S.3456 (Hoylman)/A.4282 (Glick) and S.3008-B, Part KKK

STAFF CONTACT : Ken Pokalsky | Vice President | 5186944460

BILL

S.3456 (Hoylman)/A.4282 (Glick) and S.3008-B, Part KKK

SUBJECT

Mandatory Global GHG Emissions Reporting

DATE

March 31, 2025

OPPOSE

This memo addresses both the stand-alone legislation as well as the identical language included in the Senate's budget resolution.

This legislation would mandate large businesses (those with more than $1 billion in global revenues) that do business in New York to report their greenhouse gas emissions to the state. This mandate does not just apply to their in-state emissions, nor does it just apply to direct emissions from their own facilities and indirect emissions from their use of purchased energy. Instead, it also requires reporting on "scope 3" emissions including those from the transportation, use and disposal of their products; emissions from franchises; emission related to their financial investments; emissions from employee transportation; emissions from all levels of their supply chain; and others – regardless of their location, elsewhere in the U.S. or overseas.

While some major businesses already prepare global GHG emission reports as part of their sustainability programs, this proposed reporting mandate imposes several significant concerns:

- The state's Department of Environmental Conservation just (March 19, 2025) released its proposed greenhouse gas emissions reporting rule, that will apply to industrial and power generation sources, fuel providers, waste transporters and others – many of the same entities that would be subject to reporting under this legislation. The state intends to adopt this rule in 2025, with the final rule first applicable to 2026 emissions, and with initial reports due in June 2027 – very similar to the implementation timetable proposed in S.3456/A.4282. **This would impose significant and duplicative program design and implementation burdens on both the state agency and regulated business.**
- This bill is modeled on legislation recently adopted in California. While submitting **identical** emissions reports to multiple states poses a more manageable compliance burden, both the California statute and this legislation allow the state to make state-specific modifications to their programs emissions accounting and reporting standards, disclosure deadlines, and data assurance standards. These provisions will allow the California and New York reporting programs to deviate over time; and with other states considering different versions of global GHG emission reporting legislation, the compliance obligations on businesses will become unmanageable.

- While this legislation applies directly to entities with more than $1 billion in global receipts, this new reporting mandate will likely impose additional obligations on many small businesses worldwide. The inclusion of scope 3 emissions in this reporting program will require an assessment of emissions from "upstream" supply chains and "downstream" customers and consumers of both goods and services, with businesses directly subject to this reporting mandate requiring their supply chain participants to provide new or additional information on their activities and emissions.
- This legislation (and the California statute) will result in a significant double counting of emission in many instances, such as the case where a fuel provider will be reporting as Scope 3 emissions the same emissions that a major fleet operator will be reporting as Scope 1 emissions, or a power generator will be reporting as Scope 1 emissions the same emissions as a major commercial business will be reporting as Scope 2 emissions. It is unclear to what extent the bill's "findings" report will address this over-counting as it puts this reporting mandate "in the context of state greenhouse gas emission reduction and climate goals."
- The bill has excessive civil penalties, with any "willful" violation, including non-filing, late filing or any other compliance failing, subject to civil penalties up to $100,000 per day, with a maximum fine of $500,000 per filing year. These penalty levels are excessively high for filing errors unrelated to any specific environmental harm and are significantly higher than state Environmental Conservation Law civil penalties involving actual or potential environmental or public health impacts.

We know that the state will be imposing an expanded GHG emissions reporting mandate as part of its broader "cap and invest" program. The DEC's draft of Part 253 regulation will impose new, complex emissions calculation and reporting obligations on many New York businesses. Importantly, Part 253 will be an integral part of the state's CLCPA implementation efforts, as it will provide data necessary to implement its cap and invest program and assure more accurate accounting of the state's progress toward its CLCPA emission reduction goals.

On the other hand, S.3456/A.4282 does not support the state's CLCPA implementation efforts, will impose additional, duplicative requirements and compliance costs on the DEC and businesses alike, and – to a large extent – will replicate emission reporting that will be available elsewhere under other mandates.

For these practical reasons, The Business Council opposes adoption of S.3456/A.4282