

STATE OF NEW YORK

7998

2023-2024 Regular Sessions

IN ASSEMBLY

September 1, 2023

Introduced by M. of A. BICHOTTE HERMELYN -- read once and referred to the Committee on Ways and Means

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
19 e. Federal employees and contractors and the general public in this
20 state would benefit from a systematic effort to develop informed contin-
21 gency plans to ensure state agencies are prepared to initiate proactive
22 measures to mitigate the impacts of an extended federal shutdown.
23 Therefore the legislature intends by this act to provide for a flexi-
24 ble and effective contingency planning effort to provide guidance and
25 information to each appropriate state agency on the activities it should

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

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1 be prepared to undertake in the event of any future extended federal
2 shutdown.

3 § 2. The executive law is amended by adding a new section 94-d to read
4 as follows:

5 § 94-d. State agency contingency planning for extended federal shut-
6 downs. 1. Definitions. As used in this section, the following terms
7 shall have the following meanings:

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

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

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

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

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

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

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

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

38 (ii) any programs or activities of the agency that may be impacted by
39 the cessation or substantial curtailment of federal activities that are
40 not identified as excepted or exempted activities in the most recent
41 shutdown contingency plan filed by a federal agency with the office of
42 management and budget;

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

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

50 (v) any actions that could be taken by the agency to mitigate the
51 impacts of an extended federal shutdown, including any actions that
52 could be taken by the agency or by entities under the jurisdiction of
53 the agency that could mitigate any financial hardships on federal
54 employees or by businesses impacted by the shutdown;

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

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

3 c. After reviewing the information submitted by an agency, the secre-
4 tary:

5 (i) shall determine that the submission is complete or shall solicit
6 additional information from the agency to permit such a determination;
7 and

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

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

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

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

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

29 § 3. This act shall take effect immediately.