OF THE STATE FINANCE LAW.

22 (E) THIS SECTION SHALL BE APPLIED IN A MANNER CONSISTENT WITH THE
23 STATE'S OBLIGATIONS UNDER ANY APPLICABLE INTERNATIONAL AGREEMENTS
24 PERTAINING TO GOVERNMENT PROCUREMENT.

25 2. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING WORDS
26 SHALL HAVE THE FOLLOWING MEANINGS UNLESS SPECIFIED OTHERWISE:

27 (A) "PUBLIC AGENCY" MEANS A GOVERNMENTAL ENTITY AS THAT TERM IS
28 DEFINED IN SECTION ONE HUNDRED THIRTY-NINE-J OF THE STATE FINANCE LAW;

29 (B) "MADE IN AMERICA" MEANS: (I) IN THE CASE OF AN IRON OR STEEL PROD-
30 UCT ALL MANUFACTURING MUST TAKE PLACE IN THE UNITED STATES, FROM THE
31 INITIAL MELTING STAGE THROUGH THE APPLICATION OF COATINGS, EXCEPT METAL-
32 LURGICAL PROCESSES INVOLVING THE REFINEMENT OF STEEL ADDITIVES; AND

33 (II) IN THE CASE OF A MANUFACTURED PRODUCT, A PRODUCT WILL BE CONSID-
34 ERED MANUFACTURED IN THE UNITED STATES IF:

35 (A) ALL OF ITS MANUFACTURING PROCESSES TAKE PLACE IN THE UNITED
36 STATES, AND

37 (B) MORE THAN SIXTY PERCENT OF THE COMPONENTS OF THE MANUFACTURED
38 GOOD, BY COST, ARE OF DOMESTIC ORIGIN. IF, UNDER THE TERMS OF THIS
39 SUBPARAGRAPH, A COMPONENT IS DETERMINED TO BE OF DOMESTIC ORIGIN, ITS
40 ENTIRE COST MAY BE USED IN CALCULATING THE COST OF DOMESTIC CONTENT OF
41 AN END PRODUCT.

42 (C) "UNITED STATES" MEANS THE UNITED STATES OF AMERICA AND INCLUDES
43 ALL TERRITORY, CONTINENTAL OR INSULAR, SUBJECT TO THE JURISDICTION OF
44 THE UNITED STATES.

45 S 7. Severability. If any provisions of this act, or the application
46 thereof to any person or circumstance, is held invalid, such invalidity
47 shall not affect other provisions or applications of this act which can
48 be given effect without the invalid provisions or application, and to
49 that extent, the provisions of this act are declared to be severable.

50 S 8. This act shall take effect immediately.