

Green Education and Legal Fund

156 Big Toad Way, Poestenkill NY 12140 – 518 860-3725 – www.gelfny.org

Testimony of the Green Legal and Education Fund Inc. To the New York State Legislature Joint Budget Hearing on the 2023-24 Executive Budget Proposal on Environmental Conservation

February 14, 2023

My name is Mark Dunlea, and I am chair of the Green Education and Legal Fund (GELF). I am also the convener of PAUSE (People of Albany United for Safe Energy), the 350.org affiliate in the Capital District and serve as national co-chair of the EcoAction Committee of the Green Party of the U.S. Thank you for the opportunity to testify on the state budget on environmental issues.

Now that the climate scoping document is out 3.5 years after the CLCPA was passed (and 13 years after Governor Patterson first issued an Executive Order to create a climate plan), we hope that State lawmakers will dramatically speed up the transition to a clean energy future in order to increase the chances that future generations will have some chance of a decent quality of life.

We continue to call for the state to officially declare a climate emergency, which needs to include a halt to any new fossil fuel infrastructure and an investment of at least \$15 billion annually in renewable energy and other Green New Deal initiatives. The state must make surviving climate change the number one priority for all actions at every level of government.

There are a variety of ways that State lawmakers can raise \$15 billion annually – a carbon tax, Climate Superfund Act, tax the rich, polluter penalty. The state needs to create an ongoing revenue stream for climate action, including assisting New York households to pay for the clean energy transition. This includes \$2 billion annually for subsidies for low and middle-income households to decarbonize their residences.

One key issue is what form of carbon pricing New York will enact. GELF's recommendations on how to respond to the Governor's cap-and-invest carbon pricing program (which still largely lacks most critical details) are detailed below. We believe, like most economists, that a robust carbon tax is a much better alternative. If the legislature decides to support C&I, we urge it to set a cap on emissions that is lower (stronger) than is presently required by the CLCPA.

Lawmakers should also set a minimum price of carbon of at least \$60 per ton, rising rapidly to the \$120 that DEC estimates as the social cost of carbon.¹ We must end the taxpayer subsidies for fossil fuels. Of the \$6 trillion estimated by the International Monetary Fund in global subsidies, the vast majority is from governments' failing to hold polluters responsible for the damages their actions cause.²

As GELF did when Governor Cuomo proposed it 4 years ago, we support the proposal by Governor Hochul to have the New York Power Authority (NYPA) build renewable energy facilities.

GELF recommendations for the state budget include:

- an expansion of the bottle bill on its 40th anniversary;

¹ https://www.dec.ny.gov/docs/administration_pdf/vocguid22.pdf

² <https://www.imf.org/en/Topics/climate-change/energy-subsidies>

- an end to the \$7.6 billion subsidy for three upstate nuclear power plants;
- the legislation to transform the state capitol complex to 100% clean, renewable energy;
- a major expansion of funding for mass transit statewide;
- increased funding for water infrastructure; and,
- enact the Extended Producer Responsibility bill introduced by Senator May to reduce packaging waste rather than the proposal by Governor Hochul.

Key Climate Budget Actions

Key climate provisions that should be included in the state budget:

- speed up the greenhouse gas emission reduction goals to at least 70% by 2030 (if not 100%);
- raise \$15 to \$20 billion a year in new climate funding, preferably by polluter penalties and a carbon tax rather than cap and trade;
- provide leadership to accelerate the development of renewable energy, especially offshore wind (the area off of Long Island and NYC is the best source of offshore wind on the planet);
- invest several billion dollars a year in subsidies to help New York residents decarbonize their buildings;
- with buildings and transportations by far the largest source of emissions, we need to invest tens of billions of dollars in expanding and re-imagining mass transit (e.g., zero fares³), and enact a radical overhaul of the state's building codes to require all new buildings to be carbon free within three years, including banning new gas hookups in buildings by 2024;
- enacting a Green New Deal, something I first helped propose in 2010 when I was the Green Party's gubernatorial campaign manager. This combines a rapid (ten-year) transition to zero emissions, 100% renewable energy with a robust Economic Bill of Rights and a Just transition, including a guaranteed living wage jobs, single payer universal health care, affordable quality housing, and free public college education;
- rapidly convert all government-owned facilities to 100% renewable energy, starting with a 3 year timetable to convert the state capitol and plaza as a model (including the possible use of geothermal energy for heating);
- adopt a 10 to 15 year timetable to phase out existing fossil fuel uses;
- requiring all counties and municipalities over 50,000 to adopt by 2024 their own climate plans, including the construction of local renewable energy facilities and plans to decarbonize all local buildings;
- since the Hochul administration has determined that at least 50% of the state's residents are "disadvantaged," the existing goal in the CLCPA of investing 35% of "some new" climate funds in such communities is a call for underfunding. The goal should be raised (e.g., doubled);
- enact democratic control and public/community ownership of the state's energy system, including funding for municipally-owned renewable energy systems, the Build Public Renewables Act, public ownership of the grid, and public election of the Boards of NYPA and the Public Service Commission.

³ <https://www.cnn.com/2023/01/14/zero-fare-public-transit-movement-gains-momentum.html>

As the Secretary-General of the United Nations constantly warns the world's governments, we are moving far too slowly to avoid climate collapse.⁴ Taking 14 years to draft a climate scoping plan which now faces a multi-year process to develop the concrete steps to implement is a reflection that New York still fails to treat this as a climate emergency. Two decades after Governor Pataki established renewable electricity goals for NY (e.g., 30% by 2015), NYS still only gets 4 to 6% of its electricity from wind and solar.

The Legislature Needs to Determine How much Money is Need for Climate Action – and How to Raise it.

NYSERDA presented a study to the Climate Action Council – an outgrowth of a study initially requested by GELF - outlining a possible \$3 trillion price tag through 2050 for the clean energy transition. There did not appear to be much review of the study by the Council or outside energy experts. A huge assumption in the paper was that 90% of the needed funds would be re-allocated from existing energy expenditures, leaving the state needing to raise only \$300 billion (an average of \$10 billion a year). However, the 90% figure is a huge assumption, The only other estimate I saw years ago was 75% (which would require \$25 billion a year).

At the last moment of the three year scoping plan process, the Hochul administration unveiled a cap-and-trade (invest) proposal as a way to implement carbon pricing. To date, few details have been provided, including an estimate of the amount of funds to be raised. Few of the tens of thousands who submitted testimony to the Climate Action Council wrote in favor of this approach. GELF's initial analysis of this proposal is [here](#).⁵ (Some of it is included below). GELF for decades has advocated instead for a carbon tax, which is what most economists view as the most effective way to speed up the transition from fossil fuels to renewable energy.⁶

Most of the existing state funds for climate action, including renewable energy, are allocated outside of the state budget process, starting with the surcharge on utility bills ordered by the Public Service Commission (PSC). This is an undemocratic and regressive way to fund climate action. The legislature should curtail this approach. Much of the additional state climate funds comes out of the existing Regional Greenhouse Gas Initiative (RGGI) cap-and-trade program on electricity producers.

A state carbon tax / polluter penalty is better than cap-and-invest.

GELF helped draft a state carbon tax bill⁷ in 2015 with As. Cahill (with Senator Parker). Another version, labeled a polluter penalty bill (CCIA), was drafted by NY Renews. The NY ISO has also drafted a carbon pricing proposal. Groups led by NYPIRG have developed a Climate Superfund proposal to make the largest greenhouse emitters pay to remedy the damages their pollution has caused.

One of the reasons why many climate groups oppose cap-and-trade is that it often enables polluters to continue their pollution in more disadvantaged communities in exchange for improvements

⁴ <https://www.washingtonpost.com/climate-environment/2022/03/21/15c-climate-guterres-life-support/>

⁵ <http://gelfny.org/uncategorized/make-nys-carbon-pricing-a-cap-penalize-rebate-and-invest-program/>

⁶ <https://www.cnbc.com/2019/10/10/carbon-tax-most-powerful-way-to-combat-climate-change-imf.html>

⁷ https://assembly.ny.gov/leg/?default_fld=&leg_video=&bn=A00077&term=2021&Summary=Y&Text=Y

elsewhere, a problem cited by the state's climate justice working group and some members of the Climate Action Council. The Pope opposes such efforts: "The strategy of buying and selling 'carbon credits' can lead to a new form of speculation which would not help reduce the emission of polluting gases ... in no way does it allow for the radical change which present circumstances require."

The fact that California had a cap-and-trade program was the main reason the environmental justice groups blocked President Biden's nomination of Mary Nichols, the long-time head of the nationally renowned California Air Resources Board, to head the EPA.⁸

A report last month by "a state-appointed panel of experts ... warned that California could miss its legally binding target of reducing greenhouse gas emissions by 40 percent below 1990 levels by 2030, largely as a result of the design of the state's complex 'cap-and-trade' market."⁹

Progressive climate groups such as Friends of the Earth, Greenpeace, and the Green Party opposed the effort to establish a national cap-and-trade program during the Obama administration. Former NASA scientist James Hanson, one of the first to sound the alarm about climate change, said: The truth is, the climate course set by [the] Waxman-Markey [cap-and-trade bill] is a disaster course. It is an exceedingly inefficient way to get a small reduction of emissions. It is less than worthless...."¹⁰

A 2017 review of NY's existing cap-and-trade program (RGGI) by the Congressional Research Service¹¹ concluded that it had not been particularly effective in reducing greenhouse gas emissions since the cap had been set too high. The Hochul administration plans to use the CLCPA emission goals for the caps. Climate groups led by Earth Justice had submitted testimony to the CAC that such an approach would be superfluous since it wouldn't add anything to the existing effort.

At a minimum, the legislature should reject the proposal by the Hochul administration to allow "the market" to set the price of carbon. That has been a complete failure in RGGI, with the present price still only \$12 a ton despite DEC estimating that the average social cost of carbon is \$121 a ton (much more for methane).¹² As both Pope Francis and the IPCC have pointed out, capitalism and the market are a core cause of the climate crisis, Solving the climate crisis requires an economic system centered on the common good, not the maximization of profit. The state legislature needs to insist on a high bottom floor for the cost of carbon. Remember, a carbon price is not only intended to raise revenues (at least short term before emissions decline) but to also raise the cost of using fossil fuels to make renewable energy even more cost effective.

The International Monetary Fund estimates that the annual worldwide fossil fuel subsidies by governments is \$6 trillion.¹³ Most of this vast subsidy is due to governments not making fossil fuel users pay for the pollution damage they cause, starting with increased health problems. New York

⁸ <https://caleja.org/2020/12/press-release/>

⁹ <https://insideclimateneews.org/news/25022022/why-do-environmental-justice-advocates-oppose-carbon-markets-look-at-california-they-say/>

¹⁰ <https://www.masterresource.org/california-state-energy-issues/environmentalists-vs-cap-and-trade-ca/>;
<https://insideclimateneews.org/news/23112010/rubble-cap-and-trade-big-green-taking-beating/>

¹¹ <https://crsreports.congress.gov/product/pdf/R/R41836/14>

¹² https://www.dec.ny.gov/docs/administration_pdf/vocguid22.pdf

¹³ <https://www.imf.org/en/Topics/climate-change/energy-subsidies>

needs to finally end this major subsidy for fossil fuels (as well as the more than \$1 billion in direct subsidies).

Rebate at Least Half of Carbon Pricing to Consumers

Since low- and moderate-income consumers spend a higher percentage of their income on basic necessities such as energy, any energy tax is considered regressive. Steps need to be included in the design of any energy tax/penalty/pricing to make it more progressive.

A traditional approach is to rebate some if not all of the “energy tax” to consumers. There are many variations to this, with pros and cons to the different approaches. (See my [carbon pricing chapter](#)¹⁴ in my climate book.) In her State of the State, Governor Hochul proposed returning \$1 billion of the carbon pricing revenues to New Yorkers but did not explain how much of that would be in the form of a direct rebate or dividend versus some form of subsidy (e.g., for heat pumps). Since she did not indicate the amount of the revenues to be raised, one cannot evaluate how adequate the size of the “rebate” would be.

When I helped draft the state carbon tax bill in 2015, we surveyed more than 100 climate activists and groups to come up with what percentage should be rebated. The median response was 60%, which we included in the bill, targeting it to low- and moderate-income New Yorkers. However, we have always been clear that the rebate provisions in the bill were a placeholder. There are many legitimate perspectives on how to structure the rebate (including the size), and it would be impossible for us to come up with an approach that everyone embraced. We said that the amount of the rebate would be resolved during the final negotiations over a carbon tax.

Polls do show slightly stronger support, particularly among Republicans, when the revenues are invested in renewable energy rather than a rebate.

The easiest and cheapest way to provide the rebate is through the annual state income tax filings. However, this is not an ideal situation for low-income New Yorkers, who often have limited interaction with the state income tax system. Plus, households struggling on a monthly basis to pay their bills aren’t helped much by receiving a tax refund once a year. One of the improvements that NY Renews proposed in their polluter penalty bill was alternative ways to provide a rebate, such as through free mass transit cards.

One of the few positive developments of the COVID crisis was that the government figured out a way to provide several stimulus checks directly to individuals. This would enable governments to adopt a similar approach for a carbon pricing rebate.

Invest in a Clean Energy Future, not corporate welfare.

In addition to the rebates, the revenues need to be invested in the transition to renewable energy.

Whenever a new pot of public funds is made available, the special interests and their campaign donations and lobbyists swarm around it to extract as much of possible for themselves. This needs

¹⁴ <http://gelfny.org/putting-out-the-planetary-fire/chapter-4-carbon-pricing/>

to be resisted. It is critical that these funds are not invested in “false climate solutions” whose main impact is to enrich the developers peddling them.

Adopt Faster Greenhouse Emission Reduction Goals in C&I.

The State Legislature needs to treat the CLCPA as a floor rather than a ceiling. Any cap-and-invest program should incorporate stronger and faster caps on emissions than presently in the CLCPA.

The emission reductions goals outlined in the CLCPA (e.g., 40% by 2030) are inadequate to keep global warming below the 1.5 degree C target. President Biden has set a national target of a 50 to 52% reduction in emissions by 2030, significantly faster than the CLCPA. To meet such national goals, states led by Democrats need to adopt faster timetables to offset slower action in Republican-controlled states.

The CLCPA goals are also slower than that recommended by the Intergovernmental Panel on Climate Change (45% by 2030¹⁵). The developed, industrial countries need to slash emissions much faster than the worldwide average, as developing countries will have higher emissions as they seek to catch up with the Global North in terms of raising their standards of living through economic development. In addition, IPCC acknowledges that its emission reduction goals are far too slow to keep global warming below 1.5 degree Celsius. They instead rely on the development of carbon capture technology to avoid climate collapse despite that approach not being shown to be viable after decades of research and tens of billions of dollars in investments.

GELF Supports the Objectives NY Renews Sets Out for Cap and invest.

While GELF continues to advocate for a carbon tax, it is clear that many lawmakers and climate advocates are willing to accept a cap-and-invest program since the Governor’s support makes it more likely that at least some form of carbon pricing will be enacted, and there is a desperate need for climate revenues.

GELF supports the principles outlined by NY Renews as to what a cap-and-invest program needs to include:

- Generate funding for vital climate, jobs, and justice investments;
- Reduce energy bills for households and small businesses;
- Improve public health by investing in renewable energy systems that will cut rates of asthma, heart disease, and other illnesses, especially in Black, Brown, and low- income communities;
- Make our homes safer and more comfortable; and
- Help reduce the effects of extreme weather on our communities.

A cap and invest program only benefit New Yorkers if it’s implemented in a just way. To do so, we need key protections:

1. Pollution limits must decline every year in every sector, including the electric sector, and these limits must be strongly enforced.

¹⁵ https://www.ipcc.ch/site/assets/uploads/sites/2/2019/06/SR15_Headline-statements.pdf

2. Facility-specific caps on greenhouse gas and co-pollutant emissions must be non-tradable, with aggressive penalties for exceeding cap levels. Don't allow permit trading to game the system. Permits should not include trading after purchase, double allowances, offsets, and banking of unused permits year-to-year.
3. Revenue collection must be tailored not to harm vulnerable New Yorkers. The cost burden for New Yorkers who can least afford it must not be made worse. The cap and invest program must include rebates and targeted relief for low- and moderate-income households to ensure energy bills go down. We believe the strongest approach is to create a Climate and Community Protection Fund and direct any funds raised to that fund.
4. Any cap and invest system must be part of a broader regulatory approach to reducing pollution, and must ensure that New York can achieve the greenhouse gas reduction mandates in the CLCPA.
5. Pollution reduction mandates for overburdened communities by agencies including the NYS Department of Environmental Conservation, and the Attorney General's office. In addition to a C&I system, we need a broad array of effective regulation and enforcement to reduce pollution.
6. Permits must avoid loopholes. Cap and invest must avoid loopholes that have weakened or undermined other efforts, including permit banking, offsets, and exemptions. Permit holders should not be allowed to play games with trading after purchase, exemptions, double allowances, offsets, and banking of unused permits year-to-year.
7. Permits should have a clear and escalating price, not set by auction. If the final program auctions the permits, we must ensure a price floor sufficient to support spending and drive emissions reductions and weigh in pricing towards Disadvantaged Communities and environmental justice areas. The price and regulations must be based on the CLCPA's current 20-year cost accounting.

Promote Public Power

As GELF did when Governor Cuomo proposed it 4 years ago, we support the proposal by Governor Hochul to have the New York Power Authority build renewables.

GELF supports the more comprehensive New York Build Public Renewables Act to enable the New York Power Authority (NYPA) to build affordable renewable energy to meet our climate targets and to retrofit public buildings with weatherization measures, electric heat pumps, and toxic remediation by 2030. The bill mandates a ten-year "climate and resiliency plan" providing for the construction by NYPA of additional renewable energy projects, and provides for NYPA to solely use renewable energy in NYPA projects by January 1, 2030 (A279/S4134). This will create between 28,000 and 51,000 jobs, with NYPA requiring prevailing wages on all projects.

This bill will enable NYPA to own and build new renewable generation, storage, and transmission, require NYPA to provide renewable energy to all State owned and municipal properties by 2025, ban for-profit Energy Service Companies (ESCOs), and lays the groundwork for the 100% renewable, democratically controlled, publicly owned energy system New York needs in order to meet the goals of the CLCPA.

GELF has long advocated for public power and testified several years ago in support of the proposal by Governor Cuomo to authorize NYPA to build renewables. Public ownership and democratic control of our energy system is critical to achieve the rapid action needed to effectively avoid climate collapse. GELF also advocates for public ownership of the transmission lines and

expansion of municipal utilities beyond the 57 presently operating in NY, who provide reliable electric power at cheaper rates than the investor-owned utilities.

In addition to an expanded NYPA role, funds should be provided to expand and develop municipal renewable energy systems. New York existing municipal power systems provide their customers with cheaper electricity than the investor-owned utilities. Carbon pricing revenues should be provided to any municipality that wants to build local renewable energy systems, which would ensure that local residents and elected officials determine the siting of such facilities rather than private developers. Municipalities should be urged to develop local renewable energy systems.

Local public power systems would enable governments to build and/or purchase its own clean, renewable energy sources for electricity, heating, and cooling as well as the smart grid infrastructure needed to accommodate distributed nature of renewable energy sources. It could oversee the development of community-owned solar and wind, including enabling the participation by low- and moderate-income consumers who often find themselves gentrified out of such initiatives.

Local public power systems could finance the construction of many forms of community energy projects. Rooftop solar and/or small-scale wind shared by a group of households with different solar and wind exposures could be built with the public power system financing the upfront costs and the households paying them off over time out of savings from lower cost renewables.

Adopt the Climate, Jobs, and Justice Bill Package to Fund and Advance CLCPA Implementation:

As the convenor of PAUSE, I am part of the policy committee of NY. GELF joins with the NY Renews coalition to support passage of a package of bills in 2023. The bills advance the goals of the CLCPA by raising significant state funds to decarbonize our state's building, transportation and infrastructure sectors while ensuring a green economy for all, to ensure that communities of color and low-income communities fully benefit from the transition, and to ensure a just transition for workers.

The Climate, Jobs, and Justice Bill Package includes the following bills:

- **Climate and Community Protection Fund:** This bill would create a pool of money to fund and implement the CLCPA. Its core investments include community benefits and broad labor, procurement, and responsible contracting standards. (More info below.)
- **Climate Accountability Act:** This bill would give state agencies the legal authority they need to effectively implement the CLCPA, ensuring that the energy system is accountable and transparent to the public while paving the way for full decarbonization.
- **Invest in Our New York Bill Package:** This legislative package, developed by Invest in Our New York (IONY), will raise billions of dollars for climate justice and other vital state needs based on the principle of making large corporations and the wealthiest New Yorkers pay their fair share of taxes.
- **Stop Climate Polluters Handouts Act** (formerly the Fossil Fuel Subsidy Elimination Act): Eliminates over \$300 million in annual tax breaks provided by the State to the fossil fuel industry and limits the ability of fossil fuel companies to participate in several state

economic development programs (S3389). It stops New York's practice of incentivizing pollution and bailing out a multi-billion-dollar industry.

The Stop Climate Polluter Handouts Act eliminates the tax handouts that prop up the most egregious parts of the fossil fuel industry. It pinpoints and eliminates the worst handouts to polluters: incentives that support research and development within the fossil fuel industry, the use of highly polluting airline fuel and commercial shipping "bunker" fuel, and the operation of fracked gas infrastructure, among many others. The bill does not touch the tax breaks that benefit low- and mid-income earners.

- NY Home Energy Affordable Transition Act (NY HEAT) (formerly the Gas Transition and Affordable Energy Act). The bill requires the Public Service Commission (PSC), together with NYSERDA, to initiate proceedings to develop a statewide plan to better align the PSC's regulation of utility services with the climate justice and GHG emission targets of the CLCPA. The plan will set biennial gas sales reduction targets for each gas company, and, with the possibility of exemptions, prohibit any new gas plant the construction of which would lead to gas becoming available in new geographic areas from coming into service after September 30, 2023 (S2016).

Currently, the gas utilities' obligation to serve is a major obstacle and prevents utilities from developing neighborhood scale building decarbonization projects. Another barrier to the decarbonization of buildings is the statutorily mandated utility system extension allowances which require existing ratepayers to subsidize gas infrastructure hookups for new customers. This subsidy incentivizes both gas system expansion and gas appliance installation. Removing natural gas line subsidies further tilts economics in favor of all-electric buildings. This bill will end costly ratepayer-subsidized natural gas expansion while ensuring the equitable provision of electric service and efficient heating, cooling, cooking, and hot water services.

The NY HEAT Act will ensure that state regulation and oversight of gas utilities provides for the equitable achievement of the climate justice and emission reduction mandates set forth in the CLCPA. This bill provides the Public Service Commission with the authority and direction to align gas utility regulation and gas system planning with the CLCPA's mandate and requires the Commission to take a proactive role.

Bringing about an equitable transition off gas will require intentional planning and dedicated assistance to some disadvantaged communities. This bill orders a managed transition which will avoid burdening any subset of energy consumers with the spiraling costs of natural gas infrastructure. In order to right size the current distribution system, utilities will be prevented from expanding their gas distribution infrastructure with the goal of expanding the availability of service to new customers.

What it does:

- Empowers the Public Service Commission (PSC) to equitably achieve CLCPA targets: provides the PSC with broad authority to facilitate achievement of the CLCPA's climate justice and emission reduction targets and makes doing so a core regulatory responsibility.

- Amends provisions of Public Service Law currently undermining the CLCPA: eliminates ratepayer subsidies for costly gas system extensions — the 100' rule costs gas customers \$200 million/year — and reforms provisions that drive the expansion of gas infrastructure.
 - Manages infrastructure costs paid by gas customers: facilitates neighborhood-scale alternatives to replacing gas infrastructure — including the installation of thermal energy networks — to prevent stranding billions in assets and minimize the long-term costs to customers of the transition to clean energy, while maximizing the savings and benefits.
 - Makes utility bills more affordable: requires investment in all cost-effective energy efficiency and establishes protections for low-to-moderate income customers to facilitate their transition to pollution-free appliances while ensuring no one pays more than 6% of their income on their energy bills.
- Fossil Fuel Facilities Replacement and Redevelopment Blueprint Act: Mandates that the Public Service Commission, Department of Environmental Conservation, and Long Island Power Authority establish proceedings, after a mandated state study, to phase out, replace and redevelop the state's oldest and most polluting fossil fuel facilities by 2030 (\$2935).

Below are some key budget asks included in Climate and Community Protection Fund listed above:

Green Affordable Pre-Electrification (GAP) Fund for low-to-moderate income households: \$2 billion

To realize New York State's goal of 2 million climate-friendly homes by 2030, the GAP Fund, administered by NYSERDA or HCR (Homes and Community Renewal), would provide funding for low-to-moderate (LMI) households to weatherize and/or electrify their homes. The GAP Fund would also provide funds for property improvements to address deferred maintenance, mitigate environmental health hazards, update electrical and mechanical systems, and reduce fossil fuel use and energy bills.

The fund enables LMI households to take advantage of and benefit from the substantial resources available for weatherization and electrification provided through New Energy New York (NENY), the Clean Energy Fund, and the federal Inflation Reduction Act (IRA). The beneficiaries of this fund are low- and moderate-income households, building owners, and society at large. In recognition of the significant benefit to landlords in the form of lasting property investments, the fund requires certain tenant protections that prevent displacement of existing tenants.

Direct NYSERDA's Green Jobs Green New York Program to establish 0% loans for weatherization and electrification: \$900 million.

Such loans are needed to ensure all New Yorkers have access to no-cost and low-cost capital to finance the up-front costs of weatherization and electrification, regardless of fuel type. Amendments to the law are also needed to expand the scope of what the program finances so it includes all the project types listed in the GAP fund above, such as deferred maintenance.

Strengthen NYSERDA's Regional Clean Energy Hubs to support a whole home retrofit approach: \$20 million.

NYSERDA's Regional Clean Energy Hubs are a groundbreaking partnership between the state and community organizations to accelerate the adoption of clean energy in disadvantaged communities. These hubs, launched in 2022, will be on the front lines in helping residents all over NY overcome barriers to clean energy adoption. More resources are needed to provide the hubs with the technology, training, technical support, and staff necessary to achieve this goal. The hubs aim to provide a "one-stop-shop" experience for people to connect them with state, local, and federal programs that fund weatherization and electrification as well as other agencies that serve the needs of low-income residents.

Enact the All-Electric New Buildings Act

This act prohibits the granting of permits for the construction of buildings up to six stories that are not all-electric by December 31, 2023, and prohibits the permitting of new buildings more than six stories that are not all-electric by July 1, 2027 (A920/S562). It is faster than what Governor Hochul has proposed in her budget.

This bill was strongly recommended in the Climate Action Council's Final Scoping Plan to implement the Climate Act. In 2021, approximately 50,000 buildings were newly constructed in the state, most of them with fossil fuels. Without a mandate for fossil-fuel-free new construction, New York is undoing the progress made toward its climate goals. The All-Electric Building Act requires all new buildings to be constructed without fossil fuel combustion systems or appliances, starting in 2024 for those under seven stories and by 2027 for larger buildings. Washington State, New York City, Los Angeles, many other US cities, and the entire country of Germany have passed similar codes.

Why it is important:

- Constructing buildings with heat pumps eliminates health risks, saves energy, and saves money.
- The average new single-family home built in New York State would save approximately \$904 per year, if built with a cold-climate Air Source Heat Pump (ccASHP) instead of a furnace or boiler, according to an analysis by Win Climate.
- Win Climate found savings would be higher if builders opted for Ground Source Heat Pumps instead, at an average yearly savings of \$1,165 per home across the state. In 2018, Ground Source Heat Pumps were installed more often in new construction than cold-climate Air Source Heat Pumps, according to NYSERDA.
- Passage of the bill will send an important market signal to the building sector, including manufacturers, investors, engineers, architects, developers, suppliers, and home heating installers.
- The bill would eliminate an additional 4 million metric tons of CO₂ by 2040— beyond reductions expected from NYC's similar law, which is the equivalent of keeping 870,000 cars off the road for one year, according to the Rocky Mountain Institute.

- Energy efficient electric appliances protect health by avoiding the NOX and other harmful emissions that come from fossil-fueled appliances like gas stoves, furnaces, and dryers. For instance, a recent study found that nearly 19% of current childhood asthma can be attributed to gas stove use.
- Thermal energy networks, a solution favored by both building trade unions and environmentalists, can electrify entire new developments at the time of construction.

Provide \$1.5 Million to Support the Renewable Capitol Act

Make Sheridan Hollow a Model Climate Justice Community

The Renewable Capitol Act mandates that several state facilities in downtown Albany, including the Empire State Plaza and the State Capitol building, receive their electric power, and heating and cooling from 100% renewable energy within three years, after a planning process with local community input. This bill follows a successful campaign by the Sheridan Hollow Alliance for Renewable Energy (SHARE) that stopped the state from building two gas fired turbines to meet state energy needs in Sheridan Hollow, an environmental justice neighborhood near the State Capitol. This bill will force the state to finish the job of protecting local residents from threats to their health due to fossil fuel combustion on the site, while addressing climate change (S2689).

The legislature should include a \$1.5 million dollar appropriation in the budget this year to develop a plan on how to transition the New York State Capitol and Empire State Plaza to renewables. Let's make our Capitol a symbol of New York's rapid and just transition to a renewable energy future.

GELF was pleased that four years ago the state legislature amended the budget to require that the \$88 million previously appropriated for the Sheridan Ave. complex in Albany to power the state capitol complex (ESP) use 100% renewable energy to the extent practical, rather than adding two new fracked gas turbines. NYPA has agreed to scrap the turbines and will obtain electricity from a solar power complex outside of Utica. It also started the process to replace the chillers in the Plaza with ones that use electricity.

The transformation of the ESP Complex to 100% renewable energy should be a model for how New York transforms its energy economy away from fossil fuels and toward meeting the greenhouse reduction goals of the Climate Leadership and Community Protection Act (CLCPA). The Sheridan Avenue Steam Plant (SASP), which heats and cools the ESP complex, has polluted the low-income Sheridan Hollow neighborhood for more than a century, first burning coal, then oil and now fracked gas. In light of this century of pollution of Sheridan Hollow and Arbor Hill, the state should also invest in making the neighborhood a pilot program for moving environmental justice communities to 100% clean energy, with quality jobs and job training for members of the impacted community.

However, there are still six gas boilers used to provide the steam to heat and cool the complex. This continues to subject the surrounding Sheridan Hollow and Arbor Hill neighborhoods, both consisting predominantly of low-income, people of color residents, to pollution. The Sheridan Avenue Steam Plant (SASP) has burdened the community since 1911, and the notorious ANSWERS trash to steam plant released heavy metals and other toxic chemicals into these neighborhoods throughout the 1980s and 1990s. The people who live there have high rates of health problems

including asthma and cancer. Continued operation of the SASP is contrary to DEC's Environmental Justice Policy (DEC Commissioner Policy 29), which provides that:

No group of people, including a racial, ethnic, or socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations.

Second, the SASP continues New York's dependence on fossil fuels in contradiction to the CLCPA that calls for 40% reduction in greenhouse gases by 2030. New York has committed to transition to a renewable energy economy. We must make the Plaza a showcase for the rest of the state and the country. To meet these aggressive climate goals we must, not only stop new fossil fuel infrastructure, we must also begin to shut down existing fossil fuel facilities.

The states of Oklahoma and Colorado heat and cool their state capitol buildings with geothermal energy and so does St. Patrick's Cathedral in New York City. Stanford University recently replaced its co-generation fossil fuel power plant in favor of a heat sharing system with an energy savings of over 60%. A renewable energy solution incorporating geothermal technology for the Plaza would showcase New York as a climate leader and serve as a model for the nation.

Finally, renewable options are available now. If we are to transition our state to renewable energy, we must teach our workforce and state agencies how it is done. NYPA can use the Plaza as a training center for future projects. Nationally known geothermal expert Jay Egg has demonstrated, with a team of experts involved in the design and development of large-scale projects, that geothermal and thermal load sharing are thoroughly viable options for heating and cooling the Plaza.

The states of Oklahoma and Colorado presently heat and cool their state capitol buildings with geothermal energy, as does St. Patrick's Cathedral in New York City and Skidmore College in Saratoga. NYPA, while having taken admirable steps to modify its original proposal, still has not provided a clear plan to heat and cool the ESP Complex with renewables. We call on the NYS legislature to provide resources necessary to transition the ESP complex and Sheridan Hollow to renewable energy, making them models of how to achieve our new energy future.

End the \$7.6 Billion Tax for Nuclear Subsidies

We urge the state legislature to direct the Public Service Commission and other relevant state entities to halt the mandate that consumers provide \$7.6 billion in subsidies to keep old, unsafe, uncompetitive nuclear power plants open in upstate New York. Energy efficiency measures and newer, cleaner, renewable sources of power are more cost-effective, better for human and environmental health and create more jobs.

The Nine Mile Point, FitzPatrick and Ginna nuclear plants -- like the Indian Point power plant you shut down -- are inefficient and dangerous power sources and should be decommissioned. Most of these plants were built in the Vietnam era. New York's overburdened ratepayers simply should not have to fork over billions of dollars in higher utility bills to subsidize such aging, economically uncompetitive nuclear plants.

Utility reports filed with the state show that more than 800,000 consumers in New York State are already in arrears on their utility bills. Many more New Yorkers currently struggle to pay electric rates that are among the highest in the nation. Increasing the monthly charges for these vulnerable New Yorkers will only make a bad situation worse.

Higher utility bills will also place a strain on businesses, schools, charitable organizations and local governments. New York communities are already straining against the limits of the local property tax cap. We cannot afford to see our municipal energy costs go up even further to bail out an industry that brings no economic development to our communities. We want to keep this money in our own communities to support our own local needs, including our own municipal energy efficiency and clean energy projects.

New York State's proposed multi-billion-dollar subsidy, which is essentially a "ratepayer tax," is also a misallocation of resources that New York should be investing in energy efficiency and cleaner, safer alternative energy sources.

The \$7.6 billion ratepayer-funded subsidy to keep nuclear plants open will save only about 2,000 jobs in one region of the state, and only until the subsidy expires in 2029. A job creation or retention initiative financed statewide by consumers should have a positive impact throughout the state, not only one community.

Unfortunately, the Public Service Commission, which approved the \$7.6 billion ratepayer-funded bailout without any legislative involvement or approval, failed to evaluate alternative proposals for how most effectively to create jobs, help local taxpayers and promote clean energy. Further, in a matter of weeks, the price tag for this bailout soared from \$59 million to \$7.6 billion – a staggering sum, and far more than the state is investing in renewable energy.

In July of 2017, Amory Lovins, who served as a consultant to the state in its REV process, released an analysis which debunks the notion that highly unprofitable, economically distressed nuclear plants should be further subsidized to meet financial, security, reliability and climate goals. The analysis showed that closing costly-to-run nuclear plants and reinvesting their saved operating costs in energy efficiency provides cheaper electricity, increases grid reliability and security, reduces more carbon, and preserves (not distorts) market integrity—all without subsidies.¹⁶

Enact the State Climate Superfund act.

The Climate Change Superfund Act establishes the climate change adaptation cost recovery program, which would require companies that have contributed significantly to the buildup of greenhouse gases, the primary cause of climate change, to bear a share of the costs of infrastructure investments required to adapt to the impacts of climate change in New York State. These costs would be assessed against those companies responsible for the emission of greenhouse gases that exceed one billion tons during the covered period, December 1, 2000 through December 31, 2018.

The program established in this legislation would assess the major fossil fuel emitters \$3 billion *annually* over the span of 25 years to offset the climate damages incurred by the state. Furthermore, the bill requires that an independent evaluation be conducted of the program.

Who should pay? It must be Big Oil. It is clear from historical records that for the better half of the late 20th Century, oil companies knew burning fossil fuels was warming the planet.¹⁷ Nevertheless, starting in the 1980s, the industry championed an aggressive climate change denial campaign

¹⁶ <https://www.rmi.org/about/news-and-press/press-release-subsidizing-unprofitable-nuclear-plants-not-solution-grid-reliability-security-carbon-emissions/>

¹⁷ Los Angeles Times, "Special Report: What Exxon knew about global warming's impact on the Arctic," <https://www.latimes.com/business/la-na-adv-exxon-arctic-20151011-story.html>.

opposing any policy proposals and undermining climate science. Their success in bamboozling many Americans has pushed the planet to the brink.

And they have the money. The oil industry in particular is now benefiting from record windfall profits as consumers pay higher heating and transportation costs.¹⁸ It is time for some of those profits to be directed to community protection, mitigation, and remedial programs to address damages caused by the climate crisis.

New York has a strong history in holding the polluting industry accountable for the contamination they created. Both the Federal and State Superfund and the Oil Spill Fund are based on the “polluter pays principle,” with funding coming from annual fees placed on the oil and chemical industry for hazardous waste generated, and for their use of toxic chemicals and petroleum. These precedents provide a fitting and appropriate model for the fossil fuel industry—climate crisis contributors should be responsible for the costs related to the growing catastrophe from GHG emissions.

The Climate Change Superfund Act would make New York a national leader with its first-in-the-nation, just and fair approach to ensure the state’s efforts to respond to global warming are appropriately funded by the industry that profited from and is responsible for the climate crisis.

Divest the NYS Teacher’s Retirement System for Fossil Fuels

The Teachers’ Fossil Fuel Divestment Act (A1011/S898) requires the NYS Teachers Retirement System (NYSTRS), after due consideration of fiduciary responsibility, to divest from its holdings in major coal, oil, and gas producers.

NYSTRS is the second-largest public retirement system in NY and one of the ten largest in the nation. With \$120 billion in assets, the fund has an estimated \$4.5 billion in fossil fuel investments including over \$425 million in coal. Membership in NYSTRS includes teachers, teaching assistants, guidance counselors and administrators employed in NYS public schools (excluding NYC). BOCES, charter schools, and some community college teachers are also members.

New York must take the lead in fighting global warming, and divestment is a winning strategy. Already, over 1,300 institutions throughout the world with portfolios totaling more than \$14 trillion have pledged to divest from the fossil fuel industry. These include the New York State Common Retirement Fund, the NYC pension funds including all city teachers, Ireland, the World Council of Churches, Cornell and Syracuse Universities, Ithaca and the town of Cooperstown.

Pouring money into the dying fossil fuel industry is fiscally irresponsible. Energy stocks have been the worst performing sector of the economy for over ten years. The NYS Common Retirement Fund would have had more than \$20 billion in extra value if it had divested when we first called for it to do so.

Finally, it is morally inexcusable to invest in the continued destruction of our environment and damage to our economy caused by climate change. Superstorm Sandy alone caused over a hundred

¹⁸ Bousso, R., Vallehe, S., “Big Oil’s good times set to roll on after record 2022 profits,” *Reuters*, January 17, 2023, <https://www.reuters.com/business/energy/big-oils-good-times-set-roll-after-record-2022-profits-2023-01-17/>.

deaths, disrupted the lives of thousands of New Yorkers and cost billions of dollars. It is simply wrong to support the industry that is causing this destruction.

Divestment campaigns have been successful in the past. Divestment helped end apartheid in South Africa in the mid-1980s. Divestment appropriately stigmatizes the fossil fuel industry for its culpability in the climate crisis.

Increase Funding for Mass Transit

GELF supports a transportation policy that emphasizes the use of mass transit and alternatives to the automobile and truck for transport. We call for major public investment in mass transportation, so that such systems are cheap or free to the public and are safe, accessible, and easily understandable to first-time users. We need ecologically sound forms of transportation that minimize pollution and maximize efficiency.

GELF was glad to see that Governor Hochul addressed the need for increased funding for mass transit in her budget. State lawmakers should provide even more funding.

Meeting the requirements of the new climate law, CLCPA, will require a reduction in vehicle miles traveled: that is, people will have to get out of their cars and onto public transport, bicycles (or other micro-mobility devices) or their own two feet.¹⁹

Massive subsidies to the auto and fossil fuel industries, as well as an unworkable approach by urban planners, maintain the auto's dominance of our cityscapes. The present-day approach of upgrading streets to accommodate increased traffic generates new traffic because access is now easier, and people will now take jobs further from their homes or purchase homes further from their jobs. Some people shift from public transit to private cars due to the trip time in cars being shorter. As patronage for public transit decreases, public transit loses funding, becomes less viable, and service deteriorates thus encouraging even more people to use their cars.

Mass transit needs a lot of money, One committee convened by the Governor and State Lawmakers put the capital costs just for the MTA at \$60 billion.²⁰ There is also a need to improve and strengthen bus service in the city – and statewide.²¹

The transportation sector emissions showed by far the greatest growth in New York State, with emissions increasing by nearly 20% from 1990 to 2015. This is due to an increase in the consumption of gasoline and diesel fuels associated with an increase in vehicle miles traveled in New York State.²²

Interstate and Intrastate Rail systems would help decarbonize long-distance travel, including reducing the use of airplanes. We need to expand mass transit, including light rail and buses, including upstate.

Rebuild MTA Infrastructure: The Metropolitan Transit Authority (MTA) needs to invest at least \$100 billion over the next decade in order to repair and upgrade tracks, stations, signals, and cars

¹⁹ <https://nyc.streetsblog.org/2019/06/25/to-meet-new-yorks-new-climate-law-well-have-to-break-the-car-culture/>

²⁰ <https://www.citylab.com/transportation/2019/01/fix-new-york-city-subway-mta-funding-congestion-pricing/579262/>

²¹ <https://www.timesunion.com/news/article/NYC-s-issues-overshadow-upstate-NY-transit-needs-12532394.php>

²² <https://www.nyserda.ny.gov/About/Publications/EA-Reports-and-Studies/Energy-Statistics> - page S8

and expand transit services to underserved areas in Queens, Brooklyn, the Bronx, and Staten Island.

Free or Reduced Fares to encourage the use of mass transit.

Electrify Transportation: Build an electrified rail and road transportation system across the state that includes recharging stations for electric vehicles, convenient and affordable intra-urban mass transit, inter-urban rail for intermediate distances, and high-speed rail for long distances.

Fund Public Transportation in New York City and throughout the state with:

- Congestion Pricing (good that Governor Hochul included this as a revenue source)
- For-Hire Vehicle Trip Surcharges on taxis, Lyft, Uber, etc.
- New York City Land Value Tax: Recapture for the city treasury the unearned increase in land values and rents due to social investments in transportation, infrastructure, housing, and business development.
- Tax the Rich: More progressive income taxation
- Stock Transfer Tax: Stop rebating 100% of revenues to stock traders.
- Public Bank: Low-cost loans from a state-owned public bank

Pass Green Transit, Green Jobs

The Green Transit, Green Jobs bill (A3090-A and S3535-C) will achieve a zero-emissions transit bus fleet by phasing out purchases of new fossil fuel transit buses starting in 2029. The bill prioritizes a just transition for workers, providing protection to existing transit employees subject to a collective bargaining agreement while spurring the creation of high-quality, green jobs. It is necessary to spur a faster transition to zero-emissions buses, which will improve air quality, especially in disadvantaged communities, and create good, family-sustaining jobs. Passing Green Transit, Green Jobs this session will implement the Final Scoping Plan's recommendation to "transition to zero-emission public transportation fleets"²³ and drive investment in a vehicle segment that's primed for electrification now – and one that has a substantial local supply chain.

Earth Justice points out that electrifying transit buses helps eliminate one of the most harmful sources of local air pollution. A Harvard study from 2021 found that health damages from transit emissions cost New Yorkers \$21 billion in 2016, and pollutants from buses in the New York City area had the highest health impacts of all vehicle types.

Transit agencies are not moving quickly enough to adopt zero-emissions buses. Despite the availability of clean alternatives and the suitability of transit buses for electrification, almost all the state's 8,500+ transit buses burn fossil fuels such as diesel or fracked gas, spewing toxic pollutants into neighborhoods while exacerbating the climate crisis. Transit agencies will have to switch to zero-emissions buses eventually under the CLCPA, and the Green Transit, Green Jobs legislation ensures it will be done on an expedited but reasonable timeline.

²³ FSP at 163.

Electric buses are already cost-competitive with fossil fuel buses. Purchase prices for electric buses are expected to be the same as or even less than for fossil fuel buses, and even now an investment in electric buses yields substantial cost savings over the lifetime of the buses. And federal legislation has boosted funding available to overcome purchase price premiums. Investing in ZEBs makes economic sense today and will not be burdensome for transit agencies in 2029 when the bill's mandate begins.

The governor's proposal continues the trend from past budgets by providing \$20M for electric transit buses and \$17M to electrify the state agency light-duty vehicle fleet, but unfortunately fails to take a step forward. We urge the governor and legislature to meaningfully fund these programs and develop new incentive programs, more in line with the \$2.5B recently approved in California for zero-emission vehicle deployment.

Expand New York's Bottle Deposit Law

Over its nearly 40-year history, New York's Bottle Bill has proven to be a highly effective program to reduce litter and increase recycling rates. In 2020, New York's redemption rate was at 64%.²⁴ The Bottle Bill reduces roadside container litter by 70%, and in 2020, 5.5 billion containers were recycled in the state.²⁵

Key Asks

1. **Expand the Bottle Bill to include wine, spirits, hard cider, and most non-carbonated beverages.** A deposit system can dramatically reduce litter and solid waste that would otherwise be discarded. Many other states have already added these containers to their laws. For example, Maine's law covers all beverages except dairy products and unprocessed cider.²⁶ New York can expand its coverage too.
2. **Increase the deposit from 5-cents to 10-cents and use revenues to support recycling equity.** States with higher deposit fees have higher redemption rates than states with a five-cent fee. In Michigan the deposit fee is ten cents, and the redemption rate in 2019 was 89%.²⁷ Vermont has a fifteen-cent fee on liquor bottles and the redemption rate for liquor containers in 2020 was 83%.²⁸ Increasing the deposit could also generate more revenues for the state, with those additional revenues used to address limits on redemption options in low-income communities and other litter and solid waste problems in such communities. The impact of the nickel deposit that was approved in 1982 has eroded over time. A mere inflation update would likely make that deposit nearly *fifteen* cents.²⁹ It's past time for New York to raise its deposit to a dime.

²⁴ Container Recycling Institute, Bottle Bills in the USA: New York, <https://www.bottlebill.org/index.php/current-and-proposed-laws/usa/new-york>

²⁵ New York State Department of Environmental Conservation, "New York's Bottle Bill," <http://www.dec.ny.gov/chemical/8500.html>, Accessed October 2021.

²⁶ Container Recycling Institute, "Redemption Rates and Other Features of 10 U.S. State Deposit Programs," 2021. https://www.bottlebill.org/images/PDF/BottleBill10states_Summary41321.pdf

²⁷ Ibid.

²⁸ Ibid.

²⁹ U.S. Bureau of Labor Statistics, CPI Inflation Calculator, https://www.bls.gov/data/inflation_calculator.htm.

3. Boost accessibility. Enforcement of the law is spotty. Use additional revenues to boost enforcement and to expand redemption centers into “food deserts” that limit consumers’ ability to redeem their deposits.

Bottle Bill and Recycling Rates

Bottle Bills are an incredibly effective incentive to recycle products. According to the Container Recycling Institute, states with bottle deposit laws have a beverage container recycling rate of around 60%, while non-deposit states only reach about 24%.³⁰ States that have a bottle deposit are 46% more likely to recycle PET plastic bottles than states that do not.³¹

In 2020, New York’s redemption rate was at 64%.³² The Bottle Bill reduces roadside container litter by 70%, and in 2020, 5.5 billion containers were recycled in the state.³³

Further, glass that is harvested through curbside recycling often breaks and is a hazard to handle. For this reason, glass that is recycled through the Bottle Bill’s circular economy is much more likely to be recycled. Glass recovered from a bottle redemption center is more than twice as likely to be recycled than glass recovered from curbside recycling.

New York’s Waste Crisis

China, which had been accepting massive amounts of America’s plastic waste, stopped accepting plastic waste imports in January 2018. This caused severe strains on municipal recycling programs, which led to some municipalities charging consumers for recycling. Costs continue to rise in the state. For instance, Onondaga County residents are paying about \$2 million to cover recycling expenses in 2020, a first.³⁴

As Governor Hochul has stated, it is essential that New York include recycling issues in its climate change reforms. The waste industry accounts for an estimated 12% of the state’s greenhouse gas emissions. Additionally, in a business-as-usual scenario, the ocean is expected to contain one ton of plastic for every three tons of fish by 2025, and by 2050, more plastics (by weight) than fish.³⁵ Clearly, reducing the amount of plastic waste—and waste in general—is a critical way to avoid “doomsday” environmental scenarios.

Bottle Bills and Municipal Recycling

Not only would the expansion of the state’s Bottle Bill increase recycling rates and make New York’s environment and communities cleaner, it would also help municipal recycling programs that are currently facing a recycling crisis. Municipal recycling programs are particularly struggling with glass

³⁰ Container Recycling Institute, Bottle Bills, <https://www.container-recycling.org/index.php/issues/bottle-bills>.

³¹ Container Recycling Institute, “Container Deposits: The Rockstars of Recycling,” <https://legislature.vermont.gov/Documents/2022/WorkGroups/House%20Natural/Bills/H.175/Witness%20Documents/H.175~Susan%20Collins~Container%20Deposit%20Handout~2-24-2021.pdf>.

³² Container Recycling Institute, Bottle Bills in the USA: New York, <https://www.bottlebill.org/index.php/current-and-proposed-laws/usa/new-york>.

³³ New York State Department of Environmental Conservation, “New York’s Bottle Bill,” <http://www.dec.ny.gov/chemical/8500.html>, Accessed October 2021.

³⁴ Michael Kimmelman, “Recycling in America Is a Mess. A New Bill Could Clean It Up,” *New York Times*. January 27, 2021.

³⁵ Ellen Macarthur Foundation, “The New Plastics Economy: Rethinking the Future of Plastics,” 2016.

containers in their recycling streams. When glass breaks in curbside containers it can render much of the other materials unrecyclable for the municipality, or “contaminated”. The expansion of the Bottle Bill to include wine, spirits, and hard cider would take a significant amount of the containers that municipalities are struggling with off their hands.

Even when recyclable materials are not contaminated by broken glass, the costs of recycling containers that are not covered under the state’s Bottle Bill are just too high for many municipalities. The costs associated with collecting and processing PET plastic bottles and glass per ton are higher than revenues per ton for scrap material. Expanding the Bottle Bill will reduce or eliminate these costs for municipalities by creating a financial incentive (the deposit) for consumers to return and an obligation (the law) for retailers to accept these containers, relieving the burden on local government recycling programs.

Additionally, municipal recycling programs make the majority of their revenue from handling waste, not from recycled material. In a report prepared by DSM Environmental Services Inc. for the Massachusetts Department of Environmental Protection, a bottle bill modernization was estimated to reduce costs for Massachusetts municipalities. The report estimated the total savings to be between \$3.8 and \$6.5 million dollars annually – mostly from reduced collection and disposal costs. It is essential that New York addresses its waste issues with a fully modernized Bottle Bill – one that increases the deposit and includes additional containers.

Farmer Tax Credit for Regenerative Agriculture

We are disappointed that funding has decreased for climate resilient farming and urge the governor and the legislature to include additional support for helping farmers transition into climate-friendly practices and products.

We support the legislation developed by Assemblymember Barrett to create a financial incentive to farmers for land management practices which help improve soil health and reduce greenhouse gas emissions, making New York a leader in promoting new agricultural strategies that combat climate change. The state legislature did include \$50,000 in the state budget to study the issue. California has devoted significantly more resources to support various pilot programs and studies. The IPCC recent report highlighted the importance of regenerative agriculture and other steps to reduce the carbon footprint of our food system.

Climate-smart land management practices improve soil resilience and increase productivity for our state’s farmers while simultaneously addressing the state’s climate change goals. The aim of a statewide carbon farming initiative is twofold: as a land stewardship program, it would improve soil health and productivity by holding nutrients in place; as a climate-smart initiative it would mitigate carbon’s release into the atmosphere as carbon dioxide (CO₂). Carbon dioxide contributes to climate change as a greenhouse gas by trapping heat in the atmosphere.

A tax credit for farmers who practice land management strategies which store, or sequester, carbon in the soil is a new model for combatting climate change.

By using no-till systems, planting cover crops, trees and perennial forages, and managing compost application, farmers can see improvements in water holding capacity, nutrient storage, and reduced erosion. All of these farming practices have the collateral benefit of sequestering carbon in the soil, thereby reducing its release into the atmosphere as CO₂. The carbon farming program outlined would incentivize farmers who are currently using these strategies to continue them and

would encourage others to undertake the prescribed soil health methods now widely accepted as beneficial not only to productivity but for the reduction in greenhouse gases.

In general, more attention needs to be paid to greenhouse gas emissions from agriculture. According to the EPA, Greenhouse gas emissions from agriculture come from livestock such as cows, agricultural soils, and rice production account for about 9% of the country's carbon footprint. Changing weather patterns will also pose significant challenges in growing food crops, including changes in growing seasons, rainfall patterns, and spread of insects.

GELF Supports Senator May's Version of Extended Producer Responsibility

The production, use, and disposal of plastic is one of the greatest environmental and health threats of our time. In this year's state budget, lawmakers have an opportunity to take bold action to help solve this problem. Plastic pollutes our air, water, soil, and bodies, threatens fish and wildlife and ecosystems, increases illness, widens inequality, and hastens the climate crisis. A report issued by the National Academies of Sciences, Engineering, and Medicine on December 1, 2021, concluded that "Without modifications to current practices in the United States and worldwide, plastics will continue to accumulate in the environment, particularly the ocean, with adverse consequences for ecosystems and society." This is a clarion call for legislative action.

GELF supports the testimony submitted by Beyond Plastics. Key portions of their testimony are copied below.

It is important that the New York State Legislature adopt a strong Packaging Reduction and Recycling bill this session, but it should not be included in this state budget. This is a complex policy issue that should be addressed after the budget is adopted. There are no fiscal implications for state spending in this upcoming fiscal year.

The production, use and disposal of plastic is one of the greatest environmental and health threats of our time and disproportionately impacts low-income communities and Black, Brown, and Indigenous people. The rise of plastic waste, and plastic packaging in particular, has led to immense challenges for frontline communities where these plastics are either produced, landfilled, or incinerated, and has frustrated efforts to reduce waste and greenhouse gas emissions.

The Climate Law Scoping Plan directs the New York State legislature to pass an Extended Producer Responsibility (EPR) bill for packaging and other materials in 2023 as the main legislative route for reducing waste and greenhouse gas emissions from materials and improving recycling. EPR can be a powerful tool for mitigating pollution from materials production, use, and disposal. However, New York must get the details right or Extended Producer Responsibility will NOT decrease the use of virgin materials, plastic pollution, and greenhouse gas emissions.

The scoping plan calls for a complete phaseout of single-use packaging, a reduction of toxics in materials and products, investments in reuse and refill systems, and major improvements to recycling and composting infrastructure, with disposal being the absolute last resort.

The Legislature has three Packaging Reduction and Recycling bills: Senate Bill 1064 by Senator May, Senate Bill 4246 by Senator Harckham, and a proposal by Governor Hochul in her budget. All of these bills would enact an extended producer responsibility program for packaging with additional elements. GELF supports the bill by Senator May. At the end of this section is a chart that compares all of the bills that are currently before you.

We need packaging to be reduced and re-designed. The Governor’s policy approach would not spur that kind of innovation, but instead looks at the problem through the lens of current packaging practices. The status quo is now what we are looking to continue and will not meet the challenge before us. It’s important to get the details right and the Governor’s budget proposal contains some very problematic elements:

1. It would take 30 years for the Governor’s proposal to get to an 85% material recovery rate and a 75% recycling rate. This is an unacceptable length of time to reach these numbers.
2. It contains a low target of 15% reduction in packaging over ten years. This number is in conflict with the Climate Law Scoping Plan and the 1988 solid waste management statute.
3. It contains large loopholes that make the targets non-binding. In order to meet the targets, the producers will need to make a significant effort, including investing in reuse, refill, recovery, and recycling. If companies know that they can apply for waivers when they miss their targets, there’s no incentive to improve the entire system. The Governor’s bill would result in producers putting in minimal effort to reach their targets, which will all but guarantee that the targets will not be met
 - a. §27-3407 (9) Allows the Department to adjust the minimum source reduction, recycling, and recovery rates if they are determined to be “infeasible”. No further guidance is given on what would justify an adjustment.
 - b. §27-3407 (5) Allows Producers to avoid compliance with the Post-Consumer Recycled Content standards if they’ve been granted a waiver by the Department, which can be granted if the Producer shows that the targets are not technologically or economically feasible, or because there is not adequate availability of recycled material.
 - c. §27-3407 (10) Allows the Department to adjust the Post-Consumer Recycled Content rates by regulation after considering market conditions, availability of recycled materials, capacity of recycling or processing infrastructure, utilization rates of materials, progress made by producers in meeting the targets.
4. It has an over-reliance on the use of Post-Consumer Recycled Content as a driver of system change and some of the targets take 20 years or more to ramp up.

A strong packaging reduction and recycling policy needs to contain the following elements:

1. Establish Environmental Standards for Packaging

Similar to fuel efficiency standards for cars and appliances, we need environmental standards for packaging: 50% reduction in packaging over ten years—achieved either through elimination or by switching to reuse/refill systems — and the rest must achieve a 70% recycling rate over 12 years at minimum. A major report by Pew Charitable Trust entitled “Breaking the Plastic Wave” shows that it is both necessary and feasible to reduce plastic packaging by 47%.

2. Reduce Toxics in Packaging

Packaging that contains toxic chemicals is harmful to human health and the environment and can make it unsafe to use recycled materials in future products. Known toxic chemicals and substances,

such as PFAS, formaldehyde, mercury, and lead should be removed from packaging.

3. No False Recycling

False recycling has no place in any EPR system and should not count toward recycling targets. False recycling is any process that turns plastic into a fuel or fuel substitute or the general use of plastic in energy production; and/or the following processes: gasification; pyrolysis; solvolysis; hydrolysis; methanolysis; enzymatic breakdown; combustion; or any other chemical conversion process used to transform plastic or plastic-derived materials into plastic monomers, chemicals, waxes, lubricants, chemical feedstocks, crude oil, diesel, gasoline, or home heating oil.

The petrochemical industry may claim that some of these facilities will turn plastic waste into feedstocks for making more plastics. However, unlike glass and metal, plastics cannot be recycled indefinitely; there are technical limitations to doing so. Ultimately the majority of plastics produced from the end-products of these “chemical recycling” facilities will be discarded as problematic plastic wastes again.

These processes have by-products that are toxic and that end up as air pollution and/or waste ash, and they are almost always placed in low-income communities and/or communities of color—communities that bear the brunt of toxics releases.

The technologies as a whole are ineffective at managing plastic waste, and building more of these facilities involves substantial public risks. These risks are not limited to greenhouse gas emissions or to local health impacts due to air pollution. We should be spending public dollars on solutions that will reduce plastic waste at the source, not use multi-million dollar industrial facilities to transform one form of waste into other forms of waste in Cat-in-the-Hat-like fashion. These technologies should not be considered recycling—the definitions in any EPR policy must make that clear.

“Chemical recycling” is just the latest tactic by the plastics and fossil fuel industries to avoid taking full responsibility for their waste by greenwashing. More accurately known as “false recycling”, chemical recycling amounts to a two-step process that superheats or boils plastics down into gasses, chemicals, tars, or oils. There are many different technologies with different and often misleading names—as I list above—but most are not new and they are not innovative.

False recycling is more of a marketing strategy than an actual solution. Currently, there are only eight facilities of this kind operating in the United States, with two under construction. It is estimated that the existing facilities can only process 0.26% of the plastic waste generated in the US each year--that’s one quarter of one percent. The marketing campaign by petrochemical companies and packaging companies is designed to get you to believe that these are new, breakthrough technologies. They are not. These processes have been proposed by the plastics industry for more than 30 years, with no real success.

4. Provide Financial Relief to Taxpayers and Consumers

Packaging companies should pay fees that are used to: reimburse municipalities and consumers for the cost of recycling packaging material, provide new funding for projects that reduce packaging waste and improve recycling, and fund state agencies for managing the program and enforcing the law. Companies should pay no fees for packaging used in reuse and refill systems. Taxpayers

should not have to carry the financial burden of managing packaging.

5. Include Both Residential and Commercial Waste

Commercial waste makes up 40% to 60% of the waste stream. The policy should apply to packaging generated in all sectors.

6. Don't Put the Packaging Industry in Charge

We would not expect the tobacco industry to implement effective anti-smoking efforts—do not allow consumer brands to self-regulate through Producer Responsibility Organizations (PROs). There needs to be binding performance targets set in statute, and strong accountability and oversight by state agencies, including the ability to completely disband poor-performing PROs.

7. Ensure Strong Oversight and Accountability

A law is only as strong as its enforcement. Just like New York has a Watershed Inspector General and a Medicaid Inspector General, legislation should establish a new Office of Inspector General specifically to enforce the program, and make sure state agencies receive the funding necessary to implement and enforce the law.

**NY Packaging Reduction and Recycling Bills
COMPARISON CHART**



Recommendation: do not include these policy decisions in the budget Consider as a stand-alone, post-budget bill

FEATURES	BEYOND PLASTICS MODEL	SENATOR MAY S1064	SENATOR HARCKHAM S4246	GOVERNOR HOCHUL BUDGET
Reduces wasteful packaging	50% in 10 years	50% in 10 years	50% in 12 years	15% in 10 years
Increases recycling of remaining packaging	70% in 12 years	✓	✓	75% in 30 years
Prohibits toxic packaging and certain toxic chemicals	✓	✓	✓	NO
Establishes a process to ban additional toxic chemicals	✓	✓	✓	NO
Avoids major loopholes	✓	✓	✓	NO
Prohibits chemical recycling/advanced recycling and other false recycling marketing strategies to count as recycling	✓	✓	✓	✓
Scope of materials covered	Packaging	Packaging	Packaging, paper, and single-use plastics	Packaging and paper
Funding and considerations for Environmental Justice Communities	✓	✓	✓	NO
Taxpayer relief	✓	✓	✓	✓
Investments in reuse and refill infrastructure	✓	✓	✓	Limited
Establishes a new Office of Inspector General to oversee the program	✓	NO	✓	NO
Strong oversight and accountability	✓	✓	✓	NO
Covers agency costs to manage and enforce the program	✓	✓	✓	✓

More than \$2 billion is needed to fix Hudson River watershed sewers.

Hudson River Watershed communities need at least \$2.2 billion to repair and upgrade wastewater infrastructure, according to a Riverkeeper analysis of New York State’s 2023 list of projects eligible for federal funding. Achieving the “swimmable” goal of the Clean Water Act, 50 years after its passage, hinges on ongoing and stepped-up investments in our wastewater infrastructure.

These costs include upgrades and repairs at wastewater treatment plants—the most visible components of our wastewater infrastructure—but also for projects necessary to maintain the vast network of underground pipes and pump stations that collect and transport sewage. All of this infrastructure is essential for preventing water pollution, but much of it is well past its intended lifespan. The average Hudson Valley sewer line is over half a century old, according to data compiled by the Hudson River Estuary Program.

The poor condition of our local infrastructure is not unique to New York, though New York has the greatest need of any state for wastewater infrastructure investments. In its 2022 report card, the American Society of Civil Engineers gave American wastewater infrastructure a D+, indicating that it is highly vulnerable to failure.³⁶ Those failures mean raw or partially treated sewage leaking into our streams and rivers, and they are common during wet weather.

In a time of rapid climate change, when extreme storms are more common, overflows will come more frequently if infrastructure is not right sized for current and future storm size. As Riverkeeper has documented repeatedly, data show that rain causes degradation of water quality in many communities, and after extreme storms, the impacts are more severe.

Double the Funding to \$1 Billion for the Clean Water Infrastructure Act to Meet The Needs of Communities

GELF endorses the testimony by NYPIRG on the need for increased funding for water. Some of it is copied below.

New York needs to make sure that water supplies are protected from source to tap, which means that the state needs to properly fund water infrastructure systems, such as the pipes that deliver drinking water and remove waste water. The State has gone decades without properly funding these systems, and billions of gallons of untreated sewage entered our waterways and hundreds of water mains break annually. For instance, over 20 billion gallons of sewer overflow is discharged by New York City, 4 billion gallons into water bodies around Buffalo, and 1.2 billion gallons in the Hudson River from the Capital Region. Over the next twenty years, it is estimated that New York needs to invest approximately \$80 billion for wastewater and drinking water infrastructure updates, repairs, and replacements. That figure does not include funds to preserve land around source water, septic system replacement, and water testing and filtration.

The New York Clean Water Infrastructure Act (CWIA) needs a significant funding increase to meet outstanding needs. NYPIRG and partner groups successfully advocated for an annual \$500 million increase in the last few budgets, however, double that amount is needed. Recently, two leading environmental organizations working on water quality protection issued a report and analysis

³⁶ <https://infrastructurereportcard.org/new-york-earns-c-on-its-2022-infrastructure-report-card-solid-waste-strong-roads-and-transit-most-in-need/>

documenting the need for at least \$1 billion in the CWIA. Environmental Advocates of New York reported that in the state’s latest grant cycle, \$279 million was awarded to 73 projects, “while \$665 million in local government asks representing 246 shovel-ready projects went unfunded. Twenty-six of those projects not receiving funding would have removed toxic PFAS and 1,4-dioxane from drinking water.”³⁷

The Riverkeeper reported that “Hudson River Watershed communities need at least \$2.2 billion to repair and upgrade wastewater infrastructure” according to their analysis of the State’s 2023 list of projects eligible for federal funding.³⁸

Assembly and Senate should include in their one house budget proposals and in the final budget CWIA funding at \$1 billion annually.

Support Cleanup of Drinking Water Contamination from PFAS “Forever” Chemicals

NYPIRG supports the intent and goal of the Governor’s Article XII proposal (Part QQ, TED) to provide \$60 million to municipalities to remediate drinking water polluted with the toxic and persistent PFAS chemical contaminants. However, it appears there are two serious problems with the proposal that we urge the Assembly and Senate to investigate.

First, we urge the Legislature to request a legal evaluation by the Attorney General’s Environmental Protection Bureau on the proposed amendments to the Environmental Conservation Law and its impact on the State’s long-standing strict, joint and several liability common law. Such liability standards have provided the underpinnings of the State Superfund and Oil Spill Fund enforcement abilities for many decades. It is highly suspicious that these amendments are being proposed. It is important to note that over 200 State Superfund toxic waste sites have been solid waste landfills owned by municipalities. The liability common law ensures that the appropriate responsible parties are held strictly, jointly and severally accountable, and it should not be weakened.

Second, the proposal appropriates \$20 million from the 1996 Environmental Bond Act Environmental Restoration program, and an additional \$40 million from unknown sources of funding. (CK) Apparently, the \$40 million could come from either the State Superfund or the CWIA. This would pose a major hardship to the dozens of communities living next to a State Superfund toxic dump designed for cleanup in the next year, and the many communities and local governments in need of public water infrastructure funding in the next year. The Superfund monies are to be spent on only those toxic sites where no responsible party has been found, and the State has a priority list of sites needing cleanup for the year ahead that should not be delayed. The same holds true for the communities needing CWIA funding as stated above. We urge the Legislature to enlist the consultation of the State Comptroller to investigate the inappropriateness of proposing the use of funds from either of these “pots of money” as they are already slated for each program’s priority needs.

Therefore, pending the two agency evaluations, we call on the Legislature to include in its one-house budget bills: 1) \$40 million in new CWIA funding for PFAS contaminated water sites plus the \$20 million from the Environmental Restoration Fund; and 2) to eliminate the amendments that weaken the long standing strict, joint and several liability common law. The State should act to help communities clean up PFAS contamination, but not at the expense of neglecting communities exposed to State Superfund sites or needing water supply upgrades. Furthermore, the responsible

³⁷ https://eany.org/press_release/new-eany-report-shows-need-to-double-governors-proposed-clean-water-funding/

³⁸ <https://www.riverkeeper.org/blogs/water-quality-blogs/more-than-2-billion-needed-to-fix-hudson-river-watershed-sewers/>

parties, including polluting companies, and solid waste landfill owners, should continue to be held fully financially accountable for funding such cleanups. The State should not “bail-out” PFAS polluting companies.