

# STATE OF NEW YORK

---

6617

2017-2018 Regular Sessions

## IN SENATE

June 7, 2017

---

Introduced by Sens. AVELLA, SAVINO, ALCANTARA, CARLUCCI, HAMILTON, PERALTA, KLEIN, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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 Assembly, do enact as follows:

1 Section 1. Legislative findings and declaration. The legislature hereby  
2 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-

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

LBD13069-01-7

1 ism, and recreational and commercial fishing. These impacts also place  
2 additional strain on the physical infrastructure that delivers critical  
3 services to the citizens of New York, including the state's energy,  
4 transportation, stormwater, and wastewater infrastructure.

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

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

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

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

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

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

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

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

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

11. The complexity of the ongoing energy transition, the uneven distribution of economic opportunity, and the disproportionate cumulative economic and environmental burdens on communities mean that there is a strong state interest in setting a floor statewide for labor standards, but allowing and encouraging individual agencies and local governments to raise standards.

12. By exercising a global leadership role on greenhouse gas mitigation and climate change adaptation, New York will position its economy, technology centers, financial institutions, and businesses to benefit from national and international efforts to address climate change. New York state has already demonstrated leadership in this area by undertaking efforts such as:

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

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

c. chapter 388 of the laws of 2011, directing the department of environmental conservation to promulgate rules and regulations limiting emissions of carbon dioxide by newly constructed major generating facilities;

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

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

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

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

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

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

#### ARTICLE 75

#### CLIMATE CHANGE

#### Section 75-0101. Definitions.

75-0103. New York state climate action council.

75-0105. Statewide greenhouse gas emissions report.

75-0107. Statewide greenhouse gas emissions limits.

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

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

75-0113. Climate justice working group.

75-0115. Implementation reporting.

#### § 75-0101. Definitions.

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

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

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

3. "Co-pollutants" means hazardous air pollutants produced by greenhouse gas emissions sources.

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

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

6. "Emissions reduction measures" means programs, measures and standards, authorized pursuant to this chapter, applicable to sources or categories of sources, that are designed to reduce emissions of greenhouse gases.

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

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

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

- b. two members appointed by the governor;
- c. two members to be appointed by the temporary president of the senate;
- d. two members to be appointed by the speaker of the assembly;
- e. one member to be appointed by the minority leader of the senate;
- and
- f. one member to be appointed by the minority leader of the assembly.

2. The at large members shall include at all times individuals with expertise in issues relating to climate change mitigation and/or adaptation, such as environmental justice, labor, public health and regulated industries.

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

4. The chairperson of the council shall be the commissioner of environmental conservation or his or her designee.

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

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

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

8. The department shall provide the council with such facilities, assistance and data as will enable the council to carry out its powers and duties. Additionally, all other agencies of the state or subdivisions thereof may, at the request of the chairperson, provide the council with such facilities, assistance, and data as will enable the council to carry out its powers and duties.

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

10. The council shall advise the department on:

a. The development of statewide greenhouse gas emissions limits rules and regulations, pursuant to section 75-0107 of this article, and regulations to achieve statewide greenhouse gas emissions reductions, pursuant to section 75-0111 of this article.

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

§ 75-0105. Statewide greenhouse gas emissions report.

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

2. The statewide greenhouse gas emissions report shall be a comprehensive evaluation, informed by a variety of data, including but not limited to:

a. information relating to the use of fossil fuels by sector, including for electricity generation, transportation, heating, and other combustion purposes;

b. information relating to fugitive and vented emissions from systems associated with the production, processing, transport, distribution, 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.



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

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

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

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

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

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

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

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

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

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

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

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

f. Verifiable, enforceable and voluntary emissions reduction measures.

4. In developing such plan the department shall:

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

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

i. The economic and social benefits of greenhouse gas emissions 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 taged 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-

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

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

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

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

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

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

§ 1020-ii. Renewable energy program. The authority and all load serving entities that secure energy to serve the electrical energy requirements of end-use customers in its service territory shall comply with the renewable energy program as set forth and defined in section sixty-six-o of the public service law.

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

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



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

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

#### ARTICLE 8-B

##### LABOR AND JOB STANDARDS AND WORKER PROTECTION

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

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

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

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

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

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

c. apprenticeship utilization:

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

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

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

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

3. The commissioner, the fiscal officer and other relevant agencies shall promulgate such regulations as are necessary to implement and administer compliance with the provisions of this section. The department 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.

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

- a. Distributed renewable energy generation.
- b. Energy efficiency and weatherization investments.
- c. Zero-emission and low-emission transportation options.
- d. Adaptation measures to improve the resilience of homes and local infrastructure to the impacts of climate change including but not limited to microgrids.
- e. Other services and infrastructure that can reduce the risks associated with climate-related hazards, including but not limited to:
  - i. Shelters and cool rooms during extreme heat events;
  - ii. Shelters during flooding events; and
  - iii. Medical treatment for asthma and other conditions that could be exacerbated by climate-related events.

2. The report, which shall be submitted to the governor, the speaker of the assembly and the temporary president of the senate and posted on the department of environmental conservation website, shall include recommendations on how to increase access to the services and commodities.

3. The department of environmental conservation shall amend the scoping plan for statewide greenhouse gas emissions reductions in accordance with the recommendations included in the report.

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

2. In considering and issuing permits, licenses, and other administrative approvals and decisions, including but not limited to the execution of grants, loans, and contracts, all state agencies, offices, authorities, and divisions shall consider whether such decisions are inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits established in article 75 of the environmental conservation law. Where such decisions are deemed to be inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits, each agency, office, authority, or division shall provide a detailed statement of justification as to why such limits/criteria may not be met, and identify alternatives or greenhouse gas mitigation measures to be required where such project is located.

3. In considering and issuing permits, licenses, and other administrative approvals and decisions, including but not limited to the execution of grants, loans, and contracts, pursuant to article 75 of the environmental conservation law, all state agencies, offices, authorities, and divisions shall not disproportionately burden disadvantaged communities as identified pursuant to subdivision 5 of section 75-0101 of the environmental 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.