

# STATE OF NEW YORK

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7067--A

2019-2020 Regular Sessions

## IN ASSEMBLY

April 4, 2019

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Introduced by M. of A. BUCHWALD, ROZIC, CRUZ, RIVERA, GOTTFRIED, FALL, SAYEGH, COOK, SCHMITT, HYNDMAN, STIRPE, DICKENS, MOSLEY, JAFFEE, ASHBY, ARROYO, SANTABARBARA, BLAKE, GALEF, GRIFFIN, CRESPO, STECK, RAMOS -- Multi-Sponsored by -- M. of A. EPSTEIN -- read once and referred to the Committee on Governmental Operations -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to contingency planning by state agencies for extended federal government shutdowns

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Legislative intent. The legislature finds that:  
2 a. Shutdowns of operations by federal agencies, once unthinkable  
3 events, are now occurring with increasing frequency and duration;  
4 b. Such shutdowns may cause financial hardships in this state to  
5 federal employees, whether furloughed or required to report to work  
6 without pay, and to businesses and their employees involved in the  
7 provision of goods and services to federal agencies, and may also  
8 adversely impact New York's economy, environment, and the people and  
9 institutions in this state who rely on programs and services provided by  
10 the federal government;  
11 c. In recent federal shutdowns New York state has properly taken  
12 several steps to mitigate adverse impacts, but has not undertaken other  
13 remedial actions that have been determined to be essential in similarly  
14 impacted states;  
15 d. The use of short-term continuing resolutions has made the federal  
16 budget process unpredictable, yet unlike other states New York state  
17 currently has no formal planning process for evaluation and coordination  
18 of potential mitigation measures; and

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

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1 e. Federal employees and contractors and the general public in this  
2 state would benefit from a systematic effort to develop informed contin-  
3 gency plans to ensure state agencies are prepared to initiate proactive  
4 measures to mitigate the impacts of an extended federal shutdown.

5 Therefore the legislature intends by this act to provide for a flexi-  
6 ble and effective contingency planning effort to provide guidance and  
7 information to each appropriate state agency on the activities it should  
8 be prepared to undertake in the event of any future extended federal  
9 shutdown.

10 § 2. The executive law is amended by adding a new section 94-c to read  
11 as follows:

12 § 94-c. State agency contingency planning for extended federal shut-  
13 downs. 1. Definitions. As used in this section, the following terms  
14 shall have the following meanings:

15 a. "Federal shutdown" means a lapse in funding for one or more oper-  
16 ations of the federal government due to the failure of the executive and  
17 congress to appropriate funding or to increase the federal debt limit;

18 b. "Extended federal shutdown" means a federal shutdown that continues  
19 for a period of two weeks or more;

20 c. "Federal shutdown contingency plan" means a document setting forth  
21 the measures that a state agency may take to mitigate the adverse  
22 impacts of an extended federal shutdown on employees and contractors of  
23 federal agencies and businesses or members of the public in this state;

24 d. "Secretary" means the secretary of state;

25 e. "Agency" means any state board, bureau, committee, commission,  
26 council, department, public authority, public benefit corporation, divi-  
27 sion, office or any other governmental entity performing a governmental  
28 or proprietary function for the state of New York, except the judiciary  
29 or the state legislature or any unit of local government and shall not  
30 include offices of district attorneys.

31 2. Federal shutdown contingency planning process. a. The secretary of  
32 state shall oversee the development of federal shutdown contingency  
33 plans by state agencies. The secretary shall solicit information from  
34 each state agency that operates programs that may be impacted by a  
35 federal shutdown or that may undertake efforts to mitigate the impact of  
36 an extended shutdown on employees and contractors of federal agencies  
37 and businesses or members of the public in this state. Such information  
38 shall be submitted by the agency in such form and manner as the secre-  
39 tary shall prescribe.

40 b. Each state agency shall respond to such solicitation by providing  
41 the secretary with a draft federal shutdown contingency plan, which  
42 shall include information as appropriate on:

43 (i) any programs or activities of the agency that may be impacted by a  
44 loss of ongoing federal funding;

45 (ii) any programs or activities of the agency that may be impacted by  
46 the cessation or substantial curtailment of federal activities that are  
47 not identified as excepted or exempted activities in the most recent  
48 shutdown contingency plan filed by a federal agency with the office of  
49 management and budget;

50 (iii) any programs identified in subparagraphs (i) or (ii) of this  
51 paragraph that could be impacted to the extent that the health, safety  
52 or economic well-being of the people of this state or the natural  
53 resources of the state could be substantially impaired;

54 (iv) any positions at the agency that are federally funded and the  
55 ability of the agency to pay such employees during the shutdown subject  
56 to future reimbursement;

1 (v) any actions that could be taken by the agency to mitigate the  
2 impacts of an extended federal shutdown, including any actions that  
3 could be taken by the agency or by entities under the jurisdiction of  
4 the agency that could mitigate any financial hardships on federal  
5 employees or by businesses impacted by the shutdown;

6 (vi) any actions that will be necessary to resume orderly operations  
7 upon cessation of the federal shutdown; and

8 (vii) any other information that the secretary or the agency deter-  
9 mines is appropriate for inclusion in the plan.

10 c. After reviewing the information submitted by an agency, the secre-  
11 tary:

12 (i) shall determine that the submission is complete or shall solicit  
13 additional information from the agency to permit such a determination;  
14 and

15 (ii) upon receipt of a complete submission shall approve an agency's  
16 federal shutdown contingency plan, or shall identify any deficiencies  
17 precluding such approval and direct the agency to submit a revised plan  
18 that addresses such deficiencies.

19 d. The secretary shall issue guidance to agencies on the federal shut-  
20 down contingency planning process.

21 3. Before taking any action that may have a fiscal or budgetary impli-  
22 cation the secretary shall consult with the director of the budget.

23 4. Each agency shall utilize its federal shutdown contingency plan to  
24 enable a rapid and effective response to any extended federal shutdown;  
25 provided, however, that no agency shall be required to undertake all  
26 actions or any specific action that has been identified in its plan.

27 5. Each agency shall review its federal shutdown contingency plan and  
28 submit updates to the secretary for approval as frequently as necessary,  
29 and upon request of the secretary shall conduct such a review and submit  
30 an updated plan or advise the secretary that no revision is necessary.  
31 Each agency shall maintain a copy of its current federal shutdown  
32 contingency plan on its website, and the secretary shall maintain a  
33 webpage on the department of state's website with information on the  
34 federal shutdown contingency planning process and a link to each agen-  
35 cy's current plan.

36 § 3. This act shall take effect immediately.