

STATE OF NEW YORK

S. 2992--B

A. 3876--B

2019-2020 Regular Sessions

SENATE - ASSEMBLY

January 31, 2019

IN SENATE -- Introduced by Sens. KAMINSKY, HOYLMAN, ADDABBO, BAILEY, BENJAMIN, BIAGGI, BRESLIN, BROOKS, CARLUCCI, COMRIE, GAUGHRAN, GIANARIS, GOUNARDES, HARCKHAM, JACKSON, KAPLAN, KAVANAGH, KENNEDY, KRUEGER, LIU, MARTINEZ, MAY, MAYER, METZGER, MONTGOMERY, MYRIE, PARKER, PERSAUD, RAMOS, RIVERA, SALAZAR, SANDERS, SEPULVEDA, SERRANO, SKOUFIS, STAVISKY, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. ENGLEBRIGHT, LIFTON, FAHY, ORTIZ, CAHILL, WALKER, CARROLL, L. ROSENTHAL, THIELE, JAFFEE, SIMON, OTIS, DINOWITZ, WILLIAMS, ROZIC, ABINANTI, MOSLEY, BARRETT, STECK, GALEF, GOTTFRIED, LUPARDO, PHEFFER AMATO, DE LA ROSA, JEAN-PIERRE, COLTON, CUSICK, PEOPLES-STOKES, SEAWRIGHT, PICHARDO, WEPRIN, SIMOTAS, GLICK, FERNANDEZ, D'URSO, O'DONNELL, GRIFFIN, REYES, BURKE, SOLAGES, ROMEO, STIRPE, MAGNARELLI, EPSTEIN, TAYLOR, FALL, CRUZ, STERN, SANTABARBARA, BRONSON, BARNWELL, DAVILA, HEVESI, NIOU, HUNTER, M. G. MILLER, BENEDETTO, RODRIGUEZ, QUART, WRIGHT, HYNDMAN, CRESPO, FRONTUS, RYAN, SAYEGH, BARRON, PRETLOW, GUNTHER, RICHARDSON, RAYNOR, KIM, McMAHON, DICKENS, JACOBSON, WEINSTEIN -- Multi-Sponsored by -- M. of A. DenDEKKER, LENTOL, NOLAN, PAULIN, RAMOS -- read once and referred to the Committee on Environmental Conservation -- reported and referred to the Committee on Ways and Means -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted 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 leadership and community protection act

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

LBD05372-09-9

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

1 Section 1. Legislative findings and leadership declaration. The legis-
2 lature hereby enacts the "New York state climate leadership and communi-
3 ty protection act" and 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
24 additional strain on the physical infrastructure that delivers critical
25 services to the citizens of New York, including the state's energy,
26 transportation, stormwater, and wastewater infrastructure.

27 2. a. The severity of current climate change and the threat of addi-
28 tional and more severe change will be affected by the actions undertaken
29 by New York and other jurisdictions to reduce greenhouse gas emissions.
30 According to the U.S. Global Change Research Program (USGCRP) and the
31 Intergovernmental Panel on Climate Change (IPCC), substantial reductions
32 in greenhouse gas emissions will be required by mid-century in order to
33 limit global warming to no more than 2°C and ideally 1.5°C, and thus
34 minimize the risk of severe impacts from climate change. Specifically,
35 industrialized countries must reduce their greenhouse gas emissions by
36 at least 80% below 1990 levels by 2050 in order to stabilize carbon
37 dioxide equivalent concentrations at 450 parts per million--the level
38 required to stay within the 2°C target.

39 b. On December 12, 2015, one hundred ninety-five countries at the 21st
40 Conference of the parties of the United Nations Framework Convention on
41 Climate Change adopted an agreement addressing greenhouse gas emissions
42 mitigation, adaptation, and finance starting in the year 2020, known as
43 the Paris Agreement. The Paris Agreement was adopted on November 4,
44 2016, and is the largest concerted global effort to combat climate
45 change to date.

46 3. Action undertaken by New York to reduce greenhouse emissions will
47 have an impact on global greenhouse gas emissions and the rate of
48 climate change. In addition, such action will encourage other jurisdic-
49 tions to implement complementary greenhouse gas reduction strategies and
50 provide an example of how such strategies can be implemented. It will
51 also advance the development of green technologies and sustainable prac-
52 tices within the private sector, which can have far-reaching impacts

1 such as a reduction in the cost of renewable energy components, and the
2 creation of jobs and tax revenues in New York.

3 4. It shall therefore be a goal of the state of New York to reduce
4 greenhouse gas emissions from all anthropogenic sources 100% over 1990
5 levels by the year 2050, with an incremental target of at least a 40
6 percent reduction in climate pollution by the year 2030, in line with
7 USGCRP and IPCC projections of what is necessary to avoid the most
8 severe impacts of climate change.

9 5. Although substantial emissions reductions are necessary to avoid
10 the most severe impacts of climate change, complementary adaptation
11 measures will also be needed to address those risks that cannot be
12 avoided. Some of the impacts of climate change are already observable in
13 New York state and the northeastern United States. Annual average
14 temperatures are on the rise, winter snow cover is decreasing, heat
15 waves and precipitation are intensifying, and sea levels along New
16 York's coastline are approximately one foot higher than they were in
17 1900. New York has also experienced an increasing number of extreme and
18 unusual weather events, like Hurricanes Irene and Lee and the
19 unprecedented Superstorm Sandy in 2012, which caused at least 53 deaths
20 and \$32 billion in damage in New York state.

21 6. New York should therefore minimize the risks associated with
22 climate change through a combination of measures to reduce statewide
23 greenhouse gas emissions and improve the resiliency of the state with
24 respect to the impacts and risks of climate change that cannot be
25 avoided.

26 7. Climate change especially heightens the vulnerability of disadvan-
27 taged communities, which bear environmental and socioeconomic burdens as
28 well as legacies of racial and ethnic discrimination. Actions undertaken
29 by New York state to mitigate greenhouse gas emissions should prioritize
30 the safety and health of disadvantaged communities, control potential
31 regressive impacts of future climate change mitigation and adaptation
32 policies on these communities, and prioritize the allocation of public
33 investments in these areas.

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

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

54 10. Ensuring career opportunities are created and shared geograph-
55 ically and demographically is necessary to ensure increased access to
56 good jobs for marginalized communities while making the same neighbor-

1 hoods more resilient. Climate change has a disproportionate impact on
2 low-income people, women, and workers. It is in the interest of the
3 state of New York to protect and promote the interests of these groups
4 against the impacts of climate change and severe weather events and to
5 advance our equity goals by ensuring quality employment opportunities in
6 safe working environments.

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

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

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

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

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

28 d. the adoption of a state energy plan establishing clean energy goals
29 for the year 2030 aimed at reducing greenhouse gas emission levels by
30 40% from 1990 levels, producing 70% of electricity from renewable sourc-
31 es, increasing energy efficiency from 2012 levels by 23% and the addi-
32 tional expressed goal of reducing 100% of the electricity sector's
33 greenhouse gas emissions by 2040;

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

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

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

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

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

48 ARTICLE 75

49 CLIMATE CHANGE

50 Section 75-0101. Definitions.

51 75-0103. New York state climate action council.

52 75-0105. Statewide greenhouse gas emissions report.

53 75-0107. Statewide greenhouse gas emissions limits.

54 75-0109. Promulgation of regulations to achieve statewide green-
55 house gas emissions reductions.

56 75-0111. Climate justice working group.

1 75-0113. Value of carbon.

2 75-0115. Community air monitoring program.

3 75-0117. Investment of funds.

4 75-0119. Implementation reporting.

5 § 75-0101. Definitions.

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

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

10 2. "Carbon dioxide equivalent" means the amount of carbon dioxide by
11 mass that would produce the same global warming impact as a given mass
12 of another greenhouse gas over an integrated twenty-year time frame
13 after emission.

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

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

18 5. "Disadvantaged communities" means communities that bear burdens of
19 negative public health effects, environmental pollution, impacts of
20 climate change, and possess certain socioeconomic criteria, or comprise
21 high-concentrations of low- and moderate- income households, as identi-
22 fied pursuant to section 75-0111 of this article.

23 6. "Emissions reduction measures" means programs, measures and stand-
24 ards, authorized pursuant to this chapter, applicable to sources or
25 categories of sources, that are designed to reduce emissions of green-
26 house gases.

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

31 8. "Greenhouse gas emission limit" means the maximum allowable level
32 of statewide greenhouse gas emissions, in a specified year, expressed in
33 tons of carbon dioxide equivalent, as determined by the department
34 pursuant to this article.

35 9. "Greenhouse gas emission offset" means a deduction representing one
36 metric ton of carbon dioxide equivalent emissions, reduced, avoided, or
37 sequestered by a greenhouse gas emission offset project from a measured
38 baseline of emissions pursuant to the statewide greenhouse gas emissions
39 report.

40 10. "Greenhouse gas emission offset projects" means one or more
41 projects, including:

42 a. Natural carbon sinks including but not limited to afforestation,
43 reforestation, or wetlands restoration;

44 b. Greening infrastructure;

45 c. Restoration and sustainable management of natural and urban forests
46 or working lands, grasslands, coastal wetlands and sub-tidal habitats;

47 d. Efforts to reduce hydrofluorocarbon refrigerant, sulfur hexafluor-
48 ide, and other ozone depleting substance releases;

49 e. Anaerobic digesters, where energy produced is directed toward
50 localized use;

51 f. Carbon capture and sequestration;

52 g. Ecosystem restoration; and

53 h. Other types of projects recommended by the council in consultation
54 with the climate justice working group that provide public health and
55 environmental benefits, and do not create burdens in disadvantaged
56 communities.

1 11. "Greenhouse gas emission source" or "source" means any anthropo-
2 genic source or category of anthropogenic sources of greenhouse gas
3 emissions, determined by the department:

4 a. whose participation in the program will enable the department to
5 effectively reduce greenhouse gas emissions; and,

6 b. that are capable of being monitored for compliance.

7 12. "Leakage" means a reduction in emissions of greenhouse gases with-
8 in the state that is offset by an increase in emissions of greenhouse
9 gases outside of the state.

10 13. "Statewide greenhouse gas emissions" means the total annual emis-
11 sions of greenhouse gases produced within the state from anthropogenic
12 sources and greenhouse gases produced outside of the state that are
13 associated with the generation of electricity imported into the state
14 and the extraction and transmission of fossil fuels imported into the
15 state. Statewide emissions shall be expressed in tons of carbon dioxide
16 equivalents.

17 14. "Statewide greenhouse gas emissions limit" or "statewide emissions
18 limit" means the maximum allowable level of statewide greenhouse gas
19 emissions in a specified year, as determined by the department pursuant
20 to this article.

21 15. "Environmental justice advisory group" shall mean the permanent
22 environmental justice advisory group established by a chapter of the
23 laws of two thousand nineteen amending the environmental conservation
24 law relating to establishing a permanent environmental justice advisory
25 group and an environmental justice interagency coordinating council, as
26 proposed in legislative bills numbers S. 2385 and A. 1564.

27 § 75-0103. New York state climate action council.

28 1. There is hereby established the New York state climate action coun-
29 cil ("council") which shall consist of the following twenty-two members:

30 a. the commissioners of transportation, health, economic development,
31 agriculture and markets, housing and community renewal, environmental
32 conservation, labor, the chairperson of the public service commission,
33 the presidents of the New York state energy research and development
34 authority; New York power authority; Long Island power authority; the
35 secretary of state, or their designees.

36 b. two non-agency expert members appointed by the governor;

37 c. three members to be appointed by the temporary president of the
38 senate;

39 d. three members to be appointed by the speaker of the assembly;

40 e. one member to be appointed by the minority leader of the senate;
41 and

42 f. one member to be appointed by the minority leader of the assembly.

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

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

50 4. The co-chairpersons of the council shall be the commissioner of
51 environmental conservation and the president of the New York state ener-
52 gy research and development authority or their designee.

53 5. Each member of the council shall be entitled to one vote. The coun-
54 cil's approval and adoption of the final scoping plan pursuant to this
55 section, and any subsequent interim updates thereto, shall require a
56 supermajority of the council. No action may be taken by the council

1 unless there is a quorum, which shall at all times be a majority of the
2 members of the council.

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

5 7. The council shall convene advisory panels requiring special exper-
6 tise and, at a minimum, shall establish advisory panels on transporta-
7 tion, energy intensive and trade-exposed industries, land-use and local
8 government, energy efficiency and housing, power generation, and agri-
9 culture and forestry. The purpose of the advisory panels shall be to
10 provide recommendations to the council on specific topics, in its prepa-
11 ration of the scoping plan, and interim updates to the scoping plan, and
12 in fulfilling the council's ongoing duties.

13 a. Each advisory panel shall be chaired by the relevant agency head or
14 his or her designee. The council may convene and dissolve additional
15 advisory panels, in its sole discretion, and pursuant to the require-
16 ments herein.

17 b. Advisory panels shall be comprised of no more than five voting
18 members. The council shall elect advisory panel members, and such
19 membership shall at all times represent individuals with direct involve-
20 ment or expertise in matters to be addressed by the advisory panels
21 pursuant to this section.

22 c. Advisory panels shall work directly with the council on the prepa-
23 ration of the scoping plan pursuant to this section. Each advisory panel
24 shall coordinate with the environmental justice advisory group and
25 climate justice working group.

26 d. All agencies of the state or subdivisions thereof may, at the
27 request of any such advisory panel or the council, provide the advisory
28 panel with such facilities, assistance, and data as will enable advisory
29 panels to carry out their powers and duties.

30 8. The council shall convene a just transition working group. The
31 working group shall be chaired by the commissioner of labor and the
32 president of the New York state energy research and development authori-
33 ty and shall consist of no less than thirteen, but no more than seven-
34 teen members and shall include the commissioners of housing and communi-
35 ty renewal, the chair of the department of public service,
36 representatives of environmental justice communities and representatives
37 of labor organizations, clean energy developers and at least five repre-
38 sentatives of distinct energy-intensive industries. The just transition
39 working group shall:

40 a. advise the council on issues and opportunities for workforce devel-
41 opment and training related to energy efficiency measures, renewable
42 energy and other clean energy technologies, with specific focus on
43 training and workforce opportunities for disadvantaged communities, and
44 segments of the population that may be underrepresented in the clean
45 energy workforce such as veterans, women and formerly incarcerated
46 persons;

47 b. identify energy-intensive industries and related trades and identi-
48 fy sector specific impacts of the state's current workforce and avenues
49 to maximize the skills and expertise of New York state workers in the
50 new energy economy;

51 c. identify sites of electric generating facilities that may be closed
52 as a result of a transition to clean energy and the issues and opportu-
53 nities presented by reuse of those sites;

54 d. with respect to potential for greenhouse gas emission limits devel-
55 oped by the department of environmental conservation pursuant to this
56 article, advise the council on the potential impacts of carbon leakage

1 risk on New York state industries and local host communities, including
2 the impact of any potential carbon reduction measures on the competi-
3 tiveness of New York state business and industry;

4 e. advise the council and conduct stakeholder outreach on any other
5 workforce matters directed by the council; and

6 f. at a time frame determined by the council, prepare and publish
7 recommendations to the council on how to address: issues and opportu-
8 nities related to the energy-intensive and trade-exposed entities; work-
9 force development for trade-exposed entities, disadvantaged communities
10 and underrepresented segments of the population; measures to minimize
11 the carbon leakage risk and minimize anti-competitiveness impacts of any
12 potential carbon policies and energy sector mandates.

13 g. The just transition working group is hereby authorized and directed
14 to conduct a study of and report on:

15 i. The number of jobs created to counter climate change, which shall
16 include but not be limited to the energy sector, building sector, trans-
17 portation sector, and working lands sector;

18 ii. The projection of the inventory of jobs needed and the skills and
19 training required to meet the demand of jobs to counter climate change;
20 and

21 iii. Workforce disruption due to community transitions from a low
22 carbon economy.

23 9. The department and the New York state energy research and develop-
24 ment authority shall provide the council with such facilities, assist-
25 ance and data as will enable the council to carry out its powers and
26 duties. Additionally, all other agencies of the state or subdivisions
27 thereof may, at the request of the co-chairpersons, provide the council
28 with such facilities, assistance, and data as will enable the council to
29 carry out its powers and duties.

30 10. The council shall consult with the climate justice working group
31 established in section 75-0111 of this article, the department of state
32 utility intervention unit, and the federally designated electric bulk
33 system operator.

34 11. The council shall on or before two years of the effective date of
35 this article, prepare and approve a scoping plan outlining the recommen-
36 dations for attaining the statewide greenhouse gas emissions limits in
37 accordance with the schedule established in section 75-0107 of this
38 article, and for the reduction of emissions beyond eighty-five percent,
39 net zero emissions in all sectors of the economy, which shall inform the
40 state energy planning board's adoption of a state energy plan in accord-
41 ance with section 6-104 of the energy law. The first state energy plan
42 issued subsequent to completion of the scoping plan required by this
43 section shall incorporate the recommendations of the council.

44 12. The draft scoping plan shall be developed in consultation with the
45 environmental justice advisory group, and the climate justice working
46 group established pursuant to section 75-0111 of this article and other
47 stakeholders.

48 a. The council shall hold at least six regional public comment hear-
49 ings on the draft scoping plan, including three meetings in the upstate
50 region and three meetings in the downstate region, and shall allow at
51 least one hundred twenty days for the submission of public comment.

52 b. The council shall provide meaningful opportunities for public
53 comment from all segments of the population that will be impacted by the
54 plan, including persons living in disadvantaged communities as identi-
55 fied pursuant to section 75-0111 of this article.

1 c. On or before three years of the effective date of this article, the
2 council shall submit the final scoping plan to the governor, the speaker
3 of the assembly and the temporary president of the senate and post such
4 plan on its website.

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

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

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

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

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

20 e. Measures to achieve six gigawatts of distributed solar energy
21 capacity installed in the state by two thousand twenty-five, nine giga-
22 watts of offshore wind capacity installed by two thousand thirty-five, a
23 statewide energy efficiency goal of one hundred eighty-five trillion
24 British thermal units energy reduction from the two thousand twenty-five
25 forecast; and three gigawatts of statewide energy storage capacity by
26 two thousand thirty.

27 f. Measures to promote the beneficial electrification of personal and
28 freight transport and other strategies to reduce greenhouse gas emis-
29 sions from the transportation sector.

30 g. Measures to achieve reductions in energy use in existing residen-
31 tial or commercial buildings, including the beneficial electrification
32 of water and space heating in buildings, establishing appliance effi-
33 ciency standards, strengthening building energy codes, requiring annual
34 building energy benchmarking, disclosing energy efficiency in home
35 sales, and expanding the ability of state facilities to utilize perform-
36 ance contracting.

37 h. Recommendations to aid in the transition of the state workforce and
38 the rapidly emerging clean energy industry.

39 i. Measures to achieve healthy forests that support clean air and
40 water, biodiversity, and sequester carbon.

41 j. Measures to limit the use of chemicals, substances or products that
42 contribute to global climate change when released to the atmosphere, but
43 are not intended for end-use combustion.

44 k. Mechanisms to limit emission leakage as defined in subdivision
45 eleven of section 75-0101 of this article.

46 l. Verifiable, enforceable and voluntary emissions reduction measures.

47 14. In developing such plan the council shall:

48 a. Consider all relevant information pertaining to greenhouse gas
49 emissions reduction programs in states in the United States Climate
50 Alliance, as well as other states, regions, localities, and nations.

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

1 i. The economic and social benefits of greenhouse gas emissions
2 reductions, taking into account the value of carbon, established by the
3 department pursuant to section 75-0113 of this article, any other tools
4 that the council deems useful and pertinent for this analysis, and any
5 environmental, economic and public health co-benefits (such as the
6 reduction of co-pollutants and the diversification of energy sources);
7 and

8 ii. The costs of implementing proposed emissions reduction measures,
9 and the emissions reductions that the council anticipates achieving
10 through these measures.

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

16 d. Identify measures to maximize reductions of both greenhouse gas
17 emissions and co-pollutants in disadvantaged communities as identified
18 pursuant to section 75-0111 of this article.

19 15. The council shall update its plan for achieving the statewide
20 greenhouse gas emissions limits at least once every five years and shall
21 make such updates available to the governor, the speaker of the assembly
22 and the temporary president of the senate and post such updates on its
23 website.

24 16. The council shall identify existing climate change mitigation and
25 adaptation efforts at the federal, state, and local levels and may make
26 recommendations regarding how such policies may improve the state's
27 efforts.

28 17. The council shall maintain a website that includes public access
29 to the scoping plan and greenhouse gas limit information.

30 § 75-0105. Statewide greenhouse gas emissions report.

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

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

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

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

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

49 d. information relating to emissions associated with manufacturing,
50 chemical production, cement plants, and other processes that produce
51 non-combustion emissions; and

52 e. information from sources that may be required to participate in the
53 registration and reporting system pursuant to subdivision four of this
54 section.

55 3. The statewide greenhouse gas emissions report shall also include an
56 estimate of greenhouse gas emissions associated with the generation of

1 imported electricity and with the extraction and transmission of fossil
2 fuels imported into the state which shall be counted as part of the
3 statewide total.

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

10 5. The statewide greenhouse gas emissions report shall also include an
11 estimate of what the statewide greenhouse gas emissions level was in
12 1990.

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

17 7. The statewide greenhouse gas emissions report shall clearly explain
18 the methodology and analysis used in the department's determination of
19 greenhouse gas emissions and shall include a detailed explanation of any
20 changes in methodology or analysis, adjustments made to prior estimates,
21 as needed, and any other information necessary to establish a scientifi-
22 cally credible account of change.

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

27 § 75-0107. Statewide greenhouse gas emissions limits.

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

33 a. 2030: 60% of 1990 emissions.

34 b. 2050: 15% of 1990 emissions.

35 2. Greenhouse gas emission limits shall be measured in units of carbon
36 dioxide equivalents and identified for each individual type of green-
37 house gas.

38 3. In order to ensure the most accurate determination feasible, the
39 department shall utilize the best available scientific, technological,
40 and economic information on greenhouse gas emissions and consult with
41 the council, stakeholders, and the public in order to ensure that all
42 emissions are accurately reflected in its determination of 1990 emis-
43 sions levels.

44 4. In order to comply with the statewide greenhouse gas emissions
45 limits promulgated pursuant to this section, a source may utilize the
46 alternative compliance mechanism established pursuant to subdivision
47 four of section 75-0109 of this article. The use of such mechanism shall
48 be in accordance with the provisions of that subdivision.

49 § 75-0109. Promulgation of regulations to achieve statewide greenhouse
50 gas emissions reductions.

51 1. No later than four years after the effective date of this article,
52 the department, after public workshops and consultation with the coun-
53 cil, the environmental justice advisory group, and the climate justice
54 working group established pursuant to section 75-0111 of this article,
55 representatives of regulated entities, community organizations, environ-
56 mental groups, health professionals, labor unions, municipal corpo-

1 rations, trade associations and other stakeholders, shall, after no less
2 than two public hearings, promulgate rules and regulations to ensure
3 compliance with the statewide emissions reduction limits and work with
4 other state agencies and authorities to promulgate regulations required
5 by section ten of the chapter of the laws of two thousand nineteen that
6 added this article.

7 2. The regulations promulgated by the department pursuant to this
8 section shall:

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

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

15 c. Reflect, in substantial part, the findings of the scoping plan
16 prepared pursuant to section 75-0103 of this article.

17 d. Include measures to reduce emissions from greenhouse gas emission
18 sources that have a cumulatively significant impact on statewide green-
19 house gas emissions, such as internal combustion vehicles that burn
20 gasoline or diesel fuel and boilers or furnaces that burn oil or natural
21 gas.

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

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

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

28 c. Ensure that activities undertaken to comply with the regulations do
29 not result in a net increase in co-pollutant emissions or otherwise
30 disproportionately burden disadvantaged communities as identified pursu-
31 ant to section 75-0111 of this article.

32 d. Prioritize measures to maximize net reductions of greenhouse gas
33 emissions and co-pollutants in disadvantaged communities as identified
34 pursuant to section 75-0111 of this article and encourage early action
35 to reduce greenhouse gas emissions and co-pollutants.

36 e. Minimize leakage.

37 4. a. The department may establish an alternative compliance mechanism
38 to be used by sources subject to greenhouse gas emissions limits to
39 achieve net zero emissions.

40 b. The use of such mechanism shall account for not greater than
41 fifteen percent of statewide greenhouse gas emissions estimated as a
42 percentage of nineteen ninety emissions pursuant to section 75-0105 of
43 this article, provided that the use of this mechanism must offset a
44 quantity greater than or equal to the greenhouse gases emitted. The
45 offset of greenhouse gas emissions shall not result in disadvantaged
46 communities having to bear a disproportionate burden of environmental
47 impacts.

48 c. The department shall verify that greenhouse gas emission offset
49 projects authorized pursuant to this subdivision represent greenhouse
50 gas equivalent emission reductions or carbon sequestration that are
51 real, additional, verifiable, enforceable, and permanent.

52 d. Any greenhouse gas emissions offset project shall comply with all
53 of the requirements of this subdivision.

54 e. The department shall establish an application process that, at a
55 minimum, requires a source to sufficiently demonstrate that compliance
56 with the greenhouse gas emissions limits is not technologically feasi-

1 ble, and that the source has reduced emissions to the maximum extent
2 practicable. After an initial four year period, the department shall
3 review the participation of a source in this mechanism, and make a
4 determination as to the source's continued need for an alternative
5 compliance, considering the extent to which the source is utilizing the
6 best available technology standards.

7 f. Sources in the electric generation sector shall not be eligible to
8 participate in such mechanism.

9 g. The following types of projects shall be prohibited:

10 i. waste-to-energy projects, including incineration and pyrolysis; and

11 ii. biofuels used for energy or transportation purposes.

12 h. Any greenhouse gas emission offset project approved by the depart-
13 ment shall:

14 i. be designed to provide a discernable benefit to the environment
15 rather than to the source;

16 ii. be located in the same county, and within twenty-five linear
17 miles, of the source of emissions, to the extent practicable;

18 iii. enhance the conditions of the ecosystem or geographic area
19 adversely affected; and

20 iv. substantially reduce or prevent the generation or release of
21 pollutants through source reduction.

22 i. A greenhouse gas emission offset project shall not be approved by
23 the department where the project:

24 i. is required pursuant to any local, state or federal law, regu-
25 lation, or administrative or judicial order;

26 ii. contains measures which the source would have undertaken anyway
27 within the next five years;

28 iii. contributes to environmental research at a college or university;
29 or

30 iv. is a study or assessment without a commitment to implement the
31 results.

32 j. In approving greenhouse gas emission offset projects, the depart-
33 ment shall prioritize projects that maximize public health and environ-
34 mental benefits within the state and especially localized benefits in
35 disadvantaged communities, defined pursuant to section 75-0111 of this
36 article.

37 k. The department shall establish a public registry of greenhouse gas
38 emission offset projects approved pursuant to this subdivision.

39 l. Prior to the inclusion of any alternative compliance mechanism in
40 the regulations, to the extent feasible and in the furtherance of
41 achieving the statewide greenhouse gas emissions limit, the department
42 shall do all of the following:

43 i. consult with the council, the environmental justice advisory group,
44 and the climate justice working group;

45 ii. consider the potential for direct, indirect, and cumulative emis-
46 sion impacts from this mechanism, including localized impacts in disad-
47 vantaged communities as identified pursuant to section 75-0111 of this
48 article;

49 iii. design the alternative compliance mechanism to prevent any
50 increase in the emissions of co-pollutants; and

51 iv. maximize additional environmental, public health, and economic
52 benefits for the state and for disadvantaged communities identified
53 pursuant to section 75-0111 of this article, as appropriate.

54 § 75-0111. Climate justice working group.

55 1. There is hereby created, no later than six months after the effec-
56 tive date of this article, a "climate justice working group". Such work-

1 ing group will be comprised of representatives from: environmental
2 justice communities, the department, the department of health, the New
3 York state energy and research development authority, and the department
4 of labor.

5 a. Environmental justice community representatives shall be members of
6 communities of color, low-income communities, and communities bearing
7 disproportionate pollution and climate change burdens, or shall be
8 representatives of community-based organizations with experience and a
9 history of advocacy on environmental justice issues, and shall include
10 at least three representatives from New York city communities, three
11 representatives from rural communities, and three representatives from
12 upstate urban communities.

13 b. The working group, in consultation with the department, the depart-
14 ments of health and labor, the New York state energy and research devel-
15 opment authority, and the environmental justice advisory group, will
16 establish criteria to identify disadvantaged communities for the
17 purposes of co-pollutant reductions, greenhouse gas emissions
18 reductions, regulatory impact statements, and the allocation of invest-
19 ments related to this article.

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

23 i. areas burdened by cumulative environmental pollution and other
24 hazards that can lead to negative public health effects;

25 ii. areas with concentrations of people that are of low income, high
26 unemployment, high rent burden, low levels of home ownership, low levels
27 of educational attainment, or members of groups that have historically
28 experienced discrimination on the basis of race or ethnicity; and

29 iii. areas vulnerable to the impacts of climate change such as flood-
30 ing, storm surges, and urban heat island effects.

31 2. Before finalizing the criteria for identifying disadvantaged commu-
32 nities and identifying disadvantaged communities pursuant to subdivision
33 one of this section, the department shall publish draft criteria and a
34 draft list of disadvantaged communities and make such information avail-
35 able on its website.

36 a. The council shall hold at least six regional public hearings on the
37 draft criteria and the draft list of disadvantaged communities, includ-
38 ing three meetings in the upstate region and three meetings in the down-
39 state region, and shall allow at least one hundred twenty days for the
40 submission of public comment.

41 b. The council shall also ensure that there are meaningful opportu-
42 nities for public comment for all persons who will be impacted by the
43 criteria, including persons living in areas that may be identified as
44 disadvantaged communities under the proposed criteria.

45 3. The group will meet no less than annually to review the criteria
46 and methods used to identify disadvantaged communities and may modify
47 such methods to incorporate new data and scientific findings. The
48 climate justice working group shall review identities of disadvantaged
49 communities and modify such identities as needed.

50 § 75-0113. Value of carbon.

51 1. No later than one year after the effective date of this article,
52 the department, in consultation with the New York state energy research
53 and development authority, shall establish a social cost of carbon for
54 use by state agencies, expressed in terms of dollars per ton of carbon
55 dioxide equivalent.

1 2. The social cost of carbon shall serve as a monetary estimate of the
2 value of not emitting a ton of greenhouse gas emissions. As determined
3 by the department, the social cost of carbon may be based on marginal
4 greenhouse gas abatement costs or on the global economic, environmental,
5 and social impacts of emitting a marginal ton of greenhouse gas emis-
6 sions into the atmosphere, utilizing a range of appropriate discount
7 rates, including a rate of zero.

8 3. In developing the social cost of carbon, the department shall
9 consider prior or existing estimates of the social cost of carbon issued
10 or adopted by the federal government, appropriate international bodies,
11 or other appropriate and reputable scientific organizations.

12 § 75-0115. Community air monitoring program.

13 1. For purposes of this section, the following definitions and related
14 provisions shall apply:

15 a. "Community air monitoring system" means advanced sensing monitoring
16 equipment that measures and records air pollutant concentrations in the
17 ambient air at or near sensitive receptor locations in disadvantaged
18 communities.

19 b. "Disadvantaged community" means a community identified as disadvan-
20 tagged pursuant to the criteria set forth in section 75-0111 of this
21 article.

22 c. "Sensitive receptors" includes hospitals, schools and day care
23 centers, and such other locations as the department may determine.

24 2. a. On or before October first, two thousand twenty-two, the depart-
25 ment shall prepare, in consultation with the climate justice working
26 group, a program demonstrating community air monitoring systems.

27 b. The program shall identify the highest priority locations in disadvan-
28 tagged communities around the state to deploy community air monitoring
29 systems, which shall be communities with potentially high exposure
30 burdens for toxic air contaminants and criteria air pollutants. The
31 program shall be undertaken in no less than four communities statewide
32 with regional consideration.

33 c. The department shall publish the air quality data produced by the
34 community air monitoring systems deployed pursuant to this section on
35 its website as it becomes available.

36 3. On or before June first, two thousand twenty-four, the department
37 shall prepare, in consultation with the climate justice working group, a
38 strategy to reduce emissions of toxic air contaminants and criteria air
39 pollutants in disadvantaged communities affected by a high cumulative
40 exposure burden. The strategy shall include criteria for the development
41 of community emission reduction programs. The criteria presented in the
42 strategy shall include, but are not limited to, the following:

43 a. an assessment and identification of communities with high cumula-
44 tive exposure burdens for toxic air contaminants and criteria air pollu-
45 tants.

46 b. a methodology for assessing and identifying the contributing sourc-
47 es or categories of sources, including, but not limited to, stationary
48 and mobile sources, and an estimate of their relative contribution to
49 elevated exposure to air pollution in impacted communities identified
50 pursuant to paragraph a of this subdivision.

51 c. an assessment of the existing and available measures for reducing
52 emissions from the contributing sources or categories of sources identi-
53 fied pursuant to paragraph b of this subdivision.

54 4. a. Based on the assessment and identification of disadvantaged
55 communities with high cumulative exposure burdens for toxic air contam-
56 inants and criteria air pollutants completed pursuant to paragraph a of

1 subdivision three of this section, the department shall select disadvan-
2 tagged communities around the state for preparation of community emis-
3 sions reduction programs. The department may select additional locations
4 annually thereafter, as appropriate.

5 b. The department shall have the authority to adopt regulations estab-
6 lishing programs to achieve emissions reductions for the locations
7 selected using the most cost-effective measures identified pursuant to
8 paragraph c of subdivision three of this section.

9 § 75-0117. Investment of funds.

10 State agencies, authorities and entities, in consultation with the
11 environmental justice working group and the climate action council,
12 shall, to the extent practicable, invest or direct available and rele-
13 vant programmatic resources in a manner designed to achieve a goal for
14 disadvantaged communities to receive forty percent of overall benefits
15 of spending on clean energy and energy efficiency programs, projects or
16 investments in the areas of housing, workforce development, pollution
17 reduction, low income energy assistance, energy, transportation and
18 economic development, provided however, that disadvantaged communities
19 shall receive no less than thirty-five percent of the overall benefits
20 of spending on clean energy and energy efficiency programs, projects or
21 investments and provided further that this section shall not alter funds
22 already contracted or committed as of the effective date of this
23 section.

24 § 75-0119. Implementation reporting.

25 1. The department in consultation with the council shall, not less
26 than every four years, publish a report which shall include recommenda-
27 tions regarding the implementation of greenhouse gas reduction measures.

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

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

31 b. An assessment of existing regulations and whether modifications are
32 needed to ensure fulfillment of the statewide greenhouse gas emissions
33 limits.

34 c. An overview of social benefits from the regulations or other meas-
35 ures, including reductions in greenhouse gas emissions and copollutants,
36 diversification of energy sources, and other benefits to the economy,
37 environment, and public health.

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

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

43 f. Whether activities undertaken to comply with state regulations
44 disproportionately burden disadvantaged communities as identified pursu-
45 ant to section 75-0111 of this article.

46 g. An assessment of local benefits and impacts of any reductions in
47 co-pollutants related to reductions in statewide and local greenhouse
48 gas emissions.

49 h. An assessment of disadvantaged communities' access to or community
50 ownership of the services and commodities identified in section eight of
51 the chapter of the laws of two thousand nineteen which added this arti-
52 cle.

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

56 j. Recommendations for future regulatory and policy action.

1 3. In preparing this report, the department shall, at a minimum,
2 consult with the council, and the climate justice working group estab-
3 lished in section 75-0111 of this article.

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

6 § 3. Paragraphs f and g of subdivision 1 of section 54-1523 of the
7 environmental conservation law, as added by section 5 of part U of chap-
8 ter 58 of the laws of 2016, are amended and a new paragraph h is added
9 to read as follows:

10 f. enabling communities to become certified under the climate smart
11 communities program, including by developing natural resources invento-
12 ries, right sizing of municipal fleets and developing climate adaptation
13 strategies; ~~and~~

14 g. climate change adaptation planning and supporting studies, includ-
15 ing but not limited to vulnerability assessment and risk analysis of
16 municipal drinking water, wastewater, and transportation infrastruc-
17 ture~~[-]~~; and

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

21 § 4. The public service law is amended by adding a new section 66-p to
22 read as follows:

23 § 66-p. Establishment of a renewable energy program. 1. As used in
24 this section:

25 (a) "jurisdictional load serving entity" means any entity subject to
26 the jurisdiction of the commission that secures energy to serve the
27 electrical energy requirements of end-use customers in New York state;

28 (b) "renewable energy systems" means systems that generate electricity
29 or thermal energy through use of the following technologies: solar ther-
30 mal, photovoltaics, on land and offshore wind, hydroelectric, geothermal
31 electric, geothermal ground source heat, tidal energy, wave energy,
32 ocean thermal, and fuel cells which do not utilize a fossil fuel
33 resource in the process of generating electricity.

34 2. No later than June thirtieth, two thousand twenty-one, the commis-
35 sion shall establish a program to require that: (a) a minimum of seventy
36 percent of the state wide electric generation secured by jurisdictional
37 load serving entities to meet the electrical energy requirements of all
38 end-use customers in New York state in two thousand thirty shall be
39 generated by renewable energy systems; and (b) that by the year two
40 thousand forty (collectively, the "targets") the statewide electrical
41 demand system will be zero emissions. In establishing such program, the
42 commission shall consider and where applicable formulate the program to
43 address impacts of the program on safe and adequate electric service in
44 the state under reasonably foreseeable conditions. The commission may,
45 in designing the program, modify the obligations of jurisdictional load
46 serving entities and/or the targets upon consideration of the factors
47 described in this subdivision.

48 3. No later than July first, two thousand twenty-four and every two
49 years thereafter, the commission shall, after notice and provision for
50 the opportunity to comment, issue a comprehensive review of the program
51 established pursuant to this section. The commission shall determine,
52 among other matters: (a) progress in meeting the overall targets for
53 deployment of renewable energy systems and zero emission sources,
54 including factors that will or are likely to frustrate progress toward
55 the targets; (b) distribution of systems by size and load zone; and (c)
56 annual funding commitments and expenditures.

1 4. The commission may temporarily suspend or modify the obligations
2 under such program provided that the commission, after conducting a
3 hearing as provided in section twenty of this chapter, makes a finding
4 that the program impedes the provision of safe and adequate electric
5 service; the program is likely to impair existing obligations and agree-
6 ments; and/or that there is a significant increase in arrears or service
7 disconnections that the commission determines is related to the program.

8 5. No later than July first, two thousand twenty-four, the commission
9 shall establish programs to require the procurement by the state's load
10 serving entities of at least nine gigawatts of offshore wind electricity
11 generation by two thousand thirty-five and six gigawatts of photovoltaic
12 solar generation by two thousand twenty-five, and to support three giga-
13 watts of statewide energy storage capacity by two thousand thirty.

14 6. In any proceeding commenced by the commission with a goal of
15 achieving one hundred eighty-five trillion British thermal units of
16 end-use energy savings below the two thousand twenty-five energy-use
17 forecast, the commission will include mechanisms to ensure that, where
18 practicable, at least twenty percent of investments in residential ener-
19 gy efficiency, including multi-family housing, can be invested in a
20 manner which will benefit disadvantaged communities, as defined in arti-
21 cle seventy-five of the environmental conservation law.

22 7. In the implementation of this section, the commission shall design
23 programs in a manner to provide substantial benefits for disadvantaged
24 communities, as defined in article seventy-five of the environmental
25 conservation law, at a reasonable cost while ensuring safe and reliable
26 electric service. Specifically, the commission shall:

27 (a) To the extent practicable, specify that a minimum percentage of
28 energy storage projects should deliver clean energy benefits into NYISO
29 zones that serve disadvantaged communities, as defined in article seven-
30 ty-five of the environmental conservation law, and that energy storage
31 projects be deployed to reduce the usage of combustion-powered peaking
32 facilities located in or near disadvantaged communities;

33 (b) In pursuing the state's solar deployment goals, the New York state
34 energy research and development authority shall consider enhanced incen-
35 tive payments for solar and community distributed generation projects,
36 focusing in particular but not limited to those serving disadvantaged
37 communities, as defined in article seventy-five of the environmental
38 conservation law, which result in energy cost savings or demonstrate
39 community ownership models; and,

40 (c) In the allocation of ratepayer funds for clean energy, direct the
41 New York state energy research and development authority and investor
42 owned utilities to develop and report metrics for energy savings and
43 clean energy market penetration in the low and moderate income market
44 and in disadvantaged communities, as defined in article seventy-five of
45 the environmental conservation law, and post such information on the
46 website.

47 § 5. This act shall be subject to current prevailing wage law.

48 § 6. Report on barriers to, and opportunities for, community ownership
49 of services and commodities in disadvantaged communities. 1. On or
50 before two years of the effective date of this act, the department of
51 environmental conservation, with input from relevant state agencies, the
52 environmental justice advisory group as defined in section 75-0101 of
53 the environmental conservation law, the climate justice working group as
54 defined in section 75-0111 of the environmental conservation law and
55 Climate Action Council established in article 75 of the environmental
56 conservation law, and following at least two public hearings, shall

1 prepare a report on barriers to, and opportunities for, access to or
2 community ownership of the following services and commodities in disad-
3 vantaged communities as identified in article 75 of the environmental
4 conservation law:

5 a. Distributed renewable energy generation.

6 b. Energy efficiency and weatherization investments.

7 c. Zero-emission and low-emission transportation options.

8 d. Adaptation measures to improve the resilience of homes and local
9 infrastructure to the impacts of climate change including but not limit-
10 ed to microgrids.

11 e. Other services and infrastructure that can reduce the risks associ-
12 ated with climate-related hazards, including but not limited to:

13 i. Shelters and cool rooms during extreme heat events;

14 ii. Shelters during flooding events; and

15 iii. Medical treatment for asthma and other conditions that could be
16 exacerbated by climate-related events.

17 2. The report, which shall be submitted to the governor, the speaker
18 of the assembly and the temporary president of the senate and posted on
19 the department of environmental conservation website, shall include
20 recommendations on how to increase access to the services and commod-
21 ities.

22 3. The department of environmental conservation shall amend the scop-
23 ing plan for statewide greenhouse gas emissions reductions in accordance
24 with the recommendations included in the report.

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

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

41 3. In considering and issuing permits, licenses, and other administra-
42 tive approvals and decisions, including but not limited to the execution
43 of grants, loans, and contracts, pursuant to article 75 of the environ-
44 mental conservation law, all state agencies, offices, authorities, and
45 divisions shall not disproportionately burden disadvantaged communities
46 as identified pursuant to subdivision 5 of section 75-0101 of the envi-
47 ronmental conservation law. All state agencies, offices, authorities,
48 and divisions shall also prioritize reductions of greenhouse gas emis-
49 sions and co-pollutants in disadvantaged communities as identified
50 pursuant to such subdivision 5 of section 75-0101 of the environmental
51 conservation law.

52 § 8. Authorization for other state agencies to promulgate greenhouse
53 gas emissions regulations. 1. The public service commission, the New
54 York state energy research and development authority, the department of
55 health, the department of transportation, the department of state, the
56 department of economic development, the department of agriculture and

1 markets, the department of financial services, the office of general
2 services, the division of housing and community renewal, the public
3 utility authorities established pursuant to titles 1, 1-A, 1-B, 11,
4 11-A, 11-B, 11-C and 11-D of article 5 of the public authorities law and
5 any other state agency shall promulgate regulations to contribute to
6 achieving the statewide greenhouse gas emissions limits established in
7 article 75 of the environmental conservation law. Provided, however, any
8 such regulations shall not limit the department of environmental conser-
9 vation's authority to regulate and control greenhouse gas emissions
10 pursuant to article 75 of the environmental conservation law.

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

14 § 17-a. The department of environmental conservation shall take
15 actions to promote adaptation and resilience, including:

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

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

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

27 § 17-b. Major permits for the regulatory programs of subdivision three
28 of section 70-0107 of the environmental conservation law shall require
29 applicants to demonstrate that future physical climate risk has been
30 considered. In reviewing such information the department may require the
31 applicant to mitigate significant risks to public infrastructure and/or
32 services, private property not owned by the applicant, adverse impacts
33 on disadvantaged communities, and/or natural resources in the vicinity
34 of the project.

35 § 10. Nothing in this act shall limit the existing authority of a
36 state entity to adopt and implement greenhouse gas emissions reduction
37 measures.

38 § 11. Nothing in this act shall relieve any person, entity, or public
39 agency of compliance with other applicable federal, state, or local laws
40 or regulations, including state air and water quality requirements, and
41 other requirements for protecting public health or the environment.

42 § 12. Review under this act may be had in a proceeding under article
43 78 of the civil practice law and rules at the instance of any person
44 aggrieved.

45 § 13. Severability. If any word, phrase, clause, sentence, paragraph,
46 section, or part of this act shall be adjudged by any court of competent
47 jurisdiction to be invalid, such judgement shall not affect, impair, or
48 invalidate the remainder thereof, but shall be confined in its operation
49 to the word, phrase, clause, sentence, paragraph, section, or part ther-
50 eof directly involved in the controversy in which such judgement shall
51 have been rendered.

52 § 14. This act shall take effect on the same date and in the same
53 manner as a chapter of the laws of 2019, amending the environmental
54 conservation law, relating to establishing a permanent environmental
55 justice advisory group and an environmental justice interagency coordi-
56 nating council, as proposed in legislative bills numbers S. 2385 and A.

1 1564, takes effect; provided further, the provisions of section 75-0115
2 of the environmental conservation law as added by section two of this
3 act shall take effect October 1, 2022.