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STATE OF NEW YORK

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2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

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:

Section 1. Subdivisions 1, 5, paragraph c of subdivision 6 and subdivisions 7 and 8 of section 2 of 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, are amended to read as follows:

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

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

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

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

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

8. This act is not intended to intrude on the authority of the federal government in areas where it has preempted the right of the states to legislate. This [~~act~~] **program** is remedial in nature, seeking compensation for damages resulting from the past actions of polluters.

§ 2. Section 76-0105 of the environmental conservation law, as added by 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, is REPEALED.

§ 3. Sections 76-0101 and 76-0103 of the environmental conservation law, as added by 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, are amended and a new section 76-0105 is added to read as follows:

§ 76-0101. Definitions.

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

1. **"Affiliate" means, with respect to any specified entity, an entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the entity specified.**

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

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

a. includes but is not limited to projects designed to avoid, moderate, repair, or adapt to negative impacts caused by climate change, and to assist communities, households, and businesses in preparing for future climate change-driven disruptions. Such [~~projects~~] **project types** include but are not limited to restoring coastal wetlands and developing other nature-based solutions and coastal protections; upgrading storm water drainage systems; making defensive upgrades to roads, bridges, subways, and transit systems; preparing for and recovering from hurricanes and other extreme weather events; undertaking preventive health care programs and providing medical care to treat illness or injury caused by the effects of climate change; relocating, elevating, or retrofitting [~~sewage~~] **wastewater** treatment plants vulnerable to flooding; installing energy efficient cooling systems and other weatherization and energy efficiency upgrades and retrofits in public and private buildings, including schools and public housing; upgrading parts of the electrical grid to increase stability and resilience, including supporting the creation of self-sufficient clean energy microgrids; addressing urban heat island effects through green spaces, urban forestry, and other interventions; and responding to [~~toxic algae~~] **harmful algal** blooms, loss of agricultural topsoil, and other climate-driven ecosystem threats to forests, farms, fisheries, and food systems**; and**

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

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

4. **"Control" (including the terms controlling, controlled by and under common control with) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract, or otherwise.**

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

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

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

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

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

1. There is hereby established a climate change adaptation cost recovery program **to be** administered by the department.

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

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

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

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

d. To accept and collect payment from responsible parties;

e. To identify climate change adaptive infrastructure projects;

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

g. To allocate funds 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.

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

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

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

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

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

~~e.~~] In determining the amount of greenhouse gas emissions attributable to any entity, [~~an amount equivalent to nine hundred forty-two and one-half metric tons of carbon dioxide equivalent shall be treated as released for every million pounds of coal attributable to such entity; an amount equivalent to four hundred thirty-two thousand one hundred eighty metric tons of carbon dioxide equivalent shall be treated as released for every million barrels of crude oil attributable to such entity; and an amount equivalent to fifty-three thousand four hundred forty metric tons of carbon dioxide equivalent shall be treated as released for every million cubic feet of fuel gases attributable to such entity~~] the department may: i. 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. apply consistent emissions factors, consistent with the climate leadership and community protection act pursuant to chapter one hundred six of the laws of two thousand nineteen, to convert extraction and refining data into greenhouse gas emissions; and iii. utilize information received from the department of taxation and finance pursuant to subdivision (a) of section three hundred fourteen of the tax law.

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

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

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

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

~~h. A responsible party may elect to pay the cost recovery demand amount in twenty-four annual installments, eight percent of the total 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

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

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:

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**;

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.

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

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

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

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;

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

[~~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**.

[~~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** projects that benefit disadvantaged communities as defined in section 75-0101 of this chapter.

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

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

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

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

i. a list of all responsible parties and their respective cost recovery demands, as well as any changes to an entity's status as a responsible party during the preceding program year;

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

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

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

(2) expenditures by project type;

(3) expenditures by percentage of overall funding used for grant programs for municipalities and not-for-profit and community organizations; and

(4) expenditures for administration and implementation support;

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

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

vi. identification of future spending needs.

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

[~~c. Any entity contracted by the department to conduct such evaluation shall receive prompt payment of all moneys due upon completion of such evaluation.~~] 11. The department shall publish all information, requests for proposals, application forms, procedures and guidelines relating to climate change adaptive infrastructure projects on its website and in a manner that is accessible to the public and all potential recipients.

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

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

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

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

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

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

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

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

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

c. Construction work performed on a multiple residence and/or ancillary amenities or installations that is wholly privately owned in any of the following circumstances:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) General.[--] Except in accordance with proper judicial order or as