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45 Section 1. Short title. This act shall be known and may be cited as
46 the "recharge New York power program act."

47 § 2. The economic development law is amended by adding a new section
48 188-a to read as follows:

49 § 188-a. Recharge New York power program. (a) Definitions. For the
50 purposes of this section, the following terms shall have the following
51 meanings:

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1 (1) "Applicable criteria" shall mean the criteria specified in subdi-
2 vision (c) of this section.

3 (2) "Authority" shall mean the power authority of the state of New
4 York.

5 (3) "Recharge New York power allocation" or "allocation" shall mean an
6 allocation of recharge New York power by the power authority of the
7 state of New York pursuant to section one thousand five of the public
8 authorities law to an eligible applicant recommended by the New York
9 state economic development power allocation board in accordance with
10 this section.

11 (4) "Eligible applicant" shall mean an eligible business, eligible
12 small business, or eligible not-for-profit corporation as defined in
13 this section, provided however, that an eligible applicant shall not
14 include retail businesses as defined by the board, including, without
15 limitation, sports venues, gaming or entertainment-related establish-
16 ments or places of overnight accommodation.

17 (5) "Eligible business" shall mean a business other than a not-for-
18 profit corporation which normally utilizes a minimum peak electric
19 demand in excess of four hundred kilowatts.

20 (6) "Eligible not-for-profit corporation" shall mean a corporation
21 defined in subdivision five of paragraph (a) of section one hundred two
22 of the not-for-profit corporation law.

23 (7) "Eligible small business" shall mean a business other than a not-
24 for-profit corporation which normally utilizes a minimum peak electric
25 demand equal to or less than four hundred kilowatts.

26 (8) "Recharge New York power" shall mean and consist of equal amounts
27 of (i) four hundred fifty-five megawatts of firm hydroelectric power
28 from the Niagara and Saint Lawrence hydroelectric projects to be with-
29 drawn from utility corporations that, prior to the effective date of
30 this section, purchased such power for the benefit of their domestic and
31 rural consumers ("recharge New York hydropower"), and (ii) power
32 procured by the authority through a competitive procurement process,
33 authority sources (other than the Niagara and Saint Lawrence projects)
34 or through an alternate method ("recharge New York market power");
35 provided, however, that if such recharge New York market power comes
36 from authority sources, the use of that power shall not reduce the
37 availability of, or cause an increase in the price of, power provided by
38 the authority for any other program authorized in this article or pursu-
39 ant to any other statute.

40 (b) Applications for recharge New York power allocations. (1) The
41 board may solicit applications for recharge New York power allocations
42 under the program created by this section by public notice beginning no
43 later than February first, two thousand twelve. Such notice may include
44 newspaper advertisements, press releases, website postings, paper or
45 electronic mailing, and/or such other form of notice as the board finds

46 appropriate in consultation with the authority.

47 (2) Applications for recharge New York power allocations shall be in
48 the form and contain such information, exhibits and supporting data as
49 the board prescribes in consultation with the authority. A copy of each
50 application received shall be made available for review by each board
51 member, and a copy shall be provided to the authority.

52 (3) An applicant who is a recipient of a hydroelectric power allo-
53 cation or benefits supported by the sale of hydroelectric power under
54 another program administered in whole or part by the authority shall be
55 eligible to apply for an allocation under the recharge New York power
56 program only if it is in substantial compliance with its contractual

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1 commitments made in connection with such other program, provided however
2 that an applicant shall not receive a recharge New York power allocation
3 and any other authority power program benefits with respect to the same
4 quantity of electricity consumed at a facility.

5 (4) Subject to confidentiality requirements, upon receipt of each
6 application from the board, the authority shall promptly notify by elec-
7 tronic means, including website postings and such other methods the
8 board deems appropriate in consultation with the authority, the gover-
9 nor, the speaker of the assembly, the minority leader of the assembly,
10 the temporary president of the senate, the minority leader of the
11 senate, and each member of the state legislature in whose district any
12 portion of the facility for which an allocation is requested is located.
13 Such notice shall provide the name and a description of the applicant,
14 and the address of the facility for which the allocation is requested.
15 The authority shall also develop a listing which contains the name and a
16 description of each applicant, the recharge New York power program allo-
17 cation sought by each applicant, and the address of the facility for
18 which the applicant requests the allocation, and shall make the listing
19 available for public review on the authority's website.

20 (c) Review applicable criteria and recommendations. (1) The board
21 shall review applications submitted under the recharge New York power
22 program. The board shall make an initial determination of whether the
23 applicant is an eligible applicant. In the case of an eligible appli-
24 cant, the board may recommend to the authority that an allocation of
25 recharge New York power be awarded to an applicant for a facility
26 located in the state of New York based on consideration of the following
27 criteria which shall be considered in the aggregate and no one of which
28 shall be presumptively determinative:

29 (i) the significance of the cost of electricity to the applicant's
30 overall cost of doing business, and the impact that a recharge New York
31 power allocation will have on the applicant's operating costs;

32 (ii) the extent to which a recharge New York power allocation will
33 result in new capital investment in the state by the applicant;

34 (iii) the extent to which a recharge New York power allocation is
35 consistent with any regional economic development council strategies and
36 priorities;

37 (iv) the type and cost of buildings, equipment and facilities to be
38 constructed, enlarged or installed if the applicant were to receive an
39 allocation;

40 (v) the applicant's payroll, salaries, benefits and number of jobs at
41 the facility for which a recharge New York power allocation is
42 requested;

43 (vi) the number of jobs that will be created or retained within the

44 state in relation to the requested recharge New York power allocation,
45 and the extent to which the applicant will agree to commit to creating
46 or retaining such jobs as a condition to receiving a recharge New York
47 power allocation;

48 (vii) whether the applicant, due to the cost of electricity, is at
49 risk of closing or curtailing facilities or operations in the state,
50 relocating facilities or operations out of the state, or losing a
51 significant number of jobs in the state, in the absence of a recharge
52 New York power allocation;

53 (viii) the significance of the applicant's facility that would receive
54 the recharge New York power allocation to the economy of the area in
55 which such facility is located;

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1 (ix) the extent to which the applicant has invested in energy effi-
2 ciency measures, will agree to participate in or perform energy audits
3 of its facilities, will agree to participate in energy efficiency
4 programs of the authority, or will commit to implement or otherwise make
5 tangible investments in energy efficiency measures as a condition to
6 receiving a recharge New York power allocation;

7 (x) whether the applicant receives a hydroelectric power allocation or
8 benefits supported by the sale of hydroelectric power under another
9 program administered in whole or in part by the authority;

10 (xi) the extent to which a recharge New York power allocation will
11 result in an advantage for an applicant in relation to the applicant's
12 competitors within the state; and

13 (xii) in addition to the foregoing criteria, in the case of a not-for-
14 profit corporation, whether the applicant provides critical services or
15 substantial benefits to the local community in which the facility for
16 which the allocation is requested is located.

17 (2) A recommendation by the board that the authority provide a
18 recharge New York power allocation to an eligible applicant shall
19 include, but need not be limited to:

20 (i) the amount of the recharge New York power allocation the board has
21 determined should be awarded to such eligible applicant, provided howev-
22 er, that the board may recommend a recharge New York power allocation in
23 an amount that is less than the amount requested by such applicant;

24 (ii) an effective initial term of the allocation and contract between
25 the eligible applicant and the authority which shall not exceed seven
26 years, provided however that the term of any such allocation and
27 contract shall not become effective before July first, two thousand
28 twelve;

29 (iii) provisions for effective periodic audits of the recipient of an
30 allocation for the purpose of determining contract and program compli-
31 ance, and for the partial or complete withdrawal of an allocation if the
32 recipient fails to maintain mutually agreed upon commitments, relating
33 to, among other things, employment levels, power utilization, capital
34 investments, and/or energy efficiency measures;

35 (iv) a requirement for an agreement by the recipient of an allocation
36 to (A) undertake at its own expense an energy audit of its facilities at
37 which the allocation is consumed at least once during the term of the
38 allocation but in any event not less than once every five years,
39 provided, however, that such requirement may be waived or modified by
40 the authority on a showing of good cause by the recipient, and (B)
41 provide the authority with a copy of any such audit or, at the authori-
42 ty's option, a report describing the results of such audit, and provide

43 documentation requested by the authority relating to the implementation
44 of any efficiency measures at the facilities; and

45 (v) a requirement for an agreement by the recipient of an allocation
46 to (A) make its facilities available at reasonable times and intervals
47 for energy audits and related assessments that the authority desires to
48 perform, if any, at the authority's own expense, and (B) provide infor-
49 mation requested by the authority or its designee in surveys, question-
50 naires and other information requests relating to energy efficiency and
51 energy-related projects, programs and services.

52 (3) The board's recommendation shall require that if the actual
53 metered load at the facility where the allocation is utilized is less
54 than the allocation, such allocation will be reduced accordingly,
55 provided that, under its contract with the authority, the recipient
56 shall be afforded a reasonable period within which to fully utilize the

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1 allocation, taking into account construction schedules and economic
2 conditions. The authority shall reallocate any withdrawn or relinquished
3 power for the recharge New York power program consistent with paragraph
4 four of this subdivision.

5 (4) The board may base its recommendation on which eligible applicants
6 it determines best meet the applicable criteria; provided, however, that
7 the board shall dedicate recharge New York power as follows: (i) at
8 least three hundred fifty megawatts for use at facilities located within
9 the service territories of the utility corporations that, prior to the
10 effective date of this section, purchased Niagara and Saint Lawrence
11 hydroelectric power for the benefit of their domestic and rural consum-
12 ers; (ii) at least two hundred megawatts for the purposes of attracting
13 new business to the state, creating new business within the state, or
14 encouraging the expansion of existing businesses within the state, that
15 create new jobs or leverage new capital investment; and (iii) an amount
16 not to exceed one hundred megawatts for eligible small businesses and
17 eligible not-for-profit corporations.

18 (5) The board shall issue a written statement of its findings and
19 conclusions with respect to every application and the reasons for its
20 recommendation to the authority.

21 (6) A recommendation for a recharge New York power allocation shall
22 qualify an applicant to enter into a contract with the authority pursu-
23 ant to the terms and conditions of the recommendation by the board and
24 on such other terms as the authority determines to be appropriate.

25 (7) The board shall not recommend a total of recharge New York power
26 allocations in excess of nine hundred ten megawatts.

27 (d) The authority shall work cooperatively with the department of
28 public service to recommend to the public service commission reduced
29 rates or an equivalent mechanism for the delivery by utility corpo-
30 rations of recharge New York power program allocations. Any such recom-
31 mendation for reduced delivery rates shall be at such level as to allow
32 the utility to (i) recover the incremental cost of providing delivery
33 service to such customers, and (ii) contribute to the common delivery
34 and related costs which otherwise would be borne by other customers.

35 (e) The authority shall, at a minimum, report quarterly to the board
36 on the availability of recharge New York power for the subsequent
37 twelve-month period, the amount of such power allocated and other rele-
38 vant information.

39 (f) After an award of a recharge New York power allocation, the board
40 shall accept requests from recipients who at the time of such request

41 are eligible applicants who are in substantial compliance with contrac-
42 tual commitments made in connection with the recharge New York power
43 program for an extension of an existing allocation (i) during the twen-
44 ty-four month period immediately preceding the expiration of the term of
45 the allocation, or (ii) at such earlier time with the consent of the
46 authority in writing. Requests for extensions shall be reviewed using
47 the criteria set forth in paragraph one of subdivision (c) of this
48 section.

49 (g) Transfers of recharge New York power. Notwithstanding any other
50 approval required by statute, regulation or contract, the transfer of a
51 recharge New York power allocation to a different recipient, to a
52 different owner or operator of a facility, or to a different facility is
53 prohibited unless specifically approved by the board as consistent with
54 the criteria and requirements of this section. Any transfer that occurs
55 without the board's approval shall be invalid and such transfer may
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1 subject the transferor to revocation or modification of its allocation
2 and contract.

3 (h) (1) The board, in consultation with the authority, shall submit to
4 the governor, temporary president of the senate, speaker of the assem-
5 bly, minority leader of the senate and minority leader of the assembly
6 an evaluation of the effectiveness of the recharge New York power
7 program. Such evaluation shall focus on how the program has aided
8 recipients of power allocations, and may include recommendations for how
9 the program can be made more effective, and shall be based, in part, on
10 the relative costs of power for recipients in comparison to the cost of
11 power for non-recipients. Such evaluation shall be submitted by Decem-
12 ber thirty-first, two thousand fifteen and by December thirty-first
13 every five years thereafter.

14 (2) The board, with assistance from the authority, shall maintain the
15 necessary records and data required to perform such evaluation and
16 respond to requests for information pursuant to article six of the
17 public officers law.

18 §3. Section 1005 of the public authorities law is amended by adding a
19 new subdivision 13-a to read as follows:

20 13-a. Recharge New York power program. (a) Notwithstanding any other
21 provision of law to the contrary, but subject to the terms and condi-
22 tions of federal energy regulatory commission licenses, to allocate,
23 reallocate or extend, directly or by sale for resale, up to nine hundred
24 ten megawatts of recharge New York power to eligible applicants located
25 within the state of New York upon the recommendation of the New York
26 state economic development power allocation board pursuant to section
27 one hundred eighty-eight-a of the economic development law.

28 (b) Recharge New York power shall mean and consist of equal amounts of
29 (1) four hundred fifty-five megawatts of firm hydroelectric power from
30 the Niagara and Saint Lawrence hydroelectric projects to be withdrawn,
31 as of the earliest date such power may be withdrawn consistent with
32 contractual requirements, from utility corporations that, prior to the
33 effective date of this subdivision, purchased such power for the benefit
34 of their domestic and rural consumers ("recharge New York hydropower"),
35 and (2) power procured by the authority through market sources, a
36 competitive procurement process, or authority sources (other than the
37 Niagara and Saint Lawrence projects) (collectively or individually,
38 "recharge New York market power"); provided, however, that if such
39 recharge New York market power comes from authority sources, the use of

40 that power shall not reduce the availability of, or cause an increase in
41 the price of, power provided by the authority for any other program
42 authorized in this article or pursuant to any other statute.

43 (c) Notwithstanding section one thousand nine of this title or any
44 other provision of law to the contrary, the authority is authorized,
45 beginning July first, two thousand twelve, to make available, contract
46 with and sell to such eligible applicants as are recommended by the
47 economic development power allocation board up to nine hundred ten mega-
48 watts of recharge New York power for recharge New York power allo-
49 cations. A recharge New York power allocation shall consist of equal
50 parts of recharge New York hydropower and recharge New York market power
51 as such terms are defined in paragraph (b) of this subdivision;
52 provided, however, that prior to entering into a contract with an eligi-
53 ble applicant for the sale of recharge New York power, and prior to the
54 provision of electric service relating to the recharge New York power
55 allocation, the authority shall offer each eligible applicant the option
56 to decline to purchase the recharge New York market power component of
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1 such allocation. If an eligible applicant declines to purchase such
2 market power from the authority, the authority shall have no responsi-
3 bility for supplying such market power to the eligible applicant.

4 § 4. Section 1005 of the public authorities law is amended by adding a
5 new subdivision 13-b to read as follows:

6 13-b. Residential consumer discount programs. (a) Residential consum-
7 er electricity cost discount. Notwithstanding any provision of this
8 title or article six of the economic development law to the contrary,
9 the authority is authorized, as deemed feasible and advisable by the
10 trustees, to use revenues from the sale of hydroelectric power, and such
11 other funds of the authority as deemed feasible and advisable by the
12 trustees, to fund monthly payments to be made for the benefit of such
13 classes of electricity consumers as enjoyed the benefits of authority
14 hydroelectric power withdrawn pursuant to subdivision thirteen-a of this
15 section, for the purpose of mitigating price impacts associated with the
16 reallocation of such power in the manner described in this subdivision.
17 Such monthly payments shall commence after such hydroelectric power is
18 withdrawn. The total annual amount of monthly payments for each of the
19 three twelve month periods following withdrawal of such hydroelectric
20 power shall be one hundred million dollars. The total annual amount of
21 monthly payments for each of the two subsequent twelve month periods
22 shall be seventy million dollars and fifty million dollars, respective-
23 ly. Thereafter, the total annual amount of monthly payments for each
24 twelve month period shall be thirty million dollars. The total amount
25 of monthly payments shall be apportioned by the authority among the
26 utility corporations that, prior to the effective date of this subdivi-
27 sion, purchased such hydroelectric power for the benefit of their domes-
28 tic and rural consumers according to the relative amounts of such power
29 purchased by such corporations. The monthly payments shall be credited
30 to the electricity bills of such corporations' domestic and rural
31 consumers in a manner to be determined by the public service commission
32 of the state of New York. The monthly credit provided by any such
33 corporation to any one consumer shall not exceed the total monthly elec-
34 tric utility cost incurred by such consumer.

35 (b) Agricultural consumer electricity cost discount. (1) Beginning
36 with the second twelve month period after such hydroelectric power is
37 withdrawn, up to eight million dollars of the residential consumer elec-

38 tricity cost discount established by paragraph (a) of this subdivision
39 shall be dedicated for monthly payments to agricultural producers who
40 receive electric service at the residential rate. The total amount of
41 monthly payments shall be apportioned by the authority among the utility
42 corporations in the same manner as they are apportioned in paragraph (a)
43 of this subdivision. Monthly payments shall be credited to the electric-
44 ity bills of such corporations' agricultural consumers in a manner to be
45 determined by the public service commission of the state of New York.
46 The combined monthly credit, under this paragraph and paragraph (a) of
47 this subdivision, provided by any such corporation to any one consumer
48 shall not exceed the total monthly electric utility cost incurred by
49 such consumer.

50 (2) The authority shall work cooperatively with the department of
51 public service to evaluate the agricultural consumer electricity cost
52 discount, which shall include an assessment of the benefits to recipi-
53 ents compared to the benefits the recipients received from the authori-
54 ty's hydroelectric power, withdrawn pursuant to subdivision thirteen-a
55 of this section, during the twelve month period ending December thirty-
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1 first, two thousand ten, and compared to other agricultural consumers
2 that did not choose to receive the discount.

3 (c) Energy efficiency program. (1) Beginning with the withdrawal of
4 such hydroelectric power, the authority or the New York state energy
5 research and development authority, shall conduct an energy efficiency
6 program for five years to provide energy efficiency improvements for the
7 purpose of reducing energy consumption for domestic and rural consumers.
8 Such energy efficiency program may be undertaken in cooperation with
9 other energy efficiency programs offered by utility corporations, state
10 agencies and authorities including but not limited to the New York state
11 energy research and development authority; provided however that energy
12 savings attributable to such other energy efficiency programs shall not
13 be included in determining the amount of energy saved pursuant to the
14 program established by this paragraph;

15 (2) The authority or the New York state energy research and develop-
16 ment authority shall annually post on their website a report evaluating
17 the energy efficiency program, including but not limited to, the number
18 of domestic and rural consumers who opted to participate in the program
19 and, if practicable, the estimated savings the domestic and rural
20 consumers received by participating in the energy efficiency program.

21 § 5. Section 1005 of the public authorities law is amended by adding a
22 new subdivision 18 to read as follows:

23 18. For the purpose of furnishing the state with systematic informa-
24 tion regarding the status and the activities of the authority, the
25 authority shall submit to the governor, the temporary president of the
26 senate, speaker of the assembly, the minority leader of the senate and
27 the minority leader of the assembly, within ninety days after the end of
28 its fiscal year, a complete and detailed annual report on each economic
29 development power program it administers. Such annual report shall
30 include, but not be limited to, the following information:

31 a. the number of recipients of economic power program benefits, the
32 economic region in which each recipient is located, the type and amount
33 of assistance provided, megawatts of power awarded, length of current
34 contract, current contract compliance status, last audit, number of jobs
35 retained and/or added in the fiscal year, approximate energy efficiency
36 savings and amount of power reallocated from previous years due to

37 forfeited benefits; and
38 b. cost to the authority to provide economic development power
39 programs during the previous fiscal year.

40 §6. Transitional electricity discount. Notwithstanding any provision
41 of title 1 of article 5 of the public authorities law or article 6 of
42 the economic development law to the contrary, with respect to applicants
43 who are in substantial compliance with all contractual commitments and
44 receiving benefits under the power for jobs, energy cost savings bene-
45 fit, economic development, high load factor or municipal distribution
46 agency programs, but do not receive a recommendation from the New York
47 state economic development power allocation board for a recharge New
48 York power allocation pursuant to section 188-a of the economic develop-
49 ment law, such board shall recommend that the power authority of the
50 state of New York provide for a transitional electricity discount to
51 such applicants. The power authority of the state of New York is author-
52 ized, as deemed feasible and advisable by the trustees, to provide such
53 transitional electricity discounts as recommended by the New York state
54 economic development power allocation board. The power authority of the
55 state of New York shall identify and advise such board whether suffi-
56 cient funds are available for the funding of such transitional electric-
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1 ity discounts through June 30, 2016. The amount of the transitional
2 electricity discount for the period July 1, 2012 through June 30, 2014
3 shall be equivalent to 66 percent of the unit (per kilowatt-hour) value
4 of the savings received by the applicant under the power for jobs or
5 energy cost savings benefit programs during the 12 months ending on
6 December 31, 2010. The amount of the transitional electricity discount
7 for the period July 1, 2014 through June 30, 2016 shall be equivalent to
8 33 percent of the unit (per kilowatt-hour) value of the savings received
9 by the applicant under the power for jobs or energy cost savings benefit
10 programs during the 12 months ending on December 31, 2010.

11 §7. Section 9 of chapter 316 of the laws of 1997 amending the public
12 authorities law and other laws relating to the provision of low cost
13 power to foster statewide economic development, as amended by chapter
14 311 of the laws of 2010, is amended to read as follows:

15 § 9. This act shall take effect immediately and shall expire and be
16 deemed repealed [~~May 15, 2011~~] June 30, 2012.

17 §8. Section 11 of chapter 645 of the laws of 2006 amending the
18 economic development law and other laws relating to reauthorizing the
19 New York power authority to make contributions to the general fund, as
20 amended by chapter 311 of the laws of 2010, is amended to read as
21 follows:

22 §11. This act shall take effect immediately and shall be deemed to
23 have been in full force and effect on and after April 1, 2006; provided,
24 however, that the amendments to section 183 of the economic development
25 law and subparagraph 2 of paragraph g of the ninth undesignated para-
26 graph of section 1005 of the public authorities law made by sections two
27 and six of this act shall not affect the expiration of such section and
28 subparagraph, respectively, and shall be deemed to expire therewith;
29 provided further, however, that the amendments to section 189 of the
30 economic development law and subdivision 9 of section 186-a of the tax
31 law made by sections three, four, five and ten of this act shall not
32 affect the repeal of such section and subdivision, respectively, and
33 shall be deemed to be repealed therewith; provided further, however,
34 that section seven of this act shall expire and be deemed repealed [~~May~~
35 ~~15, 2011~~] June 30, 2012.

36 § 9. Paragraphs 2 and 4 of subdivision (h) of section 183 of the
37 economic development law, as amended by chapter 311 of the laws of 2010,

38 are amended to read as follows:

39 2. During the period commencing on November first, two thousand five
40 and ending on [~~May fifteenth, two thousand eleven~~] June thirtieth, two
41 thousand twelve eligible businesses shall only include customers served
42 under the power authority of the state of New York's high load factor,
43 economic development power and other business customers served by poli-
44 tical subdivisions of the state authorized by law to engage in the
45 distribution of electric power that were authorized to be served by the
46 authority from the authority's former James A. Fitzpatrick nuclear power
47 plant as of the effective date of this subdivision whose power prices
48 may be subject to increase before [~~May fifteenth, two thousand eleven~~]
49 June thirtieth, two thousand twelve. Provided, however, that the total
50 amount of megawatts of replacement and preservation power which, due to
51 the extension of the energy cost savings benefits, are not relinquished
52 by or withdrawn from a recipient shall be deemed to be relinquished or
53 withdrawn for purposes of offering such megawatts by the authority for
54 reallocation pursuant to subdivision thirteen of section one thousand
55 five of the public authorities law. Provided, further, that for any such
56 reallocation, the authority shall maintain the same energy cost savings
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1 benefit level for all eligible businesses using any available authority
2 resources as deemed feasible and advisable by the trustees pursuant to
3 section seven of part U of chapter fifty-nine of the laws of two thou-
4 sand six.

5 4. Applications for an energy cost savings benefit shall be in the
6 form and contain such information, exhibits and supporting data as the
7 board may prescribe. The board shall review the applications received
8 and shall determine the applications which best meet the criteria estab-
9 lished for the benefits pursuant to this subdivision and it shall recom-
10 mend such applications to the power authority of the state of New York
11 with such terms and conditions as it deems appropriate; provided, howev-
12 er, that for energy cost savings benefits granted on or after [~~June~~
13 ~~thirtieth, two thousand nine~~] May fifteenth, two thousand eleven through
14 [~~May fifteenth, two thousand eleven~~] June thirtieth, two thousand
15 twelve, the board shall expedite the awarding of such benefits and shall
16 defer the review of compliance with such criteria until after the appli-
17 cant has been awarded an energy cost savings benefit. Such terms and
18 conditions shall include reasonable provisions providing for the partial
19 or complete withdrawal of the energy cost savings benefit in the event
20 the recipient fails to maintain mutually agreed upon commitments that
21 may include, but are not limited to, levels of employment, capital
22 investment and power utilization. Recommendation for approval of an
23 energy cost savings benefit shall qualify an applicant to receive an
24 energy cost savings benefit from the power authority of the state of New
25 York pursuant to the terms and conditions of the recommendation.

26 § 10. The opening paragraph of paragraph 5 of subdivision (a) of
27 section 189 of the economic development law, as amended by chapter 311
28 of the laws of 2010, is amended to read as follows:

29 "Power for jobs electricity savings reimbursements" shall mean
30 payments made by the power authority of the state of New York as recom-
31 mended by the board to recipients of allocations of power under phases
32 four and five of the power for jobs program for a period of time until
33 November thirtieth, two thousand four, subsequent to the expiration of
34 their phase four or five power for jobs contract provided however that
35 any power for jobs recipient may choose to receive an electricity
36 savings reimbursement as a substitute for a contract extension for the
37 period from the date the recipient's contract expires through [~~May~~
38 ~~fifteenth~~] June thirtieth, two thousand [~~eleven~~] twelve. The "basic
39 reimbursement" is an amount that when credited against the recipient's

40 actual "unit cost of electricity" during a quarter (meaning the cost for
41 commodity and delivery per kilowatt-hour for the quantity of electricity
42 purchased and delivered under the power for jobs program during a simi-
43 lar period in the final year of the recipient's contract), results in an
44 effective unit cost of electricity during the quarter equal to the aver-
45 age unit cost of electricity such recipient paid during the final year
46 of the contract for power allocated under phase four or five of the
47 power for jobs program, provided however that notwithstanding the fore-
48 going, for the period July first, two thousand eleven through June thir-
49 tieth, two thousand twelve, the basic reimbursement shall be an amount
50 such that the recipient receives unit (per kilowatt-hour) electricity
51 savings equivalent to the average unit electricity savings received
52 during the twelve months ending on December thirty-first, two thousand
53 ten.

54 §11. Subdivisions (f) and (l) of section 189 of the economic develop-
55 ment law, as amended by chapter 311 of the laws of 2010, are amended to
56 read as follows:

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1 (f) Eligibility. The board shall recommend applications for allo-
2 cations of power under the power for jobs program to or for the use of
3 businesses which normally utilize a minimum peak electric demand in
4 excess of four hundred kilowatts; provided, however, that up to one
5 hundred megawatts of power available for allocation during the initial
6 three phases of the power for jobs program may be recommended for allo-
7 cations to not-for-profit corporations and to small businesses; and,
8 provided, further that up to seventy-five megawatts of power available
9 for allocation during the fourth phase of the program may be recommended
10 for allocations to not-for-profit corporations and to small businesses.
11 The board may require small businesses that normally utilize a minimum
12 peak electric demand of less than one hundred kilowatts to aggregate
13 their electric demand in amounts of no less than one hundred kilowatts,
14 for the purposes of applying to the board for an allocation of power.
15 The board shall recommend allocations of the additional three hundred
16 megawatts available during the fourth phase of the program to any such
17 eligible applicant, including any recipient of power allocated during
18 the first phase of the program. The board shall recommend allocations of
19 the additional one hundred eighty-three megawatts available during the
20 fifth phase of the program to any eligible applicant, including any
21 recipient of power allocated during the second and third phases of the
22 program; provided, however, that the term of contracts for allocations
23 under the fifth phase of the program shall in no case extend beyond [~~May~~
24 ~~fifteenth, two thousand eleven~~] June thirtieth, two thousand twelve.
25 Notwithstanding any provision of law to the contrary, and, in partic-
26 ular, the provisions of this chapter concerning the terms of contracts
27 for allocations under the power for jobs program, the terms of any
28 contract with a recipient of power allocated under phase two of the
29 power for jobs program that has expired or will expire on or before the
30 thirty-first day of August, two thousand two, may be extended by the
31 power authority of the state of New York for an additional period of
32 three months effective on the date of such expiration, pending the
33 filing and approval of an application by such recipient for an allo-
34 cation under the fifth phase of the program. The term of any new
35 contract with such recipient under the fifth phase of the program shall
36 be deemed to include any three month contract extension made pursuant to
37 this subdivision and the termination date of any such new contract under
38 phase five shall be no later than if such new contract had commenced
39 upon the expiration of the recipient's original phase two contract. The
40 terms of any contract with a recipient of power allocated under phase
41 four and/or phase five of the power for jobs program that has expired or

42 will expire on or before the thirty-first day of December, two thousand
43 five, may be extended by the power authority of the state of New York
44 from a date beginning no earlier than the first day of December, two
45 thousand four and extending through [~~May fifteenth, two thousand eleven~~]
46 June thirtieth, two thousand twelve.

47 (1) The board shall solicit and review applications for the power for
48 jobs electricity savings reimbursements and contract extensions from
49 recipients of power for jobs allocations under phases four and five of
50 the program for the award of such reimbursements and/or contract exten-
51 sions. The board may prescribe a simplified form and content for an
52 application for such reimbursements or extensions. An applicant shall be
53 eligible for such reimbursements and/or extensions only if it is in
54 compliance with and agrees to continue to meet the job retention and
55 creation commitments set forth in its prior power for jobs contract, or
56 such other commitments as the board deems reasonable; provided, however,
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1 that for the power for jobs electricity savings reimbursements and
2 contract extensions granted on or after [~~June thirtieth, two thousand~~
3 ~~nine~~] May fifteenth, two thousand eleven through [~~May fifteenth, two~~
4 ~~thousand eleven~~] June thirtieth, two thousand twelve, the board shall
5 expedite the awarding of such reimbursements and/or extensions and shall
6 defer the review of compliance with such commitments until after the
7 applicant has been awarded a power for jobs electricity savings
8 reimbursement and/or contract extension. The board shall review such
9 applications and make recommendations for the award: 1. of such
10 reimbursements through the power authority of the state of New York for
11 a period of time up to November thirtieth, two thousand four, and 2. of
12 such contract extensions or reimbursements as applied for by the recipi-
13 ent for a period of time beginning December first, two thousand four and
14 ending [~~May fifteenth, two thousand eleven~~] June thirtieth, two thousand
15 twelve. At no time shall a recipient receive both a reimbursement and
16 extension after December first, two thousand four. The power authority
17 of the state of New York shall receive notification from the board
18 regarding the award of power for jobs electricity savings reimbursements
19 and/or contract extensions.

20 § 12. Subdivision 9 of section 186-a of the tax law, as amended by
21 chapter 217 of the laws of 2009, is amended to read as follows:

22 9. Notwithstanding any other provision of this chapter or any other
23 law to the contrary, for taxable periods nineteen hundred ninety-seven
24 through and including two thousand [~~ten~~] twelve, any utility which
25 delivers power under the power for jobs program, as established by
26 section one hundred eighty-nine of the economic development law, shall
27 be allowed a credit, subject to the limitations thereon contained in
28 this subdivision, against the tax imposed under this section equal to
29 net lost revenues from the delivery of power under such power for jobs
30 program. Net lost revenues means the "net receipts" less "net utility
31 revenue" from such delivery of power. For purposes of this subdivision,
32 "net receipts" shall mean the amount that the utility would have other-
33 wise received from customers receiving power pursuant to allocations by
34 the New York state economic development power allocation board in
35 accordance with section one hundred eighty-nine of the economic develop-
36 ment law, or from customers whose allocation has been transferred to an
37 energy service company, or from energy service companies to which such
38 allocation has been transferred, pursuant to its tariff supervised by
39 the public service commission for substantially comparable service
40 otherwise applicable to such customers or energy service companies in
41 the absence of such designation, less the utility's annual average
42 incremental short-term variable and capacity costs of providing such
43 power in the absence of such purchase. For the purposes of this subdivi-

44 sion, "net utility revenue" shall mean the revenues the utility actually
45 receives in accordance with such section one hundred eighty-nine from
46 such customers so designated by the New York state economic development
47 power allocation board or from customers whose allocation has been
48 transferred to an energy service company, or from the energy service
49 companies to which a power for jobs allocation has been transferred,
50 less the utility's cost of such power under such program. Provided,
51 however, that any credit under this section shall be used only with
52 respect to the same taxable year during which such credit arose and
53 shall not be capable of being carried forward or backward to any other
54 taxable period. Nor shall any credit be allowed to any utility for the
55 total amount of power, expressed in kilowatt hours, purchased by the
56 customers of such utility under such program during the taxable period
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1 that exceeds the prorated "baseline energy use" by all customers of that
2 utility purchasing power under such program during the taxable period.
3 "Baseline energy use" with respect to each customer shall mean the larg-
4 est amount of kilowatt hours of energy used by such customer during any
5 twelve consecutive month period occurring during the preceding thirty
6 months immediately preceding the New York state economic development
7 power allocation board's recommendation of such customer's application,
8 prorated to reflect the length of time of the customer's participation
9 in such program during the taxable period. Provided further, however,
10 that in accordance with subdivision (k) of section one hundred eighty-
11 nine of the economic development law no tax credit shall be available
12 for any revenue losses when a utility has declined to purchase power
13 allocated for sale under such program. No electric corporation shall be
14 allowed the tax credit authorized by this subdivision until it shall
15 file a certificate from the department of public service for the period
16 covered by the return verifying that the calculation of such tax credit
17 complies with this subdivision and the department of public service has
18 approved such certificate and forwarded a copy of such approved certif-
19 icate to the commissioner or any amended certificate resulting from the
20 need for correction. The credit allowed by this subdivision shall not be
21 applicable in calculating any other tax imposed or authorized to be
22 imposed by this chapter or any other law, and the amount of the tax
23 surcharge imposed under section one hundred eighty-six-c of this article
24 shall be calculated and payable as if the credit provided for by this
25 subdivision were not allowed.

26 §13. Subparagraph 2 of paragraph g of the ninth undesignated para-
27 graph of section 1005 of the public authorities law, as amended by chap-
28 ter 217 of the laws of 2009, is amended to read as follows:

29 2. The authority, as deemed feasible and advisable by the trustees, is
30 authorized to make payments to recipients of the power for jobs elec-
31 tricity savings reimbursements and additional annual voluntary contrib-
32 utions into the state treasury to the credit of the general fund. The
33 authority shall make such contributions to the state treasury no later
34 than ninety days after the end of the calendar year in which a credit
35 under subdivision nine of section one hundred eighty-six-a of the tax
36 law is available: (a) for the additional three hundred megawatts of
37 power under the fourth phase of the program provided under chapter
38 sixty-three of the laws of two thousand and under the fifth phase for
39 the additional one hundred eighty-three megawatts provided under chapter
40 two hundred twenty-six of the laws of two thousand two; and (b) for any
41 extension of any contract for allocations under the fourth phase of the
42 program and under the fifth phase of the program. Payments for any elec-
43 tricity savings reimbursement under section one hundred eighty-nine of
44 the economic development law shall be made pursuant to such section.
45 Such annual contributions shall be equal to fifty percent of the total

46 amount of such credits available each year to all local distributors of
47 electricity. In addition, such authorization for contribution in state
48 fiscal year two thousand two--two thousand three shall be equal to the
49 total amount of credit available in two thousand one and two thousand
50 two; and such authorization for contribution in state fiscal year two
51 thousand three--two thousand four shall be equal to the total amount of
52 credit available in two thousand three; under subdivision nine of
53 section one hundred eighty-six-a of the tax law under the fourth phase
54 of the program for the additional three hundred megawatts provided under
55 chapter sixty-three of the laws of two thousand and under the fifth
56 phase for the additional one hundred eighty-three megawatts provided
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1 under chapter two hundred twenty-six of the laws of two thousand two. In
2 state fiscal year two thousand four--two thousand five, such authorized
3 annual contribution shall be equal to one hundred percent of the total
4 amount of such credits available each year to all local distributors of
5 electricity. Such authorization for contribution in state fiscal years
6 two thousand four and two thousand five shall be equal to the total
7 amount of credit available in two thousand four and two thousand five;
8 under subdivision nine of section one hundred eighty-six-a of the tax
9 law under the fourth phase of the program for the additional three
10 hundred megawatts provided under chapter sixty-three of the laws of two
11 thousand and under the fifth phase for the additional one hundred eight-
12 y-three megawatts provided under chapter two hundred twenty-six of the
13 laws of two thousand two. In addition, such authorization for contrib-
14 ution for any extension of any contract for allocations under the fourth
15 phase of the program and under the fifth phase of the program in each
16 state fiscal year shall be equal to the total amount of credit or
17 reimbursement available in state fiscal year two thousand four--two
18 thousand five, state fiscal year two thousand five--two thousand six and
19 two thousand six--two thousand seven. Additionally, notwithstanding any
20 other section of law, the authority is authorized to make a contribution
21 in an amount related to total amounts of credit received under phases
22 one, two, three, four and five of the program. In no case shall the
23 contribution for state fiscal year two thousand five--two thousand six
24 be less than seventy-five million dollars. The contribution for state
25 fiscal year two thousand six--two thousand seven shall be one hundred
26 million dollars. The contribution for state fiscal year two thousand
27 seven--two thousand eight shall be thirty million dollars. The contrib-
28 ution for state fiscal year two thousand eight--two thousand nine shall
29 be twenty-five million dollars. The contribution for state fiscal year
30 two thousand nine--two thousand ten shall be twelve million five hundred
31 thousand dollars. The contribution for state fiscal year two thousand
32 ten--two thousand eleven shall be seven and one-half million dollars.
33 The contribution for state fiscal year two thousand eleven--two thousand
34 twelve shall be six million dollars. The department of public service
35 shall estimate the payment due by the end of the calendar year in which
36 the credit is available. In no case shall the amount of the total annual
37 contributions for the years during which delivery and sale of power
38 associated with all power for jobs phases and any extensions thereof
39 takes place exceed the aggregate total of four hundred [~~sixty-one~~]
40 seventy-five million [~~five hundred thousand~~] dollars.

41 § 14. The opening paragraph of subdivision 5 of section 1005 of the
42 public authorities law, as amended by chapter 294 of the laws of 1968,
43 is amended to read as follows:

44 To develop, maintain, manage and operate those parts of the Niagara
45 and Saint Lawrence hydroelectric projects owned or controlled by it in
46 such manner as to give effect to the policy hereby declared (and all
47 plans and acts, and all contracts for the use, sale, transmission and

48 distribution of the power generated by such projects, shall be made in
49 the light of, consistent with and subject to this policy), namely, that
50 such projects shall be in all respects for the aid, improvement, and
51 benefit of commerce and navigation in, through, along and past the
52 Niagara river, the Saint Lawrence river and the international rapids
53 section thereof, and that in the development of hydro-electric power
54 therefrom such projects shall be considered primarily as for the benefit
55 of the people of the state as a whole [~~and particularly the domestic and~~
56 ~~rural consumers to whom the power can economically be made available,~~
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1 ~~and accordingly that sale to and use by industry shall be a secondary~~
2 ~~purpose, to be utilized principally to secure a sufficiently high load~~
3 ~~factor and revenue returns to permit domestic and rural use at the~~
4 ~~lowest possible rates and in such manner as to encourage increased~~
5 ~~domestic and rural use of electricity]. In furtherance of this policy~~
6 and to secure a wider distribution of such power and use of the greatest
7 value to the general public of the state, the authority shall in addi-
8 tion to other methods which it may find advantageous make provision so
9 that municipalities and other political sub-divisions of the state now
10 or hereafter authorized by law to engage in the distribution of electric
11 power may secure a reasonable share of the power generated by such
12 projects, and shall sell the same or cause the same to be sold to such
13 municipalities and political subdivisions at prices representing cost of
14 generation, plus capital and operating charges, plus a fair cost of
15 transmission, all as determined by the trustees, and subject to condi-
16 tions which shall assure the resale of such power [~~to domestic and rural~~
17 ~~consumers]~~ at the lowest possible price, provided, however, that in
18 disposing of hydro-electric power pursuant to and in furtherance of the
19 aforementioned policy and purposes, appropriate provision may also be
20 made to allocate a reasonable share of project power to agencies created
21 or designated by other states and authorized to resell the power to
22 users under the same terms and conditions as power is disposed of in New
23 York state. To that end, the authority may provide in any contract or
24 contracts which it may make for the sale, transmission and distribution
25 of the power that the purchaser, transmitter or distributor shall
26 construct, maintain and operate, on such terms as the authority may deem
27 proper, such connecting lines as may be necessary for transmission of
28 the power from main transmission lines to such municipalities or poli-
29 tical subdivisions.

30 § 15. Subdivision 16 of section 1005 of the public authorities law, as
31 added by chapter 217 of the laws of 2009, is REPEALED.

32 § 16. Subdivision 16 of section 1005 of the public authorities law, as
33 added by chapter 477 of the laws of 2009, is renumbered subdivision 17,
34 and paragraph (a) of such subdivision is amended to read as follows:

35 (a) As deemed feasible and advisable by the trustees, to finance and
36 design, develop, construct, implement, provide and administer energy-re-
37 lated projects, programs and services for any public entity and any
38 recipient of the economic development power, expansion power, replace-
39 ment power, preservation power, high load factor power, municipal
40 distribution agency power, [~~and the~~] power for jobs, and recharge New
41 York power programs administered by the authority. In establishing and
42 providing high performance and sustainable building programs and
43 services authorized by this subdivision, the authority is authorized to
44 consult standards, guidelines, rating systems, and/or criteria estab-
45 lished or adopted by other organizations, including but not limited to
46 the United States green building council under its leadership in energy
47 and environmental design (LEED) programs, the green building initi-
48 ative's green globes rating system, and the American National Standards

49 Institute. The source of any financing and/or loans provided by the
50 authority for the purposes of this subdivision may be the proceeds of
51 notes issued pursuant to section one thousand nine-a of this title, the
52 proceeds of bonds issued pursuant to section one thousand ten of this
53 title, or any other available authority funds.

54 § 17. Section 2 of chapter 477 of the laws of 2009, amending the
55 public authorities law relating to energy efficiency and clean energy
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1 initiatives of the power authority of the state of New York, is amended
2 to read as follows:

3 § 2. This act shall take effect immediately [~~and shall expire three~~
4 ~~years after it shall have become a law; provided that such expiration~~
5 ~~shall not affect the validity of any energy services contract authorized~~
6 ~~by this act and entered into prior to its expiration].~~

7 § 18. The opening paragraph of subdivision 6 of section 1005 of the
8 public authorities law, as amended by chapter 294 of the laws of 1968,
9 is amended to read as follows:

10 To develop, maintain, manage and operate its projects other than the
11 Niagara and Saint Lawrence hydroelectric projects so as (i) to provide
12 an adequate supply of energy for optimum utilization of its hydroelec-
13 tric projects, (ii) to attract and expand high load factor industry,
14 (iii) to provide for the additional needs of its municipal electric and
15 rural electric cooperative customers, (iv) to provide a supply of power
16 and energy for use in the recharge New York power program as recharge
17 New York market power, and [~~(iv)~~] (v) to assist in maintaining an
18 adequate, dependable electric power supply for the state.

19 § 19. Severability clause. If any clause, sentence, paragraph, subdi-
20 vision, section or part of this act shall be adjudged by any court of
21 competent jurisdiction to be invalid, such judgment shall not affect,
22 impair, or invalidate the remainder thereof, but shall be confined in
23 its operation to the clause, sentence, paragraph, subdivision, section
24 or part thereof directly involved in the controversy in which such judg-
25 ment shall have been rendered. It is hereby declared to be the intent of
26 the legislature that this act would have been enacted even if such
27 invalid provisions had not been included therewith.

28 § 20. This act shall take effect immediately; provided that:

29 a. the amendments to section 183 of the economic development law made
30 by section nine of this act shall not affect the expiration of such
31 section and shall be deemed to expire therewith;

32 b. the amendments to section 189 of the economic development law made
33 by sections ten and eleven of this act shall not affect the repeal of
34 such section and shall be deemed repealed therewith;

35 c. the amendments to subdivision 9 of section 186-a of the tax law
36 made by section twelve of this act shall not affect the repeal of such
37 subdivision and shall be deemed repealed therewith; and

38 d. the amendments to subparagraph 2 of paragraph g of the 9th undesig-
39 nated paragraph of section 1005 of the public authorities law made by
40 section thirteen of this act shall not affect the expiration of such
41 subparagraph and shall be deemed to expire therewith.