

# 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.

LBD01702-02-1

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 taged 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 dispropor-  
2 tionate 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.

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

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

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

8 14. "Upstate region" means all New York state counties other than  
9 Nassau, Suffolk, Richmond, Kings, Queens, New York, Bronx and Westches-  
10 ter.

11 15. "Working group" means the climate justice working group estab-  
12 lished under section 75-0111 of this chapter.

13 § 19-1303. Methodology and valuation of pollution price index.

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

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

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

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

28 (d) the full life-cycle of impacts.

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

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

38 (i) oxides of nitrogen;

39 (ii) volatile organic compounds;

40 (iii) sulfur dioxide;

41 (iv) particulate matter;

42 (v) carbon monoxide; and

43 (vi) lead;

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

49 (c) the authority demonstrates and publishes, along with the publica-  
50 tion of methodologies described under subdivision one of this section, a  
51 description of why it is not administratively feasible in the time  
52 allotted in subdivision one of this section to complete a methodology,  
53 for each individual regulated air contaminant, or appropriate sub-group-  
54 ing thereof; and

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



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

3 § 19-1305. Implementation of fees.

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

9 2. Notwithstanding any inconsistent provisions of the state adminis-  
10 trative procedure act, such fee shall be established as a rule by publi-  
11 cation in the environmental notice bulletin no later than thirty days  
12 after the budget bills making appropriations for the support of govern-  
13 ment are enacted or July first, whichever is later, of the year such fee  
14 will be effective.

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

21 4. Any person required to pay fees imposed pursuant to this section  
22 may elect to base such fees on the level of permitted emissions set  
23 forth in a permit, certificate or approval issued pursuant to section  
24 19-0311 of this article.

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

30 § 19-1307. Allocation of revenues.

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

35 2. (a) Funds received under this title shall be allocated accord-  
36 ingly:

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

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

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

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

47 No funds shall be allocated to fund police, prisons or related infras-  
48 tructure.

49 (b) The value of pollution and mitigation program fund shall be admin-  
50 istered by the authority.

51 § 19-1309. Inventory.

52 Not later than eighteen months after the effective date of this title,  
53 the authority shall update and publish the inventory of emissions from  
54 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-

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

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

12 (a) bind all contractors and subcontractors on the assisted project to  
13 the project labor agreement through the inclusion of appropriate spec-  
14 ifications in all relevant solicitation provisions and contract docu-  
15 ments;

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

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

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

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

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

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

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

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

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

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

55 (d) in the past three years:

56 (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.

1 10. Prequalification process. Requests for proposals may be preceded  
2 by a prequalification stage to require interested offerors to demon-  
3 strate that they have adequate minimum qualifications and sufficiently  
4 viable project proposals to qualify to compete in a request for  
5 proposals process.

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

10 12. Project evaluation team. Proposals submitted in response to  
11 request for proposals under this section shall be evaluated by a techni-  
12 cal evaluation team that consists of no fewer than three persons quali-  
13 fied to conduct such evaluations.

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

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

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

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

27 (c) additional information as determined by the agency.

28 § 229-b. Best value requirements for all work other than construction.

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

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

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

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

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

53 (d) "vendor" shall mean a business entity entering into a contract  
54 with the awarding authority for projects, including manufacturing  
55 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.

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

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

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

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

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

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

16 12. "Regulated air contaminant" shall have the same meaning as in  
17 subdivision twenty-two of section 19-0107 of the environmental conserva-  
18 tion law.

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

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

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

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

32 § 1911. Coordination of programs. The authority shall undertake  
33 actions to ensure maximum coordination between each of the programs  
34 created under section three thousand forty-six of the tax law, includ-  
35 ing:

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

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

38 (b) maximize administrative efficiency;

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

41 (d) achieve an equitable distribution of funds;

42 (e) maximize benefits to disadvantaged communities;

43 (f) encourage early action to reduce emissions;

44 (g) minimize emissions leakage;

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

49 (i) identify and utilize best industry standard practices to overcome  
50 barriers to implementation, such as split incentives for energy effi-  
51 ciency.

52 2. Not less than two times annually, the authority shall convene a  
53 meeting that includes the president, the working group, and the advisory  
54 council, to discuss options for improving the coordination of the three  
55 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 constituen-  
53 cy-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 minated 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 taged 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 taged 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 cial, 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 municipi-  
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.

1 21. "Partial separation" means, with respect to an individual who has  
2 not been totally separated, that such individual has experienced:  
3 (a) a reduction in hours of work to eighty percent or less of the  
4 individual's average weekly hours in adversely affected employment; and  
5 (b) a reduction in wages to eighty percent or less of the individual's  
6 average weekly wage in such adversely affected employment.

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

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

14 24. "Program" means the worker assurance program and community assur-  
15 ance program established under this subtitle.

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

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

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

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

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

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

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

36 § 1934. Worker and community assurance board. There is hereby created  
37 no later than six months after the effective date of this subtitle, a  
38 "worker and community assurance board".

39 1. The board will be comprised of:

40 (a) the president;

41 (b) the commissioner of labor;

42 (c) the commissioner of environmental conservation;

43 (d) the state comptroller or their representative;

44 (e) four members appointed by the state senate, including:

45 (i) one representative of a constituency-based organization;

46 (ii) one representative of a labor organization;

47 (iii) one expert in economic development; and

48 (iv) one representative of an environmental justice community;

49 (f) four members appointed by the state assembly, including:

50 (i) one representative of a constituency-based organization;

51 (ii) one representative of a labor organization;

52 (iii) one expert in economic development; and

53 (iv) one representative of an environmental justice community.

54 2. The board shall be co-chaired by the president and the commissioner  
55 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 anoth-  
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;

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

4 (c) an overview of administrative costs for the authority, the depart-  
5 ment and other state agencies;

6 (d) recommendations for future policy pertaining to transition assist-  
7 ance; and

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

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

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

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

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

- 22 (i) environmental justice representatives;
- 23 (ii) organizations representing disadvantaged community members;
- 24 (iii) labor organizations in the area;
- 25 (iv) local businesses;
- 26 (v) local governments and school authorities; and
- 27 (vi) climate change experts.

28 3. The final report described in subdivision one of this section shall  
29 be submitted to the governor, the president of the senate, the speaker  
30 of the assembly, the minority leader of the senate and the minority  
31 leader of the assembly and shall be posted on the website of the author-  
32 ity. Additionally, all reports shall be shared publicly through the  
33 department of information technology and telecommunications of the city  
34 of New York.

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

37 TITLE 36

38 CLIMATE AND COMMUNITY INVESTMENT AUTHORITY

39 Section 2799-tttt. Definitions.

40 2799-uuuu. The climate and community investment authority of  
41 the state of New York; creation.

42 2799-www. Board of trustees.

43 2799-xxxx. Officers and employees; expenses.

44 2799-yyyy. Powers and duties of the authority.

45 2799-zzzz. Contracts negotiated by the authority.

46 2799-aaaa. Subsidiaries.

47 2799-bbbbb. Notes of the authority.

48 2799-cccc. Bonds of the authority.

49 2799-ddddd. Guaranty by the state.

50 2799-eeee. State and municipalities not liable on bonds or  
51 notes.

52 2799-ffff. Legal investments.

53 2799-gggg. Deposit and investment of monies of the authority.

54 2799-hhhh. Agreement of the state.

55 2799-iiii. Exemption from taxation.

56 2799-jjjj. Tax covenant.

1 2799-kkkkk. Repayment of state appropriations.

2 2799-lllll. Equal employment opportunity and minority and women  
3 owned business enterprise programs.

4 2799-mmmmm. Prevailing wage.

5 2799-nnnnn. Audits and annual reports.

6 2799-ooooo. Transparency.

7 2799-ppppp. Corporate existence.

8 2799-qqqqq. Conflicts of interest.

9 2799-rrrrr. Exculpation.

10 2799-sssss. Liberal interpretation.

11 2799-ttttt. Severability.

12 2799-uuuuu. Inconsistent provisions of other laws superseded.

13 2799-vvvvv. Title not affected if in part unconstitutional.

14 2799-wwwww. Climate manufacturing careers policy.

15 2799-xxxxx. Additional responsible contracting standards.

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, arbitrative 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 munici-  
37 pal 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-aaaa. 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-bbbbb. 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-fffff. 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 municipi-  
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.



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

8 § 2799-mmmmmm. Prevailing wage. Whenever the authority enters into any  
9 contract, subcontract, lease, grant, bond, covenant or other agreement  
10 for or in connection with any construction, demolition, reconstruction,  
11 excavation, rehabilitation, repair, renovation, alteration, or improve-  
12 ment project, such project shall be deemed to be a public works project  
13 for the purposes of article eight of the labor law, and all of the  
14 provisions of article eight of the labor law shall be applicable to all  
15 the work involved in the construction, demolition, reconstruction, exca-  
16 vation, rehabilitation, repair, renovation, alteration or improvement of  
17 such project. Funds, financial assistance, or any other benefits  
18 provided pursuant to this article shall not be utilized for or in  
19 connection with the construction, demolition, reconstruction, exca-  
20 vation, rehabilitation, repair, renovation, alteration, or improvement  
21 of any project to which the provisions of article eight of the labor law  
22 are not applicable.

23 § 2799-nnnnn. Audits and annual reports. 1. The accounts of the  
24 authority shall be subject to the supervision of the state comptroller  
25 and an annual audit shall be performed by an independent certified  
26 accountant selected by the authority, upon recommendation of its finance  
27 committee, audit committee and the advisory board. The authority shall  
28 submit a report of such audit annually to the governor, the state comp-  
29 troller, the temporary president of the senate, the speaker of the  
30 assembly. A detailed report pursuant to the provisions of section twen-  
31 ty-eight hundred of this chapter shall be verified by the chairman of  
32 the authority. The authority shall comply with the provisions of  
33 sections twenty-eight hundred one, twenty-eight hundred two, twenty-  
34 eight hundred three, and twenty-eight hundred four of this chapter.

35 2. The authority shall appoint an independent ombudsman, upon recom-  
36 mendation of its finance committee, audit committee and advisory board,  
37 to each office of the authority for the purposes of oversight.

38 § 2799-ooooo. Transparency. 1. The authority and all subsidiaries of  
39 the authority shall be subject to the provisions of article seven of the  
40 public officers law.

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

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

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

49 3. The authority and all subsidiaries of the authority shall proac-  
50 tively disclose all freedom of information law requests made to the  
51 authority, and publish on the authority's website any public records  
52 which were released under such law.

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

55 (a) All current board members;

56 (b) Advisory board members;

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

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

11 § 2799-ppppp. Corporate existence. The authority and its corporate  
12 existence shall continue until terminated by law, provided, however,  
13 that no such law shall take effect so long as the authority shall have  
14 bonds, notes or other obligations outstanding, unless adequate provision  
15 has been made for the payment thereof, or at which point the state of  
16 New York has reduced greenhouse gas emissions by eighty-five percent,  
17 and achieved a one hundred percent carbon free electricity procurement,  
18 and achieved seventy percent of energy acquired by renewable energy, and  
19 installed nine thousand megawatts of offshore wind energy, and installed  
20 three thousand megawatts of energy storage, and installed six thousand  
21 megawatts of solar energy, and achieved twenty-two million tons of  
22 carbon reduction through energy efficiency and electrification measures.  
23 Upon such occurrence authority shall cease to exist.

24 § 2799-qqqqq. Conflicts of interest. 1. If any member, officer or  
25 employee of the authority shall have an interest, either direct or indi-  
26 rect, in any contract to which the authority is, or is to be, a party,  
27 such interest shall be disclosed to the authority in writing and shall  
28 be set forth in the minutes of the authority. The member, officer or  
29 employee having such interest shall not participate in any action by the  
30 authority with respect to such contract.

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

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

42 § 2799-rrrrr. Exculpation. 1. The trustees and officers of the author-  
43 ity, while acting within the scope of their authority as trustees or  
44 officers, shall not be subject to any personal or civil liability  
45 resulting from the exercise, carrying out or advocacy of any of the  
46 authority's purposes or powers, unless the conduct of the trustees or  
47 officers is finally determined by a court of competent jurisdiction to  
48 constitute intentional wrongdoing.

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

55 3. Notwithstanding any other provisions of law to the contrary, the  
56 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:

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

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

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

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

8 (ii) has not defaulted on any project;

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

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

18 (c) the firm shall not misclassify employees as independent contrac-  
19 tors.

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

22 ARTICLE 42

23 CLIMATE POLLUTION FEE

24 Section 3039. Definitions.

25 3040. Imposition of carbon pollution fee.

26 3041. Amount of fee.

27 3042. Applicable entities.

28 3043. Calculation of emissions factors.

29 3044. Exemptions and deductions.

30 3045. Emissions leakage mitigation policy.

31 3046. Creation of funds within the authority.

32 3047. Reporting.

33 § 3039. Definitions. For the purposes of this article, the following  
34 terms shall have the following meanings:

35 1. "Authority" shall mean the climate and community investment author-  
36 ity.

37 2. "Border carbon adjustment fee" means a fee imposed to address emis-  
38 sions leakage that adjusts the price of a good, at the point of the  
39 importation into the state of goods that require emissions of greenhouse  
40 gases for their production or operation, or export from the state, to  
41 reflect the known or estimated greenhouse gas emissions quantities asso-  
42 ciated with the production of such good.

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

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

51 5. "Regulated air contaminant" shall have the same meaning as in  
52 subdivision twenty-two of section 19-0107 of the environmental conserva-  
53 tion law.

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

55 7. "Disadvantaged communities" shall have the same meaning as in  
56 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 CO<sub>2</sub>e 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;

1 (b) during calendar years two thousand through two thousand twenty-  
2 five, an amount equal to the sum of:

3 (i) the amount in effect under this subdivision for the preceding  
4 calendar year, and

5 (ii) a five percent increase to the amount assessed in the previous  
6 year;

7 (c) during calendar years two thousand twenty-six through two thousand  
8 thirty-one, an amount equal to the sum of:

9 (i) the fee assessed under this subdivision for the preceding calendar  
10 year, and:

11 (A) two percent of the previous year's fee if the most recent five-  
12 year environmental integrity metric, described under paragraph (a) of  
13 subdivision two of this section, is less than minus five percent;

14 (B) five percent of the previous year's fee if the most recent five-  
15 year environmental integrity metric, described under paragraph (a) of  
16 subdivision two of this section, is greater than or equal to minus five  
17 percent and less than five percent;

18 (C) seven percent of the previous year's fee if the most recent five-  
19 year environmental integrity metric, described under paragraph (a) of  
20 subdivision two of this section, is greater than or equal to five  
21 percent and less than ten percent; or

22 (D) ten percent of the previous year's fee if the most recent five-  
23 year environmental integrity metric, described under paragraph (a) of  
24 subdivision two of this section, is greater than or equal to ten  
25 percent; and

26 (ii) the authority shall also assess a cost-of-living, or inflation,  
27 adjustment using the United States Bureau of Labor Statistics Consumer  
28 Price Index or, if that index is not available, another index adopted by  
29 the commissioner;

30 (d) during calendar years two thousand thirty-two through two thousand  
31 fifty-one, an amount equal to the sum of:

32 (i) the fee assessed under this subdivision for the preceding calendar  
33 year, and:

34 (A) two percent of the previous year's fee if the most recent five-  
35 year environmental integrity metric, described under paragraph (a) of  
36 subdivision two of this section, is less than minus five percent, and  
37 the most recent cumulative environmental integrity metric, described  
38 under paragraph (b) of subdivision two of this section, is less than  
39 minus one percent;

40 (B) five percent of the previous year's fee if:

41 I. the most recent five-year environmental integrity metric, described  
42 under paragraph (a) of subdivision two of this section, is greater than  
43 or equal to minus five percent and less than five percent, and the most  
44 recent cumulative environmental integrity metric, described under para-  
45 graph (b) of subdivision two of this section, is less than two percent;  
46 or

47 II. the most recent five-year environmental integrity metric,  
48 described under paragraph (a) of subdivision two of this section, is  
49 less than five percent, and the most recent cumulative environmental  
50 integrity metric, described under paragraph (b) of subdivision two of  
51 this section, is greater than or equal to minus one percent and less  
52 than two percent;

53 (C) seven percent of the previous year's fee if:

54 I. the most recent five-year environmental integrity metric, described  
55 under paragraph (a) of subdivision two of this section, is greater than  
56 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 CO<sub>2</sub>e, 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 CO<sub>2</sub>e, 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 CO<sub>2</sub>e, 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 CO<sub>2</sub>e, 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 CO<sub>2</sub>e, 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 CO<sub>2</sub>e, 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 CO<sub>2</sub>e 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 CO<sub>2</sub> 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 CO<sub>2</sub> emission allowance to  
50 comply with the CO<sub>2</sub> 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.

#### ARTICLE 43

#### HOUSEHOLD AND SMALL BUSINESS ENERGY REBATE

#### Section 3050. Definitions.

55 3051. Establishment of the household and small business energy  
56 rebate program.

1           3052. Administration by the authority.

2           3053. Allocation of funds.

3           3054. Qualifying households.

4           3055. Rebate amount and report.

5           3056. Delivery of funds.

6           3057. Reassessment of allocations.

7           3058. Small business tax credit.

8           3059. Public service commission investigation.

9           § 3050. Definitions. For the purposes of this article, the following  
10 terms shall have the following meanings:

11           1. "Authority" shall mean the community and climate investment author-  
12 ity.

13           2. "Commissioner" means the commissioner of taxation and finance.

14           3. "Department" means the department of taxation and finance.

15           4. "Eligible low-income household" means, with respect to a given  
16 calendar year, any household in New York state whose gross income does  
17 not exceed one hundred fifty percent of the poverty line, regardless of  
18 citizenship or term of insurance.

19           5. "Eligible moderate-income household" means, with respect to a given  
20 calendar year, any household in New York state whose gross income  
21 exceeds one hundred fifty percent of the poverty line, but does not  
22 exceed the median household income for the county in which they reside,  
23 regardless of citizenship or term of insurance.

24           6. "Eligible small business" means a business, cooperative, or not-  
25 for-profit corporation which is resident in this state, and employs  
26 fifty or less persons (including a solo proprietorship), and with  
27 respect to businesses, is independently owned and operated and not domi-  
28 nant in its field.

29           7. "Fund" or "rebate fund" means the household and small business  
30 energy rebate fund established under subdivision three of section three  
31 thousand forty-six of this chapter.

32           8. "Poverty line" shall have the same meaning as in section 673(2) of  
33 the federal community services block grant act (46 USC section 9902).

34           9. "Program" means the household and small business energy rebate  
35 program established under this article.

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

38           § 3051. Establishment of the household and small business energy  
39 rebate program. There is hereby established within the authority, the  
40 "household and small business energy rebate program". The purposes of  
41 the program include:

42           1. disbursement of funds from the household and small business energy  
43 rebate fund; for the benefit of the most vulnerable populations, to  
44 offset the increased cost of living associated with the implementation  
45 of the climate pollution fee created pursuant to article forty-two of  
46 this chapter and other regulatory measures established as part of the  
47 state's climate mitigation efforts; and

48           2. reducing the already severe energy burden on low- and moderate-in-  
49 come families.

50           § 3052. Administration by the authority. Within six months of the  
51 effective date of this article, the authority is hereby authorized and  
52 directed to establish and operate the program. The authority shall  
53 implement the program in consultation with the office of temporary and  
54 disability assistance and the departments of health and labor. The  
55 authority shall be authorized and directed to: use monies made available  
56 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-

1 anism set forth in section three thousand fifty-six of this article; and  
2 how the number of households compare to:

3 (a) the incremental increase in the cost of living associated with the  
4 implementation of the fee established pursuant to article forty-two of  
5 this chapter and other regulatory measures established under article  
6 forty-two of this chapter;

7 (b) other estimated increases in the cost of living associated with  
8 the transition to a low-carbon economy; and

9 (c) existing energy burdens.

10 § 3056. Delivery of funds. 1. The authority, in partnership with the  
11 working group, the department, the public service commission and the  
12 office of temporary and disability assistance shall determine appropri-  
13 ate mechanisms for delivering rebates under this article. These depart-  
14 ments shall within the bounds of the law share necessary expertise and  
15 data. That mechanism shall ensure that:

16 (a) Eligible moderate-income households in the first and third house-  
17 hold categories set forth in section three thousand fifty-four of this  
18 article shall receive a direct payment redeemable tax credit.

19 (b) Eligible low-income households in the second and fourth household  
20 categories set forth in section three thousand fifty-four of this arti-  
21 cle shall receive their rebate through mechanisms that will not consti-  
22 tute income for purposes of any means-tested government assistance  
23 programs that they may be receiving. Unless an eligible low-income  
24 household opts out of such benefit under this section, the benefit shall  
25 be:

26 (i) a transit voucher for use receiving services through the Metropol-  
27 itan Transportation Authority, Access-a-Ride, or other public transit  
28 service for households in the second household category under section  
29 three thousand fifty-four of this article.

30 (ii) utility assistance or a weatherization grant for the fourth  
31 household category under section three thousand fifty-four of this arti-  
32 cle.

33 (iii) another form that complies with this subdivision.

34 2. All qualifying households may opt out of the default option for  
35 delivery of the rebate, and can choose to receive their benefit amount  
36 in the form of one of the following four options: (a) utility assist-  
37 ance; (b) a weatherization grant; (c) a voucher for use with their local  
38 transit authority; (d) a redeemable tax credit; or (e) a direct payment  
39 if the authority offers such option.

40 3. The authority shall make reasonable efforts to deliver funds as  
41 frequently as practical, and to distribute a portion of the rebate at  
42 least quarterly.

43 § 3057. Reassessment of allocations. 1. Beginning in two thousand  
44 twenty-one and every five years thereafter, the authority, in coordi-  
45 nation with the department, the office of temporary and disability  
46 assistance, the public service commission, the New York state energy  
47 research and development authority and the department of environmental  
48 conservation shall perform an assessment, which shall include, at a  
49 minimum, the following information: (a) the state-wide energy burden for  
50 small businesses, and households by geography and income; (b) whether  
51 such energy burden has stayed level or decreased since the effective  
52 date of this section; (c) the uptake of energy efficiency and renewable  
53 energy in each income category; and (d) an estimated impact on energy  
54 burden or another equivalent estimate of the proportion of household  
55 income spent on energy. Based on such information and any additional  
56 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.