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I N S E N A T E

April 22, 2010

Introduced by Sens. AUBERTINE, MAZIARZ, BRESLIN, FOLEY, C. JOHNSON, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the economic development law, chapter 316 of the laws of 1997 amending the public authorities law and other laws relating to the provision of low cost power to foster statewide economic development; to amend chapter 645 of the laws of 2006 amending the economic development law and other laws relating to reauthorizing the New York power authority to make contributions to the general fund; and to amend the tax law, in relation to extending the expiration of the power for jobs program and the energy cost savings benefits program; and to amend the economic development law and the public authorities law, in relation to the creation of the economic benefit power program

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

1 Section 1. Section 182 of the economic development law, as amended by  
2 chapter 289 of the laws of 2000, is amended to read as follows:  
3 S 182. The New York state economic development power allocation board.  
4 There is hereby created a New York state economic development power  
5 allocation board, which shall possess the powers and duties herein spec-  
6 ified and all the powers necessary or proper to carry out the purposes  
7 of this article. The board shall consist of [four] NINE members, [two]  
8 ONE OF WHOM SHALL BE THE PRESIDENT OF THE URBAN DEVELOPMENT CORPORATION  
9 AND ONE of whom shall be [appointed by the governor and one] THE PRESI-  
10 DENT OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY,  
11 ONE OF WHOM SHALL BE THE PRESIDENT OF THE POWER AUTHORITY OF THE STATE  
12 OF NEW YORK, TWO of whom shall be appointed by the speaker of the assem-  
13 bly [and one] , TWO of whom shall be appointed by the TEMPORARY presi-  
14 dent [pro tempore] of the senate ONE OF WHOM SHALL BE APPOINTED BY THE  
15 MINORITY LEADER OF THE ASSEMBLY, AND ONE OF WHOM SHALL BE APPOINTED BY  
16 THE MINORITY LEADER OF THE SENATE. Each member shall be appointed for  
17 terms of three years or until a successor shall have been named and  
18 qualified. The chairman shall be [designated by the governor from  
19 amongst the members] THE PRESIDENT OF THE URBAN DEVELOPMENT CORPORATION.

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

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1 [Three] FIVE members shall constitute a quorum for the purposes of  
2 organizing the board and conducting the business thereof; and no actions  
3 of the board may be taken except upon the affirmative vote of at least  
4 [three] FIVE members. Videoconferencing may be used for attendance and  
5 participation by members of the board. If videoconferencing is used the  
6 board shall provide an opportunity for the public to attend, listen and  
7 observe at any site at which a member participates. The public notice  
8 for the meeting shall inform the public that [vidioconferencing] VIDEO-  
9 CONFERENCING will be used, identify the locations for the meeting, and  
10 state that the public has the right to attend the meeting at any of the  
11 locations. Members of the board, except those who are employees or offi-  
12 cers of the state, its authorities or agencies shall not receive a sala-  
13 ry or other compensation, but shall be allowed the necessary and actual  
14 expenses incurred in the performance of duties under this article.

15 S 2. Paragraphs 2 and 4 of subdivision (h) of section 183 of the  
16 economic development law, as amended by chapter 217 of the laws of 2009,  
17 are amended to read as follows:

18 2. During the period commencing on November first, two thousand five  
19 and ending on [May fifteenth] JUNE THIRTIETH, two thousand [ten] ELEVEN  
20 eligible businesses shall only include customers served under the power  
21 authority of the state of New York's high load factor, economic develop-  
22 ment power and other business customers served by political subdivisions  
23 of the state authorized by law to engage in the distribution of electric  
24 power that were authorized to be served by the authority from the  
25 authority's former James A. Fitzpatrick nuclear power plant as of the  
26 effective date of this subdivision whose power prices may be subject to  
27 increase before [May fifteenth] JUNE THIRTIETH, two thousand [ten] ELEV-  
28 EN. Provided, however, that the total amount of megawatts of replace-  
29 ment and preservation power which, due to the extension of the energy  
30 cost savings benefits, are not relinquished by or withdrawn from a  
31 recipient shall be deemed to be relinquished or withdrawn for purposes  
32 of offering such megawatts by the authority for reallocation pursuant to  
33 subdivision thirteen of section one thousand five of the public authori-  
34 ties law. Provided, further, that for any such reallocation, the author-  
35 ity shall maintain the same energy cost savings benefit level for all  
36 eligible businesses using any available authority resources as deemed  
37 feasible and advisable by the trustees pursuant to section seven of part  
38 U of chapter fifty-nine of the laws of two thousand six.

39 4. Applications for an energy cost savings benefit shall be in the  
40 form and contain such information, exhibits and supporting data as the  
41 board may prescribe. The board shall review the applications received  
42 and shall determine the applications which best meet the criteria estab-  
43 lished for the benefits pursuant to this subdivision and it shall recom-  
44 mend such applications to the power authority of the state of New York  
45 with such terms and conditions as it deems appropriate; provided, howev-  
46 er, that for energy cost savings benefits granted on or after [June  
47 thirtieth] MAY FIFTEENTH, two thousand [nine] TEN through [May  
48 fifteenth] JUNE THIRTIETH, two thousand [ten] ELEVEN, the board shall  
49 expedite the awarding of such benefits and shall defer the review of  
50 compliance with such criteria until after the applicant has been awarded  
51 an energy cost savings benefit. Such terms and conditions shall include  
52 reasonable provisions providing for the partial or complete withdrawal  
53 of the energy cost savings benefit in the event the recipient fails to  
54 maintain mutually agreed upon commitments that may include, but are not  
55 limited to, levels of employment, capital investment and power utiliza-  
56 tion. Recommendation for approval of an energy cost savings benefit

1 shall qualify an applicant to receive an energy cost savings benefit  
2 from the power authority of the state of New York pursuant to the terms  
3 and conditions of the recommendation. ANY ENERGY COST SAVINGS BENEFIT  
4 WHICH IS RELINQUISHED OR WITHDRAWN AFTER THE EFFECTIVE DATE OF THE CHAP-  
5 TER OF THE LAWS OF TWO THOUSAND TEN WHICH AMENDED THIS PARAGRAPH SHALL  
6 BE AVAILABLE FOR REALLOCATION TO ELIGIBLE BUSINESSES AS DEFINED IN PARA-  
7 GRAPH TWO OF THIS SUBDIVISION PURSUANT TO THE PROVISIONS OF THIS ARTI-  
8 CLE.

9 S 3. The opening paragraph of paragraph 5 of subdivision (a) of  
10 section 189 of the economic development law, as amended by chapter 217  
11 of the laws of 2009, is amended to read as follows:

12 "Power for jobs electricity savings reimbursements" shall mean  
13 payments made by the power authority of the state of New York as recom-  
14 mended by the board to recipients of allocations of power under phases  
15 four and five of the power for jobs program for a period of time until  
16 November thirtieth, two thousand four, subsequent to the expiration of  
17 their phase four or five power for jobs contract provided however that  
18 any power for jobs recipient may choose to receive an electricity  
19 savings reimbursement as a substitute for a contract extension for the  
20 period from the date the recipient's contract expires through [May  
21 fifteenth] JUNE THIRTIETH, two thousand [ten] ELEVEN. The "basic  
22 reimbursement" is an amount that when credited against the recipient's  
23 actual "unit cost of electricity" during a quarter (meaning the cost for  
24 commodity and delivery per kilowatt-hour for the quantity of electricity  
25 purchased and delivered under the power for jobs program during a simi-  
26 lar period in the final year of the recipient's contract), results in an  
27 effective unit cost of electricity during the quarter equal to the aver-  
28 age unit cost of electricity such recipient paid during the final year  
29 of the contract for power allocated under phase four or five of the  
30 power for jobs program, PROVIDED HOWEVER THAT NOTWITHSTANDING THE FORE-  
31 GOING, FOR THE PERIOD MAY SIXTEENTH, TWO THOUSAND TEN THROUGH JUNE THIR-  
32 TIETH, TWO THOUSAND ELEVEN, THE BASIC REIMBURSEMENT SHALL BE AN AMOUNT  
33 SUCH THAT THE RECIPIENT RECEIVES UNIT (PER KILOWATT-HOUR) ELECTRICITY  
34 SAVINGS EQUIVALENT TO THE AVERAGE UNIT ELECTRICITY SAVINGS RECEIVED  
35 DURING THE TWELVE MONTHS ENDING ON MAY FIFTEENTH, TWO THOUSAND TEN.

36 S 4. Subdivisions (f) and (l) of section 189 of the economic develop-  
37 ment law, as amended by chapter 217 of the laws of 2009, are amended to  
38 read as follows:

39 (f) Eligibility. The board shall recommend applications for allo-  
40 cations of power under the power for jobs program to or for the use of  
41 businesses which normally utilize a minimum peak electric demand in  
42 excess of four hundred kilowatts; provided, however, that up to one  
43 hundred megawatts of power available for allocation during the initial  
44 three phases of the power for jobs program may be recommended for allo-  
45 cations to not-for-profit corporations and to small businesses; and,  
46 provided, further that up to seventy-five megawatts of power available  
47 for allocation during the fourth phase of the program may be recommended  
48 for allocations to not-for-profit corporations and to small businesses.  
49 The board may require small businesses that normally utilize a minimum  
50 peak electric demand of less than one hundred kilowatts to aggregate  
51 their electric demand in amounts of no less than one hundred kilowatts,  
52 for the purposes of applying to the board for an allocation of power.  
53 The board shall recommend allocations of the additional three hundred  
54 megawatts available during the fourth phase of the program to any such  
55 eligible applicant, including any recipient of power allocated during  
56 the first phase of the program. The board shall recommend allocations of

1 the additional one hundred eighty-three megawatts available during the  
2 fifth phase of the program to any eligible applicant, including any  
3 recipient of power allocated during the second and third phases of the  
4 program; provided, however, that the term of contracts for allocations  
5 under the fifth phase of the program shall in no case extend beyond [May  
6 fifteenth] JUNE THIRTIETH, two thousand [ten] ELEVEN. Notwithstanding  
7 any provision of law to the contrary, and, in particular, the provisions  
8 of this chapter concerning the terms of contracts for allocations under  
9 the power for jobs program, the terms of any contract with a recipient  
10 of power allocated under phase two of the power for jobs program that  
11 has expired or will expire on or before the thirty-first day of August,  
12 two thousand two, may be extended by the power authority of the state of  
13 New York for an additional period of three months effective on the date  
14 of such expiration, pending the filing and approval of an application by  
15 such recipient for an allocation under the fifth phase of the program.  
16 The term of any new contract with such recipient under the fifth phase  
17 of the program shall be deemed to include any three month contract  
18 extension made pursuant to this subdivision and the termination date of  
19 any such new contract under phase five shall be no later than if such  
20 new contract had commenced upon the expiration of the recipient's  
21 original phase two contract. The terms of any contract with a recipient  
22 of power allocated under phase four and/or phase five of the power for  
23 jobs program that has expired or will expire on or before the thirty-  
24 first day of December, two thousand five, may be extended by the power  
25 authority of the state of New York from a date beginning no earlier than  
26 the first day of December, two thousand four and extending through [May  
27 fifteenth] JUNE THIRTIETH, two thousand [ten] ELEVEN.

28 (1) The board shall solicit and review applications for the power for  
29 jobs electricity savings reimbursements and contract extensions from  
30 recipients of power for jobs allocations under phases four and five of  
31 the program for the award of such reimbursements and/or contract exten-  
32 sions. The board may prescribe a simplified form and content for an  
33 application for such reimbursements or extensions. An applicant shall be  
34 eligible for such reimbursements and/or extensions only if it is in  
35 compliance with and agrees to continue to meet the job retention and  
36 creation commitments set forth in its prior power for jobs contract, or  
37 such other commitments as the board deems reasonable; provided, however,  
38 that for the power for jobs electricity savings reimbursements and  
39 contract extensions granted on or after June thirtieth, two thousand  
40 nine through [May fifteenth] JUNE THIRTIETH, two thousand [ten] ELEVEN,  
41 the board shall expedite the awarding of such reimbursements and/or  
42 extensions and shall defer the review of compliance with such commit-  
43 ments until after the applicant has been awarded a power for jobs elec-  
44 tricity savings reimbursement and/or contract extension. The board shall  
45 review such applications and make recommendations for the award: 1. of  
46 such reimbursements through the power authority of the state of New York  
47 for a period of time up to November thirtieth, two thousand four, and 2.  
48 of such contract extensions or reimbursements as applied for by the  
49 recipient for a period of time beginning December first, two thousand  
50 four and ending [May fifteenth] JUNE THIRTIETH, two thousand [ten] ELEV-  
51 EN. At no time shall a recipient receive both a reimbursement and exten-  
52 sion after December first, two thousand four. The power authority of the  
53 state of New York shall receive notification from the board regarding  
54 the award of power for jobs electricity savings reimbursements and/or  
55 contract extensions. ANY POWER FOR JOBS ALLOCATION WHICH IS RELIN-  
56 QUISHED OR WITHDRAWN AFTER THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS

1 OF TWO THOUSAND TEN WHICH AMENDED THIS SUBDIVISION SHALL BE AVAILABLE  
2 FOR REALLOCATION TO CUSTOMERS ELIGIBLE FOR POWER FOR JOBS ALLOCATIONS AS  
3 DEFINED IN SUBDIVISION (F) OF THIS SECTION.

4 S 5. Section 9 of chapter 316 of the laws of 1997 amending the public  
5 authorities law and other laws relating to the provision of low cost  
6 power to foster statewide economic development, as amended by chapter  
7 217 of the laws of 2009, is amended to read as follows:

8 S 9. This act shall take effect immediately and shall expire and be  
9 deemed repealed [May 15, 2010] JUNE 30, 2011.

10 S 6. Subdivision 9 of section 186-a of the tax law, as amended by  
11 chapter 217 of the laws of 2009, is amended to read as follows:

12 9. Notwithstanding any other provision of this chapter or any other  
13 law to the contrary, for taxable periods nineteen hundred ninety-seven  
14 through and including two thousand [ten] ELEVEN, any utility which  
15 delivers power under the power for jobs program, as established by  
16 section one hundred eighty-nine of the economic development law, shall  
17 be allowed a credit, subject to the limitations thereon contained in  
18 this subdivision, against the tax imposed under this section equal to  
19 net lost revenues from the delivery of power under such power for jobs  
20 program. Net lost revenues means the "net receipts" less "net utility  
21 revenue" from such delivery of power. For purposes of this subdivision,  
22 "net receipts" shall mean the amount that the utility would have other-  
23 wise received from customers receiving power pursuant to allocations by  
24 the New York state economic development power allocation board in  
25 accordance with section one hundred eighty-nine of the economic develop-  
26 ment law, or from customers whose allocation has been transferred to an  
27 energy service company, or from energy service companies to which such  
28 allocation has been transferred, pursuant to its tariff supervised by  
29 the public service commission for substantially comparable service  
30 otherwise applicable to such customers or energy service companies in  
31 the absence of such designation, less the utility's annual average  
32 incremental short-term variable and capacity costs of providing such  
33 power in the absence of such purchase. For the purposes of this subdivi-  
34 sion, "net utility revenue" shall mean the revenues the utility actually  
35 receives in accordance with such section one hundred eighty-nine from  
36 such customers so designated by the New York state economic development  
37 power allocation board or from customers whose allocation has been  
38 transferred to an energy service company, or from the energy service  
39 companies to which a power for jobs allocation has been transferred,  
40 less the utility's cost of such power under such program. Provided,  
41 however, that any credit under this section shall be used only with  
42 respect to the same taxable year during which such credit arose and  
43 shall not be capable of being carried forward or backward to any other  
44 taxable period. Nor shall any credit be allowed to any utility for the  
45 total amount of power, expressed in kilowatt hours, purchased by the  
46 customers of such utility under such program during the taxable period  
47 that exceeds the prorated "baseline energy use" by all customers of that  
48 utility purchasing power under such program during the taxable period.  
49 "Baseline energy use" with respect to each customer shall mean the larg-  
50 est amount of kilowatt hours of energy used by such customer during any  
51 twelve consecutive month period occurring during the preceding thirty  
52 months immediately preceding the New York state economic development  
53 power allocation board's recommendation of such customer's application,  
54 prorated to reflect the length of time of the customer's participation  
55 in such program during the taxable period. Provided further, however,  
56 that in accordance with subdivision (k) of section one hundred eighty-

1 nine of the economic development law no tax credit shall be available  
2 for any revenue losses when a utility has declined to purchase power  
3 allocated for sale under such program. No electric corporation shall be  
4 allowed the tax credit authorized by this subdivision until it shall  
5 file a certificate from the department of public service for the period  
6 covered by the return verifying that the calculation of such tax credit  
7 complies with this subdivision and the department of public service has  
8 approved such certificate and forwarded a copy of such approved certifi-  
9 cate to the commissioner or any amended certificate resulting from the  
10 need for correction. The credit allowed by this subdivision shall not be  
11 applicable in calculating any other tax imposed or authorized to be  
12 imposed by this chapter or any other law, and the amount of the tax  
13 surcharge imposed under section one hundred eighty-six-c of this article  
14 shall be calculated and payable as if the credit provided for by this  
15 subdivision were not allowed.

16 S 7. Section 11 of chapter 645 of the laws of 2006 amending the  
17 economic development law and other laws relating to reauthorizing the  
18 New York power authority to make contributions to the general fund, as  
19 amended by chapter 217 of the laws of 2009, is amended to read as  
20 follows:

21 S 11. This act shall take effect immediately and shall be deemed to  
22 have been in full force and effect on and after April 1, 2006; provided,  
23 however, that the amendments to section 183 of the economic development  
24 law and subparagraph 2 of paragraph g of the ninth undesignated para-  
25 graph of section 1005 of the public authorities law made by sections two  
26 and six of this act shall not affect the expiration of such section and  
27 subparagraph, respectively, and shall be deemed to expire therewith;  
28 provided further, however, that the amendments to section 189 of the  
29 economic development law and subdivision 9 of section 186-a of the tax  
30 law made by sections three, four, five and ten of this act shall not  
31 affect the repeal of such section and subdivision, respectively, and  
32 shall be deemed to be repealed therewith; provided further, however,  
33 that section seven of this act shall expire and be deemed repealed [May  
34 15, 2010] JUNE 30, 2011.

35 S 8. Subdivision (b) of section 183 of the economic development law,  
36 as amended by chapter 316 of the laws of 1997, is amended to read as  
37 follows:

38 (b) To evaluate applications for allocations of economic development  
39 power and of power under the power for jobs program and to make recom-  
40 mendations with respect to such proposed allocations; PROVIDED HOWEVER,  
41 THAT THE BOARD SHALL NOT ACCEPT ANY NEW APPLICATION THAT REQUESTS AN  
42 ALLOCATION OF ECONOMIC DEVELOPMENT POWER OR POWER UNDER THE POWER FOR  
43 JOBS PROGRAM AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND TEN; AND PROVIDED  
44 FURTHER THAT THE BOARD SHALL NOT EXTEND THE TERM OF ANY CONTRACT FOR AN  
45 ALLOCATION UNDER THE ECONOMIC DEVELOPMENT PROGRAM THAT WILL EXPIRE ON OR  
46 BEFORE JUNE THIRTIETH, TWO THOUSAND ELEVEN FOR THE PURPOSE OF PROVIDING  
47 AN ALLOCATION AFTER JUNE THIRTIETH, TWO THOUSAND ELEVEN.

48 S 9. Section 183 of the economic development law is amended by adding  
49 a new subdivision (i) to read as follows:

50 (I) TO SOLICIT APPLICATIONS FOR AWARDS UNDER THE ECONOMIC BENEFIT  
51 POWER PROGRAM AND MAKE RECOMMENDATIONS TO THE POWER AUTHORITY OF THE  
52 STATE OF NEW YORK FOR AWARDS UNDER SUCH PROGRAM IN THE MANNER AUTHORIZED  
53 IN SECTION ONE HUNDRED EIGHTY-EIGHT-A OF THIS ARTICLE.

54 S 10. Subdivision (g) of section 183 of the economic development law,  
55 as amended by chapter 226 of the laws of 2002, is amended to read as  
56 follows:

1 (g) [The] EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE board  
2 shall solicit applications for economic development power and for power  
3 under the power for jobs program by public notice. Such notice shall be  
4 in the form of newspaper advertisements, press releases, and by such  
5 other means as the board finds appropriate. Solicitations of preliminary  
6 applications for power under the power for jobs program shall begin  
7 promptly after the effective date of chapter three hundred sixteen of  
8 the laws of nineteen hundred ninety-seven establishing such program. The  
9 board shall solicit applications for the additional three hundred mega-  
10 watts of power available during the fourth phase of the program by  
11 public notice, written notification to each recipient of power allocated  
12 during the first phase of the program, and such other means as the board  
13 finds appropriate. Solicitations of applications for such three hundred  
14 megawatts of power available in phase four of the program shall begin  
15 promptly after the effective date of part KK of chapter sixty-three of  
16 the laws of two thousand making such power available. The board shall  
17 solicit applications for the additional one hundred eighty-three mega-  
18 watts of power available during the fifth phase of the program by public  
19 notice, written notification to each recipient of power allocated during  
20 the second and third phases of the program, and by such other means as  
21 the board finds appropriate. Solicitations for such one hundred eighty-  
22 three megawatts of power available in phase five of the program shall  
23 begin promptly after the effective date of the chapter of the laws of  
24 two thousand two making such power available.

25 S 11. Section 183 of the economic development law, as added by chapter  
26 32 of the laws of 1987, is amended to read as follows:

27 S 183. General powers and duties of the board. In furtherance of the  
28 purposes set forth in this article, the board shall have the following  
29 powers:

30 (a) To adopt, within one hundred twenty days after appointment, AND  
31 AMEND FROM TIME TO TIME, AS NECESSARY, eligibility criteria and rules  
32 and regulations, IN CONSULTATION WITH THE POWER AUTHORITY OF THE STATE  
33 OF NEW YORK AND THE URBAN DEVELOPMENT CORPORATION, relating to the  
34 activities of the board AS DESCRIBED IN AND CONSISTENT WITH THIS  
35 ARTICLE.

36 (b) To evaluate applications for allocations of economic development  
37 power and to make recommendations with respect to such proposed allo-  
38 cations, PROVIDED HOWEVER, THAT THE BOARD SHALL NOT ACCEPT NEW APPLICA-  
39 TIONS OR EXTEND ANY CONTRACTS FOR ALLOCATIONS OF ECONOMIC DEVELOPMENT  
40 POWER TO EXTEND BEYOND JUNE THIRTIETH, TWO THOUSAND ELEVEN.

41 (c) [To evaluate economic development plans for the use of industrial  
42 incentive awards submitted by the power authority of the state of New  
43 York pursuant to this article.

44 (d) To provide advice and assistance when appropriate to applicants on  
45 state economic development programs and services in addition to the  
46 economic development power and industrial incentive awards specifically  
47 provided for in this section.]

48 TO SOLICIT APPLICATIONS FOR AWARDS UNDER THE ECONOMIC BENEFIT POWER  
49 PROGRAM, AND MAKE RECOMMENDATIONS TO THE POWER AUTHORITY OF THE STATE OF  
50 NEW YORK FOR AWARDS UNDER SUCH PROGRAM IN THE MANNER AUTHORIZED IN  
51 SECTION ONE HUNDRED EIGHTY-EIGHT-A OF THIS ARTICLE.

52 (D) WITH THE ASSISTANCE AND COOPERATION OF THE POWER AUTHORITY OF THE  
53 STATE OF NEW YORK, THE URBAN DEVELOPMENT CORPORATION, AND THE NEW YORK  
54 STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, TO PROVIDE ADVICE AND  
55 ASSISTANCE TO APPLICANTS WHERE APPROPRIATE, AND TO COORDINATE AND FACIL-  
56 ITATE THE OPPORTUNITY FOR APPLICANTS TO AVAIL THEMSELVES OF ANY STATE OR

1 LOCAL ECONOMIC DEVELOPMENT PROGRAMS OTHER THAN THOSE PROVIDED FOR BY  
2 THIS SECTION, FOR WHICH THEY MAY ALSO BE ELIGIBLE; IN SO DOING TO OPTI-  
3 MIZE, TO THE EXTENT PRACTICABLE, THE USE OF AVAILABLE STATE ECONOMIC  
4 DEVELOPMENT RESOURCES TO ACHIEVE THEIR DEDICATED PURPOSES IN A COORDI-  
5 NATED MANNER, AS WELL AS THE ABILITY OF APPLICANTS TO INITIALLY ACCESS  
6 AS MANY OF SUCH PROGRAMS AS POSSIBLE THROUGH A SINGLE STATE OFFICE OR  
7 REPRESENTATIVE AND APPLICATIONS PROCESS.

8 (E) The [department, the] power authority of the state of New York,  
9 [the urban development corporation, and all other state officers,  
10 departments, boards, divisions and commissions] WITH THE ASSISTANCE OF  
11 THE URBAN DEVELOPMENT CORPORATION AND THE DEPARTMENT OF ECONOMIC DEVEL-  
12 OPMENT, shall render such services to the board [within their respective  
13 functions], IN ADDITION TO THOSE PROVIDED FOR IN SUBDIVISION (D) OF THIS  
14 SECTION, as may be requested by the board. IN ADDITION, EVERY AGENCY,  
15 DEPARTMENT, OFFICE, DIVISION OR PUBLIC AUTHORITY OF THIS STATE SHALL  
16 COOPERATE WITH THE BOARD AND FURNISH SUCH INFORMATION AND ASSISTANCE AS  
17 THE BOARD DETERMINES IS REASONABLY NECESSARY TO ACCOMPLISH ITS PURPOSE.

18 [The board shall solicit applications for economic development power  
19 by public notice. Such notice shall be in the form of newspaper adver-  
20 tisements, press releases, and by such other means as the board finds  
21 appropriate.]

22 S 12. The economic development law is amended by adding a new section  
23 188-a to read as follows:

24 S 188-A. ECONOMIC BENEFIT POWER PROGRAM. 1. DEFINITIONS. FOR THE  
25 PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING  
26 MEANINGS:

27 (A) "APPLICABLE CRITERIA" SHALL MEAN THE CRITERIA SPECIFIED IN SUBDI-  
28 VISION THREE OF THIS SECTION.

29 (B) "AUTHORITY" SHALL MEAN THE POWER AUTHORITY OF THE STATE OF NEW  
30 YORK.

31 (C) "ECONOMIC BENEFIT POWER AWARD" OR "AWARD" SHALL MEAN AND CONSIST  
32 OF EQUAL AMOUNTS OF (I) UP TO FOUR HUNDRED FIFTY-FIVE MEGAWATTS OF FIRM  
33 HYDROELECTRIC POWER FROM THE NIAGARA AND SAINT LAWRENCE HYDROELECTRIC  
34 PROJECTS TO BE WITHDRAWN AS OF JUNE FIRST, TWO THOUSAND TEN FROM UTILITY  
35 CORPORATIONS THAT, AS OF MAY THIRTY-FIRST, TWO THOUSAND TEN, PURCHASED  
36 SUCH POWER FOR THE BENEFIT OF THEIR DOMESTIC AND RURAL CONSUMERS  
37 ("ECONOMIC BENEFIT POWER HYDROPOWER"), AND (II) POWER PROCURED BY THE  
38 AUTHORITY THROUGH A COMPETITIVE PROCUREMENT PROCESS, AUTHORITY SOURCES  
39 (OTHER THAN THE NIAGARA AND SAINT LAWRENCE PROJECTS) OR THROUGH AN  
40 ALTERNATE METHOD ("ECONOMIC BENEFIT POWER MARKET POWER").

41 (D) "ELIGIBLE APPLICANT" SHALL MEAN AN ELIGIBLE BUSINESS, ELIGIBLE  
42 SMALL BUSINESS, OR ELIGIBLE NOT-FOR-PROFIT CORPORATION AS DEFINED IN  
43 THIS SECTION, PROVIDED HOWEVER, THAT AN ELIGIBLE APPLICANT SHALL NOT  
44 INCLUDE RETAIL BUSINESSES AS DEFINED BY THE BOARD, INCLUDING, WITHOUT  
45 LIMITATION, SPORTS VENUES, GAMING OR ENTERTAINMENT-RELATED ESTABLISH-  
46 MENTS OR PLACES OF OVERNIGHT ACCOMMODATION.

47 (E) "ELIGIBLE BUSINESS" SHALL MEAN A BUSINESS OTHER THAN A  
48 NOT-FOR-PROFIT CORPORATION WHICH NORMALLY UTILIZES A MINIMUM PEAK ELEC-  
49 TRIC DEMAND IN EXCESS OF FOUR HUNDRED KILOWATTS.

50 (F) "ELIGIBLE SMALL BUSINESS" SHALL MEAN A BUSINESS OTHER THAN A NOT-  
51 FOR-PROFIT CORPORATION WHICH NORMALLY UTILIZES A MINIMUM PEAK ELECTRIC  
52 DEMAND EQUAL TO OR LESS THAN FOUR HUNDRED KILOWATTS.

53 (G) "LOCAL DISTRIBUTOR OF ELECTRIC SERVICE" SHALL MEAN AN ELECTRIC  
54 CORPORATION AS DEFINED IN SUBDIVISION THIRTEEN OF SECTION TWO OF THE  
55 PUBLIC SERVICE LAW OR THE LONG ISLAND POWER AUTHORITY.

1 (H) "ELIGIBLE NOT-FOR-PROFIT CORPORATION" SHALL MEAN A CORPORATION  
2 DEFINED IN SUBDIVISION FIVE OF PARAGRAPH (A) OF SECTION ONE HUNDRED TWO  
3 OF THE NOT-FOR-PROFIT CORPORATION LAW.

4 2. APPLICATIONS. (A) THE BOARD SHALL SOLICIT APPLICATIONS FOR AWARDS  
5 UNDER THE ECONOMIC BENEFIT POWER PROGRAM BY PUBLIC NOTICE BEGINNING ON  
6 JANUARY FIRST, TWO THOUSAND ELEVEN. SUCH NOTICE MAY INCLUDE NEWSPAPER  
7 ADVERTISEMENTS, PRESS RELEASES, WEBSITE POSTINGS, PAPER OR ELECTRONIC  
8 MAILING, AND/OR SUCH OTHER FORM AS THE BOARD FINDS APPROPRIATE IN  
9 CONSULTATION WITH THE AUTHORITY.

10 (B) APPLICATIONS FOR THE ECONOMIC BENEFIT POWER PROGRAM SHALL BE IN  
11 THE FORM AND CONTAIN SUCH INFORMATION, EXHIBITS AND SUPPORTING DATA AS  
12 THE BOARD PRESCRIBES IN CONSULTATION WITH THE AUTHORITY. A COPY OF EACH  
13 APPLICATION RECEIVED SHALL BE MADE AVAILABLE FOR REVIEW BY EACH BOARD  
14 MEMBER.

15 (C) SUBJECT TO CONFIDENTIALITY REQUIREMENTS, UPON RECEIPT OF EACH  
16 APPLICATION BY THE AUTHORITY, THE AUTHORITY SHALL PROMPTLY NOTIFY BY  
17 ELECTRONIC MEANS, INCLUDING WEB SITE POSTINGS AND SUCH OTHER METHODS THE  
18 BOARD DEEMS APPROPRIATE IN CONSULTATION WITH THE AUTHORITY, THE GOVER-  
19 NOR, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE ASSEMBLY,  
20 THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE  
21 SENATE, AND EACH MEMBER OF THE STATE LEGISLATURE IN WHOSE DISTRICT ANY  
22 PORTION OF THE FACILITY OWNED OR OPERATED BY THE APPLICANT IS LOCATED.  
23 SUCH NOTICE SHALL PROVIDE THE NAME AND A DESCRIPTION OF THE APPLICANT,  
24 AND THE ADDRESS OF THE APPLICANT'S FACILITIES THAT WOULD RECEIVE AN  
25 AWARD UNDER THE PROGRAM. THE AUTHORITY SHALL ALSO DEVELOP A LISTING  
26 WHICH CONTAINS THE NAME AND A DESCRIPTION OF EACH APPLICANT, THE AWARD  
27 SOUGHT BY EACH APPLICANT, AND THE ADDRESS OF THE FACILITIES FOR WHICH  
28 THE APPLICANT SEEKS THE AWARD, AND MAKE THE LISTING AVAILABLE FOR PUBLIC  
29 REVIEW ON THE AUTHORITY'S WEBSITE.

30 3. REVIEW, APPLICABLE CRITERIA AND RECOMMENDATIONS. (A) THE BOARD  
31 SHALL REVIEW APPLICATIONS SUBMITTED UNDER THE ECONOMIC BENEFIT POWER  
32 PROGRAM. THE BOARD SHALL MAKE AN INITIAL DETERMINATION OF WHETHER THE  
33 APPLICANT IS AN ELIGIBLE APPLICANT, OR WHETHER A CURRENT APPLICANT  
34 CONTINUES TO BE ELIGIBLE. THE BOARD MAY RECOMMEND TO THE AUTHORITY THAT  
35 THE ECONOMIC BENEFIT POWER PROGRAM AWARD BE AWARDED TO AN APPLICANT, OR  
36 THAT AN EXISTING REWARD BE EXTENDED OR RENEWED, BASED ON AN APPLICATION  
37 OF THE FOLLOWING CRITERIA WHICH SHALL BE CONSIDERED IN THE AGGREGATE AND  
38 NO ONE OF WHICH SHALL BE PRESUMPTIVELY DETERMINATIVE:

39 (I) THE SIGNIFICANCE OF THE COST OF ELECTRICITY TO THE APPLICANT'S  
40 OVERALL COST OF DOING BUSINESS, AND THE IMPACT THAT AN ECONOMIC BENEFIT  
41 POWER AWARD WILL HAVE ON THE APPLICANT'S OPERATING COSTS;

42 (II) THE EXTENT TO WHICH AN ECONOMIC BENEFIT POWER AWARD WILL RESULT  
43 IN NEW CAPITAL INVESTMENT IN THE STATE BY THE APPLICANT, THE EXTENT TO  
44 WHICH THE APPLICANT WILL AGREE TO COMMIT TO MAKING NEW CAPITAL INVEST-  
45 MENT AS A CONDITION TO RECEIVING AN ECONOMIC BENEFIT POWER AWARD, AND  
46 ANY PREVIOUS CAPITAL INVESTMENT, AT THE LOCATION OR ELSEWHERE IN THE  
47 STATE, WHETHER UNDERTAKEN BY THE APPLICANT UNDER OTHER ECONOMIC DEVELOP-  
48 MENT PROGRAMS OR OTHERWISE;

49 (III) THE SIZE OF THE APPLICANT'S TOTAL PAYROLL (SALARY, BENEFITS AND  
50 THE NUMBER AND NATURE OF JOBS) AT THE FACILITY THAT WOULD RECEIVE THE  
51 AWARD;

52 (IV) THE NUMBER OF JOBS THAT WILL BE CREATED OR RETAINED WITHIN THE  
53 STATE IN RELATION TO THE REQUESTED AWARD, AND THE EXTENT TO WHICH THE  
54 APPLICANT WILL AGREE TO COMMIT TO CREATING OR RETAINING SUCH JOBS AS A  
55 CONDITION TO RECEIVING AN ECONOMIC BENEFIT POWER AWARD;

1 (V) WHETHER THE APPLICANT, DUE TO THE COST OF ELECTRICITY, IS AT RISK  
2 OF CLOSING OR CURTAILING FACILITIES OR OPERATIONS IN THE STATE, RELOCAT-  
3 ING FACILITIES OR OPERATIONS OUT OF THE STATE, OR LOSING A SIGNIFICANT  
4 NUMBER OF JOBS IN THE STATE, IN THE ABSENCE OF AN ECONOMIC BENEFIT POWER  
5 AWARD;

6 (VI) THE SIGNIFICANCE OF THE APPLICANT'S FACILITY THAT WOULD RECEIVE  
7 THE BENEFIT OF THE AWARD TO THE ECONOMY OF THE AREA IN WHICH SUCH FACIL-  
8 ITY IS LOCATED OR TO THE STATE AS A WHOLE, INCLUDING THE EXTENT TO WHICH  
9 THE AWARD IS LIKELY TO STIMULATE OR CREATE OTHER ECONOMIC ACTIVITY IN  
10 THE REGION OR STATE;

11 (VII) THE EXTENT TO WHICH THE APPLICANT HAS PREVIOUSLY UNDERTAKEN  
12 ENERGY AUDITS AND/OR INVESTED IN ENERGY EFFICIENCY MEASURES INCLUDING  
13 CONSIDERATION OF THE TIMING OF SUCH AUDITS OR MEASURES, THE AMOUNT OF  
14 INVESTMENTS IN ENERGY EFFICIENCY RELATIVE TO THE SIZE, NATURE AND  
15 HISTORIC ENERGY CONSUMPTION, AND OTHER CAPITAL INVESTMENTS OF THE BUSI-  
16 NESS, THE RELATIVE IMPROVEMENT IN ENERGY EFFICIENCY AND/OR NET ENERGY OR  
17 FINANCIAL SAVINGS RESULTING FROM SUCH INVESTMENTS, AND SUCH OTHER  
18 FACTORS AS THE BOARD MAY CONSIDER APPROPRIATE, AND/OR THE EXTENT TO  
19 WHICH THE APPLICANT WILL AGREE, IF RECOMMENDED BY THE BOARD, TO COMMIT  
20 TO MAKING COST EFFECTIVE TANGIBLE INVESTMENTS IN ENERGY EFFICIENCY MEAS-  
21 URES;

22 (VIII) THE EXTENT TO WHICH THE APPLICANT'S OPERATIONS ARE CONSISTENT  
23 WITH THE POLICIES AND GOALS OF THE STATE ENERGY PLAN;

24 (IX) THE EXTENT TO WHICH THE APPLICANT PREVIOUSLY RECEIVED BENEFITS  
25 UNDER OTHER POWER-RELATED PROGRAMS OF THE AUTHORITY, AND THE APPLICANT'S  
26 PRIOR PERFORMANCE UNDER SUCH PROGRAMS WHERE APPLICABLE;

27 (X) IN THE CASE OF A NOT-FOR-PROFIT CORPORATION, THE EXTENT TO WHICH  
28 IT PROVIDES CRITICAL SERVICES OR SUBSTANTIAL BENEFITS TO THE LOCAL  
29 COMMUNITY;

30 (XI) THE EXTENT TO WHICH AN AWARD IS CONSISTENT WITH STATE, REGIONAL  
31 AND LOCAL ECONOMIC DEVELOPMENT STRATEGIES IN THE AREA IN WHICH THE BUSI-  
32 NESS IS LOCATED OR TO BE LOCATED;

33 (XII) THE EXTENT TO WHICH AN AWARD MIGHT RESULT IN INEQUITY FOR AN  
34 APPLICANT AS COMPARED TO ITS COMPETITORS WITHIN THE STATE;

35 (XIII) IMPACT OF CURRENT ECONOMIC CONDITIONS ON THE APPLICANT; AND

36 (XIV) THE BOARD MAY ALSO CONSIDER THE EXTENT TO WHICH THE APPLICANT  
37 HAS INVESTED IN ONSITE POWER GENERATION FOR COMBINED HEAT AND POWER  
38 AND/OR DISTRIBUTED GENERATION PURPOSES OR WILL AGREE, IF RECOMMENDED BY  
39 THE BOARD, TO CONSIDER MAKING COST EFFECTIVE TANGIBLE INVESTMENTS IN  
40 ONSITE POWER GENERATION FOR COMBINED HEAT AND POWER AND/OR DISTRIBUTED  
41 GENERATION PURPOSES AS IDENTIFIED PURSUANT TO SUBDIVISION SEVENTEEN OF  
42 SECTION ONE THOUSAND FIVE OF THE PUBLIC AUTHORITIES LAW AS A CONDITION  
43 TO RECEIVING AN AWARD; PROVIDED HOWEVER, THAT IN NO EVENT SHALL THE  
44 ABSENCE OF SUCH INVESTMENT OR CONSIDERATION COUNT AGAINST THE APPLI-  
45 CANT'S ELIGIBILITY FOR AN AWARD.

46 (B) A RECOMMENDATION BY THE BOARD THAT THE AUTHORITY PROVIDE AN  
47 ECONOMIC BENEFIT POWER PROGRAM AWARD OR THE RENEWAL OR EXTENSION OF AN  
48 EXISTING AWARD TO AN ELIGIBLE APPLICANT SHALL INCLUDE: (1) A DESCRIPTION  
49 OF THE AWARD THAT THE BOARD HAS DETERMINED SHOULD BE AWARDED TO SUCH  
50 APPLICANT, PROVIDED HOWEVER, THAT THE BOARD MAY RECOMMEND AN AWARD THAT  
51 DIFFERS FROM THE AWARD REQUESTED BY AN ELIGIBLE APPLICANT; (2) AN EFFEC-  
52 TIVE TERM OF CONTRACT BETWEEN THE ELIGIBLE APPLICANT AND THE AUTHORITY  
53 WHICH SHALL NOT EXCEED SEVEN YEARS, PROVIDED HOWEVER THAT THE TERM OF  
54 ANY SUCH CONTRACT SHALL NOT BECOME EFFECTIVE BEFORE JULY FIRST, TWO  
55 THOUSAND ELEVEN; (3) THE DATE OF THE MANDATORY ANNUAL COMPLIANCE REVIEW  
56 AT WHICH TIME, AND ANNUALLY AT THE SAME TIME EACH YEAR THEREAFTER, THE

1 ELIGIBLE APPLICANT, IF FOUND IN COMPLIANCE MAY APPLY FOR A SUBSEQUENT  
2 CONTRACT FOR AN ADDITIONAL TERM OF ONE YEAR TO GO INTO EFFECT AT THE  
3 CONCLUSION OF THE THEN CURRENT CONTRACT AS LONG AS COMPLIANCE CONTINUES  
4 THROUGH THE CONCLUSION OF SUCH CONTRACT; AND (4) SUCH OTHER TERMS AND  
5 CONDITIONS THAT THE BOARD RECOMMENDS AS APPROPRIATE. SUCH TERMS AND  
6 CONDITIONS SHALL INCLUDE PROVISIONS FOR EFFECTIVE PERIODIC AUDITS OF  
7 PROGRAM PARTICIPANTS FOR THE PURPOSE OF DETERMINING CONTRACT AND PROGRAM  
8 COMPLIANCE, AND THE PARTIAL OR COMPLETE WITHDRAWAL OF AN ECONOMIC BENE-  
9 FIT POWER PROGRAM AWARD IN THE CASE OF A PROGRAM PARTICIPANT THAT FAILS  
10 TO MAINTAIN MUTUALLY AGREED UPON COMMITMENTS, INCLUDING BUT NOT LIMITED  
11 TO LEVELS OF EMPLOYMENT, POWER UTILIZATION, CAPITAL INVESTMENTS, AND  
12 ENERGY EFFICIENCY MEASURES.

13 (C) THE BOARD MAY BASE ITS RECOMMENDATION ON WHICH ELIGIBLE APPLICANTS  
14 IT DETERMINES BEST MEET THE APPLICABLE CRITERIA; PROVIDED HOWEVER THAT  
15 THE BOARD SHALL SET ASIDE A PORTION OF THE BENEFITS AVAILABLE UNDER THE  
16 ECONOMIC BENEFIT POWER PROGRAM IN AN AMOUNT NOT LESS THAN ONE HUNDRED  
17 MEGAWATTS FOR ELIGIBLE SMALL BUSINESSES AND ELIGIBLE NOT-FOR-PROFIT  
18 CORPORATIONS; AND PROVIDED FURTHER THAT THE BOARD SHALL SET ASIDE A  
19 PORTION OF THE BENEFITS AVAILABLE UNDER THE PROGRAM IN AN AMOUNT NOT  
20 LESS THAN ONE HUNDRED MEGAWATTS FOR ELIGIBLE HIGH LOAD FACTOR MANUFAC-  
21 TURERS AS DEFINED IN THE FOURTH UNDESIGNATED PARAGRAPH OF SECTION ONE  
22 THOUSAND FIVE OF THE PUBLIC AUTHORITIES LAW.

23 (D) A RECOMMENDATION FOR AN ECONOMIC BENEFIT POWER PROGRAM AWARD SHALL  
24 QUALIFY AN APPLICANT TO ENTER INTO A CONTRACT, WITH THE AUTHORITY TO  
25 RECEIVE SUCH AWARD FROM THE AUTHORITY PURSUANT TO THE TERMS AND CONDI-  
26 TIONS OF THE RECOMMENDATION OR ON SUCH OTHER TERMS AS THE AUTHORITY  
27 DETERMINES TO BE APPROPRIATE. IN THE EVENT THAT THE AWARD INCLUDES THE  
28 PROVISION OF ENERGY RELATED PROJECTS, PROGRAMS AND SERVICES AS DEFINED  
29 IN SUBDIVISION SIXTEEN OF SECTION ONE THOUSAND FIVE OF THE PUBLIC  
30 AUTHORITIES LAW, THE CONTRACT SHALL ALLOW FOR REIMBURSEMENT FOR COSTS TO  
31 AN ENTITY OTHER THAN THE POWER AUTHORITY OF THE STATE OF NEW YORK SO  
32 LONG AS SUCH COSTS ARE DEEMED REASONABLE AND APPROPRIATE. SUCH  
33 CONTRACTS SHALL PROVIDE THAT THE LOCAL DISTRIBUTOR OF ELECTRIC SERVICE  
34 WILL PROVIDE CUSTOMER AND BILLING SERVICES UPON MUTUALLY AGREED TERMS  
35 AND CONDITIONS.

36 (E) UPON APPROVAL OR DENIAL OF ANY APPLICATION FOR AN ECONOMIC BENEFIT  
37 POWER PROGRAM AWARD, THE BOARD SHALL ISSUE IN WRITING A STATEMENT OF ITS  
38 FINDINGS AND CONCLUSIONS WITH RESPECT TO SUCH APPLICATION AND THE  
39 REASONS FOR ITS APPROVAL OR DENIAL.

40 (F) (1) THE BOARD SHALL SUBMIT TO THE DIRECTOR OF THE BUDGET, THE  
41 CHAIRPERSON OF THE SENATE FINANCE COMMITTEE AND THE CHAIRPERSON OF THE  
42 ASSEMBLY WAYS AND MEANS COMMITTEE AN EVALUATION OF THE SUCCESS OF EACH  
43 ECONOMIC DEVELOPMENT POWER PROGRAM IT ADMINISTERS PREPARED BY AN INDE-  
44 PENDENT THIRD PARTY. SUCH EVALUATION SHALL DETERMINE WHETHER THE  
45 SERVICES PROVIDED HAVE HELPED RECIPIENTS TO SUCCEED, BASED ON A COMPAR-  
46 ISON OF THE PERFORMANCE OF THE RECIPIENTS AGAINST THE NORMS OF THEIR  
47 SPECIFIC INDUSTRY, AND SHALL ASSESS THE EFFECTIVENESS, IF ANY, OF EACH  
48 ECONOMIC DEVELOPMENT POWER PROGRAM. SUCH AN EVALUATION SHALL BE SUBMIT-  
49 TED BY DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN AND BY DECEMBER  
50 THIRTY-FIRST EVERY FIVE YEARS THEREAFTER.

51 (2) BETWEEN EVALUATION DUE DATES, THE BOARD SHALL MAINTAIN THE NECES-  
52 SARY RECORDS AND DATA REQUIRED TO SATISFY SUCH EVALUATION REQUIREMENTS  
53 AND TO SATISFY INFORMATION REQUESTS RECEIVED FROM THE DIRECTOR OF THE  
54 BUDGET, THE CHAIRPERSON OF THE SENATE FINANCE COMMITTEE AND THE CHAIR-  
55 PERSON OF THE ASSEMBLY WAYS AND MEANS COMMITTEE BETWEEN SUCH EVALUATION  
56 DUE DATES.

1 S 13. The opening paragraph of subdivision 5 of section 1005 of the  
2 public authorities law, as amended by chapter 294 of the laws of 1968,  
3 is amended to read as follows:

4 To develop, maintain, manage and operate those parts of the Niagara  
5 and Saint Lawrence hydroelectric projects owned or controlled by it in  
6 such manner as to give effect to the policy hereby declared (and all  
7 plans and acts, and all contracts for the use, sale, transmission and  
8 distribution of the power generated by such projects, shall be made in  
9 the light of, consistent with and subject to this policy), namely, that  
10 such projects shall be in all respects for the aid, improvement, and  
11 benefit of commerce and navigation in, through, along and past the  
12 Niagara river, the Saint Lawrence river and the international rapids  
13 section thereof, and that in the development of hydro-electric power  
14 therefrom such projects shall be considered primarily as for the benefit  
15 of the people of the state as a whole [and particularly the domestic and  
16 rural consumers to whom the power can economically be made available,  
17 and accordingly that sale to and use by industry shall be a secondary  
18 purpose, to be utilized principally to secure a sufficiently high load  
19 factor and revenue returns to permit domestic and rural use at the  
20 lowest possible rates and in such manner as to encourage increased  
21 domestic and rural use of electricity]. In furtherance of this policy  
22 and to secure a wider distribution of such power and use of the greatest  
23 value to the general public of the state, the authority shall in addi-  
24 tion to other methods which it may find advantageous make provision so  
25 that municipalities and other political [sub-divisions] SUBDIVISIONS of  
26 the state now or hereafter authorized by law to engage in the distrib-  
27 ution of electric power may secure a reasonable share of the power  
28 generated by such projects, and shall sell the same or cause the same to  
29 be sold to such municipalities and political subdivisions at prices  
30 representing cost of generation, plus capital and operating charges,  
31 plus a fair cost of transmission, all as determined by the trustees, and  
32 subject to conditions which shall assure the resale of such power to  
33 [domestic and rural consumers] SUCH CUSTOMERS at the lowest possible  
34 price, provided, however, that in disposing of hydro-electric power  
35 pursuant to and in furtherance of the aforementioned policy and  
36 purposes, appropriate provision may also be made to allocate a reason-  
37 able share of project power to agencies created or designated by other  
38 states and authorized to resell the power to users under the same terms  
39 and conditions as power is disposed of in New York state. To that end,  
40 the authority may provide in any contract or contracts which it may make  
41 for the sale, transmission and distribution of the power that the  
42 purchaser, transmitter or distributor shall construct, maintain and  
43 operate, on such terms as the authority may deem proper, such connecting  
44 lines as may be necessary for transmission of the power from main trans-  
45 mission lines to such municipalities or political subdivisions.

46 S 14. Section 1005 of the public authorities law is amended by adding  
47 a new subdivision 13-a to read as follows:

48 13-A. ECONOMIC BENEFIT POWER PROGRAM. (A) BEGINNING NO LATER THAN  
49 JULY FIRST, TWO THOUSAND ELEVEN, THE AUTHORITY IS AUTHORIZED AND  
50 DIRECTED, AS DEEMED FEASIBLE AND ADVISABLE BY THE TRUSTEES, TO MAKE  
51 ANNUAL PAYMENTS IN AN AMOUNT OF UP TO ONE HUNDRED TWENTY MILLION DOLLARS  
52 FOR UP TO NINE HUNDRED TEN MEGAWATTS OF ECONOMIC BENEFIT POWER PROGRAM  
53 AWARDS UPON THE RECOMMENDATION OF THE ECONOMIC DEVELOPMENT POWER ALLO-  
54 CATION BOARD UNDER THE ECONOMIC BENEFIT POWER PROGRAM AS PROVIDED IN  
55 SECTION ONE HUNDRED EIGHTY-EIGHT-A OF THE ECONOMIC DEVELOPMENT LAW. NOT  
56 LESS OFTEN THAN ANNUALLY, THE AUTHORITY SHALL IDENTIFY AND ADVISE THE

1 ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD OF THE AVAILABILITY OF THE  
2 FUNDS FOR SUCH AWARD.

3 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, BUT  
4 SUBJECT TO THE TERMS AND CONDITIONS OF FEDERAL ENERGY REGULATORY COMMIS-  
5 SION LICENSES, TO ALLOCATE, REALLOCATE OR EXTEND, DIRECTLY OR BY SALE  
6 FOR RESALE, UP TO NINE HUNDRED TEN MEGAWATTS OF ECONOMIC BENEFIT POWER  
7 TO ELIGIBLE APPLICANTS LOCATED WITHIN THE STATE OF NEW YORK UPON THE  
8 RECOMMENDATION OF THE NEW YORK STATE ECONOMIC DEVELOPMENT POWER ALLO-  
9 CATION BOARD PURSUANT TO SECTION ONE HUNDRED EIGHTY-EIGHT-A OF THE  
10 ECONOMIC DEVELOPMENT LAW.

11 (C) ECONOMIC BENEFIT POWER SHALL MEAN AND CONSIST OF EQUAL AMOUNTS OF  
12 (1) UP TO FOUR HUNDRED FIFTY-FIVE MEGAWATTS OF FIRM HYDROELECTRIC POWER  
13 FROM THE NIAGARA AND SAINT LAWRENCE HYDROELECTRIC PROJECTS TO BE WITH-  
14 DRAWN AS OF JUNE FIRST, TWO THOUSAND TEN FROM UTILITY CORPORATIONS THAT,  
15 AS OF MAY THIRTY-FIRST, TWO THOUSAND TEN, PURCHASED SUCH POWER FOR THE  
16 BENEFIT OF THEIR DOMESTIC AND RURAL CONSUMERS ("ECONOMIC BENEFIT POWER  
17 HYDROPOWER"), AND (2) POWER PROCURED BY THE AUTHORITY THROUGH A COMPET-  
18 ITIVE PROCUREMENT PROCESS, AUTHORITY SOURCES (OTHER THAN THE NIAGARA AND  
19 SAINT LAWRENCE PROJECTS) OR THROUGH AN ALTERNATE METHOD ("ECONOMIC BENE-  
20 FIT POWER MARKET POWER"). WITH RESPECT TO ECONOMIC BENEFIT POWER MARKET  
21 POWER, THE AUTHORITY MAY PROVIDE POWER THROUGH AN ALTERNATE METHOD IF  
22 THE COST IS LOWER THAN THE COST OF POWER OBTAINED THROUGH A COMPETITIVE  
23 PROCUREMENT PROCESS; PROVIDED, HOWEVER, THAT IF SUCH LOWER COST POWER  
24 COMES FROM AUTHORITY SOURCES, THE USE OF THAT POWER SHALL NOT REDUCE THE  
25 AVAILABILITY OF, OR CAUSE AN INCREASE IN THE PRICE OF, POWER PROVIDED BY  
26 THE AUTHORITY FOR ANY OTHER PROGRAM AUTHORIZED IN THIS ARTICLE OR PURSU-  
27 ANT TO ANY OTHER STATUTE.

28 (D) NOTWITHSTANDING SECTION ONE THOUSAND NINE OF THIS TITLE OR ANY  
29 OTHER PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY IS AUTHORIZED,  
30 BEGINNING JULY FIRST, TWO THOUSAND ELEVEN, TO MAKE AVAILABLE, CONTRACT  
31 WITH AND SELL TO SUCH ELIGIBLE APPLICANTS AS ARE RECOMMENDED BY THE  
32 ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD UP TO NINE HUNDRED TEN MEGA-  
33 WATTS OF ECONOMIC BENEFIT POWER FOR ECONOMIC BENEFIT POWER ALLOCATIONS.  
34 AN ECONOMIC BENEFIT POWER ALLOCATION SHALL CONSIST OF EQUAL PARTS OF  
35 ECONOMIC BENEFIT POWER HYDROPOWER AND ECONOMIC BENEFIT POWER MARKET  
36 POWER AS SUCH TERMS ARE DEFINED IN PARAGRAPH (C) OF THIS SUBDIVISION;  
37 PROVIDED, HOWEVER, THAT PRIOR TO ENTERING INTO A CONTRACT WITH AN ELIGI-  
38 BLE APPLICANT FOR THE SALE OF ECONOMIC BENEFIT POWER, AND PRIOR TO THE  
39 PROVISION OF ELECTRIC SERVICE RELATING TO THE ECONOMIC BENEFIT POWER  
40 ALLOCATION, THE AUTHORITY SHALL OFFER EACH ELIGIBLE APPLICANT THE OPTION  
41 TO DECLINE TO PURCHASE THE ECONOMIC BENEFIT POWER MARKET POWER COMPONENT  
42 OF SUCH ALLOCATION. IF AN ELIGIBLE APPLICANT DECLINES TO PURCHASE SUCH  
43 MARKET POWER FROM THE AUTHORITY, THE AUTHORITY SHALL HAVE NO RESPONSI-  
44 BILITY FOR SUPPLYING SUCH MARKET POWER TO THE ELIGIBLE APPLICANT;  
45 FURTHER PROVIDED THAT, ANY REVENUES THAT MAY FROM TIME TO TIME RESULT  
46 FROM THE SALE OF ANY PORTION OF ECONOMIC BENEFIT POWER HYDROPOWER NOT  
47 OTHERWISE REQUIRED OR ALLOCATED TO MEET THE OBLIGATIONS OF THE ECONOMIC  
48 BENEFIT POWER PROGRAM AS PROVIDED FOR BY THE PROVISIONS OF TITLE ONE OF  
49 ARTICLE FIVE OF THE PUBLIC AUTHORITIES LAW OR ARTICLE SIX OF THE ECONOM-  
50 IC DEVELOPMENT LAW, SHALL, AS DEEMED FEASIBLE AND ADVISABLE BY THE TRUS-  
51 TEE, BE SOLELY AND EXCLUSIVELY DEDICATED TO AND USED FOR THE PURPOSES OF  
52 THE ECONOMIC BENEFIT POWER PROGRAM AND TO ENHANCE AND MAKE AVAILABLE  
53 ECONOMIC BENEFIT POWER AWARDS.

54 S 15. Monthly payments for domestic and rural consumers. Notwith-  
55 standing any provision of title 1 of article 5 of the public authorities  
56 law or article 6 of the economic development law to the contrary, the

1 power authority of the state of New York is authorized, as deemed feasi-  
2 ble and advisable by the trustees, to use revenues from the sale of  
3 hydroelectric power, and such other funds of the power authority as  
4 deemed feasible and advisable by the trustees, to fund monthly payments  
5 to be made to such classes of electricity consumers that enjoyed the  
6 benefits of authority hydroelectric power withdrawn pursuant to subdivi-  
7 sion 13-a of section 1005 of the public authorities law for the purpose  
8 of mitigating price impacts associated with the reallocation of such  
9 power. Such monthly payments shall commence on June 1, 2010. The total  
10 annual amount of monthly payments for each of the 12 month periods from  
11 June 1, 2010 through May 31, 2011 and from June 1, 2011 through May 31,  
12 2012 shall be seventy million dollars for each such period. The total  
13 annual amount of monthly payments for the 12 month period from June 1,  
14 2012 through May 31, 2013 shall be sixty million dollars. The total  
15 amount of monthly payments for the 12 month period from June 1, 2013  
16 through May 31, 2014 shall be fifty million dollars. The total amount of  
17 monthly payments for each succeeding 12 month period thereafter shall be  
18 forty million dollars. The total amount of such payments shall be  
19 apportioned by the power authority of the state of New York among the  
20 utility corporations that purchased such hydroelectric power for the  
21 benefit of their domestic and rural consumers as of May 31, 2010 accord-  
22 ing to the relative amounts of such power purchased by such companies.  
23 Payments shall be credited to the electricity bills of such corpo-  
24 rations' domestic and rural consumers in a manner to be determined by  
25 the public service commission of the state of New York.

26 S 16. Transitional electricity discount. Notwithstanding any provision  
27 of title 1 of article 5 of the public authorities law or article 6 of  
28 the economic development law to the contrary, with respect to applicants  
29 who are in substantial compliance with all contractual commitments and  
30 receiving benefits under the power for jobs, energy cost savings bene-  
31 fit, economic development, high load factor or municipal distribution  
32 agency programs, but would otherwise not receive a recommendation from  
33 the New York state economic development power allocation board for an  
34 economic benefit power allocation pursuant to section 188-a of the  
35 economic development law, such board shall recommend that the power  
36 authority of the state of New York provide for a transitional electric-  
37 ity discount to such applicants. The power authority of the state of New  
38 York is authorized, as deemed feasible and advisable by the trustees, to  
39 provide such transitional electricity discounts as recommended by the  
40 New York State economic development power allocation board. Not less  
41 often than annually, the power authority of the state of New York shall  
42 identify and advise such board whether sufficient funds are available  
43 for the funding of such transitional electricity discounts. The amount  
44 of the transitional electricity discount for the period July 1, 2011  
45 through June 30, 2013 shall be equivalent to 66 percent of the unit (per  
46 kilowatt-hour) value of the savings received by the applicant under the  
47 power for jobs or energy cost savings benefit programs during the 12  
48 months ending on May 15, 2010. The amount of the transitional electric-  
49 ity discount for the period July 1, 2013 through June 30, 2015 shall be  
50 equivalent to 33 percent of the unit (per kilowatt-hour) value of the  
51 savings received by the applicant under the power for jobs or energy  
52 cost savings benefit programs during the 12 months ending on May 15,  
53 2010. Such transitional electricity discount shall not be provided  
54 after June 30, 2015. Nothing herein shall prohibit or in any way limit  
55 any applicants who are in substantial compliance with all contractual  
56 commitments and receiving benefits under the power for jobs, energy cost

1 savings benefit, economic development, high load factor or municipal  
2 distribution agency programs, whether or not they are recipients of a  
3 transitional electricity discount pursuant to this paragraph, from  
4 applying for or receiving an economic benefit power award for which they  
5 would otherwise qualify, provided however that the receipt of an econom-  
6 ic benefit power award by an applicant shall bar any further eligibility  
7 for a transitional electricity discount, and no applicant shall receive  
8 both an economic benefit power award and a transitional electricity  
9 discount for the same calendar or billing period.

10 S 17. Section 1005 of the public authorities law is amended by adding  
11 two new subdivisions 13-b and 13-c to read as follows:

12 13-B. RESIDENTIAL CONSUMER ENERGY EFFICIENCY. BEGINNING JUNE FIRST,  
13 TWO THOUSAND ELEVEN, THE AUTHORITY, AS DEEMED FEASIBLE AND ADVISABLE BY  
14 THE TRUSTEES, IS AUTHORIZED TO USE SUCH FUNDS OF THE AUTHORITY AS DEEMED  
15 FEASIBLE AND ADVISABLE BY THE TRUSTEES, TO SUPPLEMENT FUNDING FOR EXIST-  
16 ING STATE ENERGY EFFICIENCY PROGRAMS, ADMINISTERED BY THE PUBLIC SERVICE  
17 COMMISSION AND/OR NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHOR-  
18 ITY. SUCH FUNDING SHALL BE MADE AVAILABLE TO RESIDENTIAL CONSUMERS WHO  
19 RESIDE WITHIN THE SERVICE TERRITORIES OF THE UTILITY CORPORATIONS THAT,  
20 AS OF MAY THIRTY-FIRST, TWO THOUSAND TEN, PURCHASED SUCH POWER FOR THE  
21 BENEFIT OF THEIR DOMESTIC AND RURAL CONSUMERS. IN MAKING FUNDING DETER-  
22 MINATIONS PURSUANT TO THIS PARAGRAPH, THE AUTHORITY SHALL COOPERATE WITH  
23 THE PUBLIC SERVICE COMMISSION AND THE NEW YORK STATE ENERGY RESEARCH AND  
24 DEVELOPMENT AUTHORITY, AS APPROPRIATE. THE PUBLIC SERVICE COMMISSION AND  
25 THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY SHALL  
26 PROVIDE A REPORT TO THE AUTHORITY NO LESS THAN ANNUALLY WHICH SHALL  
27 DESCRIBE THE PURPOSE FOR WHICH THE FUNDS AUTHORIZED BY THIS PARAGRAPH  
28 WERE USED. THE REPORT SHALL INCLUDE SUFFICIENT INFORMATION TO DEMON-  
29 STRATE THAT THE FUNDS WERE USED FOR THE PURPOSES AUTHORIZED BY THIS  
30 PARAGRAPH AND PROVIDE SUCH OTHER INFORMATION AS THE AUTHORITY REQUESTS.

31 13-C. TO PROMOTE THE CONSERVATION AND EFFICIENT USE OF ELECTRICITY,  
32 THE POWER AUTHORITY OF THE STATE OF NEW YORK SHALL UNDERTAKE OR CAUSE TO  
33 BE UNDERTAKEN ENERGY AUDITS FOR THOSE APPLICANTS THAT THE BOARD HAS  
34 DETERMINED WOULD BENEFIT FROM AND WOULD BE ELIGIBLE TO RECEIVE AN  
35 ECONOMIC BENEFIT POWER AWARD. THE AUDITS SHALL ASSESS (I) A RECIPIENT'S  
36 ELECTRICITY USE TO DETERMINE BASED ON A COMPARISON OF THE NORMS OF THEIR  
37 SPECIFIC INDUSTRY, COST-EFFECTIVE MEASURES THAT COULD BE EMPLOYED TO  
38 REDUCE ENERGY COSTS, ENERGY USE, OR IMPROVE THE EFFICIENCY OF BUILDINGS,  
39 BUILDING SYSTEMS, EQUIPMENT, PROCESSES OR OPERATIONS; AND (II) THE  
40 FEASIBILITY OF ONSITE POWER GENERATION FOR COMBINED HEAT AND POWER  
41 AND/OR DISTRIBUTED GENERATION PURPOSES. APPLICANTS' ENERGY AUDITS  
42 PERFORMED UP TO FIVE YEARS PRIOR TO THE DATE OF APPLICATION SUBMISSION  
43 MAY BE CONSIDERED BY THE BOARD AND THE RESULTS THEREOF USED BY THE BOARD  
44 IN MAKING ITS DETERMINATION. COSTS OF THE ENERGY AUDITS CAUSED TO BE  
45 UNDERTAKEN SHALL BE PAID BY THE POWER AUTHORITY OF THE STATE OF NEW YORK  
46 AS DEEMED FEASIBLE AND ADVISABLE BY THE BOARD. FOR PURPOSES OF IMPL-  
47 MENTING THIS SUBDIVISION ONLY, THE POWER AUTHORITY OR ITS AGENT IS  
48 AUTHORIZED TO APPLY FOR FUNDING FROM ANY PROGRAM THAT PAYS ALL OR SOME  
49 OF THE COSTS OF SUCH AUDITS, AND THE POWER AUTHORITY OR ITS AGENT SHALL  
50 BE ENTITLED TO RECEIVE SUCH FUNDING AS IF THE RECIPIENT OF SUCH LOW-COST  
51 POWER HAD APPLIED FOR THE FUNDING DIRECTLY.

52 S 18. Section 1005 of the public authorities law is amended by adding  
53 a new subdivision 17 to read as follows:

54 17. A. FOR THE PURPOSE OF FURNISHING THE STATE WITH SYSTEMATIC INFOR-  
55 MATION REGARDING THE STATUS AND THE ACTIVITIES OF THE AUTHORITY, THE  
56 AUTHORITY SHALL SUBMIT TO THE GOVERNOR, THE CHAIRPERSON OF THE SENATE

1 FINANCE COMMITTEE, THE CHAIRPERSON OF THE ASSEMBLY WAYS AND MEANS  
2 COMMITTEE AND THE STATE COMPTROLLER, WITHIN NINETY DAYS AFTER THE END OF  
3 ITS FISCAL YEAR, A COMPLETE AND DETAILED ANNUAL REPORT ON EACH ECONOMIC  
4 DEVELOPMENT POWER PROGRAM IT ADMINISTERS. SUCH ANNUAL REPORT SHALL  
5 INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING INFORMATION:

6 (I) THE NUMBER OF COMMERCIAL/INDUSTRIAL RECIPIENTS OF ECONOMIC POWER  
7 PROGRAM BENEFITS, WHERE THE ECONOMIC REGION CLIENT IS LOCATED, WHAT TYPE  
8 AND HOW MUCH ASSISTANCE IS PROVIDED, MEGAWATTS OF ELECTRICITY AWARDED,  
9 LENGTH OF CURRENT CONTRACT, CURRENT CONTRACT COMPLIANCE STATUS, LAST  
10 AUDIT, NUMBER OF JOBS RETAINED AND/OR ADDED IN THE FISCAL YEAR, APPROXI-  
11 MATE ENERGY EFFICIENCY SAVINGS AND AMOUNT OF POWER REALLOCATED FROM  
12 PREVIOUS YEARS DUE TO FORFEITED BENEFITS;

13 (II) COST TO THE AUTHORITY TO PROVIDE ECONOMIC DEVELOPMENT POWER  
14 PROGRAMS DURING THE PREVIOUS FISCAL YEAR; AND

15 (III) SOURCES, TYPES AND COSTS OF POWER OBTAINED FOR EACH ECONOMIC  
16 DEVELOPMENT POWER PROGRAM IT ADMINISTERS, INCLUDING, BUT NOT LIMITED TO,  
17 AN EXPLANATION OF HOW POWER IS OBTAINED BY THE AUTHORITY TO SUPPORT EACH  
18 ECONOMIC DEVELOPMENT POWER PROGRAM IT ADMINISTERS, THE PERCENTAGE OF  
19 LONG- AND SHORT-TERM POWER PURCHASE AGREEMENTS USED AND DAY-AHEAD AND  
20 SPOT MARKET PURCHASES, AND SUMMARY OF NEW YORK INDEPENDENT SYSTEM OPERA-  
21 TOR (NYISO) CHARGES PAID BY AUTHORITY CUSTOMERS.

22 B. THE COMPTROLLER SHALL BE CHARGED WITH SEEING THAT THE REPORTS  
23 MANDATED IN THIS SUBDIVISION ARE FILED ON TIME AND THAT THEY ARE SUFFI-  
24 CIENTLY COMPREHENSIVE. THE COMPTROLLER SHALL REPORT ANY DEFICIENCIES TO  
25 THE GOVERNOR AND TO THE LEGISLATIVE CHAIRS NAMED IN SUBDIVISION ONE OF  
26 THIS SECTION.

27 S 19. Severability clause. If any clause, sentence, paragraph, subdi-  
28 vision, section or part of this act shall be adjudged by any court of  
29 competent jurisdiction to be invalid, such judgment shall not affect,  
30 impair, or invalidate the remainder thereof, but shall be confined in  
31 its operation to the clause, sentence, paragraph, subdivision, section  
32 or part thereof directly involved in the controversy in which such judg-  
33 ment shall have been rendered. It is hereby declared to be the intent of  
34 the legislature that this act would have been enacted even if such  
35 invalid provisions had not been included therewith.

36 S 20. This act shall take effect immediately; provided that the amend-  
37 ments to section 183 of the economic development law made by sections  
38 two, eight, nine and ten of this act shall be subject to the expiration  
39 and reversion of such section pursuant to section 9 of chapter 316 of  
40 the laws of 1997, as amended, when upon such date the provisions of  
41 section eleven of this act shall take effect; provided, further, that  
42 the amendments to section 189 of the economic development law made by  
43 sections three and four of this act shall not affect the repeal of such  
44 section and shall be deemed repealed therewith; and provided, further  
45 that the amendments to subdivision 9 of section 186-a of the tax law  
46 made by section six of this act shall not affect the repeal of such  
47 subdivision and shall be deemed repealed therewith.