

RE: Written Testimony on the Implementation of the Climate Action Council Final Scoping Plan

Dear Chairwoman Kruger, Chairman Parker, Chairman Harckham and your respective Senate Committees:

We are at a major inflection point at this moment in time. Our great state has the ability to set the highest standards across the nation on our fight against the climate crisis. Scientists continue to issue stark warning that we are close to exceeding 2 degrees Celsius or more of warming, and that containing warming to 1.5 degrees Celsius is likely already gone. What we implement here in our state can alter the course of history. We have the choice to act big and boldly, or we can squander this moment and let the fossil fuel industry win again, all while continuing to let them rake in billions of dollars while literally destroying our own home.

Myself, and the New York City chapter of the climate organization Sunrise Movement, submit this testimony in the hopes that the bills highlighted below are included in the upcoming budget or at the very least passed by both chambers this legislative cycle.

Senator Zellnor Myrie has introduced his Climate Negligence bill (S.212, Assembly version being introduced soon). His legislation presents a real path for plaintiffs to get the fossil fuel industry in state court and keep them there; depriving the industry of their favored forum and perhaps heading off a SCOTUS case on removal of these types of cases (the total Circuit agreement on the issue notwithstanding). The courts have spent decades avoiding having to deal with the substance of the arguments; that the industry caused the rapid advance of climate change, knew about it, lied about it, and should be held accountable. The fossil fuel industry and unfortunately been able to orchestrate a procedural mess in the courts, successfully dodging any decisions that would truly hold them accountable. It would be energizing to see a state legislature use what was an adverse ruling in one context, to New York's (and the world's) benefit in another. If successful, this might provide a model for other states to follow (just as other states have emulated S.B. 8, particularly after *Roe* fell). Additionally, the mere prospect of a floodgate of litigation might bring these corporations to the table in a way they've never been before.

The Legislature finds that the New York Constitution grants every New Yorker the right to mitigate these impacts. Article I, Section 19 of the New York State Constitution reads: "Each person shall have a right to clean air and water, and a healthful environment." Overwhelmingly approved by the voters in 2021, this "green amendment" to our constitution

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placed a right to a healthful environment alongside the freedom of speech, religion, and property in our Bill of Rights. As such, every New Yorker should have the tools to best utilize that right. This bill seeks to provide them with at least one tool.

The fossil fuel industry has known for decades that their products overwhelmingly contributed to and accelerated climate change, yet they have – and continue to – lie about this fact to the public. Documents unveiled by litigation and investigative journalists demonstrate that as early as the 1950’s, the industry became aware of the potentially catastrophic impact of its products and even in the face of scientific consensus shortly thereafter and research conducted by their own scientists affirming the impacts of their business, the industry outright denied that climate change was real, spread disinformation to cast doubt on the science, dismissed regulatory action as insufficient (after no longer being able to deny climate change outright), and currently advertise “green” efforts to the public that mask the industry’s lack of real investment in resiliency and energy-source transition. A December 2022 report by the Oversight Committee in Congress also revealed internal documents from senior leaders in the industry where, among other things, they explicitly reject taking accountability for the emissions of their products. By conduct and impact, the industry has intentionally obfuscated the truth about climate change and outright deceived the public in order to continue dependence on their products. The Legislature finds that this conduct and subsequent impact on the public is not political speech, but fundamentally commercial activity with incidental political impact. We also find this conduct to be a substantial factor in affecting the public’s perception of the threat of climate change, scientific consensus notwithstanding.

New Yorkers should have the ability to hold those responsible for climate change accountable for their deceptive practices and the cataclysmic impacts these practices have yielded. This bill seeks to provide them that opportunity.

Next, we urge the legislature to pass *all* the bills and funding requests included in the New York Renew’s Package. The bills included are the Build Public Renewables Act (A.279), the Climate Accountability Act, the Gas Transition and Affordable Energy Act, the Fossil Fuel Facilities Replacement and Redevelopment Blueprint Act, the Climate Change Superfund Act and the Fossil Fuel Subsidy Elimination Act. The package also includes the request to fully fund the Climate and Community Protection Fund which creates a pool of money to fund and implement

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our landmark Climate Act. All of these bills will help catapult New York towards meeting and exceeding our CLCPA goals. We do not have the luxury of time anymore to proceed in a piecemeal fashion. It is necessary to include all of these, at one time, we must act big and boldly.

A reasonable question would be how does the state finance all of this? Luckily, the New York Renew's Package also includes the package known as Invest In Our New York (IONY). The IONY package encompasses a series of tax increases on the ultra-wealthy and corporations. Many of these proposed taxes simply close the gap that was created by the Trump tax cuts. Additionally, the spending measures proposed would ensure that the state eliminates wasteful handouts to businesses and that the richest New Yorkers pay what they owe to fund our climate law.

As mentioned during today's oral testimony, buildings are one of, if not the largest source of our emissions. We hope the legislature will also pass the bills associated with the Renewable Heat Now coalition's campaign. Those bills are the following:

- 1) All-Electric Building Act (S.562|A.920) modernizes building codes to require new buildings to be all-electric and highly efficient, starting in 2024 with buildings under 7 stories and by 2027 for larger buildings;
- 2) Energy Efficiency, Equity, and Jobs Act (S3126C|A3996C of 2022) which would deploy funding for cost-saving energy efficiency retrofits where they are most needed — in low-income communities and communities of color. The bill also allows NYSERDA to fund non-energy measures like lead and mold remediation to remove barriers to efficiency upgrades in older homes and ensures that the workers hired for energy efficiency upgrades come from disadvantaged communities;
- 3) Automatic Data Matching (S8362A|A9099A of 2022). This bill ensures that all eligible low-income households are automatically enrolled in electric/gas companies Energy Affordability Programs, which provide much needed monthly bill assistance to lower energy costs; and
- 4) Modifications to the Home Energy Assistance Program ("HEAP") (S9578 of 2022) and Emergency HEAP (S8361|A9121) which authorizes the automatic re-enrollment of eligible low-income households into energy assistance programs and establishes an emergency heating energy assistance program, respectively.

Lastly, transit is a key component in this fight as well. Riders Alliance and others are asking for the state to fully fund the MTA (this means closing their fiscal gap). A fully funded MTA would allow them to run frequent, 6-minute service on all subway lines and at the minimum, the 100 most used bus routes in New York City. It will also allow them to finally complete much needed modernization improvements and other system fixes, making our subway more reliable. In turn, this will result in much higher ridership, reducing the number of vehicles on our congested roads, reducing pollution and making the incoming Congestion Pricing more bearable for some of the skeptics. A fully funded MTA would also be able to expand transit options into communities that have long lacked any meaningful access to public transit. We cannot stop with the MTA or just New York City. We must increase public transit access, frequency, and reliability across every corner of our state.

We have the legislation to finally act with the urgency required to meet this moment in the fight against the climate crisis. The only question is whether you, our legislators, will finally stand up to the fossil fuel industry and their lobbyist money which has controlled our governments for far too long. All of these bills have a central theme besides addressing the climate crisis. They will create thousands of well-paying, union jobs while dramatically increasing the health of every New Yorker. The legislature has the option to lead this fight for the world, for your children, grandchildren, and generations to come. It is not an exaggeration to say that if the legislature chooses to act big, you will be seen as heroes to many. I hope you decide to lead on this issue with the boldness we need to literally survive. The climate crisis is here now, not hundreds of years away. If we do not spend the money on these bills now, the cost of climate related damages will be exorbitantly higher. Now is the time to act.

Sincerely,

Andrew Engel, Esq.

A handwritten signature in black ink, appearing to read "Andrew Engel". The signature is fluid and cursive, with a long horizontal stroke at the end.

Floral Park, Queens, New York, 11001

Sunrise Movement NYC Steering Committee Member & Legislative Team lead

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