STATE OF NEW YORK

3616

2019-2020 Regular Sessions

IN SENATE

February 11, 2019

Introduced by Sens. PARKER, SANDERS -- read twice and ordered printed, and when printed to be committed 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:

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

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

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

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

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

(c) a decline in freshwater and saltwater fish populations;

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

(e) exacerbation of air pollution; and

(f) an increase in the incidences of infectious diseases, asthma attacks, heart attacks, and other negative health outcomes.

2. The adverse impacts of climate change are having a detrimental effect on some of New York's largest industries, including agriculture,

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

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commercial shipping, forestry, tourism, and recreational and commercial fishing. These impacts also place additional strain on the physical infrastructure that delivers critical services to the citizens of New York, including the state's energy, transportation, stormwater, and wastewater infrastructure.

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

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

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

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

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

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

8. Climate change especially heightens the vulnerability of disadvantaged communities, which bear environmental and socioeconomic burdens as well as legacies of racial and ethnic discrimination. Actions undertaken by New York state to mitigate greenhouse gas emissions should prioritize the safety and health of disadvantaged communities, control potential regressive impacts of future climate change mitigation and adaptation policies on these communities, and prioritize the allocation of public investments in these areas.

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

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

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

12. The complexity of the ongoing energy transition, the uneven distribution of economic opportunity, and the disproportionate cumulative economic and environmental burdens on communities mean that there is a strong state interest in setting a floor statewide for labor standards, but allowing and encouraging individual agencies and local governments to raise standards above that floor.

13. By exercising a global leadership role on greenhouse gas mitigation and climate change adaptation, New York will position its economy, technology centers, financial institutions, and businesses to benefit from national and international efforts to address climate change. New York state has already demonstrated leadership in this area by undertaking efforts such as:

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

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

(c) chapter 388 of the laws of 2011, directing the department of environmental conservation to promulgate rules and regulations limiting

emissions of carbon dioxide by newly constructed major generating facilities;

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

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

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

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

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

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

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

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

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

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

(d) the full life-cycle of impacts.

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

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

(i) oxides of nitrogen;

(ii) volatile organic compounds;

(iii) sulfur dioxide;

(iv) particulate matter;

(v) carbon monoxide; and

(vi) lead;

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

(c) the commissioner demonstrates and publishes, along with the publication of methodologies described under subdivision 1 of this section, a description of why it is not administratively feasible in the time allotted in subdivision 1 of this section to complete a methodology, for

each individual regulated air contaminant, or appropriate sub-grouping thereof; and

(d) the commissioner subsequently publishes at least five additional methodologies per year, until that date when each regulated air contaminant, or appropriate sub-grouping thereof, has a complete methodology ascribed to it.

§ 19-1305. Implementation of fees.

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

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

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

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

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

§ 19-1307. Allocation of revenues.

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

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

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

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

(iii) twenty percent of funds shall go to improving air quality monitoring, including ambient air quality monitoring and point source monitoring; and

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

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

§ 19-1309. Inventory.

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

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

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

(a) the fee established in section 3040 of the tax law; and

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

3. identify and analyze emissions hotspots and cumulative burdens, pertaining to regulated air contaminants in order to prioritize emissions reductions in these areas;

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

5. make the Title V emissions inventory more accessible to the public.

§ 19-1311. Transportation pollution.

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

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

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

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

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

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

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

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

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

(iii) congestion pricing;

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

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

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

(a) The regulations promulgated by the department pursuant to this subdivision may include legally enforceable emissions limits, performance standards, market-based mechanisms or measures or other requirements to control regulated air contaminant emissions from mobile sources. The commissioner is hereby authorized to establish any such policies pursuant to this section.

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

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

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

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

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

(v) prioritize measures that encourage early action to reduce emissions; and

(vi) minimize emissions leakage.

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

§ 19-1313 Reporting.

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

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

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

(c) an overview of social benefits from the regulations or other measures established pursuant to this title, including reductions in regulated air contaminants, and other benefits to the economy, environment, and public health, including women's health;

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

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

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

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

(h) recommendations for future regulatory actions pertaining to reducing regulated air contaminants from mobile and stationary sources.

2. Before finalizing the report described in subdivision 1 of this section, the commissioner shall ensure that there are meaningful opportunities for public participation, including by:

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

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

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

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

ARTICLE 74
CLIMATE CHANGE

Section 74-0101. Definitions.
74-0103. Climate justice working group.

§ 74-0101. Definitions.

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

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

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

3. "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 this article.

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

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

§ 74-0103. Climate justice working group.

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

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

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

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

(ii) areas with concentrations of people that are low income, high unemployment, have high rent burdens, have low levels of home ownership, have low levels of educational attainment, or are members of groups that

have historically experienced discrimination on the basis of race or ethnicity; and

(iii) areas vulnerable to the impacts of climate change such as flooding, storm surges, and urban heat island effects.

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

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

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

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

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

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

ARTICLE 8-B

LABOR AND JOB STANDARDS AND WORKER PROTECTION

Section 228. Labor and job standards and worker protection.

§ 228. Labor and job standards and worker protection. 1. All state agencies involved in implementing the climate and community investment act shall assess and implement strategies to increase employment opportunities and improve job quality. Within one hundred twenty days of the effective date of this article, all state agencies, offices, authorities, and divisions shall report to the legislature on:

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

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

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

(a) the payment of no less than prevailing wages for all employees in construction and building, consistent with article eight of this chapter, and building services, consistent with article nine of this chapter;

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

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

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

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

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

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

4. For the purposes of this section, "financial assistance" means any provision of public funds to any person, individual, proprietorship, partnership, joint venture, corporation, limited liability company,

trust, association, organization, or other entity that receives financial assistance, or any assignee or successor in interest of real property improved or developed with financial assistance, for economic development within the state, including but not limited to cash payments or grants, bond financing, tax abatements or exemptions, including but not limited to abatements or exemptions from real property, mortgage recording, sales and use taxes, or the difference between any payments in lieu of taxes and the amount of real property or other taxes that would have been due if the property were not exempted from such taxes, tax increment financing, filing fee waivers, energy cost reductions, environmental remediation costs, write-downs in the market value of buildings or land, or the cost of capital improvements related to real property for which the state would not pay absent the development project, and includes both discretionary and as of right assistance. The provisions of this section shall only apply to projects receiving more than one hundred thousand dollars in total financial assistance, projects with a total project value of more than ten million dollars and privately-financed projects on public property.

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

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

(a) local and targeted hiring standards;

(b) the utilization of minority- or women-owned business enterprises; and

(c) any relevant additional standards provided for in this section. For the purposes of this subdivision, a "minority- or woman-owned enterprise" shall have the same meaning as subdivision five of section nineteen hundred five of the public authorities law.

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

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

9. Nothing set forth in this section shall preclude a local government from setting additional standards that expand on these statewide standards.

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

ARTICLE 25-D

CLIMATE CHANGE JUST TRANSITION FOR IMPACTED WORKERS AND COMMUNITY ASSURANCE

Section 863. Definitions.

863-a. Worker and community assurance board.

863-b. Establishment of worker and community assurance program.

863-c. Administration by the commissioner.

863-d. Allocation of funds.
863-e. Selection process.
863-f. Designation of significant impact.
863-g. Reporting.

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

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

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

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

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

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

6. "Department" means the department of labor.

7. "Director" means the director of the office of climate and community investment established under title nine-B of article eight of the public authorities law.

8. "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.

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

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

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

12. "Labor organization" means any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection and which is not a company union as defined herein.

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

14. "Program" means the worker and community assurance program established under this article.

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

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

§ 863-a. Worker and community assurance board. There is hereby created no later than six months after the effective date of this article, a "worker and community assurance board". Such board will be comprised of: the commissioner, the state comptroller, the commissioner of environmental conservation, the chair, two members of constituency-based organizations, two representatives of labor organizations, and one representative expert in economic development. The board shall be chaired by the commissioner.

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

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

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

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

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

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

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

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

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

4. exercise such other powers as are necessary for the proper administration of the program.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) significant job losses across an industry as a result of technological change in order to achieve greenhouse gas emission reductions; or

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

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

to title nine-B of article eight of the public authorities law, including by:

(a) publishing draft criteria and a draft list of significantly impacted industries, and making such information available on the internet;

(b) holding at least six regional public hearings on the draft criteria and the draft list of significantly impacted industries, including at least three meetings in the upstate region and three meetings in the downstate region; and

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

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

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

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

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

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

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

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

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

2. Before finalizing the report described in subdivision one of this section, the commissioner shall ensure that there are meaningful opportunities for public participation, including by:

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

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

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

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

TITLE 9-B
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.

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

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

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

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

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

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

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

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

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

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

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

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

(b) maximize administrative efficiency;

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

(d) achieve an equitable distribution of funds;

(e) maximize benefits to disadvantaged communities;

(f) encourage early action to reduce emissions; and

(g) minimize emissions leakage.

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

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

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

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

§ 1903. Transparency and accountability. 1. No later than two years following the effective date of this title, and every two years thereafter, the director, in partnership with the working group, shall produce a report on the implementation of the programs established under this title and the extent to which program implementation is meeting stated program goals and priorities. Such report shall include but not be limited to:

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

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

(ii) the effectiveness of projects funded under the program in reducing emissions of greenhouse gas and regulated air contaminants;

(iii) the effectiveness of projects funded under the program in reducing the energy burdens of households in disadvantaged communities;

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

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

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

(vii) the number of projects funded that are community-owned or incorporate community ownership, including an assessment of continued barriers to community ownership.

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

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

(ii) the effectiveness of projects funded under the program in reducing emissions of greenhouse gas and regulated air contaminants;

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

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

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

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

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

(ii) the overall net cost to households;

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

2. Before finalizing the report described in subdivision one of this section, the director shall ensure that there are meaningful opportunities for public participation, including by:

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

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

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

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

§ 1904. Report on community ownership. 1. Not later than two years following the effective date of this subtitle, and every two years thereafter, the authority, with input from the working group, the state energy planning board and the department of environmental conservation, shall produce a report on barriers to, and opportunities for, community ownership, including:

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

(b) recommendations on how to increase community ownership in disadvantaged communities of the following services and commodities:

(i) distributed renewable energy generation;

(ii) utility scale renewable energy generation;

(iii) energy efficiency and weatherization investments; and

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

2. Before finalizing the report described in subdivision one of this section, the director shall ensure that there are meaningful opportunities for public participation, including by:

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

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

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

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

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

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

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

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

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

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

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

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

§ 1906. Office of climate and community investment. 1. The authority shall establish, not later than six months after the effective date of this subtitle, the "office of climate and community investment". Such office will administer the fund and the program, among other duties. Such office shall be responsible for implementing new, progressive and equitable grant opportunities that support disadvantaged communities transitioning to a regenerative renewable energy economy. The office will collaborate with the working group to develop and assess programs and, as needed, with the office of environmental justice of the department of environmental conservation.

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

3. The office shall be led by a director. Not later than six months after the formation of the working group, the working group shall nominate not less than three candidates for the position of director. Not later than three months after the working group has nominated candidates, the president shall select the director from this group of candidates.

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

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

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

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

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

4. exercise such other powers as are necessary for the proper administration of the program.

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

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

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

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

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

3. Up to twenty-five percent of funds from the community justice transition fund may be used for projects located outside of designated disadvantaged communities, but must provide at least one of the following benefits to one or more designated disadvantaged communities:

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

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

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

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

2. The director, in consultation with the working group, shall competitively select project proposals according to the criteria and process established under subdivision three of this section.

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

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

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

(c) Communities shall be targeted in areas where energy costs are particularly high in relation to a measure of median household income as determined by the authority; or which have been designated as a nonat-

tainment area for one or more pollutants pursuant to section 107 of the federal Clean Air Act (42 U.S.C. section 7407).

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

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

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

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

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

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

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

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

§ 1911. Identification of disadvantaged community needs. 1. The director, in cooperation with the working group and the commissioners of health, labor and environmental conservation, shall identify disadvantaged community needs for the purposes of implementing this section.

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

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

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

(b) holding at least six regional public hearings on the draft identified disadvantaged community needs, including three meetings in upstate regions and three meetings in downstate regions; and

(c) allowing at least one hundred twenty days for the submission of public comment, following the date of the publication of draft identified disadvantaged community needs described under paragraph (a) of this subdivision.

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

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

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

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

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

(b) holding at least six regional public hearings on the draft criteria, including three meetings in the upstate region and three meetings in the downstate region; and

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

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

§ 1913. Criteria for implementing community accountability mechanisms. The director, in cooperation with the working group, and the commissioners of health, labor and environmental conservation, shall establish criteria for implementing community accountability mechanisms for the purposes of implementing this section.

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

2. Before finalizing the criteria for implementing community accountability mechanisms pursuant to subdivision one of this section, the director shall ensure that there are meaningful opportunities for public comment for all persons who will be impacted by the criteria, including persons living in areas that may be identified as disadvantaged communities, including by:

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

(b) holding at least six regional public hearings on the draft criteria, including three meetings in the upstate region and three meetings in the downstate region; and

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

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

§ 1914. Consultation with the working group. In consulting with the working group in the course of implementing the program established under this subtitle, the authority shall adhere to the following procedures:

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

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

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

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

1. "Advisory council" means the body established under section eighteen hundred ninety-eight of this article.

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

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

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

5. "Program" means the climate jobs and infrastructure program established under this subtitle.

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

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

§ 1917. Administration by the authority. Within six months of the effective date of this subtitle, the authority is hereby authorized and directed to establish and administer the climate jobs and infrastructure program. The authority shall implement the program in consultation with the advisory council, the public service commission, the New York independent system operator, and the departments of transportation, environmental conservation, health and labor. The authority is authorized and directed to take the following steps:

1. using monies made available from the fund to achieve the goals of the program outlined in section nineteen hundred eighteen of this subtitle;

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

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

4. exercising such other powers as are necessary for the proper administration of the program.

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

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

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

(b) funding large-scale projects, including those that may span multiple communities or regions;

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

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

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

(f) promoting the participation of private capital, municipal governments and tribal nations in achieving the goals stated in this section and the use of innovative financing mechanisms to finance energy efficiency improvements through energy cost savings; and

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

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

(a) public transit, with special priority for intra-city transit modes, in upstate regions and in other underserved regions of the state, including through: subsidizing transit rate reductions, the establishment of new transit routes, and improvements in transit service (including increased frequency, accessibility and safety), especially to better

serve low- to moderate-income individuals; creating "journey to work" routes, dedicated to creating access to major areas of employment in both urban and non-urban areas, especially routes connecting non-urban areas without necessitating a trip through the central city; directing infrastructure funding, including through various approaches to supporting bonding, revolving loan funds and other financing mechanisms; and subsidizing electric and zero-emissions vehicles and infrastructure, including charging infrastructure and energy storage technologies;

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

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

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

(e) electric grid upgrades within New York, including the construction of electricity transmission, energy storage and smart grid infrastructure, and including support for establishing electric vehicle infrastructure and systems to optimize distributed energy resources.

4. In addition to allocating funds under the program to achieve the goals and priorities outlined in this section, the authority shall allocate funds for the purposes of providing technical assistance to eligible applicants. Such technical assistance shall include assistance with: developing project proposals; implementing project proposals; conducting analysis and reporting on projects implemented under the program; and other needs identified by the authority.

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

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

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

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

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

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

(c) whether the project will benefit geographic areas where energy costs are particularly high in relation to a measure of median household income as determined by the authority; or which have been designated as

a nonattainment area for one or more pollutants pursuant to section 107 of the federal Clean Air Act (42 U.S.C. section 7407);

(d) whether the applicants include significant participation by minority- and women-owned business enterprises; and

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

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

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

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

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

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

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

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

1. develop a master plan to:

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

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

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

(d) improves and protects housing affordability; and

(e) incorporates health and safety assessments and improvements.

2. The master plan will specifically include recommendations for coordinated changes to the building and energy codes, energy efficiency programs administered by the state and others, and spending pursuant to the climate and community investment act, in order to ensure that most buildings receive deep energy efficiency retrofits that include assessment and improvements to health and safety.

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

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

ARTICLE 42

CLIMATE POLLUTION FEE

Section 3039. Definitions.

3040. Imposition of carbon pollution fee.

3041. Amount of fee.

3042. Applicable entities.

3043. Calculation of emissions factors.

3044. Exemptions and deductions.

3045. Emissions leakage mitigation policy.

3046. Creation of trust funds.

3047. Reporting.

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

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

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

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

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

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

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

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

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

9. "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.

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

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

12. "Greenhouse gas emission source" or "source" means any anthropogenic source or category of anthropogenic sources of greenhouse gas emissions.

13. "Industrial processes" means those processes that include fossil fuel extraction, the operation of fuel processing plants, pipeline operations and other fuel transport, the operation of fuel refineries, and other processes involved in the extraction, refinement or transport of carbon-based fuels.

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

15. "Petroleum product" means all petroleum derivatives, whether in bond or not, which are commonly burned to produce heat, electricity, or motion, or which are commonly processed to produce synthetic gas for

burning, including without limitation, propane, gasoline, unleaded gasoline, kerosene, heating oil, diesel fuel, kerosene based jet fuel, and number 4, number 5 and residual oil for utility and non-utility uses, but not including, petroleum feedstocks to plastics production or other manufacturing.

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

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

§ 3040. Imposition of carbon pollution fee. There is hereby imposed upon any applicable entity, as specified under section three thousand forty-two of this article, a fee, in an amount determined under section three thousand forty-one of this article, on:

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

2. any fugitive emissions of methane emitted in the state by an applicable entity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) one hundred five percent if:

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

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

(C) one hundred seven percent if:

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

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

(D) one hundred ten percent if:

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

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

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

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

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

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

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

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

(i) the numerator of which is:

(A) the sum of the quantity of actual statewide greenhouse gas emissions, measured in short tons CO2e, in each of the preceding five years, minus

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

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

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

(i) the numerator of which is:

(A) the sum of the quantity of actual statewide greenhouse gas emissions, measured in short tons CO2e, in each of the preceding years that are after two thousand eighteen, minus

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

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

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

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

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

(a) for the year two thousand twenty-one, eighty-five percent of emissions;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) the purchaser of such municipal solid waste (or any other feedstocks used for waste-to-energy conversions), in cases where the sale of the municipal solid waste (or any other feedstocks used for waste-to-energy conversions) occurs outside of the state;

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

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

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

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

§ 3043. Calculation of emissions factors. 1. Not later than one year after the effective date of this article, the commissioner of environmental conservation, in collaboration with the commissioner, shall, for each carbon-based fuel identified in this article and for various sources of electricity consumed in the state, calculate greenhouse gas emissions factors, in carbon dioxide equivalent.

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

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

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

3. The commissioner of environmental conservation, in collaboration with the commissioner, shall calculate, for various sources of electricity consumed in the state, greenhouse gas emissions factors, in carbon dioxide equivalent per kilowatt-hour, associated with the combustion of each carbon-based fuel identified in this article for the purposes of generating electricity. This calculation should take into account the best available information and science regarding power plant heat rates and other operational parameters that may determine efficiency in the conversion of thermal energy to electrical energy. The C02e of each kilowatt-hour of electricity delivered in the state shall be determined by taking the weighted average of the coal, petroleum product, natural gas, municipal solid waste (or any other feedstocks used for waste-to-energy conservations), or biomass portions of the fuel mix and multiplying each of those portions separately by the amount of carbon dioxide equivalent emissions created per kilowatt-hour of electricity produced by each such fuel. The calculation of emissions factors under this subdivision shall take into account all electricity consumed in the state, which shall include any electricity produced within the state and outside of the state.

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

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

3. The commissioner, in partnership with the commissioner of environmental conservation, may exempt certain sources of greenhouse gas emissions found to produce de minimis quantities of such emissions. In order to exempt sources of greenhouse gas emissions under this subdivision, the commissioner, in partnership with the commissioner of environmental conservation, shall first promulgate a rule, or rules, outlining the specific requirements for being classified as a de minimis source, including, at a minimum, identifying the quantities of greenhouse gases that would make a source a de minimis source. In promulgating such rule, or rules, the commissioner shall provide meaningful opportunities for public comment, including from persons living in disadvantaged communities.

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

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

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

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

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

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

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

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

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

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

(a) The regulations promulgated may include:

(i) a border carbon adjustment for vulnerable industries and companies;

(ii) an output-based carbon pollution fee rebate program for vulnerable industries and companies;

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

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

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

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

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

(iii) minimize emissions leakage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) section three thousand forty during such year; and

(ii) section three thousand forty-five during such year, to the extent that the policies promulgated pursuant to such section generate revenue during such year.

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

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

§ 3047. Reporting. 1. No later than three years following the effective date of this article, and every two years thereafter, the commissioner, in partnership with the commissioner of environmental conservation, shall produce a report on the implementation of this article. Such report shall include but not be limited to:

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

(b) the effectiveness of the fee established under section three thousand forty of this article to reduce greenhouse gas emissions statewide, including an analysis of reductions by geographic subdivisions of the state;

(c) the amount of estimated emissions leakage that may be occurring in correlation with the implementation of the fee established under section three thousand forty of this article, the effectiveness of any policies that have been implemented to address emissions leakage, and recommendations for improving policies to mitigate emissions leakage;

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

(e) an overview of the distribution of costs and benefits of the policies promulgated under this article, across different communities and sectors of the state economy;

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

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

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

2. Before finalizing the report described in subdivision one of this section, the commissioner shall ensure that there are meaningful opportunities for public participation, including by:

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

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

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

ARTICLE 43
LOW-INCOME AND SMALL BUSINESS ENERGY REBATE

Section 3050. Definitions.
3051. Establishment of the low-income and small business energy rebate program.
3052. Administration by the department.
3053. Allocation of funds.
3054. Qualifying households.
3055. Rebate amount and report.
3056. Delivery of funds.
3057. Reassessment of allocations.
3058. Small business tax credit.

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

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

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

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

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

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

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

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

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

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

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

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

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

2. reducing the already severe energy burden on low- and moderate-income families.

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

§ 3053. Allocation of funds. Funds from the low-income and small business energy rebate fund shall be disbursed under the program to eligible households and small businesses. The department shall collect and then distribute directly to eligible households the entire amount of funds dedicated to the rebate fund. Eligible households shall be notified that they are automatically being enrolled based on their tax filing status. The department will make determinations as to which households and small businesses are eligible for the rebate and establish an appeals process within the department as to such determinations. The department shall also establish an opportunity for individual residents of the state who

are not required to file income taxes to apply for rebates under this article.

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

1. eligible moderate-income households containing New York city residents;

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

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

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

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

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

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

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

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

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

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

(c) existing energy burdens.

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

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

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

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

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

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

§ 3057. Reassessment of allocations. 1. Beginning in two thousand twenty-one and every five years thereafter, the department, in coordination with the authority, the office of temporary and disability assistance, the public service commission, and the department of environmental conservation shall perform an assessment, which shall include, at a minimum, the following information: (a) the state-wide energy burden for small businesses, and households by geography and income; (b) whether such energy burden has stayed level or decreased since the effective date of this section; (c) the uptake of energy efficiency and renewable energy in each income category; and (d) an estimated impact on energy burden or another equivalent estimate of the proportion of household income spent on energy. Based on such information and any additional information that the department determines is appropriate, the department shall determine whether the present rebate amount is appropriate or whether it is appropriate to reduce the rebate benefit amount.

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

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

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

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

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

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

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