

An Act to amend the tax law, establishing a tax on carbon-based fuels to mitigate greenhouse gas emissions causing anthropogenic climate change.

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Adds a new Article 12-B to the New York state tax law:

SECTION 1. Definitions. FOR THE PURPOSES OF THIS TITLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. “Carbon-based fuel” means coal, natural gas, renewable biomass, petroleum products, and any other product that contains carbon and emits carbon dioxide, methane, nitrous oxide, or other greenhouse gases when combusted, that are used for fuel, heating, cooling, or industrial processes, which processes shall include electricity generation.
2. “Carbon-generated electricity” means electric energy produced using a carbon-based fuel and generated or transmitted by an electric power facility.
3. “Carbon dioxide equivalent” means a unit of measure denoting the amount of emissions from a greenhouse gas, expressed as the amount of carbon dioxide by weight that produces the same global warming impact.
4. “Carbon dioxide emissions tax” means a tax imposed on each ton of CO₂e.
5. “Fuel Distributor” means any person, firm, association or corporation, that imports or causes to be imported into the state, for use, distribution, storage or sale within the state, any carbon-based fuel as defined in subdivision 1 of this part; and also any person, firm, association or corporation that produces, refines, manufactures or compounds carbon-based fuel within the state.
6. “Fund” means the carbon dioxide emissions revenue fund established under this article.
7. “Motor vehicle fuel” means fuel for the operation of a motor vehicle.
8. “Utility” means any such gas corporation, electric corporation, gas and electric corporation, steam corporation, municipality, or any entity that, in any manner, sells or facilitates the sale, furnishing or provision of gas or electric commodity to residential customers; provided, however, that the term does not include any municipality that is exempt from commission regulation by virtue of section 1005(5)(g) of the Public Authorities Law.

SECTION 2. (1) The NYS Department of Environmental Conservation (department) shall administer the schedules of carbon dioxide emissions charges and the carbon dioxide emissions revenue fund, both established pursuant to this article.

Such tax shall be imposed on each fuel distributor and utility at a rate and schedule to be determined by the department as required by section 3 of this article for a carbon-based fuel that is:

(a) Sold by a fuel distributor to consumers in this state in the previous calendar year; or

(b) Used to produce carbon-generated electricity that is supplied by a utility to consumers in this state in the previous calendar year.

SECTION 3. (1) Carbon dioxide emissions tax. (a) The NYS Department of Tax and Finance and the department of environmental conservation shall establish a carbon dioxide emissions tax on the distribution or sale of carbon-based fuels which shall be no less than \$35 per ton of carbon dioxide equivalency upon enactment of this article and shall increase by \$15 per ton of carbon dioxide equivalency annually to a maximum of \$185 per ton of carbon dioxide equivalency.

(b) In the fourth year of implementation, and biannually thereafter, the department shall publish a report for the legislature and shall post the report on a publicly available internet website. Said report shall consider whether any increases or decreases in the carbon dioxide emissions tax as authorized by this section are recommended to account for inflation, and to ensure progress towards reaching emissions to mitigate climate change in furtherance of established state policy.

(c) The NYS Department of Tax and Finance shall determine total taxable emissions annually for each distributor or utility using the carbon dioxide equivalent for each carbon-based fuel based on information that shall be provided in an annual report to the department of tax and finance by the distributor or utility about the amount of carbon-based fuel or carbon-generated electricity sold to consumers within the state during the preceding calendar year. Such annual report shall also include any information required by the department by rule or regulation.

(d) The NYS Department of Tax and Finance and the department shall be authorized to develop any rule or regulation necessary to collect and administer the carbon dioxide emissions tax authorized under this article.

(e) Notwithstanding any general or special law to the contrary, the tax authorized under this section shall not be imposed on any carbon-based fuel or source of carbon-based electricity if such imposition is superseded by federal law or regulation.

Section 4. (1) Carbon dioxide emissions fund:

(a) The department shall establish the carbon dioxide emissions fund, and the department's office of climate change (OCC) shall serve as the fund's administrator. The department shall deposit all proceeds collected in accordance with section 3 of this article into the fund. None of said proceeds shall fund government operations of the state, other than to pay for reasonable administrative costs as provided under sub-section (b) of this section.

(b) OCC shall return 60 percent of all carbon dioxide emissions charge proceeds to very low to moderate income residents of the state in the form of tax credits in order to offset the regressive nature of such fees. The amount of such credit shall be based on estimates and averages of expense and consumption trends for very low to moderate income residents determined in conjunction by OCC and the Department of Tax & Finance in accordance with section 5 of this

article. Such credit shall be progressively issued to very low to moderate income residents that are defined as the following: very low-income as below 50 percent of the area median income (AMI); low income as between 50 and 80 percent of AMI; and moderate income as below 115 percent of AMI.

(c) OCC shall distribute evenly the remaining 40 percent of the proceeds of such fund in order to support the transition to 100 percent clean energy in NYS (13.33 percent), to support mass transit to reduce carbon emissions (13.33 percent), and to improve climate change adaptation (13.33 percent). Such funds shall include but not be limited to payments and subsidies for renewable energy, energy conservation and efficiency measures, improvements in infrastructure, improvements in mass transit capacity, agricultural adaptation measures, protection of low-lying areas including coastlines, and emergency responses to extreme weather events.

Section 5. (1) Regulations; Miscellaneous:

(a) The department and the NYS Department of Tax and Finance shall promulgate rules and regulations necessary to carry out the provisions of this article.

(b) The department and the NYS Department of Tax and Finance shall undertake all reasonable efforts to collect charges authorized pursuant to this article at the first point of distribution or sale within the state.

STUDY (by itself):

Section 1. (1) The New York State Energy Research and Development Authority (NYSERDA) is hereby directed to prepare a report for submission to the Environmental Conservation Committees of the NYS Assembly and Senate related to implementing a greenhouse gas or carbon emission fee or tax (hereinafter a carbon fee or tax) statewide related to assisting the state in reducing or eliminating such greenhouse gases.

(2) The report shall:

- (a) analyze the current and future environmental impact of greenhouse emissions, including carbon and methane, and the dangers posed to New York State residents from climate change;
- (b) analyze the potential environmental and policy benefits derived from a carbon tax;
- (c) Identify an effective structure for a carbon fee or tax to generate revenue;
- (d) Evaluate the direct and indirect impacts of a carbon fee or tax on low-income households, consumers, industries and localities;
- (e) Evaluate the direct and indirect regional and statewide impacts of a carbon fee or tax;
- (f) Evaluate whether the level of greenhouse gas emission reductions might vary based on different rates of a carbon fee or tax, including determining the minimum level of such fee or tax needed to ensure a significant reduction in greenhouse gas emissions;
- (g) Evaluate how to treat imported and exported energy sources under a carbon fee or tax;
- (h) Evaluate the impacts of a carbon fee or tax on jobs and wages;
- (i) Evaluate the impacts of a carbon fee or tax on existing fees, state revenue and state income taxes, including the Regional Greenhouse Gas Initiative;
- (j) Evaluate the per unit costs of specific types of fuels that would be subject to a carbon fee or tax; and
- (k) Evaluate revenue allocation options, including assisting in funding a transition to clean renewable energy, maximizing positive impacts and mitigating detrimental or unequal impacts on low and moderate income households, improving mass transit, implementing climate change adaptation measures such as making improvements in infrastructure, implementing agricultural adaptation measures, increasing protection of low-lying areas including coastlines, and enhancing emergency health response to extreme weather events.

(3) NYSERDA shall submit a written preliminary report to the State Legislature related to revenue and the environment on or before December 1, 2015, and a final report on or before March 1, 2016. NYSERDA may contract with third parties as necessary to prepare the reports and any recommendations.

(4) NYSERDA shall provide for public input in the study, including holding at least two public hearings before the final report is released.