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## 2024 Joint Legislative Budget Hearing on Environmental Conservation February 7, 2024

**TESTIMONY of  
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Thank you for the opportunity to provide testimony on the proposed Executive Budget on behalf of the Alliance for Clean Energy New York. The Alliance for Clean Energy New York (ACE NY) is a broad coalition dedicated to promoting clean energy, energy efficiency, a healthy environment, and a strong economy for the Empire State. ACE NY is New York's premier advocate for the rapid adoption of renewable energy, energy efficiency, and transportation electrification technologies. Our members include renewable energy and energy efficiency companies, including companies that are currently operating renewable energy facilities in New York, such as hydropower and wind facilities, and those pursuing opportunities to invest in New York to build land-based wind and offshore wind, community solar and grid-connected solar, energy storage, fuel cells, and transmission. We also have member companies that manufacture electric vehicles or electric vehicle charging infrastructure or otherwise support the electrification of transportation. You can learn more about ACE NY <http://www.aceny.org> at [www.aceny.org](http://www.aceny.org).

This testimony specifically addresses the following areas:

- Renewable Action Through Project Interconnection and Deployment Act (RAPID) Act (Part O) of the Executive Proposed Transportation, Economic Development and Environmental Conservation (TED) Budget Article VII Bill ([S.8308/A.8808](#));
- Batteries for Micromobility Devices (Part GG) of the Executive Proposed Transportation, Economic Development and Environmental Conservation (TED) Budget Article VII Bill ([S.8308/A.8808](#));

- Climate Action Items in Parts M and S of the Executive Proposed Transportation, Economic Development and Environmental Conservation (TED) Budget Article VII Bill ([S.8308/A.8808](#));
- Policies necessary to accelerate renewable energy development and to reduce pollution from transportation and buildings.

ACE NY is pleased that the Governor’s budget presentation highlighted the need to address climate change, expedite permitting for electric transmission projects, and provide additional funding for Climate Smart Communities. These actions ensure that the state makes progress towards the ambitious economy-wide greenhouse gas emissions and renewable energy goals of New York’s climate law, the Climate Leadership and Community Protection Act (CLCPA).

New Yorkers have direct experience with the devastating effects of climate change. Just this past summer, a series of severe storms across the Hudson Valley, New York City, and Long Island and New York City left one person dead and caused \$81 million in damage, washing away roads and houses, causing delays and closures of mass transit, including suspending about half of the New York City Subway system, and leaving scars on our shorelines. Wildfires in Canada left our State covered in a smokey haze, and Western New York has seen unprecedented snowstorms.

New York State's recently released [Climate Impact Assessment](#) paints a stark picture of how climate change will affect the state. It predicts by 2050, 5-9 multiday heat waves affecting the state and all parts of the state will see days with a heat index over 103°F. The Assessment estimates a 1-8% increase in rain and snow across the state by 2030, with an increase up to 12% by 2050. The eastern part of the state is predicted to experience at least one 4-inch rainstorm per decade by 2050. The Assessment concludes with “*there is **high** confidence that flood intensity and damages will increase during the 21st century. Such a conclusion is arguably intuitive when coupled with this assessment’s projection of more frequent and intense heavy precipitation events.*”<sup>1</sup>

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<sup>1</sup> [New York State Climate Impacts Assessment: Chapter 2: New York State’s Changing Climate \(nysclimateimpacts.org\)](#)

To quote the United Nations Environment Program Executive Director, Inger Andersen, “*We must instead lift the needle out of the same old groove of insufficient ambition and not enough action, and start setting other records: on cutting emissions, on green and just transitions*”<sup>2</sup>

ACE NY believes that transitioning to renewable sources of energy is one of the best strategies in the fight against climate change. NYSERDA’s recent posting of an RFP for wind and solar projects resulted in 57 projects totaling 5,000 MW applying. Similarly, the recently issued RFP for offshore wind (OSW) resources drew three bids comprising projects totaling approximately 3,000 MW in capacity. This shows the renewable industry will continue to invest in NY, but there are actions the Legislature needs to take to support our climate transition.

The Legislature has a stake in the successful achievement of the Climate Law’s very, very ambitious, but achievable, goals. Given that the law is so broad and economy-wide and greenhouse gas emissions are so ubiquitous, you may believe that I’m simplifying things to say that building wind and solar projects is the single most important thing we can be doing in the short term, but in fact, it’s true. To reduce emissions from the electric sector, you need more renewable power plants. To meet the goals in the law for offshore wind, distributed solar, and 70% renewable electricity by 2030, NYS needs more wind and solar. We will reduce emissions from transportation and heating – the other two major sectors -- by electrifying vehicles and heating, but only if that electricity comes from renewables. Further, it takes years to develop a renewable energy project -- from land acquisition to public outreach, permitting and interconnection to financing and construction – and those processes need to be streamlined as soon as possible to construct as many projects as possible. Then, we can collectively and gradually move closer to the law’s 2030 and 2050 mandates.

## **I. Renewable Action Through Project Interconnection and Deployment Act (RAPID ACT)**

ACE NY supports the Governor’s proposed language in Part O of the TED Budget Article VII Bill ([S.8308/A.8808](#)) that creates the Renewable Action Through Project Interconnection and Deployment Act (RAPID Act). The proposal would transfer the Office of Renewable Energy Siting

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<sup>2</sup> [UN urges dramatic climate action as records keep tumbling | UN News](#)

(ORES) from the Department of State to the Department of Public Service, allow ORES to grant siting permits for transmission projects, and require the Public Service Commission to open a proceeding on the timely interconnection of distributed energy resources to the electrical grid.

We are pleased that the Governor has recognized the important need to address the incredibly significant transmission constraints that are hampering renewables deployment. Absent investment in local and/or bulk transmission solutions items, these new renewable projects could experience deliverability and curtailment problems, limiting their contributions to New York's ambitious climate targets. The Public Service Commission and the Department of Public Service are coordinating several planning processes to identify transmission needs as we green our grid. In June of 2023, the PSC directed the NYISO to conduct a New York City Harbor Public Policy Transmission Need (PPTN) for the solicitation of transmission projects to deliver offshore wind generation into New York City. The Coordinated Grid Planning Process, approved last August by the PSC, is a collaboration between New York utilities, multiple state agencies, and stakeholder representation from the Energy Policy Planning Advisory Council (EPPAC). The recurring long-term planning cycle will systematically evaluate, identify, and propose transmission investment plans to remove bottlenecks and identify the path forward to achieve the Climate Law's mandates. All these important transmission planning actions will result in many projects that must be reviewed and permitted. It is important for the state to have a consistent and predictable review process with a timetable that will meet the need for the rapid deployment of renewables to address the climate crisis.

ACE NY supports the transfer of the ORES to the Department of Public Service and requests that the Legislature ensures that the Office is adequately staffed, given its expanded responsibilities to permit transmission projects in addition to renewable projects.

Solar power, including grid-scale and community solar projects sited on agricultural land (co-location), will play a critical role in achieving New York State's clean energy and greenhouse gas emission reduction goals. Co-location will allow New York to simultaneously pursue agricultural and renewable energy projects while avoiding irreversible land use conflicts. Moreover, it will help to bridge the gap between New York's farmers and the renewable energy industry by giving farmers the opportunity to continue their operations while supporting solar energy and letting them take advantage of new sources of income from land leases.

Recognizing the win-win outcomes that co-location offers, the Alliance for Clean Energy New York (ACE NY) recently released a first-of-its-kind report [Agrivoltaics in New York: Framing the Opportunity](#), that will help guide the increasingly important conversation in New York around solar energy project development on farmland. The comprehensive report, prepared by EDR on behalf of ACE NY, considers the prevailing policy and permitting landscape and provides an overview of current and emerging agrivoltaic practices in the solar industry and techniques for combining agriculture and solar development in the State. The report also gets into various technologies, current research, and features three constructive case studies.

The report, informed by significant input from ACE NY member companies that are developing renewable energy projects, underscores that agrivoltaics can and should be a tool to support rural economies and keep farmland in production while still providing affordable renewable energy to ratepayers. The report reinforces that agrivoltaics can provide much-needed revenue for New York's farmers and improve the quality of the farmland that plays host to solar projects.

ACE NY is pleased to see that the Part O proposal maintains the Farmland Protection Working Group which offers a mechanism for the State to assess, study and recommend ways to balance the need for reliable renewable energy and a robust agricultural industry in New York State. This Working Group, as well as NYSERDA's Agricultural Technical Working Group, and not-for-profit organizations reveal the way we can all work together to tackle climate change, transition to a zero-emission future, and address land use concerns.

## II. Batteries for Micromobility Devices

ACE NY is supportive of the Governor's proposal in Part GG of the Proposed TED Budget Article VII Bill ([S.8308/A.8808](#)) which would require safety certification of lithium-ion batteries used in micromobility devices. It is imperative that as we transition to a zero-emission transportation future that consumers are assured that the products they are purchasing are safe and reliable. The use of lithium-ion battery assisted bikes and scooters has increased as this technology has become cheaper and easier to use. Given the importance of expanding low-cost transportation options, like e-bikes

and e-scooters, in the Climate Scoping Plan, it is appropriate that the state sets safety standards for the testing and sale of the batteries they use.

### III. Climate Action Items

ACE NY supports the Governor's Part M of the Proposed TED Budget Article VII Bill ([S.8308/A.8808](#)) which extends NYSERDA's Build-Ready program unto 2030. The Build-Ready program was created in 2020 to allow NYSERDA to identify and obtain project approvals to locate renewables on brownfields, landfills, and other underutilized properties. Given the time needed to identify sites and work with local communities, it's appropriate that the program is extended.

Part S of the Proposed TED Budget Article VII Bill ([S.8308/A.8808](#)) would grant additional funding under the Climate Smart Communities Program to municipalities that either contain a disadvantaged communities as defined by the Climate Law or are facing financial hardship. The Climate Smart Communities program assists local governments in taking actions to reduce greenhouse gas emissions and adapt to our changing climate. ACE NY supports expanding funding for this program.

### IV. Additional Actions Needed to Support Clean Energy

There are several proposals missing from the Governor's budget that would remove barriers and accelerate our transition to clean energy and a healthier environment.

New York has set ambitious goals and fast-approaching timelines for the development of renewable energy in the state, and there are barriers that need to be addressed to make sure that New York reaches those goals. Permitting and siting roadblocks, unwieldy tax negotiations, and even the lack of State Police escorts for wind turbine blades are simply a few of the barriers faced by wind and solar developers and affected projects moving to construction. New York must work to remove these obstacles to ensure the timely development of clean energy projects.

Below we list some measures or issues that the Legislature should consider addressing:

- Improve Tax Policies to Facilitate Renewable Energy Development

Exempt Renewable Energy PILOT Revenue from Tax Cap Calculations: By exempting Payment In Lieu of Taxes (PILOT) property assessment increases, and not exempting PILOT revenue from Tax Cap calculations, the current law limits revenues that a municipality or school district can realize without a public referendum. In other words, even though a wind or solar project will be paying significant property taxes via a PILOT payment in a town, the tax cap will often require a town to reduce residential and commercial property taxes rather than realize additional revenue and limiting their ability to fund expanded local programs.

- Standardize Renewables End-of-Life Management

Establish Standardized State Decommissioning Mechanism for Renewable Energy Projects: Currently, decommissioning financial requirements are handled at the local level, even those that are required by state regulations through the Office of Renewable Energy Siting (ORES). To standardize and streamline this process, while maintaining the same stringent financial requirements for decommissioning, the Office of Renewable Energy Siting (ORES) should develop a procedure to process the financial security or letter of credit it requires or required by localities in their permit. This would reduce the burden on the municipalities and create a uniform procedure for the holding and processing of the fiscal security for decommissioning renewable energy projects.

Facilitate Solar Panel Recycling Without Slowing Solar Project Development: In June 2021, Niagara County passed a law that blocks solar development until a development plan that includes end-of-life recycling has been approved by the municipality. This makes manufacturers of solar panels responsible for financing and planning for the recycling of solar panels after their use. Niagara County's law has intentionally stalled solar development<sup>3</sup> in the name of solving a problem that 1) doesn't exist yet and 2) is either redundant or conflicting with the state's decommissioning requirements. New York state should study options and recommendations on the reuse and recycling of solar panels and create a tax credit for solar panel recyclers to locate in the State, creating jobs and providing nearby recycling options. Municipal laws on end-of-life management should be preempted so requirements do not vary town-to-town.

- Ensure Safe and Efficient Delivery of Wind Turbine Superloads

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<sup>3</sup> Prohaska, T, *Niagara County Hopes New Recycling Law Will Discourage Solar Developers*, The Buffalo News, March 2022; [https://buffalonews.com/news/local/niagara-county-hopes-new-recycling-law-will-discourage-solar-developers/article\\_0f6fd0a6-d047-11eb-818d-5f01f54bc7c3.html](https://buffalonews.com/news/local/niagara-county-hopes-new-recycling-law-will-discourage-solar-developers/article_0f6fd0a6-d047-11eb-818d-5f01f54bc7c3.html)

At present, state troopers are the only entities allowed to escort large wind turbine parts that are “superloads,” and there is concern that there are not enough state troopers to escort materials at the scale predicted for coming years. This issue is addressed in S.373 (Parker) / A.751 (Hunter), which would permit other entities to act as escort vehicles for superloads, expand the permissible hauling days, and streamline state agency processes.

- Promoting Next-Generation Offshore Wind Targets

New York is well on the path to contracting for offshore wind (OSW) resources consistent with the legislatively mandated target of 9 GW by 2035. However, OSW must play an ever-increasing role if the state is to remain on track to decarbonizing the grid by 2040 and attain economy-wide carbon neutrality by 2050. ACE NY supports S.6327-A (Kavanagh) / A.7497 (Barrett) which will extend and expand these targets – ramping up to 16-18 GW by 2040; and at least 20 GW by 2050.

- Sales Tax Exemption for Energy Storage.

Currently, energy storage technologies are not eligible for exemption from state sales tax for residential and commercial installation. However other similar clean energy technologies, such as residential and commercial solar energy equipment and commercial fuel cells, are eligible. The State Department of Taxation and Finance issued an advisory opinion<sup>4</sup> stating that in order to be eligible for state sales and use tax exemptions like solar and fuel cell equipment and installation, energy storage must meet specific, narrowly defined technical requirements that effectively make it difficult to impossible to qualify for the exemption. We support S.4547 (Parker) / A.4954 (Paulin) which would ensure that clean energy technologies are treated similarly under State tax law, thus creating a level playing field for these technologies. Importantly, this bill ensures that “stand-alone” energy storage projects would be eligible for a state sales tax exemption and thereby help to spur deployment of energy storage projects and enable the state’s electric grid to reap the many benefits of this critical technology.

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<sup>4</sup> [https://www.tax.ny.gov/pdf/advisory\\_opinions/sales/a09\\_36s.pdf](https://www.tax.ny.gov/pdf/advisory_opinions/sales/a09_36s.pdf)



- Sales Tax Exemption for Heat Pumps.

Heat pumps are the key to our transition to efficient electric heating for our buildings. They offer homeowners and landlords an efficient all-in-one heating and cooling system. Air source heat pumps are two to three times more efficient than fossil fuel or electric resistance heating systems.<sup>5</sup> The Climate Action Scoping Plan<sup>6</sup> calls for the scaled-up installation of heat pumps and also a scale-up of financial incentives for heat pumps. To reach the Governor's goal of two million climate-friendly homes by 2030 and the emission reductions required by the Climate Law, the state should eliminate the sales tax for the purchase and installation of residential and commercial heat pumps and allow for local municipalities to suspend their share of the sales tax also. The state currently provides a sales tax exemption on the installation of residential and commercial solar energy systems and fuel cells, and this measure would extend this to heat pumps.

- Allow for the Direct Sale of Electric Vehicles

The Legislature should allow manufacturers of only electric vehicles to sell their electric vehicles (EVs) at retail locations across the state. Presently, there are only five retailer locations that hold certificates of registration to sell EVs in New York, all of which are located downstate. We support S.7767 (Harckham), which would require DMV to allow non-franchised sellers of new electric vehicles (EVs) to open additional sale locations if the sale of EVs from franchised dealers is lagging and it's found that NYS is not meeting EV sales targets. Now, companies that manufacture only EVs cannot sell them directly to New Yorkers at new retail locations. New Yorkers need to be able to purchase the electric vehicle of their choice and have access to all the auto manufacturers, not just those with existing dealerships. New York's final Climate Action Scoping Plan includes the expansion of DMV retail certificate program beyond the current cap (five) on sellers. This change would have no cost to the General Fund and would scale up the number of EV retailers in the state. Moreover, it would make it more convenient for all New Yorkers to buy EVs, promoting consumer choice and giving fairer access.

- Establish a Clean Fuel Standard

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<sup>5</sup> Air Source Heat Pumps, DOE <https://www.energy.gov/energysaver/air-source-heat-pumps>

<sup>6</sup> Page 183, Scoping Plan [Scoping Plan - New York's Climate Leadership and Community Protection Act \(CLCPA\)](https://www.nysenate.gov/legislation/bills/2021/Scoping-Plan-New-York's-Climate-Leadership-and-Community-Protection-Act-CLCPA) ([ny.gov](https://www.nysenate.gov/legislation/bills/2021/Scoping-Plan-New-York's-Climate-Leadership-and-Community-Protection-Act-CLCPA))

A clean fuel standard (CFS) is a proven, efficient, and cost-effective way to reduce CO<sub>2</sub> emissions and pollution from the transportation sector, which is responsible for 28% of the state's GHG emissions.<sup>7</sup> ACE NY supports S.1292 (Parker) / A.964 (Woerner) which would establish a carbon intensity standard for all transportation fuels. Entities must meet the standard by producing or purchasing low carbon fuels or credits, encouraging the gradual transition away from gasoline to EVs. New York's Final Climate Action Scoping Plan includes a similar measure.

- Exempt Electric Vehicles from Sales Tax

S.5455 (Jackson) / A.3159 (Fahy) provides a State sales and compensating use taxes exemption on the first \$35,000 of battery, electric, or plugin hybrid EVs purchase, and authorizes local governments to elect to do the same. This legislation will help to reduce the upfront cost of purchasing or leasing an EV, a critical barrier to EV adoption. This bill will support EV deployment and market development in New York. We would also support a phase-out plan for this exemption. For example, the sales tax exemption could be valid between now and 2035 for light duty vehicles.

Thank you for the opportunity to provide input on the energy and environmental aspects of the Executive Budget.

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<sup>7</sup> "Reducing Greenhouse Gas Emissions." *Reducing Greenhouse Gas Emissions - NYS Dept. of Environmental Conservation*, [www.dec.ny.gov/energy/99223.html#:~:text=The%20transportation%20sector%20is%20the,greenhouse%20gas%20emissions%20and%20growing](http://www.dec.ny.gov/energy/99223.html#:~:text=The%20transportation%20sector%20is%20the,greenhouse%20gas%20emissions%20and%20growing).