## Testimony to The New York Senate Committee on Environmental Conservation

## RE: Climate Community Protection Act (CCPA)

## Presented by

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Good morning, my name is Darren Suarez. I am an energy and environmental policy analyst for the Business Council of New York State. I am before you today on behalf of the Business Council of New York State. I very much appreciate the opportunity to address you but most importantly I am pleased you are truly interested in discussing ways to address climate change.

It is unequivocally clear that the future risks from climate change will be impacted by decisions made today. The world has neither the luxury of time or resources to get this wrong. We need to accept that climate change occurs on a global scale and that if measures proposed in New York result in increased emissions elsewhere in the world, we have done nothing to solve the problem.

The Business Council is the leading business organization in New York State, representing the interests of more than 2,500 member businesses statewide. Our membership is composed primarily of electric power consumers, including more than 1,100 manufacturing firms. The primary function of the Business Council is to serve as an advocate for its members in policy matters affecting economic development, jobs and the general business climate in the state.

The Business Council’s opposition to this legislation is well documented, but our concerns can be addressed. Some of our concerns are small and technical while other concerns are going to be more challenging. But our membership has committed significant time and talent to addressing the myriad of public policy issues surrounding climate change.

**Background**

**By All Measures New York State is one of the Least Carbon-Intense States in the Nation.** The carbon intensity can be measured by per capita carbon dioxide emissions (CO2e/population) or by the carbon intensity of the economy (CO2e/dollar of state GDP). The 2015 CO2 emissions in Wyoming were 110 mt per capita, the highest in the United States, while New York was fewer than 9 mt per capita. In 2015, Wyoming was also the most intense carbon economy in the United States (1,814 mt CO2/million dollars of GDP), compared to the U.S. average of 320 mt CO2/million dollars of GDP. The lowest carbon intensity was New York (133 mt CO2/million dollars of GDP). New York has the lowest carbon intensity (133 mt CO2/million dollars of GDP) or almost one third less than the national average.

**The Upstate Energy Sector is Very Different from the Downstate Energy Sector.** Upstate New York is largely supplied by zero emitting resources (nuclear and hydro power), while downstate New York, which consumes 66% of New York’s power, receives only 30% of its energy from zero emitting resources. Electric transmission constraints on the grid limit the ability to supply more clean energy to downstate.

**Who is Producing New York’s Very Few Emission?** In New York, the transportation sector accounted for 41% of CO2 emissions in 2015. The residential sector generated 27% and the commercial sectors generated 23%. Residential and commercial sectors generated emissions from electricity generation and on-site fuel combustion (including heating and hot water). The industrial sector contributed approximately 6% of the CO2 fuel-combustion emissions in New York State.

**In the Past Several Years, the New York Power Market has Become More Reliant on Natural Gas.** Since 2000, New York’s generation capability from natural gas grew from 47% of the electric generation fuel mix to 58% in 2018. In New York State, wholesale energy prices are heavily impacted by the cost of natural gas because gas generation often establishes the clearing price for electricity in the wholesale energy market. In 2016, New York was the sixth-largest natural gas consumer. Natural gas prices in New York are 72% higher than the national average. The residential sector, the electric power sector, and the commercial sector consume almost all the natural gas used in New York.

**The Cost of Energy in New York is Impacted by Wholesale Prices, Transmission and Delivery Costs and State and Local Taxes and Fees.** Approximately half of your electric bill reimburses your Load Serving Entities for purchasing electricity from the wholesale markets and Clean Energy Standard obligations. Approximately thirty percent of the bill is made up of taxes and fees, including property taxes, sales tax, a special tax for utilities and state imposed assessments. The remainder of the bill covers the cost of maintaining and upgrading the wires and substations that deliver the electricity.

**Furthermore, the European Experience Demonstrates that Well-Intentioned Environmental Policies Result in Higher Energy and Production Costs Driving Carbon Leakage[[1]](#footnote-1) and Output Leakage[[2]](#footnote-2).** A 2014 European Commission staff report on the link between energy prices, energy efficiency and industrial competitiveness (as measured by extra-EU exports), confirms this. Specifically the report “shows that the increasing electricity costs had a negative impact on export competitiveness. Moreover, the high heterogeneity within sectors suggests that energy-intensive industries are most heavily affected. The results show that since energy savings in most cases were not large enough to fully compensate for energy price increases, energy represents a growing share of total production costs. Therefore caution is called for when adopting policies that determine a further increase of energy prices, since this creates a real burden that some European firms cannot fully compensate for.” [[3]](#footnote-3) Furthermore, the New York Times reported:

*“The expansion in renewables will probably ensure that Europe will meet its target of reducing greenhouse gases 20 percent from their 1990 levels by 2020. But it has been a disappointment on other levels.*

*For one thing, emissions continue to rise globally. In a sense, Europe is likely to have exported its emissions to places like China, where polluting economic activity continues to increase while the European economy stagnates.*

*A striking indicator that the European effort has not achieved all that it intended to is the continued rise in the burning of coal.”* [[4]](#footnote-4)

**Technical Flaws**

From the beginning, the numerous technical flaws and the confusing claims by some advocates of this legislation have made it difficult to evaluate and provide substantive amendments. Today I will share a few such issues.

The legislation contains a new Labor Article 8-B (labor and job standards and worker protection) and requires all state agencies, offices, authorities, and divisions apply labor, training, and job quality standards when considering and issuing permits, licenses, regulations, contracts, and other administrative approvals and decisions pursuant to the New York state Climate and Community Protection Act.

Section 9 of the legislation requires that all state agencies, when issuing permits, licenses, or other administrative approval, must consider the impact to statewide emissions goals. Would these mean that the New Labor Law Article 8-B would require all private projects in the State greater than $10M to agree to labor harmony?

The greenhouse gas emissions report requires that department to report on the GHG emissions associated with the extraction and transmission of fossil fuel imports. The report requires the lifecycle analysis for one type of energy production, but not all forms of energy production or for that matter other goods or services? Should the legislation not include the GHG emissions associated with the extraction and transportation of renewable energy system and battery systems to ensure an apples to apples evaluation?

The legislation defines a greenhouse gas emission source as any anthropogenic source or category of anthropogenic sources of greenhouse gas emissions, with the exception of agricultural emissions from livestock. It’s impossible to determine a scientific rational for this definition. Furthermore, the proposal does not excluded all agricultural emissions which would include combustion engines and soils management.

**Greenhouse Gas to Zero**

The legislation requires that, in a little more than thirty years, emissions from the following sources go to zero:

* **Fuel combustion:** including electric generation imported electricity, transportation, residential heating, commercial and industrial heating and onsite electric generation, backup generation, and industrial production;
* **Other sources of Carbon:**including municipal waste combustion, cement production, iron & steel production, limestone use, and soda ash;
* **Other sources of Methane:**including landfills, manure management, municipal wastewater;
* **Other sources of Nitrous Oxide:** including agricultural soils management, municipal wastewater; and
* **Other sources Perfluorocarbons:** includingaluminum production, semiconductor manufacturing.

Requiring emission levels of zero from these sources by 2050 is simply not practical. There are significant economic and technological barriers to reducing emissions to zero. Current technology is not available to meet the requirements of this legislation without strict prohibitions. If this bill were to become law and could be enforced, it would result in inhospitable conditions for manufacturing, farming (tractors and soil management), and the current fleet of fossil fuel trucks and cars.

To those that say the legislation is aspirational, then it should be a goal (I don’t know that it is a helpful goal). This is not a goal but a law. This law will require emission be 15% below 1990 levels by next year. Based on the latest NYSERDA GHG Inventory New York’s GHG in 2015 were only down 8%. Manufacturing and other facilities that have air emission permits are concerned that in the interest of meeting the statutory requirements they will be the first to be squeezed to make reductions.

**Primary Concern**

The Business Council’s primary concerns is that the proposed legislation will increase energy costs, operational costs, and create uncertainty, compromising the global competitiveness of energy-intensive, trade-exposed (EITE) industries (including but not limited to glass, steel, metal casting, pulp and paper, aluminum, and chemicals).

If rising compliance costs or the uncertainty regarding those costs cause New York manufacturers to relocate operations to countries with less stringent standards, or if imports are less expensive because of weaker standards in their country of manufacture, it will serve to increase global greenhouse gas emissions in the long term.

Achieving zero greenhouse gas emissions from the manufacturing sector will not be straightforward to achieve, and there are a number of obstacles blocking the way: firstly, the sector is very heterogeneous with a wide range of processes and products, meaning the number of crosscutting solutions is limited.

Secondly, in addition to emissions from fossil fuel combustion, some industrial processes produce carbon dioxide as a by-product of the chemical reaction; one such example is cement manufacturing. These so-called 'process emissions' cannot be addressed with energy efficiency measures or by switching fuels.

Thirdly, manufacturing plants are long-lasting and major retrofits are usually only made according to long refurbishment cycles, offering only a short window of opportunity for upgrades and improvements to the energy efficiency of the core process.

Finally, products need to be competitive on an international market, reducing the scope for businesses to absorb or pass on any additional costs to consumers - making low carbon technologies uneconomical.

The Business Council proposes that the legislation be amended to not statutorily require emissions achieve zero.

Additionally, any climate legislation should guarantee that the manufacturing sector will be involved in the development of climate policies. The first step should be the development of an EITE Working Group which includes representatives of: pulp and paper, semiconductor manufacturing, food processing, steel, wood products, concrete production, and plastics manufacturing. The EITE Working Group should conduct a study that, at minimum, will: identify sectors and facilities at risk of carbon leakage and adverse competitiveness impacts; determine sectors without emissions high enough to be regulated, but still exposed to indirect costs resulting from carbon pricing, such as electricity or natural gas costs; analyze approaches used in other jurisdictions to minimize carbon leakage risk; and provide options for New York to consider to address competitiveness impacts and leakage risk including areas for research and development, along with their advantages and disadvantages.

If we use our heads, we can achieve sound policy and New York could be a model of how to make emission reductions without exporting emissions. Estimates from the TIAM-Grantham Global Model indicate that future demand for steel and cement in Africa could be as much as two to six times[[5]](#footnote-5) what it is today by 2050. By investing in research and development now, new low carbon processes can be advanced and ready for deployment when demand picks up again, as no doubt it will.

**Conclusion**

The decisions we make today are critical in ensuring a safe and sustainable world for everyone, both now and in the future. We need to have a real, honest discussion focused on creating an ecosystem that encourages the deployment of technologies that mitigate greenhouse gases emissions. The Business Council would propose that this legislation is amended to be more effective, affordable, predictable, inclusive and repeatable.

In the near term, the State should focus on specific market failures in areas that can make a significant impact on strategic priorities, catalyze private-sector competition by providing incentives aligned with strategic outcomes, and utilize the most cost-efficient actions to facilitate positive outcomes.

* The State, with public input, should develop a marginal abatement cost (MAC) curve, which plots out the marginal costs of achieving a cumulative level of emissions abatement in order from the lowest- to highest-cost technology or measure, for different regions of the State. The State should evaluate current programs against the MAC and eliminate ratepayer subsidies for poorly performing measures.
* Commit to ensuring the affordability of electricity – prior to the development of the road map, the State should publicly disclose all of the State’s numerous assessments costing customers billions. For instance, customers currently pay surcharges, higher delivery rates and/or higher commodity prices to pay for the following programs or initiatives that are not essential to the provision of reliable utility service: (a) above-market payments to large-scale renewable facilities with still-effective contracts under the Renewable Portfolio Standard; (b) above-market payments to large-scale renewable facilities under the Clean Energy Standard (“CES”); (c) above-market payments to selected nuclear facilities under the CES; (d) above-market payments to behind-the-meter renewable projects under the Value of Distributed Energy Resources initiative; (e) energy efficiency programs administered by NYSERDA under the CEF; (f) energy efficiency programs administered by utilities pursuant to their Energy Efficiency Transition Implementation Plans; (g) higher electricity market prices due to the Regional Greenhouse Gas Initiative (h) new REV-related investments and pilot programs; and (j) new incentives for certain forms of beneficial electrification.
* Update electricity and natural gas infrastructure to meet current and future demands – including high voltage, direct current (HVDC) transmission lines, and interstate natural gas pipelines.
* Transform the heating sector by doubling the rate of efficiency retrofits and converting heating units to electric heat pumps or natural gas
* Help to foster urban areas with ample public spaces and multimodal transportation options — deprioritizing private automobiles and reducing overall automobile traffic.
* And forgive me for being a little unconventional but in Paul Hawken’s Drawdown Project he looked at options for reducing greenhouse gases and found that educating girls and family planning were the two most potent. Remember this is a global issue.

Climate change presents a challenge that will never be ‘solved’ – but, as I have testified today, we can do better or worse in our managing of it. The Business Council, in partnership with all New Yorkers, aspires to do better. Therefore, this is the beginning of a discussion.

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1. Carbon leakage refers to the increase in emissions resulting from the relocation of production. [↑](#footnote-ref-1)
2. Output leakage is measured as the ratio between increases of *output* in less-stringently regulated regions to falls in output in the reference region, and the latter is the ratio between increases in *emissions* in unregulated regions and falls in emissions in the reference region. [↑](#footnote-ref-2)
3. “Energy Prices and Costs Report” SWD(2014) 19 final http://ec.europa.eu/energy/doc/2030/20140122\_swd\_prices.pdf [↑](#footnote-ref-3)
4. <http://www.nytimes.com/2012/12/27/business/energy-environment/27iht-green27.html> [↑](#footnote-ref-4)
5. <http://www.iea.org/etp/publications/etp212/> [↑](#footnote-ref-5)