

Higher Education Capital Matching (HECap) Grant Program Legislation 2005-2017 (the “HECap Act”)

The attached provisions of law represent unofficial reproductions of the legislation establishing the HECap Program (Part U of chapter 57 of the laws of 2005, as added by chapter 63 of the laws of 2005), including a series of amendments to the initial legislation. Please note that although the legislation enacting the HECap program was originally codified in the Public Authorities Law and still appears in its original form in the Public Authorities Law and on some legal research websites, that legislation was supplanted by Part U of chapter 57 of the laws of 2005, as added by Chapter 63 of the Laws of 2005. Neither the original legislation in 2005 nor any of the subsequent amendments were codified in the Consolidated Laws of New York. Therefore, the HECap Program exists as a series of chapter laws, which show deletions or additions of language from previous chapters or codified laws that are being amended. The chapter laws that have been provided as an attachment to this RGA have preserved the strikethroughs, underlining and highlighting.

Chapter 63 Laws of 2005

PART D

Section 1. A chapter of the laws of 2005, amending the labor law and other laws relating to implementing the state fiscal plan for the 2005- 2006 state fiscal year, as proposed in legislative bill numbers S. 3667 and A. 6841, is amended by adding a new part U to read as follows:

PART U

Section 1. Notwithstanding section 1680-j of the public authorities law, there shall be a New York state higher education matching grant program for independent colleges as follows:

1. Creation. (a) The New York state higher education capital matching grant board is hereby created to have and exercise the powers, duties and prerogatives provided by the provisions of this section and any other provision of law. The board shall remain in existence during the period of the New York state higher education capital matching grant program from the effective date of this section through March 31, 2010, or the date on which the last of the funds available for grants under this section shall have been disbursed, whichever is earlier; provided, however, that the termination of the existence of the board shall not effect the power and authority of the dormitory authority to perform its obligations with respect to any bonds, notes, or other indebtedness issued or incurred pursuant to authority granted in this section.

(b) The membership of the board shall consist of three persons appointed by the governor, of which one shall be upon the recommendation of the temporary president of the senate and one upon the recommendation of the speaker of the assembly. The term of the members first appointed shall continue until March 31,

2006, and thereafter their successors shall serve for a term of one year ending on March 31 in each year. Upon recommendation of the nominating party, the governor shall replace any member in accordance with the provision contained in this subdivision for the appointment of members. The members of the board shall vote among themselves to determine who shall serve as chair. The board shall act by unanimous vote of the members of the board. Any determination of the board shall be evidenced by a certification thereof executed by all the members. Each member of the board shall be entitled to designate a representative to attend meetings of the board on the designating member's behalf, and to vote or otherwise act on the designating member's behalf in the designating member's absence. Notice of such designation shall be furnished in writing to the board by the designating member. A representative shall serve at the pleasure of the designating member during the member's term of office. A representative shall not be authorized to delegate any of his or her duties or functions to any other person.

(c) Every officer, employee, or member of a governing board or other board of any college or group or association of colleges, and every New York state regent and every officer or employee of the board of regents or the department of education shall be ineligible for appointment as a member, representative, officer, employee or agent of the board.

(d) The members of the board shall serve without salary or per diem allowance but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties pursuant to this section or other provision of law, provided however that such members and representatives are not, at the time such expenses are incurred, public officers or employees otherwise entitled to such reimbursement.

(e) The members, their representatives, officers and staff to the board shall be deemed employees within the meaning of section 17 of the public officers law.

2. Definitions. For the purposes of this section, the following terms shall have the respective meanings:

(a) "Base grant amount" shall mean a grant equal to \$15 million distributed equally among independent colleges, provided however that for an eligible independent college with a final fall full-time equivalent enrollment for the 2003--2004 academic year as published by the state education department of less than one hundred final full-time equivalent students the base grant amount shall be eighty-five thousand five hundred dollars.

(b) "Board" shall mean the New York state higher education capital matching grant board created by paragraph (a) of subdivision one of this section.

(c) "College" shall mean each independent not-for-profit institution of higher education, as defined in subdivision 2 of section 6401 of the education law.

(d) "Endowment" shall mean the total unrestricted assets whose principal is nonexpendable and is held to the benefit of the college and invested to provide

earnings for institutional use as reported within a college's independently audited financial statements as submitted to the dormitory authority. Such total shall exclude assets whose principal supports employee annuity or pension costs, or assets whose purpose is restricted to the support of the current operations of the college.

(e) "Full-time equivalent students" shall mean a college's final fall full-time equivalent enrollment for the 2003-2004 academic year as published by the state education department.

f) "Non-state funds" shall mean any funds received no earlier than 180 days before the effective date of this section, except state funds, accessible by the college for the project including, but not limited to, federal funds, local funds, private funds, and in-kind contributions.

(g) "Project" shall mean the design, acquisition, construction, reconstruction, rehabilitation, or equipping of a facility on or near a college campus within the state of New York, including critical academic facilities, economic development and/or high technology projects, and urban renewal and/or historical preservation projects that would enhance the programmatic offerings or the student life at the college or provide economic development benefits to the area surrounding such college campus.

(h) "Public college" shall mean each component of the state university, as defined in subdivision 3 of section 352 of the education law and in subdivision 2 of section 6301 of the education law and each senior college and community college of the city university of New York, as defined in subdivisions 4 and 5 of section 6202 of the education law.

(i) "Total full-time equivalent amount" shall mean an amount equal to the product of (i) 67.5 million dollars multiplied by (ii) the eligible college's proportion of the total full-time equivalent students for all eligible colleges and calculated from an eligible college's final fall full-time equivalent enrollment for the 2003-2004 academic year as published by the state education department.

(j) "Total TAP expenditure amount" shall mean an amount equal to the product of (i) the product of 45 percent of 150 million dollars multiplied by (ii) an eligible college's proportion of the total funding received under section 667 of the education law by all eligible independent colleges as estimated by the higher education services corporation for the 2003-2004 academic year.

3. Powers, functions and duties of the New York state higher education capital grant board; limitations.

(a) The New York state higher education capital grant board shall have the power and it shall be its duty to approve or deny applications received from colleges for higher education capital matching grants. In making such determination, the board shall verify that the criteria set forth in paragraph (e) of subdivision four of this section have been met. If necessary, the board may request additional information from the college when making such determination.

(b) Within amounts appropriated therefor, the board is hereby authorized and directed to award matching capital grants totaling 150 million dollars. Each college shall be eligible for a grant award amount as determined by the calculations pursuant to subdivision five of this section. In addition, such colleges shall be eligible to compete for additional funds pursuant to paragraph (h) of subdivision four of this section.

(c) The board shall approve or disapprove the methodology and the resulting matching ratios developed by the dormitory authority pursuant to paragraph (c) of subdivision four of this section.

(d) The board shall approve or deny applications for waivers of the standard matching requirement under paragraph (d) of subdivision four of this section.

4. New York state higher education capital matching grant program administration and financing.

(a) The dormitory authority is hereby authorized and directed to administer the New York state higher education capital matching grant program.

(b) The dormitory authority shall serve as staff to the New York state higher education capital matching grant board, including, with the cooperation of any other state agency, the preparation of information which would assist the board in carrying out its duties.

(c) The dormitory authority of the state of New York shall develop a methodology to determine the required non-state funds contribution for colleges. Such methodology shall consider endowment per full-time equivalent student and tuition and fees. Such methodology shall require a greater contribution from those colleges with greater fiscal resources as measured by endowment per full-time equivalent student and tuition and fees. The numerator in the matching ratio of non-state funds to grant award amount shall not be greater than three or less than 0.5 and the denominator shall be equal to one. Such methodology and the resulting matching ratios shall be submitted to the board for approval within 30 days after the effective date of this section and shall be made available to potential applicants once approved.

(d) The standard matching requirement for the purposes of determining a college's required non-state funds contribution shall be as provided in this paragraph. The numerator in the standard matching requirement of non-state funds to grant award amount shall be equal to three and the denominator shall be equal to one. Colleges may apply for a waiver of such standard matching requirement. If such waiver is approved by the board, the required non-state funds contribution shall be determined by the methodology set forth in paragraph (c) of this subdivision.

(e) The dormitory authority shall develop a standard application for such grants. Such application shall require colleges to provide, at a minimum, the following:

(i) The amount of grant request, such request not to exceed the eligible grant award amount, as provided for in subdivision five of this section. No more than three and one-half of one percent of any capital matching grant issued under this program may be allocated to any college or to any subsidiary or organization associated therewith for purposes which may include, but not be limited to, any direct or indirect costs of administering the program not contained in the application requesting such capital matching grant, provided however, that no monies granted under the program shall be used to supplant any direct or indirect costs of the grant recipient;

(ii) A statement that the proposed project would enhance the programmatic offerings or the student life at the college or provide economic development benefits to the surrounding area;

(iii) Whether the project has the participation and financial support of a consortium of colleges and/or public or private partnerships;

(iv) A detailed description of the project, including projected costs including the sources and uses of funds, completion timeline, and funds necessary at each stage of project completion;

(v) A description of the type or types of non-state funds to be utilized and the source of such funds;

(vi) Information to demonstrate the ability to access sufficient non- state funds to meet the matching ratio requirement, as provided for in paragraph (c) of this subdivision or the standard matching requirement as provided for in paragraph (d) of this subdivision;

(vii) A statement that as of the effective date of this section, construction had not begun and equipment had not been purchased for such project;

(viii) A statement whether a recurring source of revenue shall be available to support facility operations and maintenance for the project that the capital matching grant is funding; and

(ix) A statement whether, the project has received all necessary regulatory approvals or can demonstrate a reasonable expectation that such approvals will be secured.

(f) Upon receipt of a matching grant application, the dormitory authority shall review such grant application for technical sufficiency and compliance with the application criteria as provided for in paragraph (e) of this subdivision. If necessary, the dormitory authority may request additional information from the applicant. When the application is complete, the dormitory authority shall submit such application with an analysis to the capital grant board for its approval or denial.

(g) In order to be eligible for such grants, colleges must provide notification to the dormitory authority of an intent to apply for a grant no later than March 31, 2008 and must apply for such grant no later than March 31, 2009.

(h) If a college does not apply for a grant by March 31, 2009, funds associated with such potential grant shall be awarded, on a competitive basis, to other colleges. Colleges shall be eligible to apply for unutilized grants. The dormitory authority shall develop a request for proposals and application process, in consultation with the board, for such grants and shall develop criteria, subject to review by the board, for the awarding of such grants. Such criteria shall incorporate the matching criteria contained in paragraph (c) of this subdivision, and the application criteria set forth in paragraph (e) of this subdivision. The dormitory authority shall require all applications in response to the request for proposals to be submitted by September 1, 2009, and the board shall act on each application for such matching grants by November 1, 2009.

(i) The dormitory authority shall develop a model contract provision to be used in any contract which involves a project for which a college has received a matching grant. Such provision shall indemnify and hold the state of New York harmless from any and all claims for loss or liability alleged to have been caused or resulting from any work involving such project.

(j) (i) The dormitory authority is hereby authorized and directed to assist in financing higher education projects by providing to eligible colleges higher education capital matching grants that have been approved by the New York state higher education capital matching grant board.

(ii)(A) Notwithstanding the provision of any general or special law to the contrary, and subject to the provisions of chapter 59 of the laws of 2000 and to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority in providing such higher education capital matching grants, the director of the budget is authorized in any state fiscal year commencing April 1, 2005 or any state fiscal year thereafter for a period ending on March 31, 2010, to enter into one or more service contracts, none of which shall exceed 30 years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree.

(B) Any service contract entered into pursuant to clause (A) of this subparagraph or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority as security for its bonds, notes, or other obligations.

(C) Any such service contracts shall provide that the obligation of the director of the budget or of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision in the event the dormitory authority assigns or pledges the service contract payments as security for its bonds, notes, or other obligations and shall be deemed executory only to the extent monies are available and that no liability shall be incurred by the state beyond the monies available for the purpose, and that such obligation is subject to annual appropriations by the legislature.

(D) Any service contract or contracts entered into pursuant to this subdivision shall provide for state commitments to provide annually to the dormitory

authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund the principal, interest, or other related payments required for any bonds, notes, or other obligations of the dormitory authority issued pursuant to this section.

(iii)(A) To obtain funds for the purposes of this section, the authority shall have power from time to time to issue negotiable bonds or notes. Unless the context shall clearly indicate otherwise, whenever the words "bond" or "bonds" are used in this section, such words shall include a note or notes of the authority.

(B) The dormitory authority shall not issue any bonds or notes in an amount in excess of 150 million dollars for the purposes of this section; excluding bonds or notes issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Except for purposes of complying with the internal revenue code, any interest on bond proceeds shall only be used to pay debt service on such bonds.

(C) In computing for the purposes of clause (B) of this subparagraph, the aggregate amount of indebtedness evidenced by bonds and notes of the dormitory authority issued pursuant to this title, there shall be excluded the amount of such indebtedness represented by such bonds or notes issued to refund or otherwise repay bonds or notes; provided that the amount so excluded under this clause may exceed the principal amount of such bonds or notes that were issued to refund or otherwise repay only if the present value of the aggregate debt service on the refunding or repayment bonds or notes shall not have at the time of their issuance exceeded the present value of the aggregate debt service of the bonds or notes they were issued to refund or repay, such present value in each case being calculated by using the effective interest rate of the refunding or repayment bonds or notes, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds or notes from the payment date thereof to the date of issue of the refunding or repayment bonds or notes and to the price bid therefor, or to the proceeds received by the dormitory authority from the sale thereof, in each case including estimated accrued interest.

(D) The state of New York hereby covenants with the purchasers, holders, and owners from time to time of the bonds of the authority issued pursuant to this section that it will not, subject to the provisions of clause (C) of subparagraph (ii) of this paragraph, repeal, revoke, rescind, modify, or amend the provisions of this section which relate to the making of annual service contract payments to the authority with respect to such bonds as to limit, impair, or impede the rights and remedies granted to bondholders under title 4 of article 8 of the public authorities law or otherwise diminish the security pledged to such purchasers, holders, and owners or significantly impair the prospect of payment of any such bond.

(iv) In addition to the authority with respect to financing higher education projects provided to the dormitory authority in subparagraph (iii) of this paragraph, the

dormitory authority is hereby authorized to finance that portion of any higher education project approved to receive a higher education capital matching grant that is in excess of the amount of such grant and which shall be the non-state funds portion of the cost of such project to the same extent and under the same powers and procedures as if such project were named in paragraph (b) of subdivision 2 of section 1676 of the public authorities law and in subdivision 1 of section 1680 of the public authorities law.

5. Limitation on awards. Colleges eligible for participation in the higher education capital matching grants program pursuant to this section shall be eligible to receive a higher education capital matching grant pursuant to the following calculation: a grant equal to the sum of its total full-time equivalent amount, its total TAP expenditure amount and its base grant amount. Provided, however, that an independent non-profit comprehensive, non-traditional, non-instructional assessment institution whose external degree programs only validated a candidate's education experience and granted over four thousand degrees in the 2001-2002 academic year shall be eligible to receive a base grant equal to the product of (i) 15 million dollars; and (ii) its proportion of the total number of non-associate degrees conferred by all colleges and public colleges statewide for the 2001-2002 academic year as reported by the state education department. The dormitory authority shall calculate the amount of the grants that each college shall be eligible to receive in accordance with the limitations set forth in this subdivision as soon as practicable but no more than 45 days after the effective date of this section and shall make such information conveniently available to the colleges including by the use of electronic dissemination methods.

6. Contracts. (a) Each contract entered into by a college, which involves a project for which the college has received a capital grant award, shall be subject to the approval of the comptroller and, as to form and manner of execution, by the attorney general of the state of New York.

(b) Each contract entered into by a college shall include the provision as provided for in paragraph (i) of subdivision four of this section, which shall indemnify and hold the state of New York harmless from any and all claims for loss or liability alleged to have been caused or resulting from any work involving such project.

(c) Colleges whose contracts are not state contracts for the purposes of article 9 of the state finance law and article 15-A of the executive law and whose projects under such contracts do not involve public work so as to be subject to articles 8, 9 and 10 of the labor law, shall execute an undertaking, as a condition of receiving any capital matching grant, to voluntarily comply with article 9 of the state finance law, except section 135 of such law, article 15-A of the executive law, and articles 8, 9 and 10 of the labor law so far as the same would be applicable to the contracts of a public college, and to be subject to the enforcement provisions of said articles to the same extent.

7. Reporting. (a) The New York state higher education capital matching grant board shall, annually on or before December first, prepare and submit an annual

report to the governor and the chair of the assembly ways and means committee and the chair of the senate finance committee. Such report shall contain at a minimum the following information: (i) a list of all applications filed by any college for a grant under the higher education capital grant program including the name of the applying college, a brief description of the project, and the amount of the grant requested; (ii) a list of the applications granted by the board specifying the amount of the grant approved if such amount is different from the amount applied for; and (iii) a statement showing the dollar amount of all grants approved by the board and the dollar amount of the remaining capacity for future grants.

(b) Any eligible institution receiving a grant pursuant to this article shall report to the dormitory authority no later than June 1, 2008, on the use of funding received and its programmatic and economic impact. The dormitory authority shall submit a report no later than November 1, 2008 to the board, the governor, the director of the budget, the temporary president of the senate, and the speaker of the assembly on the aggregate impact of the higher education capital matching grant program. Such report shall provide information on the progress and economic impact of each project.

§ 2. This act shall take effect immediately.

Chapter 59 Laws of 2010

Part M

Section 1. Paragraph (a) of subdivision 1 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education capital matching grant program for independent colleges, as added by section 1 of part D of chapter 63 of the laws of 2005, is amended to read as follows:

(a) The New York state higher education capital matching grant board is hereby created to have and exercise the powers, duties and prerogatives provided by the provisions of this section and any other provision of law. The board shall remain in existence during the period of the New York state higher education capital matching grant program from the effective date of this section through March 31, ~~2010~~ 2011, or the date on which the last of the funds available for grants under this section shall have been disbursed, whichever is earlier; provided, however, that the termination of the existence of the board shall not effect the power and authority of the dormitory authority to perform its obligations with respect to any bonds, notes, or other indebtedness issued or incurred pursuant to authority granted in this section.

§ 2. Paragraph (h) of subdivision 4 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to New York state higher education matching grant program for independent colleges, as added by section 1 of part D of chapter 63 of the laws of 2005, is amended to read as follows:

(h) If a college [~~does~~ **did**] not apply for a **potential** grant by March 31, 2009, funds associated with such potential grant shall be awarded, on a competitive basis, to other colleges, **according to the priorities set forth below**. Colleges shall be eligible to apply for unutilized grants. **In such cases, the following priorities shall apply: first, priority shall be given to otherwise eligible colleges that either were, or would have been, deemed ineligible for the program prior to March 31, 2009, due to missed deadlines, insufficient matching funds, lack of accreditation or other disqualifying reasons; and second, after the board has acted upon all such first-priority applications for unused funds, if any such funds remain, those funds shall be available for distribution to eligible colleges that are located within the same Regents of the State of New York region for which such funds were originally allocated.** The dormitory authority shall develop a request for proposals and application process, in consultation with the board, for such grants and shall develop criteria, subject to review by the board, for the awarding of such grants. Such criteria shall incorporate the matching criteria contained in paragraph (c) of this subdivision, and the application criteria set forth in paragraph (e) of this subdivision. The dormitory authority shall require all applications in response to the request for proposals to be submitted by September 1, [~~2009~~ **2010**], and the board shall act on each application for such matching grants by November 1, [~~2009~~ **2010**].

§ 3. Subclause (A) of clause (ii) of paragraph (j) of subdivision 4 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to New York state higher education matching grant program for independent colleges, as added by section 1 of part D of chapter 63 of the laws of 2005, is amended to read as follows:

(A) Notwithstanding the provision of any general or special law to the contrary, and subject to the provisions of chapter 59 of the laws of 2000 and to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority in providing such higher education capital matching grants, the director of the budget is authorized in any state fiscal year commencing April 1, 2005 or any state fiscal year thereafter for a period ending on March 31, [~~2010~~ **2011**], to enter into one or more service contracts, none of which shall exceed 30 years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree.

§4. Paragraph (b) of subdivision 7 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to New York state higher education matching grant program for independent colleges, as added by section 1 of part D of chapter 63 of the laws of 2005, is amended to read as follows:

(b) Any eligible institution receiving a grant pursuant to this article shall report to the dormitory authority no later than June 1, [~~2008~~ **2011**], on the use of funding received and its programmatic and economic impact. The dormitory authority shall submit a report no later than November 1, [~~2008~~ **2011**] to the board, the governor, the director of the budget, the temporary president of the senate, and the speaker of the assembly on the aggregate impact of the higher education capital matching grant program. Such

report shall provide information on the progress and economic impact of ~~[each]~~ such project.

§ 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010.

Chapter 60 Laws of 2011

Part I

Section 1. Paragraph (a) of subdivision 1 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education capital matching grant program for independent colleges, as amended by part M of chapter 59 of the laws of 2010, is amended to read as follows:

(a) The New York state higher education capital matching grant board is hereby created to have and exercise the powers, duties and prerogatives provided by the provisions of this section and any other provision of law. The board shall remain in existence during the period of the New York state higher education capital matching grant program from the effective date of this section through March 31, ~~[2014]~~ 2012, or the date on which the last of the funds available for grants under this section shall have been disbursed, whichever is earlier; provided, however, that the termination of the existence of the board shall not ~~[effect]~~ affect the power and authority of the dormitory authority to perform its obligations with respect to any bonds, notes, or other indebtedness issued or incurred pursuant to authority granted in this section.

§ 2. Subclause (A) of clause (ii) of paragraph (j) of subdivision 4 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to New York state higher education matching grant program for independent colleges, as amended by section 3 of part M of chapter 59 of the laws of 2010, is amended to read as follows:

(A) Notwithstanding the provision of any general or special law to the contrary, and subject to the provisions of chapter 59 of the laws of 2000 and to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority in providing such higher education capital matching grants, the director of the budget is authorized in any state fiscal year commencing April 1, 2005 or any state fiscal year thereafter for a period ending on March 31, ~~[2014]~~ 2012, to enter into one or more service contracts, none of which shall exceed 30 years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree.

§ 3. Paragraph (b) of subdivision 7 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to New York state higher education matching grant

program for independent colleges, as amended by section 4 of part M of chapter 59 of the laws of 2010, is amended to read as follows:

(b) Any eligible institution receiving a grant pursuant to this article shall report to the dormitory authority no later than June 1, ~~2011~~ **2012**, on the use of funding received and its programmatic and economic impact. The dormitory authority shall submit a report no later than November 1, ~~2011~~ **2012** to the board, the governor, the director of the budget, the temporary president of the senate, and the speaker of the assembly on the aggregate impact of the higher education capital matching grant program. Such report shall provide information on the progress and economic impact of such project.

§ 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2011.

Chapter 57 Laws of 2012

Part H

Section 1. Paragraph (a) of subdivision 1 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education capital matching grant program for independent colleges, as amended by section 1 of part I of chapter 60 of the laws of 2011, is amended to read as follows:

(a) The New York state higher education capital matching grant board is hereby created to have and exercise the powers, duties and prerogatives provided by the provisions of this section and any other provision of law. The board shall remain in existence during the period of the New York state higher education capital matching grant program from the effective date of this section through March 31, ~~2012~~ **2013**, or the date on which the last of the funds available for grants under this section shall have been disbursed, whichever is earlier; provided, however, that the termination of the existence of the board shall not affect the power and authority of the dormitory authority to perform its obligations with respect to any bonds, notes, or other indebtedness issued or incurred pursuant to authority granted in this section.

§ 2. Paragraph (h) of subdivision 4 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education matching grant program for independent colleges, as amended by section 2 of part M of chapter 59 of the laws of 2010, is amended to read as follows:

(h) If a college did not apply for a potential grant by March 31, 2009, funds associated with such potential grant shall be awarded, on a competitive basis, to other colleges, according to the priorities set forth below. Colleges shall be eligible to apply for

unutilized grants. In such cases, the following priorities shall apply: first, priority shall be given to otherwise eligible colleges that either were, or would have been, deemed ineligible for the program prior to March 31, 2009, due to missed deadlines, insufficient matching funds, lack of accreditation or other disqualifying reasons; and second, after the board has acted upon all such first-priority applications for unused funds, if any such funds remain, those funds shall be available for distribution to eligible colleges that are located within the same Regents of the State of New York region for which such funds were originally allocated. The dormitory authority shall develop a request for proposals and application process, in consultation with the board, for such grants and shall develop criteria, subject to review by the board, for the awarding of such grants. Such criteria shall incorporate the matching criteria contained in paragraph (c) of this subdivision, and the application criteria set forth in paragraph (e) of this subdivision. The dormitory authority shall require all applications in response to the request for proposals to be submitted by September 1, ~~2010~~ **2012**, and the board shall act on each application for such matching grants by November 1, ~~2010~~ **2012**.

§ 3. Subclause (A) of clause (ii) of paragraph (j) of subdivision 4 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education matching grant program for independent colleges, as amended by section 2 of part I of chapter 60 of the laws of 2011, is amended to read as follows:

(A) Notwithstanding the provision of any general or special law to the contrary, and subject to the provisions of chapter 59 of the laws of 2000 and to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority in providing such higher education capital matching grants, the director of the budget is authorized in any state fiscal year commencing April 1, 2005 or any state fiscal year thereafter for a period ending on March 31, ~~2012~~ **2014**, to enter into one or more service contracts, none of which shall exceed 30 years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree.

§ 4. Paragraph (b) of subdivision 7 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education matching grant program for independent colleges, as amended by section 3 of part I of chapter 60 of the laws of 2011, is amended to read as follows:

(b) Any eligible institution receiving a grant pursuant to this article shall report to the dormitory authority no later than June 1, ~~2012~~ **2013**, on the use of funding received and its programmatic and economic impact. The dormitory authority shall submit a report no later than November 1, ~~2012~~ **2013** to the board, the governor, the director of the budget, the temporary president of the senate, and the speaker of the assembly on the aggregate impact of the higher education capital matching grant program. Such report shall provide information on the progress and economic impact of such project.

§ 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012.

Chapter 57 Laws of 2013 Part C

Section 1. Paragraph (a) of subdivision 1 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education capital matching grant program for independent colleges, as amended by section 1 of part H of chapter 57 of the laws of 2012, is amended to read as follows:

(a) The New York state higher education capital matching grant board is hereby created to have and exercise the powers, duties and prerogatives provided by the provisions of this section and any other provision of law. The board shall remain in existence during the period of the New York state higher education capital matching grant program from the effective date of this section through March 31, ~~[2013]~~ 2014, or the date on which the last of the funds available for grants under this section shall have been disbursed, whichever is earlier; provided, however, that the termination of the existence of the board shall not affect the power and authority of the dormitory authority to perform its obligations with respect to any bonds, notes, or other indebtedness issued or incurred pursuant to authority granted in this section.

§ 2. Paragraph (h) of subdivision 4 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education capital matching grant program for independent colleges, as amended by section 2 of part H of chapter 57 of the laws of 2012, is amended to read as follows:

(h) ~~[If a college did not apply for a potential grant]~~ In the event that any colleges do not apply for higher education capital matching grants by March 31, 2009, or in the event they apply for and are awarded, but do not use the full amount of such grants, the unused funds associated with such ~~[potential grant]~~ grants shall thereafter be awarded~~[,]~~ to colleges on a competitive basis, ~~[to other colleges,]~~ according to the priorities set forth below. ~~[Colleges]~~ Notwithstanding subdivision five of this section, any college shall be eligible to apply for ~~[unutilized grants]~~ such unused funds in response to a request for proposals for a higher education capital matching grant pursuant to this paragraph. In such cases, the following priorities shall apply: first, priority shall be given to otherwise eligible colleges that either were, or would have been, deemed ineligible for the program prior to March 31, 2009, due to missed deadlines, insufficient matching funds, lack of accreditation or other disqualifying reasons; and second, after the board has acted upon all such first-priority applications for unused funds, if any such funds remain, those funds shall be available for distribution to eligible colleges ~~[that are located within the same Regents of the State of New York region for which such funds were originally allocated]~~. The

dormitory authority shall develop a request for proposals and application process, in consultation with the board, for [~~such~~] **higher education capital matching grants awarded pursuant to this paragraph**, and shall develop criteria, subject to review by the board, for the awarding of such grants. Such criteria shall [~~incorporate~~] **include, but not be limited to** the matching criteria contained in paragraph (c) of this subdivision, and the application criteria set forth in paragraph (e) of this subdivision. The dormitory authority shall require all applications in response to the request for proposals to be submitted by September 1, [~~2012~~] **2013**, and the board shall act on each application for such matching grants by November 1, [~~2012~~] **2013**.

§ 3. Subclause (A) of clause (ii) of paragraph (j) of subdivision 4 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education capital matching grant program for independent colleges, as amended by section 3 of part H of chapter 57 of the laws of 2012, is amended to read as follows:

(A) Notwithstanding the provision of any general or special law to the contrary, and subject to the provisions of chapter 59 of the laws of 2000 and to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority in providing such higher education capital matching grants, the director of the budget is authorized in any state fiscal year commencing April 1, 2005 or any state fiscal year thereafter for a period ending on March 31, [~~2014~~] **2015**, to enter into one or more service contracts, none of which shall exceed 30 years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree.

§ 4. Paragraph (b) of subdivision 7 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education matching capital grant program for independent colleges, as amended by section 4 of part H of chapter 57 of the laws of 2012, is amended to read as follows:

(b) Any eligible institution receiving a grant pursuant to this article shall report to the dormitory authority no later than June 1, [~~2013~~] **2014**, on the use of funding received and its programmatic and economic impact. The dormitory authority shall submit a report no later than November 1, [~~2013~~] **2014** to the board, the governor, the director of the budget, the temporary president of the senate, and the speaker of the assembly on the aggregate impact of the higher education matching capital grant program. Such report shall provide information on the progress and economic impact of such project.

§ 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2013.

**Chapter 56 Laws of 2014
PART H**

Section 1. Paragraph (a) of subdivision 1 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education capital matching grant program for independent colleges, as amended by section 1 of part C of chapter 57 of the laws of 2013, is amended to read as follows:

(a) The New York state higher education capital matching grant board is hereby created to have and exercise the powers, duties and prerogatives provided by the provisions of this section and any other provision of law. The board shall remain in existence during the period of the New York state higher education capital matching grant program from the effective date of this section through March 31, ~~[2014]~~ 2017, or the date on which the last of the funds available for grants under this section shall have been disbursed, whichever is earlier; provided, however, that the termination of the existence of the board shall not affect the power and authority of the dormitory authority to perform its obligations with respect to any bonds, notes, or other indebtedness issued or incurred pursuant to authority granted in this section.

§ 2. Paragraph (h) of subdivision 4 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education capital matching grant program for independent colleges, as amended by section 2 of part C of chapter 57 of the laws of 2013, is amended to read as follows:

(h) In the event that any colleges do not apply for higher education capital matching grants by March 31, 2009, or in the event they apply for and are awarded, but do not use the full amount of such grants, the unused funds associated with such grants and any additional funds that become available shall thereafter be awarded to colleges on a competitive basis[, ~~according to the priorities set forth below. Notwithstanding subdivision five of this section, any college shall be eligible to apply for such unused funds in response to a request for proposals for a higher education capital matching grant pursuant to this paragraph. In such cases, the following priorities shall apply: first priority shall be given to otherwise eligible colleges that either were, or would have been, deemed ineligible for the program prior to March 31, 2009, due to missed deadlines, insufficient matching funds, lack of accreditation or other disqualifying reasons; and second, after the board has acted upon all such first priority applications for unused funds, if any such funds remain, those funds shall be available for distribution to eligible colleges~~]. The dormitory authority shall develop a request for proposals and application process, in consultation with the board, for higher education capital matching grants awarded pursuant to this paragraph, and shall develop criteria, subject to review by the board, for the awarding of such grants. Such criteria [~~shall~~] may include, but not be limited to the matching criteria contained in paragraph (c) of this subdivision, and [~~the~~] application criteria set forth in paragraph (e) of this subdivision. The dormitory authority shall require all applications in response to the request for proposals to be submitted by

September 1, ~~[2013]~~ **2014**, and the board shall act on each application for such matching grants by November 1, ~~[2013]~~ **2014**.

§ 3. Subclause (A) of clause (ii) of paragraph (j) of subdivision 4 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education capital matching grant program for independent colleges, as amended by section 3 of part C of chapter 57 of the laws of 2013, is amended to read as follows:

(A) Notwithstanding the provision of any general or special law to the contrary, and subject to the provisions of chapter 59 of the laws of 2000 and to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority in providing such higher education capital matching grants, the director of the budget is authorized in any state fiscal year commencing April 1, 2005 or any state fiscal year thereafter for a period ending on March 31, ~~[2015,]~~ **2017**, to enter into one or more service contracts, none of which shall exceed 30 years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree.

§ 4. Paragraph (b) of subdivision 7 of section 1 of part U of chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education matching capital grant program for independent colleges, as amended by section 4 of part C of chapter 57 of the laws of 2013, is amended to read as follows:

(b) Any eligible institution receiving a grant pursuant to this article shall report to the dormitory authority no later than June 1, ~~[2014]~~ **2018**, on the use of funding received and its programmatic and economic impact. The dormitory authority shall submit a report no later than November 1, ~~[2014]~~ **2018** to ~~[the board,]~~ the governor, the director of the budget, the temporary president of the senate, and the speaker of the assembly on the aggregate impact of the higher education matching capital grant program. Such report shall provide information on the progress and economic impact of such project.

§ 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2014.

Chapter 56 Laws of 2015

PART R

Section 1. Paragraph (a) of subdivision 1 of section 1 of part U of chapter 57 of the laws of 2005, relating to the New York state higher education capital matching grant program for independent colleges, as amended by section 1 of part H of chapter 56 of the laws of 2014, is amended to read as follows:

(a) The New York state higher education capital matching grant board is hereby created to have and exercise the powers, duties and prerogatives provided by the provisions of this section and any other provision of law. The board shall remain in existence during the period of the New York state higher education capital matching grant program from the effective date of this section through ~~[March 31, 2017, or]~~ the date on which the last of the funds available for grants under this section shall have been disbursed[, ~~whichever is earlier~~]; provided, however, that the termination of the existence of the board shall not affect the power and authority of the dormitory authority to perform its obligations with respect to any bonds, notes, or other indebtedness issued or incurred pursuant to authority granted in this section.

§ 2. Paragraph (h) of subdivision 4 of section 1 of part U of chapter 57 of the laws of 2005, relating to the New York state higher education capital matching grant program for independent colleges, as amended by section 2 of part H of chapter 56 of the laws of 2014, is amended to read as follows:

(h) In the event that any colleges do not apply for higher education capital matching grants by March 31, 2009, or in the event they apply for and are awarded, but do not use the full amount of such grants, the unused funds associated with such grants and any additional funds that become available shall thereafter be awarded to colleges on a competitive basis. The dormitory authority shall develop a request for proposals and application process, in consultation with the board, for higher education capital matching grants awarded pursuant to this paragraph, and shall develop criteria, subject to review by the board, for the awarding of such grants. Such criteria may include, but not be limited to the matching criteria contained in paragraph (c) of this subdivision, and application criteria set forth in paragraph (e) of this subdivision. ~~[The dormitory authority shall require all applications in response to the request for proposals to be submitted by September 1, 2014, and the board shall act on each application for such matching grants by November 1, 2014.]~~

§ 3. Subclause (A) of clause (ii) of paragraph (j) of subdivision 4 of section 1 of part U of chapter 57 of the laws of 2005, relating to the New York state higher education capital matching grant program for independent colleges, as amended by section 3 of part H of chapter 56 of the laws of 2014, is amended to read as follows:

(A) Notwithstanding the provision of any general or special law to the contrary, and subject to the provisions of chapter 59 of the laws of 2000 and to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority in providing such higher education capital matching grants, the director of the budget is authorized in any state fiscal year commencing April 1, 2005 or any state fiscal year thereafter ~~[for a period ending on March 31, 2017]~~, to enter into one or more service contracts, none of which shall exceed years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree.

§ 4. Paragraph (b) of subdivision 7 of section 1 of part U of chapter 57 of the laws of 2005, relating to the New York state higher education capital matching grant program

for independent colleges, as amended by section 4 of part H of chapter 56 of the laws of 2014, is amended to read as follows:

(b) Any eligible institution receiving a grant pursuant to this article shall report to the dormitory authority [~~no later than June 1, 2018,~~] on the use of funding received and its programmatic and economic impact **no later than twelve months after the completion of the project.** The dormitory authority shall submit a report [~~no later than November 1, 2018~~] to the governor, the director of the budget, the temporary president of the senate, and the speaker of the assembly on the aggregate impact of the higher education [~~matching~~] capital **matching** grant program **no later than eighteen months after the completion of the last project.** Such report shall provide information on the progress and economic impact of such [~~project~~] **projects.**

§ 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2015.

Appropriation Statute:

Chapter 54 Laws of 2018

MISCELLANEOUS -- ALL STATE DEPARTMENTS AND AGENCIES

HIGHER EDUCATION FACILITIES CAPITAL MATCHING GRANTS PROGRAM

CAPITAL PROJECTS 2018-19

For the comprehensive construction programs, purposes and projects as herein specified in accordance with the following:

	APPROPRIATIONS	REAPPROPRIATIONS
Capital Projects Funds - Other	30,000,000	104,000,000
	-----	-----
All Funds	30,000,000	104,000,000
	=====	=====
 HIGHER EDUCATION CAPITAL MATCHING GRANTS (CCP)		 30,000,000

Capital Projects Funds - Other
 Capital Projects Fund
 Capital Matching Grants Purpose

The sum of \$30,000,000 is hereby appropriated for the higher education facilities capital matching grants program. Awards and grants shall be administered by the New York

state higher education capital matching grant board created pursuant to part U of chapter 63 of the laws of 2005 as amended (MG0918MG) 30,000,000

CAPITAL PROJECTS - REAPPROPRIATIONS 2018-19

HIGHER EDUCATION CAPITAL MATCHING GRANTS (CCP)

Capital Projects Funds - Other
Capital Projects Fund
Capital Matching Grants Purpose

By chapter 55, section 1, of the laws of 2016:

The sum of \$30,000,000 is hereby appropriated for the higher education facilities capital matching grants program. Awards and grants shall be administered by the New York state higher education capital matching grant board created pursuant to part U of chapter 63 of the laws of 2005 as amended (MG0816MG)
30,000,000 (re. \$30,000,000)

By chapter 54, section 1, of the laws of 2015:

The sum of \$30,000,000 is hereby appropriated for the higher education facilities capital matching grants program. Awards and grants shall be administered by the New York state higher education capital matching grant board created pursuant to part U of chapter 63 of the laws of 2005 as amended (MG0815MG)
30,000,000 (re. \$30,000,000)

By chapter 54, section 1, of the laws of 2014:

The sum of \$30,000,000 is hereby appropriated for the higher education facilities capital matching grants program. Awards and grants shall be administered by the New York state higher education capital matching grant board created pursuant to part U of chapter 63 of the laws of 2005 as amended (MG0814MG)
30,000,000 (re. \$30,000,000)

By chapter 53, section 1, of the laws of 2005, as amended by chapter 54, section 1, of the laws of 2013:

The sum of \$150,000,000 is hereby appropriated for the higher education facilities capital matching grants program. Awards and grants shall be administered by the New York state higher education capital matching grant board created pursuant to part U of chapter 63 of the laws of 2005 as amended (MG0805MG)
150,000,000 (re. \$14,400,000)

Bonding authoriazation Statute:

Chapter 55 Laws of 2014

§ 46-c. Paragraph (b) of subdivision 3 of section 1 and clause (B) of subparagraph (iii) of paragraph (j) of subdivision 4 of section 1 of part D of chapter 63 of the laws of 2005 relating to the composition and responsibilities of the New York state higher education capital matching grant board, is amended to read as follows:

(b) Within amounts appropriated therefor, the board is hereby authorized and directed to award matching capital grants totaling ~~[150]~~ **180** million dollars. Each college shall be eligible for a grant award amount as determined by the calculations pursuant to subdivision five of this section. In addition, such colleges shall be eligible to compete for additional funds pursuant to paragraph (h) of subdivision four of this section.

(B) The dormitory authority shall not issue any bonds or notes in an amount in excess of ~~[150]~~ **180** million dollars for the purposes of this section; excluding bonds or notes issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Except for purposes of complying with the internal revenue code, any interest on bond proceeds shall only be used to pay debt service on such bonds.

Chapter 60 Laws of 2015

§ 43. Paragraph (b) of subdivision 3 of section 1 and clause (B) of subparagraph (iii) of paragraph (j) of subdivision 4 of section 1 of part D of chapter 63 of the laws of 2005 relating to the composition and responsibilities of the New York state higher education capital matching grant board, as amended by section 46-c of part I of chapter 55 of the laws of 2014, is amended to read as follows:

(b) Within amounts appropriated therefor, the board is hereby authorized and directed to award matching capital grants totaling ~~[180]~~ **210** million dollars. Each college shall be eligible for a grant award amount as determined by the calculations pursuant to subdivision five of this section. In addition, such colleges shall be eligible to compete for additional funds pursuant to paragraph (h) of subdivision four of this section.

(B) The dormitory authority shall not issue any bonds or notes in an amount in excess of ~~[180]~~ **210** million dollars for the purposes of this section; excluding bonds or notes issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Except for purposes of complying with the internal revenue code, any interest on bond proceeds shall only be used to pay debt service on such bonds.

Chapter 54 Laws of 2016

§ 45. Paragraph (b) of subdivision 3 of section 1 and clause (B) of subparagraph (iii) of paragraph (j) of subdivision 4 of section 1 of part D of chapter 63 of the laws of 2005 relating to the composition and responsibilities of the New York state higher education capital matching grant board, as amended by section 43 of part I of chapter 60 of the laws of 2015, is amended to read as follows:

(b) Within amounts appropriated therefor, the board is hereby authorized and directed to award matching capital grants totaling [~~210~~ **240**] million dollars. Each college shall be eligible for a grant award amount as determined by the calculations pursuant to subdivision five of this section. In addition, such colleges shall be eligible to compete for additional funds pursuant to paragraph (h) of subdivision four of this section.

(B) The dormitory authority shall not issue any bonds or notes in an amount in excess of [~~210~~ **240**] million dollars for the purposes of this section; excluding bonds or notes issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Except for purposes of complying with the internal revenue code, any interest on bond proceeds shall only be used to pay debt service on such bonds.

Chapter 59 Laws of 2018

§ 59. Paragraph (b) of subdivision 3 and clause (B) of subparagraph (iii) of paragraph (j) of subdivision 4 of section 1 of part D of chapter 63 of the laws of 2005, relating to the composition and responsibilities of the New York state higher education capital matching grant board, as amended by section 45 of part UU of chapter 54 of the laws of 2016, are amended to read as follows:

(b) Within amounts appropriated therefor, the board is hereby authorized and directed to award matching capital grants totaling [~~240~~ **two hundred seventy**] million dollars. Each college shall be eligible for a grant award amount as determined by the calculations pursuant to subdivision five of this section. In addition, such colleges shall be eligible to compete for additional funds pursuant to paragraph (h) of subdivision four of this section.