



February 2, 2024

Joint Legislative Public Hearing
2024-25 Executive Budget Proposal
Environmental Conservation
Legislative Office Building
181 State Street, Albany, NY 12247

Dear Honorable Senators and Assembly Members,

Thank you for your consideration of the Sierra Club Atlantic Chapter's budget testimony. We are a volunteer-led environmental organization of 43,000 members statewide, dedicated to protecting New York's air, water and remaining wild places.

As we approach the fiscal numbers for the coming year, in the context of environmental spending, we must also do an accounting of the state of the climate to ensure we are funding the right solutions in this \$233 billion budget. With all the data in, 2023 is officially the hottest year on record, eclipsing previous records at an acceleration that has surprised many climate scientists. And there is every indication that 2024 could be even worse.

It is undeniable that in the past few years alone, New York state has been pounded by superstorms, deluged with floods, enshrouded in forest fire smoke and scorched with record heat due to the advancing effects of a warming planet. This has translated into citizens drowning in their own homes, roadways and bridges washed away, increased respiratory diseases and property destruction on an unprecedented scale. Beyond the growing frequency and intensity of severe weather events, New Yorkers will be facing the economic and social costs of dying oceans, hospitalizations due to extreme temperatures and poor air quality, agricultural blight, rapid changes to ecosystems and rising sea levels if we do not work together to significantly reduce carbon emissions.

In this context, the FY 2025 New York State Budget presents one of the last opportunities for New Yorkers to lead. It should not be forgotten that New York is the 10th largest economy in the world, and has tremendous influence over global trends and policy through its market share and media presence. Despite this urgency, the imperative of 'make NY more affordable' has instead become the predominant theme of this year's budget. While we would rather see a more deliberate focus on the climate crisis itself, there are several nexuses to decarbonization solutions through 'affordability' that we believe the legislature should embrace, beginning with the notion that inaction in an emergency is almost always the most expensive option.

Advance the ‘NY HEAT Act’ in Assembly and Senate One-House Budget Bills

The Sierra Club was gratified to see that the governor placed a version of the ‘NY HEAT Act’ in her executive budget named ‘The Affordable Gas Transition Act’ (Part P of the TED). In last year’s budget, state lawmakers ironed out a deal to end the use of fossil fuels in new construction by 2026 (the ‘All Electric Buildings Act’) with the renewed understanding that total household electrification is New York’s future, not only to meet our greenhouse gas emissions reduction goals, but to achieve a standard of living that is healthier, more cost effective and efficient. Renewable energy driven technology will soon heat and cool all our homes, dry our clothes, cook our food, charge our vehicles and power our lives.

But while our climate laws and the new ‘All Electric Buildings Act’ are binding, our public service laws have lagged behind - in many cases subsidizing and prioritizing the continued use of the same fossil fuels we must phase out entirely within the next 20 years. Currently, gas companies are spending billions of dollars to build out gas infrastructure in New York and utilities are working to get more new homes hooked up to fossil fuels before the new 2026 rules mandate all electric heat pumps and appliances. The Public Service Commission does not have the legal authority to fully stop this surge and utilities still maintain a legal “obligation to serve” any customer demanding gas service. The cost of new gas infrastructure and hookups is then passed on to ratepayers, and it is the households least able to afford the escalating costs and the last to convert to all electric that will be hurt the most. S.2016/A.4592 will authorize the Public Service Commission to align a planned phase out of natural gas and home heating oil with anticipated new codes and regulations to facilitate an equitable and affordable transition to all-electric, renewable energy powered buildings.

Specifically, the Act will:

- Ensure that the Public Service Law will provide for the timely and strategic retirement of the gas distribution system in a just and affordable manner as required to meet the climate justice and emission reduction mandates of the CLCPA.
- Ensure that the Public Service Commission has the statutory authority and direction to align utility regulations and planning with the CLCPA, and require the PSC to take a proactive role in the timely identification and amendment of any laws, regulations, or rulings that may impede achievement of CLCPA mandates.
- End ratepayer-subsidized utility incentives for fossil fuel expansion (the so-called "100 foot rule") while ensuring the equitable provision of electric service and efficient heating, cooling, cooking, and hot water services.
- Require the PSC, within one year, to develop a statewide gas service transition plan based on clear biannual gas sales reduction targets, robust analysis, and consideration of several electrification pathways.
- Ensure affordable access to electric heating and cooling services and protect low-and-moderate income customers from undue burdens as they electrify their buildings.

The Sierra Club supports the governor's proposed \$50 million commitment to energy affordability through the +Empower program, but it will not be enough to protect the hundreds of thousands of low income New Yorkers who will need to be shielded from high fossil fuel costs during the transition to renewable energy systems. Building an emissions free, renewable energy driven society is going to be a difficult enough task without allowing the fossil fuel industry to keep their thumbs on the scale. The "NY Home Energy Affordable Transition Act" will create a level playing field where renewable heat, and other electrified technologies can thrive and low to middle income New Yorkers will be protected from surging energy costs. We urge Senate and Assembly leaders to negotiate in good faith with the Governor on a final article VII bill in the budget that satisfies the most urgent and effective parts of "NY HEAT".

Put 'Renewable Heat' Goals into Practice

In 2022, NY State lawmakers enacted the Utility Thermal Energy Networks and Jobs Act, which directed state agencies to adopt sustainability and decarbonization programs, and instructed the New York Power Authority (NYPA) to create decarbonization action plans for 15 of the highest emitting state facilities along with a number of pilot projects. Thermal Energy Networks (TENS) are large scale networks of geothermal energy, heat pumps and supply lines that can heat and cool entire city blocks, hospital complexes or college campuses. These emissions-free infrastructure projects connect multiple buildings using an underground network of water-filled pipes and can scale up to serve entire neighborhoods. To further the advancement of this technology in accordance with our climate goals we urge you to support union-led building decarbonization projects in this year's budget:

- **Fund a thermal energy network at SUNY Purchase.** \$40 million would allow Purchase College, State University of New York to engineer and construct an emissions-free heating and cooling thermal network on their campus.
- **Fund a thermal energy network at University at Buffalo, SUNY.** \$50 million would allow the University at Buffalo, State University of New York to advance key work in Phase 1 of an emissions-free heating and cooling network on the South campus.
- **Enact the Renewable Capital Act – S2689A/A5633 (Breslin/Fahy).** The legislature should fund this legislation through the budget which will pay for engineering studies and a plan to entirely decarbonize the State Capitol building complex - which will serve as a statewide example of how we make our buildings emissions free and efficient.

These projects will add to the additional 34 pilot thermal energy networks our major utilities are already planning to build across the state. It is essential that State lawmakers keep this funding drumbeat going so that we can realize the goal of decarbonization throughout NY's building sector. We cannot afford to let up now.

Protect the Integrity of the Environmental Protection Fund (EPF)

Last year, the Environmental Protection Fund (EPF), for the second year in a row, was funded at \$400 million (from many previous budget cycles at \$300m) and we were encouraged that the fund was projected to reach the \$400 million mark this year as well. The EPF is NY's primary funding source for critical programs like open space acquisition, farmland and habitat protection, drinking water infrastructure and waste reduction. The projects supported by the EPF are proven economic generators and job creators, with every \$1 invested in land and water conservation generating \$7 for the state in terms of ecological services, agricultural products and recreation

related revenue. Increased funding to the EPF at a time of budget deficit can help revitalize tourism and make entire regions more attractive to businesses, secure clean water resources for wineries and breweries, and ensure that farmland is preserved and is affordable to new generations of farmers.

The Sierra Club is concerned however that this year's EPF contains a new spending line that would offload \$25 million in DEC staffing costs, when typically these are general fund expenses. This offload language violates the original intention of the EPF and essentially negates previous indications that the fund will gradually grow to the \$500 million mark in future budget cycles to meet the growing demand of environmental programs. We urge the legislature to protect the EPF from any future offloads or sweeps, and restore the funding line to \$400 million, while working with the governor to find ways to spend the fund in a more efficient and impactful way.

Fully Fund New York's Water Infrastructure Improvement Act

The Sierra Club has deeply appreciated the success of New York State's Water Infrastructure Improvement Act (WIIA) which, since 2017, has contributed over \$3.4 billion to much needed public water systems and programs, as threats to clean water continue to grow. The New York State DEC and DOH estimate that we will need approximately \$80 billion over the next 20 years to upgrade and maintain wastewater and drinking water infrastructure. Because of this, clean water advocates have been asking for an annual increase of \$1 billion. Instead, the 2025 Executive Budget proposes to slash the annual installment of \$500 million in half, over the next 2 budget cycles. This gutting of water funding comes with assurance from the governor that this cut is to satisfy attempts to stay under the debt ceiling, and there is at least \$1 billion in unspent WIIA funds from previous budget cycles, and those unspent funds will be reallocated in the next 2 budget cycles, with no reductions to current program services.

But in consideration of two converging emergencies - the desperate need to "fix our pipes" and combat the widespread PFAS contamination crisis - NY cannot finance these much needed water programs on reduced funding and win this battle on multiple fronts. And New York should not fill its budget holes with money meant for something so fundamental as safe drinking water. There should be no excuse for not spending funds in the past when there is an unquenchable need from municipalities across the state. The Sierra Club joins a broad coalition of advocates asking for \$600 million to fund the WIIA in 2024. This essential program repairs failing sewage and drinking water infrastructure, upgrades and replaces septic systems, funds source water protection through land acquisition projects, remediates and replaces contaminated drinking water, confronts harmful algal blooms in our waterways, addresses water pollution caused by agricultural run-off, replaces lead drinking water service lines, upgrades mapping technologies for water systems, and more. And with the anticipation of federal drinking water standards being lowered to 4 ppt for PFOA and PFOS later this year (NY's is currently at 10 ppt) it is forecasted that more than 300 NYS communities will need additional funds to remediate their water supply to comply with these new guidelines. That could easily cost hundreds of millions of dollars.

With our ask of an increase to \$600 million in the WIIA in 2024, communities across NY will be able to continue to fix their most pressing water infrastructure needs and protect the quality of their drinking water. This significant investment will serve as a down-payment toward our state's massive wastewater and drinking water infrastructure needs. New York State will need to

identify additional resources to increase funding to meet these vast water infrastructure needs in the years to come. It is also important to acknowledge that the state leverages WIIA monies to get federal dollars from the IRA/IIJA and these funds are only going to be around for a few more years to fund water infrastructure projects. We don't want to miss out on these matching funds while attempting to fill budget holes elsewhere. While the Bond Act is providing funding for clean water, that money was always intended to supplement, not supplant, annual appropriations. New Yorkers voted overwhelmingly for a robust increase in funding for clean water, not the status quo. The Sierra Club looks forward to working with the governor and the legislature to restore adequate clean water funding to meet those goals.

Put the Climate Change Superfund in the Budget S.2129-A (Krueger)/A.3351-A (Dinowitz)

In March 2023, the International Panel on Climate Change (IPCC) released a report declaring that if we do not immediately accelerate steps to reduce greenhouse gas emissions, the earth could reach dangerously high temperatures by 2030, pushing the globe past irreversible tipping points - like thawing permafrost, burning rainforests, and melting glaciers - all of which have catastrophic climatic impacts of their own. The report, which is nearly a year old at this point, was compiled by thousands of experts over an exhaustive six years of data collection and warns that climate disruption in the interim will get more severe even as we seek to curb emissions. A year later, their 2023 predictions have proven to be too conservative, with global temperatures and carbon dioxide (CO₂) in the atmosphere rising beyond all previous forecasts.

When the NYS Legislature established the Climate Leadership and Community Protection Act in 2019, the unanswered question for this nation-leading Climate Justice law was who pays for the transition from a fossil fuel based economy to one based upon renewable energy and social equity (or even more profoundly, who is responsible to pay for all the destruction wrought from climate change's wrath). Recently, Governor Hochul and some key legislative leaders proposed undermining our greenhouse gas emissions reduction goals out of fear that our current and necessary plan to curb emissions would cost too much. It was argued that too many New Yorkers became financially vulnerable during the pandemic and could not endure perceived price spikes as the state ratcheted down on fossil fuel consumption. But there has been little attention paid to the oil and gas companies that profited by the billions over the past few years without taking any responsibility for the climate crisis. It is time that these industries gave back some of these windfall profits to clean up the mess they have created.

S.2129-A/A.3351-A (The Climate Change Adaptation Cost Recovery Program) seeks compensation for damages resulting from the past actions of climate polluters, much in the same way New York's Superfund Law has paid for toxic cleanups from fees charged to the chemical industry. Payments into the program by historical emitters of greenhouse gases would be used for new or upgraded infrastructure needs such as coastal wetlands restoration, storm water drainage system upgrades, and energy efficient cooling systems in public and private buildings, including schools and public housing, all of which are necessary to protect the public safety and welfare in the face of the growing impacts of climate change.

Such a program has the potential to collect up to \$75 billion over the next 25 years, funnel those dollars into communities harmed by climate change, and help fund the transition to a more

climate resilient future. The punitive nature of making fossil fuel companies pay for their past pollution will also incentivize future corporate accountability. According to the IPCC we only have 7 years left to get this right. Passage of S.2129/A.3351 can play a major role in financing the solution. The Sierra Club does appreciate that the Governor put in her Executive Budget **(Part T of the TED)** a comprehensive revision and increase of permit fees, fines and compliance guidelines for emitters of air pollution under the title of **‘Clean Air Compliance & Pollution Reduction’**. In general, we support making polluters pay more - if we can’t stop them from polluting outright. We ask that the legislature support Part T in final budget negotiations.

Ban CO₂ Fracking in the Budget (A.8866/S.8357)

In the summer of 2023, a private plan was announced to turn three Southern Tier counties into a vast energy hub marred with thousands of new natural gas wells. The company, Southern Tier Solutions, outlined a plan to drill wells on thousands of acres of leased land, from Binghamton to Jamestown, to extract methane from subterranean shale formations and store carbon dioxide (CO₂) in the voids that were once saturated with gas. The plan also calls for the construction of up to a dozen new natural gas-fueled power plants and several direct air capture (DAC) facilities that pull CO₂ out of the atmosphere. The wells, power stations and DAC plants would be linked by a series of new methane and CO₂ pipelines, which would allegedly be the fuel supply for electric generation and carbon sequestration.

While this plan may sound idyllic on the surface, it presents a host of environmental problems that runs against the grain of our climate laws and perpetuates continued dependence on fossil fuel infrastructure. Nine years ago the New York State Department of Environmental Conservation banned high volume fracking because of the myriad of environmental impacts associated with the gas extraction technique and the unacceptable harm it would have on human health. This conclusion came after years of intense investigation, and it should be noted that while this new CO₂ fracking and carbon sequestration proposal is somewhat novel to New York, it still shares almost all of the same environmental impacts that informed the original ban: water contamination from naturally occurring radioactive material and heavy metals, ecosystem and community fragmentation across an increasingly industrialized landscape, and climate and air impacts from methane leakage and diesel exhaust from trucks, compressors and machinery, just to name a few. But the added negative impacts of CO₂ sequestration, which can include earthquakes and mass community asphyxiation from pipeline leaks should give NYS additional reason for concern.

In 2020, the legislature and the governor came together to codify NY’s historic fracking ban and close loopholes in that final SEQRA decision that the oil and gas industry has sought to exploit. Governor Huchul and the legislature should answer the call once again and protect all New Yorkers from this latest fracking threat involving supercritical CO₂ technology that was not anticipated with the original fracking ban. New York State is embarking on the implementation of the nation’s most ambitious climate law, and the complexity of this task will stretch DEC resources to the breaking point. We cannot not afford to divert already limited agency staff to embark upon another exhaustive investigation of a false solution, especially not if we expect to transition New York to a carbon free future. The legislature and governor can save us from this dangerous proposal, its significant costs and the potential derailment of our climate goals by banning CO₂ fracking in the FY2025 state budget.

Address the Scourge of PFAS in the Budget

Last year's executive budget proposal included a \$60 million fund to help communities identify and clean up water supplies and soil contaminated with toxic PFAS chemicals. Unfortunately, an agreement was not reached in the final negotiations. We urge the Legislature to revisit this funding idea and include your one house budget proposals money for clean ups of 'forever chemicals', recognizing that tests are extremely expensive and remediation even more so. While cleaning up contaminated communities is essential, it still is a losing effort if the state of New York does not place greater focus on "turning off the tap" by banning the use, production and application of these 'forever chemicals.' Emerging studies are finding PFAS in increasingly high concentrations in food, cosmetics, and cleaning products, which in turn find their way into the human bloodstream and can cause a range of ailments, from cancers to neuropathies. The legislature has already taken steps to ban PFAS from fire fighting foam, food packaging and clothing. But there is so much more to do. We ask the senate and assembly to pass:

- **Banning PFAS in Anti-Fogging Sprays and Wipes** - S. 992A (Hoylman-Sigal) / A.5363A (Gallagher)
- **Beauty Justice Bill** (PFAS out of Cosmetics) - S.4265 (Webb) / A.6969 (Glick)
- **Multisector PFAS Ban** - S.5648A (Hoylman-Sigal) / A.3556A (Zebrowski)
- **Banning PFAS in Menstrual Products** - S.3529A (Fernandez) PASSED / A.5990A (L Rosenthal)
- **Banning the land application of PFAS laden biosolids** A.8317 (Kelles)

Cutting these chemicals off entirely at the source would save the state from considerable future fiscal hardship and misery, avoiding compounding clean-up costs and contamination-related fatalities due to continued exposures.

Decarbonize New York's Transportation Sector in the Budget

Cars, trucks, planes, trains and ferries collectively make up one third of New York State's climate-disrupting emissions, yet lag behind other sectors when it comes to decarbonization plans or revenue generating emissions reduction programs. Of particular concern is the evolution of public buses within NY's major Mass Transit Authorities which largely run off of diesel fuel and are major sources of pollution in communities already burdened with poor air quality. City buses are the mainstay of New York's public transportation system, especially north and west of NYC. The Climate Leadership and Community Protection Act did not set targets for the transition to zero emission vehicles beyond the overall mandate to reduce emissions across all sectors 85% by 2050 - leaving some questions about what MTAs are supposed to do when they need to order new buses. Because the average city bus has a lifespan of over a decade - making purchases of all electric buses now will avoid years of unnecessary pollution and climate emissions, or escalating fossil fuel costs.

The **Green Transit, Green Jobs Bill (S.6089 / A.6414)** will require every public transit authority in NY to purchase only new zero-emission buses (by 2029) as older buses are replaced. The bill also includes protection for existing workers during this transition, such as requiring a comprehensive Workforce Development Report to identify the challenges facing workers during the transition, and the resources to train or retrain impacted mechanics and bus drivers. The bill also protects existing workers from layoffs or reductions in wage, hours, or benefits, as a result of transitioning to zero emissions buses - should such events occur.

Transitioning to all electric buses will save municipalities money in the long run because of lower fuel and maintenance costs. But because the initial transition will require greater up front investments for charging infrastructure and new electric vehicles, it would make sense to enact *Green Transit, Green Jobs* in the FY 2025 budget.

But the legislature should not stop there. S.2966 (Kavanagh)/A.2246 (Simon) expands upon *Green Jobs / Green transit* by incentivizing segments of the public transportation sector once considered too difficult to decarbonize, but now entirely possible with recent advances in battery and propulsion system technology. S.6906 directly supports New York's climate goals by placing trains, planes, and watercraft on a clear path to a zero-emissions future.

The bill requires that the MTA operate only zero-emission LIRR and in-state Metro-North commuter trains by 2035. Since significant sections of each railroad system currently rely on burning diesel fuel, this transition would carry powerful environmental benefits. The bill also calls for publicly funded ferry companies to purchase only zero-emission vessels starting in 2030, and for other public vessels in NY waters to be near-zero-emissions by 2040. To support this transition, the bill requires a NYSERDA feasibility study focused on the placement of electric charging stations along the Hudson River and canal system, and Includes a Boat Clean Rebate program, similar to the state's successful Drive Clean Rebate program, which will both encourage buyers to purchase zero-emission boats and incentivize boat builders to increase their investment in electric watercraft. Because of the fiscal impact of both, these measures should be considered in the 2025 budget.

Several provisions of S.2966/A.2246 accelerate the adoption of sustainable aviation in New York State. The bill requires ground support equipment at public airports to meet zero emissions standards by 2030. In addition, since electric planes will not be used for long distance flights anytime soon, the bill calls for NYSERDA to study the feasibility of using sustainable aviation fuel (SAF) in New York airports. Over the next 10-20 years SAF will likely be the only reliable way to reduce emissions from long-distance flights. A second NYSERDA study would focus on the feasibility of NY airports generating renewable energy on site. Among other benefits, on-site renewable energy would support charging infrastructure for smaller-scale electric aircraft. Finally, the bill would foment the adoption of zero-emission planes by providing state grants for charging stations at flying schools and clubs and for training pilots in the operation of these new planes.

The urgency of the climate crisis requires that we do everything in our power to reduce NYS's greenhouse gas emissions as rapidly as possible, and the electrification of our public transportation sector is an essential component of that process. Significant opportunities for business development and job growth will accompany this transition, but the electric vehicle industries are developing fast, and New York must seize the moment if we are to reap the full benefits of this industrial transformation.

Many of the budget issues cited in our testimony have a direct connection to making the implementation of the Climate Leadership and Community Protection Act more affordable for everyday New Yorkers. We commend Governor Hochul and the legislature for their leadership and commitment to combating the climate crisis through the budget process. We know there will

be greater challenges on the horizon but we remain resolutely committed to working together to rebuild New York's environmental agencies, make our state more resilient to climate change and strengthen our long-term environmental legacy.

Thank you for your consideration of these comments,

A handwritten signature in black ink that reads "Roger Downs". The signature is written in a cursive style with a large, prominent "D" at the end.

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