

# STATE OF NEW YORK

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824

2025-2026 Regular Sessions

## IN SENATE

(Prefiled)

January 8, 2025

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Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the environmental conservation law, in relation to the climate change adaptation cost recovery program and requirements for climate change adaptive infrastructure projects; to amend the labor law, in relation to the use of funds from the climate change adaptation fund for certain climate risk-related and energy transition projects; to amend the tax law, in relation to the disclosure of certain data from returns of petroleum or fossil fuel businesses to the department of environmental conservation or the New York state energy research and development authority; to amend the state finance law, in relation to expenditure of funds from the climate change adaptation fund; to repeal section 76-0105 of the environmental conservation law, relating to labor and job standards and worker protection; and to amend a chapter of the laws of 2024 amending the environmental conservation law relating to establishing the climate change adaptation cost recovery program, and amending the state finance law relating to establishing the climate change adaptation fund, as proposed in legislative bills numbers S. 2129-B and A. 3351-B, in relation to legislative findings and severability

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

1 Section 1. Subdivisions 1, 5, paragraph c of subdivision 6 and subdivi-  
2 visions 7 and 8 of section 2 of a chapter of the laws of 2024 amending  
3 the environmental conservation law relating to establishing the climate  
4 change adaptation cost recovery program; and amending the state finance  
5 law relating to establishing the climate change adaptation fund, as  
6 proposed in legislative bills numbers S. 2129-B and A. 3351-B, are  
7 amended to read as follows:

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

LBD02898-01-5

1 1. Climate change, resulting primarily from the combustion of fossil  
2 fuels, is an immediate, grave threat to the state's communities, envi-  
3 ronment, and economy. In addition to mitigating the further buildup of  
4 greenhouse gases, the state must take action to adapt to certain conse-  
5 quences of climate change that are irreversible, including rising sea  
6 levels, increasing temperatures, extreme weather events, flooding, heat  
7 waves, [~~toxic~~] harmful algal blooms and other climate-change-driven  
8 threats. Maintaining New York's quality of life into the future,  
9 particularly for young people, who will experience greater impacts from  
10 climate change over their lifetimes, will be one of the state's greatest  
11 challenges over the next three decades. Meeting that challenge will  
12 require a shared commitment of purpose, huge investments in new or  
13 upgraded infrastructure, and new revenue sources to pay for those  
14 investments.

15 5. The obligation to pay under the program is based on the fossil fuel  
16 companies' historic contribution to the buildup of greenhouse gases that  
17 is largely responsible for climate change. The program operates under a  
18 standard of strict liability; companies are required to pay into the  
19 fund based on the amount of historic greenhouse gas emissions attribut-  
20 able to greenhouse gas-producing fossil fuels which they are responsible  
21 for extracting and refining, because the use of [~~their~~] products derived  
22 from such fossil fuels caused [~~the~~] such pollution. No finding of wrong-  
23 doing is required.

24 c. The total assessment [~~rate~~] of [~~\$3~~] \$75 billion dollars [~~per—year~~]  
25 represents a small percentage of the extraordinary cost to New York  
26 State for repairing from and preparing for climate change-driven extreme  
27 events over the next 25 years, and is designed to have a meaningful  
28 impact on the burden borne by New York State taxpayers for climate adap-  
29 tation while being sufficiently limited so as to not impose a punitive  
30 negative impact on an industry in which just the three largest domestic  
31 oil and gas producers made a combined \$85.6 billion in profits in 2023.  
32 Recent science has determined that the largest one hundred fossil fuel  
33 producing companies are responsible for more than 70% of global green-  
34 house gas emissions since 1988, and therefore bear a much higher share  
35 of responsibility for climate damage to New York State than is repres-  
36 ented by the \$75 billion being assessed them.

37 7. A covered period of [~~2000–2018~~] 2000–2024 has been selected. Over  
38 70 percent of the total increase in greenhouse gas concentrations since  
39 the Industrial Revolution has occurred since 1950, with a marked  
40 increase in the rate of emissions after the year 2000. By 2000 the  
41 science of climate change was well established, and no reasonable corpo-  
42 rate actor could have failed to anticipate regulatory action to address  
43 its impacts. In addition, the data necessary to attribute proportional  
44 responsibility is very robust in the covered period.

45 8. This act is not intended to intrude on the authority of the feder-  
46 al government in areas where it has preempted the right of the states to  
47 legislate. This [~~act~~] program is remedial in nature, seeking compen-  
48 sation for damages resulting from the past actions of polluters.

49 § 2. Section 76-0105 of the environmental conservation law, as added  
50 by a chapter of the laws of 2024 amending the environmental conservation  
51 law relating to establishing the climate change adaptation cost recovery  
52 program; and amending the state finance law relating to establishing the  
53 climate change adaptation fund, as proposed in legislative bills numbers  
54 S.2129-B and A. 3351-B, is REPEALED.

55 § 3. Sections 76-0101 and 76-0103 of the environmental conservation  
56 law, as added by a chapter of the laws of 2024 amending the environ-

1 mental conservation law relating to establishing the climate change  
2 adaptation cost recovery program; and amending the state finance law  
3 relating to establishing the climate change adaptation fund, as proposed  
4 in legislative bills numbers S. 2129-B and A. 3351-B, are amended and a  
5 new section 76-0105 is added to read as follows:

6 § 76-0101. Definitions.

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

9 1. "Affiliate" means, with respect to any specified entity, an entity  
10 that directly, or indirectly through one or more intermediaries,  
11 controls or is controlled by, or is under common control with, the enti-  
12 ty specified.

13 2. "Applicable payment date" means [~~September thirtieth~~] December  
14 thirty-first of the [~~second~~] fourth calendar year following the year in  
15 which this article is enacted into law.

16 [~~2.~~] 3. "Climate change adaptive infrastructure project" means an  
17 infrastructure project for purposes of climate change adaptation that:

18 a. includes but is not limited to projects designed to avoid, moder-  
19 ate, repair, or adapt to negative impacts caused by climate change, and  
20 to assist communities, households, and businesses in preparing for  
21 future climate change-driven disruptions. Such [~~projects~~] project types  
22 include but are not limited to restoring coastal wetlands and developing  
23 other nature-based solutions and coastal protections; upgrading storm  
24 water drainage systems; making defensive upgrades to roads, bridges,  
25 subways, and transit systems; preparing for and recovering from hurri-  
26 canes and other extreme weather events; undertaking preventive health  
27 care programs and providing medical care to treat illness or injury  
28 caused by the effects of climate change; relocating, elevating, or  
29 retrofitting [~~sewage~~] wastewater treatment plants vulnerable to flood-  
30 ing; installing energy efficient cooling systems and other weatheriza-  
31 tion and energy efficiency upgrades and retrofits in public and private  
32 buildings, including schools and public housing; upgrading parts of the  
33 electrical grid to increase stability and resilience, including support-  
34 ing the creation of self-sufficient clean energy microgrids; addressing  
35 urban heat island effects through green spaces, urban forestry, and  
36 other interventions; and responding to [~~toxic algae~~] harmful algal  
37 blooms, loss of agricultural topsoil, and other climate-driven ecosystem  
38 threats to forests, farms, fisheries, and food systems; and

39 b. is guided by the project criteria identified in the statewide  
40 climate change adaptation and resilience plan adopted pursuant to subdi-  
41 vision six of section 76-0103 of this article.

42 [~~3. "Coal" shall have the same definition as in section 1-103 of the~~  
43 ~~energy law.~~]

44 4. "Control" (including the terms controlling, controlled by and  
45 under common control with) means the possession, direct or indirect, of  
46 the power to direct or cause the direction of the management and poli-  
47 cies of an entity, whether through the ownership of voting securities,  
48 by contract, or otherwise.

49 5. "Controlled group" means two or more entities [~~treated as a single~~  
50 ~~employer under section 52(a) or (b) or section 414(m) or (e) of the~~  
51 ~~Internal Revenue Code. In applying subsections (a) and (b) of section~~  
52 ~~52, section 1563 of the Internal Revenue Code shall be applied without~~  
53 ~~regard to subsection (b)(2)(C). For purposes of this article, entities~~  
54 ~~in a controlled group are treated as a single entity for purposes of~~  
55 ~~meeting the definition of responsible party and are jointly and~~

~~severally liable for payment of any cost recovery demand owed by any entity in the controlled group~~ that are affiliates of each other.

~~[5.]~~ 6. "Cost recovery amount" means seventy-five billion dollars.

7. "Cost recovery demand" means [a charge asserted against] the portion of the cost recovery amount determined by the department pursuant to the program to be owed by a responsible party [for cost recovery payments under the program] for payment to the fund.

~~[6.]~~ 8. "Covered greenhouse gas emissions" means, with respect to any entity, the total quantity of greenhouse [gases released into the atmosphere during the covered period] gas emissions, expressed in metric tons of carbon dioxide equivalent, as defined in section 75-0101 of this chapter, [including but not limited to releases of greenhouse gases resulting from the extraction, storage, production, refinement, transport, manufacture, distribution, sale, and use of fossil fuels or petroleum products extracted, produced, refined, or sold by such entity] attributable to the total amount of fossil fuels extracted by that entity during the covered period, as well as the total amount of crude oil refined by that entity during the covered period. For the purposes of this article, covered greenhouse gas emissions include those emissions attributable to all fossil fuel extraction and refining worldwide by such entity and are not limited to such emissions within the state.

~~[7.]~~ 9. "Covered period" means the period that began January first, two thousand and ended on December thirty-first, two thousand [eighteen] twenty-four.

~~[8.]~~ 10. "Crude oil" means oil or petroleum of any kind and in any form, including bitumen, oil sands, heavy oil, conventional and unconventional oil, shale oil, natural gas liquids, condensates, and related fossil fuels.

~~[9.]~~ 11. "Entity" means any individual, trustee, agent, partnership, association, corporation, company, municipality, political subdivision, or other legal organization, [including a foreign nation], that holds or held an ownership interest in a fossil fuel business during the covered period. For purposes of this article, entities in a controlled group are treated as a single entity for the purposes of meeting the definition of responsible party and shall be jointly and severally liable for payment of any cost recovery demand owed by any entity in the controlled group.

~~[10.]~~ 12. "Fossil fuel" shall have the same definition as in section 1-103 of the energy law.

~~[11.]~~ 13. "Fossil fuel business" means a business engaging in the extraction of fossil fuels or the refining of petroleum products.

~~[12. "Fuel gases" shall have the same definition as in section 1-103 of the energy law.~~

~~13.]~~ 14. "Fund" means the climate change adaptation fund established pursuant to section ninety-seven-m of the state finance law.

~~[14.]~~ 15. "Greenhouse gas" shall have the same definition as in section 75-0101 of this chapter.

~~[15.]~~ 16. "Nature-based solutions" shall mean projects that utilize or mimic nature or natural processes and functions and that may also offer environmental, economic, and social benefits, while increasing resilience. Nature-based solutions include both green and natural infrastructure.

~~[16.]~~ 17. "Notice of cost recovery demand" means the written communication informing an entity that they are a responsible party and of the amount of the cost recovery demand payable to the fund.

~~[17.]~~ 18. "Petroleum products" shall have the same definition as in section 1-103 of the energy law.

1 ~~[18.]~~ 19. "Program" means the climate change adaptation cost recovery  
2 program established under section 76-0103 of this article.

3 ~~[19.]~~ 20. "Qualifying expenditure" means ~~[an authorized]~~ a payment  
4 from the fund in support of a climate change adaptive infrastructure  
5 project, including its operation and maintenance, as defined by the  
6 department.

7 ~~[20.]~~ 21. "Responsible party" means any entity (or a successor in  
8 interest to such entity described herein), which, during any part of the  
9 covered period, was engaged in the trade or business of extracting  
10 fossil fuel or refining crude oil and is determined by the department to  
11 be responsible for more than one billion tons of covered greenhouse gas  
12 emissions. The term responsible party shall not include any person who  
13 lacks sufficient ~~[connection]~~ contacts with the state to satisfy the  
14 ~~[nexus requirements]~~ due process clause of the United States Constitu-  
15 tion.

16 § 76-0103. The climate change adaptation cost recovery program.

17 1. There is hereby established a climate change adaptation cost recov-  
18 ery program to be administered by the department.

19 2. The purposes of the program shall be the following:

20 a. To secure compensatory payments from responsible parties based on a  
21 standard of strict liability to provide a source of revenue for climate  
22 change adaptive infrastructure projects within the state. Such payments  
23 in aggregate shall total the cost recovery amount and shall be due and  
24 payable on the applicable payment date.

25 b. To determine proportional liability of responsible parties for the  
26 cost recovery amount pursuant to subdivision three of this section;

27 c. To impose cost recovery demands on responsible parties and issue  
28 notices of cost recovery ~~[demands]~~ demand;

29 d. To accept and collect payment from responsible parties;

30 e. To identify climate change adaptive infrastructure projects;

31 f. To disperse funds to climate change adaptive infrastructure  
32 projects; and

33 g. To allocate funds in such a way as to achieve a goal that at least  
34 forty percent of the qualified expenditures from the program, but not  
35 less than thirty-five percent of such expenditures, shall go to climate  
36 change adaptive infrastructure projects that benefit disadvantaged  
37 communities as defined in section 75-0101 of this chapter.

38 3. a. A responsible party shall be strictly liable, without regard to  
39 fault, for a share of the cost recovery amount, which shall be used for  
40 the costs of climate change adaptive infrastructure projects, including  
41 their operation and maintenance, supported by the fund.

42 b. With respect to each responsible party, the cost recovery demand  
43 shall be equal to an amount that bears the same ratio to ~~[seventy-five~~  
44 ~~billion dollars]~~ the cost recovery amount as the responsible party's  
45 applicable share of covered greenhouse gas emissions bears to the aggre-  
46 gate applicable shares of covered greenhouse gas emissions of all  
47 responsible parties.

48 c. The applicable share of covered greenhouse gas emissions taken into  
49 account under this section for any responsible party shall be the amount  
50 by which the covered greenhouse gas emissions attributable to such  
51 responsible party exceeds one billion metric tons.

52 ~~d. [Where an entity owns a minority interest in another entity of ten~~  
53 ~~percent or more, the calculation of the entity's applicable share of~~  
54 ~~greenhouse gas emissions taken into account under this section shall~~  
55 ~~include the applicable share of greenhouse gas emissions taken into~~  
56 ~~account under this section by the entity in which the responsible party~~

~~1 holds a minority interest, multiplied by the percentage of the minority  
2 interest held.~~

~~3 e.] In determining the amount of greenhouse gas emissions attributable  
4 to any entity, [an amount equivalent to nine hundred forty-two and one-  
5 half metric tons of carbon dioxide equivalent shall be treated as  
6 released for every million pounds of coal attributable to such entity,  
7 an amount equivalent to four hundred thirty-two thousand one hundred  
8 eighty metric tons of carbon dioxide equivalent shall be treated as  
9 released for every million barrels of crude oil attributable to such  
10 entity; and an amount equivalent to fifty-three thousand four hundred  
11 forty metric tons of carbon dioxide equivalent shall be treated as  
12 released for every million cubic feet of fuel gases attributable to such  
13 entity]~~ the department may: i. require an entity to provide information  
14 to the department related to past practices, production, extraction,  
15 refining, emissions, or other historical information about such entity  
16 necessary or appropriate to enable the department to determine whether  
17 such entity is a responsible party and, if so, the amount of such  
18 responsible party's covered greenhouse gas emissions; ii. apply consist-  
19 ent emissions factors, consistent with the climate leadership and commu-  
20 nity protection act pursuant to chapter one hundred six of the laws of  
21 two thousand nineteen, to convert extraction and refining data into  
22 greenhouse gas emissions; and iii. utilize information received from the  
23 department of taxation and finance pursuant to subdivision (a) of  
24 section three hundred fourteen of the tax law.

e. i. The department shall issue notices of cost recovery demand to  
25 all responsible parties at the times set forth in paragraph a of subdi-  
26 vision four of this section. Payment of a cost recovery demand shall be  
27 made in full on the applicable payment date provided that, notwithstand-  
28 ing paragraph a of subdivision two of this section, the department may  
29 provide that a responsible party may elect to pay an amount no greater  
30 than ninety-two percent of the amount of the cost recovery demand after  
31 the applicable payment date. Any such payments permitted to be made  
32 after the applicable payment date shall be made within twenty-four years  
33 of the applicable payment date, shall be no less frequent than annual  
34 beginning in the year following the applicable payment date, and shall  
35 not increase over time.

ii. Any responsible party who fails to make a payment required pursu-  
37 ant to this subdivision shall pay a penalty of fifty per centum of the  
38 unpaid payment amount, plus interest on the unpaid payment amount  
39 computed in accordance with section 6621(a)(2) of the United States  
40 internal revenue code of 1986 (Public Law 99-514, 26 U.S.C. section 1 et  
41 seq.) from the date the payment was required to be paid.

~~43 f. [The commissioner may adjust the cost recovery demand amount of a  
44 responsible party refining petroleum products (or who is a successor in  
45 interest to such an entity) if such responsible party establishes to the  
46 satisfaction of the commissioner that a portion of the cost recovery  
47 demand amount was attributable to the refining of crude oil extracted by  
48 another responsible party (or who is a successor in interest to such an  
49 entity) that accounted for such crude oil in determining its cost recov-  
50 ery demand amount.~~

~~51 g. Payment of a cost recovery demand shall be made in full on the  
52 applicable payment date unless a responsible party elects to pay in  
53 installments pursuant to paragraph h of this subdivision.~~

~~54 h. A responsible party may elect to pay the cost recovery demand  
55 amount in twenty-four annual installments, eight percent of the total  
56 due in the first installment and four percent of the total due in each~~

~~of the following twenty three installments. If an election is made under this paragraph, the first installment shall be paid on the applicable payment date and each subsequent installment shall be paid on the same date as the applicable payment date in each succeeding year.~~

~~i.]~~ If there is any addition to the original amount of the final cost recovery demand as of the applicable payment date for failure to timely pay any ~~[installment]~~ amount required to be paid under this subdivision, a liquidation or sale of substantially all the assets of the responsible party (including in a proceeding under U.S. Code: Title 11 or similar case), a cessation of business by the responsible party, or any similar circumstance, then the unpaid balance of all ~~[remaining installments]~~ unpaid amounts shall be due on the date of such event (or in the case of a proceeding under U.S. Code: Title 11 or similar case, on the day before the petition is filed). The preceding sentence shall not apply to the sale of substantially all of the assets of a responsible party to a buyer if such buyer enters into an agreement with the department under which such buyer is liable for ~~[the remaining installments]~~ all unpaid amounts due ~~[under this subdivision]~~ in the same manner as if such buyer were the responsible party.

4. a. Within ~~[one year]~~ thirty months of the effective date of this article, the department shall promulgate such regulations as are necessary or appropriate to carry out this article, including but not limited to:

i. provisions for the department to require an entity to provide information to the department related to past practices, production, extraction, refining, emissions, or other historical information about such entity necessary or appropriate to enable the department to determine whether such entity is a responsible party and, if so, the amount of such responsible party's covered greenhouse gas emissions;

ii. adopting uniform and consistent methodologies using the best available ~~[science]~~ information, such as publicly available databases of historical production data, to determine responsible parties and their applicable share of covered greenhouse gas emissions consistent with the provisions of this article;

~~[ii.]~~ iii. registering entities that are responsible parties under the program;

~~[iii.]~~ iv. issuing notices of cost recovery demand ~~[to responsible parties informing them of the cost recovery demand amount; how and where cost recovery demands can be paid; the potential consequences of nonpayment and late payment; and information regarding their rights to contest an assessment],~~ no later than June thirtieth of the fourth calendar year following the effective date of this article, for each responsible party's cost recovery demand;

~~[iv.]~~ v. establishing a process such that:

(1) a responsible party may file a request for reconsideration of its cost recovery demand with the department within sixty days following service of the notice of cost recovery demand if within the United States, and within ninety days following such service outside the United States, and in doing so shall exhaust administrative remedies;

(2) a request for reconsideration shall state the grounds for the request and include supporting documentation, which may include but is not limited to documentation of the party's covered greenhouse gas emissions and the party's contacts with the state;

(3) the department shall consider whether any such requests for reconsideration, including whether a responsible party refining petroleum products, or who is a successor in interest to such an entity, estab-

lishes to the satisfaction of the department that a portion of the cost recovery demand amount was attributable to the refining of crude oil extracted by a responsible party, or who is a successor in interest to such an entity, that was accounted for in determining the cost recovery demand amount of such responsible party, and whether notices of cost recovery demand should be updated, and shall issue updated notices of cost recovery demand, if applicable, which shall include a statement of the grounds of the department's determination, within sixty days following the expiration of all periods for submitting a request for reconsideration under item one of this subparagraph;

(4) if notices of cost recovery demand issued pursuant to item three of this subparagraph result in a new responsible party receiving a notice of cost recovery demand that was not issued a notice of cost recovery demand by the date required by subparagraph iv of this paragraph, then, in the same manner as set forth in items one, two and three of this subparagraph, such responsible party shall have sixty days from service within the United States, and ninety days from service outside the United States, to file a request for reconsideration, which filing shall exhaust such responsible party's administrative remedies, and the department shall consider such request for reconsideration and issue updated notices of cost recovery demand, if applicable, in the manner contemplated by item three of this subparagraph;

(5) if any updating of notices of cost recovery demand pursuant to such processes for reconsideration results in a new responsible party that was not previously issued a cost recovery demand, such new responsible party shall also be given the opportunity to file a request for reconsideration in the same manner as set forth in item four of this subparagraph, and such process shall continue until no new responsible party results from issuance of notices of cost recovery demand; and

(6) if the processes in this subparagraph result in issuances of notices of cost recovery demand after the applicable payment date, then the applicable payment date shall be the date which is thirty days after the final issuance of notices of cost recovery demand; and

vi. accepting payments from, pursuing collection efforts against, and negotiating settlements with responsible parties~~], and~~

~~v. adopting procedures for identifying and selecting climate change adaptive infrastructure projects eligible to receive qualifying expenditures, including legislative budget appropriations, issuance of requests for proposals from localities and not-for-profit and community organizations, grants to private individuals, or other methods as determined by the department, and for dispersing moneys from the fund for qualifying expenditures. When considering projects intended to stabilize tidal shorelines, the department shall encourage the use of nature-based solutions. Total qualifying expenditures shall be allocated in such a way as to achieve a goal that at least forty percent of the qualified expenditures from the program, but not less than thirty five percent of such expenditures, shall go to climate change adaptive infrastructure projects that benefit disadvantaged communities as defined in section 75-0101 of this chapter].~~

b. The department shall hold at least two public hearings, one in-person and one virtual, on proposed regulations, with a minimum of thirty days' public notice in compliance with the provisions of article seven of the public officers law.

5. The department shall develop procedures to make publicly available, by posting on its website, all data related to fossil fuel

1 extraction and refining by entities which the department obtains pursuant to the program, to the maximum extent practicable.

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3 6. Within [~~two years~~] eighteen months of the [~~effective date of this article~~] promulgation of the final regulations pursuant to subdivision four of this section, the department shall complete a statewide climate change adaptation [~~master~~] and resilience plan, which shall be publicly available, including at a minimum on the department's website, and updated no less than every three years following the procedures of this subdivision, for the purpose of guiding the dispersal of funds, pursuant to section ninety-seven-m of the state finance law, to all regions of the state in a timely, efficient, and equitable manner [~~to all regions of the state~~] in accordance with the provisions of this chapter. In completing such plan, the department shall:

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14 a. collaborate with the department of state, [~~empire state development~~] homes and community renewal, the department of agriculture and markets, the New York state energy research and development authority, the department of public service, the department of transportation, the department of health, the division of budget and the [~~New York independent systems operator~~] division of homeland security and emergency services;

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21 b. assess the adaptation needs [~~and vulnerabilities~~] of various areas vital to the state's economy, normal functioning, and the health and well-being of New Yorkers, including but not limited to: agriculture, biodiversity, ecosystem services, education, finance, healthcare, manufacturing, housing and [~~real estate~~] land use, retail, tourism (including state and municipal parks), transportation, and municipal and local government.

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28 c. identify major potential, proposed, and ongoing climate change adaptive infrastructure projects throughout the state;

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30 d. identify opportunities for alignment with existing federal, state, and local funding streams;

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32 e. identify potential municipal, not-for-profit, and community organization grant programs;

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34 f. include in such plan project criteria, project types and recommendations for identifying and selecting climate change adaptive infrastructure projects eligible to receive qualifying expenditures. When considering projects intended to stabilize tidal shorelines, the department shall encourage the use of nature-based solutions;

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39 g. consult with stakeholders, including local governments, businesses, environmental advocates, the federally designated bulk system operator, relevant subject area experts, and representatives of disadvantaged communities; and

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43 [~~f.~~] h. provide opportunities for public engagement in all regions of the state, including by holding at least two public hearings, one in-person and one virtual, with meaningful opportunities for participation and public comment from all segments of the population, including persons living in disadvantaged communities as identified pursuant to section 75-0111 of this chapter, a minimum of sixty days' public notice in compliance with the provisions of article seven of the public officers law, on a draft of the plan, a summary and analysis of the public comments and a description of any changes made to the plan based on the public comments received.

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53 [~~6.~~] 7. Total qualifying expenditures shall be allocated in such a way as to achieve a goal that at least forty percent of the qualified expenditures from the program, but not less than thirty-five percent of such expenditures, shall go to climate change adaptive infrastructure

1 projects that benefit disadvantaged communities as defined in section  
 2 75-0101 of this chapter.

3 ~~8.~~ The department [~~, the department of taxation and finance,~~] and the  
 4 attorney general are hereby authorized to implement and enforce the  
 5 provisions of this article.

6 ~~[7. The department or the department of taxation and finance shall~~  
 7 ~~provide an opportunity to be heard to any responsible parties that seek~~  
 8 ~~to contest a cost recovery demand. Determinations made in favor of a~~  
 9 ~~petitioner after such hearing shall be final and conclusive. A determi-~~  
 10 ~~nation in favor of the state may be appealed under article seventy-eight~~  
 11 ~~of the civil practice law and rules.~~

12 ~~8-]~~ 9. Moneys received from cost recovery demands shall be deposited  
 13 in the climate change adaptation fund established pursuant to section  
 14 ninety-seven-m of the state finance law.

15 ~~[9-]~~ 10. a. The department shall conduct an [~~independent~~] evaluation  
 16 of the climate change adaptation cost recovery program. The purpose of  
 17 this evaluation is to determine the effectiveness of the program in  
 18 achieving its purposes as defined in subdivision two of this section.  
 19 Such evaluation shall include, at minimum:

20 i. a list of all responsible parties and their respective cost recov-  
 21 ery demands, as well as any changes to an entity's status as a responsi-  
 22 ble party during the preceding program year;

23 ii. an accounting of all cost recovery demands made to responsible  
 24 parties, actual monies collected, and penalties or other collection  
 25 measures taken during the preceding program year;

26 iii. an accounting of all expenditures from the climate change adapta-  
 27 tion fund established pursuant to section ninety-seven-m of the state  
 28 finance law, including at a minimum:

29 (1) expenditures that benefit disadvantaged communities as defined in  
 30 section 75-0101 of this chapter;

31 (2) expenditures by project type;

32 (3) expenditures by percentage of overall funding used for grant  
 33 programs for municipalities and not-for-profit and community organiza-  
 34 tions; and

35 (4) expenditures for administration and implementation support;

36 iv. a review of climate change adaptive infrastructure projects'  
 37 status, including the number of projects that have been completed and  
 38 those projects which have been identified and remain unfunded;

39 v. a summary of the geographic distribution of climate change adaptive  
 40 infrastructure projects; and

41 vi. identification of future spending needs.

42 b. Such evaluation shall be made public on the department's website  
 43 and provided to the governor, the temporary president of the senate and  
 44 the speaker of the assembly on or before January first of the second  
 45 calendar year following the year in which this article is enacted into  
 46 law, and annually on or before September thirtieth thereafter.

47 ~~[c. Any entity contracted by the department to conduct such evaluation~~  
 48 ~~shall receive prompt payment of all moneys due upon completion of such~~  
 49 ~~evaluation.]~~

50 11. The department shall publish all information, requests  
 51 for proposals, application forms, procedures and guidelines relating to  
 52 climate change adaptive infrastructure projects on its website and in a  
 53 manner that is accessible to the public and all potential recipients.

54 § 76-0105. Requirements for climate change adaptive infrastructure  
 55 projects.

56 For each contract for climate change adaptive infrastructure projects,  
funded in part or in whole from the climate change adaptation fund

1 established pursuant to section ninety-seven-m of the state finance law,  
2 by a public entity, or a third party acting on behalf and for the bene-  
3 fit of a public entity, the "public work" for the purposes of this  
4 subdivision shall ensure that such contract shall contain a provision  
5 that the iron and steel used or supplied in the performance of the  
6 contract or any subcontract thereto, shall be produced or made in whole  
7 or substantial part in the United States, its territories or  
8 possessions. In the case of an iron or steel product all manufacturing  
9 must take place in the United States, from the initial melting stage  
10 through the application of coatings, except metallurgical processes  
11 involving the refinement of steel additives.

12 § 4. Section 224-f of the labor law, as added by section 3 of part TT  
13 of chapter 56 of the laws of 2023, is amended to read as follows:

14 § 224-f. Wage requirements for certain climate risk-related and energy  
15 transition projects. 1. For purposes of this section, a "covered climate  
16 risk-related and energy transition project" means a construction project  
17 that receives at least one hundred thousand dollars of funds from the  
18 New York climate action fund climate investment account established  
19 pursuant to section ninety-nine-qq of the state finance law or the  
20 climate change adaptation fund established pursuant to section ninety-  
21 seven-m of the state finance law.

22 2. A covered climate risk-related and energy transition project shall  
23 be subject to prevailing wage requirements in accordance with sections  
24 two hundred twenty, two hundred twenty-a, two hundred twenty-b, two  
25 hundred twenty-i, two hundred twenty-three, and two hundred  
26 twenty-four-b of this article, provided that a covered climate risk-re-  
27 lated and energy transition project may still otherwise be considered a  
28 covered project pursuant to section two hundred twenty or two hundred  
29 twenty-four-a of this article if it meets the definition therein.

30 3. For purposes of this section, a covered climate risk-related and  
31 energy transition project shall exclude:

32 a. Privately owned construction work performed under a pre-hire  
33 collective bargaining agreement between an owner or developer and a bona  
34 fide building and construction trades labor organization which has  
35 established itself, and/or its affiliates, as the collective bargaining  
36 representative for all persons who will perform work on such a project,  
37 and which provides that only contractors and subcontractors who sign a  
38 pre-negotiated agreement with the labor organization can perform work on  
39 such a project; or

40 b. Construction work on one- or two-family dwellings where the proper-  
41 ty is the owner's primary residence, or construction work performed on  
42 property where the owner of the property owns no more than four dwelling  
43 units; or

44 c. Construction work performed on a multiple residence and/or ancil-  
45 lary amenities or installations that is wholly privately owned in any of  
46 the following circumstances:

47 (i) where no less than twenty-five percent of the residential units  
48 are affordable and shall be retained subject to an anticipated regulato-  
49 ry agreement with a local, state, or federal governmental entity, or a  
50 not-for-profit entity with an anticipated formal agreement with a local,  
51 state, or federal governmental entity for purposes of providing afforda-  
52 ble housing in a given locality or region provided that the period of  
53 affordability for a residential unit deemed affordable under the  
54 provisions of this paragraph shall be for no less than fifteen years  
55 from the date of construction; or

1 (ii) where no less than thirty-five percent of the residential units  
2 involves the provision of supportive housing services for vulnerable  
3 populations provided that such units are subject to an anticipated regu-  
4 latory agreement with a local, state, or federal governmental entity.

5 4. As a condition of receiving funds from the New York climate action  
6 fund climate investment account established pursuant to section ninety-  
7 nine-qq of the state finance law or from the climate change adaptation  
8 fund established pursuant to section ninety-seven-m of the state finance  
9 law for a covered climate risk-related and energy transition project,  
10 the owner or developer of such covered climate risk-related and energy  
11 transition project, or a third party acting on such owner's or develop-  
12 er's behalf, shall agree to enter into a labor peace agreement with at  
13 least one bona fide labor organization either:

14 a. where such bona fide labor organization is actively representing  
15 non-construction employees who will be working within the covered  
16 climate risk-related and energy transition project once built; or

17 b. upon notice by a bona fide labor organization that is attempting to  
18 represent such non-construction employees.

19 5. For purposes of this section "labor peace agreement" means an  
20 agreement between an owner and/or developer and labor organization that,  
21 at a minimum, protects the state's proprietary interests by prohibiting  
22 labor organizations and members from engaging in picketing, work stop-  
23 pages, boycotts, and any other economic interference.

24 6. The owner or developer using funds from the New York climate action  
25 fund climate investment account established pursuant to section ninety-  
26 nine-qq of the state finance law or from the climate change adaptation  
27 fund established pursuant to section ninety-seven-m of the state finance  
28 law for a covered climate risk-related and energy transition project  
29 pursuant to this section shall:

30 a. require the use of apprenticeship agreements as defined by article  
31 twenty-three of this chapter; or for industries without apprenticeship  
32 programs, require the use of workforce training, preferably in conjunc-  
33 tion with a bona fide labor organization; and

34 b. consider use of registered pre-apprenticeship direct entry programs  
35 for the recruitment of local and/or disadvantaged workers.

36 7. For purposes of this section, the "fiscal officer" shall be deemed  
37 to be the commissioner. The enforcement of any covered climate risk-re-  
38 lated and energy transition project under this section shall be subject  
39 to the requirements of sections two hundred twenty, two hundred twenty-  
40 ty-a, two hundred twenty-b, two hundred twenty-i, two hundred twenty-  
41 three, two hundred twenty-four-b of this article, and section two  
42 hundred twenty-seven of this chapter and within the jurisdiction of the  
43 fiscal officer; provided, however, nothing contained in this section  
44 shall be deemed to construe any covered climate risk-related and energy  
45 transition project as otherwise being considered public work pursuant to  
46 this article.

47 8. The fiscal officer may issue rules and regulations governing the  
48 provisions of this section. Violations of this section shall be grounds  
49 for determinations and orders pursuant to section two hundred twenty-b  
50 of this article.

51 9. For any building service work on a covered climate risk-related and  
52 energy transition project, prevailing wage shall be paid consistent with  
53 article nine of this chapter.

54 10. Any public entity receiving at least five million dollars in funds  
55 from the New York climate action fund climate investment account estab-  
56 lished pursuant to section ninety-nine-qq of the state finance law or

1 from the climate change adaptation fund established pursuant to section  
2 ninety-seven-m of the state finance law for a project which involves the  
3 construction, reconstruction, alteration, maintenance, moving, demoli-  
4 tion, excavation, development or other improvement of any building,  
5 structure or land, shall be subject to section two hundred twenty-two of  
6 this article.

7 § 5. Subdivision (a) of section 314 of the tax law, as amended by  
8 chapter 190 of the laws of 1990, is amended to read as follows:

9 (a) General.~~[-]~~ Except in accordance with proper judicial order or as  
10 otherwise provided by law, it shall be unlawful for any tax commission-  
11 er, any officer or employee of the department of taxation and finance,  
12 or any person who, pursuant to this section, is permitted to inspect any  
13 return, or to whom any information contained in any return is furnished,  
14 or any person engaged or retained by such department on an independent  
15 contract basis, or any person who in any manner may acquire knowledge of  
16 the contents of a return filed pursuant to this article, to divulge or  
17 make known in any manner the amount of income or gross receipts or any  
18 particulars set forth or disclosed in any return under this article. The  
19 officers charged with the custody of such returns shall not be required  
20 to produce any of them or evidence of anything contained in them in any  
21 action or proceeding in any court, except on behalf of the state or the  
22 commissioner of taxation and finance in an action or proceeding under  
23 the provisions of this chapter or in any other action or proceeding  
24 involving the collection of a tax due under this chapter to which the  
25 state or the commissioner is a party or a claimant, or on behalf of any  
26 party to any action or proceeding under the provisions of this article  
27 when the returns or facts shown thereby are directly involved in such  
28 action or proceeding, in any of which events the court may require the  
29 production of, and may admit in evidence, so much of said returns or of  
30 the facts shown thereby as are pertinent to the action or proceeding and  
31 no more. The commissioner may, nevertheless, publish a copy or a summary  
32 of any determination or decision rendered after the formal hearing  
33 provided for in this chapter. Nothing herein shall be construed to  
34 prohibit the delivery to a petroleum business or its duly authorized  
35 representative of a copy of any return filed by it, nor to prohibit the  
36 publication of statistics so classified as to prevent the identification  
37 of particular returns and the items thereof, or the disclosure of data  
38 other than taxpayer identity information from a return or returns of one  
39 or more petroleum or fossil fuel businesses to the department of envi-  
40 ronmental conservation or the New York state energy research and devel-  
41 opment authority for the purpose of implementing the New York state  
42 climate change superfund act, or the publication of delinquent lists  
43 showing the names of petroleum businesses who have failed to pay their  
44 taxes at the time and in the manner provided by section three hundred  
45 eight of this article together with any relevant information which in  
46 the opinion of the commissioner may assist in the collection of such  
47 delinquent taxes; or the inspection by the attorney general or other  
48 legal representatives of the state of the return of any petroleum busi-  
49 ness which shall bring action to set aside or review the tax based ther-  
50 eon, or against whom an action or proceeding under this chapter has been  
51 recommended by the commissioner or the attorney general or has been  
52 instituted; or the inspection of the returns of any petroleum business  
53 by the comptroller or duly designated officer or employee of the state  
54 department of audit and control, for purposes of the audit of a refund  
55 of any tax paid by such petroleum business under this article. Provided,  
56 further, nothing herein shall be construed to prohibit the disclosure of

1 taxpayer identity information, including name, mailing address and  
2 taxpayer identifying number (social security account number, or such  
3 other number as has been assigned by the secretary of the United States  
4 treasury or [~~his~~] such secretary's delegate, or by the commissioner of  
5 taxation and finance), with respect to persons who are registered as  
6 residual petroleum product or aviation fuel businesses under this arti-  
7 cle or as distributors of motor fuel or diesel motor fuel or kero-jet  
8 fuel only for the purpose of article twelve-A of this chapter or this  
9 article, whose registration as a residual petroleum product business or  
10 as such distributor has been cancelled or suspended pursuant to this  
11 article or such article twelve-A or whose application for registration  
12 as a residual petroleum product business or as such distributor has been  
13 refused pursuant to this article or such article twelve-A. In addition,  
14 the commissioner may disclose the fact that a person is not registered  
15 as a residual petroleum business under this article or as a distributor  
16 of motor fuel, diesel motor fuel or kero-jet fuel only under article  
17 twelve-A of this chapter. Information disclosed pursuant to this subdi-  
18 vision shall not, by itself, be construed as proof of compliance or  
19 noncompliance with the provisions of this chapter.

20 § 6. Section 97-m of the state finance law, as added by a chapter of  
21 the laws of 2024 amending the environmental conservation law, relating  
22 to establishing the climate change adaptation cost recovery program; and  
23 amending the state finance law relating to establishing the climate  
24 change adaptation fund, as proposed in legislative bills numbers S.  
25 2129-B and A. 3351-B, is amended to read as follows:

26 § 97-m. Climate change adaptation fund. 1. There is hereby established  
27 in the custody of the comptroller and the commissioner of taxation and  
28 finance a special [~~revolving~~] revenue fund to be known as the "climate  
29 change adaptation fund" for the purpose of receiving moneys through cost  
30 recovery demands and issuing funds for qualifying expenditures pursuant  
31 to the climate change adaptation cost recovery program established in  
32 article seventy-six of the environmental conservation law.

33 2. No monies shall be expended from the fund for any [~~project~~] purpose  
34 except:

35 a. following appropriation by the legislature, qualifying expenditures  
36 pursuant to the program, including their operation and maintenance, as  
37 well as reasonable costs and expenses incurred by state entities for  
38 administering and directly supporting the implementation of climate  
39 change adaptive infrastructure projects under the program; provided,  
40 however, that no more than one percent of the receipts of the fund may  
41 be used for such administrative or implementation costs; and

42 b. Following appropriation or authorization by the legislature, trans-  
43 fer to other funds for investments, payments or benefits directly  
44 related to such climate change adaptive infrastructure projects, as  
45 appropriate.

46 3. Any appropriation for qualifying expenditures shall indicate by  
47 project type the amount of qualifying expenditures to be made available,  
48 however, notwithstanding any other provision of law to the contrary,  
49 amounts associated with various project types shall be fully inter-  
50 changeable within the overall appropriation.

51 4. Revenues in the fund shall be kept separate and shall not be  
52 commingled with any other moneys in the custody of the comptroller or  
53 the commissioner of taxation and finance. All deposits of such revenues  
54 shall, if required by the comptroller, be secured by obligations of the  
55 United States or of the state having a market value equal at all times  
56 to the amount of such deposits and all banks and trust companies are

1 authorized to give security for such deposits. Any such revenues in such  
2 fund may, upon the discretion of the comptroller, be invested in obli-  
3 gations in which the comptroller is authorized to invest pursuant to  
4 section ninety-eight-a of this article.

5 ~~[4.]~~ 5. All payments of moneys from the fund shall be made on the  
6 audit and warrant of the comptroller.

7 § 7. Section 6 of a chapter of the laws of 2024 amending the environ-  
8 mental conservation law relating to establishing the climate change  
9 adaptation cost recovery program; and amending the state finance law  
10 relating to establishing the climate change adaptation fund, as proposed  
11 in legislative bills numbers S. 2129-B and A. 3351-B, is amended to read  
12 as follows:

13 § 6. Severability. If any word, phrase, clause, sentence, paragraph,  
14 section, or part of this act shall be adjudged by any court of competent  
15 jurisdiction to be invalid, such judgment shall not affect, impair, or  
16 invalidate the remainder thereof, but shall be confined in its operation  
17 to the word, phrase, clause, sentence, paragraph, section, or part ther-  
18 eof directly involved in the controversy in which such judgment shall  
19 have been rendered. It is hereby declared to be the intent of the legis-  
20 lature that this act would have been enacted even if such invalid  
21 provisions had not been included herein.

22 § 8. Severability. If any word, phrase, clause, sentence, paragraph,  
23 section, or part of this act shall be adjudged by any court of competent  
24 jurisdiction to be invalid, such judgment shall not affect, impair, or  
25 invalidate the remainder thereof, but shall be confined in its operation  
26 to the word, phrase, clause, sentence, paragraph, section, or part ther-  
27 eof directly involved in the controversy in which such judgment shall  
28 have been rendered. It is hereby declared to be the intent of the legis-  
29 lature that this act would have been enacted even if such invalid  
30 provisions had not been included herein.

31 § 9. Construction. This act, being necessary for the general health,  
32 safety, and welfare of the people of this state, shall be liberally  
33 construed to effect its purpose.

34 § 10. This act shall take effect on the same date and in the same  
35 manner as a chapter of the laws of 2024 amending the environmental  
36 conservation law relating to establishing the climate change adaptation  
37 cost recovery program; and amending the state finance law relating to  
38 establishing the climate change adaptation fund, as proposed in legisla-  
39 tive bills numbers S. 2129-B and A. 3351-B, takes effect.