

STATE OF NEW YORK

8270

2017-2018 Regular Sessions

IN ASSEMBLY

June 5, 2017

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the
Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, the public service
law, the public authorities law, the labor law and the community risk
and resiliency act, in relation to establishing the New York state
climate and community protection act

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

1 Section 1. Legislative findings and declaration. The legislature here-
2 by enacts the "New York state climate and community protection act" and
3 finds and declares that:
4 1. Climate change is adversely affecting economic well-being, public
5 health, natural resources, and the environment of New York. The adverse
6 impacts of climate change include:
7 a. an increase in the severity and frequency of extreme weather
8 events, such as storms, flooding, and heat waves, which can cause direct
9 injury or death, property damage, and ecological damage (e.g., through
10 the release of hazardous substances into the environment);
11 b. rising sea levels, which exacerbate damage from storm surges and
12 flooding, contribute to coastal erosion and saltwater intrusion, and
13 inundate low-lying areas, leading to the displacement of or damage to
14 coastal habitat, property, and infrastructure;
15 c. a decline in freshwater and saltwater fish populations;
16 d. increased average temperatures, which increase the demand for air
17 conditioning and refrigeration among residents and businesses;
18 e. exacerbation of air pollution; and
19 f. an increase in the incidences of infectious diseases, asthma
20 attacks, heart attacks, and other negative health outcomes. These
21 impacts are having a detrimental effect on some of New York's largest
22 industries, including agriculture, commercial shipping, forestry, tour-
23 ism, and recreational and commercial fishing. These impacts also place

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

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1 additional strain on the physical infrastructure that delivers critical
2 services to the citizens of New York, including the state's energy,
3 transportation, stormwater, and wastewater infrastructure.

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

16 3. Action undertaken by New York to reduce greenhouse emissions will
17 have an impact on global greenhouse gas emissions and the rate of
18 climate change. In addition, such action will encourage other jurisdic-
19 tions to implement complementary greenhouse gas reduction strategies and
20 provide an example of how such strategies can be implemented. It will
21 also advance the development of green technologies and sustainable prac-
22 tices within the private sector, which can have far-reaching impacts
23 such as a reduction in the cost of renewable energy components, and the
24 creation of jobs and tax revenues in New York.

25 4. It shall therefore be a goal of the state of New York to reduce
26 greenhouse gas emissions from all anthropogenic sources 100% over 1990
27 levels by the year 2050, with an incremental target of at least a 50
28 percent reduction in climate pollution by the year 2030, in line with
29 USGCRP and IPCC projections of what is necessary to avoid the most
30 severe impacts of climate change.

31 5. Although substantial emissions reductions are necessary to avoid
32 the most severe impacts of climate change, complementary adaptation
33 measures will also be needed to address those risks that cannot be
34 avoided. Some of the impacts of climate change are already observable in
35 New York state and the northeastern United States. Annual average
36 temperatures are on the rise, winter snow cover is decreasing, heat
37 waves and precipitation are intensifying, and sea levels along New
38 York's coastline are approximately one foot higher than they were in
39 1900. New York has also experienced an increasing number of extreme and
40 unusual weather events, like Hurricanes Irene and Lee and the
41 unprecedented Superstorm Sandy in 2012, which caused at least 53 deaths
42 and \$32 billion in damage in New York state.

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

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

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

8 9. Workers are at the front lines of climate change. Construction
9 workers and building service workers were some of the first workers
10 dedicated to cleaning up damage inflicted by recent storms. These work-
11 ers were often operating in unsafe and toxic environments, cleaning up
12 mold, and working in unstable buildings. In order to protect the health
13 and welfare of these workers, it is in the interest of the state of New
14 York to establish safe and healthy working conditions and proper train-
15 ing for workers involved in climate change related activities. In addi-
16 tion, much of the infrastructure work preparing our state for additional
17 climate change events must happen quickly and efficiently. It is in the
18 interest of the state to ensure labor harmony and promote efficient
19 performance of work on climate change related work sites by requiring
20 workers to be well-trained and adequately compensated.

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

30 11. The complexity of the ongoing energy transition, the uneven
31 distribution of economic opportunity, and the disproportionate cumula-
32 tive economic and environmental burdens on communities mean that there
33 is a strong state interest in setting a floor statewide for labor stand-
34 ards, but allowing and encouraging individual agencies and local govern-
35 ments to raise standards.

36 12. By exercising a global leadership role on greenhouse gas miti-
37 gation and climate change adaptation, New York will position its econo-
38 my, technology centers, financial institutions, and businesses to bene-
39 fit from national and international efforts to address climate change.
40 New York state has already demonstrated leadership in this area by
41 undertaking efforts such as:

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

45 b. chapter 433 of the laws of 2009, establishing a state energy plan-
46 ning board and requiring the board to adopt a state energy plan;

47 c. chapter 388 of the laws of 2011, directing the department of envi-
48 ronmental conservation to promulgate rules and regulations limiting
49 emissions of carbon dioxide by newly constructed major generating facil-
50 ities;

51 d. the adoption of a state energy plan establishing clean energy goals
52 for the year 2030 aimed at reducing greenhouse gas emission levels by
53 40% from 1990 levels, producing 50% of electricity from renewable sourc-
54 es, and increasing energy efficiency from 2012 levels by 23%;

55 e. collaboration with other states on the Regional Greenhouse Gas
56 Initiative, and the development of a regional low carbon fuel standard;

1 f. creation of new offices and task forces to address climate change,
2 including the New York state office of climate change, the renewable
3 energy task force, and the sea level rise task force; and

4 g. the enactment of the Community Risk and Resiliency Act (CRRRA),
5 which requires agencies to consider sea level rise and other climate-re-
6 lated events when implementing certain state programs.

7 This legislation will build upon these past developments by creating a
8 comprehensive regulatory program to reduce greenhouse gas emissions that
9 corresponds with the targets established in executive order no. 24, the
10 state energy plan, and USGCRP and IPCC projections.

11 § 2. The environmental conservation law is amended by adding a new
12 article 75 to read as follows:

13 ARTICLE 75

14 CLIMATE CHANGE

15 Section 75-0101. Definitions.

16 75-0103. New York state climate action council.

17 75-0105. Statewide greenhouse gas emissions report.

18 75-0107. Statewide greenhouse gas emissions limits.

19 75-0109. Scoping plan for statewide greenhouse gas emissions
20 reductions.

21 75-0111. Promulgation of regulations to achieve statewide green-
22 house gas emissions reductions.

23 75-0113. Climate justice working group.

24 75-0115. Implementation reporting.

25 § 75-0101. Definitions.

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

28 1. "Allowance" means an authorization to emit, during a specified
29 year, up to one ton of carbon dioxide equivalent.

30 2. "Carbon dioxide equivalent" means the amount of carbon dioxide by
31 mass that would produce the same global warming impact as a given mass
32 of another greenhouse gas over an integrated twenty-year time frame
33 after emission, based on the best available science.

34 3. "Co-pollutants" means hazardous air pollutants produced by green-
35 house gas emissions sources.

36 4. "Council" means the New York state climate action council estab-
37 lished pursuant to section 75-0103 of this article.

38 5. "Disadvantaged communities" means communities that bear burdens of
39 negative public health effects, environmental pollution, impacts of
40 climate change, and possess certain socioeconomic criteria, as identi-
41 fied pursuant to section 75-0113 of this article.

42 6. "Emissions reduction measures" means programs, measures and stand-
43 ards, authorized pursuant to this chapter, applicable to sources or
44 categories of sources, that are designed to reduce emissions of green-
45 house gases.

46 7. "Greenhouse gas" means carbon dioxide, methane, nitrous oxide,
47 hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other
48 substance emitted into the air that may be reasonably anticipated to
49 cause or contribute to anthropogenic climate change.

50 8. "Greenhouse gas emission limit" means an authorization, during a
51 specified year, to emit up to a level of greenhouse gases specified by
52 the department, expressed in tons of carbon dioxide equivalent.

53 9. "Greenhouse gas emission source" or "source" means any anthropogen-
54 ic source or category of anthropogenic sources of greenhouse gas emis-
55 sions, with the exception of agricultural emissions from livestock or

1 waste decomposition, determined by the department to be capable of being
2 monitored for compliance.

3 10. "Leakage" means a reduction in emissions of greenhouse gases with-
4 in the state that is offset by an increase in emissions of greenhouse
5 gases outside of the state.

6 11. "Greenhouse gas emission source" means any source whose emissions
7 are at a level of significance, as determined by the department, that
8 its participation in the program established under this article will
9 enable the department to effectively reduce greenhouse gas emissions and
10 monitor compliance with the statewide greenhouse gas emissions limits as
11 established in section 75-0107 of this article. Such sources shall
12 include, at minimum:

13 a. Manufacturers, producers, and/or distributors of fossil fuels;

14 b. Any electric generating facilities;

15 c. Any stationary source permitted pursuant to section 19-0311 of this
16 chapter;

17 d. Any other source, capable of being measured, that the department
18 deems to be a major contributor to greenhouse gas emissions in this
19 state.

20 12. "Market-based compliance mechanism" means any of the following:

21 a. A price on greenhouse gas emissions from regulated sources,
22 expressed as a fee per ton of carbon dioxide equivalent released in a
23 given year.

24 b. A system of market-based declining annual aggregate emissions limi-
25 tations for sources or categories of sources that emit greenhouse gases.

26 13. "Statewide greenhouse gas emissions" means the total annual emis-
27 sions of greenhouse gases produced within the state from anthropogenic
28 sources and greenhouse gases produced outside of the state that are
29 associated with the generation of electricity imported into the state.
30 Statewide emissions shall be expressed in tons of carbon dioxide equiv-
31 alents.

32 14. "Statewide greenhouse gas emissions limit" or "statewide emissions
33 limit" means the maximum allowable level of statewide greenhouse gas
34 emissions in a specified year, as determined by the department pursuant
35 to this article.

36 15. "Environmental justice advisory group" shall mean the permanent
37 environmental justice advisory group established by a chapter of the
38 laws of two thousand seventeen amending the environmental conservation
39 law relating to establishing a permanent environmental justice advisory
40 group and an environmental justice interagency coordinating council, as
41 proposed in legislative bills numbers S.3110 and A.2234, relating to
42 establishing a permanent environmental justice advisory group and an
43 environmental justice interagency coordinating council.

44 § 75-0103. New York state climate action council.

45 1. There is hereby established, within the department, the New York
46 state climate action council ("council") which shall consist of the
47 following twenty-five members:

48 a. the commissioners of transportation, health, economic development,
49 agriculture and markets, housing and community renewal, general
50 services, labor, environmental conservation, homeland security and emer-
51 gency services, the chairperson of the public service commission, the
52 superintendent of financial services, the presidents of the New York
53 state energy research and development; New York power authority; Long
54 Island power authority; secretary of state, the chairman of the metro-
55 politan transportation authority and dormitory of the state of New York,
56 or their designee.

1 b. two members appointed by the governor;
2 c. two members to be appointed by the temporary president of the
3 senate;

4 d. two members to be appointed by the speaker of the assembly;
5 e. one member to be appointed by the minority leader of the senate;
6 and

7 f. one member to be appointed by the minority leader of the assembly.
8 2. The at large members shall include at all times individuals with
9 expertise in issues relating to climate change mitigation and/or adapta-
10 tion, such as environmental justice, labor, public health and regulated
11 industries.

12 3. Council members shall receive no compensation for their services
13 but shall be reimbursed for actual and necessary expenses incurred in
14 the performance of their duties.

15 4. The chairperson of the council shall be the commissioner of envi-
16 ronmental conservation or his or her designee.

17 5. A majority of the members of the council shall constitute a quorum.

18 6. Any vacancies on the council shall be filled in the manner provided
19 for in the initial appointment.

20 7. The council shall be authorized to convene advisory panels to
21 assist or advise it in areas requiring special expertise or knowledge.

22 8. The department shall provide the council with such facilities,
23 assistance and data as will enable the council to carry out its powers
24 and duties. Additionally, all other agencies of the state or subdivi-
25 sions thereof may, at the request of the chairperson, provide the coun-
26 cil with such facilities, assistance, and data as will enable the coun-
27 cil to carry out its powers and duties.

28 9. The council shall consult with the climate justice working group
29 established in section 75-0113 of this article, the department of state
30 utility intervention unit, and the federally designated electric bulk
31 system operator.

32 10. The council shall advise the department on:

33 a. The development of statewide greenhouse gas emissions limits rules
34 and regulations, pursuant to section 75-0107 of this article, and regu-
35 lations to achieve statewide greenhouse gas emissions reductions, pursu-
36 ant to section 75-0111 of this article.

37 b. The preparation of a scoping plan for reducing greenhouse gas emis-
38 sions, pursuant to the procedures set forth in section 75-0109 of this
39 article.

40 § 75-0105. Statewide greenhouse gas emissions report.

41 1. No later than one year after the effective date of this article,
42 and each year thereafter, the department shall issue a report on state-
43 wide greenhouse gas emissions, expressed in tons of carbon dioxide
44 equivalents, from all greenhouse gas emission sources in the state,
45 including the relative contribution of each type of greenhouse gas and
46 each type of source to the statewide total.

47 2. The statewide greenhouse gas emissions report shall be a comprehen-
48 sive evaluation, informed by a variety of data, including but not limit-
49 ed to:

50 a. information relating to the use of fossil fuels by sector, includ-
51 ing for electricity generation, transportation, heating, and other
52 combustion purposes;

53 b. information relating to fugitive and vented emissions from systems
54 associated with the production, processing, transport, distribution,
55 storage, and consumption of fossil fuels, including natural gas;

1 c. information relating to emissions from non-fossil fuel sources,
2 including, but not limited to, garbage incinerators, biomass combustion,
3 landfills and landfill gas generators, and anaerobic digesters;

4 d. information relating to emissions associated with manufacturing,
5 chemical production, cement plants, and other processes that produce
6 non-combustion emissions; and

7 e. information from sources that may be required to participate in the
8 registration and reporting system pursuant to subdivision four of this
9 section.

10 3. The statewide greenhouse gas emissions report shall also include an
11 estimate of greenhouse gas emissions associated with the generation of
12 imported electricity which shall be counted as part of the statewide
13 total.

14 4. Within one year after the effective date of this article, the
15 department shall consider establishing a mandatory registry and report-
16 ing system from individual sources to obtain data on greenhouse gas
17 emissions exceeding a particular threshold. If established, such regis-
18 try and reporting system shall apply a consistent reporting threshold to
19 ensure the unbiased collection of data.

20 5. The statewide greenhouse gas emissions report shall also include an
21 estimate of what the statewide greenhouse gas emissions level was in
22 1990.

23 6. The statewide greenhouse gas emissions report shall utilize best
24 available science and methods of analysis, including the comparison and
25 reconciliation of emission estimates from all sources, fuel consumption,
26 field data, and peer-reviewed research.

27 7. The statewide greenhouse gas emissions report shall clearly explain
28 the methodology and analysis used in the department's determination of
29 greenhouse gas emissions and shall include a detailed explanation of any
30 changes in methodology or analysis, adjustments made to prior estimates,
31 as needed, and any other information necessary to establish a scientif-
32 ically credible account of change.

33 8. The department shall hold at least two public hearings to seek
34 public input regarding the methodology and analysis used in the determi-
35 nation of statewide greenhouse gas emissions, and periodically thereaft-
36 er.

37 § 75-0107. Statewide greenhouse gas emissions limits.

38 1. No later than one year after the effective date of this article,
39 the department shall, pursuant to rules and regulations promulgated
40 after at least one public hearing, establish a statewide greenhouse gas
41 emissions limit as a percentage of 1990 emissions, as estimated pursuant
42 to section 75-0105 of this article, as follows:

43 a. 2020: 85% of 1990 emissions.

44 b. 2025: 65% of 1990 emissions.

45 c. 2030: 50% of 1990 emissions.

46 d. 2035: 35% of 1990 emissions.

47 e. 2040: 20% of 1990 emissions.

48 f. 2045: 10% of 1990 emissions.

49 g. 2050: 0% of 1990 emissions.

50 2. In order to ensure the most accurate determination feasible, the
51 department shall utilize the best available scientific, technological,
52 and economic information on greenhouse gas emissions and consult with
53 the council, stakeholders, and the public in order to ensure that all
54 emissions are accurately reflected in its determination of 1990 emis-
55 sions levels.

1 § 75-0109. Scoping plan for statewide greenhouse gas emissions
2 reductions.

3 1. On or before two years of the effective date of this article, the
4 department shall prepare and approve a scoping plan outlining the
5 department's recommendations for attaining the statewide greenhouse gas
6 emissions limits in accordance with the schedule established in section
7 75-0107 of this article.

8 2. The draft scoping plan shall be developed in consultation with the
9 council, environmental justice advisory group, and the climate justice
10 working group established pursuant to section 75-0113 of this article
11 and other stakeholders.

12 a. The department and the council shall hold at least six regional
13 public comment hearings on the draft scoping plan, including three meet-
14 ings in the upstate region and three meetings in the downstate region,
15 and shall allow at least one hundred twenty days for the submission of
16 public comment.

17 b. The department shall provide meaningful opportunities for public
18 comment from all persons who will be impacted by the plan, including
19 persons living in disadvantaged communities as identified pursuant to
20 section 75-0113 of this article.

21 c. On or before thirty months of the effective date of this article,
22 the department shall submit the final scoping plan to the governor, the
23 speaker of the assembly and the temporary president of the senate and
24 post such plan on its website.

25 3. The scoping plan shall identify and make recommendations on regula-
26 tory measures and other state actions that will ensure the attainment of
27 the statewide greenhouse gas emissions limits established pursuant to
28 section 75-0107 of this article. The measures and actions considered in
29 such scoping plan shall at a minimum include:

30 a. Performance-based standards for sources of greenhouse gas emis-
31 sions, including but not limited to sources in the transportation,
32 building, industrial, commercial, and agricultural sectors.

33 b. Market-based mechanisms to reduce statewide greenhouse gas emis-
34 sions or emissions from a particular source category, including an exam-
35 ination of: the imposition of fees per unit of carbon dioxide equivalent
36 emitted and the imposition of emissions caps accompanied by a system of
37 tradable emission allowances.

38 c. Measures to reduce emissions from the electricity sector by
39 displacing fossil-fuel fired electricity with renewable electricity or
40 energy efficiency.

41 d. Land-use and transportation planning measures aimed at reducing
42 greenhouse gas emissions from motor vehicles.

43 e. Measures to achieve long-term carbon sequestration and/or promote
44 best management practices in land use, agriculture and forestry.

45 f. Verifiable, enforceable and voluntary emissions reduction measures.

46 4. In developing such plan the department shall:

47 a. Consider all relevant information pertaining to greenhouse gas
48 emissions reduction programs in other states, regions, localities, and
49 nations.

50 b. Evaluate, using the best available economic models, emission esti-
51 mation techniques and other scientific methods, the total potential
52 costs and potential economic and non-economic benefits of the plan for
53 reducing greenhouse gases, and make such evaluation publicly available.
54 In conducting this evaluation, the department shall quantify:

55 i. The economic and social benefits of greenhouse gas emissions
56 reductions, taking into account the federal social cost of carbon, any

1 other tools that the department deems useful and pertinent for this
2 analysis, and any environmental, economic and public health co-benefits
3 (such as the reduction of co-pollutants and the diversification of ener-
4 gy sources); and

5 ii. The costs of implementing proposed emissions reduction measures,
6 and the emissions reductions that the department anticipates achieving
7 through these measures.

8 c. Take into account the relative contribution of each source or
9 source category to statewide greenhouse gas emissions, and the potential
10 for adverse effects on small businesses, and recommend a de minimis
11 threshold of greenhouse gas emissions below which emission reduction
12 requirements will not apply.

13 d. Identify measures to maximize reductions of both greenhouse gas
14 emissions and co-pollutants in disadvantaged communities as identified
15 pursuant to section 75-0113 of this article.

16 5. The department shall update its plan for achieving the statewide
17 greenhouse gas emissions limits at least once every five years and shall
18 make such updates available to the governor, the speaker of the assembly
19 and the temporary president of the senate and post such updates on its
20 website.

21 § 75-0111. Promulgation of regulations to achieve statewide greenhouse
22 gas emissions reductions.

23 1. No later than three years after the effective date of this article,
24 the department, after public workshops and consultation with the coun-
25 cil, the environmental justice advisory group, and the climate justice
26 working group established pursuant to section 75-0113 of this article,
27 representatives of regulated entities, community organizations, environ-
28 mental groups, health professionals, labor unions, municipal corpo-
29 rations, trade associations and other stakeholders, shall, after no less
30 than two public hearings, promulgate rules and regulations to ensure
31 compliance with the statewide emissions reduction limits.

32 2. The regulations promulgated by the department pursuant to this
33 section shall:

34 a. Ensure that the aggregate emissions of greenhouse gases from green-
35 house gas emission sources will not exceed the statewide greenhouse gas
36 emissions limits established in section 75-0107 of this article.

37 b. Include legally enforceable emissions limits, performance stand-
38 ards, or measures or other requirements to control emissions from green-
39 house gas emission sources.

40 c. Include measures to reduce emissions from greenhouse gas emission
41 sources that have a cumulatively significant impact on statewide green-
42 house gas emissions, such as internal combustion vehicles that burn
43 gasoline or diesel fuel and boilers or furnaces that burn oil or natural
44 gas.

45 3. In promulgating these regulations, the department shall:

46 a. Design and implement all regulations in a manner that seeks to be
47 equitable, to minimize costs and to maximize the total benefits to New
48 York, and encourages early action to reduce greenhouse gas emissions.

49 b. Ensure that greenhouse gas emissions reductions achieved are real,
50 permanent, quantifiable, verifiable, and enforceable by the department.

51 c. Ensure that activities undertaken to comply with the regulations do
52 not result in a net increase in co-pollutant emissions or otherwise
53 disproportionately burden disadvantaged communities as identified pursu-
54 ant to section 75-0113 of this article.

55 d. Prioritize measures to maximize net reductions of greenhouse gas
56 emissions and co-pollutants in disadvantaged communities as identified

1 pursuant to section 75-0113 of this article and encourage early action
2 to reduce greenhouse gas emissions and co-pollutants.

3 e. Minimize leakage.

4 4. Market-based compliance mechanisms.

5 a. The department may consider provisions for the use of market-based
6 compliance mechanisms to comply with the regulations.

7 b. Prior to the inclusion of any market-based compliance mechanism in
8 the regulations, to the extent feasible and in the furtherance of
9 achieving the statewide greenhouse gas emissions limit, the department
10 shall do all of the following:

11 i. Consider the potential for direct, indirect, and cumulative emis-
12 sion impacts from these mechanisms, including localized impacts in
13 disadvantaged communities as identified pursuant to section 75-0113 of
14 this article;

15 ii. Design any market-based compliance mechanism to prevent any
16 increase in the emissions of co-pollutants; and

17 iii. Maximize additional environmental, public health, and economic
18 benefits for the state of New York and for disadvantaged communities
19 identified pursuant to section 75-0113 of this article, as appropriate.

20 c. Such regulations shall include provisions governing how market-
21 based compliance mechanisms may be used by regulated entities subject to
22 greenhouse gas emissions limits and mandatory emission reporting
23 requirements to achieve compliance with their greenhouse gas emissions
24 limits.

25 d. The department shall ensure that, at a minimum, forty percent of
26 any funds collected pursuant to any market-based compliance regulations
27 promulgated under this section as a result of legislative authorization,
28 funds authorized by the public service commission to be collected solely
29 for and directed to the New York state energy research and development
30 authority and proceeds collected by the New York state energy research
31 and development authority from the auction or sale of carbon dioxide
32 emission allowances allocated by the department are invested in a manner
33 which will benefit disadvantaged communities, identified pursuant to
34 section 75-0113 of this article, consistent with the purposes of this
35 article, including, but not limited to, increased access to renewable
36 energy, energy efficiency, weatherization, zero- and low-emission trans-
37 portation, and adaptation opportunities. The department shall consult
38 with the climate justice working group in developing and carrying out
39 such investments.

40 § 75-0113. Climate justice working group.

41 1. There is hereby created within the department, no later than six
42 months after the effective date of this article, a "disadvantaged commu-
43 nities working group." Such working group will be comprised of represen-
44 tatives from: environmental justice communities, the department, the
45 department of health, the New York state energy and research development
46 authority, and the department of labor.

47 a. Environmental justice community representatives shall be members of
48 communities of color, low-income communities, and communities bearing
49 disproportionate pollution and climate change burdens, or shall be
50 representatives of community-based organizations with experience and a
51 history of advocacy on environmental justice issues, and shall include
52 at least three representatives from New York city communities, three
53 representatives from rural communities, and three representatives from
54 upstate urban communities.

55 b. The working group, in consultation with the department, the depart-
56 ments of health and labor, the New York state energy and research devel-

1 opment authority, and the environmental justice advisory group, will
2 establish criteria to identify disadvantaged communities for the
3 purposes of co-pollutant reductions, greenhouse gas emissions
4 reductions, regulatory impact statements, and the allocation of invest-
5 ments related to this article.

6 c. Disadvantaged communities shall be identified based on geographic,
7 public health, environmental hazard, and socioeconomic criteria, which
8 shall include but are not limited to:

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

11 (2) areas with concentrations of people that are of low income, high
12 unemployment, high rent burden, low levels of home ownership, low levels
13 of educational attainment, or members of groups that have historically
14 experienced discrimination on the basis of race or ethnicity; and

15 (3) areas vulnerable to the impacts of climate change such as flood-
16 ing, storm surges, and urban heat island effects.

17 2. Before finalizing the criteria for identifying disadvantaged commu-
18 nities and identifying disadvantaged communities pursuant to subdivision
19 one of this section, the department shall publish draft criteria and a
20 draft list of disadvantaged communities and make such information avail-
21 able on its website.

22 a. The department shall hold at least six regional public hearings on
23 the draft criteria and the draft list of disadvantaged communities,
24 including three meetings in the upstate region and three meetings in the
25 downstate region, and shall allow at least one hundred twenty days for
26 the submission of public comment.

27 b. The department shall also ensure that there are meaningful opportu-
28 nities for public comment for all persons who will be impacted by the
29 criteria, including persons living in areas that may be identified as
30 disadvantaged communities under the proposed criteria.

31 3. The group will meet no less than annually to review the criteria
32 and methods used to identify disadvantaged communities and may modify
33 such methods to incorporate new data and scientific findings. The disad-
34 vantaged communities working group shall review identities of disadvan-
35 tagged communities and modify such identities as needed.

36 § 75-0115. Implementation reporting.

37 1. The department shall, not less than every four years, publish a
38 report which shall include recommendations regarding the implementation
39 of greenhouse gas reduction measures.

40 2. The report shall, at minimum, include:

41 a. Whether the state is on track to meet the statewide greenhouse gas
42 emissions limits established in section 75-0107 of this article.

43 b. An assessment of existing regulations and whether modifications are
44 needed to ensure fulfillment of the statewide greenhouse gas emissions
45 limits.

46 c. An overview of social benefits from the regulations or other meas-
47 ures, including reductions in greenhouse gas emissions and copollutants,
48 diversification of energy sources, and other benefits to the economy,
49 environment, and public health, including women's health.

50 d. An overview of compliance costs for regulated entities and for the
51 department and other state agencies.

52 e. Whether regulations or other greenhouse gas reduction measures
53 undertaken are equitable, minimize costs and maximize the total benefits
54 to the state, and encourage early action.

1 f. Whether activities undertaken to comply with state regulations
2 disproportionately burden disadvantaged communities as identified pursu-
3 ant to section 75-0113 of this article.

4 g. An assessment of local benefits and impacts of any reductions in
5 co-pollutants related to reductions in statewide and local greenhouse
6 gas emissions.

7 h. An assessment of disadvantaged communities' access to or community
8 ownership of the services and commodities identified in section eight of
9 the chapter of the laws of two thousand seventeen which added this arti-
10 cle.

11 i. Whether entities that have voluntarily reduced their greenhouse gas
12 emissions prior to the implementation of this article receive appropri-
13 ate credit for early voluntary reductions.

14 j. Recommendations for future regulatory and policy action.

15 3. In preparing this report, the department shall, at a minimum,
16 consult with the council, and the climate justice working group estab-
17 lished in section 75-0113 of this article.

18 4. The report shall be published and posted on the department's
19 website.

20 § 3. Subdivision 1 of section 54-1523 of the environmental conserva-
21 tion law is amended by adding a new paragraph h to read as follows:

22 h. to establish and implement easily-replicated renewable energy
23 projects, including solar arrays, heat pumps and wind turbines in public
24 low-income housing in suburban, urban and rural areas.

25 § 4. The public service law is amended by adding a new section 66-o to
26 read as follows:

27 § 66-o. Establishment of a renewable energy program. 1. As used in
28 this section:

29 (a) "load serving entity" means any entity that secures energy to
30 serve the electrical energy requirements of end-use customers in New
31 York state;

32 (b) "prevailing rate of wages" shall have the same meaning as such
33 term is defined in paragraph a of subdivision five of section two
34 hundred twenty of the labor law; and

35 (c) "renewable energy systems" means systems that generate electricity
36 or thermal energy through use of the following technologies: solar ther-
37 mal, photovoltaics, wind, hydroelectric, geothermal electric, geothermal
38 ground source heat, tidal energy, wave energy, ocean thermal, offshore
39 wind and fuel cells which do not utilize a fossil fuel resource in the
40 process of generating electricity.

41 2. No later than January first, two thousand eighteen, the commission
42 shall establish a program to require that a minimum of fifty percent of
43 the statewide electric generation secured by load serving entities to
44 meet the electrical energy requirements of all end-use customers in New
45 York state in two thousand thirty shall be generated by renewable energy
46 systems.

47 The commission shall set annual minimum percentage levels of electric-
48 ity generated by renewable energy systems and delivered to end-use
49 customers in New York state for each year of the program.

50 3. No later than July first, two thousand nineteen and every two years
51 thereafter, the commission shall, after notice and provision for the
52 opportunity to comment, issue a comprehensive review of the program
53 established pursuant to this section. The commission shall determine,
54 among other matters: (a) progress in meeting the overall annual targets
55 for deployment of renewable energy systems; (b) distribution of systems
56 by size and load zone; and (c) annual funding commitments and expendi-

1 tures. The commission shall evaluate the annual targets established
2 pursuant to subdivision two of this section and determine whether the
3 annual targets should be accelerated, increased or extended, taking into
4 consideration load modifications associated with, but not limited to,
5 energy efficiency measures and the electrification of transportation,
6 heating systems and industrial processes.

7 4. The commission may temporarily suspend or modify the obligations
8 under such program provided that the commission, after conducting a
9 hearing as provided in section twenty of this chapter, makes a finding
10 that the program impedes the provision of safe and adequate electric
11 service or that there is a significant increase in arrears or service
12 disconnections that the commission determines is related to the program.

13 5. Every contractor employed pursuant to this section, not otherwise
14 required to pay laborers, workers or mechanics the prevailing rate of
15 wages pursuant to article eight of the labor law, shall pay employees
16 under contract for the development of renewable energy systems rated at
17 two hundred fifty kilowatts or more, a wage of not less than the
18 prevailing rate of wages for such work in the locality where such
19 installation occurs. This requirement shall be in effect for the dura-
20 tion of the receipt by the contractor of the incentives established
21 pursuant to this section and in no event shall such requirement extend
22 beyond the availability of such incentives. Every contractor subject to
23 the provisions of this subdivision shall maintain payroll records in
24 accordance with section two hundred twenty of the labor law.

25 § 5. Section 1005 of the public authorities law is amended by adding a
26 new subdivision 26 to read as follows:

27 26. Renewable energy program. As deemed feasible and advisable by the
28 trustees, no later than January first, two thousand eighteen, the
29 authority shall secure energy to serve the electrical energy require-
30 ments of its end-use customers in accordance with the renewable energy
31 program as set forth and defined in section sixty-six-o of the public
32 service law.

33 § 6. Sections 1020-ii, 1020-jj and 1020-kk of the public authorities
34 law, as renumbered by chapter 388 of the laws of 2011, are renumbered
35 sections 1020-jj, 1020-kk and 1020-ll and a new section 1020-ii is added
36 to read as follows:

37 § 1020-ii. Renewable energy program. The authority and all load serv-
38 ing entities that secure energy to serve the electrical energy require-
39 ments of end-use customers in its service territory shall comply with
40 the renewable energy program as set forth and defined in section sixty-
41 six-o of the public service law.

42 § 6-a. Subdivision 1 of section 1020-s of the public authorities law,
43 as amended by section 9 of part A of chapter 173 of the laws of 2013, is
44 amended to read as follows:

45 1. The rates, services and practices relating to the electricity
46 generated by facilities owned or operated by the authority shall not be
47 subject to the provisions of the public service law or to regulation by,
48 or the jurisdiction of, the public service commission, except to the
49 extent (a) article seven of the public service law applies to the siting
50 and operation of a major utility transmission facility as defined there-
51 in, (b) article ten of such law applies to the siting of a generating
52 facility as defined therein, (c) section eighteen-a of such law provides
53 for assessment for certain costs, property or operations, ~~and~~ (d) to
54 the extent that the department of public service reviews and makes
55 recommendations with respect to the operations and provision of services
56 of, and rates and budgets established by, the authority pursuant to

1 section three-b of such law and (e) that section sixty-six-o of the
2 public service law applies to the authority and load serving entities
3 that secure energy to serve the electrical energy requirements of end-
4 use customers within the authority's jurisdiction.

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

7 ARTICLE 8-B

8 LABOR AND JOB STANDARDS AND WORKER PROTECTION

9 Section 228. Labor and job standards and worker protection.

10 § 228. Labor and job standards and worker protection. 1. All state
11 agencies involved in implementing the New York state climate and commu-
12 nity protection act shall assess and implement strategies to increase
13 employment opportunities and improve job quality. Within one hundred
14 twenty days of the effective date of this section, all state agencies,
15 offices, authorities, and divisions shall report to the legislature on:

16 a. steps they will take to ensure compliance with this section; and
17 b. regulations necessary to ensure that they prioritize the statewide
18 goal of creating good jobs and increasing employment opportunities.

19 2. In considering and issuing permits, licenses, regulations,
20 contracts, and other administrative approvals and decisions pursuant to
21 the New York state climate and community protection act, all state agen-
22 cies, offices, authorities, and divisions shall apply the following
23 labor, training, and job quality standards to the following project
24 types: public work; projects in receipt of more than one hundred thou-
25 sand dollars in total financial assistance; or to projects with a total
26 value of more than ten million dollars; and privately-financed projects
27 on public property.

28 a. the payment of no less than prevailing wages for all employees in
29 construction and building, consistent with article eight of the this
30 chapter, and building services, consistent with article nine of this
31 chapter;

32 b. the inclusion of contract language requiring contractors to estab-
33 lish labor harmony policies; dispute resolution mechanisms; prevailing
34 wage compliance; safety policies; workers compensation insurance
35 (including review of contractor experience rating and other factors);
36 and apprenticeship program appropriate for crafts employed. Procurement
37 rules should encourage bundling of small contracts and projects to
38 improve the efficiency of compliance;

39 c. apprenticeship utilization:

40 i. that all contractors and subcontractors, including those that
41 participate in power purchase agreements, energy performance contracts,
42 or other similar programs, participate in apprenticeship programs in the
43 trades in which they are performing work;

44 ii. maximum use of apprentices as per department of labor approved
45 ratios;

46 iii. encouragement of affiliated pre-apprentice direct entry programs,
47 including but not limited to EJM Construction Skills; NYC Helmets to
48 Hardhats, and Nontraditional Employment for Women (NEW) for the recruit-
49 ment of local and/or disadvantaged workers;

50 iv. existing workforce development programs, including those at the
51 New York state energy research and development authority, should be made
52 to conform to these standards.

53 3. The commissioner, the fiscal officer and other relevant agencies
54 shall promulgate such regulations as are necessary to implement and
55 administer compliance with the provisions of this section. The depart-
56 ment and the fiscal officer shall coordinate with organized labor and

1 local and county level governments to implement a system to track
2 compliance, accept reports of non-compliance for enforcement action, and
3 report annually on the adoption of these standards to the legislature
4 starting one year from the effective date of this section.

5 a. For the purposes of this section, "fiscal officer" shall mean the
6 industrial commissioner, except for construction and building service
7 work performed by or on behalf of a city, in which case "fiscal officer"
8 shall mean the comptroller or other analogous officer of such city.

9 b. The provisions of the contract by the recipient of financial
10 assistance pertaining to prevailing wages are to be considered a
11 contract for the benefit of construction and building service workers,
12 upon which such workers shall have the right to maintain action for the
13 difference between the prevailing wage rate of pay, benefits, and paid
14 leave and the rates of pay, benefits, and paid leave actually received
15 by them, and including attorney's fees.

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

21 ii. Where a recipient of financial assistance contracts for
22 construction, excavation, demolition, rehabilitation, repair, reno-
23 vation, alteration or improvement to a subcontractor, the subcontractor
24 is held to the same obligations with respect to prevailing wages as the
25 recipient. The recipient must include terms establishing this obligation
26 within any contract signed with a subcontractor.

27 4. For the purposes of this section "financial assistance" means any
28 provision of public funds to any person, individual, proprietorship,
29 partnership, joint venture, corporation, limited liability company,
30 trust, association, organization, or other entity that receives finan-
31 cial assistance, or any assignee or successor in interest of real prop-
32 erty improved or developed with financial assistance, for economic
33 development within the state, including but not limited to cash payments
34 or grants, bond financing, tax abatements or exemptions, including but
35 not limited to abatements or exemptions from real property, mortgage
36 recording, sales, and use taxes, or the difference between any payments
37 in lieu of taxes and the amount of real property or other taxes that
38 would have been due if the property were not exempted from such taxes,
39 tax increment financing, filing fee waivers, energy cost reductions,
40 environmental remediation costs, write-downs in the market value of
41 buildings or land, or the cost of capital improvements related to real
42 property for which the state would not pay absent the development
43 project, and includes both discretionary and as of right assistance. The
44 provisions of this section shall only apply to projects receiving more
45 than one hundred thousand dollars in total financial assistance, or to
46 projects with a total project value of more than ten million dollars.

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

50 6. Nothing set forth in this section shall be construed to impede,
51 infringe, or diminish the rights and benefits which accrue to employees
52 through bona fide collective bargaining agreements, or otherwise dimin-
53 ish the integrity of the existing collective bargaining relationship.

54 7. Nothing set forth in this section shall preclude a local government
55 from setting additional standards that expand on these state-wide stand-
56 ards.

1 § 8. Report on barriers to, and opportunities for, community ownership
2 of services and commodities in disadvantaged communities. 1. On or
3 before two years of the effective date of this act, the department of
4 environmental conservation, with input from relevant state agencies, the
5 environmental justice advisory group as defined in section 75-0101 of
6 the environmental conservation law, the climate justice working group as
7 defined in section 75-0113 of the environmental conservation law and
8 Climate Action Council established in article 75 of the environmental
9 conservation law, and following at least two public hearings, shall
10 prepare a report on barriers to, and opportunities for, access to or
11 community ownership of the following services and commodities in disad-
12 vantaged communities as identified in article 75 of the environmental
13 conservation law:

- 14 a. Distributed renewable energy generation.
- 15 b. Energy efficiency and weatherization investments.
- 16 c. Zero-emission and low-emission transportation options.
- 17 d. Adaptation measures to improve the resilience of homes and local
18 infrastructure to the impacts of climate change including but not limit-
19 ed to microgrids.
- 20 e. Other services and infrastructure that can reduce the risks associ-
21 ated with climate-related hazards, including but not limited to:
 - 22 i. Shelters and cool rooms during extreme heat events;
 - 23 ii. Shelters during flooding events; and
 - 24 iii. Medical treatment for asthma and other conditions that could be
25 exacerbated by climate-related events.
- 26 2. The report, which shall be submitted to the governor, the speaker
27 of the assembly and the temporary president of the senate and posted on
28 the department of environmental conservation website, shall include
29 recommendations on how to increase access to the services and commod-
30 ities.
- 31 3. The department of environmental conservation shall amend the scop-
32 ing plan for statewide greenhouse gas emissions reductions in accordance
33 with the recommendations included in the report.

34 § 9. Climate change actions by state agencies. 1. All state agencies
35 shall assess and implement strategies to reduce their greenhouse gas
36 emissions.

37 2. In considering and issuing permits, licenses, and other administra-
38 tive approvals and decisions, including but not limited to the execution
39 of grants, loans, and contracts, all state agencies, offices, authori-
40 ties, and divisions shall consider whether such decisions are inconsis-
41 tent with or will interfere with the attainment of the statewide green-
42 house gas emissions limits established in article 75 of the
43 environmental conservation law. Where such decisions are deemed to be
44 inconsistent with or will interfere with the attainment of the statewide
45 greenhouse gas emissions limits, each agency, office, authority, or
46 division shall provide a detailed statement of justification as to why
47 such limits/criteria may not be met, and identify alternatives or green-
48 house gas mitigation measures to be required where such project is
49 located.

50 3. In considering and issuing permits, licenses, and other administra-
51 tive approvals and decisions, including but not limited to the execution
52 of grants, loans, and contracts, pursuant to article 75 of the environ-
53 mental conservation law, all state agencies, offices, authorities, and
54 divisions shall not disproportionately burden disadvantaged communities
55 as identified pursuant to subdivision 5 of section 75-0101 of the envi-
56 ronmental conservation law. All state agencies, offices, authorities,

1 and divisions shall also prioritize reductions of greenhouse gas emis-
2 sions and co-pollutants in disadvantaged communities as identified
3 pursuant to such subdivision 5 of section 75-0101 of the environmental
4 conservation law.

5 § 10. Authorization for other state agencies to promulgate greenhouse
6 gas emissions regulations. 1. The public service commission, the New
7 York state energy research and development authority, the department of
8 health, the department of transportation, the department of state, the
9 department of economic development, the department of agriculture and
10 markets, the department of financial services, the office of general
11 services, the division of housing and community renewal, the public
12 utility authorities established pursuant to titles 1, 1-A, 1-B, 11,
13 11-A, 11-B, 11-C and 11-D of article 5 of the public authorities law and
14 any other state agency may promulgate regulations to contribute to
15 achieving the statewide greenhouse gas emissions limits established in
16 article 75 of the environmental conservation law. Provided, however, any
17 such regulations shall not limit the department of environmental conser-
18 vation's authority to regulate and control greenhouse gas emissions
19 pursuant to article 75 of the environmental conservation law.

20 § 11. Chapter 355 of the laws of 2014, constituting the "community
21 risk and resiliency act", is amended by adding two new sections 17-a and
22 17-b to read as follows:

23 § 17-a. The department of environmental conservation shall take
24 actions to promote adaptation and resilience, including:

25 (a) actions to help state agencies and other entities assess the
26 reasonably foreseeable risks of climate change on any proposed projects,
27 taking into account issues such as: sea level rise, tropical and extra-
28 tropical cyclones, storm surges, flooding, wind, changes in average and
29 peak temperatures, changes in average and peak precipitation, public
30 health impacts, and impacts on species and other natural resources.

31 (b) identifying the most significant climate-related risks, taking
32 into account the probability of occurrence, the magnitude of the poten-
33 tial harm, and the uncertainty of the risk.

34 (c) measures that could mitigate significant climate-related risks, as
35 well as a cost-benefit analysis and implementation of such measures.

36 § 17-b. Major permits for the regulatory programs of subdivision three
37 of section 70-0107 of the environmental conservation law shall require
38 applicants to demonstrate that future physical climate risk has been
39 considered. In reviewing such information the department may require the
40 applicant to mitigate significant risks to public infrastructure and/or
41 services, private property not owned by the applicant, adverse impacts
42 on disadvantaged communities, and/or natural resources in the vicinity
43 of the project.

44 § 12. Nothing in this act shall limit the existing authority of a
45 state entity to adopt and implement greenhouse gas emissions reduction
46 measures.

47 § 13. Nothing in this act shall relieve any person, entity, or public
48 agency of compliance with other applicable federal, state, or local laws
49 or regulations, including state air and water quality requirements, and
50 other requirements for protecting public health or the environment.

51 § 14. Review under this act may be had in a proceeding under article
52 78 of the civil practice law and rules at the instance of any person
53 aggrieved.

54 § 15. Severability. If any word, phrase, clause, sentence, paragraph,
55 section, or part of this act shall be adjudged by any court of competent
56 jurisdiction to be invalid, such judgement shall not affect, impair, or

1 invalidate the remainder thereof, but shall be confined in its operation
2 to the word, phrase, clause, sentence, paragraph, section, or part ther-
3 eof directly involved in the controversy in which such judgement shall
4 have been rendered.

5 § 16. This act shall take effect on the same date and in the same
6 manner as a chapter of the laws of 2017, amending the environmental
7 conservation law, in relation to establishing a permanent environmental
8 justice advisory group and an environmental justice interagency coordi-
9 nating council, as proposed in legislative bills numbers A.2234 and
10 S.3110, takes effect; provided further, the provisions of section seven
11 of this act shall take effect on the one hundred eightieth day after it
12 shall have become a law and shall apply to any grants, loans, and
13 contracts and financial assistance awarded or renewed on or after such
14 effective date.