

STATE OF NEW YORK

4264--A

2021-2022 Regular Sessions

IN SENATE

February 3, 2021

Introduced by Sens. PARKER, BIAGGI, BRISPORT, COMRIE, HINCHEY, JACKSON, MAY, RAMOS, REICHLIN-MELNICK, SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, the executive law, the labor law, the public authorities law and the tax law, in relation to enacting the climate and community investment act

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "climate and community investment act".

3 § 2. Legislative findings and declaration. The legislature finds and
4 declares that:

5 1. Climate change is adversely affecting economic well-being, public
6 health, natural resources, and the environment of New York. The adverse
7 impacts of climate change include:

8 (a) an increase in the severity and frequency of extreme weather
9 events, such as storms, flooding, and heat waves, which can cause direct
10 injury or death, property damage, and ecological damage (e.g., through
11 the release of hazardous substances into the environment);

12 (b) rising sea levels, which exacerbate damage from storm surges and
13 flooding, contribute to coastal erosion and saltwater intrusion, and
14 inundate low-lying areas, leading to the displacement of or damage to
15 coastal habitat, property, and infrastructure;

16 (c) exacerbation of air pollution;

17 (d) an increase in the incidences of infectious diseases, asthma
18 attacks, heart attacks, and other negative health outcomes;

19 (e) increased average temperatures, which increase the demand for air
20 conditioning and refrigeration among residents and businesses; and

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

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1 (f) extensive environmental degradation with devastating impacts to
2 wildlife and natural habitats, ecosystems and food supplies.

3 2. Many of the impacts of climate change are already observable in New
4 York state and the northeastern United States. Annual average temper-
5 atures are on the rise, winter snow cover is decreasing, heat waves and
6 precipitation are intensifying, and sea levels along New York's coast-
7 line are approximately one foot higher than they were in 1900. New York
8 has also experienced an increasing number of extreme and unusual weather
9 events, like Hurricanes Irene and Lee and the unprecedented Superstorm
10 Sandy in 2012, which caused at least 53 deaths and \$32 billion in damage
11 in New York state.

12 3. New York should therefore minimize the risks associated with
13 climate change through a combination of measures to reduce statewide
14 greenhouse gas emissions and improve the resiliency of the state with
15 respect to the impacts and risks of climate change that cannot be
16 avoided.

17 4. Climate change especially heightens the vulnerability of disadvan-
18 tagged communities, including communities of color and low-income commu-
19 nities, which bear environmental and socioeconomic burdens as well as
20 legacies of racial and ethnic discrimination. Disadvantaged communities
21 are more likely to experience flooding and urban heat island effects,
22 and to live in housing vulnerable to destruction from storms. Low-in-
23 come New Yorkers lack emergency savings to keep up with necessary
24 expenses following the disruption from a major storm or climate event.

25 5. Actions taken by New York state to reduce greenhouse gas emissions,
26 and those taken to increase the resiliency of the state with respect to
27 the impacts and risks of climate change, should prioritize the safety,
28 health, and resiliency of disadvantaged communities, control potential
29 regressive impacts of future climate change mitigation and adaptation
30 policies on these communities, and prioritize the allocation of public
31 investments in these areas.

32 6. Disadvantaged communities in New York state experience greater
33 exposure to air pollution and subsequent negative health impacts, in
34 large part due to legacies of racial, ethnic, and socio-economic
35 discrimination. New York's communities of color are more likely to:

36 (a) live near sites of high pollution, including power plants, highly
37 trafficked automotive routes, waste transfer stations, landfills,
38 hazardous waste sites and toxic industrial facilities;

39 (b) breathe in a greater volume of pollution, including both ozone and
40 particulate matter;

41 (c) experience asthma and other pollution-related illnesses including
42 increased hospitalization rates for childhood asthma;

43 (d) have higher rates of cancer due to disproportionate exposure to
44 air pollution, including lung cancer and other pollution-affiliated
45 cancers; and

46 (e) experience other negative health impacts, including but not limit-
47 ed to reduced fertility rates, adverse pregnancy outcomes and increased
48 vulnerability to the consequences of co-morbidities like diabetes and
49 high blood pressure.

50 7. In the spring of 2020, New York experienced the devastating impacts
51 of the Covid-19 pandemic. Tens of thousands of New Yorkers died, and
52 many hundreds of thousands more became ill. Air pollution played a
53 significant role in this pandemic, as residents of communities of color
54 who live in highly polluted areas died disproportionately from Covid-19
55 when compared to patients from less polluted neighborhoods. Throughout
56 the pandemic, New Yorkers of color continue to disproportionately

1 contract, fall ill, and die from Covid-19, in part because of disproportion-
2 ation exposure to toxic air pollution.

3 8. The Covid-19 pandemic has also caused a national economic crisis
4 which has also severely impacted New York State. Many New Yorkers lost
5 their jobs during the Covid-19 pandemic, with unemployment rates reach-
6 ing levels not seen since the Great Depression. Such mass job loss
7 increased precarity for thousands of New Yorkers and left many less able
8 to weather current or future emergencies. Child and dependent care shor-
9 tages are and continue to be a barrier to work in New York, especially
10 for women, who disproportionately take on unpaid caregiving responsibil-
11 ities when their family cannot find or afford child and dependent care.
12 Low and middle-income families and families of color disproportionately
13 lack access to quality child and dependent care.

14 9. New York state has an interest in reducing air pollution that
15 increases risk for Covid-19 and ensuring that all populations are equal-
16 ly able to breathe clean air and live healthful lives. Actions undertak-
17 en by New York to reduce air pollution should prioritize the health and
18 safety of disadvantaged communities, prioritize the allocation of public
19 investments in these areas, and control potential regressive impacts of
20 climate policies on these communities. Further, it is in the interest of
21 the state to invest in creating stable and safe employment opportunities
22 for individuals who have lost their jobs as part of the Covid-19
23 recession. This includes protecting and promoting the ability for all
24 workers to equitably participate in a just clean energy transition by
25 increasing equitable and comprehensive access to child and dependent
26 care.

27 10. Racial justice and environmental justice are inextricably linked
28 to achieving a just clean energy transition in New York. The murder of
29 George Floyd on May 25, 2020 was followed by mass protests for Black
30 lives in New York state and throughout the nation. These movements have
31 forced a national reckoning with the fact that racial injustice has
32 resulted in over-policing and mass incarceration of communities of
33 color. It is in the interest of the state of New York that no funds
34 from programs for pricing greenhouse gas emissions are invested in
35 police, prisons or related infrastructure.

36 11. The adverse impacts of climate change are having a detrimental
37 effect on some of New York's largest industries, including agriculture,
38 commercial shipping, forestry, tourism, and recreational and commercial
39 fishing. These impacts also place additional strain on the physical
40 infrastructure that delivers critical services to the citizens of New
41 York, including the state's energy, transportation, stormwater, and
42 wastewater infrastructure.

43 12. Creating good jobs and a thriving economy is a core concern of New
44 York state. Shaping the ongoing transition in our energy sector to
45 ensure that it creates good jobs and protects workers and communities
46 that may lose employment in the current transition must be key concerns
47 of our climate policy. Setting clear standards for job quality and
48 training standards encourages not only high-quality work but positive
49 economic impacts.

50 13. Ensuring career opportunities are created and shared geograph-
51 ically and demographically is necessary to ensure increased access to
52 good jobs for marginalized communities while making the same neighbor-
53 hoods more resilient. Climate change has a disproportionate impact on
54 low-income people, communities of color, women, youth, children and
55 workers. This includes formerly incarcerated individuals. Disadvantaged
56 communities and workers must have access to all aspects of the state's

1 clean energy economy, including as investors and developers of clean
2 energy projects. It is in the interest of the state of New York to
3 protect and promote the interests of these groups against the impacts of
4 climate change and severe weather events and to advance our equity goals
5 by ensuring quality employment opportunities in safe working environ-
6 ments.

7 14. Addressing climate change challenges through the expansion and
8 growth of clean and renewable energy sources requires New York to make
9 substantial proprietary and financial investments in this sector and to
10 become an investor and partner in the development of renewable energy
11 programs and projects. New York has long provided forms of state assist-
12 ance, including grants, energy credits, or tax incentives to developers,
13 project owners and other entities proposing clean and renewable energy
14 projects. Key findings relating to state assistance in the clean and
15 renewable energy sector are as follows:

16 (a) providing forms of state assistance in renewable energy projects
17 results in New York becoming a co-investor in this sector with strong
18 financial, proprietary interests in the projects it supports. Such
19 assistance is essential since the expansion and development of this
20 market, would not occur at the scale and pace needed without substantial
21 financial investment by the state. New York has already invested
22 billions of dollars in promoting its renewable energy programs and will
23 continue to invest substantial sums over the next several years to
24 assist the growth and development of the sector. Such investments are
25 critical not only for the development of individual renewable energy
26 projects, but also to ensure that projects are effectively planned and
27 executed and produce adequate amounts of clean energy needed to meet the
28 state's future needs for safe, affordable reliable power;

29 (b) it is vital that the state's investments in clean and renewable
30 energy be protected and monitored through all stages of development to
31 make certain that they are effective in producing the intended results.
32 The need for this protection has grown greater due to the enormous
33 economic burden imposed on the state by the Covid-19 pandemic;

34 (c) one of the areas in need of most protection is the actual
35 construction and operation of renewable energy projects, especially
36 large-scale projects. Because the construction industry is inherently
37 complex and challenging, the delivery of projects, especially large
38 capital construction projects, is fraught with numerous high-level risks
39 that stem from various sources. These include but are not limited to
40 project funding, financial resources and stability of project partners,
41 project designs and specifications. Risks also include site conditions,
42 equipment and material supply chains, and the experience, capacity and
43 technical qualifications of developers, contractors and craft labor
44 personnel used for a given project;

45 (d) ensuring the sufficient supply of properly trained and qualified
46 craft labor personnel is vital to the protection of state interests and
47 investments in the renewable energy sector. Large-scale construction
48 projects are both labor intensive and inherently dangerous operations.
49 The timely, successful delivery of these projects is critical to the
50 delivery of safe and reliable power to consumers. Thus, the safe and
51 successful completion of these projects necessitates a highly skilled
52 workforce. It is critical that the state support the development of this
53 workforce, as the construction industry generally is facing the most
54 acute, widespread skill shortage in craft labor personnel in modern
55 times. This shortage can cause various types of project failures,

1 including major schedule delays, cost-overruns, increased safety inci-
2 dents, or other serious problems;

3 (e) while many aspects of construction project planning cannot be
4 controlled, ensuring the adequate supply of properly trained craft
5 personnel can be effectively managed through the use of labor perform-
6 ance tools and policies. Key labor performance provisions include
7 prevailing wage requirements, project labor agreements and responsible
8 contractor provisions. These policies, in use in New York and throughout
9 the country, are shown to be effective at protecting capital investments
10 and the proprietary interests of investors. These tools also help ensure
11 that adequate numbers of skilled craft personnel are deployed to
12 projects in a timely manner and that the most highly qualified contrac-
13 tors will be attracted to such projects. These tools also protect the
14 wage rates of local communities, promote adherence to required licensing
15 and technical certifications, and maintain labor peace on projects to
16 avoid disruptions and protect project delivery;

17 (f) project labor agreements promote the planning and timely
18 completion of construction projects, especially larger scale projects,
19 by establishing pre-determined and uniform employment terms. This
20 ensures an adequate supply of properly trained craft personnel, creates
21 stability for project planning and prevents labor disruptions. Responsi-
22 ble contractor policies help ensure that contractors and subcontractors
23 used for projects are reputable, qualified firms that have sufficient
24 resources and capabilities needed to perform the work successfully.
25 Prevailing wage requirements protect local area wage rates from being
26 undermined; and

27 (g) project labor agreements, responsible contracting and prevailing
28 wage requirements also produce valuable socio-economic benefits by
29 creating quality middle class jobs and skill training opportunities in
30 New York's construction industry. Utilizing these policies will develop
31 a new generation of craft labor personnel, create jobs in the state and
32 foster economic development in communities where projects are located.

33 15. It is in the interest of the state to strengthen, monitor and
34 enforce prevailing wages, project labor agreements and responsible
35 contracting. While prevailing wage requirements are already required for
36 some renewable energy projects, these requirements should be strength-
37 ened and used in coordination with the additional labor and performance
38 standards established in this act.

39 16. The severity of current climate change and the threat of addi-
40 tional and more severe change will be affected by the actions undertaken
41 by New York and other jurisdictions to reduce greenhouse gas emissions.
42 According to the U.S. Global Change Research Program and the Intergov-
43 ernmental Panel on Climate Change substantial reductions in greenhouse
44 gas emissions will be required by mid-century in order to limit global
45 warming to no more than 2°C and ideally 1.5°C, and thus minimize the
46 risk of severe impacts from climate change. Specifically, industrialized
47 countries must reduce their greenhouse gas emissions by at least 80
48 percent below 1990 levels by 2050 in order to stabilize carbon dioxide
49 equivalent concentrations at 450 parts per million--the level required
50 to stay within the 2°C target.

51 17. In 2019, New York state demonstrated national and international
52 leadership on climate by enacting the Climate Leadership and Community
53 Protection Act ("CLCPA"), the nation's most aggressive climate law and
54 the nation's only climate law that provides for a just transition. The
55 CLCPA created a comprehensive regulatory program to reduce greenhouse
56 gas emissions from all anthropogenic sources 100% over 1990 levels by

1 the year 2050, with an incremental target of at least a 40 percent
2 reduction in climate pollution by the year 2030, and requires investment
3 in and protection of disadvantaged communities. To meet the goals of the
4 CLCPA, the state will need to transform its energy infrastructure,
5 including the rapid and significant deployment of clean and renewable
6 energy. It is in the interest of the state to promote and provide
7 resources towards the development and maintenance of clean energy
8 infrastructure.

9 18. By exercising a global leadership role on greenhouse gas miti-
10 gation and climate change adaptation, New York will continue to position
11 its economy, technology centers, financial institutions, and businesses
12 to benefit from national and international efforts to address climate
13 change. Action undertaken by New York to reduce greenhouse emissions
14 will have an impact on global greenhouse gas emissions and the rate of
15 climate change. In addition, such action will encourage other jurisdic-
16 tions to implement complementary greenhouse gas reduction strategies and
17 provide an example of how such strategies can be implemented. It will
18 also advance the development of green technologies and sustainable prac-
19 tices within the private sector, which can have far-reaching impacts
20 such as a reduction in the cost of renewable energy components, and the
21 creation of jobs and tax revenues in New York.

22 19. It is in the interest of New York to take rapid action to reduce
23 greenhouse gas emissions and transition to a just clean energy economy.
24 Such actions include:

- 25 (a) raising new, dedicated revenue specifically for climate programs;
- 26 (b) investing in clean and renewable energy infrastructure such as
27 solar energy, offshore wind, grid storage technologies and energy effi-
28 ciency;
- 29 (c) rapidly transitioning to zero-emission transportation, especially
30 zero-emission school and transit buses, to reduce adverse health impacts
31 for children, workers, and communities, and improve grid resilience and
32 renewable energy reliance;
- 33 (d) prioritizing funding for locally driven projects to reduce emis-
34 sions and increase resiliency, especially in disadvantaged communities
35 that are most impacted by climate change and air pollution;
- 36 (e) creating quality employment opportunities for all New Yorkers in
37 the transition to a just clean economy and ensuring the full partic-
38 ipation and prioritization of disadvantaged communities; and
- 39 (f) ensuring workers and communities currently reliant on the fossil
40 fuel industry are given resources to avoid adverse economic impacts.

41 20. There is currently no state entity that is wholly dedicated to
42 achieving the outcomes of the CLCPA. Without adequately devoting state
43 resources and personnel, the outlined emissions reductions and electri-
44 fication goals will not be realized in the target timeframe. Pursuant
45 to the CLCPA, the state has less than 30 years to fully transition the
46 10th largest economy in the world to one that is fossil fuel free, and
47 intentionally prioritize overburdened populations. Reaching these goals
48 will improve the health and well-being of the residents of the state and
49 advance the state's economic interests. It is also critical that best
50 value procurement requirements are established within the authority to
51 optimize the solicitation, evaluation and award of renewable energy
52 projects assisted by the state.

53 21. It is in the interest of the state to establish a dedicated
54 authority to ensure that New York's climate goals are accomplished. Such
55 an authority would be able to nimbly manage the proceeds from a polluter
56 fee which will amass significant revenue and require ongoing management.

1 This authority would also disburse funds for clean energy community
2 scale projects in a timely and efficient manner while employing best
3 value procurement practices. In addition, a new authority would have the
4 capacity to ensure prioritization of projects and funds for impacted
5 communities, coordinate statewide emissions reduction strategies and
6 assist impacted workers in a transition away from fossil fuels through
7 specialized assistance programs.

8 22. This legislation will build upon the developments outlined above
9 by creating a comprehensive program for pricing greenhouse gas emissions
10 and investing in a just transition to a low-carbon New York state econo-
11 my, in accordance with the targets established in the CLCPA.

12 § 3. Article 19 of the environmental conservation law is amended by
13 adding a new title 13 to read as follows:

14 TITLE 13

15 VALUE OF POLLUTION AND MITIGATION PROGRAM

16 Section 19-1301. Definitions.

17 19-1303. Methodology and valuation of pollution price index.

18 19-1305. Implementation of fees.

19 19-1307. Allocation of revenues.

20 19-1309. Inventory.

21 19-1311. Transportation pollution.

22 19-1313. Reporting.

23 § 19-1301. Definitions.

24 For the purposes of this title, the following terms shall have the
25 following meanings:

26 1. "The Act" shall have the same meaning as in subdivision eight of
27 section 19-0107 of this article.

28 2. "The authority" means the climate and community investment author-
29 ity created under the public authorities law.

30 3. "Comptroller" means the New York state comptroller.

31 4. "Covered sources" means those sources of regulated air contaminants
32 required to have a permit under Title V of the Act (42 U.S.C. section
33 7661 et seq).

34 5. "Cumulative burdens" mean the adverse health impacts that accrue to
35 individuals and population groups as a result of exposure to pollution
36 over time, and as a result of exposure to multiple forms of pollution
37 and other risk factors, including poverty, violence, and substance
38 abuse.

39 6. "Disadvantaged communities" shall have the same meaning as in
40 subdivision five of section 75-0101 of this chapter.

41 7. "Downstate region" means the counties of Richmond, Kings, Queens,
42 New York, Bronx, Westchester, Nassau and Suffolk.

43 8. "Emissions hotspot" means a location where emissions of regulated
44 air contaminants from specific sources may expose individuals and popu-
45 lation groups to elevated risks of adverse health effects and may
46 contribute to the cumulative health risks of emissions from other sourc-
47 es in the area.

48 9. "Emissions leakage" means an increase in emissions outside of the
49 state, as a result of, or in correlation with, the implementation of
50 measures within the state to limit such emissions.

51 10. "Greenhouse gas" means carbon dioxide, methane, nitrous oxide,
52 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other
53 substance emitted into the air that may be reasonably anticipated to
54 cause or contribute to anthropogenic climate change, with the exception
55 of agricultural emissions from livestock.

11. "Regulated air contaminant" shall have the same meaning as in subdivision twenty-two of section 19-0107 of this article.

12. "President" means the president of the climate and community investment authority.

13. "Social cost of pollution" means the cost to New York residents of emitting one ton, or another unit of measurement deemed appropriate by the authority, of a given regulated air contaminant.

14. "Upstate region" means all New York state counties other than Nassau, Suffolk, Richmond, Kings, Queens, New York, Bronx and Westchester.

15. "Working group" means the climate justice working group established under section 75-0111 of this chapter.

§ 19-1303. Methodology and valuation of pollution price index.

1. Not later than one year after the effective date of this title, the authority, in coordination with the department, shall publish an index that lists the social cost of pollution for all regulated air contaminants, or appropriate sub-grouping thereof. At the same time, the authority shall publish a methodology for determining the social cost of pollution for each regulated air contaminant, or appropriate sub-grouping thereof. In determining the social cost of pollution for a given regulated air contaminant, the authority shall consider, at a minimum:

(a) public health impacts, including but not limited to: loss of life, loss of welfare, and employment impacts;

(b) impacts to public and private property, including agricultural property;

(c) impacts to ecosystems and the ability of ecosystems to provide ecosystem services; and

(d) the full life-cycle of impacts.

2. If the authority, in coordination with the department, demonstrates that it is not administratively feasible in the time allotted in subdivision one of this section to complete a methodology for each individual regulated air contaminant, or appropriate sub-grouping thereof, then the authority may delay the completion of methodologies for some portion of regulated air contaminants for future rule-makings, provided that:

(a) in the first publication of such methodologies, the authority completes a methodology, pursuant to subdivision one of this section, for each of the following pollutants:

(i) oxides of nitrogen;

(ii) volatile organic compounds;

(iii) sulfur dioxide;

(iv) particulate matter;

(v) carbon monoxide; and

(vi) lead;

(b) in the first publication of such methodologies, the authority completes a methodology, pursuant to subdivision one of this section, for each of the air contaminants listed under section 112 of the Act (42 USC section 7412) that the authority finds to be most damaging to public health in New York, of all air contaminants listed under such section;

(c) the authority demonstrates and publishes, along with the publication of methodologies described under subdivision one of this section, a description of why it is not administratively feasible in the time allotted in subdivision one of this section to complete a methodology, for each individual regulated air contaminant, or appropriate sub-grouping thereof; and

(d) the authority subsequently publishes at least five additional methodologies per year, until that date when each regulated air contam-

inant, or appropriate sub-grouping thereof, has a complete methodology ascribed to it.

§ 19-1305. Implementation of fees.

1. Not later than two years after the effective date of this title, the authority shall institute a system of compliance fees that reflect the index established under section 19-1303 of this title. All covered sources shall be required to pay the fee for each regulated air contaminant emitted.

2. Notwithstanding any inconsistent provisions of the state administrative procedure act, such fee shall be established as a rule by publication in the environmental notice bulletin no later than thirty days after the budget bills making appropriations for the support of government are enacted or July first, whichever is later, of the year such fee will be effective.

3. Bills issued for the fee shall be based on actual emissions for the prior calendar year, as demonstrated to the authority's satisfaction, or in the absence of such demonstration, on permitted emissions, or, where there is no applicable permit, on potential to emit. Persons required to submit an emissions statement to the authority shall use such statement to demonstrate actual emissions under this section.

4. Any person required to pay fees imposed pursuant to this section may elect to base such fees on the level of permitted emissions set forth in a permit, certificate or approval issued pursuant to section 19-0311 of this article.

5. If a city or county is delegated the authority to administer the operating permit program established pursuant to section 19-0311 of this article, it may collect the fees established pursuant to this section and no additional liability for fees under this section shall accrue for any such source.

§ 19-1307. Allocation of revenues.

1. The comptroller and authority shall establish a trust fund to be known as the "value of pollution and mitigation program fund", consisting of such amounts as may be appropriated or credited to such fund as provided in this section.

2. (a) Funds received under this title shall be allocated accordingly:

(i) forty percent of funds shall go to the environmental justice office of the authority;

(ii) twenty percent of funds shall go to expanding, operating and maintaining the New York state Title V emissions inventory within the department;

(iii) twenty percent of funds shall go to expanding, operating and maintaining air quality monitoring, including ambient air quality monitoring and point source monitoring within the department; and

(iv) twenty percent of funds shall be allocated at the discretion of the authority, based on the needs of the authority.

No funds shall be allocated to fund police, prisons or related infrastructure.

(b) The value of pollution and mitigation program fund shall be administered by the authority.

§ 19-1309. Inventory.

Not later than eighteen months after the effective date of this title, the authority shall update and publish the inventory of emissions from Title V sources to:

1 1. assess the extent to which given regulated air contaminants, espe-
2 cially air contaminants that have highly adverse health impacts, are
3 co-emitted with greenhouse gas emissions;

4 2. assess the extent to which regulated air contaminants that have
5 especially adverse health impacts are likely to be reduced over time as
6 a result of:

7 (a) the fee established in section three thousand forty of the tax
8 law; and

9 (b) the investment programs established in title nine-C of article
10 eight of the public authorities law;

11 3. identify and analyze emissions hotspots and cumulative burdens,
12 pertaining to regulated air contaminants in order to prioritize emis-
13 sions reductions in these areas;

14 4. assess emissions and pollution-related health impacts associated
15 with the transportation sector; and

16 5. make the Title V emissions inventory more accessible to the public
17 including, but not limited to, taking action to release the related
18 data, analysis and assumptions of agency websites.

19 § 19-1311. Transportation pollution.

20 1. Not later than one year after the effective date of this title, the
21 commissioner, in consultation with the authority, shall prepare and
22 approve a scoping plan outlining the authority's recommendations for
23 accelerating the reduction of regulated air contaminants from mobile
24 sources.

25 2. The draft scoping plan shall be developed in consultation with the
26 working group and other stakeholders.

27 (a) The authority shall provide meaningful opportunities for public
28 comment from all persons who will be impacted by the plan, including
29 persons living in disadvantaged communities.

30 (b) On or before one year after the effective date of this title, the
31 authority shall submit the final scoping plan to the governor, the
32 speaker of the assembly and the temporary president of the senate and
33 post such plan on its website.

34 3. The measures and actions considered in such scoping plan shall at a
35 minimum include:

36 (a) performance-based standards for mobile sources of regulated air
37 contaminants;

38 (b) market-based mechanisms to reduce emissions from mobile sources,
39 including:

40 (i) the imposition of fees per unit of regulated air contaminant;

41 (ii) a zoned surcharge system on trucking and ports; and

42 (iii) congestion pricing;

43 (c) the creation of low emission zones and the policies to promote
44 zero-emission and low-emission transportation options, including the
45 electrification of port facilities and freight transportation; and

46 (d) land-use and transportation planning measures aimed at reducing
47 emissions from mobile sources.

48 4. No later than three years after the effective date of this title,
49 the authority, after public workshops and consultation with the working
50 group, representatives of regulated entities, and other stakeholders,
51 and not less than two public hearings, shall promulgate rules and regu-
52 lations to accelerate the reduction of regulated air contaminants from
53 mobile sources.

54 (a) The regulations promulgated by the authority pursuant to this
55 subdivision may include legally enforceable emissions limits, perform-
56 ance standards, market-based mechanisms or measures or other require-

1 ments to control regulated air contaminant emissions from mobile sourc-
2 es. The authority is hereby authorized to establish any such policies
3 pursuant to this section.

4 (b) In promulgating these regulations, the authority shall:

5 (i) design and implement all regulations in a manner that seeks to be
6 equitable, to minimize costs and to maximize the total benefits to the
7 state;

8 (ii) ensure that emissions reductions achieved are real, quantifiable,
9 verifiable, and enforceable by the authority;

10 (iii) ensure that activities undertaken to comply with the regulations
11 do not disproportionately burden disadvantaged communities;

12 (iv) prioritize measures to maximize net reductions of emissions in
13 disadvantaged communities;

14 (v) prioritize measures that encourage early action to reduce emis-
15 sions; and

16 (vi) minimize emissions leakage.

17 5. If any of the policies implemented by the authority pursuant to
18 this section generate state revenue, the authority shall ensure that, at
19 a minimum, forty percent of any funds collected are invested in a manner
20 which will benefit disadvantaged communities, consistent with the
21 purposes of this title. The authority shall consult with the working
22 group in developing and carrying out such investments.

23 § 19-1313. Reporting.

24 1. Not later than three years following the effective date of this
25 title, and every two years thereafter, the authority, in partnership
26 with the working group, shall produce a report on the implementation of
27 the policies established under this title. Such report shall include,
28 but not be limited to:

29 (a) the effectiveness of the fees established in section 19-1305 of
30 this title to reduce regulated air contaminants statewide and within
31 geographic subdivisions of the state;

32 (b) the effectiveness of the policies established under section
33 19-1311 of this title to reduce regulated air contaminants from mobile
34 sources statewide and within geographic subdivisions of the state;

35 (c) an overview of social benefits from the regulations or other meas-
36 ures established pursuant to this title, including reductions in regu-
37 lated air contaminants, and other benefits to the economy, environment,
38 and public health, including but not limited to the health of women,
39 youth and children and a detailed analysis of the benefits to disadvan-
40 tagged communities;

41 (d) an overview of compliance costs for regulated entities;

42 (e) an overview of administrative costs for the authority and other
43 state agencies;

44 (f) whether the fees established in this title are equitable, minimize
45 costs and maximize the total benefits to the state;

46 (g) recommendations as to changes that should be made to any policy
47 promulgated pursuant to this title, including the methodology estab-
48 lished under section 19-1303 of this title, and the implementation of
49 the fees established under section 19-1305 of this title; and

50 (h) recommendations for future regulatory actions pertaining to reduc-
51 ing regulated air contaminants from mobile and stationary sources.

52 2. Before finalizing the report described in subdivision one of this
53 section, the authority shall ensure that there are meaningful opportu-
54 nities for public participation, including by:

1 (a) allowing at least one hundred twenty days for the submission of
2 public comment, following the date of the publication of a draft report;
3 and

4 (b) holding at least four regional public hearings, including two
5 meetings in the upstate region and two meetings in the downstate region,
6 with emphasis on maximizing participation and accessibility for members
7 of disadvantaged communities.

8 3. The final report shall be submitted to the governor, the temporary
9 president of the senate, the speaker of the assembly, the minority lead-
10 er of the senate and the minority leader of the assembly, and shall be
11 posted on the website of the department.

12 § 4. The executive law is amended by adding a new section 184 to read
13 as follows:

14 § 184. Diversion of funds dedicated to climate and community invest-
15 ment to the general fund of the state or to any other purpose, is
16 prohibited. 1. For the purposes of this section, the term "climate and
17 community investment" shall mean any public benefit corporation consti-
18 tuting a climate and community investment authority which provides or
19 contracts for the provision of climate and community investment, or a
20 subsidiary thereof, or any county or city which provides or contracts
21 for the provision of, pursuant to title nine-C of the public authorities
22 law.

23 2. The director of the budget shall be prohibited from diverting
24 revenues derived from fees paid by the public into any fund created by
25 law including but not limited to article forty-two of the tax law, arti-
26 cle forty-three of the tax law, and article eight-B of the labor law for
27 the purpose of funding climate and community investment into the general
28 fund of the state or into any other fund maintained for the support of
29 another governmental purpose. No diversion of funds can occur contrary
30 to this section by an administrative act of the director of the budget
31 or any other person in the executive branch.

32 3. If any diversion of funds occurs by passage of legislation during a
33 regular or extraordinary session of the legislature, the director of the
34 budget shall create and include with the budget or legislation diverting
35 funds, a diversion impact statement which shall include the following
36 information:

37 (a) the amount of the diversion from dedicated climate and community
38 investment funds;

39 (b) the amount diverted from each fund;

40 (c) the cumulative amount of diversion from dedicated climate and
41 community investment funds during the preceding five years;

42 (d) the date or dates when the diversion is to occur; and

43 (e) a detailed estimate of the impact of diversion from dedicated
44 climate and community investment, including any impact on climate
45 infrastructure development, just transition, worker and community assur-
46 ance, energy rebates, maintenance, security, and the current capital
47 program.

48 4. The state comptroller shall report on the receipt of all funds
49 collected pursuant to the climate and community investment act in exist-
50 ing cash basis reports, and the spending of any fund collected or spent
51 pursuant to such act by the authority in its existing transparency
52 report as well as if consideration is given to moving such funds on or
53 off budget.

54 § 5. The labor law is amended by adding a new article 8-B to read as
55 follows:

ARTICLE 8-B
RESPONSIBLE CONTRACTING, LABOR AND JOB STANDARDS AND
WORKER PROTECTION

Section 228. Definitions.

229. Labor and project performance standards.

229-a. Best value requirements for the solicitation, evaluation and award of renewable energy projects, energy efficiency projects and other construction projects undertaken with support from the authority or receiving state assistance.

229-b. Best value requirements for all work other than construction.

§ 228. Definitions. For the purposes of this title, the following terms shall have the following meanings:

1. "The Act" shall mean the "climate and community investment act".

2. "The authority" shall mean the climate and community investment authority created under the public authorities law.

3. "Climate and community investment" shall mean any public benefit corporation constituting a climate and community investment authority which provides or contracts for the provision of climate and community investment, or a subsidiary thereof, or any county or city which provides or contracts for the provision of, pursuant to title nine-C of the public authorities law.

4. "Director" means the director of an office appointed under paragraph (b) of subdivision seven of section twenty-seven hundred ninety-nine-uuuu of the public authorities law.

5. "Labor organization" means any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection and which is not a company union. This includes, but is not limited to bona fide labor organizations that are certified or recognized as the organization of jurisdiction representing the workers involved and/or bona fide building and construction trades councils and/or district councils and state and local labor federations comprised of local unions certified or recognized as the representative of the workers.

6. "Neutrality policy/agreement" shall mean a policy or agreement wherein an employer remains neutral in a union organizing drive and does not actively oppose union efforts to gain majority support of the relevant employees of the employer.

7. "President" means the president of the climate and community investment authority.

8. "Project labor agreement" or "PLA" shall mean a pre-hire collective bargaining agreement between a construction industry employer and a bona fide building and construction trade labor organization representing all construction trades that will perform work on a project and that provides only contractors and subcontractors who agree to comply with the PLA shall be eligible to perform work on the project.

§ 229. Labor and project performance standards. The following requirements shall apply to any projects assisted under the Act:

1. Construction - project labor agreement. A project labor agreement for purposes of this section is a pre-hire collective bargaining agreement with labor organizations in the construction industry that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. 158(F).

2. Execution of project labor agreement. The party which receives assistance from the state for a renewable energy project, energy effi-

ciency project, other construction project undertaken with support from the authority, or receiving state assistance shall take the necessary contractual actions to ensure that a project labor agreement is executed between the general contractor or other entity responsible for construction of the assisted project and bona fide building and construction trade councils that have the capability to supply skilled craft personnel in all crafts needed for the project in the area where the project is located.

3. Terms of project labor agreement. A project labor agreement executed for purposes of this section shall include the necessary provisions to:

(a) bind all contractors and subcontractors on the assisted project to the project labor agreement through the inclusion of appropriate specifications in all relevant solicitation provisions and contract documents;

(b) allow all contractors and subcontractors to compete for contracts and subcontracts on the project without regard to whether they are otherwise parties to collective bargaining agreements;

(c) establish uniform terms and conditions of employment for all construction craft labor employed on the projects;

(d) contain guarantees against strikes, lockouts, and similar job disruptions;

(e) set forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the project labor agreement; and

(f) include any other provisions as negotiated by the parties needed to promote successful delivery of the assisted project.

4. Penalties and sanctions. The failure of a party receiving assistance under the Act to ensure compliance with the requirements of this section shall constitute a material breach of the agreement under which assistance is provided and shall permit the state to impose applicable penalties and sanctions for conduct constituting non-compliance, including but not limited to revocation of all or part of the assistance provided by the state.

5. Responsible contractor requirements. The party which receives assistance from the state for a renewable energy project, energy efficiency project, or other construction project undertaken with support from the authority shall take the necessary contractual actions to ensure each contractor and subcontractor involved in the construction of the assisted project completes a sworn certification that the firm:

(a) has the necessary resources to perform the portion of the assisted project to which they are assigned, including the necessary technical, financial, and personnel resources;

(b) has all required contractor, specialty contractor or trade licenses, certifications or certificates required of any business entity or individual by applicable state or local law;

(c) participates in an apprenticeship training program for each trade in which it employs craft workers that is registered with and approved by the U.S. department of labor or a state apprenticeship agency and shall provide proof within seven days of a request from the authority or any authority or agency that its program is actively training employees, has functioning training facilities, and is regularly graduating apprentices to journey person status, and such apprentices are placed in employment, hereinafter referred to as "class A apprenticeship programs";

(d) in the past three years:

(i) has not been debarred by any government agency;

1 (ii) has not defaulted on any project;
2 (iii) has not had any license, certification or other credential
3 relating to the business revoked or suspended;
4 (iv) has not been found in violation of any law applicable to its
5 business that resulted in the payment of a fine, back pay damages, or
6 any other type of penalty in the amount of ten thousand dollars or more;
7 will pay craft personnel employed on the project, at a minimum, the
8 applicable wage and fringe benefit rates for the classification in which
9 the worker is employed in accordance with applicable required rates for
10 the project; and

11 (e) will not misclassify craft labor employees as independent contrac-
12 tors.

13 6. Contractor responsibility certifications executed in accordance
14 with this article:

15 (a) shall be submitted to the authority and the department at least
16 thirty days prior to commencement of construction of a state-assisted
17 project; and

18 (b) shall constitute public documents which shall be made available
19 without redaction on a publicly available website within seven days of
20 being submitted to the authority and the department.

21 7. Fraudulent certifications. A responsible contractor certification
22 containing false, misleading, or inaccurate information shall, after
23 notice and opportunity to be heard, subject the firm to a three-year
24 debarment from future public and publicly assisted projects and other
25 applicable penalties and sanctions.

26 8. Penalties and sanctions. The failure of a party receiving assist-
27 ance under the Act to ensure compliance with the requirements of this
28 article shall constitute a material breach of the agreement under which
29 assistance is provided and shall permit the state to impose applicable
30 penalties and sanctions for conduct constituting non-compliance, includ-
31 ing but not limited to revocation of part or all of the assistance
32 provided by the state.

33 9. Prevailing wage rates. Contractors and subcontractors on assisted
34 projects shall pay construction craft employees on the project, at a
35 minimum, the applicable prevailing wage and fringe benefit rates for the
36 appropriate classification in which the worker is employed. Firms
37 engaged in the construction of an assisted project shall be subject to
38 all reporting, and compliance requirements of article eight of this
39 chapter. Violations of prevailing wage requirements on assisted projects
40 shall be subject to penalties and sanctions applicable to public works
41 projects.

42 10. Prevailing wage exception. Prevailing wage requirements under the
43 Act shall not apply to assisted projects covered by project labor agree-
44 ments.

45 § 229-a. Best value requirements for the solicitation, evaluation and
46 award of renewable energy projects, energy efficiency projects, other
47 construction projects undertaken with support from the authority or
48 receiving state assistance. 1. Purpose. The purpose of this section is
49 to establish best value requirements for the solicitation, evaluation
50 and award of renewable energy projects, energy efficiency projects, and
51 other construction projects undertaken with support from the authority,
52 or assisted by the state, including those assisted by the Act.

53 2. Definitions. For purposes of this section, the following terms
54 shall be defined as follows:

1 (a) "agency" means the New York state energy research and development
2 authority or any other state department or agency that provides assist-
3 ance to covered projects.

4 (b) "best value" shall be given the meaning specified in paragraph j
5 of subdivision one of section one hundred sixty-three of the state
6 finance law.

7 (c) "contracting team" means the lead contractor and project subcon-
8 tractors.

9 (d) "covered projects" means projects designed to provide renewable
10 energy, as defined in paragraph (b) of subdivision one of section
11 sixty-six-p of the public service law, which are eligible to receive
12 energy credits or other forms of assistance from the state.

13 (e) "offeror" means the project owner, developer or other entity which
14 seeks to propose a renewable energy project, energy efficiency project,
15 other construction project undertaken with support from the authority,
16 or receiving state assistance and obtain renewable energy credit or
17 other assistance from the state.

18 (f) "lead contractor" means the general contractor, construction
19 manager or other prime contractor which is contracted by the offeror to
20 build a covered project.

21 (g) "project team" means the lead contractors and all subcontractors
22 proposed for the project.

23 3. Solicitation requirements for covered projects. Solicitations used
24 to provide state assistance to covered projects shall utilize the
25 following procedures:

26 (a) solicitations shall be designed to ensure best value results for
27 the state by:

28 (i) permitting project proposals for any type of viable renewable
29 energy source; and

30 (ii) promoting maximum competition among qualified offerors presenting
31 proposals.

32 (b) solicitations shall be administered through a public request for
33 proposals process that provides adequate notice, instructions for
34 submitting proposals and other relevant information as determined by the
35 agency.

36 (c) requests for proposals shall require sealed proposals from an
37 offeror, which include:

38 (i) proposed project, including type, viability and projected amount
39 of energy, project plan and schedule.

40 (ii) the qualifications, resources and capabilities of the offeror
41 and, the project team to be used on the project.

42 (d) the agency shall approve the project that provides the best value,
43 considering the viability and benefits of the proposed project and qual-
44 ifications of the offeror and project team.

45 4. Request for proposals process. Requests for proposals shall be
46 administered in compliance with this section and additional instructions
47 set forth in the solicitation and notice of requests for proposals:

48 (a) the agency shall evaluate proposals on the basis of a maximum
49 point scale. The proposal that attains the high score shall be selected
50 for award. Proposals shall be scored only on the basis of the evaluation
51 factors set forth in the request for proposals.

52 (b) request for proposals shall include only factors listed in this
53 section and any additional factors or subfactors the agency deems neces-
54 sary for achieving best value results for the state.

1 (c) in determining which proposal offers the best value to the state,
2 the agency shall evaluate the following factors in accordance with the
3 following criteria:

- 4 (i) proposed project;
- 5 (ii) offeror qualifications;
- 6 (iii) project team qualifications;
- 7 (iv) economically disadvantaged impact.

8 5. Project selection. The offeror that complies with the specifica-
9 tions and requirements of the request for proposals and receives the
10 highest maximum score shall be selected by the agency for project award.

11 6. Evaluation of proposed project. In evaluating competitive
12 proposals, the agency shall evaluate the proposed project on the follow-
13 ing factors:

- 14 (a) projected amount of energy to be generated;
- 15 (b) viability of the proposed energy source;
- 16 (c) feasibility of the project plan and schedule;
- 17 (d) qualifications of the project team.

18 7. Evaluation of offeror's qualifications. The offeror's qualifica-
19 tions shall be determined by an evaluation of its past performance
20 record, expertise and technical qualifications and present performance
21 capabilities, including financial resources and experience of the
22 offeror's senior management and project team management.

23 8. Evaluation of project team qualifications. The qualifications of
24 the lead contractor and subcontractors shall be determined by an evalu-
25 ation of the following subfactors:

26 (a) past performance record: 30 points. Evaluation of this subfactor
27 requires a review of past projects, including budget, schedule and safe-
28 ty data, performance evaluation reports, quality of workmanship and
29 compliance with project specifications.

30 (b) expertise and technical qualifications: 10 points. Evaluation of
31 this subfactor requires examination of the general and specific experi-
32 ence in relevant market sectors and in projects similar to the proposed
33 project.

34 (c) performance capabilities of management: 10 points. Evaluation of
35 this subfactor requires examination of:

36 (i) resources, including equipment and financial resources;
37 (ii) experience of the senior management and project management of the
38 lead contractor and subcontractors; and

39 (d) performance capabilities of craft labor: 40 points. Evaluation of
40 craft labor personnel shall consider the use of:

41 (i) project labor agreements as a reliable source for ensuring an
42 adequate supply of skilled craft labor in all trades needed for the
43 proposed project;

44 (ii) participation in registered apprenticeship programs that have a
45 track record of graduating apprentices for at least three years and
46 journeyman;

47 (iii) training programs used to provide training for up-grading skills
48 or training for specialized skills; and

49 (iv) training programs that provide safety training and certification,
50 including, but not limited to OSHA 10 hour and 30 hour programs.

51 9. Prelisting of subcontractors. The lead contractor shall provide a
52 list in its proposals that identifies the names of all subcontractors,
53 regardless of tier, it proposes to use for the project and the scope of
54 work and approximate percentage of the total project of each subcontrac-
55 tor listed.

10. Pregualification process. Requests for proposals may be preceded by a prequalification stage to require interested offerors to demonstrate that they have adequate minimum qualifications and sufficiently viable project proposals to qualify to compete in a request for proposals process.

11. Evaluation of economically disadvantaged impact. Evaluation of this factor shall include an assessment of the degree to which the project promotes opportunities to small, minority-owned businesses and workers in economically disadvantaged communities.

12. Project evaluation team. Proposals submitted in response to request for proposals under this section shall be evaluated by a technical evaluation team that consists of no fewer than three persons qualified to conduct such evaluations.

13. Audits of evaluation process. Proposal evaluations pursuant to this section shall be subject to periodic audits, including random, unannounced audits by qualified personnel appointed by the agency to ensure the evaluation process is conducted in accordance with this section and the requests for proposals.

14. Project performance evaluations. Project evaluation reports shall be prepared upon completion for projects that receive state assistance. Project evaluation reports shall include information determined relevant by the agency but shall at a minimum include the following:

(a) the amount of energy projected in the project proposal and the actual amount of energy the facility is capable of producing;

(b) the proposed project completion date and the actual completion date; and

(c) additional information as determined by the agency.

§ 229-b. Best value requirements for all work other than construction.

1. Purpose. This section establishes best value requirements for the solicitation, evaluation and award of renewable energy and other projects assisted by the state, including those assisted by the Act. All investments under this section shall utilize the following best value framework to evaluate bids for projects developed with these funds. The best value framework shall provide specially-defined best value contracting and labor provisions as options for any bidder responding to requests for proposals for renewable energy projects. Bids that include responsive provisions can receive added credit to their bid scores.

2. Definitions. For purposes of this section, the following terms shall be defined as follows:

(a) "awarding authority" shall mean the governmental unit empowered to request bids and enter into contracts for renewable energy projects, energy efficiency, and other projects other than the construction aspect of the project funded by this statute.

(b) "best-value framework" shall mean contracts and subcontracts on projects funded by the Act shall use a best-value framework to consider the quality, cost and efficiency of offers when evaluating procurement contract proposals. Such framework shall reflect, whenever possible, objective and quantifiable analysis and identify a quantitative factor for offerors.

(c) "contract" shall mean a direct agreement between a vendor and the awarding authority for projects funded by the Act valued at five million dollars and over.

(d) "vendor" shall mean a business entity entering into a contract with the awarding authority for projects, including manufacturing projects, funded by the Act.

1 (e) "subcontract" shall mean an agreement between a vendor and subven-
2 dor to provide manufactured materials or perform additional work under
3 the vendor.

4 (f) "subvendor" shall mean a business entity entering into a subcon-
5 tract with the vendor to provide manufactured materials for completion
6 of a contract or perform additional work under the vendor.

7 (g) "U.S. employment plan" (USEP) shall mean the plan which an entity
8 submitting proposals to awarding authorities for renewable energy
9 projects, energy efficiency, other projects other than the construction
10 aspect of the project include in their proposal to receive extra credit
11 and/or points as defined by the applicable awarding authority. If a
12 proposer chooses to submit a U.S. employment plan to win extra credit,
13 the proposal shall include a worksheet with: proposed wages, benefits,
14 retraining and training, including a workforce training plan, completed
15 by the proposer and the potential subvendors, and a narrative
16 description of the proposers' plan to:

17 (i) recruit and hire individuals from zip codes with high rates of
18 poverty unemployment, and chronic unemployment;

19 (ii) give priority in any hiring of employees not currently or previ-
20 ously employed by the proposer and the suppliers of manufactured materi-
21 als for the project to individuals with barriers to employment including
22 people who have been incarcerated, people with disabilities, and people
23 who have been traditionally underrepresented in manufacturing or
24 construction employment, like women and minorities; and

25 (iii) recruit from "disadvantaged workers" and "disadvantaged communi-
26 ties" as defined by the Act and not detailed in this section.

27 (h) "local employment plan" shall mean the plan which an entity
28 submitting proposals to awarding authorities for renewable energy
29 projects, energy efficiency, other projects other than the construction
30 aspect of the project include in their proposal to receive extra credit
31 and/or points as defined by the applicable awarding authority. The local
32 employment plan will apply to work that is not financed with federal
33 money. A proposer is required to submit a local employment plan to win
34 extra credit. The proposer shall include the same items in the U.S.
35 employment plan as well as a plan:

36 (i) to retain and create high-skilled local jobs; and

37 (ii) to develop family-sustaining career pathways into the sector for
38 disadvantaged workers and disadvantaged communities in a specified local
39 area.

40 (i) "workforce training plan" means a plan to create permanent, trans-
41 ferable skills for all new hires and retained employees under a contract
42 proposal, which may:

43 (i) take advantage of publicly funded workforce development programs,
44 an apprenticeship program registered with the department or a federally
45 recognized state apprenticeship agency and that complies with the
46 requirements under Parts 29 and 30 of title 29, code of federal regu-
47 lations; and

48 (ii) include pre-apprenticeship commitments to provide training that
49 helps participants in apprenticeship programs prepare for and success-
50 fully complete their training.

51 3. Application process. This section shall apply to all contracts as
52 defined in this section.

53 (a) in awarding contracts under this section, awarding authorities
54 shall utilize the best-value framework for contracts.

55 (b) awarding authorities shall develop a system for awarding extra
56 points and/or credit for those proposers that create and submit a local

1 employment plan or U.S. employment plan (depending on source of fund-
2 ing).

3 (c) final contracts with a local employment plan and/or U.S. employ-
4 ment plan that are awarded under this section shall require vendors to
5 submit quarterly reports within the first year of award and annual
6 reports for subsequent years demonstrating vendor and subvendor compli-
7 ance with their local employment plan and/or U.S. employment plan. These
8 quarterly and annual reports shall be certified under penalty of perjury
9 and must be submitted in order to receive milestone payments under the
10 contract.

11 (d) requests for proposals under this section shall specify that terms
12 and conditions of employment and compliance reports under the local
13 employment plan and/or U.S. employment plan are not exempt from disclo-
14 sure under the freedom of information law. Quarterly and subsequent
15 annual reports related to contract fulfillment will be shared online on
16 the awarding authority's web site.

17 (e) the awarding authority shall enact regulations creating forms for
18 completion of the local employment plan and/or U.S. employment plan that
19 the awarding authority will include with requests for proposals for
20 contracts.

21 § 6. Section 231 of the labor law is amended by adding a new subdivi-
22 sion 8 to read as follows:

23 8. Building service employees employed in any building or facility
24 that has received grants or tax abatements or exemptions or other
25 assistance with a total present financial value of one million dollars
26 or more for the increase of energy efficiency, building electrification
27 upgrades, the development of renewable energies, or climate change resi-
28 liency shall be paid not less than the prevailing wage. Employers
29 engaged in the provision of building service work shall be subject to
30 all the reporting and compliance requirements of this article, including
31 the right to maintain an action for the difference between the prevail-
32 ing wages and the wages actually received. The prevailing wage require-
33 ment shall apply for the duration of the assistance or ten years after
34 the project opens, whichever is longer.

35 § 7. Article 8 of the public authorities law is amended by adding a
36 new title 9-C to read as follows:

37 TITLE 9-C

38 CLIMATE CHANGE JUST TRANSITION

39 SUBTITLE I

40 GENERAL PROVISIONS

41 Section 1910. Definitions.

42 1911. Coordination of programs.

43 1912. Transparency and accountability.

44 1913. Report on community ownership.

45 SUBTITLE II

46 COMMUNITY JUST TRANSITION

47 Section 1914. Definitions.

48 1915. Office of community just transition.

49 1916. Establishment of community just transition program.

50 1917. Administration by the authority.

51 1918. Allocation of funds.

52 1919. Selection process.

53 1920. Identification of disadvantaged community needs.

54 1921. Community decision-making and accountability mechanisms.

1922. Criteria for implementing community accountability mechanisms.

1923. Consultation with the working group.

SUBTITLE III

CLIMATE JOBS AND INFRASTRUCTURE

Section 1924. Definitions.

1925. Establishment of climate jobs and infrastructure program.

1926. Administration by the authority.

1927. Allocation of funds.

1928. Funding instruments.

1929. Selection process and criteria.

1930. Consultation with the advisory council.

1931. Comprehensive approach to existing structures.

1932. Advisory council of the climate jobs and infrastructure program.

SUBTITLE IV

JUST TRANSITION FOR IMPACTED WORKERS AND COMMUNITY ASSURANCE

Section 1933. Definitions.

1934. Establishment of worker and community assurance board.

1935. Establishment of worker assurance program.

1936. Establishment of community assurance program.

1937. Administration.

1938. Allocation of funds.

1939. Selection process.

1939-a. Designation of significant impact.

1939-b. Public engagement and social dialogue.

1939-c. Reporting.

§ 1910. Definitions. For the purposes of this subtitle, the following terms shall have the following meanings:

1. "Advisory council" means the advisory council established under section nineteen hundred thirty-two of this title.

2. "Authority" means the climate and community investment authority.

3. "Community ownership" means projects, businesses and legal models in regard to renewable energy assets and services that allow for one or more of the following:

(a) the flow of benefits from energy generation and conservation goes directly to communities and utility customers while minimizing the extraction of benefits and profit by third-parties;

(b) access to energy infrastructure ownership, including energy efficiency measures and savings, by renters, non-profit organizations, and individuals with a broader spectrum of income and credit profiles than traditional financing allows for;

(c) creation of cooperative and cooperative-like structures for the development and ownership of energy infrastructure; and

(d) ownership by individuals or organizations that are located where a project is sited.

4. "Constituency-based organization" means an organization incorporated for the purpose of providing services or other assistance to economically or socially disadvantaged persons within a specified community, and which is supported by, or whose actions are directed by, members of the community in which it operates.

5. "Director" means the director of an office appointed under paragraph (b) of subdivision seven of section twenty-seven hundred ninety-nine-uuuu of this article.

6. "Disadvantaged communities" means communities that bear burdens of negative public health effects, environmental pollution, and impacts of climate change, and possess certain socioeconomic criteria, as identified pursuant to section 75-0111 of the environmental conservation law.

7. "Downstate region" means the counties of Richmond, Kings, Queens, New York, Bronx, Westchester, Nassau and Suffolk.

8. "Emissions leakage" means an increase in emissions outside of the state, as a result of, or in correlation with, the implementation of measures within the state to limit such emissions.

9. "Greenhouse gas" shall have the same meaning as in subdivision eight of section 19-1301 of the environmental conservation law.

10. "Office" means the office of climate and community investment established under this title.

11. "Municipality" shall have the same meaning as in subdivision six of section four hundred eighty-one of the executive law.

12. "Regulated air contaminant" shall have the same meaning as in subdivision twenty-two of section 19-0107 of the environmental conservation law.

13. "President" means the president of the authority.

14. "Tribal nation" means those tribes, nations or other organized groups of persons having origins in any of the original peoples of North America recognized in the state or considered by the federal secretary of the interior to be a tribal nation, including the following New York state tribal nations: Cayuga Nation, Oneida Nation of New York, Onondaga Nation, Poospatuck or Unkechauge Nation, Saint Regis Mohawk Tribe, Seneca Nation of Indians, Shinnecock Indian Nation, Tonawanda Band of Seneca and Tuscarora Nation.

15. "Upstate region" means all New York counties other than Nassau, Suffolk, Richmond, Kings, Queens, New York, Bronx and Westchester.

16. "Working group" means the climate justice working group created pursuant to section 75-0111 of the environmental conservation law.

§ 1911. Coordination of programs. The authority shall undertake actions to ensure maximum coordination between each of the programs created under section three thousand forty-six of the tax law, including:

1. conducting each program such that all three programs together:

(a) maximize the total economic and social benefits to New York;

(b) maximize administrative efficiency;

(c) achieve the most cost-effective and the greatest amount of reductions in greenhouse gas emissions and regulated air contaminants;

(d) achieve an equitable distribution of funds;

(e) maximize benefits to disadvantaged communities;

(f) encourage early action to reduce emissions;

(g) minimize emissions leakage;

(h) promote equitable access to program participation across programs, including interoperability with existing programs and the use of universal eligibility applications for low-income applicants who may be eligible for multiple services; and

(i) identify and utilize best industry standard practices to overcome barriers to implementation, such as split incentives for energy efficiency.

2. Not less than two times annually, the authority shall convene a meeting that includes the president, the working group, and the advisory council, to discuss options for improving the coordination of the three programs.

1 3. In consulting with the working group and the advisory council
2 pursuant to this section, the authority shall adhere to the following
3 procedures:

4 (a) The authority shall provide, to all working group and advisory
5 council members, notice of meetings not less than thirty days before the
6 date of the meeting; and

7 (b) The authority shall provide, to all working group and advisory
8 council members, electronic copies or hard copies of any written or
9 other informational materials to be discussed at a given meeting not
10 less than thirty days prior to the date of that meeting.

11 § 1912. Transparency and accountability. 1. No later than two years
12 following the effective date of this title, and every two years there-
13 after, the president, in partnership with the working group, shall
14 produce a report on the implementation of the programs established under
15 this title and the extent to which program implementation is meeting
16 stated program goals and priorities. Such report shall include but not
17 be limited to:

18 (a) For the program under subtitle two of this title:

19 (i) the extent to which needs identified in the needs assessment are
20 being met;

21 (ii) the effectiveness of projects funded under the program in reduc-
22 ing emissions of greenhouse gas and regulated air contaminants;

23 (iii) the effectiveness of projects funded under the program in reduc-
24 ing the energy burdens of households in disadvantaged communities;

25 (iv) the geographic distribution of grants made under the program;

26 (v) barriers reported by eligible applicants in developing competitive
27 proposals and receiving funding;

28 (vi) the jobs created as a result of funds distributed under the
29 program by type, duration, and pay scale; and

30 (vii) the number of projects funded that are community-owned or incor-
31 porate community ownership, including an assessment of continued barri-
32 ers to community ownership.

33 (b) For the program under subtitle three of this title:

34 (i) the number of jobs created by the program;

35 (ii) the effectiveness of projects funded under the program in reduc-
36 ing emissions of greenhouse gas and regulated air contaminants;

37 (iii) the extent to which projects funded under the program leveraged
38 additional private investment;

39 (iv) the number of minority and women-owned businesses involved in
40 projects funded under the program as lead contractors or subcontractors,
41 and barriers to involvement by such businesses;

42 (v) the effectiveness of projects funded under the program in reducing
43 energy burdens of households, including households in disadvantaged
44 communities; and

45 (vi) the impact of the program on disadvantaged communities, including
46 the impact on the elderly, youth, women and children.

47 (c) For the program under articles forty-two and forty-three of the
48 tax law:

49 (i) the actual costs of the fee as compared to the amount of the
50 rebate;

51 (ii) the overall net cost to households; and

52 (iii) the rate of participation in the program by eligible households
53 and the barriers to participation, if any.

54 2. Before finalizing the report described in subdivision one of this
55 section, the president shall ensure that there are meaningful opportu-
56 nities for public participation, including by:

1 (a) allowing at least one hundred twenty days for the submission of
2 public comment, following the date of the publication of a draft report;
3 and

4 (b) holding at least four regional public hearings, including two
5 meetings in the upstate region and two meetings in the downstate region,
6 with emphasis on maximizing participation and accessibility for members
7 of disadvantaged communities.

8 3. The final report shall be submitted to the governor, the temporary
9 president of the senate, the speaker of the assembly, the minority lead-
10 er of the senate and the minority leader of the assembly, and shall be
11 posted on the website of the authority.

12 § 1913. Report on community ownership. 1. Not later than two years
13 following the effective date of this subtitle, and every two years ther-
14 eafter, the authority, with input from the working group, the department
15 of labor, the state energy planning board and the department of environ-
16 mental conservation, shall produce a report on barriers to, and opportu-
17 nities for, community ownership, including:

18 (a) a study of contractual and pricing mechanisms that make siting and
19 ownership of renewable energy assets and services in disadvantaged
20 communities more viable and scalable.

21 (b) recommendations on how to increase community ownership in disad-
22 vantaged communities of the following services and commodities:

23 (i) distributed renewable energy generation;
24 (ii) utility scale renewable energy generation;
25 (iii) energy efficiency and weatherization investments; and
26 (iv) electric grid investments, including energy storage and smart
27 meters.

28 2. Before finalizing the report described in subdivision one of this
29 section, the president shall ensure that there are meaningful opportu-
30 nities for public participation, including by:

31 (a) allowing at least one hundred twenty days for the submission of
32 public comment, following the date of the publication of a draft report;
33 and

34 (b) holding at least four regional public hearings, including two
35 meetings in the upstate region and two meetings in the downstate region,
36 with emphasis on maximizing participation and accessibility for members
37 of disadvantaged communities.

38 3. The final report shall be submitted to the governor, the temporary
39 president of the senate, the speaker of the assembly, the minority lead-
40 er of the senate and the minority leader of the assembly, and shall be
41 posted on the website of the authority.

42 § 1914. Definitions. For the purposes of this subtitle, the following
43 terms shall have the following meanings:

44 1. "Disadvantaged communities" shall have the same meaning as in
45 subdivision three of section 75-0111 of the environmental conservation
46 law.

47 2. "Eligible lead applicant" means a constituency-based organization
48 or a tribal nation, in or serving a disadvantaged community or communi-
49 ties. Notwithstanding the preceding sentence, a constituency-based
50 organization or tribal nation may be an eligible lead applicant, whether
51 or not it is in or serving a disadvantaged community or communities, if
52 it makes an application for funding on behalf of one or more consti-
53 tency-based organizations or tribal nations that are in or serving one or
54 more disadvantaged communities with the consent of such constituency-
55 based organization or organizations or tribal nation or nations and
56 subgrants to such constituency-based organization or organizations or

1 tribal nation or nations. A municipality or county where a project is
2 proposed to be located shall also be considered an eligible lead appli-
3 cant if it affirms that there is no constituency-based organization or
4 tribal nation in or serving the disadvantaged community or that is will-
5 ing or able to submit an application or consent to be a subgrantee under
6 this subdivision, and that it provided a reasonable opportunity for
7 residents and organizations in or serving the municipality or county to
8 comment on the application prior to submission.

9 3. "Eligible sub-applicants" means private sector entities, academic
10 institutions, non-profit organizations, other stakeholders, and munici-
11 palities and counties in cases where there is a constituency-based
12 organization in the disadvantaged community or communities.

13 4. "Fund" means the community just transition fund established under
14 subdivision one of section three thousand forty-six of the tax law.

15 5. "Minority- or women-owned business enterprise" means either a
16 "minority-owned business enterprise" as defined in subdivision seven of
17 section three hundred ten of the executive law, or a "women-owned busi-
18 ness enterprise", as defined in subdivision fifteen of such section.

19 6. "Working group" means the climate justice working group established
20 under section 75-0111 of the environmental conservation law.

21 7. "Program" means the community just transition program established
22 under this subtitle.

23 8. "Community ownership" shall have the same meaning as set forth in
24 subdivision three of section nineteen hundred ten of this title.

25 9. "Downstate region" means the counties of Richmond, Kings, Queens,
26 New York, Bronx, Westchester, Nassau and Suffolk.

27 10. "Upstate region" means all New York counties other than Nassau,
28 Suffolk, Richmond, Kings, Queens, New York, Bronx and Westchester.

29 § 1915. Office of community just transition. 1. The authority shall
30 establish, not later than six months after the effective date of this
31 subtitle, the "office of community just transition". Such office will
32 administer the fund and the program, among other duties. Such office
33 shall be responsible for implementing new, progressive and equitable
34 grant opportunities that support disadvantaged communities transitioning
35 to a regenerative renewable energy economy. The office will collaborate
36 with the working group to develop and assess programs.

37 2. The office will abide by the principles of environmental justice,
38 including the 1994 federal executive order 12898 (in relation to envi-
39 ronmental justice) and the Jemez Principles of Democratic Organizing.
40 Such principles shall include: being inclusive; placing an emphasis on
41 bottom-up organizing; letting people speak for themselves; working
42 together in solidarity and mutuality; building just relationships among
43 ourselves; and making a commitment to self-transformation.

44 3. The office shall be led by a director. Not later than six months
45 after the formation of the working group, the working group shall nomi-
46 nate not less than three candidates for the position of director. Not
47 later than three months after the working group has nominated candi-
48 dates, the president shall select the director from this group of candi-
49 dates.

50 § 1916. Establishment of community just transition program. There is
51 hereby established within the authority, a community just transition
52 program, to be implemented by the director. The purpose of the program
53 is to disburse funds from the community just transition fund pursuant to
54 section nineteen hundred eighteen of this subtitle.

55 § 1917. Administration by the authority. Within six months of the
56 effective date of this subtitle, the authority is hereby authorized and

1 directed to establish and administer the community just transition
2 program. The authority shall implement the program in consultation with
3 the working group. The authority is authorized and directed to:

4 1. use monies made available for the program, pursuant to sections
5 nineteen hundred eighteen and nineteen hundred nineteen of this subti-
6 tle;

7 2. enter into contracts with eligible lead applicants and sub-appli-
8 cants through a competitive selection process;

9 3. recover from the monies made available for the program, not in
10 excess of two percent of annual fund proceeds, its own necessary and
11 documented costs incurred in administering the program, including
12 program evaluation, compensation for members of the working group,
13 compensation for at least one full-time authority staff person dedicated
14 to supporting the working group; and

15 4. exercise such other powers as are necessary for the proper adminis-
16 tration of the program.

17 § 1918. Allocation of funds. 1. Funds from the community just transi-
18 tion fund shall be disbursed through direct grants to eligible lead
19 applicants.

20 2. At least seventy-five percent of funds from the community just
21 transition fund shall be for projects physically located within a desig-
22 nated disadvantaged community, or for projects as close to such communi-
23 ty as is practicable, provided that a project not physically located in
24 the disadvantaged community shall only be eligible for funding under
25 this subdivision if the authority finds that it is impracticable to
26 locate the project in such disadvantaged community or that funding such
27 project is in the best interests of such disadvantaged community, taking
28 into account such factors as the burdens of negative public health
29 effects, environmental pollution and the impacts of climate changes. Any
30 project funded under this subdivision shall achieve one or more of the
31 goals in paragraph (a), (b) or (c) of this subdivision:

32 (a) maximizing greenhouse gas emissions reductions, including through
33 the completion of projects, including but not limited to: energy effi-
34 ciency and energy demand reduction; renewable energy; energy storage;
35 renewable energy-powered microgrids; energy resiliency; demand response;
36 and reducing urban heat island effects through various means, such as
37 through the completion of urban forestry, urban agriculture, or green
38 infrastructure projects;

39 (b) the reduction of other regulated air contaminants in conjunction
40 with greenhouse gas emissions reductions; and

41 (c) community ownership and governance, including through the funding
42 of planning, design and construction of community solar installation and
43 other projects listed under paragraph (a) of this subdivision.

44 3. Up to twenty-five percent of funds from the community justice tran-
45 sition fund may be used for projects other than as specified in subdivi-
46 sion two of this section, but must provide at least one of the following
47 benefits to one or more designated disadvantaged communities:

48 (a) reducing emissions from stationary sources, including the perma-
49 nent closure of fossil fuel-fired power plants, including peaker-plants,
50 or waste-to-energy plants, with priority given to reducing emissions
51 from sources that emit pollution into the airshed of disadvantaged
52 communities;

53 (b) reducing the financial burden of energy expenses for disadvantaged
54 communities, including the reducing energy costs through the creation of
55 community-owned solar assets; and

1 (c) increasing and supporting opportunities for community ownership of
2 energy projects by residents of disadvantaged communities, including
3 ownership of the type of energy projects specified under subdivision two
4 of this section and by establishing community-owned energy cooperatives.

5 § 1919. Selection process. 1. The director, in consultation with the
6 working group, shall develop criteria and a process for competitively
7 selecting project proposals under this subtitle, in accordance with this
8 section and section nineteen hundred eighteen of this subtitle.

9 2. The director, in consultation with the working group, shall compet-
10 itively select project proposals according to the criteria and process
11 established under subdivision three of this section.

12 3. In selecting projects and distributing funds, the director shall
13 meet the standards in paragraphs (a), (b), (c), (d), (e) and (f) of this
14 subdivision.

15 (a) All projects shall be led by an eligible lead applicant; provide
16 benefits to designated disadvantaged communities; comply with section
17 nineteen hundred eighteen of this subtitle; incorporate community deci-
18 sion-making, pursuant to section nineteen hundred twenty-one of this
19 subtitle, throughout project planning and implementation; and provide a
20 community accountability mechanism, pursuant to section nineteen hundred
21 twenty-two of this subtitle and comply with the labor and job perform-
22 ance standards in this act.

23 (b) Program funds as a whole shall be equitably distributed to members
24 of disadvantaged communities, with roughly an even distribution of funds
25 per capita among disadvantaged communities across the state.

26 (c) Communities shall be targeted in areas where energy costs are
27 particularly high in relation to a measure of median household income as
28 determined by the authority; or which have been designated as a nonat-
29 tainment area for one or more pollutants pursuant to section 107 of the
30 federal Clean Air Act (42 U.S.C. section 7407).

31 (d) The director shall give preference in awards to applicants that
32 include significant participation by minority- or women-owned business
33 enterprises.

34 (e) The director shall give preference in awards to applicants that
35 implement mechanisms to maximize community ownership, pursuant to the
36 findings of the latest report mandated by section nineteen hundred thir-
37 teen of this title.

38 (f) The director shall give preference in awards to projects that
39 would not otherwise likely be completed without the support of the
40 program.

41 4. The director shall encourage eligible lead applicants to propose
42 projects in collaboration with eligible sub-applicants and comply with
43 the labor and job performance standards in this act.

44 5. The director shall annually issue at least one and not more than
45 four program opportunity notices or requests for proposals to solicit
46 applications from eligible lead applicants.

47 6. The director shall prioritize creating a streamlined and simplified
48 application and disbursement process for eligible lead applicants,
49 including but not limited to, quarterly available grant opportunities,
50 at least quarterly information webinars, and providing opportunities for
51 technical assistance to navigate the application process.

52 7. To the extent otherwise permitted by law, the director shall
53 distribute funds in a manner that provides at least seventy-five percent
54 of each award up-front, to ensure that eligible lead applicants with
55 limited existing budgets are able to implement projects effectively.

1 8. The director shall consult with the division of housing and commu-
2 nity renewal and the working group to develop strategies to mitigate any
3 adverse economic impact of the program on tenants and homeowners,
4 including, but not limited to, residents of rent-regulated housing or
5 recipients of housing subsidies and rent-burdened households; and
6 enhance long-term community cohesion while preventing gentrification and
7 displacement.

8 9. Nothing in this subtitle shall preclude the authority from permit-
9 ting eligible lead applicants or sub-applicants to use program funds
10 awarded under this subtitle in conjunction with other public or private
11 funding awarded for other purposes, providing that the lead applicant
12 can demonstrate, in a manner sufficient to the authority, that the
13 program goals and other requirements of this subtitle will be met.

14 § 1920. Identification of disadvantaged community needs. 1. The
15 authority, in cooperation with the working group and the commissioners
16 of health, labor and environmental conservation, shall identify disad-
17 vantaged community needs for the purposes of implementing this section.

18 2. Disadvantaged community needs shall be identified, with the input
19 of experts, local government representatives, public utility represen-
20 tatives, and other local stakeholders, for each disadvantaged community
21 or set of disadvantaged communities.

22 3. Before finalizing the list of identified disadvantaged community
23 needs pursuant to subdivision one of this section, the authority shall
24 ensure that there are meaningful opportunities for public comment for
25 all persons who will be impacted by the identified needs, including
26 persons living in areas that may be identified as disadvantaged communi-
27 ties, including by:

28 (a) publishing draft identified disadvantaged community needs, and
29 making such information available on the internet;

30 (b) holding at least six regional public hearings on the draft identi-
31 fied disadvantaged community needs, including three meetings in upstate
32 regions and three meetings in downstate regions; and

33 (c) allowing at least one hundred twenty days for the submission of
34 public comment, following the date of the publication of draft identi-
35 fied disadvantaged community needs described under paragraph (a) of this
36 subdivision.

37 4. The authority, in cooperation with the working group, and the
38 commissioners of health, labor and environmental conservation or their
39 designees, shall meet no less than annually to review the identified
40 disadvantaged community needs and methods used to identify such needs,
41 and may modify such methods to incorporate new data and scientific find-
42 ings, subject to the same process requirements listed under subdivision
43 three of this section.

44 § 1921. Community decision-making and accountability mechanisms. 1.
45 The authority, in cooperation with the working group and the commission-
46 ers of health, labor and environmental conservation, shall establish
47 criteria for appropriate community decision-making practices for the
48 purposes of implementing this section.

49 2. Community decision-making practices shall be identified based on
50 consultations with constituency-based organizations, members of disad-
51 vantaged communities, and other stakeholders identified by the authori-
52 ty.

53 3. Before finalizing the criteria for appropriate community decision-
54 making practices pursuant to subdivision one of this section, the
55 authority shall ensure that there are meaningful opportunities for
56 public comment for all persons who will be impacted by the criteria,

1 including persons living in areas that may be identified as disadvan-
2 tagged communities, including by:

3 (a) publishing draft criteria, and making such information available
4 on the internet;

5 (b) holding at least ten regional public hearings on the draft crite-
6 ria, one in each region; and

7 (c) allowing at least one hundred twenty days for the submission of
8 public comment, following the date of the publication of draft criteria
9 described under paragraph (a) of this subdivision.

10 4. The authority, in cooperation with the working group, and the
11 commissioners of health, labor and environmental conservation, shall
12 meet no less than annually to review the criteria and methods used to
13 identify appropriate community decision-making practices, and may modify
14 such methods to incorporate new data and scientific findings, subject to
15 the same process requirements listed under subdivision three of this
16 section.

17 5. For the purposes of paragraph (b) of subdivision three of this
18 section, "region" shall have the same meaning as in subdivision nine of
19 section twenty-four hundred twenty-six of this chapter.

20 § 1922. Criteria for implementing community accountability mechanisms.
21 The authority, in cooperation with the working group, and the commis-
22 sioners of health, labor and environmental conservation, shall establish
23 criteria for implementing community accountability mechanisms for the
24 purposes of implementing this section.

25 1. Criteria for implementing community accountability mechanisms shall
26 be based on input from the working group.

27 2. Before finalizing the criteria for implementing community account-
28 ability mechanisms pursuant to subdivision one of this section, the
29 authority shall ensure that there are meaningful opportunities for
30 public comment for all persons who will be impacted by the criteria,
31 including persons living in areas that may be identified as disadvan-
32 tagged communities, including by:

33 (a) publishing draft criteria, and making such information available
34 on the internet;

35 (b) holding at least six regional public hearings on the draft crite-
36 ria, including three meetings in the upstate region and three meetings
37 in the downstate region; and

38 (c) allowing at least one hundred twenty days for the submission of
39 public comment, following the date of the publication of draft criteria
40 described under paragraph (a) of this subdivision.

41 3. The authority, in cooperation with the working group, and the
42 commissioners of health, labor and environmental conservation, shall
43 meet no less than annually to review the criteria and methods used to
44 identify community accountability mechanisms, and may modify such meth-
45 ods to incorporate new data and scientific findings, subject to the same
46 process requirements listed under subdivision two of this section.

47 § 1923. Consultation with the working group. In consulting with the
48 working group in the course of implementing the program established
49 under this subtitle, the authority shall adhere to the following proce-
50 dures:

51 1. The authority shall convene consultation meetings with the working
52 group not less frequently than four times annually;

53 2. The authority shall provide, to all working group members, notice
54 of working group meetings not less than one month before the date of the
55 meeting; and

1 3. The authority shall provide, to all working group members, elec-
2 tronic copies or hard copies of any written or other informational mate-
3 rials to be discussed at a given working group meeting not less than one
4 month prior to the date of the meeting.

5 § 1924. Definitions. For the purposes of this subtitle, the following
6 terms shall have the following meanings:

7 1. "Advisory council" means the body established under section eigh-
8 teen hundred ninety-eight of this article.

9 2. "Eligible applicant" means a constituency-based organization,
10 tribal nation, labor union, municipality, transit agency, port authori-
11 ty, metropolitan planning organizations, small business, minority- or
12 women-owned business enterprise or any other entity deemed appropriate
13 by the authority.

14 3. "Fund" means the climate jobs and infrastructure fund established
15 under subdivision two of section three thousand forty-six of the tax
16 law.

17 4. "Minority- or women-owned business enterprise" means either a
18 "minority-owned business enterprise" as defined in subdivision seven of
19 section three hundred ten of the executive law, or a "women-owned busi-
20 ness enterprise", as defined in subdivision fifteen of such section.

21 5. "Program" means the climate jobs and infrastructure program estab-
22 lished under this subtitle.

23 6. "Third-party entities" means private sector entities, academic
24 institutions, non-profit organizations and other stakeholders that are
25 not eligible applicants.

26 7. "Tribal nation" shall have the same meaning as in subdivision
27 twelve of section nineteen hundred ten of this chapter.

28 8. "Disadvantaged communities" shall have the same meaning as in
29 subdivision five of section 75-0101 of the environmental conservation
30 law.

31 § 1925. Establishment of climate jobs and infrastructure program.
32 There is hereby established within the authority, a climate jobs and
33 infrastructure program, which shall disburse funds from the climate jobs
34 and infrastructure fund pursuant to the goals established under section
35 nineteen hundred twenty-seven of this subtitle.

36 § 1926. Administration by the authority. Within six months of the
37 effective date of this subtitle, the authority is hereby authorized and
38 directed to establish and administer the climate jobs and infrastructure
39 program. The authority shall implement the program in consultation with
40 the advisory council, the public service commission, the New York inde-
41 pendent system operator, the New York energy research and development
42 authority, and the departments of transportation, environmental conser-
43 vation, health and labor. The authority is authorized and directed to
44 take the following steps:

45 1. using monies made available from the fund to achieve the goals of
46 the program outlined in section nineteen hundred twenty-seven of this
47 subtitle;

48 2. entering into contracts with eligible applicants and other entities
49 through the competitive selection process authorized by this subtitle;

50 3. using from the monies made available for the program, not in excess
51 of two percent of annual fund proceeds, its own necessary and documented
52 costs incurred in administering the program, including program evalu-
53 ation; compensation, at any amount to be determined by the authority,
54 for members of the advisory council; and compensation for at least one
55 full-time authority staff person dedicated to supporting the advisory
56 council; and

1 4. exercising such other powers as are necessary for the proper admin-
2 istration of the program.

3 § 1927. Allocation of funds. 1. Funds from the climate jobs and
4 infrastructure fund shall be disbursed under the climate jobs and
5 infrastructure program to achieve quantifiable, verifiable, and signif-
6 icant reductions in greenhouse gas emissions and of regulated air
7 contaminants while achieving the general goals specified in subdivision
8 two of this section. These funds are intended to advance the goals of
9 the climate leadership and community protection act.

10 2. In addition to meeting the goals specified in subdivision one of
11 this section, funds shall be disbursed to meet the following goals:

12 (a) job creation, pursuant to the standards established under article
13 eight-B of the labor law, including opportunities for new entrants into
14 the state's workforce, and the long-term unemployed or displaced work-
15 ers, and the development of an in-state manufacturing and supply chain
16 for clean energy technologies;

17 (b) funding large-scale projects, including those that may span multi-
18 ple communities or regions;

19 (c) reducing greenhouse gas emissions and energy costs through
20 improvements in energy efficiency, energy conservation, load balancing,
21 energy storage and the installation of clean energy technologies;

22 (d) achieving advancements in social equity, including promoting
23 community ownership and governance of energy production, including
24 youth, children, the incarcerated and the formerly incarcerated; and
25 supporting sustainable local economic development;

26 (e) electrification of equipment and appliances for residential,
27 commercial and industrial applications;

28 (f) promoting the participation of private capital, municipal govern-
29 ments and tribal nations in achieving the goals stated in this section
30 and the use of innovative financing mechanisms to finance energy effi-
31 ciency improvements through energy cost savings;

32 (g) encouraging the development of programs to support communities
33 with high cumulative environmental burden, high peak energy load, and
34 aging housing stock in order to preserve affordable housing and enhance
35 long-term community cohesion while preventing gentrification and
36 displacement;

37 (h) encouraging the development of energy efficiency and renewable
38 energy projects and programs for and in public schools, school transpor-
39 tation including centralized procurement by the authority of zero-emis-
40 sion school buses and charging infrastructure in order to promote effi-
41 ciency, innovation, and the creation of high-quality jobs in school bus
42 and charging infrastructure manufacturing and community centers, with
43 priority given to schools located in and serving disadvantaged communi-
44 ties in order to preserve and improve school infrastructure, improve
45 community resilience and provide co-educational benefits for students in
46 science, technology, engineering, art, ecology and science;

47 (i) encouraging the development of quality child and dependent care
48 with priority given to the development of quality child care located in
49 and serving disadvantaged communities; and

50 (j) encouraging the development of workforce development programs that
51 identify and utilize best practices to provide and train workers for
52 high quality and continuous career and work opportunities.

53 3. Every five years, the authority, in consultation with the advisory
54 council, shall designate priority project types for investments based on
55 capital funding needs, the potential for greenhouse gas emission
56 reductions, and the potential for regional job creation. These priori-

1 ties shall guide the authority in soliciting proposals and selecting
2 projects. The first five years of funding shall prioritize investment
3 in:

4 (a) public transit, with special priority for intra-city transit
5 modes, in upstate regions and in other underserved regions of the state,
6 including through: subsidizing transit rate reductions, the establish-
7 ment of new transit routes, and improvements in transit service (includ-
8 ing increased frequency, accessibility and safety), especially to better
9 serve low- to moderate-income individuals; creating journey to work
10 routes, dedicated to creating access to major areas of employment in
11 both urban and non-urban areas, especially routes connecting non-urban
12 areas without necessitating a trip through the central city; directing
13 infrastructure funding, including through various approaches to support-
14 ing bonding, revolving loan funds and other financing mechanisms; and
15 subsidizing electric and zero-emissions vehicles and infrastructure,
16 including charging infrastructure and energy storage technologies;

17 (b) energy efficiency and conservation projects, including projects in
18 public buildings, and incentives for new private buildings that achieve
19 high efficiency or net-zero status and for retrofits of existing build-
20 ings, providing that landlords who receive retrofit funds or financial
21 assistance of any kind under this program not be allowed to include such
22 investments as major capital improvements or individual apartment
23 assessments in order to raise rents to recoup costs in rent-regulated
24 housing;

25 (c) large scale renewable energy projects, community-owned renewable
26 energy projects, such as community solar and community wind projects,
27 and publicly-owned renewable energy projects, including projects on
28 public buildings and land;

29 (d) port facility electrification and sustainability measures, includ-
30 ing but not limited to at the port of Albany, the port of Buffalo, and
31 the New York city waterfront, including Hunts Point and Sunset Park;

32 (e) electric grid upgrades within the state, including the
33 construction of electricity transmission, energy storage and smart grid
34 infrastructure, and including support for establishing electric vehicle
35 infrastructure and systems to optimize distributed energy resources;

36 (f) energy efficiency and renewable energy projects and programs for
37 and in public schools, school transportation (including school buses)
38 and community centers with priority given to schools located in or serv-
39 ing disadvantaged communities; and

40 (g) child and dependent care facilities and programs with priority
41 given to child and dependent care facilities and programs located in or
42 serving disadvantaged communities.

43 4. In addition to allocating funds under the program to achieve the
44 goals and priorities outlined in this section, the authority shall allo-
45 cate funds for the purposes of providing technical assistance to eligi-
46 ble applicants. Such technical assistance shall include assistance with:
47 developing project proposals; implementing project proposals; conducting
48 analysis and reporting on projects implemented under the program; and
49 other needs identified by the authority.

50 5. No monies from the climate jobs and infrastructure fund shall fund
51 police, prisons or related infrastructure.

52 § 1928. Funding instruments. The authority, in consultation with the
53 advisory council, shall determine the appropriate instrument, or variety
54 of instruments, including grants, loan guarantees, incentives, bond
55 payments, loan programs, and other mechanisms for achieving the goals
56 stated in section nineteen hundred twenty-seven of this subtitle.

1 § 1929. Selection process and criteria. The authority is authorized,
2 within amounts appropriated, to disburse funds from the fund to eligible
3 applicants on a competitive basis.

4 1. The authority, in consultation with the advisory council, shall
5 develop criteria and a process for selecting project proposals submitted
6 by eligible applicants under this subtitle.

7 2. In selecting projects and distributing funds, the authority shall
8 include the following criteria:

9 (a) the extent to which the project meets each of the goals set forth
10 in subdivisions one and two of section nineteen hundred twenty-seven of
11 this subtitle;

12 (b) whether the project falls under a priority area for investment for
13 the five-year period;

14 (c) whether the project will benefit geographic areas where energy
15 costs are particularly high in relation to a measure of median household
16 income as determined by the authority; or which have been designated as
17 a nonattainment area for one or more pollutants pursuant to section 107
18 of the federal clean air act (42 U.S.C. section 7407);

19 (d) whether the applicants include significant participation by minor-
20 ity and women-owned business enterprises; and

21 (e) the extent to which projects would not otherwise be completed
22 without the support of the program.

23 3. In allocating funds, the authority shall also, where possible, aim
24 to geographically distribute funds in an equitable manner across the
25 state, taking into account population density.

26 4. The authority shall encourage eligible applicants to propose
27 projects in partnership with other eligible applicants, and with third-
28 party entities.

29 § 1930. Consultation with the advisory council. In consulting with the
30 advisory council in the course of implementing the program established
31 under this subtitle, the authority shall:

32 1. convene consultation meetings with the advisory council not less
33 frequently than four times annually;

34 2. provide notice of advisory council meetings to all advisory council
35 members not less than thirty days before the date of the meeting; and

36 3. provide electronic or hard copies of any written or other informa-
37 tional materials to be discussed at a given advisory council meeting to
38 all advisory council members not less than thirty days prior to the date
39 of the meeting.

40 § 1931. Comprehensive approach to existing structures. 1. In consulta-
41 tion with the advisory council, the department of state, department of
42 homes and community renewal, the department of environmental conserva-
43 tion, the New York energy research and development authority and other
44 relevant stakeholders, the authority shall develop a master plan to:

45 (a) ensure a comprehensive approach exists to improve building energy
46 efficiency that includes all of the state's existing buildings;

47 (b) ensure that the state meets its energy efficiency goals;

48 (c) reduces energy use in all existing structures and new buildings;

49 (d) improves and protects housing affordability and enhances long-term
50 community cohesion while preventing gentrification and displacement; and

51 (e) incorporates health and safety assessments and improvements.

52 2. The master plan will specifically include recommendations for coor-
53 ordinated changes to the building and energy codes, energy efficiency
54 programs administered by the state and others, and spending pursuant to
55 the climate and community investment act, in order to ensure that most

1 buildings receive deep energy efficiency retrofits that include assess-
2 ment and improvements to health and safety.

3 3. To prepare the master plan, the authority shall convene relevant
4 stakeholders in each region of the state at least once, giving at least
5 ninety days' notice of the proposed meeting in order for the public to
6 attend. For the purposes of this subdivision, "region" shall have the
7 same meaning as in subdivision nine of section twenty-four hundred twen-
8 ty-six of this chapter.

9 § 1932. Advisory council of the climate jobs and infrastructure
10 program. There is hereby created within the authority, not later than
11 six months after the effective date of this article, an advisory council
12 of the climate jobs and infrastructure program. Such advisory group will
13 be comprised of the commissioners of labor, transportation, housing and
14 community renewal, the president of the new york state energy research
15 and development authority, representatives from environmental justice
16 communities, labor, youth groups, youth, regional transportation offi-
17 cials, transportation advocates, including representatives from upstate
18 cities, the mid hudson region, new york city and long island, clean
19 energy developers and energy system experts. In addition to any other
20 functions assigned to the working group in this article, the working
21 group shall also perform the functions assigned to the working group as
22 set forth in this title, title thirteen of article nineteen of the envi-
23 ronmental conservation law, article twenty-five-d of the labor law, and
24 articles forty-two and forty-three of the tax law. For the purposes of
25 this section, "region" shall have the same meaning as in subdivision
26 nine of section twenty-four hundred twenty-six of this chapter.

27 § 1933. Definitions. For the purposes of this article, the following
28 terms shall have the following meanings:

29 1. Adversely affected employment. The term "adversely affected employ-
30 ment" means employment in an entity regulated by the New York state
31 department of public service generating energy that is not renewable.

32 2. Adversely affected worker. The term "adversely affected worker"
33 means an individual who, because of lack of work in adversely affected
34 employment, has been totally or partially separated from such employ-
35 ment, is expected to be totally or partially separated from such employ-
36 ment, or is a displaced worker.

37 3. Adjustment assistance. The term "adjustment assistance" means any
38 compensation, credit, benefit, funding, training, or service provided
39 under this title through any option described.

40 4. Applicable firm. The term "applicable firm" means, as applicable:

41 (a) the firm, or subdivision of a firm, for which the group of workers
42 who are petitioning for certification work at;

43 (b) the firm, or subdivision of a firm, for which a group of certified
44 adversely affected workers work at;

45 (c) a group of firms within close geographic proximity, as determined
46 by the authority, task force, or board employing a group of workers who
47 are petitioning for certification; or

48 (d) a group of firms within a close geographic proximity, as deter-
49 mined by the authority, task force, or board, for which a group of
50 certified adversely affected workers work.

51 5. "Authority" means the climate and community investment authority
52 created by title thirty-six of this article.

53 6. "Board" means the worker and community assurance board established
54 under this section nineteen hundred thirty-four of this subtitle.

55 7. "Energy industry" means a commercial sector, as determined by the
56 authority, that:

1 (a) extracts, transports, or uses as a direct input energy resources
2 or electricity; or

3 (b) is otherwise dependent on the generation or consumption of energy
4 resources or electricity.

5 8. "Commissioner" means the commissioner of the department of labor.

6 9. "Constituency-based organization" shall have the same meaning as in
7 subdivision three of section eighteen hundred ninety-one of this arti-
8 cle.

9 10. "Department" means the department of labor.

10 11. "Director" means the director of an office appointed under para-
11 graph (b) of subdivision seven of section twenty-seven hundred ninety-
12 nine-uuuu of this article.

13 12. "Disadvantaged communities" shall have the same meaning as in
14 section 75-0111 of the environmental conservation law.

15 13. "Displaced worker" means an individual who is a resident of New
16 York state and who has either:

17 (a) been terminated or has received notice of termination as a result
18 of a permanent facility closure; or

19 (b) experienced partial separation and is in the energy industry.

20 14. "Disadvantaged worker" is a resident of New York state who is:

21 (a) a woman, when considering construction and building contracts;

22 (b) has a household income of less than fifty percent of the area
23 median income (AMI);

24 (c) an individual residing in an area of concentrated poverty;

25 (d) disabled;

26 (e) a veteran;

27 (f) a person previously incarcerated or convicted of a criminal
28 offense; or

29 (g) long-term unemployed.

30 15. "Downstate region" means the counties of Richmond, Kings, Queens,
31 New York, Bronx, Westchester, Nassau and Suffolk.

32 16. "Eligible lead applicant" means a constituency-based organization,
33 labor organization, a tribal nation, local school district, or a munici-
34 pal or county government located in or serving the impacted community or
35 communities which makes an application for funding under this subtitle
36 on behalf of itself alone or along with eligible sub-applicants.

37 17. "Eligible sub-applicants" means private sector entities, academic
38 institutions, non-profit organizations, other stakeholders, with a
39 relationship to the impacted community. Eligible sub-applicants, may
40 apply with a lead applicant pursuant to standards prescribed by the
41 authority. Applying with support from an eligible lead applicant.

42 18. "Fund" means the worker and community assurance special purpose
43 fund created under article forty-two of the tax law.

44 19. "Greenhouse gas" shall have the same meaning as in subdivision
45 eight of section 19-1301 of the environmental conservation law.

46 20. "Labor organization" means any organization which exists and is
47 constituted for the purpose, in whole or in part, of collective bargain-
48 ing, or of dealing with employers concerning grievances, terms or condi-
49 tions of employment, or of other mutual aid or protection and which is
50 not a company union. This includes but is not limited to bona fide labor
51 organizations that are certified or recognized as the organization of
52 jurisdiction representing the workers involved and/or bona fide building
53 and construction trades councils and/or district councils and state and
54 local labor federations comprised of local unions certified or recog-
55 nized as the representative of the workers.

21. "Partial separation" means, with respect to an individual who has not been totally separated, that such individual has experienced:

- (a) a reduction in hours of work to eighty percent or less of the individual's average weekly hours in adversely affected employment; and
- (b) a reduction in wages to eighty percent or less of the individual's average weekly wage in such adversely affected employment.

22. "Permanent facility closure" means the permanent shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment, if the shutdown results in an employment loss at the single site of employment during any thirty-day period.

23. "President" means the president of the climate and community investment authority.

24. "Program" means the worker assurance program and community assurance program established under this subtitle.

25. "Regional working group" means a regional body subordinate to the worker and community assurance task force established under this subtitle, these must be created by the task force and not incorporated into existing bodies such as the regional economic development councils.

26. "Significantly impacted community" is a community, municipality, or other area designated as such by worker and community assurance board established under this subtitle.

27. "Social dialogue" means an open dialogue with resources available to the public and all stakeholders to encourage participation intended to develop a consensus among the parties consisting of discussions where participants can discuss, be provided with resources and make decisions about how to respond to the challenges of the transition.

28. "Total separation" means the layoff or severance of an individual from employment with an applicable firm.

29. "Totally separated" means, with respect to an individual, that such individual is experiencing total separation.

30. "Upstate region" means all New York counties other than Nassau, Suffolk, Richmond, Kings, Queens, New York, Bronx and Westchester.

31. "Working group" means the climate justice working group created pursuant to section 75-0111 of the environmental conservation law.

§ 1934. Worker and community assurance board. There is hereby created no later than six months after the effective date of this subtitle, a "worker and community assurance board".

1. The board will be comprised of:

- (a) the president;
- (b) the commissioner of labor;
- (c) the commissioner of environmental conservation;
- (d) the state comptroller or their representative;
- (e) four members appointed by the state senate, including:
 - (i) one representative of a constituency-based organization;
 - (ii) one representative of a labor organization;
 - (iii) one expert in economic development; and
 - (iv) one representative of an environmental justice community;
- (f) four members appointed by the state assembly, including:
 - (i) one representative of a constituency-based organization;
 - (ii) one representative of a labor organization;
 - (iii) one expert in economic development; and
 - (iv) one representative of an environmental justice community.

2. The board shall be co-chaired by the president and the commissioner of labor, or their designees.

1 3. The board shall meet no less than quarterly. Meetings shall be open
2 to the public, and full agendas and minutes shall be shared publicly not
3 less than one week prior to meeting.

4 § 1935. Worker assurance program. There is hereby established within
5 the authority, a worker assurance program, to be implemented by the
6 chair.

7 1. The purpose of the program is to create programs or disburse funds
8 from the fund to benefit the following persons, regardless of immi-
9 gration status or term of residency:

10 (a) adversely affected workers;

11 (b) displaced workers; and

12 (c) disadvantaged workers in significantly impacted communities.

13 2. Benefits, services, or financial support may be delivered directly
14 by the authority or through eligible lead applicants and eligible sub-
15 applicants.

16 3. Applications under this section can be made on behalf of a group of
17 workers by an eligible lead applicant, however individuals may apply for
18 support directly from the agency even if there is a local program admin-
19 istered by or application made by an eligible lead applicant.

20 4. All individual applicants will be approved to receive benefits,
21 services, or financial support regardless of immigration status or term
22 of residency. To receive benefits applicants must demonstrate they are:

23 (a) adversely affected workers;

24 (b) displaced workers; or

25 (c) disadvantaged workers in significantly impacted communities.

26 5. The board, in collaboration with the agency, will promulgate such
27 regulations or guidelines for the creation of programs by the authority
28 or eligible lead applicants as may be needed.

29 6. Benefits, services, or financial support upon an application being
30 accepted, benefits, services, or financial support shall be made avail-
31 able for qualifying workers for at least three years and up to ten
32 years.

33 7. These benefits shall include income support equal to their prior
34 salary either until new employment is found at a comparable wage or as a
35 supplement to the new wage to meet the prior level for three years; and
36 additional appropriate supports including:

37 (a) employment by the authority or a lead applicant (for example doing
38 remediation at their current site of employment) on a project to reuti-
39 lize facilities to replace losses in the tax base, or pursuant to anothe-
40 er program created under this subtitle;

41 (b) retraining and placement in public or private sector positions;

42 (c) payment towards pension support;

43 (d) on the job training funds or wage subsidies to match their prior
44 salary or hourly wage;

45 (e) payment towards early retirement;

46 (f) transitional support including but not limited to skills training,
47 job counseling, tuition support and on-the-job training; and

48 (g) support for impacted workers to start employee-owned business,
49 early retirement or income support.

50 8. The agency will report regularly to the public, board, and task
51 force on the status of these programs as well as what benefits are being
52 provided and where programs have been created by eligible lead appli-
53 cants.

54 9. When approved applicants are employed or have been immediately
55 prior to displacement under an existing collective bargaining agreement,

1 the authority shall notify the labor organization party to the that
2 agreement of the application.

3 § 1936. Community assurance program. There is hereby established with-
4 in the authority, a community assurance program, to be implemented by
5 the chair. The purpose of the program is to:

6 1. disburse funds from the fund, pursuant to this section;

7 2. to provide support for disadvantaged communities and significantly
8 impacted communities directly from the authority, through local govern-
9 ment entities, eligible lead applicants, or eligible sub-applicants to:

10 (a) replace lost school aid, lost property tax payments to schools, or
11 other lost school funding;

12 (b) job creation programs;

13 (c) replace lost payment in-lieu-of taxes (PILOT) and local tax reven-
14 ue, replace revenue raised by or paid by the state or an employer to
15 municipalities or school districts (including, but not limited to,
16 central school districts and city school districts), and other public
17 funding that is being lost; and

18 (d) facilitate the expansion of existing economic development programs
19 to enable communities to respond to permanent facility closure and/or
20 major reductions in property taxes or pilot payments; and

21 3. proposals for program funding may include, but are not limited to:

22 (a) support to start cooperative employee-owned businesses, including
23 by displaced workers or labor organizations;

24 (b) infrastructure projects in communities where energy-intensive
25 facilities are closing;

26 (c) efforts at reclamation project creating a renewable project
27 located at:

28 (i) a brownfield site as defined in subdivision two of section 27-1405
29 of the environmental conservation law, not excluding a site subject to
30 an enforcement order as provided for in paragraph (c) of subdivision two
31 of section 27-1405 of the environmental conservation law;

32 (ii) a dormant electric generating site as determined by the commis-
33 sion; or

34 (iii) real property owned by a private developer or real property
35 owned by an applicable firm.

36 (d) projects proposed through negotiated project labor agreements or
37 neutrality agreements with labor organizations representing impacted
38 workers or adversely affected workers.

39 (e) small business retraining and transition programs. Including
40 programs to identify and support small businesses, to avoid job losses
41 due to energy transition, make technological changes or training
42 improvements, on the job training programs, equipment grants, and tech-
43 nical support for existing businesses to transition to practices focused
44 on sustainability, decarbonization, or non-emitting operations.

45 (f) support for local manufacturing coordinated with decarbonization
46 programs to provide grants and no-interest loans to develop and acceler-
47 ate manufacturing of:

48 (i) electric buses (including school buses), electric pickup trucks,
49 electric cars, and other electric vehicles; and

50 (ii) energy-efficient electric appliances in significantly impacted
51 communities and adversely affected communities.

52 § 1937. Administration. 1. Within six months of the effective date of
53 this subtitle, the authority is hereby authorized and directed to estab-
54 lish the programs authorized by this subtitle. The authority shall
55 implement the programs in consultation with the board and shall:

1 (a) use monies made available for the programs for the establishment
2 of worker and community assurance board pursuant to section nineteen
3 hundred thirty-four, the establishment of the worker assurance program
4 pursuant to section nineteen hundred thirty-five, and the community
5 assurance program pursuant to section nineteen hundred thirty-six of
6 this subtitle to achieve the purposes of each program;

7 (b) enter into contracts with eligible lead applicants, eligible sub-
8 applicants, and other entities through the competitive selection process
9 authorized by this subtitle;

10 (c) enter into contracts with one or more program implementers to
11 perform such functions as the authority deems appropriate;

12 (d) evaluate disadvantaged communities and other communities to iden-
13 tify those where permanent facility closure is likely, and engage in
14 outreach to ensure that constituency-based organizations, labor organ-
15 izations, and eligible applicants are aware that the program is under
16 development and invite them to be involved in the development of the
17 program; and

18 (e) exercise such other powers as are necessary for the proper admin-
19 istration of the program.

20 2. The authority shall notify labor organizations party to collective
21 bargaining agreements covering workers in significantly impacted commu-
22 nities of proposed programs or funding opportunities under this section.

23 § 1938. Allocation of funds. 1. Funds from the fund shall be disbursed
24 under the programs and be used to ensure a stable transition for workers
25 and communities impacted by the transition to a carbon free economy.
26 Funds may be used for activities pursuant to sections nineteen hundred
27 thirty-four, nineteen hundred thirty-five and nineteen hundred thirty-
28 six of this subtitle.

29 2. The authority shall:

30 (a) develop clear guidelines and engage in public comment before allo-
31 cating funds;

32 (b) determine a transparent and consistent level of funding, program
33 portfolio, and process for accessing that support in both the upstate
34 region and the downstate region; and

35 (c) coordinate with the New York state department of labor regarding
36 the program administered by the authority that directs funds to individ-
37 ual New York residents pursuant to section nineteen hundred thirty-five
38 of this subtitle;

39 3. (a) All projects funded pursuant to this section must be operated
40 as zero-emission projects. No funds from this program may be awarded to
41 any project that uses carbon-based-fuels in its operations.

42 (b) No funds under this subtitle shall fund police, prisons or related
43 infrastructure.

44 (c) Funds administered under section nineteen hundred thirty-six of
45 this subtitle should be coordinated whenever possible with existing
46 programs, and with funding opportunities under other subtitles of this
47 title.

48 § 1939. Selection process. The director is authorized, within amounts
49 appropriated, to disburse funds from the fund on a competitive basis for
50 approved projects to eligible applicants and partners.

51 1. The director, in partnership with the task force and board, shall
52 develop criteria and a process for selecting project proposals submitted
53 by eligible applicants under this subtitle.

54 2. The board will select projects based on proposals from eligible
55 lead applicants and labor organizations, based on task force's recommen-

1 ation, or based on a request from an individual impacted workers and
2 adversely affected workers.

3 3. Proposals should clearly articulate: the programs to be supported;
4 the number of workers impacted; overall expected funding level; a plan
5 to engage the people most affected by the transition, including workers
6 and community members; a plan for any necessary site remediation and
7 economic development; and a plan to ensure that funding is time limited
8 to no more than ten years of direct support from the fund.

9 4. The authority shall give priority to proposals from or related to:
10 (a) disadvantaged workers or disadvantaged communities;
11 (b) adversely affected workers;
12 (c) eligible applicants that relate to adversely affected employment;
13 (d) projects that have significant employment and tax base impacts
14 when experiencing a permanent closure.

15 5. Where a proposal is received and one or more labor organization
16 represent impacted workers, they shall be notified, and given a reason-
17 able opportunity to submit a proposal either on their own or in partner-
18 ship with other eligible applicants.

19 6. In developing the criteria, the authority and the board shall
20 attempt to maximize: the number of people from affected communities that
21 will benefit from any implemented project and from the suite of projects
22 across the program; the degree of direct benefits delivered to affected
23 communities; greenhouse gas and emissions reductions for regulated air
24 contaminants; and, to the extent possible, the leveraging of private
25 capital. The criteria and program shall be reevaluated and amended based
26 on the social dialogue convened by the task force and regional working
27 groups.

28 7. The authority shall encourage lead eligible applicants to propose
29 projects in partnership with other eligible lead applicants, and in
30 partnership with eligible sub-applicants, and will notify all those
31 parties involved if multiple proposals are received regarding the same
32 site, workers, or community.

33 8. Where possible, the authority shall aim to distribute funds in an
34 equitable manner by region of the state.

35 9. If adequate funding is available, the authority may consider
36 proposals related to other impacts associated with climate change that
37 have the effect of causing job losses, including climate-related natural
38 disasters.

39 10. The authority shall allocate funding annually, or as determined
40 appropriate by the authority for ensuring continuous funding for the
41 needs of the chosen programs and projects.

42 § 1939-a. Designation of significant impact. 1. The authority, in
43 cooperation with the board and working group, shall establish criteria
44 to determine when an industry has become significantly impacted as a
45 direct result of policies to reduce greenhouse gas emissions in New York
46 state. The authority shall identify an initial set of industries that
47 are significantly impacted as a direct result of emissions reduction
48 policies for the purposes of implementing this section. After those
49 initial set of industries, further industries can be added by the task
50 force.

51 2. In designing the criteria and listing the industries described in
52 subdivision one of this section, the authority shall consider factors
53 such as:

54 (a) permanent facility closures or the closure of businesses as a
55 result of regulatory changes related to the climate and community
56 investment act;

1 (b) significant job losses across an industry as a result of techno-
2 logical change in order to achieve greenhouse gas emission reductions;
3 or

4 (c) loss of property tax or school tax revenue that would lead to
5 local layoffs or service reductions as a result of regulatory changes
6 related to such act.

7 3. Before finalizing the criteria for identifying industries that are
8 significantly impacted as a direct result of climate change policy and
9 identifying a list of significantly impacted industries pursuant to
10 subdivision one of this section, the authority shall ensure that there
11 are meaningful opportunities for public comment, including by persons
12 working in potentially significantly impacted industries and persons
13 that may be identified as part of affected communities pursuant to this
14 title, including by:

15 (a) publishing draft criteria and a draft list of significantly
16 impacted industries and making such information available on the inter-
17 net.

18 (b) holding at least six regional public hearings on the draft crite-
19 ria and the draft list of significantly impacted industries, including
20 at least three meetings in the upstate region and three meetings in the
21 downstate region; and

22 (c) allowing at least one hundred twenty days for the submission of
23 public comment, following the date of the publication of draft criteria
24 described in paragraph (a) of this subdivision.

25 4. The authority, in cooperation with the board and the working group
26 shall meet no less than four times annually to review the criteria and
27 methods used to identify significantly impacted industries, and may
28 modify such methods to incorporate new data and scientific findings,
29 subject to the same process requirements listed under subdivision three
30 of this section.

31 5. An industry that has been significantly impacted as a direct result
32 of climate change policy, or workers in an industry that has been
33 significantly impacted as a direct result of climate change policy, may
34 also be identified based on a petition from a municipality, labor organ-
35 ization, or constituency-based organization located in or adjacent to an
36 impacted community.

37 6. The comptroller of the state of New York shall, both as a member of
38 the board and independent of the board, shall oversee the distribution
39 of funds in collaboration with the authority.

40 § 1939-b. Public engagement and social dialogue. 1. The board shall
41 regularly seek input and feedback from the community, both in every
42 region and directly from impacted communities and impacted workers.

43 2. All meetings of the board must be open public meetings, and shall
44 include opportunities for meaningful public input and allow all those
45 affected the opportunity to be a part of the dialogue; additionally, the
46 board shall hold regional meetings in each region each year, in addition
47 to their regular meetings in order to get public input.

48 3. In collaboration with the just transition working group, the direc-
49 tor will release a preliminary report within one year of their first
50 meeting, but after completing public engagement meetings in each region
51 this report will include:

52 (a) initial recommendations for a process for a comprehensive long
53 term just transition planning for New York state, including, but not
54 limited to identifying impacted communities, identifying applicable
55 firms, making recommendations for ongoing workforce strategy, and any
56 additional programs or supports required for a just transition.

1 (b) identifying every community across New York that is already a
2 significantly impacted community, already has significant adversely
3 affected employment (including significant employment in the energy
4 industry is likely to be a significantly impacted community), or already
5 has impacted workers or permanently closed facilities. The basis for
6 communities to be included, and to schedule a start date for social
7 dialogue and the creation of regional working groups shall begin by
8 convening the workers and members of the impacted communities to begin a
9 discussion about climate change's impacts on the workforce and host
10 communities.

11 4. The director will create working groups in each region to commence
12 a social dialogue consisting of discussions where participants can
13 discuss, be provided with resources, and develop a consensus about how
14 to respond to the challenges of the transition. The social dialogue must
15 be directed by the people most affected. Goals of the social dialogue
16 include: ensuring economic decisions are made with real input from those
17 most affected they must include engagement with the broader community
18 and across sectors including input from the community, workers, busi-
19 nesses and others who are impacted by climate policies, uncovering the
20 best local economic development and workforce plans and set the stage
21 for diverse investments into community rebirth provide resources to
22 communities to develop solutions, including access to technical exper-
23 tise, information about climate change, its impacts and causes; the
24 impact climate change has on the communities and the workforce, and
25 regional economy; and information about emerging jobs and sectors.

26 5. Within two years of the effective date of this subtitle, the direc-
27 tor and board will release a draft plan that must include, at a minimum:

28 (a) specifics of how to transition a workforce into emerging jobs;

29 (b) estimates of sufficient resources for that transition;

30 (c) what expertise and supports must be allocated for the development
31 and implementation of an effective workforce plan;

32 (d) a skills map for each impacted position, current and emerging new
33 energy jobs and regional employment opportunities with similar require-
34 ments; and

35 (e) education and training options for workers that allows them to
36 rapidly re-skill for jobs in demand that recognizes their current and
37 transferable skills, provides competency-based training, learn and earn,
38 and credit for prior learning opportunities upskilling through joint
39 labor management journey person extension programs sponsored by joint
40 apprenticeship training programs.

41 6. The director will also seek public input on:

42 (a) a policy for workforce impact statements; and

43 (b) additional potential funding and possible partnerships for oppor-
44 tunity and workforce and economic revitalization.

45 7. For the purposes of subdivisions two, three and four of this
46 section, "region" shall have the same meaning as in subdivision nine of
47 section two thousand four hundred twenty-six of this article.

48 § 1939-c. Reporting. 1. No later than two years following the effec-
49 tive date of this subtitle, and every two years thereafter, the authori-
50 ty, in partnership with the working group, shall produce a report on the
51 implementation of the program established under this subtitle and the
52 extent to which program implementation is meeting stated program goals
53 and priorities. Such report shall include but not be limited to:

54 (a) reporting on the effectiveness of the policies established under
55 this subtitle to the legislature and public on the job creation and
56 retention impacts;

(b) an overview of social benefits pursuant to the implementation of this section, including benefits to the economy, environment, and public health, including women's health;

(c) an overview of administrative costs for the authority, the department and other state agencies;

(d) recommendations for future policy pertaining to transition assistance; and

(e) data identifying both who submitted petitions and who received support from the program and why.

2. (a) Prior to finalizing the report described in subdivision one of this section, the authority shall ensure that there are meaningful opportunities for public participation, including by:

(i) allowing at least one hundred twenty days for the submission of public comment, following the date of the publication of a draft report; and

(ii) holding at least four regional public hearings, including: two meetings in the upstate region and two meetings in the downstate region, with emphasis on maximizing participation and accessibility for members of disadvantaged communities.

(b) The following entities shall be invited to attend and given notice of the public hearings described in paragraph (a) of this subdivision:

(i) environmental justice representatives;

(ii) organizations representing disadvantaged community members;

(iii) labor organizations in the area;

(iv) local businesses;

(v) local governments and school authorities; and

(vi) climate change experts.

3. The final report described in subdivision one of this section shall be submitted to the governor, the president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly and shall be posted on the website of the authority. Additionally, all reports shall be shared publicly through the department of information technology and telecommunications of the city of New York.

§ 8. Article 8 of the public authorities law is amended by adding a new title 36 to read as follows:

TITLE 36

CLIMATE AND COMMUNITY INVESTMENT AUTHORITY

Section 2799-tttt. Definitions.

2799-uuuu. The climate and community investment authority of the state of New York; creation.

2799-www. Board of trustees.

2799-xxxx. Officers and employees; expenses.

2799-yyyy. Powers and duties of the authority.

2799-zzzz. Contracts negotiated by the authority.

2799-aaaaa. Subsidiaries.

2799-bbbbbb. Notes of the authority.

2799-ccccc. Bonds of the authority.

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16 § 2799-tttt. Definitions. For the purposes of this title, the follow-
17 ing terms shall have the following meanings:

18 1. "Acquire" means, with respect to any right, title or interest in or
19 to any property, either the act of taking by the exercise of the power
20 of eminent domain, or the acquisition by purchase or otherwise.

21 2. "Authority" or "the climate and community investment authority"
22 means the climate and community investment authority of the state of New
23 York established by section twenty-seven hundred ninety-nine-uuuu of
24 this title.

25 3. "Board" means the board of trustees of the authority.

26 4. "Bonds" or "notes" mean the bonds, notes or other obligations
27 issued by the authority pursuant to this title.

28 5. "Director" means the director of an office appointed under para-
29 graph (b) of subdivision seven of section twenty-seven hundred ninety-
30 nine-uuuu of this title.

31 6. "Municipality" means any county, city, town, village, municipal
32 corporation, school district or other political subdivision of the
33 state, including any agency, authority or public corporation of the
34 state or any of the foregoing or any combination thereof, other than the
35 authority.

36 7. "President" means the president of the climate and community
37 investment authority.

38 8. "Project" means an action undertaken by the authority that: causes
39 the authority to issue bonds, notes or other obligations, or shares in
40 any subsidiary corporation, or significantly modifies the use of an
41 asset valued at more than one million dollars owned by the authority or
42 involves the sale, lease or other disposition of such an asset, or
43 commits the authority to a contract for a public works project in
44 receipt of more than one hundred thousand dollars in total financial
45 assistance; projects with a total value of more than ten million
46 dollars; and privately-financed projects on public property.

47 9. "Revenue" means all rates, rents, fees, charges, payments and other
48 income and receipts derived by the authority from the operation of the
49 authority other than the proceeds of the sales of its securities,
50 including, but not limited to, investment proceeds and proceeds of
51 insurance, condemnation, and sales or other disposition of assets,
52 together with all federal, state or municipal aid.

53 10. "Comptroller" means the New York state comptroller.

54 § 2799-uuuu. The climate and community investment authority of the
55 state of New York; creation. 1. There is hereby created a corporate
56 instrumentality of the state to be known as the "climate and community

1 investment authority of the state of New York" which shall be a body
2 corporate and political and a political subdivision of the state, exer-
3 cising essential government and public powers.

4 2. The area of operations of the authority shall be the state of New
5 York.

6 3. The authority shall not be created or organized, and its operations
7 shall not be conducted, for the purpose of making a profit. No part of
8 the revenues or assets of the authority shall inure to the benefit of or
9 be distributable to its trustees or officers or any other private
10 persons, except as provided for actual services rendered.

11 4. The power of the authority shall be vested in and exercised by a
12 majority of the members of the board then in office. Such board may
13 delegate to one or more of its members or its officers, agents and
14 employees such powers and duties as it may deem proper.

15 5. The board shall elect and appoint a president of the authority.

16 6. The board shall create within the authority:

17 (a) an office of environmental justice;

18 (b) an office of household and small business energy rebates;

19 (c) an office of climate jobs and infrastructure;

20 (d) an office of community just transition;

21 (e) an office of worker and community assurance;

22 (f) an office of value of pollution and mitigation program;

23 (g) an office of procurement;

24 (h) an office of public engagement and independent ombudsperson; and

25 (i) any other offices as necessary.

26 7. Each office created by the authority shall:

27 (a) Abide by the principles of environmental justice, including the
28 federal executive order 12898 of 1994, relating to environmental
29 justice, and the Jemez principles of democratic organizing. Such princi-
30 ples shall include: being inclusive; placing an emphasis on bottom-up
31 organizing; letting people speak for themselves; working together in
32 solidarity and mutuality; building just relationships among ourselves;
33 and making a commitment to self-transformation.

34 (b) Be led by a director. Not later than six months after the forma-
35 tion of the authority, the climate justice working group shall nominate
36 not less than three candidates for the position of director for each
37 office of the authority. Not later than three months after the climate
38 justice working group has nominated candidates, the president shall
39 select the director for each office from this group of candidates.

40 8. The board and its corporate existence shall continue so long as it
41 shall have notes, bonds or other obligations outstanding (including
42 notes, bonds or obligations hereafter issued or incurred) and until its
43 existence shall be terminated by law. Upon the termination of the exist-
44 ence of the authority, all its rights and properties shall pass to and
45 be vested in the state.

46 § 2799-www. Board of trustees. 1. Beginning no later than six months
47 following the effective date of this title, the board of the authority
48 shall be created and shall consist of thirteen trustees including:

49 (a) Five trustees serving ex officio, which shall consist of the
50 commissioner of the department of transportation, the commissioner of
51 the department of environmental conservation, the president and chief
52 executive officer of the New York state energy research and development
53 authority, the chair of the public service commission, and the commis-
54 sioner of the department of labor;

55 (b) Two trustees to be appointed by the governor with consent from
56 both houses of the legislature,

1 (c) Three trustees to be appointed by the temporary president of the
2 senate, and

3 (d) Three trustees to be appointed by the speaker of the assembly.

4 2. The board shall be chaired by a board member elected by the full
5 board, who shall not be an ex officio member.

6 3. At the time of appointment and for the duration of service:

7 (a) At least one board appointee shall live in each of the following
8 regions: western New York, the finger lakes region, central New York,
9 the southern tier, mohawk valley, the north country, mid-hudson, and
10 long island;

11 (b) At minimum three board appointees shall be representative of envi-
12 ronmental justice communities;

13 (c) One shall be a representative of a youth organization who is under
14 the age of twenty-six years old; and

15 (d) All trustees appointed under this section shall have relevant
16 experience in any or all of the following areas: utility, environmental
17 justice, energy markets, energy systems, organized labor, workforce
18 development, sustainable land use, transportation, and clean energy.

19 4. Of the appointed board trustees, four shall serve initial terms of
20 three years, while the remaining four shall serve initial terms of four
21 years. Thereafter, all terms shall be for a period of four years. In the
22 event of a vacancy occurring in the office of a board trustee by death,
23 resignation or otherwise, the respective appointing officer shall
24 appoint a successor who shall hold office for the unexpired portion of
25 such term.

26 5. A quorum for the purposes of organizing the authority and conduct-
27 ing business thereof shall mean fifty percent plus one.

28 6. No board trustee shall receive a salary, but each shall be entitled
29 to reimbursement for reasonable expenses in the performance of duties
30 assigned under this title.

31 7. Notwithstanding the provisions of any other law, any trustee, offi-
32 cer or employee of the state, a state agency, or a municipality shall be
33 deemed to have forfeited or shall forfeit their office or employment by
34 reason of their acceptance of a board trustee position on the authority.

35 § 2799-xxxx. Officers and employees; expenses. 1. Pursuant to authori-
36 ty duly delegated to him or her, a director from time to time shall
37 hire, without regard to any personnel or civil service law, rule, or
38 regulation of the state and in accordance with guidelines adopted by the
39 board, such officers, employees and consultants, as they may require for
40 the performance of their duties and shall prescribe the duties and
41 compensation of each such officer, employee or consultant. Notwith-
42 standing the provisions of any general, special or local law, the board
43 may determine that, if any pension or retirement plan becomes inapplica-
44 ble or is terminated, all or such class or classes of employees of the
45 authority as the board may determine may elect to become members of the
46 New York state employees' retirement system on the basis of compensation
47 payable to them by the authority.

48 2. Officers and employees of any state agency, department or division
49 may be transferred to the authority, and officers, and employees of the
50 authority may be transferred to any state agency, department, or divi-
51 sion without examination and without loss of any civil service status or
52 rights. No such transfer from the authority to any state agency, depart-
53 ment, or division shall be made without the approval of the head of such
54 state agency, department, or division and the director of the budget,
55 and such transfer shall be in compliance with the rules and regulations
56 of the state civil service commission.

1 § 2799-yyyy. Powers and duties of the authority. 1. Except as other-
2 wise limited by this title, the authority shall have all of the powers
3 necessary or convenient to carry out the purposes and provisions of this
4 title, including but not limited to, the power to:

5 (a) Sue and be sued in all courts and to participate in actions and
6 proceedings, whether judicial, administrative, arbitratative or otherwise;

7 (b) Have a corporate seal, to alter such seal at pleasure, and to use
8 such seal by causing such seal or be affixed, impressed or reproduced in
9 any manner deemed appropriate;

10 (c) Appoint officers, agents and employees, without regard to any
11 personnel or civil service law, rule or regulation of the state and in
12 accordance with guidelines adopted by the authority, to prescribe their
13 duties and qualifications and to fix and pay their compensation;

14 (d) Purchase, receive, take by grant, gift, devise, bequest or other-
15 wise, lease, or otherwise acquire, own, hold, improve, employ, use or
16 otherwise deal in or with, real or personal property whether tangible or
17 intangible, or any interest therein, within the state;

18 (e) Acquire real or personal property, whether tangible or intangible,
19 including without limitation, property rights, interests in property,
20 franchises, obligations, contracts, debt and equity securities, by the
21 exercise of the power of eminent domain;

22 (f) Sell, convey, lease, exchange, transfer, abandon or otherwise
23 dispose of, or mortgage, pledge or create a security interest in, all or
24 any of its assets, properties or any interest therein, wherever situ-
25 ated;

26 (g) Purchase, take, receive, subscribe for, or otherwise acquire,
27 hold, make a tender offer for, vote, employ, sell, lend, lease,
28 exchange, transfer, or otherwise dispose of, mortgage, pledge or grant a
29 security interest in, use or otherwise deal in and with, bonds and other
30 obligations, shares or other securities or interests therein, issued by
31 others, whether engaged in a similar or different business or activity;

32 (h) Make and execute agreements, contracts or other instruments neces-
33 sary or convenient in the exercise of the powers and functions of the
34 authority under this title, including contracts with any person, firm,
35 corporation, municipality, state agency or other entity in accordance
36 with the provisions of section one hundred three of the general municip-
37 al law, and all state agencies and all municipalities shall hereby be
38 authorized to enter into and do all things necessary to perform any such
39 agreement, contract or other such instrument with the authority;

40 (i) Borrow money at such rate or rates of interest as the authority
41 may determine, issue its notes, bonds or other obligations to evidence
42 such indebtedness, and secure any of its obligations by mortgage or
43 pledge of all or any of its property or any interest therein, wherever
44 situated;

45 (j) Arrange for guarantees of its bonds, notes or other obligations by
46 the federal government or by any private insurer or otherwise, and to
47 pay any premiums therefor;

48 (k) Issue such bonds or notes or other obligations regardless of
49 whether the income therefrom is exempt from federal income taxation;

50 (l) Purchase bonds, notes or other obligations of the authority at
51 such price or prices as the authority may determine;

52 (m) Lend money, invest and reinvest its funds, and take and hold real
53 and personal property as security for the payment of funds so loaned or
54 invested;

55 (n) Procure insurance against any loss in connection with its proper-
56 ties or operations in such amount or amounts and from such insurers,

1 including the federal government, as it may deem necessary or desirable,
2 and to pay any premiums therefor;

3 (o) Create or acquire one or more wholly owned subsidiaries in accord-
4 ance with section twenty-seven hundred ninety-nine-aaaaa of this title;

5 (p) Negotiate and enter into agreements with trustees or receivers
6 appointed by United States bankruptcy courts or federal district courts
7 or in other proceedings involving adjustment of debts, and to authorize
8 legal counsel for the authority to appear in any such proceedings;

9 (q) File a petition under chapter nine of title eleven of the United
10 States bankruptcy code, or to take other similar action for the adjust-
11 ment of its debts;

12 (r) Enter into management agreements for the operation of all or any
13 of the property or facilities owned by the authority;

14 (s) Maintain an office or offices at such place or places in the state
15 as it may determine;

16 (t) Make any inquiry, investigation, survey or study which the author-
17 ity may deem necessary to enable it to effectively to carry out the
18 provisions of this title, and to require the production of records,
19 books, papers, accounts and other documents, including public records,
20 and to make copies thereof or extracts therefrom;

21 (u) Adopt, revise, amend and repeal rules and regulations with respect
22 to its operations, properties and facilities, and projects as may be
23 necessary or convenient to carry out the purposes of this title, subject
24 to the provisions of the state administrative procedure act;

25 (v) From time to time enter into agreements with the New York state
26 energy research and development authority, the department of environ-
27 mental conservation, the New York power authority, the department of
28 labor, the department of state, the metropolitan transit authority, or
29 any other relevant entity, to finance the capital costs of projects
30 authorized pursuant to section eighty-eight-b of the state finance law,
31 and to issue bonds and notes for capital projects approved by the board,
32 provided that each provision of this title relating to bonds and notes
33 which are not inconsistent with the provisions of this section shall
34 apply to the bonds and notes authorized by this section;

35 (w) Fix and collect such fees, rentals and charges for use of the
36 authority or any part thereof necessary or convenient to produce suffi-
37 cient revenue to meet the obligations of the authority as described in
38 sections twenty-seven hundred ninety-nine-sssss and twenty-seven hundred
39 ninety-nine-uuuu of this title;

40 (x) Request support and services to the office from any other state
41 agency or authority;

42 (y) Transfer employees of any state agency pursuant to section twen-
43 ty-seven hundred ninety-nine-xxxx; and

44 (z) Levy fines and fees.

45 § 2799-zzzz. Contracts negotiated by the authority. Contracts negoti-
46 ated by the authority as authorized under section twenty-seven hundred
47 ninety-nine-yyyy of this title shall be entered into and executed as
48 follows:

49 1. (a) The authority shall develop a procurement policy to ensure the
50 wise and prudent use of public money in the best interest of New York
51 state residents; guard against favoritism, fraud, and corruption; and
52 ensure that contracts are awarded consistent with law and on the basis
53 of best value, including, but not limited to, the following criteria:
54 quality, cost, efficiency, and maximization of public benefits including
55 environmental justice and the creation of high-quality jobs.

1 (b) The authority shall establish guidelines governing the qualifica-
2 tions of bidders entering into contracts relating to electric school
3 buses and charging infrastructure, rolling stock and charging infras-
4 tructure for transit authorities, and large scale renewable projects. In
5 determining whether a prospective bidder qualifies for inclusion on a
6 list of qualified bidders for contracts related to electric school buses
7 and charging infrastructure, transit authority rolling stock and charg-
8 ing infrastructure, and large scale renewable projects the authority
9 shall consider prospective bidders' experience, financial capability and
10 responsibility, and past performance, including performance on meeting
11 U.S. employment plan and local employment plan, as such terms are
12 defined by article eight-B of the labor law, commitments under section
13 twenty-seven hundred ninety-nine-wwwww of this title.

14 (c) All purchase contracts for supplies, materials or equipment
15 involving an estimated expenditure in excess of one million dollars for
16 school buses and charging infrastructure, or five million dollars for
17 any other projects, shall be awarded by the authority to a bidder that
18 provides the best value to the authority after obtaining proposals in
19 the manner established by the U.S. employment plan and local employment
20 plan, as such terms are defined by article eight-B of the labor law,
21 under the climate manufacturing careers policy under twenty-seven
22 hundred ninety-nine-wwwww of this title. The authority shall also
23 utilize the climate manufacturing careers policy when evaluating
24 procurements made directly by the authority. All contracts for public
25 work involving an estimated expenditure in excess of five million
26 dollars shall comply with the labor, project performance, U.S. employ-
27 ment plan and local employment plan requirements of article eight-B of
28 the labor law.

29 2. After agreement upon the terms of any contract under this section
30 shall have been reached by the authority and a third party or third
31 parties, the authority shall promptly transmit a copy of such proposed
32 contract to the governor, the speaker of the assembly, the minority
33 leader of the assembly, the chairman of the assembly committee on ways
34 and means, the temporary president of the senate and the minority leader
35 of the senate and the chairman of the senate finance committee, and
36 shall hold a public hearing or hearings upon the terms thereof. No less
37 than thirty days' notice of such hearing shall be provided by the
38 authority by publication once per week during such period in six newspa-
39 pers within the state to be selected by the authority. Copies of such
40 proposed contract shall be available for public inspection during such
41 period of thirty days at the office or offices of the authority and at
42 such other places throughout the state as the authority may designate.

43 3. Following a public hearing under subdivision two of this section,
44 the authority shall reconsider the terms of the proposed contract or
45 contracts and shall negotiate such changes and modifications in such
46 contract or contracts as it then deems necessary or advisable.

47 4. When a contract or contracts are agreed upon in terms satisfactory
48 to the authority and all other parties to such contract, and which the
49 authority believes to be in the public interest, the authority shall
50 thereupon report such proposed contract or contracts, together with the
51 authorities recommendations and the record of the public hearings there-
52 on, to the speaker of the assembly, the chairman of the assembly commit-
53 tee on ways and means, the temporary president of the senate, the chair-
54 man of the senate finance committee, and the governor. The governor
55 shall, within sixty days thereafter, indicate his or her approval or

1 disapproval thereof and give his or her reasons for such approval or
2 disapproval.

3 5. If the governor shall approve a contract, then such contract shall
4 be executed by the president and the chair of the board of the authority
5 and such contract shall thereupon come into full force and effect and be
6 binding upon the authority and all other parties thereto in accordance
7 with such contract's terms.

8 § 2799-aaaaa. Subsidiaries. 1. The authority shall have the right to
9 exercise and perform all or part of its powers and functions through one
10 or more wholly owned subsidiaries by acquiring the voting shares there-
11 of, or by resolution of the board directing any of its trustees, offi-
12 cers or employees to organize a subsidiary corporation pursuant to the
13 business corporation law, the not-for-profit corporation law or the
14 transportation corporations law. Such resolution shall prescribe the
15 purpose for which such subsidiary corporation shall be formed.

16 2. The authority may transfer to any of its subsidiary corporations
17 any moneys, property (real, personal or mixed), or facilities in order
18 to carry out the purposes of this title. Each such subsidiary corpo-
19 ration shall have all the privileges, immunities, tax exemptions and
20 other exemptions of the authority to the extent such privileges, immuni-
21 ties, tax exemptions and other exemptions are not inconsistent with any
22 laws under which such subsidiary was incorporated.

23 § 2799-bbbbbb. Notes of the authority. 1. The authority shall have the
24 power and is hereby authorized from time to time to issue its negotiable
25 notes in conformity with applicable provisions of the uniform commercial
26 code for any corporate purpose and to refund from time to time any notes
27 by the issuance of new notes, whether the notes to be refunded have or
28 have not matured. The authority may issue notes partially to refund
29 notes or to discharge other obligations then outstanding, and partially
30 for any other corporate purpose of the authority. Such notes may be
31 authorized, sold, executed and delivered in the same manner as bonds.
32 Any resolution or resolutions authorizing notes of the authority or any
33 issue thereof may contain any provisions which the authority is author-
34 ized to include in any resolution or resolutions authorizing bonds of
35 the authority or any issue thereof, and the authority may include in any
36 notes any terms, covenants or conditions which it is authorized to
37 include in any bonds.

38 2. In the event the authority pledges its revenues under a resolution
39 authorized by this section, such resolution shall not prohibit the
40 authority from financing for additional corporate purposes, authorized
41 by law, secured by an additional pledge of such revenues. Such addi-
42 tional pledge of revenues may, in the discretion of the authority, be
43 subordinate to the pledge of such revenues securing other bonds, notes
44 or other evidence of indebtedness of the authority. Provided, however,
45 the authority shall not make any such additional pledge if the security
46 of the bonds, notes or other evidences of indebtedness previously issued
47 shall be impaired as a result thereof.

48 3. Neither the members of the board nor any person executing the notes
49 or bonds shall be liable personally on the notes or bonds, or shall be
50 subject to any personal liability or accountability by reason of the
51 issuance thereof.

52 § 2799-ccccc. Bonds of the authority. 1. The authority shall have
53 power and is hereby authorized from time to time to issue its negotiable
54 bonds in conformity with applicable provisions of the uniform commercial
55 code for any purpose authorized by this title, including without limita-
56 tion to:

1 (a) acquire any real or personal property or facilities deemed neces-
2 sary by the authority;

3 (b) pay interest on bonds or notes of the authority;

4 (c) establish reserves to secure such bonds and notes;

5 (d) establish or maintain such other funds or accounts for such
6 purpose or purposes as the authority may deem necessary or desirable;
7 and

8 (e) to pay all other expenses of the authority incident to the issu-
9 ance of such bonds or notes.

10 2. Except as may be otherwise expressly provided by the authority, the
11 bonds and notes of every issue shall be general obligations of the
12 authority payable out of any moneys or revenues of the authority,
13 subject only to any agreements with the holders of particular bonds or
14 notes, or any trustee therefor, pledging any particular moneys or reven-
15 ues.

16 3. The authority shall have power from time to time, whenever it deems
17 refunding expedient, to refund any bonds by the issuance of new bonds,
18 whether the bonds to be refunded have or have not matured, and may issue
19 bonds partly to refund bonds then outstanding and partly for any other
20 corporate purpose of the authority. Refunding bonds may be exchanged for
21 the bonds to be refunded, with such cash adjustments as may be agreed,
22 or may be sold with the proceeds applied to the purchase, payment or
23 provision for payment of the bonds to be refunded.

24 4. Bonds may be issued, payable in annual installments, as term bonds,
25 or both. Bonds shall be authorized by resolution of the board of the
26 authority and shall bear such date or dates, mature at such time or
27 times, not exceeding fifty years from their respective dates, bear
28 interest at such rate or rates, be in such denominations, be in such
29 form, either coupon or registered, carry such registration privileges,
30 be executed in such manner, be payable in lawful money of the United
31 States of America or by check at such place or places, and be subject to
32 such terms of redemption, as such resolution or resolutions may provide.
33 In the event that term bonds are issued, the resolution authorizing such
34 term bonds may make such provisions for the establishment and mainte-
35 nance of sinking funds for the payment thereof as the authority may deem
36 necessary or appropriate. Bonds or notes may be sold at public or
37 private sale at such price or prices as the authority shall determine
38 but shall not be sold by the authority at private sale unless such sale
39 and terms thereof have been approved in writing by the state comp-
40 troller. Pending preparation of definitive bonds or notes, the authority
41 may issue bonds or notes in temporary form which shall be exchanged for
42 bonds or notes in definitive form when available.

43 5. Any resolution or resolutions authorizing any bonds or any issue of
44 bonds may:

45 (a) delegate to an officer or officers of the authority the power to
46 approve the issuance of bonds from time to time and to fix the details
47 of any such bonds or issues of bonds by an appropriate certificate of
48 such authorized officer or officers; and

49 (b) contain provisions, which shall be a part of the contract with the
50 holders of the bonds to be authorized as to:

51 (i) Pledging or creating a lien on all or any part of the moneys,
52 revenues or properties of the authority to secure the payment of the
53 bonds or of any particular issue of bonds or any portion of any issue of
54 bonds, subject to such agreements with bondholders as may then exist;

1 (ii) The rates, fees and other charges to be charged, and the amounts
2 to be raised in each year thereby, and the use and disposition of the
3 revenues;

4 (iii) The setting aside of reserves or sinking funds, and the regu-
5 lation and disposition thereof;

6 (iv) Limitations on the right of the authority to restrict and regu-
7 late the use of any of its property;

8 (v) Limitations on the purpose to which the proceeds of sale of any
9 issue of bonds then or thereafter to be issued may be applied;

10 (vi) Limitations on the issuance of additional bonds, the terms upon
11 which additional bonds may be issued and secured, and the refunding of
12 outstanding bonds;

13 (vii) The procedure, if any, by which the terms of any contract with
14 bondholders may be amended, the amount or percentage of outstanding
15 bonds the holders of which must consent thereto, and the manner in which
16 such consent may be given;

17 (viii) Defining the acts or omissions to act which shall constitute a
18 default in the duties of the authority to holders of its obligations,
19 and providing the rights and remedies of such holders or of a trustee
20 acting on their behalf in the event of a default; and

21 (ix) Any other matters, which may affect the security and protection
22 of the bonds and the rights of the holders thereof.

23 6. It is the intention of the legislature that any pledge of moneys,
24 revenues or property or of a revenue producing contract or contracts
25 made by the authority shall be valid and binding from the time when the
26 pledge is made; that the moneys, revenues or proceeds so pledged and
27 thereafter received by the authority shall immediately be subject to the
28 lien of such pledge without any physical delivery thereof or further
29 act; and that the lien of any such pledge shall be valid and binding as
30 against all parties having claims of any kind in tort, contract or
31 otherwise against the authority irrespective of whether such parties
32 have notice thereof. Neither the resolution nor any other instrument by
33 which a pledge or lien is created pursuant to this subdivision shall
34 need to be recorded in order to perfect such pledge or lien.

35 7. Neither the trustees of the authority nor any person executing the
36 bonds or notes shall be liable personally on the bonds or notes or be
37 subject to any personal liability or accountability by reason of the
38 issuance thereof.

39 8. The authority shall have the power to, out of any funds available
40 therefor, purchase bonds or notes at such price or prices as it deems
41 advisable. The authority may hold, pledge, cancel or resell such bonds,
42 subject to agreements with bondholders.

43 9. All bonds, notes and other obligations issued by the authority
44 under the provisions of this title shall have all the qualities and
45 incidents of negotiable instruments under the applicable laws of the
46 state and all municipalities and municipal subdivisions. All insurance
47 companies and associations and other persons carrying on an insurance
48 business, all banks, bankers, trust companies, savings banks and savings
49 associations, including savings and loan associations, building and loan
50 associations, investment companies and other persons carrying on a bank-
51 ing business, and all other persons whatsoever, except as hereinafter
52 provided, who are now or may hereafter be authorized to invest in bonds
53 or other obligations of the state, may properly and legally invest funds
54 including capital in their control or belonging to them; provided that,
55 notwithstanding the provisions of any other general or special law to
56 the contrary, such bonds and notes shall not be eligible for the invest-

1 ment of funds, including capital, of trusts, estates or guardianships
2 under the control of individual administrators, guardians, executors,
3 trustees or other individual fiduciaries except when any such individual
4 fiduciary shall be acting in such capacity with one or more corporate
5 co-fiduciaries. The bonds and notes shall be securities which may be
6 deposited with and shall be received by all public officers and bodies
7 of this state and all municipalities and municipal subdivisions for any
8 purpose for which the deposit of bonds or other obligations of this
9 state is now or may hereafter be authorized.

10 § 2799-ddddd. Guaranty by the state. 1. To the extent authorized by
11 the state constitution at the time of the issuance of notes or bonds,
12 the punctual payment of the notes and bonds shall be, fully and uncondi-
13 tionally guaranteed by the state, both as to principal and interest,
14 according to their terms; and such guaranty shall be expressed upon the
15 face thereof by the signature or facsimile signature of the comptroller
16 or a deputy comptroller. In the event that the authority shall fail to
17 pay when due, the principal of, or interest on, the notes or bonds, the
18 comptroller shall pay the holder thereof, and thereupon the state shall
19 be subrogated to the rights of the noteholders or bondholders so paid.

20 2. The authority shall have power to issue notes and bonds without the
21 guaranty of the state and may issue such notes or bonds before and after
22 the issuance of notes or bonds guaranteed.

23 3. When guaranteed notes or guaranteed bonds are outstanding, notes or
24 bonds secured by a pledge of receipts or revenues having priority over
25 such outstanding guaranteed notes or guaranteed bonds shall not be
26 issued, except with the consent of the comptroller, and unless the
27 authority shall by resolution first find and determine that, notwith-
28 standing such pledge, the authority shall have adequate means to meet
29 its obligations to the holders of such outstanding guaranteed notes or
30 bonds.

31 4. When notes or bonds are outstanding secured by a pledge of receipts
32 or revenues, guaranteed notes or bonds either unsecured, or secured by a
33 pledge of receipts or revenues subordinate to the pledge securing such
34 outstanding notes or bonds, shall not be issued unless the authority
35 shall first find and determine by resolution that notwithstanding the
36 pledge securing such outstanding notes or bonds, the authority will have
37 adequate means to meet its obligations on the guaranteed notes or bonds
38 about to be issued.

39 § 2799-eeeeee. State and municipalities not liable on the bonds or
40 notes. Notes and other obligations of the authority shall not be a debt
41 of the state or of any municipality, and neither the state nor any muni-
42 cipality shall be liable thereon. The authority shall not have the power
43 to pledge the credit, the revenues or the taxing power of the state or
44 of any municipality, and neither the credit, the revenues nor the taxing
45 power of the state or of any municipality shall be, or shall be deemed
46 to be, pledged to the payment of any bonds, notes or other obligations
47 of the authority. Each evidence of indebtedness of the authority,
48 including the bonds and notes of the authority, shall contain a clear
49 and explicit statement of the provisions of this section.

50 § 2799-ffffff. Legal investments. Any bonds or notes issued by the
51 authority are hereby made securities in which all public officers and
52 bodies of this state and all municipalities, all insurance companies and
53 associations and other persons carrying on an insurance business, all
54 banks, bankers, trust companies, savings banks and savings associations,
55 including savings and loan associations, building and loan associations,
56 investment companies and other persons carrying on a banking business,

1 all trusts, estates and guardianships and all other persons whatsoever,
2 who are now or may hereafter be authorized to invest in bonds or other
3 obligations of the state, may properly and legally invest funds, includ-
4 ing capital in their control or belonging to them. The bonds and notes
5 shall also be securities which may be deposited with and shall be
6 received by all public officers and bodies of the state and all munici-
7 palities for any purpose for which the deposit of bonds or other obli-
8 gations of the state is now or may hereafter be authorized.

9 § 2799-ggggg. Deposit and investment of monies of the authority. 1.
10 All moneys of the authority from whatever source derived shall be paid
11 to the comptroller as agent of the authority, who shall not commingle
12 such moneys with any other moneys. Such moneys shall be deposited in a
13 separate bank account or accounts. The moneys in such accounts shall be
14 paid out on check of the comptroller on requisition of the chairperson
15 of the authority or of such other person as the authority may authorize
16 to make such requisition. All deposits of such moneys shall, if required
17 by the comptroller or the authority, be secured by obligations of the
18 United States or of the state of New York of a market value equal at all
19 times to the amount of the deposit and all banks and trust companies are
20 authorized to give such security for such deposits. The comptroller and
21 his or her legally authorized representatives shall be authorized and
22 empowered from time to time to examine the accounts and books of the
23 authority, including its receipts, disbursements, contracts, leases,
24 sinking funds, investments and any other matters relating to its finan-
25 cial standing.

26 2. Notwithstanding the provisions of this section, the authority shall
27 have power, subject to the approval of the comptroller, to contract with
28 the holders of any of its notes or bonds as to the custody, collection,
29 securing, investment and payment of any moneys of the authority, or any
30 moneys held in trust or otherwise for the payment of notes or bonds or
31 in any way to secure notes or bonds, and to carry out any such contract.
32 Moneys held in trust or otherwise for the payment of notes or bonds or
33 in any way to secure notes or bonds and deposits of such moneys may be
34 secured in the same manner as moneys of the authority, and all banks and
35 trust companies shall be authorized to give such security for such
36 deposits. Moneys of the authority not required for immediate use may, in
37 the discretion of the authority, be invested by the comptroller in obli-
38 gations in which the comptroller may invest pursuant to section ninety-
39 eight-a of the state finance law. Subject to agreements with noteholders
40 and bondholders and the approval of the comptroller, the authority shall
41 prescribe a system of accounts.

42 § 2799-hhhhh. Agreement of the state. 1. The state shall not limit or
43 alter the rights hereby vested in the authority to establish and collect
44 such fees, rentals and charges as may be convenient or necessary to
45 produce sufficient revenue to meet the expense of maintenance and opera-
46 tion and to fulfill the terms of any agreements made with the holders of
47 notes, bonds, or other obligations of the authority not guaranteed by
48 the state, or in any way impair the rights and remedies of such holders
49 until such notes, bonds, and other obligations, together with the inter-
50 est thereon, with interest on any unpaid installments of interest, and
51 all costs and expenses in connection with any action or proceedings by
52 or on behalf of such holders, are fully met and discharged.

53 2. The state shall pledge to and agree with the holders of any notes
54 or bonds of the authority, not guaranteed by the state, secured by a
55 pledge of the fees or other revenues or any part thereof so long as the

1 obligations of such bonds for principal and interest shall not have been
2 paid or otherwise discharged;

3 3. Nothing in this title shall be construed as diminishing or enlarg-
4 ing any valid existing rights under any license heretofore issued pursu-
5 ant to the provisions of the federal power act.

6 § 2799-iiiiii. Exemption from taxation. 1. The operation of the author-
7 ity shall be primarily for the benefit of the people of the state of New
8 York, for the improvement of their health, welfare and prosperity, and
9 is a public purpose, and the authority shall be regarded as performing
10 an essential governmental function in carrying out the provisions of
11 this title.

12 2. The property of the authority and its income and operations shall
13 be exempt from taxation.

14 § 2799-jjjjj. Tax covenant. The tax covenants with the purchasers and
15 with all subsequent holders and transferees of notes and bonds issued by
16 the authority, in consideration of the acceptance of and payment for the
17 notes and bonds, that the notes and bonds of the authority issued pursu-
18 ant to this title and the income therefrom and all its fees, charges,
19 rents, gifts, grants, revenues, receipts and other moneys received or to
20 be received, pledged to pay or secure the payment of such notes or bonds
21 shall at all times be free from taxation except for estate or gift taxes
22 and taxes on transfers.

23 § 2799-kkkkk. Repayment of state appropriations. All appropriations
24 made by the state to the authority shall be treated as advances by the
25 state to the authority, and shall be repaid to it without interest
26 either out of the proceeds of bonds issued by the authority pursuant to
27 the provisions of this title, or by the delivery of non-interest bearing
28 bonds of the authority to the state for all or any part of such
29 advances, or out of excess revenues of the authority, at such times and
30 on such conditions as the state and the authority may mutually agree
31 upon.

32 § 2799-lllll. Equal employment opportunity and minority and women-
33 owned business enterprise programs. 1. All contracts entered into by
34 the authority pursuant to this title of whatever nature and all docu-
35 ments soliciting bids or proposals therefor shall contain or make refer-
36 ence to the following provisions:

37 (a) The contractor shall not discriminate against employees or appli-
38 cants for employment because of race, creed, color, national origin,
39 sex, age, disability, marital status, sexual orientation, gender identi-
40 ty or expression, familial status, predisposing genetic characteristics,
41 military status, or status as a victim of domestic violence and shall
42 undertake or continue existing programs of affirmative action to ensure
43 that minority group persons and women are afforded equal opportunity
44 without discrimination. Such programs shall include, but not be limited
45 to, recruitment, employment, job assignment, promotion, upgrading,
46 demotion, transfer, layoff, termination, rates of pay or other forms of
47 compensation, and selection for training and retraining, including
48 apprenticeship and on-the-job training;

49 (b) At the request of the authority, the contractor shall request each
50 employment agency, labor union, or authorized representative of workers
51 with which it has a collective bargaining or other agreement or under-
52 standing and which is involved in the performance of the contract with
53 the authority to furnish a written statement that such employment agen-
54 cy, labor union or representative shall not discriminate because of
55 race, creed, color, national origin, sex, age, disability, marital
56 status, sexual orientation, gender identity or expression, familial

1 status, predisposing genetic characteristics, military status, or status
2 as a victim of domestic violence and that such union or representative
3 shall cooperate in the implementation of the contractor's obligations
4 under this paragraph;

5 (c) The contractor shall state, in all solicitations or advertisements
6 for employees placed by or on behalf of the contractor in the perform-
7 ance of the contract with the authority that all qualified applicants
8 shall be afforded equal employment opportunity without discrimination
9 because of race, creed, color, national origin, sex, age, disability or
10 marital status; and

11 (d) The contractor shall include the provisions of paragraphs (a)
12 through (c) of this subdivision in every subcontract or purchase order
13 in such a manner that such provisions shall be binding upon each such
14 subcontractor.

15 2. The authority shall establish measures, procedures and guidelines
16 to ensure that contractors and subcontractors undertake meaningful
17 programs to employ and promote qualified minority group members and
18 women. Such procedures may require after notice in a bid solicitation,
19 the submission of a minority and women workforce utilization program
20 prior to the award of any contract, or at any time thereafter, and may
21 require the submission of compliance reports relating to the operation
22 and implementation of any workforce utilization program adopted here-
23 under. The authority may take appropriate action, including the imposi-
24 tions of sanctions for non-compliance to effectuate the provisions of
25 this section and shall be responsible for monitoring compliance with
26 this title.

27 3. In the performance of projects pursuant to this title, minority and
28 women-owned business enterprises shall be given the opportunity for
29 meaningful participation. The authority shall establish quantifiable
30 standards and measures and procedures to secure meaningful participation
31 and identify those contracts and items of work for which minority and
32 women-owned business enterprises may best bid to actively and affirma-
33 tively promote and assist their participation in projects, so as to
34 facilitate the award of a fair share of contracts to such enterprises;
35 provided, however, that nothing in this title shall be construed to
36 limit the ability of the authority to assure that qualified minority and
37 women-owned business enterprises may participate in the program. For the
38 purposes of this section, "minority business enterprise" shall mean any
39 business enterprise which is at least fifty-one per centum owned by, or
40 in the case of a publicly owned business, at least fifty-one per centum
41 of the stock or other voting interest is owned by citizens or permanent
42 resident aliens who are black, hispanic, asian, american indian, pacific
43 islander, or alaskan native, and such ownership interest is real,
44 substantial and continuing and has the authority to independently
45 control the day to day business decisions of the entity for at least one
46 year; and "women-owned business enterprise" shall mean any business
47 enterprise which is at least fifty-one per centum owned by, or in the
48 case of a publicly owned business, at least fifty-one per centum of the
49 stock to other voting interests of which is owned by citizens or perma-
50 nent resident aliens who are women, and such ownership interest is real,
51 substantial and continuing and has the authority to independently
52 control the day to day business decisions of the entity for at least one
53 year. The provisions of this subdivision shall not be construed to
54 limit the ability of any minority business enterprise to bid on any
55 contract.

4. In order to implement the requirements and objectives of this section, the authority shall establish procedures to monitor contractors' compliance with provisions of this section, provide assistance in obtaining competing qualified minority and women-owned business enterprises to perform contracts proposed to be awarded, impose contractual sanctions for non-compliance, and take other appropriate measures to improve the access of contracts for minority and women-owned businesses.

§ 2799-~~mmmmmm~~. Prevailing wage. Whenever the authority enters into any contract, subcontract, lease, grant, bond, covenant or other agreement for or in connection with any construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alteration, or improvement project, such project shall be deemed to be a public works project for the purposes of article eight of the labor law, and all of the provisions of article eight of the labor law shall be applicable to all the work involved in the construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alteration or improvement of such project. Funds, financial assistance, or any other benefits provided pursuant to this article shall not be utilized for or in connection with the construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alteration, or improvement of any project to which the provisions of article eight of the labor law are not applicable.

§ 2799-~~nnnnn~~. Audits and annual reports. 1. The accounts of the authority shall be subject to the supervision of the state comptroller and an annual audit shall be performed by an independent certified accountant selected by the authority, upon recommendation of its finance committee, audit committee and the advisory board. The authority shall submit a report of such audit annually to the governor, the state comptroller, the temporary president of the senate, the speaker of the assembly. A detailed report pursuant to the provisions of section twenty-eight hundred of this chapter shall be verified by the chairman of the authority. The authority shall comply with the provisions of sections twenty-eight hundred one, twenty-eight hundred two, twenty-eight hundred three, and twenty-eight hundred four of this chapter.

2. The authority shall appoint an independent ombudsman, upon recommendation of its finance committee, audit committee and advisory board, to each office of the authority for the purposes of oversight.

§ 2799-~~ooooo~~. Transparency. 1. The authority and all subsidiaries of the authority shall be subject to the provisions of article seven of the public officers law.

2. The authority and all subsidiaries of the authority shall fully comply with all applicable open data requirements.

(a) For purposes of compliance and transparency, the authority shall appoint a chief data officer who shall create a regular public schedule of release of data.

(b) The open data reporting shall include but not be limited to a list of all grantees and amounts of grants during each reporting period, and any criteria used for the selection of grantees/fund recipients.

3. The authority and all subsidiaries of the authority shall proactively disclose all freedom of information law requests made to the authority, and publish on the authority's website any public records which were released under such law.

4. The authority and all subsidiaries of the authority shall annually post a table of organization on its website that lists, at least:

(a) All current board members;

(b) Advisory board members;

- (c) Executive staff members;
- (d) An accurate organizational chart; and
- (e) Accurate contact information for all staff.

5. The authority and all subsidiaries of the authority shall at least annually report on their website, and to the comptroller and legislature a list of all grantees, fund recipients, and contracts. Where deemed appropriate, all reports generated by the authority whether under this section or otherwise shall provide a list of all grantees and amounts of grants during each reporting period, and any criteria used for the selection of grantees and fund recipients.

§ 2799-ppppp. Corporate existence. The authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds, notes or other obligations outstanding, unless adequate provision has been made for the payment thereof, or at which point the state of New York has reduced greenhouse gas emissions by eighty-five percent, and achieved a one hundred percent carbon free electricity procurement, and achieved seventy percent of energy acquired by renewable energy, and installed nine thousand megawatts of offshore wind energy, and installed three thousand megawatts of energy storage, and installed six thousand megawatts of solar energy, and achieved twenty-two million tons of carbon reduction through energy efficiency and electrification measures. Upon such occurrence authority shall cease to exist.

§ 2799-gqqqq. Conflicts of interest. 1. If any member, officer or employee of the authority shall have an interest, either direct or indirect, in any contract to which the authority is, or is to be, a party, such interest shall be disclosed to the authority in writing and shall be set forth in the minutes of the authority. The member, officer or employee having such interest shall not participate in any action by the authority with respect to such contract.

2. No member, officer or employee shall be deemed to have such an interest solely by reason of the ownership of two percent or less of the securities of a corporation which is, or is to be, a party to a contract with the authority, including without limitation the holding company of any banking institution in which the funds of the authority are, or are to be, deposited or which is, or is to be, acting as trustee or paying agent under any bond or note resolution, trust indenture or similar instrument to which the authority is a party.

3. Nothing in this section shall be deemed or construed to limit the right of any board member, officer or employee of the authority to acquire an interest in bonds or notes of the authority.

§ 2799-rrrrr. Exculpation. 1. The trustees and officers of the authority, while acting within the scope of their authority as trustees or officers, shall not be subject to any personal or civil liability resulting from the exercise, carrying out or advocacy of any of the authority's purposes or powers, unless the conduct of the trustees or officers is finally determined by a court of competent jurisdiction to constitute intentional wrongdoing.

2. The provisions of section seventeen of the public officers law shall apply to trustees and officers of the authority, in connection with any and all claims, demands, suits, actions or proceedings which may be made or brought against any of them arising out of any determinations made or actions taken or omitted to be taken in compliance with any obligations under or pursuant to the terms of this title.

3. Notwithstanding any other provisions of law to the contrary, the provisions of section eighteen of the public officers law shall apply to

1 the employees of the authority, in connection with any and all claims,
2 demands, suits, actions or proceedings which may be brought against any
3 of them arising out of any determinations made or actions taken or omit-
4 ted to be taken in compliance with any obligations under or pursuant to
5 the terms of this title. Whenever the provisions of section seventeen of
6 the public officers law do not apply to the board trustees and officers
7 of the authority, the provisions of section eighteen of the public offi-
8 cers law shall apply to such board trustees and officers.

9 4. Any costs incurred by the state in accordance with subdivision two
10 of this section shall be treated as advances by the state to the author-
11 ity, and shall be repaid to it without interest either out of the
12 proceeds of bonds issued by the authority pursuant to the provisions of
13 this title, or by the delivery of non-interest bearing bonds of the
14 authority to the state for all or any part of such advances, or out of
15 excess revenues of the authority, at such times and on such conditions
16 as the state and the authority mutually may agree upon. Any agreement
17 entered into by the state and the authority for the repayment of any
18 costs incurred pursuant to subdivision two of this section, shall be
19 subject to the approval of the public authorities control board.

20 5. As used in this section, the terms "trustee", "officer" and
21 "employee" shall include a former trustee, officer or employee and his
22 or her estate or judicially appointed personal representative.

23 § 2799-sssss. Liberal interpretation. This title, being necessary for
24 the prosperity of the state and its inhabitants, shall be liberally
25 construed to affect the purposes of such title.

26 § 2799-ttttt. Severability. The provisions of this title shall be
27 severable, and if any part or provision of this title, or the applica-
28 tion thereof to any person or circumstance, shall be adjudged by any
29 court of competent jurisdiction to be invalid or unenforceable, such
30 judgment shall not affect, impair or invalidate the remainder of this
31 title or the application of such provision to any other person or
32 circumstance, but shall be confined in its operation to the provision,
33 person or circumstance directly involved in the controversy in which
34 such judgment shall have been rendered.

35 § 2799-uuuuu. Inconsistent provisions of other laws superseded. Inso-
36 far as the provisions of this title are inconsistent with the provisions
37 of any other law or any part thereof, the provisions of this title shall
38 be controlling.

39 § 2799-vvvvv. Title not affected if in part unconstitutional. If any
40 section, clause or provision of this title shall be unconstitutional or
41 be ineffective in whole or in part, to the extent that it is not uncon-
42 stitutional or ineffective, it shall be valid and effective and no other
43 section, clause or provision shall on account thereof be deemed invalid
44 or ineffective.

45 § 2799-wwwww. Climate manufacturing career policy. 1. Application. The
46 authority shall develop a "climate manufacturing careers policy" for all
47 projects exceeding five million dollars.

48 2. The climate manufacturing careers policy shall require that all
49 eligible lead applicants, eligible sub-applicants and labor organiza-
50 tions participating in the program and applying for grants or loans
51 administered by the authority have the option to submit proposals that
52 utilize the U.S. employment plan, as defined by article eight-B of the
53 labor law, or shall use the local employment plan best-value scoring
54 criteria as outlined in article eight-B of the labor law to: (a) create
55 high-quality jobs and training programs for United States and New York
56 state residents; (b) invest in new or existing manufacturing facilities;

1 and (c) generate employment opportunities for disadvantaged workers and
2 disadvantaged communities as determined by the authority.

3 3. Procedure. The climate manufacturing careers policy shall include a
4 procedure under which the authority's procurement office shall adminis-
5 ter the review of the proposers' bid for the U.S. employment plan and/or
6 local employment plan, as defined by article eight-B of the labor law,
7 worksheet commitments and narrative. The procurement office shall score
8 such commitments to determine awarding of the funds, grants or loans.
9 The procurement office shall also review subsequent quarterly and annual
10 reports submitted by the eligible lead applicants, eligible sub-appli-
11 cants and labor organizations to show fulfillment of the commitments
12 made in such U.S. employment plan and/or local employment plan work-
13 sheets and narrative.

14 4. Proposers shall include subcontractor and supplier participation to
15 increase the U.S. jobs impact of the project. The climate manufacturing
16 careers policy shall detail a system for awarding U.S. employment plan
17 and/or local employment plan, as defined by article eight-B of the labor
18 law, commitment credit to proposers. Proposers shall receive such U.S.
19 employment plan commitment credit for subcontractors/suppliers with
20 facilities in the United States.

21 5. The climate manufacturing careers policy shall include transparen-
22 cy, compliance, and enforcement procedures that, at a minimum, meet the
23 requirements of article eight-B of the labor law. The authority will
24 maintain a web page for each agreement that includes final contracts and
25 U.S. employment plan and/or local employment plan, as defined by article
26 eight-B of the labor law, compliance submissions.

27 § 2799-xxxxx. Additional responsible contracting standards. 1. In
28 order to ensure the best quality work and value for New York state and
29 its constituent communities, to the degree allowed by law a party which
30 receives assistance from the state for the increase of energy efficien-
31 cy, electrification upgrades, the development of renewable energies,
32 climate change resiliency, or other investments by the authority over
33 one million dollars or receiving more than de minimis support where the
34 overall project investment is over five million dollars shall take the
35 necessary contractual actions to ensure that a project labor agreement
36 or community benefits agreement is executed between the entity responsi-
37 ble for the assisted project and an appropriate third party.

38 2. Recommendations and minimum standards for qualifying agreements
39 related to non-construction work shall be published by the authority
40 annually, and no community benefits agreement under this section shall
41 meet the requirements of this section without meeting such standards.

42 3. Penalties and sanctions. The failure of a party receiving assist-
43 ance under this title to ensure compliance with the requirements of
44 subdivision four of this section shall constitute a material breach of
45 the agreement under which assistance is provided and shall permit the
46 state to impose applicable penalties and sanctions for conduct consti-
47 tuting non-compliance, including but not limited to revocation of all or
48 part of the assistance provided by the state.

49 4. Responsible contractor requirements. The party which receives
50 assistance from the state for a renewable energy project, energy effi-
51 ciency project, other construction project shall take the necessary
52 contractual actions to ensure each contractor and subcontractor involved
53 in the operation construction of the assisted project completes a sworn
54 certification that the firm:

(a) has the necessary resources to perform the portion of the assisted project to which they are assigned, including the necessary technical, financial, and personnel resources;

(b) has all required licenses, certifications or certificates required of any business entity or individual by applicable state or local law;

(c) that in the past three years, the firm:

(i) has not been debarred by any government agency;

(ii) has not defaulted on any project;

(iii) has not had any license, certification or other credential relating to the business revoked or suspended; and

(iv) has not been found in violation of any law applicable to its business that resulted in the payment of a fine, back pay damages, or any other type of penalty in the amount of ten thousand dollars or more; shall pay craft personnel employed on the project, at a minimum, the applicable wage and fringe benefit rates for the classification in which the worker is employed in accordance with applicable required rates for the project; and

(c) the firm shall not misclassify employees as independent contractors.

§ 9. The tax law is amended by adding two new articles 42 and 43 to read as follows:

ARTICLE 42

CLIMATE POLLUTION FEE

Section 3039. Definitions.

3040. Imposition of carbon pollution fee.

3041. Amount of fee.

3042. Applicable entities.

3043. Calculation of emissions factors.

3044. Exemptions and deductions.

3045. Emissions leakage mitigation policy.

3046. Creation of funds within the authority.

3047. Reporting.

§ 3039. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "Authority" shall mean the climate and community investment authority.

2. "Border carbon adjustment fee" means a fee imposed to address emissions leakage that adjusts the price of a good, at the point of the importation into the state of goods that require emissions of greenhouse gases for their production or operation, or export from the state, to reflect the known or estimated greenhouse gas emissions quantities associated with the production of such good.

3. "Carbon-based fuel" means coal, a petroleum product, natural gas, methane, municipal solid waste (or any other feedstocks used for waste-to-energy conversions), or biomass that may be a source of greenhouse gas emissions through combustion and fugitive emissions.

4. "Carbon dioxide equivalent" and "CO₂e" mean the amount of carbon dioxide by mass that would produce the same global warming impact as a given mass of another greenhouse gas over an integrated twenty-year timeframe after emission, based on the best available science.

5. "Regulated air contaminant" shall have the same meaning as in subdivision twenty-two of section 19-0107 of the environmental conservation law.

6. "Commissioner" means the commissioner of taxation and finance.

7. "Disadvantaged communities" shall have the same meaning as in section 75-0111 of the environmental conservation law.

1 8. "Downstate region" means the counties of Richmond, Kings, Queens,
2 New York, Bronx, Westchester, Nassau and Suffolk.

3 9. "Emissions leakage" means an increase in emissions outside of the
4 state, as a result of, or in correlation with, the implementation of
5 measures within the state to limit such emissions.

6 10. "Fugitive emissions" means those emissions of a greenhouse gas
7 that are released during extraction, transportation of fuel, during
8 processing, and due to leaks during industrial processes or at solid
9 waste and wastewater management sites.

10 11. "Greenhouse gas" shall have the same meaning as in subdivision
11 eight of section 19-1301 of the environmental conservation law.

12 12. "Greenhouse gas emission source" or "source" means any anthropo-
13 genic source or category of anthropogenic sources of greenhouse gas
14 emissions.

15 13. "Industrial processes" means those processes that include fossil
16 fuel extraction, the operation of fuel processing plants, pipeline oper-
17 ations and other fuel transport, the operation of fuel refineries, and
18 other processes involved in the extraction, refinement or transport of
19 carbon-based fuels.

20 14. "Life cycle analysis" means a method for calculating greenhouse
21 gas emissions that encompasses emissions that are released or seques-
22 tered during all phases of a fuel or other product's life, including
23 those emissions released during extraction, processing, transport,
24 distribution, combustion (or some other form of consumption), and
25 disposal. Such term shall include CO₂e that is sequestered during
26 biological processes, pertaining to biomass fuel.

27 15. "Petroleum product" means all petroleum derivatives, whether in
28 bond or not, which are commonly burned to produce heat, electricity, or
29 motion, or which are commonly processed to produce synthetic gas for
30 burning, including without limitation, propane, gasoline, unleaded gaso-
31 line, kerosene, heating oil, diesel fuel, kerosene based jet fuel, and
32 number 4, number 5 and residual oil for utility and non-utility uses,
33 but not including, petroleum feedstocks to plastics production or other
34 manufacturing.

35 16. "Upstate region" means all New York counties other than Nassau,
36 Suffolk, Richmond, Kings, Queens, New York, Bronx and Westchester.

37 17. "Working group" means the climate justice working group created
38 pursuant to section 75-0111 of the environmental conservation law.

39 § 3040. Imposition of carbon pollution fee. There is hereby imposed
40 upon any applicable entity, as specified under section three thousand
41 forty-two of this article, a fee in an amount determined under section
42 three thousand forty-one of this article, on:

43 1. any carbon-based fuel sold, used, or brought into the state by an
44 applicable entity as defined in section three thousand forty-two of this
45 article; and

46 2. any fugitive emissions of methane emitted in the state by an appli-
47 cable entity.

48 § 3041. Amount of fee. 1. The amount of the fee imposed by section
49 three thousand forty of this article, per short ton of carbon dioxide
50 equivalent content that would be emitted through the combustion of such
51 product, as determined by the president of the climate and communities
52 investment authority, in consultation with the commissioner of environ-
53 mental conservation, pursuant to this article, shall be equal to the
54 following:

55 (a) during calendar year two thousand twenty-two, fifty-five dollars;

(b) during calendar years two thousand through two thousand twenty-five, an amount equal to the sum of:

(i) the amount in effect under this subdivision for the preceding calendar year, and

(ii) a five percent increase to the amount assessed in the previous year;

(c) during calendar years two thousand twenty-six through two thousand thirty-one, an amount equal to the sum of:

(i) the fee assessed under this subdivision for the preceding calendar year, and:

(A) two percent of the previous year's fee if the most recent five-year environmental integrity metric, described under paragraph (a) of subdivision two of this section, is less than minus five percent;

(B) five percent of the previous year's fee if the most recent five-year environmental integrity metric, described under paragraph (a) of subdivision two of this section, is greater than or equal to minus five percent and less than five percent;

(C) seven percent of the previous year's fee if the most recent five-year environmental integrity metric, described under paragraph (a) of subdivision two of this section, is greater than or equal to five percent and less than ten percent; or

(D) ten percent of the previous year's fee if the most recent five-year environmental integrity metric, described under paragraph (a) of subdivision two of this section, is greater than or equal to ten percent; and

(ii) the authority shall also assess a cost-of-living, or inflation, adjustment using the United States Bureau of Labor Statistics Consumer Price Index or, if that index is not available, another index adopted by the commissioner;

(d) during calendar years two thousand thirty-two through two thousand fifty-one, an amount equal to the sum of:

(i) the fee assessed under this subdivision for the preceding calendar year, and:

(A) two percent of the previous year's fee if the most recent five-year environmental integrity metric, described under paragraph (a) of subdivision two of this section, is less than minus five percent, and the most recent cumulative environmental integrity metric, described under paragraph (b) of subdivision two of this section, is less than minus one percent;

(B) five percent of the previous year's fee if:

I. the most recent five-year environmental integrity metric, described under paragraph (a) of subdivision two of this section, is greater than or equal to minus five percent and less than five percent, and the most recent cumulative environmental integrity metric, described under paragraph (b) of subdivision two of this section, is less than two percent; or

II. the most recent five-year environmental integrity metric, described under paragraph (a) of subdivision two of this section, is less than five percent, and the most recent cumulative environmental integrity metric, described under paragraph (b) of subdivision two of this section, is greater than or equal to minus one percent and less than two percent;

(C) seven percent of the previous year's fee if:

I. the most recent five-year environmental integrity metric, described under paragraph (a) of subdivision two of this section, is greater than or equal to five percent and less than ten percent, and if the most

1 recent cumulative environmental integrity metric, described under para-
2 graph (b) of subdivision two of this section, is less than three
3 percent; or

4 II. the most recent five-year environmental integrity metric,
5 described under paragraph (a) of subdivision two of this section, is
6 less than ten percent, and the most recent cumulative environmental
7 integrity metric, described under paragraph (b) of subdivision two of
8 this section, is greater than or equal to two percent and less than
9 three percent; or

10 (D) ten percent of the previous year's fee if:

11 I. the most recent five-year environmental integrity metric, described
12 under paragraph (a) of subdivision two of this section, is greater than
13 or equal to ten percent; or

14 II. the most recent cumulative environmental integrity metric,
15 described under paragraph (b) of subdivision two of this section, is
16 greater than or equal to three percent; and

17 (ii) the authority shall also assess a cost-of-living, or inflation,
18 adjustment using the United States Bureau of Labor Statistics Consumer
19 Price Index or, if that index is not available, another index adopted by
20 the commissioner.

21 2. In two thousand twenty-four, and every year thereafter, the commis-
22 sioner shall, in consultation with the department of environmental
23 conservation:

24 (a) calculate the five-year environmental integrity metric, which
25 shall equal a fraction, expressed as a percentage:

26 (i) the numerator of which is:

27 (A) the sum of the quantity of actual statewide greenhouse gas emis-
28 sions, measured in short tons CO₂e, in each of the preceding five years,
29 minus

30 (B) the sum of the quantity of target statewide greenhouse gas emis-
31 sions, measured in short tons CO₂e, in each of the preceding five years,
32 pursuant to subdivision four of this section; and

33 (ii) the denominator of which is the sum of the quantity of target
34 statewide greenhouse gas emissions, measured in short tons CO₂e, in each
35 of the preceding five years, pursuant to subdivision four of this
36 section; and

37 (b) calculate the cumulative environmental integrity metric, which
38 shall equal a fraction, expressed as a percentage:

39 (i) the numerator of which is:

40 (A) the sum of the quantity of actual statewide greenhouse gas emis-
41 sions, measured in short tons CO₂e, in each of the preceding years that
42 are after two thousand eighteen, minus

43 (B) the sum of the quantity of target statewide greenhouse gas emis-
44 sions, measured in short tons CO₂e, in each of the preceding years that
45 are after two thousand eighteen, pursuant to subdivision four of this
46 section; and

47 (ii) the denominator of which is the sum of the quantity of target
48 statewide greenhouse gas emissions, measured in short tons CO₂e, in each
49 of the preceding years that are after two thousand eighteen, pursuant to
50 subdivision four of this section; and

51 (c) publish the amounts calculated in paragraphs (a) and (b) of this
52 subdivision not later than July first in that year.

53 3. The authority shall calculate and publish the amount of the fee in
54 current dollars for each year, no later than July first in that year.

55 4. For the purposes of calculating the five-year environmental integ-
56 riety metric and the cumulative environmental integrity metric under

1 subdivision two of this section, the authority shall refer to the
2 following statewide greenhouse gas emissions targets:

3 (a) for the year two thousand twenty-one, eighty-five percent of two
4 thousand eighteen emissions;

5 (b) for each year after two thousand twenty-one and before two thou-
6 sand twenty-seven, less than in the preceding year by four percent of
7 the two thousand eighteen emissions; and

8 (c) for each year after two thousand twenty-six and before two thou-
9 sand forty-two, less than in the preceding year by three percent of two
10 thousand eighteen emissions; and

11 (d) for each year after two thousand forty-one, less than in the
12 preceding year by two percent of two thousand eighteen emissions.

13 § 3042. Applicable entities. For the purposes of this article, the
14 term "applicable entity" means:

15 1. for the purposes of any coal sold, used, or entered into the state:

16 (a) the vendor of such coal at the first point of sale, in cases where
17 the sale of coal occurs in the state; and

18 (b) the purchaser of such coal, in cases where the sale of coal occurs
19 outside of the state;

20 2. for the purposes of any petroleum product sold, used, or entered
21 into the state:

22 (a) the vendor, including a petroleum business as defined by section
23 three hundred of this chapter, of such petroleum product at the first
24 point of sale, in cases where the sale of the petroleum product occurs
25 in the state; and

26 (b) the purchaser of such petroleum product, in cases where the sale
27 of the petroleum product occurs outside of the state;

28 3. for the purposes of any natural gas sold, used, or entered into the
29 state:

30 (a) the vendor (including a natural gas distribution company or whole-
31 sale natural gas vendors) of such natural gas at the first point of
32 sale, in cases where the sale of natural gas occurs in the state; and

33 (b) the purchaser of such natural gas, in cases where the sale of the
34 natural gas occurs outside of the state;

35 4. for the purposes of any electricity sold, used, or entered into the
36 state:

37 (a) the vendor (including a local electricity distribution company, a
38 wholesale electricity vendor and all competitive suppliers of electric-
39 ity to end users) of such electricity at the first point of sale, in
40 cases where the sale of electricity occurs in the state; and

41 (b) the purchaser of such electricity, in cases where the sale of the
42 electricity occurs outside of the state;

43 5. for the purposes of any municipal solid waste (or any other feeds-
44 stocks used for waste-to-energy conversions) sold, used, or entered into
45 the state:

46 (a) the vendor of such municipal solid waste (or any other feedstocks
47 used for waste-to-energy conversions) at the first point of sale, in
48 cases where the sale of municipal solid waste (or any other feedstocks
49 used for waste-to-energy conversions) occurs in the state; and

50 (b) the purchaser of such municipal solid waste (or any other feeds-
51 stocks used for waste-to-energy conversions), in cases where the sale of
52 the municipal solid waste (or any other feedstocks used for waste-to-en-
53 ergy conversions) occurs outside of the state;

54 6. for the purposes of any biomass sold, used, or entered into the
55 state.

1 (a) the vendor of such biomass at the first point of sale, in cases
2 where the sale of biomass occurs in the state; and

3 (b) the purchaser of such biomass, in cases where the sale of the
4 biomass occurs outside of the state; and

5 7. for the purposes of any fugitive emissions of methane released in
6 the state, the owner of the property that is the source of such fugitive
7 emissions, including stationary sources and mobile sources, and includ-
8 ing pipeline operators, fuel distributors, transportation companies and
9 other entities.

10 § 3043. Calculation of emissions factors. 1. Not later than one year
11 after the effective date of this article, the commissioner of environ-
12 mental conservation, in collaboration with the authority, shall, for
13 each carbon-based fuel identified in this article and for various sourc-
14 es of electricity consumed in the state, calculate greenhouse gas emis-
15 sions factors, in carbon dioxide equivalent.

16 2. Emissions factors associated with combustion or other consumption
17 of the carbon-based fuels identified in this article shall be calculated
18 according to life-cycle analysis methods, which at a minimum shall
19 incorporate:

20 (a) any greenhouse gases released at the point of combustion or other
21 consumption; and

22 (b) up-steam fugitive emissions of methane released during the
23 extraction, processing, refining, transport, or distribution of natural
24 gas products and petroleum products before the point of consumption in
25 New York.

26 3. The commissioner of environmental conservation, in collaboration
27 with the authority, shall calculate, for various sources of electricity
28 consumed in the state, greenhouse gas emissions factors, in carbon diox-
29 ide equivalent per kilowatt-hour, associated with the combustion of each
30 carbon-based fuel identified in this article for the purposes of gener-
31 ating electricity. This calculation should take into account the best
32 available information and science regarding power plant heat rates and
33 other operational parameters that may determine efficiency in the
34 conversion of thermal energy to electrical energy. The CO₂e of each
35 kilowatt-hour of electricity delivered in the state shall be determined
36 by taking the weighted average of the coal, petroleum product, natural
37 gas, municipal solid waste (or any other feedstocks used for waste-to-
38 energy conservations), or biomass portions of the fuel mix and multiply-
39 ing each of those portions separately by the amount of carbon dioxide
40 equivalent emissions created per kilowatt-hour of electricity produced
41 by each such fuel. The calculation of emissions factors under this
42 subdivision shall take into account all electricity consumed in the
43 state, which shall include any electricity produced within the state and
44 outside of the state.

45 § 3044. Exemptions and deductions. 1. The owner of any electric
46 generating facility that is covered by the CO₂ budget trading program (6
47 NYCRR part 242) established by the department of environmental conserva-
48 tion shall be entitled to deduct from the fee imposed by this article an
49 amount equal to the amount it paid to purchase CO₂ emission allowance to
50 comply with the CO₂ budget trading program; provided, however, that the
51 amount so deducted may be no greater than the total amount of the fee as
52 calculated in this article.

53 2. Any applicable entity subject to a fee under this article, shall be
54 entitled to deduct from the fee imposed by this article an amount equal
55 to the amount it paid for the same year on account of a federal law or
56 regulation that imposes a direct price (including through cap-and-trade,

1 or a carbon tax or carbon fee mechanisms) on the same greenhouse gas
2 emissions from carbon-based fuels; provided, however, that the amount so
3 deducted may be no greater than the total amount of the fee as calcu-
4 lated in this article.

5 3. The authority, in partnership with the commissioner of environ-
6 mental conservation, may exempt certain sources of greenhouse gas emis-
7 sions found to produce de minimis quantities of such emissions. In order
8 to exempt sources of greenhouse gas emissions under this subdivision,
9 the authority, in partnership with the commissioner of environmental
10 conservation, shall first promulgate a rule, or rules, outlining the
11 specific requirements for being classified as a de minimis source,
12 including, at a minimum, identifying the quantities of greenhouse gases
13 that would make a source a de minimis source. In promulgating such rule,
14 or rules, the authority shall provide meaningful opportunities for
15 public comment, including from persons living in disadvantaged communi-
16 ties.

17 § 3045. Emissions leakage mitigation policy. 1. Not later than one
18 year after the effective date of this article, the authority, in part-
19 nership with the commissioners of environmental conservation and labor,
20 shall prepare and approve a scoping plan outlining recommendations for
21 policy measures to reduce emissions leakage associated with the imple-
22 mentation of this article.

23 (a) The draft scoping plan shall be developed in consultation with the
24 working group and other stakeholders.

25 (b) The authority shall provide meaningful opportunities for public
26 comment from all persons who will be impacted by the plan, including
27 persons working in energy intensive and trade exposed industries and
28 persons living in disadvantaged communities.

29 (c) The measures and actions considered in such scoping plan shall at
30 a minimum include:

31 (i) imposing a border carbon adjustment fee;

32 (ii) the implementation of a border carbon adjustment for vulnerable
33 industries and companies;

34 (iii) the implementation of an output-based carbon pollution fee
35 rebate program for vulnerable industries and companies;

36 (iv) quantitative methods for designating vulnerable industries or
37 companies, such as energy intensive and trade exposed industries; and

38 (v) policies for mitigating any impacts to consumers and workers
39 caused by the implementation of policies under this section, including
40 through the use of revenues from a possible border carbon adjustment fee
41 for reducing such impacts.

42 (d) Not later than one year after the effective date of this article,
43 the authority shall submit the final scoping plan to the governor, the
44 speaker of the assembly and the temporary president of the senate and
45 post such plan on its website.

46 2. Not later than two years after the effective date of this article,
47 the authority, after public workshops and consultation with the working
48 group, representatives of regulated entities, and other stakeholders,
49 shall, after no less than two public hearings, promulgate rules and
50 regulations to implement a policy to reduce emissions leakage associated
51 with the implementation of this article.

52 (a) The regulations promulgated may include:

53 (i) a border carbon adjustment fee for vulnerable trade exposed energy
54 intensive industries and companies to reduce emissions;

55 (ii) an output-based carbon pollution fee and rebate program for
56 vulnerable industries and companies;

1 (iii) quantitative methods for designating vulnerable industries or
2 companies, such as energy intensive and trade exposed industries; and
3 (iv) policies for mitigating any impacts to consumers and workers
4 caused by the implementation of policies under this section, including
5 through the use of revenues from a possible border carbon adjustment fee
6 for reducing such impacts.

7 (b) In promulgating these regulations, the authority shall:

8 (i) design and implement all regulations in a manner that seeks to be
9 equitable, to minimize costs and to maximize the total benefits to New
10 York state;

11 (ii) ensure that activities undertaken to comply with the regulations
12 do not disproportionately burden disadvantaged communities; and

13 (iii) minimize emissions leakage.

14 3. Any funds collected pursuant to a policy arising from this section
15 shall be appropriated by the authority pursuant to the mandated
16 proportions in section three thousand forty-six of this article.

17 § 3046. Creation of funds within the authority. 1. (a) Within ninety
18 days following the effective date of this article, the commissioner, in
19 coordination with the comptroller, shall establish a fund within the
20 authority to be known as the "community just transition fund", consist-
21 ing of such amounts as may be appropriated or credited to such fund and
22 thirty-three percent of the total amount of fees received under section
23 three thousand forty of this article during such year.

24 (b) The community just transition fund shall be administered by the
25 authority for the purposes enumerated in this act.

26 2. (a) Within ninety days following the effective date of this arti-
27 cle, the commissioner, in coordination with the comptroller, shall
28 establish a fund within the authority to be known as the "climate jobs
29 and infrastructure fund", consisting of such amounts as may be appropri-
30 ated or credited to such fund and thirty percent of the total amount of
31 fees received under section three thousand forty of this article during
32 such year.

33 (b) The climate jobs and infrastructure fund shall be administered by
34 the authority for the purposes enumerated in this act.

35 3. (a) Within ninety days of the effective date of this article, the
36 commissioner, in coordination with the comptroller, shall establish a
37 fund within the authority to be known as the "low-income and small busi-
38 ness and household energy rebate fund", consisting of such amounts as
39 may be appropriated or credited to such fund and thirty percent of the
40 total amount of fees received under section three thousand forty of this
41 article during such year.

42 (b) The low-income and small business and household energy rebate fund
43 shall be administrated by the authority for the purposes enumerated in
44 this act.

45 4. (a) Within ninety days of the effective date of this article, the
46 commissioner, in coordination with the comptroller, shall establish a
47 fund within the authority to be known as the "worker and community
48 assurance fund", consisting of such amounts as may be appropriated or
49 credited to such fund as follows:

50 (i) in the first fiscal year in which any fees under this article are
51 collected, no less than five hundred million dollars shall be trans-
52 ferred to the worker and community assurance fund; and

53 (ii) seven percent of the total amount of fees received under section
54 three thousand forty during such year.

55 (b) The worker and community assurance trust shall be administered by
56 the authority for the purposes enumerated in this act.

1 5. No proceeds received through the implementation of the fee estab-
2 lished under this article shall fund government operations of the state,
3 other than to pay for reasonable administrative costs associated with
4 implementing the climate and community investment act.

5 6. No proceeds received through the implementation of the fee estab-
6 lished under this article shall fund police, prisons or related infras-
7 tructure.

8 § 3047. Reporting. 1. No later than three years following the effec-
9 tive date of this article, and every two years thereafter, the authori-
10 ty, in partnership with the New York comptroller, the commissioner of
11 environmental conservation and the New York state energy research and
12 development authority, shall produce a report on the implementation of
13 this article. Such report shall include but not be limited to:

14 (a) the total annual revenues associated with the implementation of
15 this article;

16 (b) the effectiveness of the fee established under section three thou-
17 sand forty of this article to reduce greenhouse gas emissions statewide,
18 including an analysis of reductions by geographic subdivisions of the
19 state;

20 (c) the amount of estimated emissions leakage that may be occurring in
21 correlation with the implementation of the fee established under section
22 three thousand forty of this article, the effectiveness of any policies
23 that have been implemented to address emissions leakage, and recommenda-
24 tions for improving policies to mitigate emissions leakage;

25 (d) an overview of social benefits from the fees and other policies
26 established pursuant to this article, including benefits to the economy,
27 environment, and public health, including the health of women, youth and
28 children;

29 (e) an overview of the distribution of costs and benefits of the poli-
30 cies promulgated under this article, across different communities and
31 sectors of the state economy;

32 (f) an overview of compliance costs for regulated entities;

33 (g) an overview of administrative costs for the authority and other
34 state agencies; and

35 (h) recommendations for future regulatory and policy action, and, in
36 general, pertaining to measures for reducing greenhouse emissions in the
37 state.

38 2. Before finalizing the report described in subdivision one of this
39 section, the authority shall ensure that there are meaningful opportu-
40 nities for public participation, including by:

41 (a) allowing at least one hundred twenty days for the submission of
42 public comment, following the date of the publication of a draft report;
43 and

44 (b) holding at least four regional public hearings, including two
45 meetings in the upstate region and two meetings in the downstate region,
46 with emphasis on maximizing participation and accessibility for members
47 of disadvantaged communities.

48 3. The final report shall be submitted to the governor, the temporary
49 president of the senate, the speaker of the assembly, the minority lead-
50 er of the senate and the minority leader of the assembly, and shall be
51 posted on the website of the authority.

52 ARTICLE 43

53 HOUSEHOLD AND SMALL BUSINESS ENERGY REBATE

54 Section 3050. Definitions.

55 3051. Establishment of the household and small business energy
56 rebate program.

3052. Administration by the authority.

3053. Allocation of funds.

3054. Qualifying households.

3055. Rebate amount and report.

3056. Delivery of funds.

3057. Reassessment of allocations.

3058. Small business tax credit.

3059. Public service commission investigation.

§ 3050. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "Authority" shall mean the community and climate investment authority.

2. "Commissioner" means the commissioner of taxation and finance.

3. "Department" means the department of taxation and finance.

4. "Eligible low-income household" means, with respect to a given calendar year, any household in New York state whose gross income does not exceed one hundred fifty percent of the poverty line, regardless of citizenship or term of insurance.

5. "Eligible moderate-income household" means, with respect to a given calendar year, any household in New York state whose gross income exceeds one hundred fifty percent of the poverty line, but does not exceed the median household income for the county in which they reside, regardless of citizenship or term of insurance.

6. "Eligible small business" means a business, cooperative, or not-for-profit corporation which is resident in this state, and employs fifty or less persons (including a solo proprietorship), and with respect to businesses, is independently owned and operated and not dominant in its field.

7. "Fund" or "rebate fund" means the household and small business energy rebate fund established under subdivision three of section three thousand forty-six of this chapter.

8. "Poverty line" shall have the same meaning as in section 673(2) of the federal community services block grant act (46 USC section 9902).

9. "Program" means the household and small business energy rebate program established under this article.

10. "Working group" means the climate justice working group created pursuant to section 75-0111 of the environmental conservation law.

§ 3051. Establishment of the household and small business energy rebate program. There is hereby established within the authority, the "household and small business energy rebate program". The purposes of the program include:

1. disbursement of funds from the household and small business energy rebate fund; for the benefit of the most vulnerable populations, to offset the increased cost of living associated with the implementation of the climate pollution fee created pursuant to article forty-two of this chapter and other regulatory measures established as part of the state's climate mitigation efforts; and

2. reducing the already severe energy burden on low- and moderate-income families.

§ 3052. Administration by the authority. Within six months of the effective date of this article, the authority is hereby authorized and directed to establish and operate the program. The authority shall implement the program in consultation with the office of temporary and disability assistance and the departments of health and labor. The authority shall be authorized and directed to: use monies made available for the program pursuant to article forty-two of this chapter to achieve

1 the purposes of the program; and exercise such other powers as are
2 necessary for the proper administration of such program, including issu-
3 ing rules and regulations consistent with this article.

4 § 3053. Allocation of funds. Funds from the household and small busi-
5 ness energy rebate fund shall be disbursed under the program to eligible
6 households and small businesses. The authority shall collect and then
7 distribute directly to eligible households the entire amount of funds
8 dedicated to the rebate fund. Eligible households shall be notified that
9 they are automatically being enrolled based on their tax filing status
10 or receipt of public benefits. The authority, in coordination with the
11 commissioner, the public service commission, the New York state office
12 of temporary and disability assistance, and the department, will make
13 determinations as to which households and small businesses are eligible
14 for the rebate and establish an appeals process within the authority as
15 to such determinations. The authority shall also establish an opportu-
16 nity for individual residents of the state who are not required to file
17 income taxes to apply for rebates under this article.

18 § 3054. Qualifying households. A rebate will be available to eligible
19 low-income households, moderate income households, and additional house-
20 holds, provided that rebates shall only be provided to such additional
21 households upon a determination by the authority that there are adequate
22 funds. Notwithstanding the preceding sentence, the rebate shall be
23 available to a maximum of sixty percent of the households in New York
24 state. Households shall qualify regardless of citizenship. The authori-
25 ty will cooperate with the department and the office of temporary and
26 disability assistance to identify households and place them in the
27 following four household categories:

28 1. eligible moderate-income households containing New York city resi-
29 dents;

30 2. eligible low-income households containing New York city residents
31 in which the household income is below one hundred fifty percent of the
32 poverty line or who are receiving any means-tested government assistance
33 aimed at low-income individuals or households;

34 3. eligible moderate-income households containing residents outside of
35 New York city; and

36 4. eligible low-income households containing residents outside of New
37 York city with a household income below one hundred fifty percent of the
38 poverty line or receiving any means-tested government assistance
39 programs aimed at low-income individuals or households.

40 § 3055. Rebate amount and report. 1. The authority, in consultation
41 with the working group, shall determine the appropriate amount of the
42 rebate, consistent with the standards set forth in this section. Each
43 eligible household will receive a share of the total allocated rebate
44 funds so that:

45 (a) all eligible households in New York city shall receive the same
46 amount,

47 (b) all eligible households outside of New York city shall receive the
48 same amount and that amount shall be at least fifty percent more than
49 the rebate amount applicable to New York city households, and

50 (c) the total amount provided for rebates must not exceed the annual
51 revenue in the rebate fund.

52 2. The authority shall annually assess and report to the legislature
53 and the governor at least the following information: the number of
54 households in each rebate category in section three thousand fifty-four
55 of this article; the number of households who select each delivery mech-

anism set forth in section three thousand fifty-six of this article; and how the number of households compare to:

(a) the incremental increase in the cost of living associated with the implementation of the fee established pursuant to article forty-two of this chapter and other regulatory measures established under article forty-two of this chapter;

(b) other estimated increases in the cost of living associated with the transition to a low-carbon economy; and

(c) existing energy burdens.

§ 3056. Delivery of funds. 1. The authority, in partnership with the working group, the department, the public service commission and the office of temporary and disability assistance shall determine appropriate mechanisms for delivering rebates under this article. These departments shall within the bounds of the law share necessary expertise and data. That mechanism shall ensure that:

(a) Eligible moderate-income households in the first and third household categories set forth in section three thousand fifty-four of this article shall receive a direct payment redeemable tax credit.

(b) Eligible low-income households in the second and fourth household categories set forth in section three thousand fifty-four of this article shall receive their rebate through mechanisms that will not constitute income for purposes of any means-tested government assistance programs that they may be receiving. Unless an eligible low-income household opts out of such benefit under this section, the benefit shall be:

(i) a transit voucher for use receiving services through the Metropolitan Transportation Authority, Access-a-Ride, or other public transit service for households in the second household category under section three thousand fifty-four of this article.

(ii) utility assistance or a weatherization grant for the fourth household category under section three thousand fifty-four of this article.

(iii) another form that complies with this subdivision.

2. All qualifying households may opt out of the default option for delivery of the rebate, and can choose to receive their benefit amount in the form of one of the following four options: (a) utility assistance; (b) a weatherization grant; (c) a voucher for use with their local transit authority; (d) a redeemable tax credit; or (e) a direct payment if the authority offers such option.

3. The authority shall make reasonable efforts to deliver funds as frequently as practical, and to distribute a portion of the rebate at least quarterly.

§ 3057. Reassessment of allocations. 1. Beginning in two thousand twenty-one and every five years thereafter, the authority, in coordination with the department, the office of temporary and disability assistance, the public service commission, the New York state energy research and development authority and the department of environmental conservation shall perform an assessment, which shall include, at a minimum, the following information: (a) the state-wide energy burden for small businesses, and households by geography and income; (b) whether such energy burden has stayed level or decreased since the effective date of this section; (c) the uptake of energy efficiency and renewable energy in each income category; and (d) an estimated impact on energy burden or another equivalent estimate of the proportion of household income spent on energy. Based on such information and any additional information that the department determines is appropriate, the depart-

1 ment shall determine whether the present rebate amount is appropriate or
2 whether it is appropriate to reduce the rebate benefit amount.

3 2. Following any assessment under subdivision one of this section
4 where the impact of the fee established is found not to increase house-
5 hold spending, or where the energy burden has fallen, the rebate shall
6 be reduced by at least ten percent and the funds reallocated in equal
7 amounts to the community just transition fund established pursuant to
8 subdivision one of section three thousand forty-six of this chapter and
9 the climate jobs and infrastructure fund established pursuant to subdi-
10 vision two of such section.

11 § 3058. Small business tax credit. 1. Eligible small businesses shall
12 receive a redeemable tax credit to reduce any incremental increase in
13 the cost of doing business associated with the implementation of the fee
14 established pursuant to article forty-two of this chapter and other
15 regulatory measures established under the climate and community invest-
16 ment act or the transition to a low-carbon economy in New York state.

17 2. Any eligible small business that incurs energy or fuel costs in the
18 course of its business, shall be allowed a credit, to be computed as
19 provided in subdivision three of this section, against business income
20 for each year that the fee established pursuant to article forty-two of
21 this chapter is collected.

22 3. The credit authorized by this section shall equal the higher of
23 five hundred dollars a year, or the amount computed for a household
24 rebate.

25 4. The credit created under this section may be claimed even if no
26 taxes are owed by the eligible small business. Such credit may be used
27 to reduce the tax liability of the credit claimant below zero.

28 § 3059. Public service commission investigation. Not later than six
29 months after the effective date of this article, the public service
30 commission shall establish a proceeding to investigate, identify and
31 mitigate any increase in electric or gas rates for qualifying households
32 and eligible small businesses that may be projected to arise under this
33 article and article forty-two of this chapter.

34 § 10. Severability. If any word, phrase, clause, sentence, paragraph,
35 section, or part of this act shall be adjudged by any court of competent
36 jurisdiction to be invalid, such judgement shall not affect, impair, or
37 invalidate the remainder thereof, but shall be confined in its operation
38 to the word, phrase, clause, sentence, paragraph, section, or part ther-
39 eof directly involved in the controversy in which such judgement shall
40 have been rendered.

41 § 11. If any word, phrase, clause, sentence, paragraph, section, or
42 part of this act shall be adjudged to require the climate and community
43 investments authority created under this act to act outside of their
44 legal powers, such as engaging in the market beyond activities allowed
45 as a market actor, the relevant statutory requirements will be inter-
46 preted so that the powers and duties herein are enforced to the extent
47 allowed by law.

48 § 12. This act shall take effect on the one hundred eightieth day
49 after it shall have become a law and shall apply to any grants, loans,
50 contracts and financial assistance awarded or renewed on or after such
51 effective date. Effective immediately, the addition, amendment and/or
52 repeal of any rule or regulation necessary for the implementation of
53 this act on its effective date are authorized to be made and completed
54 on or before such date.