

STATE OF NEW YORK

9856

IN ASSEMBLY

February 20, 2020

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

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

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "climate and community investment act".
3 § 2. Legislative findings and declaration. The legislature finds and
4 declares that:
5 1. Climate change is adversely affecting economic well-being, public
6 health, natural resources, and the environment of New York. The adverse
7 impacts of climate change include:
8 (a) an increase in the severity and frequency of extreme weather
9 events, such as storms, flooding, and heat waves, which can cause direct
10 injury or death, property damage, and ecological damage (e.g., through
11 the release of hazardous substances into the environment);
12 (b) rising sea levels, which exacerbate damage from storm surges and
13 flooding, contribute to coastal erosion and saltwater intrusion, and
14 inundate low-lying areas, leading to the displacement of or damage to
15 coastal habitat, property, and infrastructure;
16 (c) a decline in freshwater and saltwater fish populations;
17 (d) increased average temperatures, which increase the demand for air
18 conditioning and refrigeration among residents and businesses;
19 (e) exacerbation of air pollution; and
20 (f) an increase in the incidences of infectious diseases, asthma
21 attacks, heart attacks, and other negative health outcomes.
22 2. The adverse impacts of climate change are having a detrimental
23 effect on some of New York's largest industries, including agriculture,
24 commercial shipping, forestry, tourism, and recreational and commercial
25 fishing. These impacts also place additional strain on the physical
26 infrastructure that delivers critical services to the citizens of New

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

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1 York, including the state's energy, transportation, stormwater, and
2 wastewater infrastructure.

3 3. (a) The severity of current climate change and the threat of addi-
4 tional and more severe change will be affected by the actions undertaken
5 by New York and other jurisdictions to reduce greenhouse gas emissions.
6 According to the U.S. Global Change Research Program (USGCRP) and the
7 Intergovernmental Panel on Climate Change (IPCC), substantial reductions
8 in greenhouse gas emissions will be required by mid-century in order to
9 limit global warming to no more than 2°C and ideally 1.5°C, and thus
10 minimize the risk of severe impacts from climate change. Specifically,
11 industrialized countries must reduce their greenhouse gas emissions by
12 at least 80% below 1990 levels by 2050 in order to stabilize carbon
13 dioxide equivalent concentrations at 450 parts per million--the level
14 required to stay within the 2°C target.

15 (b) On December 12, 2015, one hundred ninety-five countries at the
16 21st Conference of the parties of the United Nations Framework Conven-
17 tion on Climate Change adopted an agreement addressing greenhouse gas
18 emissions mitigation, adaptation, and finance starting in the year 2020,
19 known as the Paris Agreement. The Paris Agreement was adopted on Novem-
20 ber 4, 2016, and is the largest concerted global effort to combat
21 climate change to date.

22 4. Action undertaken by New York to reduce greenhouse emissions will
23 have an impact on global greenhouse gas emissions and the rate of
24 climate change. In addition, such action will encourage other jurisdic-
25 tions to implement complementary greenhouse gas reduction strategies and
26 provide an example of how such strategies can be implemented. It will
27 also advance the development of green technologies and sustainable prac-
28 tices within the private sector, which can have far-reaching impacts
29 such as a reduction in the cost of renewable energy components, and the
30 creation of jobs and tax revenues in New York.

31 5. It shall therefore be a goal of the state of New York to reduce
32 greenhouse gas emissions from all anthropogenic sources 100% by the year
33 2050, with an incremental target of at least a 50 percent reduction in
34 climate pollution by the year 2030, in line with USGCRP and IPCC projec-
35 tions of what is necessary to avoid the most severe impacts of climate
36 change.

37 6. Although substantial emissions reductions are necessary to avoid
38 the most severe impacts of climate change, complementary adaptation
39 measures will also be needed to address those risks that cannot be
40 avoided. Some of the impacts of climate change are already observable in
41 New York state and the northeastern United States. Annual average
42 temperatures are on the rise, winter snow cover is decreasing, heat
43 waves and precipitation are intensifying, and sea levels along New
44 York's coastline are approximately one foot higher than they were in
45 1900. New York has also experienced an increasing number of extreme and
46 unusual weather events, like Hurricanes Irene and Lee and the
47 unprecedented Superstorm Sandy in 2012, which caused at least 53 deaths
48 and \$32 billion in damage in New York state.

49 7. New York should therefore minimize the risks associated with
50 climate change through a combination of measures to reduce statewide
51 greenhouse gas emissions and improve the resiliency of the state with
52 respect to the impacts and risks of climate change that cannot be
53 avoided.

54 8. Climate change especially heightens the vulnerability of disadvan-
55 taged communities, which bear environmental and socioeconomic burdens as
56 well as legacies of racial and ethnic discrimination. Actions undertaken

1 by New York state to mitigate greenhouse gas emissions should prioritize
2 the safety and health of disadvantaged communities, control potential
3 regressive impacts of future climate change mitigation and adaptation
4 policies on these communities, and prioritize the allocation of public
5 investments in these areas.

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

13 10. Workers are at the frontlines of climate change. Construction
14 workers and building service workers were some of the first workers
15 dedicated to cleaning up damage inflicted by recent storms. These work-
16 ers were often operating in unsafe and toxic environments, cleaning up
17 mold, and working in unstable buildings. In order to protect the health
18 and welfare of these workers, it is in the interest of the state of New
19 York to establish safe and healthy working conditions and proper train-
20 ing for workers involved in climate change related activities. In addi-
21 tion, much of the infrastructure work preparing our state for additional
22 climate change events must happen quickly and efficiently. It is in the
23 interest of the state to ensure labor harmony and promote efficient
24 performance of work on climate change related work sites by requiring
25 workers to be well-trained and adequately compensated.

26 11. Ensuring career opportunities are created and shared geograph-
27 ically and demographically is necessary to ensure increased access to
28 good jobs for marginalized communities while making the same neighbor-
29 hoods more resilient. Climate change has a disproportionate impact on
30 low-income people, women, and workers. It is in the interest of the
31 state of New York to protect and promote the interests of these groups
32 against the impacts of climate change and severe weather events and to
33 advance our equity goals by ensuring quality employment opportunities in
34 safe working environments.

35 12. The complexity of the ongoing energy transition, the uneven
36 distribution of economic opportunity, and the disproportionate cumula-
37 tive economic and environmental burdens on communities mean that there
38 is a strong state interest in setting a floor statewide for labor stand-
39 ards, but allowing and encouraging individual agencies and local govern-
40 ments to raise standards above that floor.

41 13. By exercising a global leadership role on greenhouse gas miti-
42 gation and climate change adaptation, New York will position its econo-
43 my, technology centers, financial institutions, and businesses to bene-
44 fit from national and international efforts to address climate change.
45 New York state has already demonstrated leadership in this area by
46 undertaking efforts such as:

47 (a) executive order no. 24 (2009), establishing a goal to reduce
48 greenhouse gas emissions 80% by the year 2050, creating a climate action
49 council, and calling for preparation of a climate action plan;

50 (b) chapter 433 of the laws of 2009, establishing a state energy plan-
51 ning board and requiring the board to adopt a state energy plan;

52 (c) chapter 388 of the laws of 2011, directing the department of envi-
53 ronmental conservation to promulgate rules and regulations limiting
54 emissions of carbon dioxide by newly constructed major generating facil-
55 ities;

(d) the adoption of a state energy plan establishing clean energy goals for the year 2030 aimed at reducing greenhouse gas emission levels by 40% from 1990 levels, producing 50% of electricity from renewable sources, and increasing energy efficiency from 2012 levels by 23%;

(e) collaboration with other states on the Regional Greenhouse Gas Initiative, and the development of a regional low carbon fuel standard;

(f) creation of new offices and task forces to address climate change, including the New York state office of climate change, the renewable energy task force, and the sea level rise task force; and

(g) the enactment of the Community Risk and Resiliency Act (CRRA), which requires agencies to consider sea level rise and other climate-related events when implementing certain state programs.

This legislation will build upon these past developments by creating a comprehensive program for pricing greenhouse gas emissions and investing in a just transition to a low-carbon New York state economy, in accordance with the targets established in executive order no. 24, the state energy plan, and USGCRP and IPCC projections.

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

TITLE 13

AIR POLLUTION PRICING

Section 19-1301. Definitions.

19-1303. Methodology and air pollutant price index.

19-1305. Implementation of fees.

19-1307. Allocation of revenues.

19-1309. Inventory.

19-1311. Transportation pollution.

19-1313. Reporting.

§ 19-1301. Definitions.

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

1. "The Act" shall have the same meaning as in subdivision 8 of section 19-0107 of this article.

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

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

4. "Disadvantaged communities" shall have the same meaning as in subdivision 3 of section 74-0101 of this chapter.

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

6. "Emissions hotspot" means a location where emissions of regulated air contaminants from specific sources may expose individuals and population groups to elevated risks of adverse health effects and may contribute to the cumulative health risks of emissions from other sources in the area.

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

8. "Greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other substance emitted into the air that may be reasonably anticipated to

1 cause or contribute to anthropogenic climate change, with the exception
2 of agricultural emissions from livestock.

3 9. "Regulated air contaminant" shall have the same meaning as in
4 subdivision 22 of section 19-0107 of this article.

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

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

11 12. "Working group" means the climate justice working group estab-
12 lished under section 74-0103 of this chapter.

13 § 19-1303. Methodology and air pollutant price index.

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

22 (a) public health impacts, including: loss of life, loss of welfare,
23 employment impacts and other public health impacts;

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

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

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

29 2. If the commissioner demonstrates that it is not administratively
30 feasible in the time allotted in subdivision 1 of this section to
31 complete a methodology for each individual regulated air contaminant, or
32 appropriate sub-grouping thereof, then the commissioner may delay the
33 completion of methodologies for some portion of regulated air contam-
34 inants for future rule-makings, provided that:

35 (a) in the first publication of such methodologies, the commissioner
36 completes a methodology, pursuant to subdivision 1 of this section, for
37 each of the following pollutants:

38 (i) oxides of nitrogen;

39 (ii) volatile organic compounds;

40 (iii) sulfur dioxide;

41 (iv) particulate matter;

42 (v) carbon monoxide; and

43 (vi) lead;

44 (b) in the first publication of such methodologies, the commissioner
45 completes a methodology, pursuant to subdivision 1 of this section, for
46 each of the air contaminants listed under section 112 of the Act (42 USC
47 section 7412) that the commissioner finds to be most damaging to public
48 health in New York, of all air contaminants listed under such section;

49 (c) the commissioner demonstrates and publishes, along with the publi-
50 cation of methodologies described under subdivision 1 of this section, a
51 description of why it is not administratively feasible in the time
52 allotted in subdivision 1 of this section to complete a methodology, for
53 each individual regulated air contaminant, or appropriate sub-grouping
54 thereof; and

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

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

3 § 19-1305. Implementation of fees.

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

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

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

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

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

30 § 19-1307. Allocation of revenues.

31 1. The commissioner shall establish a trust fund to be known as the
32 "air pollution pricing fund", consisting of such amounts as may be
33 appropriated or credited to such fund as provided in this section.

34 2. (a) There is hereby appropriated to the air pollution pricing fund
35 for each fiscal year following the effective date of this title, the
36 total amount of fees received under this title during such year, and
37 such amounts shall be allocated accordingly:

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

40 (ii) twenty percent of funds shall go to improving and maintaining the
41 New York state Title V emissions inventory;

42 (iii) twenty percent of funds shall go to improving air quality moni-
43 toring, including ambient air quality monitoring and point source moni-
44 toring; and

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

47 (b) The air pollution pricing fund shall be administered by the
48 commissioner.

49 § 19-1309. Inventory.

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

53 1. assess the extent to which given regulated air contaminants, espe-
54 cially air contaminants that have highly adverse health impacts, are
55 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 3040 of the tax law; and

5 (b) the investment programs established in title 9-B of article 8 of
6 the public authorities law;

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

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

12 5. make the Title V emissions inventory more accessible to the public.
13 § 19-1311. Transportation pollution.

14 1. Not later than one year after the effective date of this title, the
15 commissioner shall prepare and approve a scoping plan outlining the
16 department's recommendations for accelerating the reduction of regulated
17 air contaminants from mobile sources.

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

20 (a) The department shall provide meaningful opportunities for public
21 comment from all persons who will be impacted by the plan, including
22 persons living in disadvantaged communities.

23 (b) On or before one year after the effective date of this title, the
24 department shall submit the final scoping plan to the governor, the
25 speaker of the assembly and the temporary president of the senate and
26 post such plan on its website.

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

29 (a) performance-based standards for mobile sources of regulated air
30 contaminants;

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

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

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

35 (iii) congestion pricing;

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

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

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

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

53 (b) In promulgating these regulations, the department shall:

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

1 (ii) ensure that emissions reductions achieved are real, quantifiable,
2 verifiable, and enforceable by the department;

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

5 (iv) prioritize measures to maximize net reductions of emissions in
6 disadvantaged communities;

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

9 (vi) minimize emissions leakage.

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

16 § 19-1313 Reporting.

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

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

25 (b) the effectiveness of the policies established under section
26 19-1311 of this title to reduce regulated air contaminants from mobile
27 sources statewide and within geographic subdivisions of the state;

28 (c) an overview of social benefits from the regulations or other meas-
29 ures established pursuant to this title, including reductions in regu-
30 lated air contaminants, and other benefits to the economy, environment,
31 and public health, including women's health;

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

33 (e) an overview of administrative costs for the department and other
34 state agencies;

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

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

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

43 2. Before finalizing the report described in subdivision 1 of this
44 section, the commissioner shall ensure that there are meaningful oppor-
45 tunities for public participation, including by:

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

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

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

1 § 4. The environmental conservation law is amended by adding a new
2 article 74 to read as follows:

3 ARTICLE 74
4 CLIMATE CHANGE

5 Section 74-0101. Definitions.

6 74-0103. Climate justice working group.

7 § 74-0101. Definitions.

8 For the purposes of this article the following terms shall have the
9 following meanings:

10 1. "Climate justice working group" or "working group" shall mean the
11 body created under section 74-0103 of this article.

12 2. "Department" means the department of environmental conservation.

13 3. "Disadvantaged communities" means communities that bear burdens of
14 negative public health effects, environmental pollution, and impacts of
15 climate change, and possess certain socioeconomic criteria, as identi-
16 fied pursuant to section 74-0103 of this article.

17 4. "Greenhouse gas" shall have the same meaning as in subdivision 8 of
18 section 19-1301 of this chapter.

19 5. "Regulated air contaminant" shall have the same meaning as in
20 subdivision 22 of section 19-0107 of this chapter.

21 § 74-0103. Climate justice working group.

22 1. (a) There is hereby created within the department, no later than
23 six months after the effective date of this article, a climate justice
24 working group. Such working group will be comprised of representatives
25 from: environmental justice communities, the department, the department
26 of health, the New York state energy research and development authority,
27 and the department of labor. In addition to any other functions assigned
28 to the working group in this article, the working group shall also
29 perform the functions assigned to the working group as set forth in
30 title 13 of article 19 of this chapter, article 25-D of the labor law,
31 title 9-B of article 8 of the public authorities law, and articles 42
32 and 43 of the tax law.

33 (b) Environmental justice community representatives shall be members
34 of communities of color, low-income communities, and communities bearing
35 disproportionate pollution and climate change burdens, or shall be
36 representatives of community-based organizations with experience and a
37 history of advocacy on environmental justice issues, and shall include
38 at least five representatives from New York city communities, three
39 representatives from upstate urban communities, three representatives
40 from upstate rural and suburban communities, and three representatives
41 from Nassau, Suffolk, Westchester and Rockland counties. The department,
42 in consultation with the working group, shall establish draft criteria
43 to identify disadvantaged communities.

44 (c) Disadvantaged communities shall be identified based on geographic,
45 public health, environmental hazards, and socioeconomic criteria, which
46 shall include, but are not limited to:

47 (i) areas burdened by cumulative environmental pollution and other
48 hazards that can lead to negative public health effects;

49 (ii) areas with concentrations of people that are low income, high
50 unemployment, have high rent burdens, have low levels of home ownership,
51 have low levels of educational attainment, or are members of groups that
52 have historically experienced discrimination on the basis of race or
53 ethnicity; and

54 (iii) areas vulnerable to the impacts of climate change such as flood-
55 ing, storm surges, and urban heat island effects.

1 2. Before finalizing the criteria for identifying disadvantaged commu-
2 nities, the department shall publish draft criteria and a draft list of
3 disadvantaged communities and make such information available on its
4 website.

5 (a) The department shall hold at least seven regional public hearings
6 on the draft criteria and the draft list of disadvantaged communities,
7 including three hearings in the upstate region, three hearings in the
8 downstate region, and one meeting in either Nassau or Suffolk counties
9 and shall allow at least one hundred twenty days for the submission of
10 public comment. For the purposes of this paragraph, the term "downstate
11 region" shall mean the counties of Richmond, Kings, Queens, New York,
12 Bronx and Westchester, and the term "upstate region" shall mean all
13 other New York state counties other than Nassau and Suffolk.

14 (b) The department shall ensure that there are meaningful opportu-
15 nities for public comment for all persons who will be impacted by the
16 criteria, including persons living in areas that may be identified as
17 disadvantaged communities under the proposed criteria.

18 3. After following the procedures set forth in subdivisions 1 and 2 of
19 this section, the department shall establish final criteria and the
20 final list of disadvantaged communities, and make such information
21 available on its website.

22 4. The working group will meet at least annually to review the method-
23 ology used to identify disadvantaged communities by, among other things,
24 incorporating new data and scientific findings. The working group may
25 advise the department to modify its methodology, criteria or list.
26 Following a meeting of the working group, the department may modify its
27 methodology, criteria or list. Before the department modifies its meth-
28 odology, criteria or list, it shall provide for meaningful opportunities
29 for public comment as to any such modification.

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

32 ARTICLE 8-B

33 LABOR AND JOB STANDARDS AND WORKER PROTECTION

34 Section 228. Labor and job standards and worker protection.

35 § 228. Labor and job standards and worker protection. 1. All state
36 agencies involved in implementing the climate and community investment
37 act shall assess and implement strategies to increase employment oppor-
38 tunities and improve job quality. Within one hundred twenty days of the
39 effective date of this article, all state agencies, offices, authori-
40 ties, and divisions shall report to the legislature on:

41 (a) Steps they will take to ensure compliance with this section; and

42 (b) Regulations necessary to ensure that they prioritize the statewide
43 goal of creating good jobs and increasing employment opportunities.

44 2. In considering and issuing permits, licenses, regulations,
45 contracts, and other administrative approvals and decisions pursuant to
46 the climate and community investment act and in otherwise dispersing any
47 proceeds from the fee established in section three thousand forty of the
48 tax law, all state agencies, offices, authorities, and divisions shall
49 apply the following labor, training, and job quality standards to public
50 works projects in receipt of more than one hundred thousand dollars in
51 total financial assistance; projects with a total value of more than ten
52 million dollars; and privately-financed projects on public property:

53 (a) the payment of no less than prevailing wages for all employees in
54 construction and building, consistent with article eight of this chap-
55 ter, and building services, consistent with article nine of this chap-
56 ter;

1 (b) the inclusion of contract language requiring contractors to estab-
2 lish labor harmony policies; dispute resolution mechanisms; prevailing
3 wage compliance; safety policies; workers compensation insurance
4 (including review of contractor experience rating and other factors);
5 and apprenticeship programs appropriate for crafts employed. Procurement
6 rules should encourage bundling of small contracts and projects to
7 improve the efficiency of compliance;

8 (c) a requirement that all contractors and subcontractors, including
9 those that participate in power purchase agreements, energy performance
10 contracts, or other similar programs, participate in apprenticeship
11 programs in the trades in which they are performing work; that there
12 shall be the maximum use of apprentices as per department of labor
13 approved ratios; that there shall be encouragement of affiliated pre-ap-
14 prentice direct entry programs, including, but not limited to, EJM
15 construction skills, New York city Helmets to Hardhats, and Nontradi-
16 tional Employment for Women (NEW) for the recruitment of local and/or
17 disadvantaged workers; and that existing workforce development programs,
18 including those at the New York state energy research and development
19 authority, should be made to conform to these standards.

20 3. The commissioner, the fiscal officer and other relevant agencies
21 shall promulgate such regulations as are necessary to implement and
22 administer compliance with the provisions of this article. The depart-
23 ment and the fiscal officer shall coordinate with labor organizations
24 and local and county level governments to implement a system to track
25 compliance, accept reports of non-compliance for enforcement action, and
26 report annually on the adoption of these standards to the legislature
27 starting one year from the effective date of this section. For the
28 purposes of this subdivision, "fiscal officer" shall mean the industrial
29 commissioner, except for construction and building service work
30 performed by or on behalf of a city, in which case "fiscal officer"
31 shall mean the comptroller or other analogous officer of such city.

32 (a) The provisions of any contract by the recipient of financial
33 assistance pertaining to prevailing wages are to be considered a
34 contract for the benefit of construction and building service workers,
35 upon which such workers shall have the right to maintain action for the
36 difference between the prevailing wage rate of pay, benefits, and paid
37 leave and the rates of pay, benefits, and paid leave actually received
38 by them, including attorneys' fees.

39 (b) (i) Where a recipient of financial assistance contracts building
40 service work to a building service contractor, the contractor is held to
41 the same obligations with respect to prevailing wages as the recipient.
42 The recipient must include terms establishing this obligation within any
43 contract signed with a contractor.

44 (ii) Where a recipient of financial assistance contracts for
45 construction, excavation, demolition, rehabilitation, repair, reno-
46 vation, alteration or improvement to a subcontractor, the subcontractor
47 shall be held to the same obligations with respect to prevailing wages
48 as the recipient. The recipient must include terms establishing this
49 obligation within any contract signed with a subcontractor.

50 4. For the purposes of this section, "financial assistance" means any
51 provision of public funds to any person, individual, proprietorship,
52 partnership, joint venture, corporation, limited liability company,
53 trust, association, organization, or other entity that receives finan-
54 cial assistance, or any assignee or successor in interest of real prop-
55 erty improved or developed with financial assistance, for economic
56 development within the state, including but not limited to cash payments

1 or grants, bond financing, tax abatements or exemptions, including but
 2 not limited to abatements or exemptions from real property, mortgage
 3 recording, sales and use taxes, or the difference between any payments
 4 in lieu of taxes and the amount of real property or other taxes that
 5 would have been due if the property were not exempted from such taxes,
 6 tax increment financing, filing fee waivers, energy cost reductions,
 7 environmental remediation costs, write-downs in the market value of
 8 buildings or land, or the cost of capital improvements related to real
 9 property for which the state would not pay absent the development
 10 project, and includes both discretionary and as of right assistance. The
 11 provisions of this section shall only apply to projects receiving more
 12 than one hundred thousand dollars in total financial assistance,
 13 projects with a total project value of more than ten million dollars and
 14 privately-financed projects on public property.

15 5. The commissioner shall evaluate whether there are additional stand-
 16 ards that could be applied to increase wage and benefit standards or to
 17 encourage a safe, well-trained, and adequately compensated workforce.

18 6. The commissioner, in consultation with the regional economic devel-
 19 opment councils, shall promulgate such regulations and enter into such
 20 agreements as are necessary to enforce community workforce agreements,
 21 project labor agreements or community benefits agreements that include:

- 22 (a) local and targeted hiring standards;
- 23 (b) the utilization of minority- or women-owned business enterprises;
- 24 and
- 25 (c) any relevant additional standards provided for in this section.

26 For the purposes of this subdivision, a "minority- or woman-owned enter-
 27 prise" shall have the same meaning as subdivision five of section nine-
 28 teen hundred five of the public authorities law.

29 7. The department shall develop agreements in the region and ensure
 30 that the standards under this article are applied to all projects in the
 31 region receiving financial assistance from any program pursuant to the
 32 climate and community investment act. The regulations promulgated in
 33 such article shall provide that projects over one million dollars may
 34 negotiate their own project labor agreements or community benefits
 35 agreements with municipalities and constituency based organizations as
 36 parties.

37 8. Nothing set forth in this section shall be construed to impede,
 38 infringe, or diminish the rights and benefits which accrue to employees
 39 through bona fide collective bargaining agreements, or otherwise dimin-
 40 ish the integrity of the existing collective bargaining relationship.

41 9. Nothing set forth in this section shall preclude a local government
 42 from setting additional standards that expand on these statewide stand-
 43 ards.

44 § 6. The labor law is amended by adding a new article 25-D to read as
 45 follows:

46 ARTICLE 25-D
 47 CLIMATE CHANGE JUST TRANSITION FOR IMPACTED WORKERS AND
 48 COMMUNITY ASSURANCE

49 Section 863. Definitions.

- 50 863-a. Worker and community assurance board.
- 51 863-b. Establishment of worker and community assurance program.
- 52 863-c. Administration by the commissioner.
- 53 863-d. Allocation of funds.
- 54 863-e. Selection process.
- 55 863-f. Designation of significant impact.
- 56 863-g. Reporting.

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

3 1. "Authority" shall have the same meaning as in subdivision two of
4 section eighteen hundred fifty-one of the public authorities law.

5 2. "Board" means the worker and community assurance board established
6 under this article.

7 3. "Chair" means the chair of the authority.

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

9 5. "Constituency-based organization" shall have the same meaning as in
10 subdivision three of section eighteen hundred ninety-one of the public
11 authorities law.

12 6. "Department" means the department of labor.

13 7. "Director" means the director of the office of climate and communi-
14 ty investment established under title nine-B of article eight of the
15 public authorities law.

16 8. "Disadvantaged communities" means communities that bear burdens of
17 negative public health effects, environmental pollution and impacts of
18 climate change, and possess certain socioeconomic criteria, as identi-
19 fied pursuant to section 74-0103 of the environmental conservation law.

20 9. "Displaced worker" means an individual who is a resident of New
21 York state and has been terminated or has received a notice of termi-
22 nation as a result of a permanent facility closure.

23 10. "Eligible applicant" means a municipality, labor union, community
24 college, local school district, or constituency-based organization
25 located in an impacted community.

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

28 12. "Labor organization" means any organization which exists and is
29 constituted for the purpose, in whole or in part, of collective bargain-
30 ing, or of dealing with employers concerning grievances, terms or condi-
31 tions of employment, or of other mutual aid or protection and which is
32 not a company union as defined herein.

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

38 14. "Program" means the worker and community assurance program estab-
39 lished under this article.

40 15. "Trust" means the worker and community assurance trust established
41 under subdivision four of section three thousand forty-six of the tax
42 law.

43 16. "Working group" means the climate justice working group created
44 pursuant to section 74-0103 of the environmental conservation law.

45 § 863-a. Worker and community assurance board. There is hereby created
46 no later than six months after the effective date of this article, a
47 "worker and community assurance board". Such board will be comprised of:
48 the commissioner, the state comptroller, the commissioner of environ-
49 mental conservation, the chair, two members of constituency-based organ-
50 izations, two representatives of labor organizations, and one represen-
51 tative expert in economic development. The board shall be chaired by the
52 commissioner.

53 § 863-b. Establishment of worker and community assurance program.
54 There is hereby established within the department, a program, to be
55 implemented by the commissioner. The purpose of the program is to:

1 1. disburse funds from the trust, pursuant to this section and
2 sections eight hundred sixty-three-d and eight hundred sixty-three-e of
3 this article;

4 2. provide support for displaced workers, either directly, or through
5 programs administered by eligible applicants, for up to five years
6 including, but not limited to: employment guarantees; retraining and
7 placement in public or private sector positions; income support; pension
8 support; early retirement; transitional support including but not limit-
9 ed to skills training, job counseling, tuition support, and on-the-job
10 training; and support for impacted workers to start employee-owned busi-
11 nesses. Early retirement or income support, at a comparable level to
12 their lost wages, shall be offered whenever possible. Each individual
13 displaced worker will receive at least one form of such assistance.

14 3. provide support for communities either through local government
15 entities or non-profits to replace lost payment in-lieu-of taxes (PILOT)
16 and local tax revenue, revenue raised by or paid by the state or an
17 employer to municipalities or school districts (including, but not
18 limited to, central school districts and city school districts), and
19 other public funding that is being lost as a result of the displaced
20 facilities; and

21 4. facilitate the expansion of existing economic development programs
22 to enable communities to respond to permanent facility closure and/or
23 major reductions in property taxes or PILOT payments. This can include,
24 but is not limited to: support for incumbent impacted workers to start
25 employee-owned businesses in host communities; and support for other
26 elements of the clean, renewable energy transition, such as deployment
27 of energy storage, renewable energy generation, electrical transmission
28 facilities, resiliency measures, and other infrastructure projects in
29 communities where energy-intensive facilities are closing.

30 § 863-c. Administration by the commissioner. Within six months of the
31 effective date of this article, the commissioner is hereby authorized
32 and directed to establish the worker and community assurance program.
33 The commissioner shall implement the program in consultation with the
34 board and shall:

35 1. use monies made available for the program pursuant to section eight
36 hundred sixty-three-b of this article to achieve the purposes of the
37 program;

38 2. enter into contracts with eligible applicants and other entities
39 through the competitive selection process authorized by this article;

40 3. enter into contracts with one or more program implementers to
41 perform such functions as the authority deems appropriate; and

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

44 § 863-d. Allocation of funds. Funds from the trust shall be disbursed
45 under the program and be used to ensure a stable transition for workers
46 and communities impacted by the transition to a carbon free economy.

47 § 863-e. Selection process. The director is authorized, within amounts
48 appropriated, to disburse funds from the trust on a competitive basis
49 for approved projects to eligible applicants and partners.

50 1. The director, in partnership with the working group, shall develop
51 criteria and a process for selecting project proposals submitted by
52 eligible applicants under this article.

53 2. Proposals should clearly articulate: the programs to be supported;
54 the number of workers impacted; overall expected funding level; a plan
55 to engage the people most affected by the transition, including workers
56 and community members; a plan for any necessary site remediation and

1 economic development; and a plan to ensure that funding is time limited
2 to no more than ten years of direct support from the trust.

3 3. The commissioner shall give priority to proposals from eligible
4 applicants that address workers in energy intensive industries that have
5 significant employment and tax base impacts in affected communities,
6 pursuant to title nine-B of article eight of the public authorities law.

7 4. In developing the criteria, the commissioner and the board shall
8 attempt to maximize: the number of people from affected communities that
9 will benefit from any implemented project and from the suite of projects
10 across the program; the degree of direct benefits delivered to affected
11 communities; greenhouse gas and emissions reductions for regulated air
12 contaminants; and, to the extent possible, the leveraging of private
13 capital.

14 5. The commissioner shall encourage eligible applicants to propose
15 projects in partnership with other eligible applicants, and in partner-
16 ship with third-party entities.

17 6. Where possible, the commissioner shall aim to distribute funds in
18 an equitable manner by region of the state.

19 7. If adequate funding is available, the commissioner may consider
20 proposals related to other impacts associated with climate change that
21 have the effect of causing job losses, including climate-related natural
22 disasters.

23 8. The commissioner shall allocate funding annually, or as determined
24 appropriate by the commissioner for ensuring continuous funding for the
25 needs of the chosen programs and projects.

26 § 863-f. Designation of significant impact. 1. The commissioner, in
27 cooperation with the board and working group, shall establish criteria
28 to determine when an industry has become significantly impacted as a
29 direct result of policies to reduce greenhouse gas emissions in New York
30 state. The commissioner shall identify an initial set of industries that
31 are significantly impacted as a direct result of emissions reduction
32 policies for the purposes of implementing this section.

33 2. In designing the criteria and listing the industries described in
34 subdivision one of this section, the commissioner shall consider factors
35 such as:

36 (a) permanent facility closures or the closure of businesses as a
37 result of regulatory changes related to the climate and community
38 investment act;

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

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

45 3. Before finalizing the criteria for identifying industries that are
46 significantly impacted as a direct result of climate change policy and
47 identifying a list of significantly impacted industries pursuant to
48 subdivision one of this section, the commissioner shall ensure that
49 there are meaningful opportunities for public comment, including by
50 persons working in potentially significantly impacted industries and
51 persons that may be identified as part of affected communities pursuant
52 to title nine-B of article eight of the public authorities law, includ-
53 ing by:

54 (a) publishing draft criteria and a draft list of significantly
55 impacted industries, and making such information available on the inter-
56 net;

1 (b) holding at least six regional public hearings on the draft crite-
2 ria and the draft list of significantly impacted industries, including
3 at least three meetings in the upstate region and three meetings in the
4 downstate region; and

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

8 4. The commissioner, in cooperation with the board and the working
9 group shall meet no less than annually to review the criteria and meth-
10 ods used to identify significantly impacted industries, and may modify
11 such methods to incorporate new data and scientific findings, subject to
12 the same process requirements listed under subdivision three of this
13 section.

14 5. An industry that has been significantly impacted as a direct result
15 of climate change policy, or workers in an industry that has been
16 significantly impacted as a direct result of climate change policy may
17 also be identified based on a petition from a municipality, labor union,
18 or constituency-based organization located in or adjacent to an impacted
19 community.

20 § 863-g. Reporting. 1. No later than two years following the effective
21 date of this article, and every two years thereafter, the commissioner,
22 in partnership with the working group, shall produce a report on the
23 implementation of the program established under this article and the
24 extent to which program implementation is meeting stated program goals
25 and priorities. Such report shall include but not be limited to:

26 (a) reporting on the effectiveness of the policies established under
27 this article to the legislature and public on the job creation and
28 retention impacts;

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

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

34 (d) recommendations for future policy pertaining to transition assist-
35 ance; and

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

38 2. Before finalizing the report described in subdivision one of this
39 section, the commissioner shall ensure that there are meaningful oppor-
40 tunities for public participation, including by:

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

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

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

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

54 TITLE 9-B
55 CLIMATE CHANGE JUST TRANSITION

SUBTITLE I
GENERAL PROVISIONS

- Section 1901. Definitions.
- 1902. Coordination of programs.
- 1903. Transparency and accountability.
- 1904. Report on community ownership.

SUBTITLE II
COMMUNITY JUST TRANSITION

- Section 1905. Definitions.
- 1906. Office of climate and community investment.
- 1907. Establishment of community just transition program.
- 1908. Administration by the authority.
- 1909. Allocation of funds.
- 1910. Selection process.
- 1911. Identification of disadvantaged community needs.
- 1912. Community decision-making and accountability mechanisms.
- 1913. Criteria for implementing community accountability mechanisms.
- 1914. Consultation with the working group.

SUBTITLE III
CLIMATE JOBS AND INFRASTRUCTURE

- Section 1915. Definitions.
- 1916. Establishment of climate jobs and infrastructure program.
- 1917. Administration by the authority.
- 1918. Allocation of funds.
- 1919. Funding instruments.
- 1920. Selection process and criteria.
- 1921. Consultation with the advisory council.
- 1922. Comprehensive approach to existing structures.

§ 1901. Definitions. For the purposes of this subtitle, the following terms shall have the following meanings:

- 1. "Advisory council" means the advisory council established under title nine-A of this article.
- 2. "Authority" shall have the same meaning as in subdivision two of section eighteen hundred fifty-one of this article.
- 3. "Constituency-based organization" shall have the same meaning as in subdivision three of section eighteen hundred ninety-one of this article.
- 4. "Regulated air contaminant" shall have the same meaning as in subdivision twenty-two of section 19-0107 of the environmental conservation law.
- 5. "Director" means the director of the office of climate and community investment established under this title.
- 6. "Disadvantaged communities" means communities that bear burdens of negative public health effects, environmental pollution, and impacts of climate change, and possess certain socioeconomic criteria, as identified pursuant to section 74-0103 of the environmental conservation law.
- 7. "Emissions leakage" means an increase in emissions outside of the state, as a result of, or in correlation with, the implementation of measures within the state to limit such emissions.
- 8. "Greenhouse gas" shall have the same meaning as in subdivision eight of section 19-1301 of the environmental conservation law.
- 9. "Office" means the office of climate and community investment established under this title.

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

3 11. "President" means the president of the authority.

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

12 13. "Working group" means the climate justice working group created
13 pursuant to section 74-0103 of the environmental conservation law.

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

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

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

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

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

28 § 1902. Coordination of programs. The authority shall undertake
29 actions to ensure maximum coordination between each of the programs
30 created under section three thousand forty-six of the tax law, includ-
31 ing:

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

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

34 (b) maximize administrative efficiency;

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

37 (d) achieve an equitable distribution of funds;

38 (e) maximize benefits to disadvantaged communities;

39 (f) encourage early action to reduce emissions; and

40 (g) minimize emissions leakage.

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

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

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

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

55 § 1903. Transparency and accountability. 1. No later than two years
56 following the effective date of this title, and every two years there-

1 after, the director, in partnership with the working group, shall
2 produce a report on the implementation of the programs established under
3 this title and the extent to which program implementation is meeting
4 stated program goals and priorities. Such report shall include but not
5 be limited to:

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

7 (i) the extent to which needs identified in the needs assessment are
8 being met;

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

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

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

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

16 (vi) the jobs created as a result of funds distributed under the
17 program;

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

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

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

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

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

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

30 (v) the effectiveness of projects funded under the program in reducing
31 energy burdens of households, including households in disadvantaged
32 communities.

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

35 (i) the actual costs of the fee as compared to the amount of the
36 rebate;

37 (ii) the overall net cost to households;

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

40 2. Before finalizing the report described in subdivision one of this
41 section, the director shall ensure that there are meaningful opportu-
42 nities for public participation, including by:

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

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

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

54 § 1904. Report on community ownership. 1. Not later than two years
55 following the effective date of this subtitle, and every two years ther-
56 eafter, the authority, with input from the working group, the state

1 energy planning board and the department of environmental conservation,
2 shall produce a report on barriers to, and opportunities for, community
3 ownership, including:

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

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

9 (i) distributed renewable energy generation;

10 (ii) utility scale renewable energy generation;

11 (iii) energy efficiency and weatherization investments; and

12 (iv) electric grid investments, including energy storage and smart
13 meters.

14 2. Before finalizing the report described in subdivision one of this
15 section, the director shall ensure that there are meaningful opportu-
16 nities for public participation, including by:

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

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

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

28 § 1905. Definitions. For the purposes of this subtitle, the following
29 terms shall have the following meanings:

30 1. "Disadvantaged communities" shall have the same meaning as in
31 subdivision three of section 74-0101 of the environmental conservation
32 law.

33 2. "Eligible lead applicant" means a constituency-based organization,
34 a tribal nation, or a municipality or county in cases where there is not
35 a constituency-based organization in or serving the disadvantaged commu-
36 nity or communities.

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

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

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

47 6. "Working group" means the climate justice working group established
48 under section 74-0103 of the environmental conservation law.

49 7. "Program" means the community just transition program established
50 under this subtitle.

51 8. "Community ownership" shall have the same meaning as set forth in
52 subdivision fourteen of section nineteen hundred one of this title.

53 § 1906. Office of climate and community investment. 1. The authority
54 shall establish, not later than six months after the effective date of
55 this subtitle, the "office of climate and community investment". Such
56 office will administer the fund and the program, among other duties.

1 Such office shall be responsible for implementing new, progressive and
2 equitable grant opportunities that support disadvantaged communities
3 transitioning to a regenerative renewable energy economy. The office
4 will collaborate with the working group to develop and assess programs
5 and, as needed, with the office of environmental justice of the depart-
6 ment of environmental conservation.

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

14 3. The office shall be led by a director. Not later than six months
15 after the formation of the working group, the working group shall nomi-
16 nate not less than three candidates for the position of director. Not
17 later than three months after the working group has nominated candi-
18 dates, the president shall select the director from this group of candi-
19 dates.

20 § 1907. Establishment of community just transition program. There is
21 hereby established within the authority, a community just transition
22 program, to be implemented by the director. The purpose of the program
23 is to disburse funds from the community just transition fund pursuant to
24 section nineteen hundred nine of this subtitle.

25 § 1908. Administration by the authority. Within six months of the
26 effective date of this subtitle, the authority is hereby authorized and
27 directed to establish and administer the community just transition
28 program. The authority shall implement the program in consultation with
29 the working group. The authority is authorized and directed to:

30 1. use monies made available for the program, pursuant to sections
31 nineteen hundred nine and nineteen hundred ten of this subtitle;

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

34 3. recover from the monies made available for the program, not in
35 excess of two percent of annual fund proceeds, its own necessary and
36 documented costs incurred in administering the program, including
37 program evaluation, compensation for members of the working group,
38 compensation for at least one full-time authority staff person dedicated
39 to supporting the working group; and

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

42 § 1909. Allocation of funds. 1. Funds from the community just transi-
43 tion fund shall be disbursed through direct grants to eligible lead
44 applicants serving disadvantaged communities. Such funds shall be
45 disbursed in accordance with subdivisions two and three of this section.

46 2. At least seventy-five percent of funds from the community just
47 transition fund shall be for projects physically located within a desig-
48 nated disadvantaged community, and shall achieve one or more of the
49 goals in paragraph (a), (b) or (c) of this subdivision:

50 (a) maximizing greenhouse gas emissions reductions, including through
51 the completion of projects, including but not limited to: energy effi-
52 ciency and energy demand reduction; renewable energy; energy storage;
53 renewable energy-powered microgrids; energy resiliency; demand response;
54 and reducing urban heat island effects through various means, such as
55 through the completion of urban forestry, urban agriculture, or green
56 infrastructure projects;

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

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

6 3. Up to twenty-five percent of funds from the community justice tran-
7 sition fund may be used for projects located outside of designated
8 disadvantaged communities, but must provide at least one of the follow-
9 ing benefits to one or more designated disadvantaged communities:

10 (a) reducing emissions from stationary sources, including the perma-
11 nent closure of fossil fuel-fired power plants, including peaker-plants,
12 or waste-to-energy plants, with priority given to reducing emissions
13 from sources that emit pollution into the airshed of disadvantaged
14 communities;

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

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

22 § 1910. Selection process. 1. The director, in consultation with the
23 working group, shall develop criteria and a process for competitively
24 selecting project proposals under this subtitle, in accordance with this
25 section and section nineteen hundred nine of this subtitle.

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

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

32 (a) All projects shall be led by an eligible lead applicant; provide
33 benefits to designated disadvantaged communities; comply with section
34 nineteen hundred nine of this subtitle; incorporate community decision-
35 making, pursuant to section nineteen hundred twelve of this subtitle,
36 throughout project planning and implementation; and provide a community
37 accountability mechanism, pursuant to section nineteen hundred thirteen
38 of this subtitle.

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

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

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

50 (e) The director shall give preference in awards to applicants that
51 implement mechanisms to maximize community ownership, pursuant to the
52 findings of the latest report mandated by section nineteen hundred four
53 of this title.

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

1 4. The director shall encourage eligible lead applicants to propose
2 projects in collaboration with eligible sub-applicants.

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

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

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

15 8. The director shall consult with the division of housing and commu-
16 nity renewal and the working group to develop strategies to: mitigate
17 any adverse economic impact of the program on tenants and homeowners,
18 including, but not limited to, residents of rent-regulated housing or
19 recipients of housing subsidies and rent-burdened households; and
20 enhance long-term community cohesion.

21 § 1911. Identification of disadvantaged community needs. 1. The direc-
22 tor, in cooperation with the working group and the commissioners of
23 health, labor and environmental conservation, shall identify disadvan-
24 tagged community needs for the purposes of implementing this section.

25 2. Disadvantaged community needs shall be identified, with the input
26 of experts, local government representatives, public utility represen-
27 tatives, and other local stakeholders, for each disadvantaged community
28 or set of disadvantaged communities.

29 3. Before finalizing the list of identified disadvantaged community
30 needs pursuant to subdivision one of this section, the director shall
31 ensure that there are meaningful opportunities for public comment for
32 all persons who will be impacted by the identified needs, including
33 persons living in areas that may be identified as disadvantaged communi-
34 ties, including by:

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

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

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

44 4. The director, in cooperation with the working group, and the
45 commissioners of health, labor and environmental conservation or their
46 designees, shall meet no less than annually to review the identi-
47 fied disadvantaged community needs and methods used to identify such
48 needs, and may modify such methods to incorporate new data and scientif-
49 ic findings, subject to the same process requirements listed under
50 subdivision three of this section.

51 § 1912. Community decision-making and accountability mechanisms. 1.
52 The director, in cooperation with the working group and the commis-
53 sioners of health, labor and environmental conservation, shall establish
54 criteria for appropriate community decision-making practices for the
55 purposes of implementing this section.

1 2. Community decision-making practices shall be identified based on
2 consultations with constituency-based organizations, members of disad-
3 vantaged communities, and other stakeholders identified by the director.

4 3. Before finalizing the criteria for appropriate community decision-
5 making practices pursuant to subdivision one of this section, the direc-
6 tor shall ensure that there are meaningful opportunities for public
7 comment for all persons who will be impacted by the criteria, including
8 persons living in areas that may be identified as disadvantaged communi-
9 ties, including by:

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

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

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

18 4. The director, in cooperation with the working group, and the
19 commissioners of health, labor and environmental conservation, shall
20 meet no less than annually to review the criteria and methods used to
21 identify appropriate community decision-making practices, and may modify
22 such methods to incorporate new data and scientific findings, subject to
23 the same process requirements listed under subdivision three of this
24 section.

25 § 1913. Criteria for implementing community accountability mechanisms.
26 The director, in cooperation with the working group, and the commis-
27 sioners of health, labor and environmental conservation, shall establish
28 criteria for implementing community accountability mechanisms for the
29 purposes of implementing this section.

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

32 2. Before finalizing the criteria for implementing community account-
33 ability mechanisms pursuant to subdivision one of this section, the
34 director shall ensure that there are meaningful opportunities for public
35 comment for all persons who will be impacted by the criteria, including
36 persons living in areas that may be identified as disadvantaged communi-
37 ties, including by:

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

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

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

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

52 § 1914. Consultation with the working group. In consulting with the
53 working group in the course of implementing the program established
54 under this subtitle, the authority shall adhere to the following proce-
55 dures:

1 1. The director shall convene consultation meetings with the working
2 group not less frequently than four times annually;

3 2. The director shall provide, to all working group members, notice of
4 working group meetings not less than one month before the date of the
5 meeting; and

6 3. The director shall provide, to all working group members, electron-
7 ic copies or hard copies of any written or other informational materials
8 to be discussed at a given working group meeting not less than one month
9 prior to the date of the meeting.

10 § 1915. Definitions. For the purposes of this subtitle, the following
11 terms shall have the following meanings:

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

14 2. "Eligible applicant" means a constituency-based organization,
15 tribal nation, municipality, transit agency, port authority, metropol-
16 itan planning organizations, small business, minority- or women-owned
17 business enterprise or any other entity deemed appropriate by the
18 authority.

19 3. "Fund" means the climate jobs and infrastructure fund established
20 under subdivision two of sections three thousand forty-six of the tax
21 law.

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

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

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

31 § 1916. Establishment of climate jobs and infrastructure program.
32 There is hereby established within the authority, a climate jobs and
33 infrastructure program, which shall disburse funds from the climate jobs
34 and infrastructure fund pursuant to the goals established under section
35 nineteen hundred eighteen of this subtitle.

36 § 1917. Administration by the authority. Within six months of the
37 effective date of this subtitle, the authority is hereby authorized and
38 directed to establish and administer the climate jobs and infrastructure
39 program. The authority shall implement the program in consultation with
40 the advisory council, the public service commission, the New York inde-
41 pendent system operator, and the departments of transportation, environ-
42 mental conservation, health and labor. The authority is authorized and
43 directed to take the following steps:

44 1. using monies made available from the fund to achieve the goals of
45 the program outlined in section nineteen hundred eighteen of this subti-
46 tle;

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

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

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

3 § 1918. Allocation of funds. 1. Funds from the climate jobs and
4 infrastructure fund shall be disbursed under the climate jobs and
5 infrastructure program to achieve quantifiable, verifiable, and signif-
6 icant reductions in greenhouse gas emissions and of regulated air
7 contaminants while achieving the general goals specified in subdivision
8 two of this section.

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

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

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

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

21 (d) achieving advancements in social equity, including promoting
22 community ownership and governance of energy production, and supporting
23 sustainable local economic development;

24 (e) electrification of equipment and appliances for residential,
25 commercial and industrial applications;

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

30 (g) encouraging the development of programs to support communities
31 with high cumulative environmental burden, high peak energy load, and
32 aging housing stock in order to preserve affordable housing.

33 3. Every five years, the authority, in consultation with the advisory
34 council, shall designate priority project types for investments based on
35 capital funding needs, the potential for greenhouse gas emission
36 reductions, and the potential for regional job creation. These priori-
37 ties shall guide the authority in soliciting proposals and selecting
38 projects. The first five years of funding shall prioritize investment
39 in:

40 (a) public transit, with special priority for intra-city transit
41 modes, in upstate regions and in other underserved regions of the state,
42 including through: subsidizing transit rate reductions, the establish-
43 ment of new transit routes, and improvements in transit service (includ-
44 ing increased frequency, accessibility and safety), especially to better
45 serve low- to moderate-income individuals; creating "journey to work"
46 routes, dedicated to creating access to major areas of employment in
47 both urban and non-urban areas, especially routes connecting non-urban
48 areas without necessitating a trip through the central city; directing
49 infrastructure funding, including through various approaches to support-
50 ing bonding, revolving loan funds and other financing mechanisms; and
51 subsidizing electric and zero-emissions vehicles and infrastructure,
52 including charging infrastructure and energy storage technologies;

53 (b) energy efficiency and conservation projects, including projects in
54 public buildings, and incentives for new private buildings that achieve
55 high efficiency or net-zero status and for retrofits of existing build-
56 ings, providing that landlords who receive retrofit funds or financial

1 assistance of any kind under this program not be allowed to include such
2 investments as major capital improvements or individual apartment
3 assessments in order to raise rents to recoup costs in rent-regulated
4 housing;

5 (c) large scale renewable energy projects, community-owned renewable
6 energy projects, such as community solar and community wind projects,
7 and publicly-owned renewable energy projects, including projects on
8 public buildings and land;

9 (d) port facility electrification and sustainability measures, includ-
10 ing at the port of Albany, the port of Buffalo, and the New York city
11 waterfront including Hunts Point and Sunset Park; and

12 (e) electric grid upgrades within New York, including the construction
13 of electricity transmission, energy storage and smart grid infrastruc-
14 ture, and including support for establishing electric vehicle infras-
15 tructure and systems to optimize distributed energy resources.

16 4. In addition to allocating funds under the program to achieve the
17 goals and priorities outlined in this section, the authority shall allo-
18 cate funds for the purposes of providing technical assistance to eligi-
19 ble applicants. Such technical assistance shall include assistance with:
20 developing project proposals; implementing project proposals; conducting
21 analysis and reporting on projects implemented under the program; and
22 other needs identified by the authority.

23 § 1919. Funding instruments. The authority, in consultation with the
24 advisory council, shall determine the appropriate instrument, or variety
25 of instruments, including grants, loan guarantees, incentives, bond
26 payments, loan programs, and other mechanisms for achieving the goals
27 stated in section nineteen hundred eighteen of this subtitle.

28 § 1920. Selection process and criteria. The authority is authorized,
29 within amounts appropriated, to disburse funds from the fund to eligible
30 applicants on a competitive basis.

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

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

36 (a) the extent to which the project meets each of the goals set forth
37 in subdivisions one and two of section nineteen hundred eighteen of this
38 subtitle;

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

41 (c) whether the project will benefit geographic areas where energy
42 costs are particularly high in relation to a measure of median household
43 income as determined by the authority; or which have been designated as
44 a nonattainment area for one or more pollutants pursuant to section 107
45 of the federal Clean Air Act (42 U.S.C. section 7407);

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

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

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

53 4. The authority shall encourage eligible applicants to propose
54 projects in partnership with other eligible applicants, and with third-
55 party entities.

1 § 1921. Consultation with the advisory council. In consulting with the
 2 advisory council in the course of implementing the program established
 3 under this subtitle, the authority shall:

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

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

8 3. provide electronic copies or hard copies of any written or other
 9 informational materials to be discussed at a given advisory council
 10 meeting to all advisory council members not less than thirty days prior
 11 to the date of the meeting.

12 § 1922. Comprehensive approach to existing structures. In consultation
 13 with the advisory council, the department of state, department of homes
 14 and community renewal, the department of environmental conservation, and
 15 other relevant stakeholders, the authority shall:

16 1. develop a master plan to:

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

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

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

21 (d) improves and protects housing affordability; and

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

23 2. The master plan will specifically include recommendations for coor-
 24 ordinated changes to the building and energy codes, energy efficiency
 25 programs administered by the state and others, and spending pursuant to
 26 the climate and community investment act, in order to ensure that most
 27 buildings receive deep energy efficiency retrofits that include assess-
 28 ment and improvements to health and safety.

29 3. To prepare the master plan, the authority shall convene relevant
 30 stakeholders in each region of the state at least once giving at least
 31 ninety days' notice of the proposed meeting in order for the public to
 32 attend.

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

35 ARTICLE 42

36 CLIMATE POLLUTION FEE

37 Section 3039. Definitions.

38 3040. Imposition of carbon pollution fee.

39 3041. Amount of fee.

40 3042. Applicable entities.

41 3043. Calculation of emissions factors.

42 3044. Exemptions and deductions.

43 3045. Emissions leakage mitigation policy.

44 3046. Creation of trust funds.

45 3047. Reporting.

46 § 3039. Definitions. For the purposes of this article, the following
 47 terms shall have the following meanings:

48 1. "Authority" shall have the same meaning as in subdivision two of
 49 section eighteen hundred fifty-one of the public authorities law.

50 2. "Border carbon adjustment" means a policy measure to address emis-
 51 sions leakage that adjusts the price of a good, at the point of the
 52 importation into the state of goods that require emissions of greenhouse
 53 gases for their production or operation, or export from the state, to
 54 reflect the known or estimated greenhouse gas emissions quantities asso-
 55 ciated with the production of such good.

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

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

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

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

13 7. "Disadvantaged communities" means communities that bear burdens of
14 negative public health effects, environmental pollution, impacts of
15 climate change, and possess certain socioeconomic criteria, as identi-
16 fied pursuant to section 74-0103 of the environmental conservation law.

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

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

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

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

28 12. "Greenhouse gas emission source" or "source" means any anthropo-
29 genic source or category of anthropogenic sources of greenhouse gas
30 emissions.

31 13. "Industrial processes" means those processes that include fossil
32 fuel extraction, the operation of fuel processing plants, pipeline oper-
33 ations and other fuel transport, the operation of fuel refineries, and
34 other processes involved in the extraction, refinement or transport of
35 carbon-based fuels.

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

43 15. "Petroleum product" means all petroleum derivatives, whether in
44 bond or not, which are commonly burned to produce heat, electricity, or
45 motion, or which are commonly processed to produce synthetic gas for
46 burning, including without limitation, propane, gasoline, unleaded gaso-
47 line, kerosene, heating oil, diesel fuel, kerosene based jet fuel, and
48 number 4, number 5 and residual oil for utility and non-utility uses,
49 but not including, petroleum feedstocks to plastics production or other
50 manufacturing.

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

53 17. "Working group" means the climate justice working group created
54 pursuant to section 74-0103 of the environmental conservation law.

55 § 3040. Imposition of carbon pollution fee. There is hereby imposed
56 upon any applicable entity, as specified under section three thousand

1 forty-two of this article, a fee, in an amount determined under section
2 three thousand forty-one of this article, on:

3 1. any carbon-based fuel sold, used, or brought into the state by an
4 applicable entity as defined in section three thousand forty-two of this
5 article; and

6 2. any fugitive emissions of methane emitted in the state by an appli-
7 cable entity.

8 § 3041. Amount of fee. 1. The amount of the fee imposed by section
9 three thousand forty of this article, per short ton of carbon dioxide
10 equivalent content that would be emitted through the combustion of such
11 product, as determined by the commissioner in consultation with the
12 commissioner of environmental conservation, pursuant to this article,
13 shall be equal to:

14 (a) for any carbon-based fuel sold, used, or entered into the state
15 during calendar year two thousand nineteen, thirty-five dollars;

16 (b) for any carbon-based fuel sold, used, or entered into the state
17 during any calendar year after two thousand nineteen and before two
18 thousand twenty-three, an amount equal to the sum of:

19 (i) the product of the amount in effect under this subdivision for the
20 preceding calendar year and one hundred five percent, and

21 (ii) the product of the amount determined under subparagraph (i) of
22 this paragraph for such year and a cost-of-living, or inflation, adjust-
23 ment using the United States Bureau of Labor Statistics Consumer Price
24 Index or, if that index is not available, another index adopted by the
25 commissioner;

26 (c) for any carbon-based fuel sold, used, or entered into the state
27 during any calendar year after two thousand twenty-two and before two
28 thousand thirty-three, an amount equal to the sum of:

29 (i) the product of the amount in effect under this subdivision for the
30 preceding calendar year, and:

31 (A) one hundred two percent if the most recent five-year environmental
32 integrity metric, described under paragraph (a) of subdivision two of
33 this section, is less than minus five percent;

34 (B) one hundred five percent if the most recent five-year environ-
35 mental integrity metric, described under paragraph (a) of subdivision
36 two of this section, is greater than or equal to minus five percent and
37 less than five percent;

38 (C) one hundred seven percent if the most recent five-year environ-
39 mental integrity metric, described under paragraph (a) of subdivision
40 two of this section, is greater than or equal to five percent and less
41 than ten percent;

42 (D) one hundred ten percent if the most recent five-year environmental
43 integrity metric, described under paragraph (a) of subdivision two of
44 this section, is greater than or equal to ten percent; and

45 (ii) the product of the amount determined under subparagraph (i) of
46 this paragraph for such year and a cost-of-living, or inflation, adjust-
47 ment using the United States Bureau of Labor Statistics Consumer Price
48 Index or, if that index is not available, another index adopted by the
49 commissioner;

50 (d) for any carbon-based fuel sold, used, or entered into the state
51 during any calendar year after two thousand thirty-two and before two
52 thousand fifty-two, an amount equal to the sum of:

53 (i) the product of the amount in effect under this subdivision for the
54 preceding calendar year, and:

55 (A) one hundred two percent if the most recent five-year environmental
56 integrity metric, described under paragraph (a) of subdivision two of

1 this section, is less than minus five percent, and the most recent cumu-
2 lative environmental integrity metric, described under paragraph (b) of
3 subdivision two of this section, is less than minus one percent;

4 (B) one hundred five percent if:

5 I. the most recent five-year environmental integrity metric, described
6 under paragraph (a) of subdivision two of this section, is greater than
7 or equal to minus five percent and less than five percent, and the most
8 recent cumulative environmental integrity metric, described under para-
9 graph (b) of subdivision two of this section, is less than two percent;
10 or

11 II. the most recent cumulative environmental integrity metric,
12 described under paragraph (b) of subdivision two of this section, is
13 greater than or equal to minus one percent and less than two percent,
14 and the most recent five-year environmental integrity metric, described
15 under paragraph (a) of subdivision two of this section, is less than
16 five percent; and

17 (C) one hundred seven percent if:

18 I. the most recent five-year environmental integrity metric, described
19 under paragraph (a) of subdivision two of this section, is greater than
20 or equal to five percent and less than ten percent, and if the most
21 recent cumulative environmental integrity metric, described under para-
22 graph (b) of subdivision two of this section, is less than three
23 percent; or

24 II. the most recent cumulative environmental integrity metric,
25 described under paragraph (b) of subdivision two of this section, is
26 greater than or equal to two percent and less than three percent, and
27 the most recent five-year environmental integrity metric, described
28 under paragraph (a) of subdivision two of this section, is less than ten
29 percent; and

30 (D) one hundred ten percent if:

31 I. the most recent five-year environmental integrity metric, described
32 under paragraph (a) of subdivision two of this section, is greater than
33 or equal to ten percent; or

34 II. the most recent cumulative environmental integrity metric,
35 described under paragraph (b) of subdivision two of this section, is
36 greater than or equal to three percent; and

37 (ii) the product of the amount determined under subparagraph (i) of
38 this paragraph for such year and a cost-of-living, or inflation, adjust-
39 ment using the United States Bureau of Labor Statistics Consumer Price
40 Index or, if that index is not available, another index adopted by the
41 commissioner;

42 (e) for any carbon-based fuel sold, used, or entered into the state
43 during any calendar year after two thousand fifty-one, an amount equal
44 to the sum of:

45 (i) the amount in effect under this subdivision for the preceding
46 calendar year; and

47 (ii) the product of the amount determined under subparagraph (i) of
48 this paragraph for such year and a cost-of-living, or inflation, adjust-
49 ment using the United States Bureau of Labor Statistics Consumer Price
50 Index or, if that index is not available, another index adopted by the
51 commissioner.

52 2. In two thousand twenty-two, and every five years thereafter, the
53 commissioner shall, in consultation with the department of environmental
54 conservation:

55 (a) calculate the five-year environmental integrity metric, which
56 shall equal a fraction, expressed as a percentage:

1 (i) the numerator of which is:

2 (A) the sum of the quantity of actual statewide greenhouse gas emis-
3 sions, measured in short tons CO₂e, in each of the preceding five years,
4 minus

5 (B) the sum of the quantity of target statewide greenhouse gas emis-
6 sions, measured in short tons CO₂e, in each of the preceding five years,
7 pursuant to subdivision four of this section; and

8 (ii) the denominator of which is the sum of the quantity of target
9 statewide greenhouse gas emissions, measured in short tons CO₂e, in each
10 of the preceding five years, pursuant to subdivision four of this
11 section; and

12 (b) calculate the cumulative environmental integrity metric, which
13 shall equal a fraction, expressed as a percentage:

14 (i) the numerator of which is:

15 (A) the sum of the quantity of actual statewide greenhouse gas emis-
16 sions, measured in short tons CO₂e, in each of the preceding years that
17 are after two thousand eighteen, minus

18 (B) the sum of the quantity of target statewide greenhouse gas emis-
19 sions, measured in short tons CO₂e, in each of the preceding years that
20 are after two thousand eighteen, pursuant to subdivision four of this
21 section; and

22 (ii) the denominator of which is the sum of the quantity of target
23 statewide greenhouse gas emissions, measured in short tons CO₂e, in each
24 of the preceding years that are after two thousand eighteen, pursuant to
25 subdivision four of this section; and

26 (c) publish the amounts calculated in paragraphs (a) and (b) of this
27 subdivision not later than July first in that year.

28 3. The commissioner shall calculate and publish the amount of the fee
29 in current dollars for each year, no later than July first in that year.

30 4. For the purposes of calculating the five-year environmental integ-
31 riety metric and the cumulative environmental integrity metric under
32 subdivision two of this section, the commissioner shall refer to the
33 following statewide greenhouse gas emissions targets:

34 (a) for the year two thousand twenty-one, eighty-five percent of emis-
35 sions;

36 (b) for each year after two thousand twenty-one and before two thou-
37 sand twenty-seven, four percent less than the previous year; and

38 (c) for each year after two thousand twenty-six and before two thou-
39 sand forty-two, three percent less than the previous year; and

40 (d) for each year after two thousand forty-one, two percent less than
41 the previous year.

42 § 3042. Applicable entities. For the purposes of this article, the
43 term "applicable entity" means:

44 1. for the purposes of any coal sold, used, or entered into the state:

45 (a) the vendor of such coal at the first point of sale, in cases where
46 the sale of coal occurs in the state; and

47 (b) the purchaser of such coal, in cases where the sale of coal occurs
48 outside of the state;

49 2. for the purposes of any petroleum product sold, used, or entered
50 into the state:

51 (a) the vendor, including a petroleum business as defined by section
52 three hundred of this chapter, of such petroleum product at the first
53 point of sale, in cases where the sale of the petroleum product occurs
54 in the state; and

55 (b) the purchaser of such petroleum product, in cases where the sale
56 of the petroleum product occurs outside of the state;

1 3. for the purposes of any natural gas sold, used, or entered into the
2 state:

3 (a) the vendor (including a natural gas distribution company or whole-
4 sale natural gas vendors) of such natural gas at the first point of
5 sale, in cases where the sale of natural gas occurs in the state; and

6 (b) the purchaser of such natural gas, in cases where the sale of the
7 natural gas occurs outside of the state;

8 4. for the purposes of any electricity sold, used, or entered into the
9 state:

10 (a) the vendor (including a local electricity distribution company, a
11 wholesale electricity vendor and all competitive suppliers of electric-
12 ity to end users) of such electricity at the first point of sale, in
13 cases where the sale of electricity occurs in the state; and

14 (b) the purchaser of such electricity, in cases where the sale of the
15 electricity occurs outside of the state;

16 5. for the purposes of any municipal solid waste (or any other feeds-
17 stocks used for waste-to-energy conversions) sold, used, or entered into
18 the state:

19 (a) the vendor of such municipal solid waste (or any other feedstocks
20 used for waste-to-energy conversions) at the first point of sale, in
21 cases where the sale of municipal solid waste (or any other feedstocks
22 used for waste-to-energy conversions) occurs in the state; and

23 (b) the purchaser of such municipal solid waste (or any other feeds-
24 stocks used for waste-to-energy conversions), in cases where the sale of
25 the municipal solid waste (or any other feedstocks used for waste-to-en-
26 ergy conversions) occurs outside of the state;

27 6. for the purposes of any biomass sold, used, or entered into the
28 state,

29 (a) the vendor of such biomass at the first point of sale, in cases
30 where the sale of biomass occurs in the state; and

31 (b) the purchaser of such biomass, in cases where the sale of the
32 biomass occurs outside of the state; and

33 7. for the purposes of any fugitive emissions of methane released in
34 the state, the owner of the property that is the source of such fugitive
35 emissions, including stationary sources and mobile sources, and includ-
36 ing pipeline operators, fuel distributors, transportation companies and
37 other entities.

38 § 3043. Calculation of emissions factors. 1. Not later than one year
39 after the effective date of this article, the commissioner of environ-
40 mental conservation, in collaboration with the commissioner, shall, for
41 each carbon-based fuel identified in this article and for various sourc-
42 es of electricity consumed in the state, calculate greenhouse gas emis-
43 sions factors, in carbon dioxide equivalent.

44 2. Emissions factors associated with combustion or other consumption
45 of the carbon-based fuels identified in this article shall be calculated
46 according to life-cycle analysis methods, which at a minimum shall
47 incorporate:

48 (a) any greenhouse gases released at the point of combustion or other
49 consumption; and

50 (b) up-steam fugitive emissions of methane released during the
51 extraction, processing, refining, transport, or distribution of natural
52 gas products and petroleum products before the point of consumption in
53 New York.

54 3. The commissioner of environmental conservation, in collaboration
55 with the commissioner, shall calculate, for various sources of electric-
56 ity consumed in the state, greenhouse gas emissions factors, in carbon

1 dioxide equivalent per kilowatt-hour, associated with the combustion of
2 each carbon-based fuel identified in this article for the purposes of
3 generating electricity. This calculation should take into account the
4 best available information and science regarding power plant heat rates
5 and other operational parameters that may determine efficiency in the
6 conversion of thermal energy to electrical energy. The CO₂e of each
7 kilowatt-hour of electricity delivered in the state shall be determined
8 by taking the weighted average of the coal, petroleum product, natural
9 gas, municipal solid waste (or any other feedstocks used for waste-to-
10 energy conservations), or biomass portions of the fuel mix and multiply-
11 ing each of those portions separately by the amount of carbon dioxide
12 equivalent emissions created per kilowatt-hour of electricity produced
13 by each such fuel. The calculation of emissions factors under this
14 subdivision shall take into account all electricity consumed in the
15 state, which shall include any electricity produced within the state and
16 outside of the state.

17 § 3044. Exemptions and deductions. 1. Any applicable entity covered
18 by the regional greenhouse gas initiative shall be entitled to deduct
19 from the fee imposed by this article an amount equal to the amount it
20 paid for the same year on account of the regional greenhouse gas initi-
21 ative; provided, however, that the amount so deducted may be no greater
22 than the total amount of the fee as calculated in this article.

23 2. Any applicable entity subject to a fee under this article, shall be
24 entitled to deduct from the fee imposed by this article an amount equal
25 to the amount it paid for the same year on account of a federal law or
26 regulation that imposes a direct price (including through cap-and-trade,
27 or a carbon tax or carbon fee mechanisms) on the same greenhouse gas
28 emissions from carbon-based fuels; provided, however, that the amount so
29 deducted may be no greater than the total amount of the fee as calcu-
30 lated in this article.

31 3. The commissioner, in partnership with the commissioner of environ-
32 mental conservation, may exempt certain sources of greenhouse gas emis-
33 sions found to produce de minimis quantities of such emissions. In order
34 to exempt sources of greenhouse gas emissions under this subdivision,
35 the commissioner, in partnership with the commissioner of environmental
36 conservation, shall first promulgate a rule, or rules, outlining the
37 specific requirements for being classified as a de minimis source,
38 including, at a minimum, identifying the quantities of greenhouse gases
39 that would make a source a de minimis source. In promulgating such rule,
40 or rules, the commissioner shall provide meaningful opportunities for
41 public comment, including from persons living in disadvantaged communi-
42 ties.

43 § 3045. Emissions leakage mitigation policy. 1. Not later than one
44 year after the effective date of this article, the commissioner, in
45 partnership with the commissioners of environmental conservation and
46 labor and the president of the authority, shall prepare and approve a
47 scoping plan outlining recommendations for policy measures to reduce
48 emissions leakage associated with the implementation of this article.

49 (a) The draft scoping plan shall be developed in consultation with the
50 working group and other stakeholders.

51 (b) The department shall provide meaningful opportunities for public
52 comment from all persons who will be impacted by the plan, including
53 persons working in energy intensive and trade exposed industries and
54 persons living in disadvantaged communities.

55 (c) The measures and actions considered in such scoping plan shall at
56 a minimum include:

1 (i) the implementation of a border carbon adjustment for vulnerable
2 industries and companies;

3 (ii) the implementation of an output-based carbon pollution fee rebate
4 program for vulnerable industries and companies;

5 (iii) quantitative methods for designating vulnerable industries or
6 companies, such as energy intensive and trade exposed industries; and

7 (iv) policies for mitigating any impacts to consumers and workers
8 caused by the implementation of policies under this section, including
9 through the use of revenues from a possible border carbon adjustment for
10 reducing such impacts.

11 (d) Not later than one year after the effective date of this article,
12 the department shall submit the final scoping plan to the governor, the
13 speaker of the assembly and the temporary president of the senate and
14 post such plan on its website.

15 2. Not later than two years after the effective date of this article,
16 the department, after public workshops and consultation with the working
17 group, representatives of regulated entities, and other stakeholders,
18 shall, after no less than two public hearings, promulgate rules and
19 regulations to implement a policy to reduce emissions leakage associated
20 with the implementation of this article.

21 (a) The regulations promulgated may include:

22 (i) a border carbon adjustment for vulnerable industries and compa-
23 nies;

24 (ii) an output-based carbon pollution fee rebate program for vulner-
25 able industries and companies;

26 (iii) quantitative methods for designating vulnerable industries or
27 companies, such as energy intensive and trade exposed industries; and

28 (iv) policies for mitigating any impacts to consumers and workers
29 caused by the implementation of policies under this section, including
30 through the use of revenues from a possible border carbon adjustment for
31 reducing such impacts.

32 (b) In promulgating these regulations, the department shall:

33 (i) design and implement all regulations in a manner that seeks to be
34 equitable, to minimize costs and to maximize the total benefits to New
35 York state;

36 (ii) ensure that activities undertaken to comply with the regulations
37 do not disproportionately burden disadvantaged communities; and

38 (iii) minimize emissions leakage.

39 § 3046. Creation of trust funds. 1. The commissioner shall establish
40 a trust fund to be known as the "community just transition fund",
41 consisting of such amounts as may be appropriated or credited to such
42 fund.

43 (a) There is hereby appropriated to the community just transition fund
44 for each fiscal year following the effective date of this article, thir-
45 ty-three percent of the total amount of fees received under:

46 (i) section three thousand forty of this article during such year, and

47 (ii) section three thousand forty-five of this article during such
48 year, to the extent that the policies promulgated pursuant to such
49 section generate revenue during such year.

50 (b) The community just transition fund shall be administered by the
51 director of the office of climate and community investment within the
52 authority.

53 2. The commissioner shall establish a trust fund to be known as the
54 "climate jobs and infrastructure fund", consisting of such amounts as
55 may be appropriated or credited to such fund.

1 (a) There is hereby appropriated to the climate jobs and infrastruc-
2 ture fund for each fiscal year following the effective date of this
3 article, thirty percent of the total amount of fees received under:

4 (i) section three thousand forty of this article during such year, and
5 (ii) section three thousand forty-five of this article during such
6 year, to the extent that the policies promulgated pursuant to such
7 section generate revenue during such year.

8 (b) The climate jobs and infrastructure fund shall be administered by
9 the director of the office of climate and community investment within
10 the authority.

11 3. The commissioner shall establish a trust fund to be known as the
12 "low-income and small business energy rebate fund", consisting of such
13 amounts as may be appropriated or credited to such fund.

14 (a) There is hereby appropriated to the low-income and small business
15 energy rebate fund for each fiscal year following the effective date of
16 this article, thirty percent of the total amount of fees received under:

17 (i) section three thousand forty of this article during such year, and
18 (ii) section three thousand forty-five of this article during such
19 year, to the extent that the polices promulgated pursuant to such
20 section generate revenue during such year.

21 (b) The low-income and small business energy rebate fund shall be
22 administrated by the director of the office of climate and community
23 investment within the authority.

24 4. The commissioner shall establish a trust fund to be known as the
25 "worker and community assurance trust", consisting of such amounts as
26 may be appropriated or credited to such trust.

27 (a) In the first fiscal year in which any fees under this article are
28 collected, no less than five hundred million dollars shall be trans-
29 ferred to the worker and community assurance trust.

30 (b) There is hereby appropriated to the worker and community assurance
31 trust for each fiscal year following the effective date of this article,
32 seven percent of the total amount of fees received under:

33 (i) section three thousand forty during such year; and
34 (ii) section three thousand forty-five during such year, to the extent
35 that the policies promulgated pursuant to such section generate revenue
36 during such year.

37 (c) The worker and community assurance trust shall be administered by
38 the board of the worker and community assurance trust.

39 5. No proceeds received through the implementation of the fee estab-
40 lished under this article shall fund government operations of the state,
41 other than to pay for reasonable administrative costs associated with
42 implementing the climate and community investment act.

43 § 3047. Reporting. 1. No later than three years following the effec-
44 tive date of this article, and every two years thereafter, the commis-
45 sioner, in partnership with the commissioner of environmental conserva-
46 tion, shall produce a report on the implementation of this article. Such
47 report shall include but not be limited to:

48 (a) the total annual revenues associated with the implementation of
49 this article;

50 (b) the effectiveness of the fee established under section three thou-
51 sand forty of this article to reduce greenhouse gas emissions statewide,
52 including an analysis of reductions by geographic subdivisions of the
53 state;

54 (c) the amount of estimated emissions leakage that may be occurring in
55 correlation with the implementation of the fee established under section
56 three thousand forty of this article, the effectiveness of any policies

1 that have been implemented to address emissions leakage, and recommenda-
2 tions for improving policies to mitigate emissions leakage;

3 (d) an overview of social benefits from the fees and other policies
4 established pursuant to this article, including benefits to the economy,
5 environment, and public health, including women's health;

6 (e) an overview of the distribution of costs and benefits of the poli-
7 cies promulgated under this article, across different communities and
8 sectors of the state economy;

9 (f) an overview of compliance costs for regulated entities;

10 (g) an overview of administrative costs for the department and other
11 state agencies; and

12 (h) recommendations for future regulatory and policy action, and, in
13 general, pertaining to measures for reducing greenhouse emissions in the
14 state.

15 2. Before finalizing the report described in subdivision one of this
16 section, the commissioner shall ensure that there are meaningful oppor-
17 tunities for public participation, including by:

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

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

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

29 ARTICLE 43

30 LOW-INCOME AND SMALL BUSINESS ENERGY REBATE

31 Section 3050. Definitions.

32 3051. Establishment of the low-income and small business energy
33 rebate program.

34 3052. Administration by the department.

35 3053. Allocation of funds.

36 3054. Qualifying households.

37 3055. Rebate amount and report.

38 3056. Delivery of funds.

39 3057. Reassessment of allocations.

40 3058. Small business tax credit.

41 § 3050. Definitions. For the purposes of this article, the following
42 terms shall have the following meanings:

43 1. "Authority" shall have the same meaning as in subdivision two of
44 section eighteen hundred fifty-one of the public authorities law.

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

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

47 4. "Eligible low-income household" means, with respect to a given
48 calendar year, any household whose gross income does not exceed one
49 hundred fifty percent of the poverty line.

50 5. "Eligible moderate-income household" means, with respect to a given
51 calendar year, any household whose gross income exceeds one hundred
52 fifty percent of the poverty line, but does not exceed the median house-
53 hold income for the county in which they reside.

54 6. "Eligible small business" means a business, cooperative, or not-
55 for-profit corporation which is resident in this state, and employs
56 fifty or less persons (including a solo proprietorship), and with

1 respect to businesses, is independently owned and operated and not domi-
2 nant in its field.

3 7. "Fund" or "rebate fund" means the low-income and small business
4 energy rebate fund established under subdivision three of section three
5 thousand forty-six of this chapter.

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

8 9. "Program" means the low-income and small business energy rebate
9 program established under this article.

10 10. "Working group" means the climate justice working group created
11 pursuant to section 74-0103 of the environmental conservation law.

12 § 3051. Establishment of the low-income and small business energy
13 rebate program. There is hereby established within the department, the
14 "low-income and small business energy rebate program". The purposes of
15 the program include:

16 1. disbursement of funds from the "low-income and small business ener-
17 gy rebate fund; for the benefit of the most vulnerable populations, to
18 offset the increased cost of living associated with the implementation
19 of the fee and other regulatory measures established as part of the
20 state's climate mitigation efforts; and

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

23 § 3052. Administration by the department. Within six months of the
24 effective date of this article, the department is hereby authorized and
25 directed to establish and operate the program. The commissioner shall
26 implement the program in consultation with the authority, the office of
27 temporary and disability assistance, and the departments of health and
28 labor. The commissioner shall be authorized and directed to: use monies
29 made available for the program pursuant to article forty-two of this
30 chapter to achieve the purposes of the program; and exercise such other
31 powers as are necessary for the proper administration of such program,
32 including issuing rules and regulations consistent with this article.

33 § 3053. Allocation of funds. Funds from the low-income and small busi-
34 ness energy rebate fund shall be disbursed under the program to eligible
35 households and small businesses. The department shall collect and then
36 distribute directly to eligible households the entire amount of funds
37 dedicated to the rebate fund. Eligible households shall be notified that
38 they are automatically being enrolled based on their tax filing status.
39 The department will make determinations as to which households and small
40 businesses are eligible for the rebate and establish an appeals process
41 within the department as to such determinations. The department shall
42 also establish an opportunity for individual residents of the state who
43 are not required to file income taxes to apply for rebates under this
44 article.

45 § 3054. Qualifying households. A rebate will be available to eligible
46 low-income households, moderate income households, and additional house-
47 holds, provided that rebates shall only be provided to such additional
48 households upon a determination by the commissioner that there are
49 adequate funds. Notwithstanding the preceding sentence, the rebate shall
50 be available to a maximum of sixty percent of the households in New York
51 state. The department will cooperate with the office of temporary and
52 disability assistance to identify households and place them in the
53 following four household categories:

54 1. eligible moderate-income households containing New York city resi-
55 dents;

1 2. eligible low-income households containing New York city residents
2 in which the household income is below one hundred fifty percent of the
3 poverty line or who are receiving any means-tested government assistance
4 aimed at low-income individuals or households;

5 3. eligible moderate-income households containing residents outside of
6 New York city; and

7 4. eligible low-income households containing residents outside of New
8 York city with a household income below one hundred fifty percent of the
9 poverty line or receiving any means-tested government assistance
10 programs aimed at low-income individuals or households.

11 § 3055. Rebate amount and report. 1. The department, in consultation
12 with the working group, shall determine the appropriate amount of the
13 rebate, consistent with the standards set forth in this section. Each
14 eligible household will receive a share of the total allocated rebate
15 funds so that:

16 (a) all eligible households in New York city shall receive the same
17 amount,

18 (b) all eligible households outside of New York city shall receive the
19 same amount and that amount shall be at least fifty percent more than
20 the rebate amount applicable to New York city households, and

21 (c) the total amount provided for rebates must not exceed the annual
22 revenue in the rebate fund.

23 2. The department shall annually assess and report to the legislature
24 and the governor at least the following information: the number of
25 households in each rebate category in section three thousand fifty-four
26 of this article; the number of households who select each delivery mech-
27 anism set forth in section three thousand fifty-six of this article; and
28 how the number of households compare to:

29 (a) the incremental increase in the cost of living associated with the
30 implementation of the fee established pursuant to article forty-two of
31 this chapter and other regulatory measures established under article
32 forty-two of this chapter;

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

35 (c) existing energy burdens.

36 § 3056. Delivery of funds. 1. The department, in partnership with the
37 working group, the authority and the office of temporary and disability
38 assistance shall determine appropriate mechanisms for delivering rebates
39 under this article. That mechanism shall ensure that:

40 (a) Eligible moderate-income households in the first and third house-
41 hold categories set forth in section three thousand fifty-four of this
42 article shall receive a redeemable tax credit, through a single annual
43 payment.

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

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

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

4 2. All qualifying households may opt out of the default option for
5 delivery of the rebate, and can choose to receive their benefit amount
6 in the form of one of the following four options: (a) utility assist-
7 ance; (b) a weatherization grant; (c) a voucher for use with their local
8 transit authority; or (d) a redeemable tax credit.

9 § 3057. Reassessment of allocations. 1. Beginning in two thousand
10 twenty-one and every five years thereafter, the department, in coordi-
11 nation with the authority, the office of temporary and disability
12 assistance, the public service commission, and the department of envi-
13 ronmental conservation shall perform an assessment, which shall include,
14 at a minimum, the following information: (a) the state-wide energy
15 burden for small businesses, and households by geography and income; (b)
16 whether such energy burden has stayed level or decreased since the
17 effective date of this section; (c) the uptake of energy efficiency and
18 renewable energy in each income category; and (d) an estimated impact on
19 energy burden or another equivalent estimate of the proportion of house-
20 hold income spent on energy. Based on such information and any addi-
21 tional information that the department determines is appropriate, the
22 department shall determine whether the present rebate amount is appro-
23 priate or whether it is appropriate to reduce the rebate benefit amount.

24 2. Following any assessment under subdivision one of this section
25 where the impact of the fee established is found not to increase house-
26 hold spending, or where the energy burden has fallen, the rebate shall
27 be reduced by at least ten percent and the funds reallocated in equal
28 amounts to the community just transition fund established pursuant to
29 subdivision one of section three thousand forty-six of this chapter and
30 the climate jobs and infrastructure fund established pursuant to subdi-
31 vision two of such section.

32 § 3058. Small business tax credit. 1. Eligible small businesses shall
33 receive a redeemable tax credit to reduce any incremental increase in
34 the cost of doing business associated with the implementation of the fee
35 established pursuant to article forty-two of this chapter and other
36 regulatory measures established under the climate and community invest-
37 ment act or the transition to a low-carbon economy in New York state.

38 2. Any eligible small business that incurs energy or fuel costs in the
39 course of its business, shall be allowed a credit, to be computed as
40 provided in subdivision three of this section, against business income
41 for each year that the fee established pursuant to article forty-two of
42 this chapter is collected.

43 3. The credit authorized by this section shall equal the higher of
44 five hundred dollars a year, or the amount computed for a household
45 rebate.

46 4. The credit created under this section may be claimed even if no
47 taxes are owed by the eligible small business. Such credit may be used
48 to reduce the tax liability of the credit claimant below zero.

49 § 9. Severability. If any word, phrase, clause, sentence, paragraph,
50 section, or part of this act shall be adjudged by any court of competent
51 jurisdiction to be invalid, such judgement shall not affect, impair, or
52 invalidate the remainder thereof, but shall be confined in its operation
53 to the word, phrase, clause, sentence, paragraph, section, or part ther-
54 eof directly involved in the controversy in which such judgement shall
55 have been rendered.

1 § 10. This act shall take effect on the one hundred eightieth day
2 after it shall have become a law and shall apply to any grants, loans,
3 contracts and financial assistance awarded or renewed on or after such
4 effective date. Effective immediately, the addition, amendment and/or
5 repeal of any rule or regulation necessary for the implementation of
6 this act on its effective date are authorized to be made and completed
7 on or before such date.