STATE OF NEW YORK

7905

IN SENATE

January 3, 2024

Introduced by Sens. PARKER, BAILEY, BRESLIN, BRISPORT, BROUK, COMRIE, GIANARIS, GOUNARDES, HARCKHAM, HOYLMAN-SIGAL, JACKSON, KAVANAGH, KRUEGER, LIU, MAY, MYRIE, PERSAUD, RAMOS, RIVERA, SALAZAR, SANDERS, SEPULVEDA, SERRANO, STAVISKY -- 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 executive law, the labor 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. Article 19 of the environmental conservation law is amended by adding a new title 13 to read as follows:

TITLE 13

VALUE OF POLLUTION AND MITIGATION PROGRAM

Section 19-1301. Definitions.

19-1303. Methodology and valuation of pollution 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 eight of section 19-0107 of this article.

2. "Comptroller" means the New York state comptroller.

3. "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).

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

LBD06164-02-3

4. "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.

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

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

7. "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.

8. "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.

9. "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.

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

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

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

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

1. Not later than one year after the effective date of this title, the department 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 department 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 department shall consider, at a minimum:

(a) public health impacts, including but not limited to: loss of life, loss of welfare, and employment 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 department demonstrates that it is not administratively feasible in the time allotted in subdivision one of this section to complete a methodology for each individual regulated air contaminant, or appropriate sub-grouping thereof, then the department 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 department completes a methodology, pursuant to subdivision one 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 department completes a methodology, pursuant to subdivision one of this section, for each of the air contaminants listed under section 112 of the Act (42 USC section 7412) that the department finds to be most damaging to public health in New York, of all air contaminants listed under such section;

(c) the department demonstrates and publishes, along with the publication of methodologies described under subdivision one of this section, a description of why it is not administratively feasible in the time allotted in subdivision one of this section to complete a methodology, for each individual regulated air contaminant, or appropriate sub-grouping thereof; and

(d) the department 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 department 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 department 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 comptroller and department shall establish a trust fund to be known as the "value of pollution and mitigation program fund", consisting of such amounts as may be appropriated or credited to such fund as provided in this section.

2. (a) Funds received under this title shall be allocated accordingly:

(i) forty percent of funds shall be invested in a manner which will benefit disadvantaged communities, consistent with the purpose of this title;

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

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

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

No funds shall be allocated to fund police, prisons or related infrastructure.

(b) The value of pollution and mitigation program fund shall be administered by the department.

§ 19-1309. Inventory.

Not later than eighteen months after the effective date of this title, the department 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 three thousand forty of the tax law; and

(b) the investment programs established in article seventy-seven of this chapter;

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 including, but not limited to, taking action to release the related data, analysis and assumptions of agency websites.

§ 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 for accelerating the reduction of regulated air contaminants from mobile sources.

2. The draft scoping plan shall be developed in consultation with 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 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 department 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.
§ 19-1313. Reporting.
1. Not later than three years following the effective date of this title, and every two years thereafter, the department 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 but not limited to the health of women, youth and children and a detailed analysis of the benefits to disadvantaged communities;
(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 one of this section, the department 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.

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

§ 184. Diversion of funds dedicated to climate and community investment to the general fund of the state or to any other purpose, is prohibited. 1. For the purposes of this section, the term "climate and community investment" shall mean any public benefit corporation constituting a climate and community investment authority which provides or contracts for the provision of climate and community investment, or a subsidiary thereof, or any county or city which provides or contracts for the provision of, pursuant to article seventy-seven of the environmental conservation law.

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

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

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

(b) the amount diverted from each fund;

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

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

(e) a detailed estimate of the impact of diversion from dedicated climate and community investment, including any impact on climate infrastructure development, just transition, worker and community assurance, energy rebates, maintenance, security, and the current capital program.

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

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

ARTICLE 8-B

RESPONSIBLE CONTRACTING, LABOR AND JOB STANDARDS AND WORKER PROTECTION

Section 228. Definitions.
229. Labor and project performance standards.
229-a. Best value requirements for the solicitation, evaluation and award of renewable energy projects, energy efficiency projects and other construction projects undertaken with support from the department of environmental conservation or receiving state assistance.
229-b. Best value requirements for all work other than construction.

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

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

2. "Climate and community investment" shall mean any public benefit corporation constituting a climate and community investment authority which provides or contracts for the provision of climate and community investment, or a subsidiary thereof, or any county or city which provides or contracts for the provision of, pursuant to article seventy-seven of the environmental conservation law.

3. "Labor organization" means any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection and which is not a company union. This includes, but is not limited to bona fide labor organizations that are certified or recognized as the organization of jurisdiction representing the workers involved and/or bona fide building and construction trades councils and/or district councils and state and local labor federations comprised of local unions certified or recognized as the representative of the workers.

4. "Neutrality policy/agreement" shall mean a policy or agreement wherein an employer remains neutral in a union organizing drive and does not actively oppose union efforts to gain majority support of the relevant employees of the employer.

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

§ 229. Labor and project performance standards. The following requirements shall apply to any projects assisted under the Act:

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

2. Execution of project labor agreement. The party which receives assistance from the state for a renewable energy project, energy efficiency project, other construction project undertaken with support from the department of environmental conservation, or receiving state assistance shall take the necessary contractual actions to ensure that a project labor agreement is executed between the general contractor or other entity responsible for construction of the assisted project and bona fide building and construction trade councils that have the capability to supply skilled craft personnel in all crafts needed for the project in the area where the project is located.

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

(a) bind all contractors and subcontractors on the assisted project to the project labor agreement through the inclusion of appropriate specifications in all relevant solicitation provisions and contract documents;

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

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

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

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

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

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

5. Responsible contractor requirements. The party which receives assistance from the state for a renewable energy project, energy efficiency project, or other construction project undertaken with support from the department of environmental conservation shall take the necessary contractual actions to ensure each contractor and subcontractor involved in the construction of the assisted project completes a sworn certification that the firm:

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

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

(c) participates in an apprenticeship training program for each trade in which it employs craft workers that is registered with and approved by the U.S. department of labor or a state apprenticeship agency and

shall provide proof within seven days of a request from the department of environmental conservation or any authority or agency that its program is actively training employees, has functioning training facilities, and is regularly graduating apprentices to journey person status, and such apprentices are placed in employment, hereinafter referred to as "class A apprenticeship programs";

(d) in the past three years:

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

(ii) has not defaulted on any project;

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

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

(e) will not misclassify craft labor employees as independent contractors.

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

(a) shall be submitted to the department of environmental conservation and the department at least thirty days prior to commencement of construction of a state-assisted project; and

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

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

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

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

10. Prevailing wage exception. Prevailing wage requirements under the Act shall not apply to assisted projects covered by project labor agreements.

§ 229-a. Best value requirements for the solicitation, evaluation and award of renewable energy projects, energy efficiency projects and other construction projects undertaken with support from the department of

environmental conservation or receiving state assistance. 1. Purpose. The purpose of this section is to establish best value requirements for the solicitation, evaluation and award of renewable energy projects, energy efficiency projects, and other construction projects undertaken with support from the department of environmental conservation, or assisted by the state, including those assisted by the Act.

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

(a) "agency" means the New York state energy research and development authority or any other state department or agency that provides assistance to covered projects.

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

(c) "contracting team" means the lead contractor and project subcontractors.

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

(e) "offeror" means the project owner, developer or other entity which seeks to propose a renewable energy project, energy efficiency project, other construction project undertaken with support from the department of environmental conservation, or receiving state assistance and obtain renewable energy credit or other assistance from the state.

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

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

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

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

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

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

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

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

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

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

(d) the agency shall approve the project that provides the best value, considering the viability and benefits of the proposed project and qualifications of the offeror and project team.

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

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

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

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

(i) proposed project;

(ii) offeror qualifications;

(iii) project team qualifications; and

(iv) economically disadvantaged impact.

5. Project selection. The offeror that complies with the specifications and requirements of the request for proposals and receives the highest maximum score shall be selected by the agency for project award.

6. Evaluation of proposed project. In evaluating competitive proposals, the agency shall evaluate the proposed project on the following factors:

(a) projected amount of energy to be generated;

(b) viability of the proposed energy source;

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

(d) qualifications of the project team.

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

8. Evaluation of project team qualifications. The qualifications of the lead contractor and subcontractors shall be determined by an evaluation of the following subfactors:

(a) past performance record: 30 points. Evaluation of this subfactor requires a review of past projects, including budget, schedule and safety data, performance evaluation reports, quality of workmanship and compliance with project specifications.

(b) expertise and technical qualifications: 10 points. Evaluation of this subfactor requires examination of the general and specific experience in relevant market sectors and in projects similar to the proposed project.

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

(i) resources, including equipment and financial resources;

(ii) experience of the senior management and project management of the lead contractor and subcontractors.

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

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

(ii) participation in registered apprenticeship programs that have a track record of graduating apprentices for at least three years;

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

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

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

10. Prequalification process. Requests for proposals may be preceded by a prequalification stage to require interested offerors to demonstrate that they have adequate minimum qualifications and sufficiently viable project proposals to qualify to compete in a request for proposals process.

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

12. Project evaluation team. Proposals submitted in response to request for proposals under this section shall be evaluated by a technical evaluation team that consists of no fewer than three persons qualified to conduct such evaluations.

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

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

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

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

(c) additional information as determined by the agency.

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

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

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

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

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

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

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

(e) "subcontract" shall mean an agreement between a vendor and subvendor to provide manufactured materials or perform additional work under the vendor.

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

(g) "U.S. employment plan (USEP)" shall mean the plan which an entity submitting proposals to awarding authorities for renewable energy projects, energy efficiency, other projects other than the construction aspect of the project include in their proposal to receive extra credit and/or points as defined by the applicable awarding authority. If a proposer chooses to submit a U.S. employment plan to win extra credit, the proposal shall include a worksheet with: proposed wages, benefits, retraining and training, including a workforce training plan, completed by the proposer and the potential subvendors, and a narrative description of the proposers' plan to:

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

(ii) give priority in any hiring of employees not currently or previously employed by the proposer and the suppliers of manufactured materials for the project to individuals with barriers to employment including people who have been incarcerated, people with disabilities, and people who have been traditionally underrepresented in manufacturing or construction employment, like women and minorities; and

(iii) recruit from "disadvantaged workers" and "disadvantaged communities" as defined by the Act and not detailed in this section.

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

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

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

(i) "workforce training plan" means a plan to create permanent, transferable skills for all new hires and retained employees under a contract proposal, which may:

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

(ii) include pre-apprenticeship commitments to provide training that helps participants in apprenticeship programs prepare for and successfully complete their training.

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

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

(b) awarding authorities shall develop a system for awarding extra points and/or credit for those proposers that create and submit a local employment plan or U.S. employment plan (depending on source of funding).

(c) final contracts with a local employment plan and/or U.S. employment plan that are awarded under this section shall require vendors to submit quarterly reports within the first year of award and annual reports for subsequent years demonstrating vendor and subvendor compliance with their local employment plan and/or U.S. employment plan. These quarterly and annual reports shall be certified under penalty of perjury and must be submitted in order to receive milestone payments under the contract.

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

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

§ 5. Section 231 of the labor law is amended by adding a new subdivision 8 to read as follows:

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

§ 6. The environmental conservation law is amended by adding a new article 77 to read as follows:

ARTICLE 77
CLIMATE CHANGE JUST TRANSITION

Title 1. General provisions.
3. Community just transition.
5. Climate jobs and infrastructure.
7. Just transition for impacted workers and community assurance.

TITLE 1
GENERAL PROVISIONS

Section 77-0101. Definitions.
77-0103. Coordination of programs.
77-0105. Transparency and accountability.

77-0107. Report on community ownership.

§ 77-0101. Definitions.

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

1. "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.

2. "Constituency-based organization" means an organization incorporated for the purpose of providing services or other assistance to economically or socially disadvantaged persons within a specified community, and which is supported by, or whose actions are directed by, members of the community in which it operates.

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 75-0111 of this chapter.

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

5. "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.

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

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

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

9. "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.

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

§ 77-0103. Coordination of programs.

The department shall undertake actions to ensure maximum coordination between each of the programs created under section three thousand forty-six of the tax law, including conducting each program such that all three programs together:

1. maximize the total economic and social benefits to New York;

2. maximize administrative efficiency;

3. achieve the most cost-effective and the greatest amount of reductions in greenhouse gas emissions and regulated air contaminants;

4. achieve an equitable distribution of funds;

5. maximize benefits to disadvantaged communities;

6. encourage early action to reduce emissions;

7. minimize emissions leakage;

8. promote equitable access to program participation across programs, including interoperability with existing programs and the use of universal eligibility applications for low-income applicants who may be eligible for multiple services; and

9. identify and utilize best industry standard practices to overcome barriers to implementation, such as split incentives for energy efficiency.

§ 77-0105. Transparency and accountability.

1. No later than two years following the effective date of this article, and every two years thereafter, the department shall produce a report on the implementation of the programs 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) For the program under title three of this article:

(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 by type, duration, and pay scale; and

(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 title five of this article:

(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; and

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

(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; and

(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 department 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.

§ 77-0107. Report on community ownership.

1. Not later than two years following the effective date of this title, and every two years thereafter, the department, with input from the department of labor, and the state energy planning board, 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 department 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.

TITLE 3
COMMUNITY JUST TRANSITION

Section 77-0301. Definitions.
77-0303. Office of community just transition.
77-0305. Establishment of community just transition program.
77-0307. Administration by the department.
77-0309. Allocation of funds.
77-0311. Selection process.
77-0313. Identification of disadvantaged community needs.
77-0315. Community decision-making and accountability mechanisms.

77-0317. Criteria for implementing community accountability mechanisms.

§ 77-0301. Definitions.

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

1. "Act" means the "climate and community investment act".

2. "Disadvantaged communities" shall have the same meaning as in subdivision three of section 75-0111 of this chapter.

3. "Eligible lead applicant" means a constituency-based organization or a tribal nation, in or serving a disadvantaged community or communities. Notwithstanding the preceding sentence, a constituency-based organization or tribal nation may be an eligible lead applicant, whether or not it is in or serving a disadvantaged community or communities, if it makes an application for funding on behalf of one or more constituency-based organizations or tribal nations that are in or serving one or more disadvantaged communities with the consent of such constituency-based organization or organizations or tribal nation or nations and subgrants to such constituency-based organization or organizations or tribal nation or nations. A municipality or county where a project is proposed to be located shall also be considered an eligible lead applicant if it affirms that there is no constituency-based organization or tribal nation in or serving the disadvantaged community or that is willing or able to submit an application or consent to be a subgrantee under this subdivision, and that it provided a reasonable opportunity for residents and organizations in or serving the municipality or county to comment on the application prior to submission.

4. "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.

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

6. "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.

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

8. "Community ownership" shall have the same meaning as set forth in subdivision one of section 77-0101 of this article.

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

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

§ 77-0303. Office of community just transition.

The department shall administer the fund and the program. The department shall be responsible for implementing new, progressive and equitable grant opportunities that support disadvantaged communities transitioning to a regenerative renewable energy economy, under this section. The department shall develop and assess programs.

§ 77-0305. Establishment of community just transition program.

There is hereby established by the department, a community just transition program, to be implemented by the commissioner. The purpose of the program is to disburse funds from the community just transition fund pursuant to section 77-0309 of this title.

§ 77-0307. Administration by the department.

Within six months of the effective date of this title, the department is hereby authorized and directed to establish and administer the community just transition program. The department is authorized and directed to:

1. use monies made available for the program, pursuant to sections 77-0309 and 77-0311 of this title;

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; and

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

§ 77-0309. Allocation of funds.

1. Funds from the community just transition fund shall be disbursed through direct grants to eligible lead applicants.

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, or for projects as close to such community as is practicable, provided that a project not physically located in the disadvantaged community shall only be eligible for funding under this subdivision if the department finds that it is impracticable to locate the project in such disadvantaged community or that funding such project is in the best interests of such disadvantaged community, taking into account such factors as the burdens of negative public health effects, environmental pollution and the impacts of climate changes. Any project funded under this subdivision 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 just transition fund may be used for projects other than as specified in subdivision two of this section, 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 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.

§ 77-0311. Selection process.

1. The department shall develop criteria and a process for competitively selecting project proposals under this title, in accordance with this section and section 77-0309 of this title.

2. The department 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 77-0309 of this title; incorporate community decision-making, pursuant to section 77-0315 of this title, throughout project planning and implementation; and provide a community accountability mechanism, pursuant to section 77-0317 of this title and comply with the labor and job performance standards in this act.

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

(e) The department 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 77-0107 of this article.

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

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

5. The department 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 department 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 department 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 department shall consult with the division of housing and community renewal 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 while preventing gentrification and displacement.

9. Nothing in this title shall preclude the department from permitting eligible lead applicants or sub-applicants to use program funds awarded under this title in conjunction with other public or private funding awarded for other purposes, providing that the lead applicant can demonstrate, in a manner sufficient to the department, that the program goals and other requirements of this title will be met.

§ 77-0313. Identification of disadvantaged community needs.

1. The department, in cooperation with the commissioners of health and labor 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 department 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 department, in cooperation with the commissioners of health and labor or their designees, shall meet no less 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.

§ 77-0315. Community decision-making and accountability mechanisms.

1. The department, in cooperation with the commissioners of health and labor 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 department.

3. Before finalizing the criteria for appropriate community decision-making practices pursuant to subdivision one of this section, 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, including by:

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

(b) holding at least ten regional public hearings on the draft criteria, one in each 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 department, in cooperation with the commissioners of health and labor 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.

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

§ 77-0317. Criteria for implementing community accountability mechanisms.

The department, in cooperation with the commissioners of health and labor 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 department and the commissioners of health and labor.

2. Before finalizing the criteria for implementing community accountability mechanisms pursuant to subdivision one of this section, 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, 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 department, in cooperation with the commissioners of health and labor 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.

TITLE 5
CLIMATE JOBS AND INFRASTRUCTURE

Section 77-0501. Definitions.
77-0503. Establishment of climate jobs and infrastructure program.
77-0505. Administration by the department.
77-0507. Allocation of funds.
77-0509. Funding instruments.
77-0511. Selection process and criteria.
77-0513. Comprehensive approach to existing structures.

§ 77-0501. Definitions.

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

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

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

3. "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.

4. "Program" means the climate jobs and infrastructure program established under this title.

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

6. "Tribal nation" shall have the same meaning as in subdivision nine of section 77-0101 of this article.

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

§ 77-0503. Establishment of climate jobs and infrastructure program.

There is hereby established by the department, a climate jobs and infrastructure program, which shall disburse funds from the climate jobs and infrastructure fund pursuant to the goals established under section 77-0507 of this title.

§ 77-0505. Administration by the department.

Within six months of the effective date of this title, the department is hereby authorized and directed to establish and administer the climate jobs and infrastructure program. The department shall implement the program in consultation with the public service commission, the New York independent system operator, the New York energy research and development authority, and the departments of transportation, health and labor. The department 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 77-0507 of this title;

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

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; and

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

§ 77-0507. 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. These funds are intended to advance the goals of the climate leadership and community protection act.

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, including youth, children, the incarcerated and the formerly incarcerated; 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;

(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 and enhance long-term community cohesion while preventing gentrification and displacement;

(h) encouraging the development of energy efficiency and renewable energy projects and programs for and in public schools, school transportation including centralized procurement by the department of zero-emission school buses and charging infrastructure in order to promote efficiency, innovation, and the creation of high-quality jobs in school bus and charging infrastructure manufacturing and community centers, with priority given to schools located in and serving disadvantaged communities in order to preserve and improve school infrastructure, improve community resilience and provide co-educational benefits for students in science, technology, engineering, art, ecology and science;

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

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

3. Every five years, the department 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 department 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 but not limited to at the port of Albany, the port of Buffalo, and the New York city waterfront, including Hunts Point and Sunset Park;

(e) electric grid upgrades within the state, 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;

(f) energy efficiency and renewable energy projects and programs for and in public schools, school transportation (including school buses) and community centers with priority given to schools located in or serving disadvantaged communities; and

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

4. In addition to allocating funds under the program to achieve the goals and priorities outlined in this section, the department 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 department.

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

§ 77-0509. Funding instruments.

The department 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 77-0507 of this title.

§ 77-0511. Selection process and criteria.

The department is authorized, within amounts appropriated, to disburse funds from the fund to eligible applicants on a competitive basis.

1. The department shall develop criteria and a process for selecting project proposals submitted by eligible applicants under this title.

2. In selecting projects and distributing funds, the department 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 77-0507 of this title;

(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 department; 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 department shall also, where possible, aim to geographically distribute funds in an equitable manner across the state, taking into account population density.

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

§ 77-0513. Comprehensive approach to existing structures.

1. In consultation with the department of state, department of homes and community renewal, the New York energy research and development authority and other relevant stakeholders, the department shall 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 enhances long-term community cohesion while preventing gentrification and displacement; 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 department 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. For the purposes of this subdivision, "region" shall have the same meaning as in subdivision nine of section twenty-four hundred twenty-six of the public authorities law.

TITLE 7
JUST TRANSITION FOR IMPACTED WORKERS AND COMMUNITY ASSURANCE

Section 77-0701. Definitions.
77-0703. Worker assurance program.
77-0705. Community assurance program.
77-0707. Administration.
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§ 77-0701. Definitions.

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

1. "Adversely affected employment" means employment in an entity regulated by the New York state department of public service generating energy that is not renewable.

2. "Adversely affected worker" means an individual who, because of lack of work in adversely affected employment, has been totally or partially separated from such employment, is expected to be totally or partially separated from such employment, or is a displaced worker.

3. "Adjustment assistance" means any compensation, credit, benefit, funding, training, or service provided under this article through any option described.

4. "Applicable firm" means, as applicable:

(a) the firm, or subdivision of a firm, for which the group of workers who are petitioning for certification work at;

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

(c) a group of firms within close geographic proximity, as determined by the department, employing a group of workers who are petitioning for certification; or

(d) a group of firms within a close geographic proximity, as determined by the department, for which a group of certified adversely affected workers work.

5. "Energy industry" means a commercial sector, as determined by the department, that:

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

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

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

7. "Disadvantaged communities" shall have the same meaning as in section 75-0111 of this chapter.

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

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

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

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

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

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

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

(d) is disabled;

(e) is a veteran;

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

(g) is long-term unemployed.

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

11. "Eligible lead applicant" means a constituency-based organization, labor organization, a tribal nation, local school district, or a municipal or county government located in or serving the impacted community or communities which makes an application for funding under this title on behalf of itself alone or along with eligible sub-applicants.

12. "Eligible sub-applicants" means private sector entities, academic institutions, non-profit organizations, other stakeholders, with a

relationship to the impacted community. Eligible sub-applicants, may apply with a lead applicant pursuant to standards prescribed by the department. Applying with support from an eligible lead applicant.

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

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

15. "Labor organization" means any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection and which is not a company union. This includes but is not limited to bona fide labor organizations that are certified or recognized as the organization of jurisdiction representing the workers involved and/or bona fide building and construction trades councils and/or district councils and state and local labor federations comprised of local unions certified or recognized as the representative of the workers.

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

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

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

17. "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.

18. "Program" means the worker assurance program and community assurance program established under this title.

19. "Significantly impacted community" is a community, municipality, or other area designated as such by the department.

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

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

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

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

§ 77-0703. Worker assurance program.

There is hereby established within the department, a worker assurance program, to be implemented by the department.

1. The purpose of the program is to create programs or disburse funds from the fund to benefit the following persons, regardless of immigration status or term of residency:

(a) adversely affected workers;

(b) displaced workers; and

(c) disadvantaged workers in significantly impacted communities.

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

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

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

(a) adversely affected workers;

(b) displaced workers; or

(c) disadvantaged workers in significantly impacted communities.

5. The department will promulgate such regulations or guidelines for the creation of programs by eligible lead applicants as may be needed.

6. Benefits, services, or financial support upon an application being accepted, benefits, services, or financial support shall be made available for qualifying workers for at least three years and up to ten years.

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

(a) employment by the department or a lead applicant (for example doing remediation at their current site of employment) on a project to reutilize facilities to replace losses in the tax base, or pursuant to another program created under this title;

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

(c) payment towards pension support;

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

(e) payment towards early retirement;

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

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

8. The department will report regularly to the public on the status of these programs as well as what benefits are being provided and where programs have been created by eligible lead applicants.

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

§ 77-0705. Community assurance program.

There is hereby established within the department, a community assurance program, to be implemented by the department. The purpose of the program is to:

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

2. provide support for disadvantaged communities and significantly impacted communities directly from the department, through local government entities, eligible lead applicants, or eligible sub-applicants to:

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

(b) establish job creation programs;

(c) replace lost payment in-lieu-of taxes (PILOT) and local tax revenue, replace 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; and

(d) 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; and

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

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

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

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

(i) a brownfield site as defined in subdivision two of section 27-1405 of this chapter, not excluding a site subject to an enforcement order as provided for in paragraph (c) of subdivision two of section 27-1405 of this chapter;

(ii) a dormant electric generating site as determined by the commission; or

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

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

(e) small business retraining and transition programs: including programs to identify and support small businesses, to avoid job losses due to energy transition, make technological changes or training improvements, on the job training programs, equipment grants, and technical support for existing businesses to transition to practices focused on sustainability, decarbonization, or non-emitting operations.

(f) support for local manufacturing coordinated with decarbonization programs to provide grants and no-interest loans to develop and accelerate manufacturing of:

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

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

§ 77-0707. Administration.

1. Within six months of the effective date of this title, the department is hereby authorized and directed to establish the programs authorized by this title. The department shall:

(a) use monies made available for the programs for the establishment of the worker assurance program pursuant to section 77-0703 of this title, and the community assurance program pursuant to section 77-0705 of this title to achieve the purposes of each program;

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

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

(d) evaluate disadvantaged communities and other communities to identify those where permanent facility closure is likely, and engage in outreach to ensure that constituency-based organizations, labor organizations, and eligible applicants are aware that the program is under development and invite them to be involved in the development of the program; and

(e) exercise such other powers as are necessary for the proper administration of the program.

2. The department shall notify the labor organizations party to collective bargaining agreements covering workers in significantly impacted communities of proposed programs or funding opportunities under this section.

§ 77-0709. Allocation of funds.

1. Funds from the fund shall be disbursed under the programs and be used to ensure a stable transition for workers and communities impacted by the transition to a carbon free economy. Funds may be used for activities pursuant to sections 77-0703 and 77-0705 of this title.

2. The department shall:

(a) develop clear guidelines and engage in public comment before allocating funds;

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

(c) coordinate with the New York state department of labor regarding the program administered by the department that directs funds to individual New York residents pursuant to section 77-0703 of this title;

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

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

(c) Funds administered under section 77-0705 of this title should be coordinated whenever possible with existing programs, and with funding opportunities under other titles of this article.

§ 77-0711. Selection process.

The department is authorized, within amounts appropriated, to disburse funds from the fund on a competitive basis for approved projects to eligible applicants and partners.

1. The department shall develop criteria and a process for selecting project proposals submitted by eligible applicants under this title.

2. The department will select projects based on proposals from eligible lead applicants and labor organizations or based on a request from individual impacted workers and adversely affected workers.

3. 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 fund.

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

(a) disadvantaged workers or disadvantaged communities;

(b) adversely affected workers;

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

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

5. Where a proposal is received and one or more labor organization represent impacted workers, they shall be notified, and given a reasonable opportunity to submit a proposal either on their own or in partnership with other eligible applicants.

6. In developing the criteria, the department 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 communi-

ties; greenhouse gas and emissions reductions for regulated air contaminants; and, to the extent possible, the leveraging of private capital.

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

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

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

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

§ 77-0713. Designation of significant impact.

1. The department 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 department 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. After those initial set of industries, further industries can be added by the department.

2. In designing the criteria and listing the industries described in subdivision one of this section, the department 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 department 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 this article, 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 department no less than four times annually shall 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 organization, or constituency-based organization located in or adjacent to an impacted community.

6. The comptroller of the state of New York shall oversee the distribution of funds in collaboration with the department.

§ 77-0715. Public engagement and social dialogue.

1. The department may regularly seek input and feedback from the community, both in every region and directly from impacted communities and impacted workers.

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

3. The department will release a preliminary report within one year of their first meeting, but after completing public engagement meetings in each region this report will include:

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

(b) identifying every community across New York that is already a significantly impacted community, already has significant adversely affected employment (including significant employment in the energy industry is likely to be a significantly impacted community), or already has impacted workers or permanently closed facilities.

4. The department shall commence a social dialogue in each region consisting of discussions where participants can discuss, be provided with resources, and develop a consensus about how to respond to the challenges of the transition. The social dialogue must be directed by the people most affected. Goals of the social dialogue include: ensuring economic decisions are made with real input from those most affected they must include engagement with the broader community and across sectors including input from the community, workers, businesses and others who are impacted by climate policies, uncovering the best local economic development and workforce plans and set the stage for diverse investments into community rebirth provide resources to communities to develop solutions, including access to technical expertise, information about climate change, its impacts and causes; the impact climate change has on the communities and the workforce, and regional economy; and information about emerging jobs and sectors.

5. Within two years of the effective date of this title, the department will release a draft plan that shall include, at a minimum:

(a) specifics of how to transition a workforce into emerging jobs;

(b) estimates of sufficient resources for that transition;

(c) what expertise and supports must be allocated for the development and implementation of an effective workforce plan;

(d) a skills map for each impacted position, current and emerging new energy jobs and regional employment opportunities with similar requirements; and

(e) education and training options for workers that allows them to rapidly re-skill for jobs in demand that recognizes their current and transferable skills, provides competency-based training, learn and earn, and credit for prior learning opportunities upskilling through joint labor management journeyperson extension programs sponsored by joint apprenticeship training programs.

6. The department will also seek public input on:

(a) a policy for workforce impact statements; and

(b) additional potential funding and possible partnerships for opportunity and workforce and economic revitalization.

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

§ 77-0717. Reporting.

1. No later than two years following the effective date of this title, and every two years thereafter, the department shall produce a report on the implementation of the program 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) reporting on the effectiveness of the policies established under this title 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. (a) Prior to finalizing the report described in subdivision one of this section, the department shall ensure that there are meaningful opportunities for public participation, including by:

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

(ii) 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.

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

(i) environmental justice representatives;

(ii) organizations representing disadvantaged community members;

(iii) labor organizations in the area;

(iv) local businesses;

(v) local governments and school authorities; and

(vi) climate change experts.

3. The final report described in subdivision one of this section shall be submitted to the governor, the 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. Additionally, all reports shall be shared publicly through the department of information technology and telecommunications of the city of New York.

§ 7. 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 funds within the department of environmental conservation.
3047. Reporting.

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

1. "Border carbon adjustment fee" means a fee imposed 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.

2. "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.

3. "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.

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

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

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

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. "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.

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

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

11. "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.

12. "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.

13. "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.

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

§ 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 department of environmental conservation, in consultation with the New York state energy research and development authority, pursuant to this article, shall be equal to the following:

(a) during calendar year two thousand twenty-four, twenty-five dollars;

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

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

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

(c) during calendar years two thousand twenty-eight through two thousand thirty-three, an amount equal to the sum of:

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

(A) two percent of the previous year's fee 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) five percent of the previous year's fee 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) seven percent of the previous year's fee 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; or

(D) ten percent of the previous year's fee 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 department of environmental conservation shall also assess 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) during calendar years two thousand thirty-four through two thousand fifty-three, an amount equal to the sum of:

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

(A) two percent of the previous year's fee 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) five percent of the previous year's fee 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 five-year environmental integrity metric, described under paragraph (a) of subdivision two of this section, is less than five percent, and 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;

(C) seven percent of the previous year's fee 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 five-year environmental integrity metric, described under paragraph (a) of subdivision two of this section, is less than ten percent, and 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; or

(D) ten percent of the previous year's fee 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 department of environmental conservation shall also assess 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-six, and every year 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 department of environmental conservation 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 department of environmental conservation shall refer to the following statewide greenhouse gas emissions targets:

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

(b) for each year after two thousand twenty-three and before two thousand twenty-nine, less than in the preceding year by four percent of two thousand eighteen emissions;

(c) for each year after two thousand twenty-eight and before two thousand forty-four, less than in the preceding year by three percent of two thousand eighteen emissions; and

(d) for each year after two thousand forty-three, less than in the preceding year by two percent of two thousand eighteen emissions.

§ 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 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 New York state energy research and development authority, in collaboration with the department of environmental conservation, 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 New York state energy research and development authority, in collaboration with the department of environmental conservation, 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 CO2e 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 conversions), 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. The owner of any electric generating facility that is covered by the CO2 budget trading program (6 NYCRR part 242) established by the department of environmental conservation shall be entitled to deduct from the fee imposed by this article an amount equal to the amount it paid to purchase CO2 emission allowance to comply with the CO2 budget trading program; 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 department 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 department of environmental conservation, in partnership with the New York state energy research and development authority, 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 department of environmental conservation 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 department of environmental conservation, in partnership with the New York state energy research and development authority and the commissioner of labor, 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 stakeholders.

(b) The department of environmental conservation 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) imposing a border carbon adjustment fee;

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

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

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

(v) 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 fee for reducing such impacts.

(d) Not later than one year after the effective date of this article, the department of environmental conservation 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 of environmental conservation, after public workshops, 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 fee for vulnerable trade exposed energy intensive industries and companies to reduce emissions;

(ii) an output-based carbon pollution fee and 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 fee for reducing such impacts.

(b) In promulgating these regulations, the department of environmental conservation 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.

3. Any funds collected pursuant to a policy arising from this section shall be appropriated by the department of environmental conservation pursuant to the mandated proportions in section three thousand forty-six of this article.

§ 3046. Creation of funds within the department of environmental conservation. 1. (a) Within ninety days following the effective date of this article, the commissioner, in coordination with the comptroller, shall establish a fund within the department of environmental conservation to be known as the "community just transition fund", consisting of such amounts as may be appropriated or credited to such fund and thirty-three percent of the total amount of fees received under section three thousand forty of this article during such year.

(b) The community just transition fund shall be administered by the department of environmental conservation for the purposes enumerated in the climate and community investment act.

2. (a) Within ninety days following the effective date of this article, the commissioner, in coordination with the comptroller, shall establish a fund within the department of environmental conservation to be known as the "climate jobs and infrastructure fund", consisting of such amounts as may be appropriated or credited to such fund and thirty

percent of the total amount of fees received under section three thousand forty of this article during such year.

(b) The climate jobs and infrastructure fund shall be administered by the department of environmental conservation for the purposes enumerated in the climate and community investment act.

3. (a) Within ninety days of the effective date of this article, the commissioner, in coordination with the comptroller, shall establish a fund within the department of environmental conservation to be known as the "low-income and small business and household energy rebate fund", consisting of such amounts as may be appropriated or credited to such fund and thirty percent of the total amount of fees received under section three thousand forty of this article during such year.

(b) The low-income and small business and household energy rebate fund shall be administrated by the department of environmental conservation for the purposes enumerated in the climate and community investment act.

4. (a) Within ninety days of the effective date of this article, the commissioner, in coordination with the comptroller, shall establish a fund within the department of environmental conservation to be known as the "worker and community assurance fund", consisting of such amounts as may be appropriated or credited to such fund as follows:

(i) 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 fund; and

(ii) seven percent of the total amount of fees received under section three thousand forty during such year.

(b) The worker and community assurance fund shall be administered by the department of environmental conservation for the purposes enumerated in the climate and community investment act.

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.

6. No proceeds received through the implementation of the fee established under this article shall fund police, prisons or related infrastructure.

§ 3047. Reporting. 1. No later than three years following the effective date of this article, and every two years thereafter, the department of environmental conservation, in partnership with the comptroller, and the New York state energy research and development authority, 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 the health of women, youth and children;

(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 of environmental conservation 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 department of environmental conservation 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 of environmental conservation.

ARTICLE 43
HOUSEHOLD AND SMALL BUSINESS ENERGY REBATE

Section 3050. Definitions.
3051. Establishment of the household and small business energy rebate program.
3052. Administration by the department of environmental conservation.
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.
3059. Public service commission investigation.

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

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

2. "Eligible moderate-income household" means, with respect to a given calendar year, any household in New York state 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, regardless of citizenship or term of insurance.

3. "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 sole proprietorship), and with respect to businesses, is independently owned and operated and not dominant in its field.

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

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

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

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

1. disbursement of funds from the household 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 climate pollution fee created pursuant to article forty-two of this chapter 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 of environmental conservation. Within six months of the effective date of this article, the department of environmental conservation is hereby authorized and directed to establish and operate the program. The department of environmental conservation shall implement the program in consultation with the office of temporary and disability assistance and the departments of health and labor. The department of environmental conservation 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 household and small business energy rebate fund shall be disbursed under the program to eligible households and small businesses. The department of environmental conservation 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 or receipt of public benefits. The department of environmental conservation, in coordination with the commissioner, the public service commission, the New York state office of temporary and disability assistance, and 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 of environmental conservation as to such determinations. The department of environmental conservation 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 department of environmental conservation 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. Households shall qualify regardless of citizenship. The department of environmental conservation will cooperate with the department and the office of temporary and disa-

bility 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 of environmental conservation 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 of environmental conservation 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 of environmental conservation, in partnership with the the New York state energy research and development authority, the public service commission and the office of temporary and disability assistance shall determine appropriate mechanisms for delivering rebates under this article. These departments shall within the bounds of the law share necessary expertise and data. 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 direct payment redeemable tax credit.

(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.

(iii) another form that complies with this subdivision.

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; (d) a redeemable tax credit; or (e) a direct payment if the authority offers such option.

3. The department of environmental conservation shall make reasonable efforts to deliver funds as frequently as practical, and to distribute a portion of the rebate at least quarterly.

§ 3057. Reassessment of allocations. 1. Beginning in two thousand twenty-three and every five years thereafter, the department of environmental conservation, in coordination with the department, the office of temporary and disability assistance, the public service commission and the New York state energy research and development authority shall perform an assessment, which shall include, at a minimum, the following information: (a) the statewide 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.

§ 3059. Public service commission investigation. Not later than six months after the effective date of this article, the public service commission shall establish a proceeding to investigate, identify and mitigate any increase in electric or gas rates for qualifying households and eligible small businesses that may be projected to arise under this article and article forty-two of this chapter.

§ 8. 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 judgment 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 judgment shall have been rendered.

§ 9. If any word, phrase, clause, sentence, paragraph, section, or part of this act shall be adjudged to require the department of environmental conservation to act outside of their legal powers, such as engaging in the market beyond activities allowed as a market actor, the relevant statutory requirements shall be interpreted so that the powers and duties herein are enforced to the extent allowed by law.

§ 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.