

7203

I N S E N A T E

April 6, 2016

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

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 Section 146 of the state finance law is REPEALED and a new  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.

LBD13957-01-6

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.