

# STATE OF NEW YORK

6967

2021-2022 Regular Sessions

## IN ASSEMBLY

April 15, 2021

Introduced by M. of A. CAHILL, SEPTIMO -- read once and referred to the  
Committee on Environmental Conservation

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 Assem-  
bly, 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  
21 (f) extensive environmental degradation with devastating impacts to  
22 wildlife and natural habitats, ecosystems and food supplies.  
23 2. Many of the impacts of climate change are already observable in New  
24 York state and the northeastern United States. Annual average temper-

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

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

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

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

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

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

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

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

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

39 (d) have higher rates of cancer due to disproportionate exposure to  
40 air pollution, including lung cancer and other pollution-affiliated  
41 cancers; and

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

46 7. In the spring of 2020, New York experienced the devastating impacts  
47 of the Covid-19 pandemic. Tens of thousands of New Yorkers died, and  
48 many hundreds of thousands more became ill. Air pollution played a  
49 significant role in this pandemic, as residents of communities of color  
50 who live in highly polluted areas died disproportionately from Covid-19  
51 when compared to patients from less polluted neighborhoods. Throughout  
52 the pandemic, New Yorkers of color continue to disproportionately  
53 contract, fall ill, and die from Covid-19, in part because of dispropor-  
54 tionate exposure to toxic air pollution.

55 8. The Covid-19 pandemic has also caused a national economic crisis  
56 which has also severely impacted New York State. Many New Yorkers lost

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

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

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

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

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

46 13. Ensuring career opportunities are created and shared geograph-  
47 ically and demographically is necessary to ensure increased access to  
48 good jobs for marginalized communities while making the same neighbor-  
49 hoods more resilient. Climate change has a disproportionate impact on  
50 low-income people, communities of color, women, youth, children and  
51 workers. This includes formerly incarcerated individuals. Disadvantaged  
52 communities and workers must have access to all aspects of the state's  
53 clean energy economy, including as investors and developers of clean  
54 energy projects. It is in the interest of the state of New York to  
55 protect and promote the interests of these groups against the impacts of  
56 climate change and severe weather events and to advance our equity goals

1 by ensuring quality employment opportunities in safe working environ-  
2 ments.

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

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

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

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

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

54 (e) while many aspects of construction project planning cannot be  
55 controlled, ensuring the adequate supply of properly trained craft  
56 personnel can be effectively managed through the use of labor perform-

1 ance tools and policies. Key labor performance provisions include  
2 prevailing wage requirements, project labor agreements and responsible  
3 contractor provisions. These policies, in use in New York and throughout  
4 the country, are shown to be effective at protecting capital investments  
5 and the proprietary interests of investors. These tools also help ensure  
6 that adequate numbers of skilled craft personnel are deployed to  
7 projects in a timely manner and that the most highly qualified contrac-  
8 tors will be attracted to such projects. These tools also protect the  
9 wage rates of local communities, promote adherence to required licensing  
10 and technical certifications, and maintain labor peace on projects to  
11 avoid disruptions and protect project delivery;

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

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

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

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

46 17. In 2019, New York state demonstrated national and international  
47 leadership on climate by enacting the Climate Leadership and Community  
48 Protection Act ("CLCPA"), the nation's most aggressive climate law and  
49 the nation's only climate law that provides for a just transition. The  
50 CLCPA created a comprehensive regulatory program to reduce greenhouse  
51 gas emissions from all anthropogenic sources 100% over 1990 levels by  
52 the year 2050, with an incremental target of at least a 40 percent  
53 reduction in climate pollution by the year 2030, and requires investment  
54 in and protection of disadvantaged communities. To meet the goals of the  
55 CLCPA, the state will need to transform its energy infrastructure,  
56 including the rapid and significant deployment of clean and renewable

1 energy. It is in the interest of the state to promote and provide  
2 resources towards the development and maintenance of clean energy  
3 infrastructure.

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

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

20 (a) raising new, dedicated revenue specifically for climate programs;  
21 (b) investing in clean and renewable energy infrastructure such as  
22 solar energy, offshore wind, grid storage technologies and energy effi-  
23 ciency;

24 (c) rapidly transitioning to zero-emission transportation, especially  
25 zero-emission school and transit buses, to reduce adverse health impacts  
26 for children, workers, and communities, and improve grid resilience and  
27 renewable energy reliance;

28 (d) prioritizing funding for locally driven projects to reduce emis-  
29 sions and increase resiliency, especially in disadvantaged communities  
30 that are most impacted by climate change and air pollution;

31 (e) creating quality employment opportunities for all New Yorkers in  
32 the transition to a just clean economy and ensuring the full partic-  
33 ipation and prioritization of disadvantaged communities; and

34 (f) ensuring workers and communities currently reliant on the fossil  
35 fuel industry are given resources to avoid adverse economic impacts.

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

48 21. It is in the interest of the state to establish a dedicated  
49 authority to ensure that New York's climate goals are accomplished. Such  
50 an authority would be able to nimbly manage the proceeds from a polluter  
51 fee which will amass significant revenue and require ongoing management.  
52 This authority would also disburse funds for clean energy community  
53 scale projects in a timely and efficient manner while employing best  
54 value procurement practices. In addition, a new authority would have the  
55 capacity to ensure prioritization of projects and funds for impacted  
56 communities, coordinate statewide emissions reduction strategies and

1 assist impacted workers in a transition away from fossil fuels through  
2 specialized assistance programs.

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

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

9 TITLE 13

10 VALUE OF POLLUTION AND MITIGATION PROGRAM

11 Section 19-1301. Definitions.

12 19-1303. Methodology and valuation of pollution price index.

13 19-1305. Implementation of fees.

14 19-1307. Allocation of revenues.

15 19-1309. Inventory.

16 19-1311. Transportation pollution.

17 19-1313. Reporting.

18 § 19-1301. Definitions.

19 For the purposes of this title, the following terms shall have the  
20 following meanings:

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

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

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

26 4. "Covered sources" means those sources of regulated air contaminants  
27 required to have a permit under Title V of the Act (42 U.S.C. section  
28 7661 et seq).

29 5. "Cumulative burdens" mean the adverse health impacts that accrue to  
30 individuals and population groups as a result of exposure to pollution  
31 over time, and as a result of exposure to multiple forms of pollution  
32 and other risk factors, including poverty, violence, and substance  
33 abuse.

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

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

38 8. "Emissions hotspot" means a location where emissions of regulated  
39 air contaminants from specific sources may expose individuals and popu-  
40 lation groups to elevated risks of adverse health effects and may  
41 contribute to the cumulative health risks of emissions from other sourc-  
42 es in the area.

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

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

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

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

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

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

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

9 § 19-1303. Methodology and valuation of pollution price index.

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

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

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

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

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

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

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

34 (i) oxides of nitrogen;

35 (ii) volatile organic compounds;

36 (iii) sulfur dioxide;

37 (iv) particulate matter;

38 (v) carbon monoxide; and

39 (vi) lead;

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

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

51 (d) the authority subsequently publishes at least five additional  
52 methodologies per year, until that date when each regulated air contam-  
53 inant, or appropriate sub-grouping thereof, has a complete methodology  
54 ascribed to it.

55 § 19-1305. Implementation of fees.



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

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

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

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

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

27 § 19-1307. Allocation of revenues.

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

32 2. (a) Funds received under this title shall be allocated according-  
33 ly:

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

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

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

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

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

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

48 § 19-1309. Inventory.

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

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

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

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

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

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

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

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

16 § 19-1311. Transportation pollution.

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

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

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

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

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

33 (a) performance-based standards for mobile sources of regulated air  
34 contaminants;

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

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

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

39 (iii) congestion pricing;

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

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

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

51 (a) The regulations promulgated by the authority pursuant to this  
52 subdivision may include legally enforceable emissions limits, perform-  
53 ance standards, market-based mechanisms or measures or other require-  
54 ments to control regulated air contaminant emissions from mobile sourc-  
55 es. The authority is hereby authorized to establish any such policies  
56 pursuant to this section.

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

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

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

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

9 (iv) prioritize measures to maximize net reductions of emissions in  
10 disadvantaged communities;

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

13 (vi) minimize emissions leakage.

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

20 § 19-1313. Reporting.

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

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

29 (b) the effectiveness of the policies established under section  
30 19-1311 of this title to reduce regulated air contaminants from mobile  
31 sources statewide and within geographic subdivisions of the state;

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

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

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

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

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

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

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

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

55 (b) holding at least four regional public hearings, including two  
56 meetings in the upstate region and two meetings in the downstate region,

1 with emphasis on maximizing participation and accessibility for members  
 2 of disadvantaged communities.

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

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

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

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

27 3. If any diversion of funds occurs by passage of legislation during a  
 28 regular or extraordinary session of the legislature, the director of the  
 29 budget shall create and include with the budget or legislation diverting  
 30 funds, a diversion impact statement which shall include the following  
 31 information:

32 (a) the amount of the diversion from dedicated climate and community  
 33 investment funds;

34 (b) the amount diverted from each fund;

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

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

38 (e) a detailed estimate of the impact of diversion from dedicated  
 39 climate and community investment, including any impact on climate  
 40 infrastructure development, just transition, worker and community assur-  
 41 ance, energy rebates, maintenance, security, and the current capital  
 42 program.

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

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

51 ARTICLE 8-B

52 RESPONSIBLE CONTRACTING, LABOR AND JOB STANDARDS AND  
 53 WORKER PROTECTION

54 Section 228. Definitions.

55 229. Labor and project performance standards.

1 229-a. Best value requirements for the solicitation, evaluation  
2 and award of renewable energy projects, energy efficiency  
3 projects and other construction projects undertaken with  
4 support from the authority or receiving state assistance.

5 229-b. Best value requirements for all work other than  
6 construction.

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

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

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

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

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

21 5. "Labor organization" means any organization which exists and is  
22 constituted for the purpose, in whole or in part, of collective bargain-  
23 ing, or of dealing with employers concerning grievances, terms or condi-  
24 tions of employment, or of other mutual aid or protection and which is  
25 not a company union. This includes, but is not limited to bona fide  
26 labor organizations that are certified or recognized as the organization  
27 of jurisdiction representing the workers involved and/or bona fide  
28 building and construction trades councils and/or district councils and  
29 state and local labor federations comprised of local unions certified or  
30 recognized as the representative of the workers.

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

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

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

43 § 229. Labor and project performance standards. The following require-  
44 ments shall apply to any projects assisted under the Act:

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

50 2. Execution of project labor agreement. The party which receives  
51 assistance from the state for a renewable energy project, energy effi-  
52 ciency project, other construction project undertaken with support from  
53 the authority, or receiving state assistance shall take the necessary  
54 contractual actions to ensure that a project labor agreement is executed  
55 between the general contractor or other entity responsible for  
56 construction of the assisted project and bona fide building and



1 construction trade councils that have the capability to supply skilled  
2 craft personnel in all crafts needed for the project in the area where  
3 the project is located.

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

7 (a) bind all contractors and subcontractors on the assisted project to  
8 the project labor agreement through the inclusion of appropriate spec-  
9 ifications in all relevant solicitation provisions and contract docu-  
10 ments;

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

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

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

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

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

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

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

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

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

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

50 (d) in the past three years:

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

52 (ii) has not defaulted on any project;

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

55 (iv) has not been found in violation of any law applicable to its  
56 business that resulted in the payment of a fine, back pay damages, or

1 any other type of penalty in the amount of ten thousand dollars or more;  
2 will pay craft personnel employed on the project, at a minimum, the  
3 applicable wage and fringe benefit rates for the classification in which  
4 the worker is employed in accordance with applicable required rates for  
5 the project; and

6 (e) will not misclassify craft labor employees as independent contrac-  
7 tors.

8 6. Contractor responsibility certifications executed in accordance  
9 with this article:

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

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

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

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

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

37 10. Prevailing wage exception. Prevailing wage requirements under the  
38 Act shall not apply to assisted projects covered by project labor agree-  
39 ments.

40 § 229-a. Best value requirements for the solicitation, evaluation and  
41 award of renewable energy projects, energy efficiency projects, other  
42 construction projects undertaken with support from the authority or  
43 receiving state assistance. 1. Purpose. The purpose of this section is  
44 to establish best value requirements for the solicitation, evaluation  
45 and award of renewable energy projects, energy efficiency projects, and  
46 other construction projects undertaken with support from the authority,  
47 or assisted by the state, including those assisted by the Act.

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

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

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

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

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

7 (e) "offeror" means the project owner, developer or other entity which  
8 seeks to propose a renewable energy project, energy efficiency project,  
9 other construction project undertaken with support from the authority,  
10 or receiving state assistance and obtain renewable energy credit or  
11 other assistance from the state.

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

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

17 3. Solicitation requirements for covered projects. Solicitations used  
18 to provide state assistance to covered projects shall utilize the  
19 following procedures:

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

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

24 (ii) promoting maximum competition among qualified offerors presenting  
25 proposals.

26 (b) solicitations shall be administered through a public request for  
27 proposals process that provides adequate notice, instructions for  
28 submitting proposals and other relevant information as determined by the  
29 agency.

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

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

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

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

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

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

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

49 (c) in determining which proposal offers the best value to the state,  
50 the agency shall evaluate the following factors in accordance with the  
51 following criteria:

52 (i) proposed project;

53 (ii) offeror qualifications;

54 (iii) project team qualifications;

55 (iv) economically disadvantaged impact.



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

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

7 (a) projected amount of energy to be generated;

8 (b) viability of the proposed energy source;

9 (c) feasibility of the project plan and schedule;

10 (d) qualifications of the project team.

11 7. Evaluation of offeror's qualifications. The offeror's qualifica-  
12 tions shall be determined by an evaluation of its past performance  
13 record, expertise and technical qualifications and present performance  
14 capabilities, including financial resources and experience of the  
15 offeror's senior management and project team management.

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

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

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

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

29 (i) resources, including equipment and financial resources;

30 (ii) experience of the senior management and project management of the  
31 lead contractor and subcontractors; and

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

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

37 (ii) participation in registered apprenticeship programs that have a  
38 track record of graduating apprentices for at least three years and  
39 journey person;

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

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

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

49 10. Prequalification process. Requests for proposals may be preceded  
50 by a prequalification stage to require interested offerors to demon-  
51 strate that they have adequate minimum qualifications and sufficiently  
52 viable project proposals to qualify to compete in a request for  
53 proposals process.

54 11. Evaluation of economically disadvantaged impact. Evaluation of  
55 this factor shall include an assessment of the degree to which the

1 project promotes opportunities to small, minority-owned businesses and  
2 workers in economically disadvantaged communities.

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

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

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

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

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

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

21 § 229-b. Best value requirements for all work other than construction.

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

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

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

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

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

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

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

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

55 (g) "U.S. employment plan" (USEP) shall mean the plan which an entity  
56 submitting proposals to awarding authorities for renewable energy

1 projects, energy efficiency, other projects other than the construction  
2 aspect of the project include in their proposal to receive extra credit  
3 and/or points as defined by the applicable awarding authority. If a  
4 proposer chooses to submit a U.S. employment plan to win extra credit,  
5 the proposal shall include a worksheet with: proposed wages, benefits,  
6 retraining and training, including a workforce training plan, completed  
7 by the proposer and the potential subvendors, and a narrative  
8 description of the proposers' plan to:

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

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

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

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

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

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

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

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

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

43 3. Application process. This section shall apply to all contracts as  
44 defined in this section.

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

47 (b) awarding authorities shall develop a system for awarding extra  
48 points and/or credit for those proposers that create and submit a local  
49 employment plan or U.S. employment plan (depending on source of fund-  
50 ing).

51 (c) final contracts with a local employment plan and/or U.S. employ-  
52 ment plan that are awarded under this section shall require vendors to  
53 submit quarterly reports within the first year of award and annual  
54 reports for subsequent years demonstrating vendor and subvendor compli-  
55 ance with their local employment plan and/or U.S. employment plan. These  
56 quarterly and annual reports shall be certified under penalty of perjury

1 and must be submitted in order to receive milestone payments under the  
2 contract.

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

9 (e) the awarding authority shall enact regulations creating forms for  
10 completion of the local employment plan and/or U.S. employment plan that  
11 the awarding authority will include with requests for proposals for  
12 contracts.

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

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

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

29 TITLE 9-C

30 CLIMATE CHANGE JUST TRANSITION

31 SUBTITLE I

32 GENERAL PROVISIONS

33 Section 1910. Definitions.

34 1911. Coordination of programs.

35 1912. Transparency and accountability.

36 1913. Report on community ownership.

37 SUBTITLE II

38 COMMUNITY JUST TRANSITION

39 Section 1914. Definitions.

40 1915. Office of community just transition.

41 1916. Establishment of community just transition program.

42 1917. Administration by the authority.

43 1918. Allocation of funds.

44 1919. Selection process.

45 1920. Identification of disadvantaged community needs.

46 1921. Community decision-making and accountability mechanisms.

47 1922. Criteria for implementing community accountability mech-  
48 anisms.

49 1923. Consultation with the working group.

50 SUBTITLE III

51 CLIMATE JOBS AND INFRASTRUCTURE

52 Section 1924. Definitions.

53 1925. Establishment of climate jobs and infrastructure program.

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9 SUBTITLE IV

10 JUST TRANSITION FOR IMPACTED WORKERS AND COMMUNITY ASSURANCE

11 Section 1933. Definitions.

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13 1935. Establishment of worker assurance program.  
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15 1937. Administration.  
16 1938. Allocation of funds.  
17 1939. Selection process.  
18 1939-a. Designation of significant impact.  
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20 1939-c. Reporting.

21 § 1910. Definitions. For the purposes of this subtitle, the following  
22 terms shall have the following meanings:

23 1. "Advisory council" means the advisory council established under  
24 section nineteen hundred thirty-two of this title.  
25 2. "Authority" means the climate and community investment authority.  
26 3. "Community ownership" means projects, businesses and legal models  
27 in regard to renewable energy assets and services that allow for one or  
28 more of the following:

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

26 § 1911. Coordination of programs. The authority shall undertake  
27 actions to ensure maximum coordination between each of the programs  
28 created under section three thousand forty-six of the tax law, includ-  
29 ing:

30 1. conducting each program such that all three programs together:  
31 (a) maximize the total economic and social benefits to New York;  
32 (b) maximize administrative efficiency;  
33 (c) achieve the most cost-effective and the greatest amount of  
34 reductions in greenhouse gas emissions and regulated air contaminants;  
35 (d) achieve an equitable distribution of funds;  
36 (e) maximize benefits to disadvantaged communities;  
37 (f) encourage early action to reduce emissions;  
38 (g) minimize emissions leakage;  
39 (h) promote equitable access to program participation across programs,  
40 including interoperability with existing programs and the use of  
41 universal eligibility applications for low-income applicants who may be  
42 eligible for multiple services; and  
43 (i) identify and utilize best industry standard practices to overcome  
44 barriers to implementation, such as split incentives for energy effi-  
45 ciency.

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

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

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

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

5 § 1912. Transparency and accountability. 1. No later than two years  
6 following the effective date of this title, and every two years there-  
7 after, the president, in partnership with the working group, shall  
8 produce a report on the implementation of the programs established under  
9 this title and the extent to which program implementation is meeting  
10 stated program goals and priorities. Such report shall include but not  
11 be limited to:

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

13 (i) the extent to which needs identified in the needs assessment are  
14 being met;

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

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

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

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

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

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

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

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

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

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

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

36 (v) the effectiveness of projects funded under the program in reducing  
37 energy burdens of households, including households in disadvantaged  
38 communities; and

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

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

43 (i) the actual costs of the fee as compared to the amount of the  
44 rebate;

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

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

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

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

54 (b) holding at least four regional public hearings, including two  
55 meetings in the upstate region and two meetings in the downstate region,

1 with emphasis on maximizing participation and accessibility for members  
2 of disadvantaged communities.

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

7 § 1913. Report on community ownership. 1. Not later than two years  
8 following the effective date of this subtitle, and every two years ther-  
9 eafter, the authority, with input from the working group, the department  
10 of labor, the state energy planning board and the department of environ-  
11 mental conservation, shall produce a report on barriers to, and opportu-  
12 nities for, community ownership, including:

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

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

18 (i) distributed renewable energy generation;

19 (ii) utility scale renewable energy generation;

20 (iii) energy efficiency and weatherization investments; and

21 (iv) electric grid investments, including energy storage and smart  
22 meters.

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

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

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

33 3. The final report shall be submitted to the governor, the temporary  
34 president of the senate, the speaker of the assembly, the minority lead-  
35 er of the senate and the minority leader of the assembly, and shall be  
36 posted on the website of the authority.

37 § 1914. Definitions. For the purposes of this subtitle, the following  
38 terms shall have the following meanings:

39 1. "Disadvantaged communities" shall have the same meaning as in  
40 subdivision three of section 75-0111 of the environmental conservation  
41 law.

42 2. "Eligible lead applicant" means a constituency-based organization  
43 or a tribal nation, in or serving a disadvantaged community or communi-  
44 ties. Notwithstanding the preceding sentence, a constituency-based  
45 organization or tribal nation may be an eligible lead applicant, whether  
46 or not it is in or serving a disadvantaged community or communities, if  
47 it makes an application for funding on behalf of one or more constituen-  
48 cy-based organizations or tribal nations that are in or serving one or  
49 more disadvantaged communities with the consent of such constituency-  
50 based organization or organizations or tribal nation or nations and  
51 subgrants to such constituency-based organization or organizations or  
52 tribal nation or nations. A municipality or county where a project is  
53 proposed to be located shall also be considered an eligible lead appli-  
54 cant if it affirms that there is no constituency-based organization or  
55 tribal nation in or serving the disadvantaged community or that is will-  
56 ing or able to submit an application or consent to be a subgrantee under



1 this subdivision, and that it provided a reasonable opportunity for  
2 residents and organizations in or serving the municipality or county to  
3 comment on the application prior to submission.

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

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

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

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

16 7. "Program" means the community just transition program established  
17 under this subtitle.

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

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

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

24 § 1915. Office of community just transition. 1. The authority shall  
25 establish, not later than six months after the effective date of this  
26 subtitle, the "office of community just transition". Such office will  
27 administer the fund and the program, among other duties. Such office  
28 shall be responsible for implementing new, progressive and equitable  
29 grant opportunities that support disadvantaged communities transitioning  
30 to a regenerative renewable energy economy. The office will collaborate  
31 with the working group to develop and assess programs.

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

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

45 § 1916. Establishment of community just transition program. There is  
46 hereby established within the authority, a community just transition  
47 program, to be implemented by the director. The purpose of the program  
48 is to disburse funds from the community just transition fund pursuant to  
49 section nineteen hundred eighteen of this subtitle.

50 § 1917. Administration by the authority. Within six months of the  
51 effective date of this subtitle, the authority is hereby authorized and  
52 directed to establish and administer the community just transition  
53 program. The authority shall implement the program in consultation with  
54 the working group. The authority is authorized and directed to:

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

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

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

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

14 § 1918. Allocation of funds. 1. Funds from the community just transi-  
15 tion fund shall be disbursed through direct grants to eligible lead  
16 applicants.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52 8. The director shall consult with the division of housing and commu-  
53 nity renewal and the working group to develop strategies to mitigate any  
54 adverse economic impact of the program on tenants and homeowners,  
55 including, but not limited to, residents of rent-regulated housing or  
56 recipients of housing subsidies and rent-burdened households; and

1 enhance long-term community cohesion while preventing gentrification and  
2 displacement.

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

9 § 1920. Identification of disadvantaged community needs. 1. The  
10 authority, in cooperation with the working group and the commissioners  
11 of health, labor and environmental conservation, shall identify disad-  
12 vantaged community needs for the purposes of implementing this section.

13 2. Disadvantaged community needs shall be identified, with the input  
14 of experts, local government representatives, public utility represen-  
15 tatives, and other local stakeholders, for each disadvantaged community  
16 or set of disadvantaged communities.

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

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

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

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

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

39 § 1921. Community decision-making and accountability mechanisms. 1.  
40 The authority, in cooperation with the working group and the commission-  
41 ers of health, labor and environmental conservation, shall establish  
42 criteria for appropriate community decision-making practices for the  
43 purposes of implementing this section.

44 2. Community decision-making practices shall be identified based on  
45 consultations with constituency-based organizations, members of disad-  
46 vantaged communities, and other stakeholders identified by the authori-  
47 ty.

48 3. Before finalizing the criteria for appropriate community decision-  
49 making practices pursuant to subdivision one of this section, the  
50 authority shall ensure that there are meaningful opportunities for  
51 public comment for all persons who will be impacted by the criteria,  
52 including persons living in areas that may be identified as disadvan-  
53 tagged communities, including by:

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

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

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

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

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

16 § 1922. Criteria for implementing community accountability mechanisms.  
17 The authority, in cooperation with the working group, and the commis-  
18 sioners of health, labor and environmental conservation, shall establish  
19 criteria for implementing community accountability mechanisms for the  
20 purposes of implementing this section.

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

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

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

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

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

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

43 § 1923. Consultation with the working group. In consulting with the  
44 working group in the course of implementing the program established  
45 under this subtitle, the authority shall adhere to the following proce-  
46 dures:

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

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

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



1 § 1924. Definitions. For the purposes of this subtitle, the following  
2 terms shall have the following meanings:

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

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

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

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

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

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

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

24 8. "Disadvantaged communities" shall have the same meaning as in  
25 subdivision five of section 75-0101 of the environmental conservation  
26 law.

27 § 1925. Establishment of climate jobs and infrastructure program.  
28 There is hereby established within the authority, a climate jobs and  
29 infrastructure program, which shall disburse funds from the climate jobs  
30 and infrastructure fund pursuant to the goals established under section  
31 nineteen hundred twenty-seven of this subtitle.

32 § 1926. Administration by the authority. Within six months of the  
33 effective date of this subtitle, the authority is hereby authorized and  
34 directed to establish and administer the climate jobs and infrastructure  
35 program. The authority shall implement the program in consultation with  
36 the advisory council, the public service commission, the New York inde-  
37 pendent system operator, the New York energy research and development  
38 authority, and the departments of transportation, environmental conser-  
39 vation, health and labor. The authority is authorized and directed to  
40 take the following steps:

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

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

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

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

55 § 1927. Allocation of funds. 1. Funds from the climate jobs and  
56 infrastructure fund shall be disbursed under the climate jobs and

1 infrastructure program to achieve quantifiable, verifiable, and signif-  
2 icant reductions in greenhouse gas emissions and of regulated air  
3 contaminants while achieving the general goals specified in subdivision  
4 two of this section. These funds are intended to advance the goals of  
5 the climate leadership and community protection act.

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

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

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

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

18 (d) achieving advancements in social equity, including promoting  
19 community ownership and governance of energy production, including  
20 youth, children, the incarcerated and the formerly incarcerated; and  
21 supporting sustainable local economic development;

22 (e) electrification of equipment and appliances for residential,  
23 commercial and industrial applications;

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

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

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

43 (i) encouraging the development of quality child and dependent care  
44 with priority given to the development of quality child care located in  
45 and serving disadvantaged communities; and

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

49 3. Every five years, the authority, in consultation with the advisory  
50 council, shall designate priority project types for investments based on  
51 capital funding needs, the potential for greenhouse gas emission  
52 reductions, and the potential for regional job creation. These priori-  
53 ties shall guide the authority in soliciting proposals and selecting  
54 projects. The first five years of funding shall prioritize investment  
55 in:

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

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

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

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

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

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

37 (g) child and dependent care facilities and programs with priority  
38 given to child and dependent care facilities and programs located in or  
39 serving disadvantaged communities.

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

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

49 § 1928. Funding instruments. The authority, in consultation with the  
50 advisory council, shall determine the appropriate instrument, or variety  
51 of instruments, including grants, loan guarantees, incentives, bond  
52 payments, loan programs, and other mechanisms for achieving the goals  
53 stated in section nineteen hundred twenty-seven of this subtitle.

54 § 1929. Selection process and criteria. The authority is authorized,  
55 within amounts appropriated, to disburse funds from the fund to eligible  
56 applicants on a competitive basis.



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

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

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

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

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

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

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

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

23 4. The authority shall encourage eligible applicants to propose  
24 projects in partnership with other eligible applicants, and with third-  
25 party entities.

26 § 1930. Consultation with the advisory council. In consulting with the  
27 advisory council in the course of implementing the program established  
28 under this subtitle, the authority shall:

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

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

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

37 § 1931. Comprehensive approach to existing structures. 1. In consulta-  
38 tion with the advisory council, the department of state, department of  
39 homes and community renewal, the department of environmental conserva-  
40 tion, the New York energy research and development authority and other  
41 relevant stakeholders, the authority shall develop a master plan to:

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

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

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

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

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

49 2. The master plan will specifically include recommendations for coor-  
50 ordinated changes to the building and energy codes, energy efficiency  
51 programs administered by the state and others, and spending pursuant to  
52 the climate and community investment act, in order to ensure that most  
53 buildings receive deep energy efficiency retrofits that include assess-  
54 ment and improvements to health and safety.

55 3. To prepare the master plan, the authority shall convene relevant  
56 stakeholders in each region of the state at least once, giving at least

1 ninety days' notice of the proposed meeting in order for the public to  
2 attend. For the purposes of this subdivision, "region" shall have the  
3 same meaning as in subdivision nine of section twenty-four hundred twen-  
4 ty-six of this chapter.

5 § 1932. Advisory council of the climate jobs and infrastructure  
6 program. There is hereby created within the authority, not later than  
7 six months after the effective date of this article, an advisory council  
8 of the climate jobs and infrastructure program. Such advisory group will  
9 be comprised of the commissioners of labor, transportation, housing and  
10 community renewal, the president of the new york state energy research  
11 and development authority, representatives from environmental justice  
12 communities, labor, youth groups, youth, regional transportation offi-  
13 cial, transportation advocates, including representatives from upstate  
14 cities, the mid hudson region, new york city and long island, clean  
15 energy developers and energy system experts. In addition to any other  
16 functions assigned to the working group in this article, the working  
17 group shall also perform the functions assigned to the working group as  
18 set forth in this title, title thirteen of article nineteen of the envi-  
19 ronmental conservation law, article twenty-five-d of the labor law, and  
20 articles forty-two and forty-three of the tax law. For the purposes of  
21 this section, "region" shall have the same meaning as in subdivision  
22 nine of section twenty-four hundred twenty-six of this chapter.

23 § 1933. Definitions. For the purposes of this article, the following  
24 terms shall have the following meanings:

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

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

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

36 4. Applicable firm. The term "applicable firm" means, as applicable:  
37 (a) the firm, or subdivision of a firm, for which the group of workers  
38 who are petitioning for certification work at;

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

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

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

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

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

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

53 (a) extracts, transports, or uses as a direct input energy resources  
54 or electricity; or

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (d) disabled;

22 (e) a veteran;

23 (f) a person previously incarcerated or convicted of a criminal  
24 offense; or

25 (g) long-term unemployed.

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

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

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

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

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

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

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

54 (a) a reduction in hours of work to eighty percent or less of the  
55 individual's average weekly hours in adversely affected employment; and

1 (b) a reduction in wages to eighty percent or less of the individual's  
2 average weekly wage in such adversely affected employment.

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

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

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

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

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

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

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

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

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

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

32 § 1934. Worker and community assurance board. There is hereby created  
33 no later than six months after the effective date of this subtitle, a  
34 "worker and community assurance board".

35 1. The board will be comprised of:

36 (a) the president;

37 (b) the commissioner of labor;

38 (c) the commissioner of environmental conservation;

39 (d) the state comptroller or their representative;

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

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

42 (ii) one representative of a labor organization;

43 (iii) one expert in economic development; and

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

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

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

47 (ii) one representative of a labor organization;

48 (iii) one expert in economic development; and

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

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

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

1 § 1935. Worker assurance program. There is hereby established within  
2 the authority, a worker assurance program, to be implemented by the  
3 chair.

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

7 (a) adversely affected workers;

8 (b) displaced workers; and

9 (c) disadvantaged workers in significantly impacted communities.

10 2. Benefits, services, or financial support may be delivered directly  
11 by the authority or through eligible lead applicants and eligible sub-  
12 applicants.

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

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

20 (a) adversely affected workers;

21 (b) displaced workers; or

22 (c) disadvantaged workers in significantly impacted communities.

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

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

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

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

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

39 (c) payment towards pension support;

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

42 (e) payment towards early retirement;

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

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

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

51 9. When approved applicants are employed or have been immediately  
52 prior to displacement under an existing collective bargaining agreement,  
53 the authority shall notify the labor organization party to the that  
54 agreement of the application.



1 § 1936. Community assurance program. There is hereby established with-  
2 in the authority, a community assurance program, to be implemented by  
3 the chair. The purpose of the program is to:

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

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

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

10 (b) job creation programs;

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

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

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

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

22 (b) infrastructure projects in communities where energy-intensive  
23 facilities are closing;

24 (c) efforts at reclamation project creating a renewable project  
25 located at:

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

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

32 (iii) real property owned by a private developer or real property  
33 owned by an applicable firm.

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

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

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

46 (i) electric buses (including school buses), electric pickup trucks,  
47 electric cars, and other electric vehicles; and

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

50 § 1937. Administration. 1. Within six months of the effective date of  
51 this subtitle, the authority is hereby authorized and directed to estab-  
52 lish the programs authorized by this subtitle. The authority shall  
53 implement the programs in consultation with the board and shall:

54 (a) use monies made available for the programs for the establishment  
55 of worker and community assurance board pursuant to section nineteen  
56 hundred thirty-four, the establishment of the worker assurance program

1 pursuant to section nineteen hundred thirty-five, and the community  
2 assurance program pursuant to section nineteen hundred thirty-six of  
3 this subtitle to achieve the purposes of each program;

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

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

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

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

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

20 § 1938. Allocation of funds. 1. Funds from the fund shall be disbursed  
21 under the programs and be used to ensure a stable transition for workers  
22 and communities impacted by the transition to a carbon free economy.  
23 Funds may be used for activities pursuant to sections nineteen hundred  
24 thirty-four, nineteen hundred thirty-five and nineteen hundred thirty-  
25 six of this subtitle.

26 2. The authority shall:

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

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

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

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

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

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

45 § 1939. Selection process. The director is authorized, within amounts  
46 appropriated, to disburse funds from the fund on a competitive basis for  
47 approved projects to eligible applicants and partners.

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

51 2. The board will select projects based on proposals from eligible  
52 lead applicants and labor organizations, based on task force's recommen-  
53 dation, or based on a request from an individual impacted workers and  
54 adversely affected workers.

55 3. Proposals should clearly articulate: the programs to be supported;  
56 the number of workers impacted; overall expected funding level; a plan

1 to engage the people most affected by the transition, including workers  
2 and community members; a plan for any necessary site remediation and  
3 economic development; and a plan to ensure that funding is time limited  
4 to no more than ten years of direct support from the fund.

5 4. The authority shall give priority to proposals from or related to:

6 (a) disadvantaged workers or disadvantaged communities;

7 (b) adversely affected workers;

8 (c) eligible applicants that relate to adversely affected employment;

9 (d) projects that have significant employment and tax base impacts  
10 when experiencing a permanent closure.

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

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

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

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

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

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

38 § 1939-a. Designation of significant impact. 1. The authority, in  
39 cooperation with the board and working group, shall establish criteria  
40 to determine when an industry has become significantly impacted as a  
41 direct result of policies to reduce greenhouse gas emissions in New York  
42 state. The authority shall identify an initial set of industries that  
43 are significantly impacted as a direct result of emissions reduction  
44 policies for the purposes of implementing this section. After those  
45 initial set of industries, further industries can be added by the task  
46 force.

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

50 (a) permanent facility closures or the closure of businesses as a  
51 result of regulatory changes related to the climate and community  
52 investment act;

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



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

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

12 (a) publishing draft criteria and a draft list of significantly  
13 impacted industries and making such information available on the inter-  
14 net.

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

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

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

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

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

37 § 1939-b. Public engagement and social dialogue. 1. The board shall  
38 regularly seek input and feedback from the community, both in every  
39 region and directly from impacted communities and impacted workers.

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

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

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

54 (b) identifying every community across New York that is already a  
55 significantly impacted community, already has significant adversely  
56 affected employment (including significant employment in the energy

1 industry is likely to be a significantly impacted community), or already  
2 has impacted workers or permanently closed facilities. The basis for  
3 communities to be included, and to schedule a start date for social  
4 dialogue and the creation of regional working groups shall begin by  
5 convening the workers and members of the impacted communities to begin a  
6 discussion about climate change's impacts on the workforce and host  
7 communities.

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

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

25 (a) specifics of how to transition a workforce into emerging jobs;  
26 (b) estimates of sufficient resources for that transition;  
27 (c) what expertise and supports must be allocated for the development  
28 and implementation of an effective workforce plan;  
29 (d) a skills map for each impacted position, current and emerging new  
30 energy jobs and regional employment opportunities with similar require-  
31 ments; and  
32 (e) education and training options for workers that allows them to  
33 rapidly re-skill for jobs in demand that recognizes their current and  
34 transferable skills, provides competency-based training, learn and earn,  
35 and credit for prior learning opportunities upskilling through joint  
36 labor management journey person extension programs sponsored by joint  
37 apprenticeship training programs.

38 6. The director will also seek public input on:  
39 (a) a policy for workforce impact statements; and  
40 (b) additional potential funding and possible partnerships for oppor-  
41 tunity and workforce and economic revitalization.

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

45 § 1939-c. Reporting. 1. No later than two years following the effec-  
46 tive date of this subtitle, and every two years thereafter, the authori-  
47 ty, in partnership with the working group, shall produce a report on the  
48 implementation of the program established under this subtitle and the  
49 extent to which program implementation is meeting stated program goals  
50 and priorities. Such report shall include but not be limited to:

51 (a) reporting on the effectiveness of the policies established under  
52 this subtitle to the legislature and public on the job creation and  
53 retention impacts;  
54 (b) an overview of social benefits pursuant to the implementation of  
55 this section, including benefits to the economy, environment, and public  
56 health, including women's health;

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

3 (d) recommendations for future policy pertaining to transition assist-  
4 ance; and

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

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

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

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

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

19 (i) environmental justice representatives;

20 (ii) organizations representing disadvantaged community members;

21 (iii) labor organizations in the area;

22 (iv) local businesses;

23 (v) local governments and school authorities; and

24 (vi) climate change experts.

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

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

34 TITLE 36

35 CLIMATE AND COMMUNITY INVESTMENT AUTHORITY

36 Section 2799-tttt. Definitions.

37 2799-uuuu. The climate and community investment authority of  
38 the state of New York; creation.

39 2799-www. Board of trustees.

40 2799-xxxx. Officers and employees; expenses.

41 2799-yyyy. Powers and duties of the authority.

42 2799-zzzz. Contracts negotiated by the authority.

43 2799-aaaa. Subsidiaries.

44 2799-bbbbb. Notes of the authority.

45 2799-cccc. Bonds of the authority.

46 2799-ddddd. Guaranty by the state.

47 2799-eeee. State and municipalities not liable on bonds or  
48 notes.

49 2799-ffff. Legal investments.

50 2799-gggg. Deposit and investment of monies of the authority.

51 2799-hhhh. Agreement of the state.

52 2799-iiii. Exemption from taxation.

53 2799-jjjj. Tax covenant.

54 2799-kkkk. Repayment of state appropriations.

55 2799-llll. Equal employment opportunity and minority and women  
56 owned business enterprise programs.

- 1           2799-mmmmm. Prevailing wage.
- 2           2799-nnnnn. Audits and annual reports.
- 3           2799-ooooo. Transparency.
- 4           2799-ppppp. Corporate existence.
- 5           2799-qqqqq. Conflicts of interest.
- 6           2799-rrrrr. Exculpation.
- 7           2799-sssss. Liberal interpretation.
- 8           2799-ttttt. Severability.
- 9           2799-uuuuu. Inconsistent provisions of other laws superseded.
- 10          2799-vvvvv. Title not affected if in part unconstitutional.
- 11          2799-wwwww. Climate manufacturing careers policy.
- 12          2799-xxxxx. Additional responsible contracting standards.

13       § 2799-tttt. Definitions. For the purposes of this title, the follow-  
 14 ing terms shall have the following meanings:

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

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

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

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

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

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

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

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

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

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

51       § 2799-uuuu. The climate and community investment authority of the  
 52 state of New York; creation. 1. There is hereby created a corporate  
 53 instrumentality of the state to be known as the "climate and community  
 54 investment authority of the state of New York" which shall be a body  
 55 corporate and political and a political subdivision of the state, exer-  
 56 cising essential government and public powers.

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

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

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

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

13 6. The board shall create within the authority:

14 (a) an office of environmental justice;

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

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

17 (d) an office of community just transition;

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

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

20 (g) an office of procurement;

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

22 (i) any other offices as necessary.

23 7. Each office created by the authority shall:

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

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

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

43 § 2799-www. Board of trustees. 1. Beginning no later than six months  
44 following the effective date of this title, the board of the authority  
45 shall be created and shall consist of thirteen trustees including:

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

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

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

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



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

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

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

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

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

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

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

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

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

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

32 § 2799-xxxx. Officers and employees; expenses. 1. Pursuant to authori-  
33 ty duly delegated to him or her, a director from time to time shall  
34 hire, without regard to any personnel or civil service law, rule, or  
35 regulation of the state and in accordance with guidelines adopted by the  
36 board, such officers, employees and consultants, as they may require for  
37 the performance of their duties and shall prescribe the duties and  
38 compensation of each such officer, employee or consultant. Notwith-  
39 standing the provisions of any general, special or local law, the board  
40 may determine that, if any pension or retirement plan becomes inapplica-  
41 ble or is terminated, all or such class or classes of employees of the  
42 authority as the board may determine may elect to become members of the  
43 New York state employees' retirement system on the basis of compensation  
44 payable to them by the authority.

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

54 § 2799-yyyy. Powers and duties of the authority. 1. Except as other-  
55 wise limited by this title, the authority shall have all of the powers



1 necessary or convenient to carry out the purposes and provisions of this  
2 title, including but not limited to, the power to:

3 (a) Sue and be sued in all courts and to participate in actions and  
4 proceedings, whether judicial, administrative, arbitrative or otherwise;

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

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

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

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

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

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

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

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

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

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

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

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

53 (n) Procure insurance against any loss in connection with its proper-  
54 ties or operations in such amount or amounts and from such insurers,  
55 including the federal government, as it may deem necessary or desirable,  
56 and to pay any premiums therefor;

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

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

3 (q) File a petition under chapter nine of title eleven of the United States bankruptcy code, or to take other similar action for the adjustment of its debts;

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

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

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

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

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

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

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

11 (y) Transfer employees of any state agency pursuant to section twenty-seven hundred ninety-nine-xxxx; and

12 (z) Levy fines and fees.

13 § 2799-zzzz. Contracts negotiated by the authority. Contracts negotiated by the authority as authorized under section twenty-seven hundred ninety-nine-yyyy of this title shall be entered into and executed as follows:

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

15 (b) The authority shall establish guidelines governing the qualifications of bidders entering into contracts relating to electric school buses and charging infrastructure, rolling stock and charging infras-

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

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

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

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

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

55 5. If the governor shall approve a contract, then such contract shall  
56 be executed by the president and the chair of the board of the authority

1 and such contract shall thereupon come into full force and effect and be  
2 binding upon the authority and all other parties thereto in accordance  
3 with such contract's terms.

4 § 2799-aaaaa. Subsidiaries. 1. The authority shall have the right to  
5 exercise and perform all or part of its powers and functions through one  
6 or more wholly owned subsidiaries by acquiring the voting shares there-  
7 of, or by resolution of the board directing any of its trustees, offi-  
8 cers or employees to organize a subsidiary corporation pursuant to the  
9 business corporation law, the not-for-profit corporation law or the  
10 transportation corporations law. Such resolution shall prescribe the  
11 purpose for which such subsidiary corporation shall be formed.

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

19 § 2799-bbbbb. Notes of the authority. 1. The authority shall have the  
20 power and is hereby authorized from time to time to issue its negotiable  
21 notes in conformity with applicable provisions of the uniform commercial  
22 code for any corporate purpose and to refund from time to time any notes  
23 by the issuance of new notes, whether the notes to be refunded have or  
24 have not matured. The authority may issue notes partially to refund  
25 notes or to discharge other obligations then outstanding, and partially  
26 for any other corporate purpose of the authority. Such notes may be  
27 authorized, sold, executed and delivered in the same manner as bonds.  
28 Any resolution or resolutions authorizing notes of the authority or any  
29 issue thereof may contain any provisions which the authority is author-  
30 ized to include in any resolution or resolutions authorizing bonds of  
31 the authority or any issue thereof, and the authority may include in any  
32 notes any terms, covenants or conditions which it is authorized to  
33 include in any bonds.

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

44 3. Neither the members of the board nor any person executing the notes  
45 or bonds shall be liable personally on the notes or bonds, or shall be  
46 subject to any personal liability or accountability by reason of the  
47 issuance thereof.

48 § 2799-ccccc. Bonds of the authority. 1. The authority shall have  
49 power and is hereby authorized from time to time to issue its negotiable  
50 bonds in conformity with applicable provisions of the uniform commercial  
51 code for any purpose authorized by this title, including without limita-  
52 tion to:

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

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

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

1 (d) establish or maintain such other funds or accounts for such  
2 purpose or purposes as the authority may deem necessary or desirable;  
3 and

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

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

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

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

39 5. Any resolution or resolutions authorizing any bonds or any issue of  
40 bonds may:

41 (a) delegate to an officer or officers of the authority the power to  
42 approve the issuance of bonds from time to time and to fix the details  
43 of any such bonds or issues of bonds by an appropriate certificate of  
44 such authorized officer or officers; and

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

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

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

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



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

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

5 (vi) Limitations on the issuance of additional bonds, the terms upon  
6 which additional bonds may be issued and secured, and the refunding of  
7 outstanding bonds;

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

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

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

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

30 7. Neither the trustees of the authority nor any person executing the  
31 bonds or notes shall be liable personally on the bonds or notes or be  
32 subject to any personal liability or accountability by reason of the  
33 issuance thereof.

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

38 9. All bonds, notes and other obligations issued by the authority  
39 under the provisions of this title shall have all the qualities and  
40 incidents of negotiable instruments under the applicable laws of the  
41 state and all municipalities and municipal subdivisions. All insurance  
42 companies and associations and other persons carrying on an insurance  
43 business, all banks, bankers, trust companies, savings banks and savings  
44 associations, including savings and loan associations, building and loan  
45 associations, investment companies and other persons carrying on a bank-  
46 ing business, and all other persons whatsoever, except as hereinafter  
47 provided, who are now or may hereafter be authorized to invest in bonds  
48 or other obligations of the state, may properly and legally invest funds  
49 including capital in their control or belonging to them; provided that,  
50 notwithstanding the provisions of any other general or special law to  
51 the contrary, such bonds and notes shall not be eligible for the invest-  
52 ment of funds, including capital, of trusts, estates or guardianships  
53 under the control of individual administrators, guardians, executors,  
54 trustees or other individual fiduciaries except when any such individual  
55 fiduciary shall be acting in such capacity with one or more corporate  
56 co-fiduciaries. The bonds and notes shall be securities which may be



1 deposited with and shall be received by all public officers and bodies  
2 of this state and all municipalities and municipal subdivisions for any  
3 purpose for which the deposit of bonds or other obligations of this  
4 state is now or may hereafter be authorized.

5 § 2799-ddddd. Guaranty by the state. 1. To the extent authorized by  
6 the state constitution at the time of the issuance of notes or bonds,  
7 the punctual payment of the notes and bonds shall be, fully and uncondi-  
8 tionally guaranteed by the state, both as to principal and interest,  
9 according to their terms; and such guaranty shall be expressed upon the  
10 face thereof by the signature or facsimile signature of the comptroller  
11 or a deputy comptroller. In the event that the authority shall fail to  
12 pay when due, the principal of, or interest on, the notes or bonds, the  
13 comptroller shall pay the holder thereof, and thereupon the state shall  
14 be subrogated to the rights of the noteholders or bondholders so paid.

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

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

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

34 § 2799-eeee. State and municipalities not liable on the bonds or  
35 notes. Notes and other obligations of the authority shall not be a debt  
36 of the state or of any municipality, and neither the state nor any muni-  
37 cipality shall be liable thereon. The authority shall not have the power  
38 to pledge the credit, the revenues or the taxing power of the state or  
39 of any municipality, and neither the credit, the revenues nor the taxing  
40 power of the state or of any municipality shall be, or shall be deemed  
41 to be, pledged to the payment of any bonds, notes or other obligations  
42 of the authority. Each evidence of indebtedness of the authority,  
43 including the bonds and notes of the authority, shall contain a clear  
44 and explicit statement of the provisions of this section.

45 § 2799-ffff. Legal investments. Any bonds or notes issued by the  
46 authority are hereby made securities in which all public officers and  
47 bodies of this state and all municipalities, all insurance companies and  
48 associations and other persons carrying on an insurance business, all  
49 banks, bankers, trust companies, savings banks and savings associations,  
50 including savings and loan associations, building and loan associations,  
51 investment companies and other persons carrying on a banking business,  
52 all trusts, estates and guardianships and all other persons whatsoever,  
53 who are now or may hereafter be authorized to invest in bonds or other  
54 obligations of the state, may properly and legally invest funds, includ-  
55 ing capital in their control or belonging to them. The bonds and notes  
56 shall also be securities which may be deposited with and shall be

1 received by all public officers and bodies of the state and all munici-  
2 palties for any purpose for which the deposit of bonds or other obli-  
3 gations of the state is now or may hereafter be authorized.

4 § 2799-ggggg. Deposit and investment of monies of the authority. 1.  
5 All moneys of the authority from whatever source derived shall be paid  
6 to the comptroller as agent of the authority, who shall not commingle  
7 such moneys with any other moneys. Such moneys shall be deposited in a  
8 separate bank account or accounts. The moneys in such accounts shall be  
9 paid out on check of the comptroller on requisition of the chairperson  
10 of the authority or of such other person as the authority may authorize  
11 to make such requisition. All deposits of such moneys shall, if required  
12 by the comptroller or the authority, be secured by obligations of the  
13 United States or of the state of New York of a market value equal at all  
14 times to the amount of the deposit and all banks and trust companies are  
15 authorized to give such security for such deposits. The comptroller and  
16 his or her legally authorized representatives shall be authorized and  
17 empowered from time to time to examine the accounts and books of the  
18 authority, including its receipts, disbursements, contracts, leases,  
19 sinking funds, investments and any other matters relating to its finan-  
20 cial standing.

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

37 § 2799-hhhhh. Agreement of the state. 1. The state shall not limit or  
38 alter the rights hereby vested in the authority to establish and collect  
39 such fees, rentals and charges as may be convenient or necessary to  
40 produce sufficient revenue to meet the expense of maintenance and opera-  
41 tion and to fulfill the terms of any agreements made with the holders of  
42 notes, bonds, or other obligations of the authority not guaranteed by  
43 the state, or in any way impair the rights and remedies of such holders  
44 until such notes, bonds, and other obligations, together with the inter-  
45 est thereon, with interest on any unpaid installments of interest, and  
46 all costs and expenses in connection with any action or proceedings by  
47 or on behalf of such holders, are fully met and discharged.

48 2. The state shall pledge to and agree with the holders of any notes  
49 or bonds of the authority, not guaranteed by the state, secured by a  
50 pledge of the fees or other revenues or any part thereof so long as the  
51 obligations of such bonds for principal and interest shall not have been  
52 paid or otherwise discharged;

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

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

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

9 § 2799-jjjjj. Tax covenant. The tax covenants with the purchasers and  
10 with all subsequent holders and transferees of notes and bonds issued by  
11 the authority, in consideration of the acceptance of and payment for the  
12 notes and bonds, that the notes and bonds of the authority issued pursu-  
13 ant to this title and the income therefrom and all its fees, charges,  
14 rents, gifts, grants, revenues, receipts and other moneys received or to  
15 be received, pledged to pay or secure the payment of such notes or bonds  
16 shall at all times be free from taxation except for estate or gift taxes  
17 and taxes on transfers.

18 § 2799-kkkkk. Repayment of state appropriations. All appropriations  
19 made by the state to the authority shall be treated as advances by the  
20 state to the authority, and shall be repaid to it without interest  
21 either out of the proceeds of bonds issued by the authority pursuant to  
22 the provisions of this title, or by the delivery of non-interest bearing  
23 bonds of the authority to the state for all or any part of such  
24 advances, or out of excess revenues of the authority, at such times and  
25 on such conditions as the state and the authority may mutually agree  
26 upon.

27 § 2799-lllll. Equal employment opportunity and minority and women-  
28 owned business enterprise programs. 1. All contracts entered into by  
29 the authority pursuant to this title of whatever nature and all docu-  
30 ments soliciting bids or proposals therefor shall contain or make refer-  
31 ence to the following provisions:

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

44 (b) At the request of the authority, the contractor shall request each  
45 employment agency, labor union, or authorized representative of workers  
46 with which it has a collective bargaining or other agreement or under-  
47 standing and which is involved in the performance of the contract with  
48 the authority to furnish a written statement that such employment agen-  
49 cy, labor union or representative shall not discriminate because of  
50 race, creed, color, national origin, sex, age, disability, marital  
51 status, sexual orientation, gender identity or expression, familial  
52 status, predisposing genetic characteristics, military status, or status  
53 as a victim of domestic violence and that such union or representative  
54 shall cooperate in the implementation of the contractor's obligations  
55 under this paragraph;

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

7 (d) The contractor shall include the provisions of paragraphs (a)  
8 through (c) of this subdivision in every subcontract or purchase order  
9 in such a manner that such provisions shall be binding upon each such  
10 subcontractor.

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

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

52 4. In order to implement the requirements and objectives of this  
53 section, the authority shall establish procedures to monitor contrac-  
54 tors' compliance with provisions of this section, provide assistance in  
55 obtaining competing qualified minority and women-owned business enter-  
56 prises to perform contracts proposed to be awarded, impose contractual

1 sanctions for non-compliance, and take other appropriate measures to  
2 improve the access of contracts for minority and women-owned businesses.

3 § 2799-mmmmm. Prevailing wage. Whenever the authority enters into any  
4 contract, subcontract, lease, grant, bond, covenant or other agreement  
5 for or in connection with any construction, demolition, reconstruction,  
6 excavation, rehabilitation, repair, renovation, alteration, or improve-  
7 ment project, such project shall be deemed to be a public works project  
8 for the purposes of article eight of the labor law, and all of the  
9 provisions of article eight of the labor law shall be applicable to all  
10 the work involved in the construction, demolition, reconstruction, exca-  
11 vation, rehabilitation, repair, renovation, alteration or improvement of  
12 such project. Funds, financial assistance, or any other benefits  
13 provided pursuant to this article shall not be utilized for or in  
14 connection with the construction, demolition, reconstruction, exca-  
15 vation, rehabilitation, repair, renovation, alteration, or improvement  
16 of any project to which the provisions of article eight of the labor law  
17 are not applicable.

18 § 2799-nnnnn. Audits and annual reports. 1. The accounts of the  
19 authority shall be subject to the supervision of the state comptroller  
20 and an annual audit shall be performed by an independent certified  
21 accountant selected by the authority, upon recommendation of its finance  
22 committee, audit committee and the advisory board. The authority shall  
23 submit a report of such audit annually to the governor, the state comp-  
24 troller, the temporary president of the senate, the speaker of the  
25 assembly. A detailed report pursuant to the provisions of section twen-  
26 ty-eight hundred of this chapter shall be verified by the chairman of  
27 the authority. The authority shall comply with the provisions of  
28 sections twenty-eight hundred one, twenty-eight hundred two, twenty-  
29 eight hundred three, and twenty-eight hundred four of this chapter.

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

33 § 2799-ooooo. Transparency. 1. The authority and all subsidiaries of  
34 the authority shall be subject to the provisions of article seven of the  
35 public officers law.

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

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

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

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

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

50 (a) All current board members;

51 (b) Advisory board members;

52 (c) Executive staff members;

53 (d) An accurate organizational chart; and

54 (e) Accurate contact information for all staff.

55 5. The authority and all subsidiaries of the authority shall at least  
56 annually report on their website, and to the comptroller and legislature



1 a list of all grantees, fund recipients, and contracts. Where deemed  
2 appropriate, all reports generated by the authority whether under this  
3 section or otherwise shall provide a list of all grantees and amounts of  
4 grants during each reporting period, and any criteria used for the  
5 selection of grantees and fund recipients.

6 § 2799-ppppp. Corporate existence. The authority and its corporate  
7 existence shall continue until terminated by law, provided, however,  
8 that no such law shall take effect so long as the authority shall have  
9 bonds, notes or other obligations outstanding, unless adequate provision  
10 has been made for the payment thereof, or at which point the state of  
11 New York has reduced greenhouse gas emissions by eighty-five percent,  
12 and achieved a one hundred percent carbon free electricity procurement,  
13 and achieved seventy percent of energy acquired by renewable energy, and  
14 installed nine thousand megawatts of offshore wind energy, and installed  
15 three thousand megawatts of energy storage, and installed six thousand  
16 megawatts of solar energy, and achieved twenty-two million tons of  
17 carbon reduction through energy efficiency and electrification measures.  
18 Upon such occurrence authority shall cease to exist.

19 § 2799-gqqqq. Conflicts of interest. 1. If any member, officer or  
20 employee of the authority shall have an interest, either direct or indi-  
21 rect, in any contract to which the authority is, or is to be, a party,  
22 such interest shall be disclosed to the authority in writing and shall  
23 be set forth in the minutes of the authority. The member, officer or  
24 employee having such interest shall not participate in any action by the  
25 authority with respect to such contract.

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

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

37 § 2799-rrrrr. Exculpation. 1. The trustees and officers of the author-  
38 ity, while acting within the scope of their authority as trustees or  
39 officers, shall not be subject to any personal or civil liability  
40 resulting from the exercise, carrying out or advocacy of any of the  
41 authority's purposes or powers, unless the conduct of the trustees or  
42 officers is finally determined by a court of competent jurisdiction to  
43 constitute intentional wrongdoing.

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

50 3. Notwithstanding any other provisions of law to the contrary, the  
51 provisions of section eighteen of the public officers law shall apply to  
52 the employees of the authority, in connection with any and all claims,  
53 demands, suits, actions or proceedings which may be brought against any  
54 of them arising out of any determinations made or actions taken or omit-  
55 ted to be taken in compliance with any obligations under or pursuant to  
56 the terms of this title. Whenever the provisions of section seventeen of

1 the public officers law do not apply to the board trustees and officers  
2 of the authority, the provisions of section eighteen of the public offi-  
3 cers law shall apply to such board trustees and officers.

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

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

18 § 2799-sssss. Liberal interpretation. This title, being necessary for  
19 the prosperity of the state and its inhabitants, shall be liberally  
20 construed to affect the purposes of such title.

21 § 2799-ttttt. Severability. The provisions of this title shall be  
22 severable, and if any part or provision of this title, or the applica-  
23 tion thereof to any person or circumstance, shall be adjudged by any  
24 court of competent jurisdiction to be invalid or unenforceable, such  
25 judgment shall not affect, impair or invalidate the remainder of this  
26 title or the application of such provision to any other person or  
27 circumstance, but shall be confined in its operation to the provision,  
28 person or circumstance directly involved in the controversy in which  
29 such judgment shall have been rendered.

30 § 2799-uuuuu. Inconsistent provisions of other laws superseded. Inso-  
31 far as the provisions of this title are inconsistent with the provisions  
32 of any other law or any part thereof, the provisions of this title shall  
33 be controlling.

34 § 2799-vvvvv. Title not affected if in part unconstitutional. If any  
35 section, clause or provision of this title shall be unconstitutional or  
36 be ineffective in whole or in part, to the extent that it is not uncon-  
37 stitutional or ineffective, it shall be valid and effective and no other  
38 section, clause or provision shall on account thereof be deemed invalid  
39 or ineffective.

40 § 2799-wwwww. Climate manufacturing career policy. 1. Application. The  
41 authority shall develop a "climate manufacturing careers policy" for all  
42 projects exceeding five million dollars.

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

54 3. Procedure. The climate manufacturing careers policy shall include a  
55 procedure under which the authority's procurement office shall adminis-  
56 ter the review of the proposers' bid for the U.S. employment plan and/or

1 local employment plan, as defined by article eight-B of the labor law,  
2 worksheet commitments and narrative. The procurement office shall score  
3 such commitments to determine awarding of the funds, grants or loans.  
4 The procurement office shall also review subsequent quarterly and annual  
5 reports submitted by the eligible lead applicants, eligible sub-appli-  
6 cants and labor organizations to show fulfillment of the commitments  
7 made in such U.S. employment plan and/or local employment plan work-  
8 sheets and narrative.

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

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

22 § 2799-xxxxx. Additional responsible contracting standards. 1. In  
23 order to ensure the best quality work and value for New York state and  
24 its constituent communities, to the degree allowed by law a party which  
25 receives assistance from the state for the increase of energy efficien-  
26 cy, electrification upgrades, the development of renewable energies,  
27 climate change resiliency, or other investments by the authority over  
28 one million dollars or receiving more than de minimis support where the  
29 overall project investment is over five million dollars shall take the  
30 necessary contractual actions to ensure that a project labor agreement  
31 or community benefits agreement is executed between the entity responsi-  
32 ble for the assisted project and an appropriate third party.

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

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

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

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

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

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

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; and  
 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 shall 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 (c) the firm shall not misclassify employees as independent contrac-  
 12 tors.

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

15 ARTICLE 42

16 CLIMATE POLLUTION FEE

17 Section 3039. Definitions.

18 3040. Imposition of carbon pollution fee.

19 3041. Amount of fee.

20 3042. Applicable entities.

21 3043. Calculation of emissions factors.

22 3044. Exemptions and deductions.

23 3045. Emissions leakage mitigation policy.

24 3046. Creation of funds within the authority.

25 3047. Reporting.

26 § 3039. Definitions. For the purposes of this article, the following  
 27 terms shall have the following meanings:

28 1. "Authority" shall mean the climate and community investment author-  
 29 ity.

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

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

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

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

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

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

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

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

55 10. "Fugitive emissions" means those emissions of a greenhouse gas  
 56 that are released during extraction, transportation of fuel, during

1 processing, and due to leaks during industrial processes or at solid  
2 waste and wastewater management sites.

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

5 12. "Greenhouse gas emission source" or "source" means any anthropo-  
6 genic source or category of anthropogenic sources of greenhouse gas  
7 emissions.

8 13. "Industrial processes" means those processes that include fossil  
9 fuel extraction, the operation of fuel processing plants, pipeline oper-  
10 ations and other fuel transport, the operation of fuel refineries, and  
11 other processes involved in the extraction, refinement or transport of  
12 carbon-based fuels.

13 14. "Life cycle analysis" means a method for calculating greenhouse  
14 gas emissions that encompasses emissions that are released or seques-  
15 tered during all phases of a fuel or other product's life, including  
16 those emissions released during extraction, processing, transport,  
17 distribution, combustion (or some other form of consumption), and  
18 disposal. Such term shall include CO<sub>2</sub>e that is sequestered during  
19 biological processes, pertaining to biomass fuel.

20 15. "Petroleum product" means all petroleum derivatives, whether in  
21 bond or not, which are commonly burned to produce heat, electricity, or  
22 motion, or which are commonly processed to produce synthetic gas for  
23 burning, including without limitation, propane, gasoline, unleaded gaso-  
24 line, kerosene, heating oil, diesel fuel, kerosene based jet fuel, and  
25 number 4, number 5 and residual oil for utility and non-utility uses,  
26 but not including, petroleum feedstocks to plastics production or other  
27 manufacturing.

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

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

32 § 3040. Imposition of carbon pollution fee. There is hereby imposed  
33 upon any applicable entity, as specified under section three thousand  
34 forty-two of this article, a fee in an amount determined under section  
35 three thousand forty-one of this article, on:

36 1. any carbon-based fuel sold, used, or brought into the state by an  
37 applicable entity as defined in section three thousand forty-two of this  
38 article; and

39 2. any fugitive emissions of methane emitted in the state by an appli-  
40 cable entity.

41 § 3041. Amount of fee. 1. The amount of the fee imposed by section  
42 three thousand forty of this article, per short ton of carbon dioxide  
43 equivalent content that would be emitted through the combustion of such  
44 product, as determined by the president of the climate and communities  
45 investment authority, in consultation with the commissioner of environ-  
46 mental conservation, pursuant to this article, shall be equal to the  
47 following:

48 (a) during calendar year two thousand twenty-two, fifty-five dollars;

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

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

53 (ii) a five percent increase to the amount assessed in the previous  
54 year;

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



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

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

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

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

14 (D) ten 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 ten  
17 percent; and

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

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

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

26 (A) two percent of the previous year's fee if the most recent five-  
27 year environmental integrity metric, described under paragraph (a) of  
28 subdivision two of this section, is less than minus five percent, and  
29 the most recent cumulative environmental integrity metric, described  
30 under paragraph (b) of subdivision two of this section, is less than  
31 minus one percent;

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

33 I. the most recent five-year environmental integrity metric, described  
34 under paragraph (a) of subdivision two of this section, is greater than  
35 or equal to minus five percent and less than five percent, and the most  
36 recent cumulative environmental integrity metric, described under para-  
37 graph (b) of subdivision two of this section, is less than two percent;  
38 or

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

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

46 I. the most recent five-year environmental integrity metric, described  
47 under paragraph (a) of subdivision two of this section, is greater than  
48 or equal to five percent and less than ten percent, and if the most  
49 recent cumulative environmental integrity metric, described under para-  
50 graph (b) of subdivision two of this section, is less than three  
51 percent; or

52 II. the most recent five-year environmental integrity metric,  
53 described under paragraph (a) of subdivision two of this section, is  
54 less than ten percent, and the most recent cumulative environmental  
55 integrity metric, described under paragraph (b) of subdivision two of

1 this section, is greater than or equal to two percent and less than  
2 three percent; or

3 (D) ten percent of the previous year's fee if:

4 I. the most recent five-year environmental integrity metric, described  
5 under paragraph (a) of subdivision two of this section, is greater than  
6 or equal to ten percent; or

7 II. the most recent cumulative environmental integrity metric,  
8 described under paragraph (b) of subdivision two of this section, is  
9 greater than or equal to three percent; and

10 (ii) the authority shall also assess a cost-of-living, or inflation,  
11 adjustment using the United States Bureau of Labor Statistics Consumer  
12 Price Index or, if that index is not available, another index adopted by  
13 the commissioner.

14 2. In two thousand twenty-four, and every year thereafter, the commis-  
15 sioner shall, in consultation with the department of environmental  
16 conservation:

17 (a) calculate the five-year environmental integrity metric, which  
18 shall equal a fraction, expressed as a percentage:

19 (i) the numerator of which is:

20 (A) the sum of the quantity of actual statewide greenhouse gas emis-  
21 sions, measured in short tons CO<sub>2</sub>e, in each of the preceding five years,  
22 minus

23 (B) the sum of the quantity of target statewide greenhouse gas emis-  
24 sions, measured in short tons CO<sub>2</sub>e, in each of the preceding five years,  
25 pursuant to subdivision four of this section; and

26 (ii) the denominator of which is the sum of the quantity of target  
27 statewide greenhouse gas emissions, measured in short tons CO<sub>2</sub>e, in each  
28 of the preceding five years, pursuant to subdivision four of this  
29 section; and

30 (b) calculate the cumulative environmental integrity metric, which  
31 shall equal a fraction, expressed as a percentage:

32 (i) the numerator of which is:

33 (A) the sum of the quantity of actual statewide greenhouse gas emis-  
34 sions, measured in short tons CO<sub>2</sub>e, in each of the preceding years that  
35 are after two thousand eighteen, minus

36 (B) the sum of the quantity of target statewide greenhouse gas emis-  
37 sions, measured in short tons CO<sub>2</sub>e, in each of the preceding years that  
38 are after two thousand eighteen, pursuant to subdivision four of this  
39 section; and

40 (ii) the denominator of which is the sum of the quantity of target  
41 statewide greenhouse gas emissions, measured in short tons CO<sub>2</sub>e, in each  
42 of the preceding years that are after two thousand eighteen, pursuant to  
43 subdivision four of this section; and

44 (c) publish the amounts calculated in paragraphs (a) and (b) of this  
45 subdivision not later than July first in that year.

46 3. The authority shall calculate and publish the amount of the fee in  
47 current dollars for each year, no later than July first in that year.

48 4. For the purposes of calculating the five-year environmental integ-  
49 riety metric and the cumulative environmental integrity metric under  
50 subdivision two of this section, the authority shall refer to the  
51 following statewide greenhouse gas emissions targets:

52 (a) for the year two thousand twenty-one, eighty-five percent of two  
53 thousand eighteen emissions;

54 (b) for each year after two thousand twenty-one and before two thou-  
55 sand twenty-seven, less than in the preceding year by four percent of  
56 the two thousand eighteen emissions; and

1 (c) for each year after two thousand twenty-six and before two thou-  
2 sand forty-two, less than in the preceding year by three percent of two  
3 thousand eighteen emissions; and

4 (d) for each year after two thousand forty-one, less than in the  
5 preceding year by two percent of two thousand eighteen emissions.

6 § 3042. Applicable entities. For the purposes of this article, the  
7 term "applicable entity" means:

8 1. for the purposes of any coal sold, used, or entered into the state:

9 (a) the vendor of such coal at the first point of sale, in cases where  
10 the sale of coal occurs in the state; and

11 (b) the purchaser of such coal, in cases where the sale of coal occurs  
12 outside of the state;

13 2. for the purposes of any petroleum product sold, used, or entered  
14 into the state:

15 (a) the vendor, including a petroleum business as defined by section  
16 three hundred of this chapter, of such petroleum product at the first  
17 point of sale, in cases where the sale of the petroleum product occurs  
18 in the state; and

19 (b) the purchaser of such petroleum product, in cases where the sale  
20 of the petroleum product occurs outside of the state;

21 3. for the purposes of any natural gas sold, used, or entered into the  
22 state:

23 (a) the vendor (including a natural gas distribution company or whole-  
24 sale natural gas vendors) of such natural gas at the first point of  
25 sale, in cases where the sale of natural gas occurs in the state; and

26 (b) the purchaser of such natural gas, in cases where the sale of the  
27 natural gas occurs outside of the state;

28 4. for the purposes of any electricity sold, used, or entered into the  
29 state:

30 (a) the vendor (including a local electricity distribution company, a  
31 wholesale electricity vendor and all competitive suppliers of electric-  
32 ity to end users) of such electricity at the first point of sale, in  
33 cases where the sale of electricity occurs in the state; and

34 (b) the purchaser of such electricity, in cases where the sale of the  
35 electricity occurs outside of the state;

36 5. for the purposes of any municipal solid waste (or any other feeds-  
37 tocks used for waste-to-energy conversions) sold, used, or entered into  
38 the state:

39 (a) the vendor of such municipal solid waste (or any other feedstocks  
40 used for waste-to-energy conversions) at the first point of sale, in  
41 cases where the sale of municipal solid waste (or any other feedstocks  
42 used for waste-to-energy conversions) occurs in the state; and

43 (b) the purchaser of such municipal solid waste (or any other feeds-  
44 tocks used for waste-to-energy conversions), in cases where the sale of  
45 the municipal solid waste (or any other feedstocks used for waste-to-en-  
46 ergy conversions) occurs outside of the state;

47 6. for the purposes of any biomass sold, used, or entered into the  
48 state,

49 (a) the vendor of such biomass at the first point of sale, in cases  
50 where the sale of biomass occurs in the state; and

51 (b) the purchaser of such biomass, in cases where the sale of the  
52 biomass occurs outside of the state; and

53 7. for the purposes of any fugitive emissions of methane released in  
54 the state, the owner of the property that is the source of such fugitive  
55 emissions, including stationary sources and mobile sources, and includ-

1 ing pipeline operators, fuel distributors, transportation companies and  
2 other entities.

3 § 3043. Calculation of emissions factors. 1. Not later than one year  
4 after the effective date of this article, the commissioner of environ-  
5 mental conservation, in collaboration with the authority, shall, for  
6 each carbon-based fuel identified in this article and for various sourc-  
7 es of electricity consumed in the state, calculate greenhouse gas emis-  
8 sions factors, in carbon dioxide equivalent.

9 2. Emissions factors associated with combustion or other consumption  
10 of the carbon-based fuels identified in this article shall be calculated  
11 according to life-cycle analysis methods, which at a minimum shall  
12 incorporate:

13 (a) any greenhouse gases released at the point of combustion or other  
14 consumption; and

15 (b) up-steam fugitive emissions of methane released during the  
16 extraction, processing, refining, transport, or distribution of natural  
17 gas products and petroleum products before the point of consumption in  
18 New York.

19 3. The commissioner of environmental conservation, in collaboration  
20 with the authority, shall calculate, for various sources of electricity  
21 consumed in the state, greenhouse gas emissions factors, in carbon diox-  
22 ide equivalent per kilowatt-hour, associated with the combustion of each  
23 carbon-based fuel identified in this article for the purposes of gener-  
24 ating electricity. This calculation should take into account the best  
25 available information and science regarding power plant heat rates and  
26 other operational parameters that may determine efficiency in the  
27 conversion of thermal energy to electrical energy. The CO<sub>2</sub>e of each  
28 kilowatt-hour of electricity delivered in the state shall be determined  
29 by taking the weighted average of the coal, petroleum product, natural  
30 gas, municipal solid waste (or any other feedstocks used for waste-to-  
31 energy conservations), or biomass portions of the fuel mix and multiply-  
32 ing each of those portions separately by the amount of carbon dioxide  
33 equivalent emissions created per kilowatt-hour of electricity produced  
34 by each such fuel. The calculation of emissions factors under this  
35 subdivision shall take into account all electricity consumed in the  
36 state, which shall include any electricity produced within the state and  
37 outside of the state.

38 § 3044. Exemptions and deductions. 1. The owner of any electric  
39 generating facility that is covered by the CO<sub>2</sub> budget trading program (6  
40 NYCRR part 242) established by the department of environmental conserva-  
41 tion shall be entitled to deduct from the fee imposed by this article an  
42 amount equal to the amount it paid to purchase CO<sub>2</sub> emission allowance to  
43 comply with the CO<sub>2</sub> budget trading program; provided, however, that the  
44 amount so deducted may be no greater than the total amount of the fee as  
45 calculated in this article.

46 2. Any applicable entity subject to a fee under this article, shall be  
47 entitled to deduct from the fee imposed by this article an amount equal  
48 to the amount it paid for the same year on account of a federal law or  
49 regulation that imposes a direct price (including through cap-and-trade,  
50 or a carbon tax or carbon fee mechanisms) on the same greenhouse gas  
51 emissions from carbon-based fuels; provided, however, that the amount so  
52 deducted may be no greater than the total amount of the fee as calcu-  
53 lated in this article.

54 3. The authority, in partnership with the commissioner of environ-  
55 mental conservation, may exempt certain sources of greenhouse gas emis-  
56 sions found to produce de minimis quantities of such emissions. In order

1 to exempt sources of greenhouse gas emissions under this subdivision,  
2 the authority, in partnership with the commissioner of environmental  
3 conservation, shall first promulgate a rule, or rules, outlining the  
4 specific requirements for being classified as a de minimis source,  
5 including, at a minimum, identifying the quantities of greenhouse gases  
6 that would make a source a de minimis source. In promulgating such rule,  
7 or rules, the authority shall provide meaningful opportunities for  
8 public comment, including from persons living in disadvantaged communi-  
9 ties.

10 § 3045. Emissions leakage mitigation policy. 1. Not later than one  
11 year after the effective date of this article, the authority, in part-  
12 nership with the commissioners of environmental conservation and labor,  
13 shall prepare and approve a scoping plan outlining recommendations for  
14 policy measures to reduce emissions leakage associated with the imple-  
15 mentation of this article.

16 (a) The draft scoping plan shall be developed in consultation with the  
17 working group and other stakeholders.

18 (b) The authority shall provide meaningful opportunities for public  
19 comment from all persons who will be impacted by the plan, including  
20 persons working in energy intensive and trade exposed industries and  
21 persons living in disadvantaged communities.

22 (c) The measures and actions considered in such scoping plan shall at  
23 a minimum include:

24 (i) imposing a border carbon adjustment fee;

25 (ii) the implementation of a border carbon adjustment for vulnerable  
26 industries and companies;

27 (iii) the implementation of an output-based carbon pollution fee  
28 rebate program for vulnerable industries and companies;

29 (iv) quantitative methods for designating vulnerable industries or  
30 companies, such as energy intensive and trade exposed industries; and

31 (v) policies for mitigating any impacts to consumers and workers  
32 caused by the implementation of policies under this section, including  
33 through the use of revenues from a possible border carbon adjustment fee  
34 for reducing such impacts.

35 (d) Not later than one year after the effective date of this article,  
36 the authority shall submit the final scoping plan to the governor, the  
37 speaker of the assembly and the temporary president of the senate and  
38 post such plan on its website.

39 2. Not later than two years after the effective date of this article,  
40 the authority, after public workshops and consultation with the working  
41 group, representatives of regulated entities, and other stakeholders,  
42 shall, after no less than two public hearings, promulgate rules and  
43 regulations to implement a policy to reduce emissions leakage associated  
44 with the implementation of this article.

45 (a) The regulations promulgated may include:

46 (i) a border carbon adjustment fee for vulnerable trade exposed energy  
47 intensive industries and companies to reduce emissions;

48 (ii) an output-based carbon pollution fee and rebate program for  
49 vulnerable industries and companies;

50 (iii) quantitative methods for designating vulnerable industries or  
51 companies, such as energy intensive and trade exposed industries; and

52 (iv) policies for mitigating any impacts to consumers and workers  
53 caused by the implementation of policies under this section, including  
54 through the use of revenues from a possible border carbon adjustment fee  
55 for reducing such impacts.

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



1 (i) design and implement all regulations in a manner that seeks to be  
2 equitable, to minimize costs and to maximize the total benefits to New  
3 York state;

4 (ii) ensure that activities undertaken to comply with the regulations  
5 do not disproportionately burden disadvantaged communities; and

6 (iii) minimize emissions leakage.

7 3. Any funds collected pursuant to a policy arising from this section  
8 shall be appropriated by the authority pursuant to the mandated  
9 proportions in section three thousand forty-six of this article.

10 § 3046. Creation of funds within the authority. 1. (a) Within ninety  
11 days following the effective date of this article, the commissioner, in  
12 coordination with the comptroller, shall establish a fund within the  
13 authority to be known as the "community just transition fund", consist-  
14 ing of such amounts as may be appropriated or credited to such fund and  
15 thirty-three percent of the total amount of fees received under section  
16 three thousand forty of this article during such year.

17 (b) The community just transition fund shall be administered by the  
18 authority for the purposes enumerated in this act.

19 2. (a) Within ninety days following the effective date of this arti-  
20 cle, the commissioner, in coordination with the comptroller, shall  
21 establish a fund within the authority to be known as the "climate jobs  
22 and infrastructure fund", consisting of such amounts as may be appropri-  
23 ated or credited to such fund and thirty percent of the total amount of  
24 fees received under section three thousand forty of this article during  
25 such year.

26 (b) The climate jobs and infrastructure fund shall be administered by  
27 the authority for the purposes enumerated in this act.

28 3. (a) Within ninety days of the effective date of this article, the  
29 commissioner, in coordination with the comptroller, shall establish a  
30 fund within the authority to be known as the "low-income and small busi-  
31 ness and household energy rebate fund", consisting of such amounts as  
32 may be appropriated or credited to such fund and thirty percent of the  
33 total amount of fees received under section three thousand forty of this  
34 article during such year.

35 (b) The low-income and small business and household energy rebate fund  
36 shall be administrated by the authority for the purposes enumerated in  
37 this act.

38 4. (a) Within ninety days of the effective date of this article, the  
39 commissioner, in coordination with the comptroller, shall establish a  
40 fund within the authority to be known as the "worker and community  
41 assurance fund", consisting of such amounts as may be appropriated or  
42 credited to such fund as follows:

43 (i) in the first fiscal year in which any fees under this article are  
44 collected, no less than five hundred million dollars shall be trans-  
45 ferred to the worker and community assurance fund; and

46 (ii) seven percent of the total amount of fees received under section  
47 three thousand forty during such year.

48 (b) The worker and community assurance trust shall be administered by  
49 the authority for the purposes enumerated in this act.

50 5. No proceeds received through the implementation of the fee estab-  
51 lished under this article shall fund government operations of the state,  
52 other than to pay for reasonable administrative costs associated with  
53 implementing the climate and community investment act.

54 6. No proceeds received through the implementation of the fee estab-  
55 lished under this article shall fund police, prisons or related infras-  
56 tructure.

1 § 3047. Reporting. 1. No later than three years following the effec-  
2 tive date of this article, and every two years thereafter, the authori-  
3 ty, in partnership with the New York comptroller, the commissioner of  
4 environmental conservation and the New York state energy research and  
5 development authority, shall produce a report on the implementation of  
6 this article. Such report shall include but not be limited to:

7 (a) the total annual revenues associated with the implementation of  
8 this article;

9 (b) the effectiveness of the fee established under section three thou-  
10 sand forty of this article to reduce greenhouse gas emissions statewide,  
11 including an analysis of reductions by geographic subdivisions of the  
12 state;

13 (c) the amount of estimated emissions leakage that may be occurring in  
14 correlation with the implementation of the fee established under section  
15 three thousand forty of this article, the effectiveness of any policies  
16 that have been implemented to address emissions leakage, and recommenda-  
17 tions for improving policies to mitigate emissions leakage;

18 (d) an overview of social benefits from the fees and other policies  
19 established pursuant to this article, including benefits to the economy,  
20 environment, and public health, including the health of women, youth and  
21 children;

22 (e) an overview of the distribution of costs and benefits of the poli-  
23 cies promulgated under this article, across different communities and  
24 sectors of the state economy;

25 (f) an overview of compliance costs for regulated entities;

26 (g) an overview of administrative costs for the authority and other  
27 state agencies; and

28 (h) recommendations for future regulatory and policy action, and, in  
29 general, pertaining to measures for reducing greenhouse emissions in the  
30 state.

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

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

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

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

#### 45 ARTICLE 43

#### 46 HOUSEHOLD AND SMALL BUSINESS ENERGY REBATE

#### 47 Section 3050. Definitions.

48 3051. Establishment of the household and small business energy  
49 rebate program.

50 3052. Administration by the authority.

51 3053. Allocation of funds.

52 3054. Qualifying households.

53 3055. Rebate amount and report.

54 3056. Delivery of funds.

55 3057. Reassessment of allocations.

56 3058. Small business tax credit.

1           3059. Public service commission investigation.

2           § 3050. Definitions. For the purposes of this article, the following  
3 terms shall have the following meanings:

4           1. "Authority" shall mean the community and climate investment author-  
5 ity.

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

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

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

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

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

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

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

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

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

31           § 3051. Establishment of the household and small business energy  
32 rebate program. There is hereby established within the authority, the  
33 "household and small business energy rebate program". The purposes of  
34 the program include:

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

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

43           § 3052. Administration by the authority. Within six months of the  
44 effective date of this article, the authority is hereby authorized and  
45 directed to establish and operate the program. The authority shall  
46 implement the program in consultation with the office of temporary and  
47 disability assistance and the departments of health and labor. The  
48 authority shall be authorized and directed to: use monies made available  
49 for the program pursuant to article forty-two of this chapter to achieve  
50 the purposes of the program; and exercise such other powers as are  
51 necessary for the proper administration of such program, including issu-  
52 ing rules and regulations consistent with this article.

53           § 3053. Allocation of funds. Funds from the household and small busi-  
54 ness energy rebate fund shall be disbursed under the program to eligible  
55 households and small businesses. The authority shall collect and then  
56 distribute directly to eligible households the entire amount of funds

1 dedicated to the rebate fund. Eligible households shall be notified that  
2 they are automatically being enrolled based on their tax filing status  
3 or receipt of public benefits. The authority, in coordination with the  
4 commissioner, the public service commission, the New York state office  
5 of temporary and disability assistance, and the department, will make  
6 determinations as to which households and small businesses are eligible  
7 for the rebate and establish an appeals process within the authority as  
8 to such determinations. The authority shall also establish an opportu-  
9 nity for individual residents of the state who are not required to file  
10 income taxes to apply for rebates under this article.

11 § 3054. Qualifying households. A rebate will be available to eligible  
12 low-income households, moderate income households, and additional house-  
13 holds, provided that rebates shall only be provided to such additional  
14 households upon a determination by the authority that there are adequate  
15 funds. Notwithstanding the preceding sentence, the rebate shall be  
16 available to a maximum of sixty percent of the households in New York  
17 state. Households shall qualify regardless of citizenship. The authori-  
18 ty will cooperate with the department and the office of temporary and  
19 disability assistance to identify households and place them in the  
20 following four household categories:

21 1. eligible moderate-income households containing New York city resi-  
22 dents;

23 2. eligible low-income households containing New York city residents  
24 in which the household income is below one hundred fifty percent of the  
25 poverty line or who are receiving any means-tested government assistance  
26 aimed at low-income individuals or households;

27 3. eligible moderate-income households containing residents outside of  
28 New York city; and

29 4. eligible low-income households containing residents outside of New  
30 York city with a household income below one hundred fifty percent of the  
31 poverty line or receiving any means-tested government assistance  
32 programs aimed at low-income individuals or households.

33 § 3055. Rebate amount and report. 1. The authority, in consultation  
34 with the working group, shall determine the appropriate amount of the  
35 rebate, consistent with the standards set forth in this section. Each  
36 eligible household will receive a share of the total allocated rebate  
37 funds so that:

38 (a) all eligible households in New York city shall receive the same  
39 amount,

40 (b) all eligible households outside of New York city shall receive the  
41 same amount and that amount shall be at least fifty percent more than  
42 the rebate amount applicable to New York city households, and

43 (c) the total amount provided for rebates must not exceed the annual  
44 revenue in the rebate fund.

45 2. The authority shall annually assess and report to the legislature  
46 and the governor at least the following information: the number of  
47 households in each rebate category in section three thousand fifty-four  
48 of this article; the number of households who select each delivery mech-  
49 anism set forth in section three thousand fifty-six of this article; and  
50 how the number of households compare to:

51 (a) the incremental increase in the cost of living associated with the  
52 implementation of the fee established pursuant to article forty-two of  
53 this chapter and other regulatory measures established under article  
54 forty-two of this chapter;

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

1 (c) existing energy burdens.

2 § 3056. Delivery of funds. 1. The authority, in partnership with the  
3 working group, the department, the public service commission and the  
4 office of temporary and disability assistance shall determine appropri-  
5 ate mechanisms for delivering rebates under this article. These depart-  
6 ments shall within the bounds of the law share necessary expertise and  
7 data. That mechanism shall ensure that:

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

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

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

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

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

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

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

35 § 3057. Reassessment of allocations. 1. Beginning in two thousand  
36 twenty-one and every five years thereafter, the authority, in coordi-  
37 nation with the department, the office of temporary and disability  
38 assistance, the public service commission, the New York state energy  
39 research and development authority and the department of environmental  
40 conservation shall perform an assessment, which shall include, at a  
41 minimum, the following information: (a) the state-wide energy burden for  
42 small businesses, and households by geography and income; (b) whether  
43 such energy burden has stayed level or decreased since the effective  
44 date of this section; (c) the uptake of energy efficiency and renewable  
45 energy in each income category; and (d) an estimated impact on energy  
46 burden or another equivalent estimate of the proportion of household  
47 income spent on energy. Based on such information and any additional  
48 information that the department determines is appropriate, the depart-  
49 ment shall determine whether the present rebate amount is appropriate or  
50 whether it is appropriate to reduce the rebate benefit amount.

51 2. Following any assessment under subdivision one of this section  
52 where the impact of the fee established is found not to increase house-  
53 hold spending, or where the energy burden has fallen, the rebate shall  
54 be reduced by at least ten percent and the funds reallocated in equal  
55 amounts to the community just transition fund established pursuant to  
56 subdivision one of section three thousand forty-six of this chapter and



1 the climate jobs and infrastructure fund established pursuant to subdivi-  
2 vision two of such section.

3 § 3058. Small business tax credit. 1. Eligible small businesses shall  
4 receive a redeemable tax credit to reduce any incremental increase in  
5 the cost of doing business associated with the implementation of the fee  
6 established pursuant to article forty-two of this chapter and other  
7 regulatory measures established under the climate and community invest-  
8 ment act or the transition to a low-carbon economy in New York state.

9 2. Any eligible small business that incurs energy or fuel costs in the  
10 course of its business, shall be allowed a credit, to be computed as  
11 provided in subdivision three of this section, against business income  
12 for each year that the fee established pursuant to article forty-two of  
13 this chapter is collected.

14 3. The credit authorized by this section shall equal the higher of  
15 five hundred dollars a year, or the amount computed for a household  
16 rebate.

17 4. The credit created under this section may be claimed even if no  
18 taxes are owed by the eligible small business. Such credit may be used  
19 to reduce the tax liability of the credit claimant below zero.

20 § 3059. Public service commission investigation. Not later than six  
21 months after the effective date of this article, the public service  
22 commission shall establish a proceeding to investigate, identify and  
23 mitigate any increase in electric or gas rates for qualifying households  
24 and eligible small businesses that may be projected to arise under this  
25 article and article forty-two of this chapter.

26 § 10. Severability. If any word, phrase, clause, sentence, paragraph,  
27 section, or part of this act shall be adjudged by any court of competent  
28 jurisdiction to be invalid, such judgement shall not affect, impair, or  
29 invalidate the remainder thereof, but shall be confined in its operation  
30 to the word, phrase, clause, sentence, paragraph, section, or part ther-  
31 eof directly involved in the controversy in which such judgement shall  
32 have been rendered.

33 § 11. If any word, phrase, clause, sentence, paragraph, section, or  
34 part of this act shall be adjudged to require the climate and community  
35 investments authority created under this act to act outside of their  
36 legal powers, such as engaging in the market beyond activities allowed  
37 as a market actor, the relevant statutory requirements will be inter-  
38 preted so that the powers and duties herein are enforced to the extent  
39 allowed by law.

40 § 12. This act shall take effect on the one hundred eightieth day  
41 after it shall have become a law and shall apply to any grants, loans,  
42 contracts and financial assistance awarded or renewed on or after such  
43 effective date. Effective immediately, the addition, amendment and/or  
44 repeal of any rule or regulation necessary for the implementation of  
45 this act on its effective date are authorized to be made and completed  
46 on or before such date.