

# 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:

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

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

### TITLE 13

#### VALUE OF POLLUTION AND MITIGATION PROGRAM

##### Section 19-1301. Definitions.

8 19-1303. Methodology and valuation of pollution price index.

9 19-1305. Implementation of fees.

10 19-1307. Allocation of revenues.

11 19-1309. Inventory.

12 19-1311. Transportation pollution.

13 19-1313. Reporting.

##### § 19-1301. Definitions.

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

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

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

20 3. "Covered sources" means those sources of regulated air contaminants  
21 required to have a permit under Title V of the Act (42 U.S.C. section  
22 7661 et seq).

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

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

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

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

10 7. "Emissions hotspot" means a location where emissions of regulated  
11 air contaminants from specific sources may expose individuals and popu-  
12 lation groups to elevated risks of adverse health effects and may  
13 contribute to the cumulative health risks of emissions from other sourc-  
14 es in the area.

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

18 9. "Greenhouse gas" means carbon dioxide, methane, nitrous oxide,  
19 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other  
20 substance emitted into the air that may be reasonably anticipated to  
21 cause or contribute to anthropogenic climate change, with the exception  
22 of agricultural emissions from livestock.

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

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

28 12. "Upstate region" means all New York state counties other than  
29 Nassau, Suffolk, Richmond, Kings, Queens, New York, Bronx and Westches-  
30 ter.

31 § 19-1303. Methodology and valuation of pollution price index.

32 1. Not later than one year after the effective date of this title, the  
33 department shall publish an index that lists the social cost of  
34 pollution for all regulated air contaminants, or appropriate sub-group-  
35 ing thereof. At the same time, the department shall publish a methodol-  
36 ogy for determining the social cost of pollution for each regulated air  
37 contaminant, or appropriate sub-grouping thereof. In determining the  
38 social cost of pollution for a given regulated air contaminant, the  
39 department shall consider, at a minimum:

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

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

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

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

47 2. If the department demonstrates that it is not administratively  
48 feasible in the time allotted in subdivision one of this section to  
49 complete a methodology for each individual regulated air contaminant, or  
50 appropriate sub-grouping thereof, then the department may delay the  
51 completion of methodologies for some portion of regulated air contam-  
52 inants for future rule-makings, provided that:

53 (a) in the first publication of such methodologies, the department  
54 completes a methodology, pursuant to subdivision one of this section,  
55 for each of the following pollutants:

56 (i) oxides of nitrogen;

1 (ii) volatile organic compounds;

2 (iii) sulfur dioxide;

3 (iv) particulate matter;

4 (v) carbon monoxide; and

5 (vi) lead;

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

12 (c) the department demonstrates and publishes, along with the publica-  
13 tion of methodologies described under subdivision one of this section, a  
14 description of why it is not administratively feasible in the time  
15 allotted in subdivision one of this section to complete a methodology,  
16 for each individual regulated air contaminant, or appropriate sub-group-  
17 ing thereof; and

18 (d) the department subsequently publishes at least five additional  
19 methodologies per year, until that date when each regulated air contam-  
20 inant, or appropriate sub-grouping thereof, has a complete methodology  
21 ascribed to it.

22 § 19-1305. Implementation of fees.

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

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

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

40 4. Any person required to pay fees imposed pursuant to this section  
41 may elect to base such fees on the level of permitted emissions set  
42 forth in a permit, certificate or approval issued pursuant to section  
43 19-0311 of this article.

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

49 § 19-1307. Allocation of revenues.

50 1. The comptroller and department shall establish a trust fund to be  
51 known as the "value of pollution and mitigation program fund", consist-  
52 ing of such amounts as may be appropriated or credited to such fund as  
53 provided in this section.

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

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

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

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

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

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

14 (b) The value of pollution and mitigation program fund shall be admin-  
15 istered by the department.

16 § 19-1309. Inventory.

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

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

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

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

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

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

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

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

38 § 19-1311. Transportation pollution.

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

42 2. The draft scoping plan shall be developed in consultation with  
43 other stakeholders.

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

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

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

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

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

1 (i) the imposition of fees per unit of regulated air contaminant;  
2 (ii) a zoned surcharge system on trucking and ports; and  
3 (iii) congestion pricing;  
4 (c) the creation of low emission zones and the policies to promote  
5 zero-emission and low-emission transportation options, including the  
6 electrification of port facilities and freight transportation; and  
7 (d) land-use and transportation planning measures aimed at reducing  
8 emissions from mobile sources.

9 4. No later than three years after the effective date of this title,  
10 the department, after public workshops and consultation with represen-  
11 tatives of regulated entities, and other stakeholders, and not less than  
12 two public hearings, shall promulgate rules and regulations to acceler-  
13 ate the reduction of regulated air contaminants from mobile sources.

14 (a) The regulations promulgated by the department pursuant to this  
15 subdivision may include legally enforceable emissions limits, perform-  
16 ance standards, market-based mechanisms or measures or other require-  
17 ments to control regulated air contaminant emissions from mobile sour-  
18 ces. The department is hereby authorized to establish any such policies  
19 pursuant to this section.

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

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

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

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

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

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

32 (vi) minimize emissions leakage.

33 5. If any of the policies implemented by the department pursuant to  
34 this section generate state revenue, the department shall ensure that,  
35 at a minimum, forty percent of any funds collected are invested in a  
36 manner which will benefit disadvantaged communities, consistent with the  
37 purposes of this title.

#### 38 § 19-1313. Reporting.

39 1. Not later than three years following the effective date of this  
40 title, and every two years thereafter, the department shall produce a  
41 report on the implementation of the policies established under this  
42 title. Such report shall include, but not be limited to:

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

46 (b) the effectiveness of the policies established under section  
47 19-1311 of this title to reduce regulated air contaminants from mobile  
48 sources statewide and within geographic subdivisions of the state;

49 (c) an overview of social benefits from the regulations or other meas-  
50 ures established pursuant to this title, including reductions in regu-  
51 lated air contaminants, and other benefits to the economy, environment,  
52 and public health, including but not limited to the health of women,  
53 youth and children and a detailed analysis of the benefits to disadvan-  
54 tagged communities;

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

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

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

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

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

11 2. Before finalizing the report described in subdivision one of this  
12 section, the department shall ensure that there are meaningful opportu-  
13 nities for public participation, including by:

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

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

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

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

27 § 184. Diversion of funds dedicated to climate and community invest-  
28 ment to the general fund of the state or to any other purpose, is  
29 prohibited. 1. For the purposes of this section, the term "climate and  
30 community investment" shall mean any public benefit corporation consti-  
31 tuting a climate and community investment authority which provides or  
32 contracts for the provision of climate and community investment, or a  
33 subsidiary thereof, or any county or city which provides or contracts  
34 for the provision of, pursuant to article seventy-seven of the environ-  
35 mental conservation law.

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

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

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

52 (b) the amount diverted from each fund;

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

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

6 2. Execution of project labor agreement. The party which receives  
7 assistance from the state for a renewable energy project, energy effi-  
8 ciency project, other construction project undertaken with support from  
9 the department of environmental conservation, or receiving state assist-  
10 ance shall take the necessary contractual actions to ensure that a  
11 project labor agreement is executed between the general contractor or  
12 other entity responsible for construction of the assisted project and  
13 bona fide building and construction trade councils that have the capa-  
14 bility to supply skilled craft personnel in all crafts needed for the  
15 project in the area where the project is located.

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

19 (a) bind all contractors and subcontractors on the assisted project to  
20 the project labor agreement through the inclusion of appropriate spec-  
21 ifications in all relevant solicitation provisions and contract docu-  
22 ments;

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

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

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

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

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

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

41 5. Responsible contractor requirements. The party which receives  
42 assistance from the state for a renewable energy project, energy effi-  
43 ciency project, or other construction project undertaken with support  
44 from the department of environmental conservation shall take the neces-  
45 sary contractual actions to ensure each contractor and subcontractor  
46 involved in the construction of the assisted project completes a sworn  
47 certification that the firm:

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

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

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



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

7 (d) in the past three years:

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

9 (ii) has not defaulted on any project;

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

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

19 (e) will not misclassify craft labor employees as independent contrac-  
20 tors.

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

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

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

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

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

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

51 10. Prevailing wage exception. Prevailing wage requirements under the  
52 Act shall not apply to assisted projects covered by project labor agree-  
53 ments.

54 § 229-a. Best value requirements for the solicitation, evaluation and  
55 award of renewable energy projects, energy efficiency projects and other  
56 construction projects undertaken with support from the department of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (i) proposed project;

12 (ii) offeror qualifications;

13 (iii) project team qualifications; and

14 (iv) economically disadvantaged impact.

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

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

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

22 (b) viability of the proposed energy source;

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

24 (d) qualifications of the project team.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 § 229-b. Best value requirements for all work other than construction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 § 5. Section 231 of the labor law is amended by adding a new subdivi-  
 28 sion 8 to read as follows:

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

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

#### 43 ARTICLE 77

#### 44 CLIMATE CHANGE JUST TRANSITION

#### 45 Title 1. General provisions.

#### 46 3. Community just transition.

#### 47 5. Climate jobs and infrastructure.

#### 48 7. Just transition for impacted workers and community assurance.

#### 49 TITLE 1

#### 50 GENERAL PROVISIONS

#### 51 Section 77-0101. Definitions.

#### 52 77-0103. Coordination of programs.

#### 53 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;

1 3. achieve the most cost-effective and the greatest amount of  
2 reductions in greenhouse gas emissions and regulated air contaminants;  
3 4. achieve an equitable distribution of funds;  
4 5. maximize benefits to disadvantaged communities;  
5 6. encourage early action to reduce emissions;  
6 7. minimize emissions leakage;  
7 8. promote equitable access to program participation across programs,  
8 including interoperability with existing programs and the use of  
9 universal eligibility applications for low-income applicants who may be  
10 eligible for multiple services; and  
11 9. identify and utilize best industry standard practices to overcome  
12 barriers to implementation, such as split incentives for energy effi-  
13 ciency.

14 § 77-0105. Transparency and accountability.

15 1. No later than two years following the effective date of this arti-  
16 cle, and every two years thereafter, the department shall produce a  
17 report on the implementation of the programs established under this  
18 article and the extent to which program implementation is meeting stated  
19 program goals and priorities. Such report shall include but not be  
20 limited to:

21 (a) For the program under title three of this article:

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

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

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

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

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

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

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

36 (b) For the program under title five of this article:

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

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

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

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

45 (v) the effectiveness of projects funded under the program in reducing  
46 energy burdens of households, including households in disadvantaged  
47 communities; and

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

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

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

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

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



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

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

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

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

15 § 77-0107. Report on community ownership.

16 1. Not later than two years following the effective date of this  
 17 title, and every two years thereafter, the department, with input from  
 18 the department of labor, and the state energy planning board, shall  
 19 produce a report on barriers to, and opportunities for, community owner-  
 20 ship, including:

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

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

26 (i) distributed renewable energy generation;  
 27 (ii) utility scale renewable energy generation;  
 28 (iii) energy efficiency and weatherization investments; and  
 29 (iv) electric grid investments, including energy storage and smart  
 30 meters.

31 2. Before finalizing the report described in subdivision one of this  
 32 section, the department shall ensure that there are meaningful opportu-  
 33 nities for public participation, including by:

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

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

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

### 45 TITLE 3

#### 46 COMMUNITY JUST TRANSITION

47 Section 77-0301. Definitions.

48 77-0303. Office of community just transition.

49 77-0305. Establishment of community just transition program.

50 77-0307. Administration by the department.

51 77-0309. Allocation of funds.

52 77-0311. Selection process.

53 77-0313. Identification of disadvantaged community needs.

54 77-0315. Community decision-making and accountability mech-  
 55 anisms.

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.

1 Within six months of the effective date of this title, the department  
2 is hereby authorized and directed to establish and administer the commu-  
3 nity just transition program. The department is authorized and directed  
4 to:

5 1. use monies made available for the program, pursuant to sections  
6 77-0309 and 77-0311 of this title;

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

9 3. recover from the monies made available for the program, not in  
10 excess of two percent of annual fund proceeds, its own necessary and  
11 documented costs incurred in administering the program, including  
12 program evaluation; and

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

15 § 77-0309. Allocation of funds.

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

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

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

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

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

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

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

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

54 (c) increasing and supporting opportunities for community ownership of  
55 energy projects by residents of disadvantaged communities, including

1 ownership of the type of energy projects specified under subdivision two  
2 of this section and by establishing community-owned energy cooperatives.  
3 § 77-0311. Selection process.

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

7 2. The department shall competitively select project proposals accord-  
8 ing to the criteria and process established under subdivision three of  
9 this section.

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

13 (a) All projects shall be led by an eligible lead applicant; provide  
14 benefits to designated disadvantaged communities; comply with section  
15 77-0309 of this title; incorporate community decision-making, pursuant  
16 to section 77-0315 of this title, throughout project planning and imple-  
17 mentation; and provide a community accountability mechanism, pursuant to  
18 section 77-0317 of this title and comply with the labor and job perform-  
19 ance standards in this act.

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

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

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

31 (e) The department shall give preference in awards to applicants that  
32 implement mechanisms to maximize community ownership, pursuant to the  
33 findings of the latest report mandated by section 77-0107 of this arti-  
34 cle.

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

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

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

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

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

53 8. The department shall consult with the division of housing and  
54 community renewal to develop strategies to mitigate any adverse economic  
55 impact of the program on tenants and homeowners, including, but not  
56 limited to, residents of rent-regulated housing or recipients of housing

1 subsidies and rent-burdened households; and enhance long-term community  
2 cohesion while preventing gentrification and displacement.

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

9 § 77-0313. Identification of disadvantaged community needs.

10 1. The department, in cooperation with the commissioners of health and  
11 labor shall identify disadvantaged community needs for the purposes of  
12 implementing this section.

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

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

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

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

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

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

38 § 77-0315. Community decision-making and accountability mechanisms.

39 1. The department, in cooperation with the commissioners of health and  
40 labor shall establish criteria for appropriate community decision-making  
41 practices for the purposes of implementing this section.

42 2. Community decision-making practices shall be identified based on  
43 consultations with constituency-based organizations, members of disad-  
44 vantaged communities, and other stakeholders identified by the depart-  
45 ment.

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

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

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

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

4 4. The department, in cooperation with the commissioners of health and  
5 labor shall meet no less than annually to review the criteria and meth-  
6 ods used to identify appropriate community decision-making practices,  
7 and may modify such methods to incorporate new data and scientific find-  
8 ings, subject to the same process requirements listed under subdivision  
9 three of this section.

10 5. For the purposes of paragraph (b) of subdivision three of this  
11 section, "region" shall have the same meaning as in subdivision nine of  
12 section twenty-four hundred twenty-six of the public authorities law.  
13 § 77-0317. Criteria for implementing community accountability mech-  
14 anisms.

15 The department, in cooperation with the commissioners of health and  
16 labor shall establish criteria for implementing community accountability  
17 mechanisms for the purposes of implementing this section.

18 1. Criteria for implementing community accountability mechanisms shall  
19 be based on input from the department and the commissioners of health  
20 and labor.

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

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

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

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

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

## 41 TITLE 5

### 42 CLIMATE JOBS AND INFRASTRUCTURE

#### 43 Section 77-0501. Definitions.

44 77-0503. Establishment of climate jobs and infrastructure  
45 program.

46 77-0505. Administration by the department.

47 77-0507. Allocation of funds.

48 77-0509. Funding instruments.

49 77-0511. Selection process and criteria.

50 77-0513. Comprehensive approach to existing structures.

#### 51 § 77-0501. Definitions.

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

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

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

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

13 4. "Program" means the climate jobs and infrastructure program estab-  
14 lished under this title.

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

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

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

22 § 77-0503. Establishment of climate jobs and infrastructure program.

23 There is hereby established by the department, a climate jobs and  
24 infrastructure program, which shall disburse funds from the climate jobs  
25 and infrastructure fund pursuant to the goals established under section  
26 77-0507 of this title.

27 § 77-0505. Administration by the department.

28 Within six months of the effective date of this title, the department  
29 is hereby authorized and directed to establish and administer the  
30 climate jobs and infrastructure program. The department shall implement  
31 the program in consultation with the public service commission, the New  
32 York independent system operator, the New York energy research and  
33 development authority, and the departments of transportation, health and  
34 labor. The department is authorized and directed to take the following  
35 steps:

36 1. using monies made available from the fund to achieve the goals of  
37 the program outlined in section 77-0507 of this title;

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

40 3. using from the monies made available for the program, not in excess  
41 of two percent of annual fund proceeds, its own necessary and documented  
42 costs incurred in administering the program, including program evalu-  
43 ation; and

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

46 § 77-0507. Allocation of funds.

47 1. Funds from the climate jobs and infrastructure fund shall be  
48 disbursed under the climate jobs and infrastructure program to achieve  
49 quantifiable, verifiable, and significant reductions in greenhouse gas  
50 emissions and of regulated air contaminants while achieving the general  
51 goals specified in subdivision two of this section. These funds are  
52 intended to advance the goals of the climate leadership and community  
53 protection act.

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

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

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

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

11 (d) achieving advancements in social equity, including promoting  
12 community ownership and governance of energy production, including  
13 youth, children, the incarcerated and the formerly incarcerated; and  
14 supporting sustainable local economic development;

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

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

21 (g) encouraging the development of programs to support communities  
22 with high cumulative environmental burden, high peak energy load, and  
23 aging housing stock in order to preserve affordable housing and enhance  
24 long-term community cohesion while preventing gentrification and  
25 displacement;

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

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

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

42 3. Every five years, the department shall designate priority project  
43 types for investments based on capital funding needs, the potential for  
44 greenhouse gas emission reductions, and the potential for regional job  
45 creation. These priorities shall guide the department in soliciting  
46 proposals and selecting projects. The first five years of funding shall  
47 prioritize investment in:

48 (a) public transit, with special priority for intra-city transit  
49 modes, in upstate regions and in other underserved regions of the state,  
50 including through: subsidizing transit rate reductions, the establish-  
51 ment of new transit routes, and improvements in transit service (includ-  
52 ing increased frequency, accessibility and safety), especially to better  
53 serve low- to moderate-income individuals; creating journey to work  
54 routes, dedicated to creating access to major areas of employment in  
55 both urban and non-urban areas, especially routes connecting non-urban  
56 areas without necessitating a trip through the central city; directing



1 infrastructure funding, including through various approaches to support-  
2 ing bonding, revolving loan funds and other financing mechanisms; and  
3 subsidizing electric and zero-emissions vehicles and infrastructure,  
4 including charging infrastructure and energy storage technologies;

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

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

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

20 (e) electric grid upgrades within the state, including the  
21 construction of electricity transmission, energy storage and smart grid  
22 infrastructure, and including support for establishing electric vehicle  
23 infrastructure and systems to optimize distributed energy resources;

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

28 (g) child and dependent care facilities and programs with priority  
29 given to child and dependent care facilities and programs located in or  
30 servicing disadvantaged communities.

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

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

40 § 77-0509. Funding instruments.

41 The department shall determine the appropriate instrument, or variety  
42 of instruments, including grants, loan guarantees, incentives, bond  
43 payments, loan programs, and other mechanisms for achieving the goals  
44 stated in section 77-0507 of this title.

45 § 77-0511. Selection process and criteria.

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

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

50 2. In selecting projects and distributing funds, the department shall  
51 include the following criteria:

52 (a) the extent to which the project meets each of the goals set forth  
53 in subdivisions one and two of section 77-0507 of this title;

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

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

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

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

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

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

16 § 77-0513. Comprehensive approach to existing structures.

17 1. In consultation with the department of state, department of homes  
18 and community renewal, the New York energy research and development  
19 authority and other relevant stakeholders, the department shall develop  
20 a master plan to:

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

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

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

25 (d) improves and protects housing affordability and enhances long-term  
26 community cohesion while preventing gentrification and displacement; and  
27 (e) incorporates health and safety assessments and improvements.

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

34 3. To prepare the master plan, the department shall convene relevant  
35 stakeholders in each region of the state at least once, giving at least  
36 ninety days' notice of the proposed meeting in order for the public to  
37 attend. For the purposes of this subdivision, "region" shall have the  
38 same meaning as in subdivision nine of section twenty-four hundred twen-  
39 ty-six of the public authorities law.

40 TITLE 7

41 JUST TRANSITION FOR IMPACTED WORKERS AND COMMUNITY ASSURANCE

42 Section 77-0701. Definitions.

43 77-0703. Worker assurance program.

44 77-0705. Community assurance program.

45 77-0707. Administration.

46 77-0709. Allocation of funds.

47 77-0711. Selection process.

48 77-0713. Designation of significant impact.

49 77-0715. Public engagement and social dialogue.

50 77-0717. Reporting.

51 § 77-0701. Definitions.

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

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

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

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

11 4. "Applicable firm" means, as applicable:

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

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

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

19 (d) a group of firms within a close geographic proximity, as deter-  
20 mined by the department, for which a group of certified adversely  
21 affected workers work.

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

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

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

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

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

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

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

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

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

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

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

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

43 (d) is disabled;

44 (e) is a veteran;

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

47 (g) is long-term unemployed.

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

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

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

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

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

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

8 15. "Labor organization" means any organization which exists and is  
9 constituted for the purpose, in whole or in part, of collective bargain-  
10 ing, or of dealing with employers concerning grievances, terms or condi-  
11 tions of employment, or of other mutual aid or protection and which is  
12 not a company union. This includes but is not limited to bona fide labor  
13 organizations that are certified or recognized as the organization of  
14 jurisdiction representing the workers involved and/or bona fide building  
15 and construction trades councils and/or district councils and state and  
16 local labor federations comprised of local unions certified or recog-  
17 nized as the representative of the workers.

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

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

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

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

29 18. "Program" means the worker assurance program and community assur-  
30 ance program established under this title.

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

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

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

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

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

44 § 77-0703. Worker assurance program.

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

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

50 (a) adversely affected workers;

51 (b) displaced workers; and

52 (c) disadvantaged workers in significantly impacted communities.

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

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

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

8 (a) adversely affected workers;

9 (b) displaced workers; or

10 (c) disadvantaged workers in significantly impacted communities.

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

13 6. Benefits, services, or financial support upon an application being  
14 accepted, benefits, services, or financial support shall be made avail-  
15 able for qualifying workers for at least three years and up to ten  
16 years.

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

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

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

26 (c) payment towards pension support;

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

29 (e) payment towards early retirement;

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

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

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

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

41 § 77-0705. Community assurance program.

42 There is hereby established within the department, a community assur-  
43 ance program, to be implemented by the department. The purpose of the  
44 program is to:

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

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

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

51 (b) establish job creation programs;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 § 77-0707. Administration.

37 1. Within six months of the effective date of this title, the depart-  
38 ment is hereby authorized and directed to establish the programs author-  
39 ized by this title. The department shall:

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

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

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

49 (d) evaluate disadvantaged communities and other communities to iden-  
50 tify those where permanent facility closure is likely, and engage in  
51 outreach to ensure that constituency-based organizations, labor organ-  
52 izations, and eligible applicants are aware that the program is under  
53 development and invite them to be involved in the development of the  
54 program; and

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

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

5 § 77-0709. Allocation of funds.

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

10 2. The department shall:

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

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

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

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

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

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

27 § 77-0711. Selection process.

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

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

33 2. The department will select projects based on proposals from eligi-  
34 ble lead applicants and labor organizations or based on a request from  
35 individual impacted workers and adversely affected workers.

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

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

43 (a) disadvantaged workers or disadvantaged communities;

44 (b) adversely affected workers;

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

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

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

53 6. In developing the criteria, the department shall attempt to maxi-  
54 mize: the number of people from affected communities that will benefit  
55 from any implemented project and from the suite of projects across the  
56 program; the degree of direct benefits delivered to affected communi-

1 ties; greenhouse gas and emissions reductions for regulated air contam-  
2 inants; and, to the extent possible, the leveraging of private capital.

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

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

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

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

17 § 77-0713. Designation of significant impact.

18 1. The department shall establish criteria to determine when an indus-  
19 try has become significantly impacted as a direct result of policies to  
20 reduce greenhouse gas emissions in New York state. The department shall  
21 identify an initial set of industries that are significantly impacted as  
22 a direct result of emissions reduction policies for the purposes of  
23 implementing this section. After those initial set of industries,  
24 further industries can be added by the department.

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

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

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

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

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

45 (a) publishing draft criteria and a draft list of significantly  
46 impacted industries and making such information available on the inter-  
47 net.

48 (b) holding at least six regional public hearings on the draft crite-  
49 ria and the draft list of significantly impacted industries, including  
50 at least three meetings in the upstate region and three meetings in the  
51 downstate region; and

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

55 4. The department no less than four times annually shall review the  
56 criteria and methods used to identify significantly impacted industries,



1 and may modify such methods to incorporate new data and scientific find-  
2 ings, subject to the same process requirements listed under subdivision  
3 three of this section.

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

10 6. The comptroller of the state of New York shall oversee the distrib-  
11 ution of funds in collaboration with the department.

12 § 77-0715. Public engagement and social dialogue.

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

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

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

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

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

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

49 5. Within two years of the effective date of this title, the depart-  
50 ment will release a draft plan that shall include, at a minimum:

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

52 (b) estimates of sufficient resources for that transition;

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

1 (d) a skills map for each impacted position, current and emerging new  
2 energy jobs and regional employment opportunities with similar require-  
3 ments; and

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

10 6. The department will also seek public input on:

11 (a) a policy for workforce impact statements; and

12 (b) additional potential funding and possible partnerships for oppor-  
13 tunity and workforce and economic revitalization.

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

18 § 77-0717. Reporting.

19 1. No later than two years following the effective date of this title,  
20 and every two years thereafter, the department shall produce a report on  
21 the implementation of the program established under this title and the  
22 extent to which program implementation is meeting stated program goals  
23 and priorities. Such report shall include but not be limited to:

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

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

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

32 (d) recommendations for future policy pertaining to transition assist-  
33 ance; and

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

36 2. (a) Prior to finalizing the report described in subdivision one of  
37 this section, the department shall ensure that there are meaningful  
38 opportunities for public participation, including by:

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

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

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

48 (i) environmental justice representatives;

49 (ii) organizations representing disadvantaged community members;

50 (iii) labor organizations in the area;

51 (iv) local businesses;

52 (v) local governments and school authorities; and

53 (vi) climate change experts.

54 3. The final report described in subdivision one of this section shall  
55 be submitted to the governor, the president of the senate, the speaker  
56 of the assembly, the minority leader of the senate and the minority

1 leader of the assembly and shall be posted on the website of the depart-  
2 ment. Additionally, all reports shall be shared publicly through the  
3 department of information technology and telecommunications of the city  
4 of New York.

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

7 ARTICLE 42

8 CLIMATE POLLUTION FEE

9 Section 3039. Definitions.

10 3040. Imposition of carbon pollution fee.

11 3041. Amount of fee.

12 3042. Applicable entities.

13 3043. Calculation of emissions factors.

14 3044. Exemptions and deductions.

15 3045. Emissions leakage mitigation policy.

16 3046. Creation of funds within the department of environmental  
17 conservation.

18 3047. Reporting.

19 § 3039. Definitions. For the purposes of this article, the following  
20 terms shall have the following meanings:

21 1. "Border carbon adjustment fee" means a fee imposed to address emis-  
22 sions leakage that adjusts the price of a good, at the point of the  
23 importation into the state of goods that require emissions of greenhouse  
24 gases for their production or operation, or export from the state, to  
25 reflect the known or estimated greenhouse gas emissions quantities asso-  
26 ciated with the production of such good.

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

31 3. "Carbon dioxide equivalent" and "CO<sub>2</sub>e" mean the amount of carbon  
32 dioxide by mass that would produce the same global warming impact as a  
33 given mass of another greenhouse gas over an integrated twenty-year  
34 timeframe after emission, based on the best available science.

35 4. "Regulated air contaminant" shall have the same meaning as in  
36 subdivision twenty-two of section 19-0107 of the environmental conserva-  
37 tion law.

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

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

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

45 8. "Fugitive emissions" means those emissions of a greenhouse gas that  
46 are released during extraction, transportation of fuel, during process-  
47 ing, and due to leaks during industrial processes or at solid waste and  
48 wastewater management sites.

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

51 10. "Greenhouse gas emission source" or "source" means any anthropo-  
52 genic source or category of anthropogenic sources of greenhouse gas  
53 emissions.

54 11. "Industrial processes" means those processes that include fossil  
55 fuel extraction, the operation of fuel processing plants, pipeline oper-  
56 ations and other fuel transport, the operation of fuel refineries, and

1 other processes involved in the extraction, refinement or transport of  
2 carbon-based fuels.

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

10 13. "Petroleum product" means all petroleum derivatives, whether in  
11 bond or not, which are commonly burned to produce heat, electricity, or  
12 motion, or which are commonly processed to produce synthetic gas for  
13 burning, including without limitation, propane, gasoline, unleaded gaso-  
14 line, kerosene, heating oil, diesel fuel, kerosene based jet fuel, and  
15 number 4, number 5 and residual oil for utility and non-utility uses,  
16 but not including, petroleum feedstocks to plastics production or other  
17 manufacturing.

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

20 § 3040. Imposition of carbon pollution fee. There is hereby imposed  
21 upon any applicable entity, as specified under section three thousand  
22 forty-two of this article, a fee in an amount determined under section  
23 three thousand forty-one of this article, on:

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

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

29 § 3041. Amount of fee. 1. The amount of the fee imposed by section  
30 three thousand forty of this article, per short ton of carbon dioxide  
31 equivalent content that would be emitted through the combustion of such  
32 product, as determined by the department of environmental conservation,  
33 in consultation with the New York state energy research and development  
34 authority, pursuant to this article, shall be equal to the following:

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

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

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

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

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

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

47 (A) two percent of the previous year's fee if the most recent five-  
48 year environmental integrity metric, described under paragraph (a) of  
49 subdivision two of this section, is less than minus five percent;

50 (B) five percent of the previous year's fee if the most recent five-  
51 year environmental integrity metric, described under paragraph (a) of  
52 subdivision two of this section, is greater than or equal to minus five  
53 percent and less than five percent;

54 (C) seven percent of the previous year's fee if the most recent five-  
55 year environmental integrity metric, described under paragraph (a) of

1 subdivision two of this section, is greater than or equal to five  
2 percent and less than ten percent; or

3 (D) ten percent of the previous year's fee if the most recent five-  
4 year environmental integrity metric, described under paragraph (a) of  
5 subdivision two of this section, is greater than or equal to ten  
6 percent; and

7 (ii) the department of environmental conservation shall also assess a  
8 cost-of-living, or inflation, adjustment using the United States Bureau  
9 of Labor Statistics Consumer Price Index or, if that index is not avail-  
10 able, another index adopted by the commissioner;

11 (d) during calendar years two thousand thirty-four through two thou-  
12 sand fifty-three, an amount equal to the sum of:

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

15 (A) two percent of the previous year's fee if the most recent five-  
16 year environmental integrity metric, described under paragraph (a) of  
17 subdivision two of this section, is less than minus five percent, and  
18 the most recent cumulative environmental integrity metric, described  
19 under paragraph (b) of subdivision two of this section, is less than  
20 minus one percent;

21 (B) five percent of the previous year's fee if:

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

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

34 (C) seven percent of the previous year's fee if:

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

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

47 (D) ten percent of the previous year's fee if:

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

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

54 (ii) the department of environmental conservation shall also assess a  
55 cost-of-living, or inflation, adjustment using the United States Bureau

1 of Labor Statistics Consumer Price Index or, if that index is not avail-  
2 able, another index adopted by the commissioner.

3 2. In two thousand twenty-six, and every year thereafter, the commis-  
4 sioner shall, in consultation with the department of environmental  
5 conservation:

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

8 (i) the numerator of which is:

9 (A) the sum of the quantity of actual statewide greenhouse gas emis-  
10 sions, measured in short tons CO<sub>2</sub>e, in each of the preceding five years,  
11 minus

12 (B) the sum of the quantity of target statewide greenhouse gas emis-  
13 sions, measured in short tons CO<sub>2</sub>e, in each of the preceding five years,  
14 pursuant to subdivision four of this section; and

15 (ii) the denominator of which is the sum of the quantity of target  
16 statewide greenhouse gas emissions, measured in short tons CO<sub>2</sub>e, in each  
17 of the preceding five years, pursuant to subdivision four of this  
18 section; and

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

21 (i) the numerator of which is:

22 (A) the sum of the quantity of actual statewide greenhouse gas emis-  
23 sions, measured in short tons CO<sub>2</sub>e, in each of the preceding years that  
24 are after two thousand eighteen, minus

25 (B) the sum of the quantity of target statewide greenhouse gas emis-  
26 sions, measured in short tons CO<sub>2</sub>e, in each of the preceding years that  
27 are after two thousand eighteen, pursuant to subdivision four of this  
28 section; and

29 (ii) the denominator of which is the sum of the quantity of target  
30 statewide greenhouse gas emissions, measured in short tons CO<sub>2</sub>e, in each  
31 of the preceding years that are after two thousand eighteen, pursuant to  
32 subdivision four of this section; and

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

35 3. The department of environmental conservation shall calculate and  
36 publish the amount of the fee in current dollars for each year, no later  
37 than July first in that year.

38 4. For the purposes of calculating the five-year environmental integ-  
39 rity metric and the cumulative environmental integrity metric under  
40 subdivision two of this section, the department of environmental conser-  
41 vation shall refer to the following statewide greenhouse gas emissions  
42 targets:

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

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

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

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

53 § 3042. Applicable entities. For the purposes of this article, the  
54 term "applicable entity" means:

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

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

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

5 5. for the purposes of any municipal solid waste (or any other feeds-  
6 tocks used for waste-to-energy conversions) sold, used, or entered into  
7 the state;

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

12 (b) the purchaser of such municipal solid waste (or any other feeds-  
13 tocks used for waste-to-energy conversions), in cases where the sale of  
14 the municipal solid waste (or any other feedstocks used for waste-to-en-  
15 ergy conversions) occurs outside of the state;

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

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

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

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

27 § 3043. Calculation of emissions factors. 1. Not later than one year  
28 after the effective date of this article, the New York state energy  
29 research and development authority, in collaboration with the department  
30 of environmental conservation, shall, for each carbon-based fuel identi-  
31 fied in this article and for various sources of electricity consumed in  
32 the state, calculate greenhouse gas emissions factors, in carbon dioxide  
33 equivalent.

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

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

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

44 3. The New York state energy research and development authority, in  
45 collaboration with the department of environmental conservation, shall  
46 calculate, for various sources of electricity consumed in the state,  
47 greenhouse gas emissions factors, in carbon dioxide equivalent per kilo-  
48 watt-hour, associated with the combustion of each carbon-based fuel  
49 identified in this article for the purposes of generating electricity.  
50 This calculation should take into account the best available information  
51 and science regarding power plant heat rates and other operational  
52 parameters that may determine efficiency in the conversion of thermal  
53 energy to electrical energy. The CO<sub>2</sub>e of each kilowatt-hour of electric-  
54 ity delivered in the state shall be determined by taking the weighted  
55 average of the coal, petroleum product, natural gas, municipal solid  
56 waste (or any other feedstocks used for waste-to-energy conversions), or

1 biomass portions of the fuel mix and multiplying each of those portions  
2 separately by the amount of carbon dioxide equivalent emissions created  
3 per kilowatt-hour of electricity produced by each such fuel. The calcu-  
4 lation of emissions factors under this subdivision shall take into  
5 account all electricity consumed in the state, which shall include any  
6 electricity produced within the state and outside of the state.

7 § 3044. Exemptions and deductions. 1. The owner of any electric  
8 generating facility that is covered by the CO2 budget trading program (6  
9 NYCRR part 242) established by the department of environmental conserva-  
10 tion shall be entitled to deduct from the fee imposed by this article an  
11 amount equal to the amount it paid to purchase CO2 emission allowance to  
12 comply with the CO2 budget trading program; provided, however, that the  
13 amount so deducted may be no greater than the total amount of the fee as  
14 calculated in this article.

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

23 3. The department of environmental conservation may exempt certain  
24 sources of greenhouse gas emissions found to produce de minimis quanti-  
25 ties of such emissions. In order to exempt sources of greenhouse gas  
26 emissions under this subdivision, the department of environmental  
27 conservation, in partnership with the New York state energy research and  
28 development authority, shall first promulgate a rule, or rules, outlin-  
29 ing the specific requirements for being classified as a de minimis  
30 source, including, at a minimum, identifying the quantities of green-  
31 house gases that would make a source a de minimis source. In promulgat-  
32 ing such rule, or rules, the department of environmental conservation  
33 shall provide meaningful opportunities for public comment, including  
34 from persons living in disadvantaged communities.

35 § 3045. Emissions leakage mitigation policy. 1. Not later than one  
36 year after the effective date of this article, the department of envi-  
37 ronmental conservation, in partnership with the New York state energy  
38 research and development authority and the commissioner of labor, shall  
39 prepare and approve a scoping plan outlining recommendations for policy  
40 measures to reduce emissions leakage associated with the implementation  
41 of this article.

42 (a) The draft scoping plan shall be developed in consultation with  
43 stakeholders.

44 (b) The department of environmental conservation shall provide mean-  
45 ingful opportunities for public comment from all persons who will be  
46 impacted by the plan, including persons working in energy intensive and  
47 trade exposed industries and persons living in disadvantaged communi-  
48 ties.

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

51 (i) imposing a border carbon adjustment fee;

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

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



1 (iv) quantitative methods for designating vulnerable industries or  
2 companies, such as energy intensive and trade exposed industries; and  
3 (v) policies for mitigating any impacts to consumers and workers  
4 caused by the implementation of policies under this section, including  
5 through the use of revenues from a possible border carbon adjustment fee  
6 for reducing such impacts.

7 (d) Not later than one year after the effective date of this article,  
8 the department of environmental conservation shall submit the final  
9 scoping plan to the governor, the speaker of the assembly and the tempo-  
10 rary president of the senate and post such plan on its website.

11 2. Not later than two years after the effective date of this article,  
12 the department of environmental conservation, after public workshops,  
13 representatives of regulated entities, and other stakeholders, shall,  
14 after no less than two public hearings, promulgate rules and regulations  
15 to implement a policy to reduce emissions leakage associated with the  
16 implementation of this article.

17 (a) The regulations promulgated may include:

18 (i) a border carbon adjustment fee for vulnerable trade exposed energy  
19 intensive industries and companies to reduce emissions;

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

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

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

28 (b) In promulgating these regulations, the department of environmental  
29 conservation shall:

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

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

35 (iii) minimize emissions leakage.

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

40 § 3046. Creation of funds within the department of environmental  
41 conservation. 1. (a) Within ninety days following the effective date of  
42 this article, the commissioner, in coordination with the comptroller,  
43 shall establish a fund within the department of environmental conserva-  
44 tion to be known as the "community just transition fund", consisting of  
45 such amounts as may be appropriated or credited to such fund and thir-  
46 ty-three percent of the total amount of fees received under section  
47 three thousand forty of this article during such year.

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

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

1 percent of the total amount of fees received under section three thou-  
2 sand forty of this article during such year.

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

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

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

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

21 (i) in the first fiscal year in which any fees under this article are  
22 collected, no less than five hundred million dollars shall be trans-  
23 ferred to the worker and community assurance fund; and

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

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

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

33 6. No proceeds received through the implementation of the fee estab-  
34 lished under this article shall fund police, prisons or related infras-  
35 tructure.

36 § 3047. Reporting. 1. No later than three years following the effec-  
37 tive date of this article, and every two years thereafter, the depart-  
38 ment of environmental conservation, in partnership with the comptroller,  
39 and the New York state energy research and development authority, shall  
40 produce a report on the implementation of this article. Such report  
41 shall include but not be limited to:

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

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

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

53 (d) an overview of social benefits from the fees and other policies  
54 established pursuant to this article, including benefits to the economy,  
55 environment, and public health, including the health of women, youth and  
56 children;

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

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

5 (g) an overview of administrative costs for the department of environ-  
6 mental conservation and other state agencies; and

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

10 2. Before finalizing the report described in subdivision one of this  
11 section, the department of environmental conservation shall ensure that  
12 there are meaningful opportunities for public participation, including  
13 by:

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

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

21 3. The final report shall be submitted to the governor, the temporary  
22 president of the senate, the speaker of the assembly, the minority lead-  
23 er of the senate and the minority leader of the assembly, and shall be  
24 posted on the website of the department of environmental conservation.

#### ARTICLE 43

#### HOUSEHOLD AND SMALL BUSINESS ENERGY REBATE

#### Section 3050. Definitions.

28 3051. Establishment of the household and small business energy  
29 rebate program.

30 3052. Administration by the department of environmental conser-  
31 vation.

32 3053. Allocation of funds.

33 3054. Qualifying households.

34 3055. Rebate amount and report.

35 3056. Delivery of funds.

36 3057. Reassessment of allocations.

37 3058. Small business tax credit.

38 3059. Public service commission investigation.

39 § 3050. Definitions. For the purposes of this article, the following  
40 terms shall have the following meanings:

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

45 2. "Eligible moderate-income household" means, with respect to a given  
46 calendar year, any household in New York state whose gross income  
47 exceeds one hundred fifty percent of the poverty line, but does not  
48 exceed the median household income for the county in which they reside,  
49 regardless of citizenship or term of insurance.

50 3. "Eligible small business" means a business, cooperative, or not-  
51 for-profit corporation which is resident in this state, and employs  
52 fifty or less persons (including a sole proprietorship), and with  
53 respect to businesses, is independently owned and operated and not domi-  
54 nant in its field.

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

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

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

8 § 3051. Establishment of the household and small business energy  
9 rebate program. There is hereby established within the department of  
10 environmental conservation, the "household and small business energy  
11 rebate program". The purposes of the program include:

12 1. disbursement of funds from the household and small business energy  
13 rebate fund; for the benefit of the most vulnerable populations, to  
14 offset the increased cost of living associated with the implementation  
15 of the climate pollution fee created pursuant to article forty-two of  
16 this chapter and other regulatory measures established as part of the  
17 state's climate mitigation efforts; and

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

20 § 3052. Administration by the department of environmental conserva-  
21 tion. Within six months of the effective date of this article, the  
22 department of environmental conservation is hereby authorized and  
23 directed to establish and operate the program. The department of envi-  
24 ronmental conservation shall implement the program in consultation with  
25 the office of temporary and disability assistance and the departments of  
26 health and labor. The department of environmental conservation shall be  
27 authorized and directed to: use monies made available for the program  
28 pursuant to article forty-two of this chapter to achieve the purposes of  
29 the program; and exercise such other powers as are necessary for the  
30 proper administration of such program, including issuing rules and regu-  
31 lations consistent with this article.

32 § 3053. Allocation of funds. Funds from the household and small busi-  
33 ness energy rebate fund shall be disbursed under the program to eligible  
34 households and small businesses. The department of environmental conser-  
35 vation shall collect and then distribute directly to eligible households  
36 the entire amount of funds dedicated to the rebate fund. Eligible house-  
37 holds shall be notified that they are automatically being enrolled based  
38 on their tax filing status or receipt of public benefits. The department  
39 of environmental conservation, in coordination with the commissioner,  
40 the public service commission, the New York state office of temporary  
41 and disability assistance, and the department, will make determinations  
42 as to which households and small businesses are eligible for the rebate  
43 and establish an appeals process within the department of environmental  
44 conservation as to such determinations. The department of environmental  
45 conservation shall also establish an opportunity for individual resi-  
46 dents of the state who are not required to file income taxes to apply  
47 for rebates under this article.

48 § 3054. Qualifying households. A rebate will be available to eligible  
49 low-income households, moderate-income households, and additional house-  
50 holds, provided that rebates shall only be provided to such additional  
51 households upon a determination by the department of environmental  
52 conservation that there are adequate funds. Notwithstanding the preced-  
53 ing sentence, the rebate shall be available to a maximum of sixty  
54 percent of the households in New York state. Households shall qualify  
55 regardless of citizenship. The department of environmental conservation  
56 will cooperate with the department and the office of temporary and disa-

1 bility assistance to identify households and place them in the following  
2 four household categories:

3 1. eligible moderate-income households containing New York city resi-  
4 dents;

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

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

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

15 § 3055. Rebate amount and report. 1. The department of environmental  
16 conservation shall determine the appropriate amount of the rebate,  
17 consistent with the standards set forth in this section. Each eligible  
18 household will receive a share of the total allocated rebate funds so  
19 that:

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

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

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

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

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

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

39 (c) existing energy burdens.

40 § 3056. Delivery of funds. 1. The department of environmental conser-  
41 vation, in partnership with the the New York state energy research and  
42 development authority, the public service commission and the office of  
43 temporary and disability assistance shall determine appropriate mech-  
44 anisms for delivering rebates under this article. These departments  
45 shall within the bounds of the law share necessary expertise and data.  
46 That mechanism shall ensure that:

47 (a) Eligible moderate-income households in the first and third house-  
48 hold categories set forth in section three thousand fifty-four of this  
49 article shall receive a direct payment redeemable tax credit.

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

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

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

8 (iii) another form that complies with this subdivision.

9 2. All qualifying households may opt out of the default option for  
10 delivery of the rebate, and can choose to receive their benefit amount  
11 in the form of one of the following four options: (a) utility assist-  
12 ance; (b) a weatherization grant; (c) a voucher for use with their local  
13 transit authority; (d) a redeemable tax credit; or (e) a direct payment  
14 if the authority offers such option.

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

18 § 3057. Reassessment of allocations. 1. Beginning in two thousand  
19 twenty-three and every five years thereafter, the department of environ-  
20 mental conservation, in coordination with the department, the office of  
21 temporary and disability assistance, the public service commission and  
22 the New York state energy research and development authority shall  
23 perform an assessment, which shall include, at a minimum, the following  
24 information: (a) the statewide energy burden for small businesses, and  
25 households by geography and income; (b) whether such energy burden has  
26 stayed level or decreased since the effective date of this section; (c)  
27 the uptake of energy efficiency and renewable energy in each income  
28 category; and (d) an estimated impact on energy burden or another equiv-  
29 alent estimate of the proportion of household income spent on energy.  
30 Based on such information and any additional information that the  
31 department determines is appropriate, the department shall determine  
32 whether the present rebate amount is appropriate or whether it is appro-  
33 priate to reduce the rebate benefit amount.

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

42 § 3058. Small business tax credit. 1. Eligible small businesses shall  
43 receive a redeemable tax credit to reduce any incremental increase in  
44 the cost of doing business associated with the implementation of the fee  
45 established pursuant to article forty-two of this chapter and other  
46 regulatory measures established under the climate and community invest-  
47 ment act or the transition to a low-carbon economy in New York state.

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

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

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

4 § 3059. Public service commission investigation. Not later than six  
5 months after the effective date of this article, the public service  
6 commission shall establish a proceeding to investigate, identify and  
7 mitigate any increase in electric or gas rates for qualifying households  
8 and eligible small businesses that may be projected to arise under this  
9 article and article forty-two of this chapter.

10 § 8. Severability. If any word, phrase, clause, sentence, paragraph,  
11 section, or part of this act shall be adjudged by any court of competent  
12 jurisdiction to be invalid, such judgment shall not affect, impair, or  
13 invalidate the remainder thereof, but shall be confined in its operation  
14 to the word, phrase, clause, sentence, paragraph, section, or part ther-  
15 eof directly involved in the controversy in which such judgment shall  
16 have been rendered.

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

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