

Green Education and Legal Fund

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Testimony of the Green Legal and Education Fund Inc. To the New York State Legislature Joint Budget Hearing on the 2022-23 Executive Budget Proposal on Environmental Conservation

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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. Thank you for the opportunity to testify on the state budget on environmental and energy issues.

We urge the Governor and the State Legislature to dramatically accelerate and increase NYS' commitment and funding to avoid catastrophic climate change. The Intergovernmental Panel on Climate Change issued a Code Red for the Planet warning last year that the climate initiatives adopted by governments since the Paris climate accords 6 years ago was grossly inadequate to prevent climate collapse, namely keeping global warming below 1.5 degrees Celsius. At the present rate of greenhouse gas emissions, the world's carbon budget for the 1.5 degrees target will be exhausted in 7 years (and in reality, probably sooner).

Failure to take such dramatic action increases the likelihood that human civilization as we presently know it will cease to exist. Floods, sea level rise, wildfires, heat waves and droughts are rapidly accelerating, and are on pace to make many parts of the planet uninhabitable. Climate refugees will likely be in the hundreds of millions. Support systems involving energy, food and water will break down, leading to wars over such resources. Hundreds of millions, if not billions, could die. Scientists now provide analysis over the possibility of the extinction of the human species.

We continue to call for the state to officially declare a climate emergency, which need to include a **halt to any new fossil fuel infrastructure and an investment of at least \$15 billion 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.

GELF recommendations for the state budget include:

- incorporate the 11 proposals developed by the Climate Can't Wait collaboration by 38 climate groups (outlined below)
- raise at least \$15 billion annually in funding for climate initiatives. Approaches can include a polluter penalty / carbon tax (e.g., CCIA); raising taxes on rich; or increasing the size of the Environmental Bond Act from \$3 billion to at least \$100 billion (over 10 years)
- allocate an additional \$15 billion in funding for climate. I am a member of the NY Renews policy committee, which have developed a detailed outline of how \$15 billion in additional climate funds could be invested in 2022. We would include funding for renewable energy by NYPA or municipally-owned utility systems.
- expand the bottle bill on its 40th anniversary
- end the \$7.6 billion subsidy for nuclear;

- include the legislation to transform the state capitol complex to using 100% clean, renewable energy;
- a major expansion of funding statewide for mass transit;
- support for the Renewable Heat Now campaign to slash greenhouse gas emissions from buildings.

Governor Hochul's Budget Proposal includes several important funding initiatives we support, including:

- Increasing funding in the Environmental Protection Fund to \$400 million.
- Establishing at least 2 million climate-friendly, electrified or electrification-ready homes by 2030 with a requirement that new buildings be all-electric by 2027, is a key first step, however it should be by late 2023, similar to the recently passed Gas Free New York City law.
- Investing an additional \$500 million in offshore wind manufacturing and infrastructure will expand the State's renewable energy portfolio.

Governor Hochul's budget included a proposal for Extended Producer Responsibility to help reduce the amount of waste in New York. EPR and its goal of make those who produce waste take financial responsibility for its disposal is a good goal. Unfortunately, the Governor's proposal has significant flaws and need to be amended. (Details below)

Incorporate the Climate Can't Wait Proposals into the 2022-23 State Budget

It's been over two years since New York has passed significant legislation addressing the climate crisis. In that time, the climate emergency has accelerated, with increased extreme heat, fires, storms, and floods. Just this summer, Hurricane Ida took the lives of 42 New Yorkers. More than 3 dozen climate groups have joined together to identify a dozen key climate initiatives that lawmakers must act on in 2022.

All Electric Building Act: The act requires that municipalities deny permits for residential or commercial buildings applied for after December 31, 2023 that are not for all-electric buildings, unless all-electric is not feasible (S6843, Kavanaugh).

Governor Hochul's proposed statewide gas ban scheduled for 2027 is far too slow. Burning fossil fuels for energy use in buildings is the state's top source of climate-heating pollution. The State does not have time to wait. GELF and other groups in the #GasFreeNY campaign urge the inclusion of S. 6843A (Kavanaugh) and A.8431 (Gallagher) in the state's budget, enabling an immediate gas ban at the state level that would take effect in one year on new permits. Additionally, the state must not preempt stronger local gas bans on new construction by any municipality, including New York City.

New York State would become the first state to end gas use in new construction, which has been enacted at the municipal level by over 50 localities nationwide to date, including New York City, San Jose, Sacramento, Oakland, and Seattle. Instead of relying on fossil fuels, new buildings would rely on heat pumps for heating, cooling, and hot water and greater energy efficiency. Heat pumps do not combust fossil fuels; they are highly efficient and electric-powered. The move would make

New York the first state in the country with a statewide gas ban, combating climate change, cutting deadly local air pollution, and creating green jobs.

By starting the ban at the end of 2023, we can prevent millions of metric tons of climate pollution from heating the climate. The International Energy Agency urged worldwide adoption of laws to end all sales of new gas boilers and furnaces for buildings because such action in the next few years is necessary to stave off worldwide catastrophe. Everything from deeply affordable housing to skyscrapers are being built fossil free.

CLCPA Implementation and Funding: Requires state agencies to aggressively implement the Climate Leadership and Community Protection Act (CLCPA) through a rapid transition to a 100% renewable economy. This includes enforceable timelines for greenhouse gas reductions, a requirement that 40% of funds be directly invested in disadvantaged communities, ending fossil fuel subsidies and investments in fossil fuel infrastructure, and avoiding “false solutions” like waste-to-energy projects. This also means fully funding this transition with \$15 billion in the 2022 budget to jump-start a just transition and begin large-scale implementation of the CLCPA.

Clean Futures Act: Bans any new major electric generating facility powered by fossil fuels, subject to extremely narrow exceptions (S5939, Ramos; A6761, Mamdani).

Climate and Community Investment Act: Creates a new authority to fund four areas: 1) large scale investments like offshore wind, electric buses, and public housing energy upgrades; 2) grants to community organizations to create local climate, adaptation, and resiliency projects, particularly in frontline communities; 3) support for fossil fuel-dependent workers and communities; and 4) a rebate fund to help working New Yorkers and small businesses defray increased energy costs. This would be funded by a polluter penalty fee paid by corporate polluters (S4264-A, Parker; A6967, Cahill)

Cryptocurrency Mining: Places a three-year moratorium on a type of cryptocurrency mining that uses an exorbitant amount of energy (A7389, Kelles / S6486C, Parker). (more info below)

Energy Efficiency, Equity and Jobs: Requires that Public Service Commission programs provide job training funds to priority populations, including low-income individuals and people with disabilities, and sets targets for hiring members of priority populations (S3126, Parker; A3996, Hunter)

Fossil Fuel Subsidy Elimination Act: Repeals over \$330 million in tax exemptions provided by New York State to the fossil fuel industry. Specifically, the bill would eliminate many exemptions to the Sales and Use Tax and the Petroleum Business Tax and would limit fossil fuel companies’ inclusion in several economic development programs. (S7438, Krueger, A8483, Cahill). More info below.

Green New Deal Act: Taxes the rich to raise over \$10 billion a year to fund a variety of programs, including energy efficiency, social housing, mass transit, renewable energy, and electric vehicles. These programs would maximize good, union jobs and investments in low income communities and communities of color.

New York Build Public Renewables Act: Enables 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. This will create

between 28,000 and 51,000 jobs, with NYPA requiring prevailing wages on all projects. (S6453, Parker; A1466, Carroll).

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.

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.

Proposed Actions on EJ Communities: Mandates that environmental impact statements address effects on environmental justice communities, and that environmental impact statements for power plants demonstrate alignment with the CLCPA (S1031, Stewart-Cousins; A2103, Pretlow).

Renewable Capitol Act: Mandates that several state facilities in downtown Albany, including the State Capitol and Empire State Plaza, be powered by renewable energy, addressing state climate goals and pollution in the nearby environmental justice community. (see more info below)

Teachers' Fossil Fuel Divestment Act: Requires the New York State Teachers' Retirement System to divest from fossil fuel holdings (S4783, Brisport; A6331, Kelles)

Climate Can't Wait Member Organizations: 350NJ-Rockland, 350NYC, 350Brooklyn, Citizen Action of New York, Divest NY, Empire State Indivisible, Energy Democracy Alliance, Food & Water Watch, For the Many, Forest Hills Green Team, Fossil Fuel Subsidies Coalition, Indivisible Harlem, Indivisible Nation BK, Mid Hudson Valley DSA, New York Communities for Change, New York Lawyers for the Public Interest, New York State Council of Churches, New York Youth Climate Leaders, NYCD16 Indivisible, PAUSE, People's Climate Movement-NY, Professional Staff Congress-CUNY, Queens Climate Project, Rockland United, Sheridan Hollow Alliance for Renewable Energy (SHARE), Sunrise Movement NYC, Tompkins County Climate Protection Initiative, WE ACT for Environmental Justice, WESPAC Foundation

\$15 Billion for a Green New Deal in 2022

I first began calling for a NYS Green New Deal back in 2010 when I was the Campaign manager for Howie Hawkins in his Green Party campaign for Governor. Our Green New Deal recognizes the need for public ownership and democratic control of our energy system.

The Green New Deal seeks to convert the old, gray economy into a new, sustainable economy that is environmentally sound, economically viable and socially responsible. It seeks to solve the climate crisis by combining a WW-II type mobilization to get to net-zero greenhouse gas emissions and 100% renewable energy by 2030 along with an "Economic Bill of Rights" – the right to single-payer healthcare, a guaranteed job at a living wage, affordable housing and free college education. Our transition to 100% clean energy will be based on community, worker and public ownership and

democratic control of our energy system, rather than maximizing profits for energy corporations, banks and hedge funds.

The Movement for a Green New Deal in NYS is calling for \$10 billion annually to fund a rapid transition to 100% renewable energy – GELF supports a larger investment.

One step is to enact taxes on the rich to cut combat pollution, fund investments in mass transit and housing, and create a publicly-owned power grid solely reliant on renewable energy. The Campaign has four elements: transitioning to 100% renewable as soon as possible, banning all new fossil fuel projects, municipalizing our power supply and taxing the wealthy in order to invest that money back into the community. The proposal would raise revenue by increasing the state personal income tax by 5% on income over \$500,000 per year.

Sen. Sanders has a NYS Green New Deal (S1559) similar to the AOC Congressional proposal (to develop by 2020 a plan for 100% clean energy by 2030).

The Green New Deal largely pays for itself in health care savings from the prevention of fossil fuel-related diseases, including asthma, heart attacks, strokes and cancer. Moving to 100% clean energy means many more jobs, a healthier environment, and far lower electric costs compared to continued reliance upon fossil fuels.

Power the Empire State Complex and Sheridan Avenue neighborhood with 100% Clean Renewable Energy – Make Sheridan Hollow a Model Climate Justice Community

Legislation is being introduced in the Assembly and Senate to require the State Capitol, Empire State Plaza and other related buildings to move to 100% clean renewable energy. OGS has also contracted to develop an energy master plan for the Plaza.

GELF was pleased that three 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.

SHARE also calls for \$250,000 in this year's budget to provide funding for a study and plan to convert Sheridan Hollow and Arbor Hill to a 100% renewable energy community. Advocates and community residents are already pursuing a number of initiatives that have the potential to increase access to renewables and energy efficiency measures in the community, and significant funding may become available under the 35% mandate for "disadvantaged communities" in the CLCPA, and from other sources. This study would help position this key environmental justice community for just transition funding as it becomes available and ensure effective utilization of the various funding sources. Sheridan Hollow and Arbor Hill have endured a century of pollution to heat and power the state government; this environmental justice community should be first in line for public and private funding to make a transformation to a 100% renewable community. This transformation must bring quality jobs and job training to the community.

NYSERDA recently provide a grant to Aztec geothermal to evaluate the potential for district geothermal utilization in the Sheridan Hollow area.

Enact a State Carbon Tax; Make Polluters Pay

GELF supports a state carbon tax such as the proposal we helped draft (A77/S3336) or the Climate and Community Investment Act (A6967 / S4264-A) by NY Renews. A carbon tax must be set high enough to drive down emissions, while providing a significant rebate to low-and-moderate income New Yorkers to offset the regressive nature of any energy tax. It should invest in speeding up the transition to renewable energy.

NYS DEC recently estimated the “value” of carbon at \$53-421 per ton.

New York needs to adequately price carbon to reflect the true economic, health and environmental costs associated with its use. New York should enact a carbon (greenhouse gas) tax or fee to accomplish this purpose (this needs to include methane). The prime purpose for carbon pricing is to make polluters pay for the damages they cause while accelerating the transition to clean energy sources by making fossil fuels reflect their actual costs.

The Governor used the social cost of carbon to justify his \$7.6 billion bailout of three small upstate nuclear plants. This had led the NYS Independent Systems Operator to seek similar handouts for other electric producers.¹ The state recently placed the value

The biggest obstacle to clean energy is that the market prices of coal, oil and gas don't include the true costs of carbon pollution. A robust and briskly rising carbon tax will transform energy investment, re-shape consumption, and sharply reduce the carbon emissions that are driving global warming.

A carbon tax is an “upstream” tax on the carbon content of fossil fuels (coal, oil and natural gas) and biofuels. A carbon tax is the most efficient means to instill crucial price signals that spur carbon-reducing investment. A carbon tax can also be used to recapture some of the costs pushed on to taxpayers and consumers from burning fossil fuels,

The International Monetary Fund estimates that worldwide we provide \$5.3 trillion in annual subsidies to the fossil fuel industry. We need to stop paying to make the world inhabitable for humans. In New York, it is estimated that allowing the burning of fossil fuels increases health care costs by \$30 billion or more while leading to at least 3,000 annual deaths from air pollution.

It would be better to enact a robust national carbon tax. However, New York should take the lead and enact a state carbon tax. In Canada, British Columbia has successfully implemented a provincial carbon tax. The tax has helped BC reduce its carbon emissions 3.5 times more than the rest of Canada while their economy performed slightly better than the rest of the country.

There is significant interest in the northeast in a regional carbon tax. Northeastern states are continuing to examine the possibility of some form of regional approach to address transportation / gas under the Climate and Transportation Initiative.² Several years ago Gov. Cuomo had publicly raised the possibility of a regional gas tax to support mass transit.

In 2015, GELF helped draft carbon tax legislation (A77 Cahill / Parker). The various options in the bill (e.g., price of carbon, how to invest the proceeds) were selected bill after surveying several hundred climate change activists – we adopted the positions with the most support. The proposed carbon tax would start at \$35 a ton (should be increased in view of DEC carbon value) and then

¹ <https://www.rtoinsider.com/nyiso-new-york-carbon-pricing-80527/>

² <http://www.transportationandclimate.org/northeast-and-mid-atlantic-states-seek-public-input-they-move-toward-cleaner-transportation-future>

increase in annual increments of \$15 a ton up to \$185 a ton. 60% of the revenues would be rebated to low- and moderate-income consumers. The remaining forty percent will support the transition to one hundred percent clean energy in the state, to support mass transit to reduce carbon emissions, and to improve climate change adaptation. Such funds shall include payments and subsidies for renewable energy, energy conservation and efficiency measures, improvements in infrastructure, improvements in mass transit capacity, agricultural adaptation measures, protection of low-lying areas including coastlines, and emergency responses to extreme weather events.

We recognize there are differences of opinions as to how to best invest the revenues: offset the regressive nature of any energy tax; do a 100% rebate of the tax to consumers (e.g., 100% fee and dividend); invest in the transition to renewable energy; and to meet other social needs such as job creation. The issue of what revenue options the legislature agrees to is less important than adopting a carbon price high enough to effectively reduce the amount of greenhouse gases emitted.

The Climate and Community Investment Act (CCIA) developed by NY Renews would raise \$15 billion per year from corporate polluters and uses it to create good, green jobs, invest in frontline communities, and build a renewable economy for New York State. One-third of the funds raised will go to community-based organizations in frontline communities for local programs like community-owned solar, making homes, apartments, and schools more energy-efficient, and investing in adaptation infrastructure. Additional funds will be available for current fossil fuel workers and host communities.

Research shows that the CCIA would create and sustain over 150,000 good, green jobs over the first decade. The CCIA includes strong labor provisions, including prevailing wage and apprenticeship requirements. People in frontline communities, formerly incarcerated New Yorkers, women in non-traditional trades, and people coming off of unemployment will be prioritized for jobs building our renewable economy.

New York already has a limited carbon pricing scheme through the Regional Greenhouse Gas Initiative for electrical production. However, the Congressional Research Service³ concluded that the pricing was set too low to have any significant impact on reducing carbon emissions. It is presently around \$6 a ton. The emission reductions resulted from invested the proceeds from auctioning the carbon permits into renewable energy.

We are not supportive of the approach by the Transportation and Climate Initiative to introduce a limited carbon pricing to transportation, supporting instead the economy wide approach of a carbon tax. We especially oppose the possibility of expanding RGGI to transportation, giving its poor track record with electricity production and emission reductions. Cap and trade programs are subject to market manipulation and often shift the pollution burden to poorer communities and nations, which is why they were condemned by Pope Francis.

We continue to monitor the efforts by the NY Independent Systems Operators to develop a carbon pricing proposal for the wholesale electric market based on the Governor's bailout of nuclear. We remained concerned about how the revenues will be invested, including how low- and-moderate income consumers will be protected against the regressive nature of any energy tax.

GELF is supportive of both a regional and national comprehensive carbon tax.

³ <https://fas.org/sgp/crs/misc/R41836.pdf>

End the \$7.6 Billion Tax for Nuclear Subsidies

We urge you 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.⁴

⁴ <https://www.rmi.org/about/news-and-press/press-release-subsidizing-unprofitable-nuclear-plants-not-solution-grid-reliability-security-carbon-emissions/>

End Fossil Fuel Subsidies in the NYS Budget

We support legislation by Sen. Krueger and As. Cahill (S7438 / A8483) to identify and eventually eliminate some of the \$1.6 billion in fossil fuel tax expenditures in the NYS budget. The legislation would require the Governor to submit an annual analysis of all fossil fuel related tax expenditures, including recommendations regarding continuation, modification or repeal of some of the worst offenses. It also implements a 3-year sunset provision for all current and future fossil fuel related tax expenditures. The state-level measure is the first in the country to specifically target fossil fuel tax subsidies and create a regular public review process.⁵

As the climate emergency, COVID-19 pandemic, and subsequent financial crisis escalate, New York cannot afford to continue subsidizing the fossil fuel industry with hundreds of millions of dollars annually. Reviewing and eliminating nonessential (those that would not harm consumers) fossil fuel subsidies is critical to both addressing the state's budget shortfall and combating the climate crisis.

These subsidies not only prop up an industry that actively damages New York's environment but also leave less money for programs that help New Yorkers. Additionally, New York's crucial Climate Leadership and Community Protection Act established into law a goal to achieve net-zero greenhouse gas emissions by 2050 and 100% decarbonized power by 2040. Continuing to subsidize fossil fuels would prevent New York from meeting these goals.

By eliminating the following existing fossil fuel tax expenditures, New York State can save \$550.9 million annually. Because all these benefits deprive the state of revenue it would otherwise receive, they are essentially the same as direct expenditures -- that is, all taxpayers end up paying more because of these exclusions, deductions, and other benefits. While some fossil fuel tax expenditures, such as those for residential heating, are necessary to protect low-and-moderate income New Yorkers, others directly benefit the fossil fuel industry. The expenditures outlined below have minimal impact on consumers; eliminating them would go a long way towards addressing both the budget crisis and climate emergency without harming consumers.

According to the FY 2020 Annual Report on New York State Tax Expenditures,⁶ the state provides \$1.6 billion in subsidies to the fossil fuel industry. This is in direct conflict with the CLCPA and therefore should be eliminated. As a critical first step, this year's budget needs to eliminate the most egregious fossil fuel subsidies from the NYS Tax Code. For example, it should:

- End \$118 million in Sales and Use Tax exemptions for airline fuels;
- Terminate \$89 million in Sales and Use Tax exemptions for fossil fuels used in research and development, and the production of tangible personal property in the fossil fuel industry;
- Abolish \$65 million in Petroleum Business Tax exemptions for liquid petroleum gases such as butane, ethane, and propane; and
- Halt \$4 million in Sales and Use Tax exemptions for operating fracked gas infrastructure.

⁵ <https://www.nysenate.gov/newsroom/press-releases/liz-krueger/senator-krueger-and-assemblymember-cahill-announce-first-nation>

⁶ NYS Division of Budget, "FY 2020 Annual report on New York State Tax Expenditures," <https://www.budget.ny.gov/pubs/archive/fy20/exec/ter/fy20ter.pdf>.

As importantly, this addition to the State Executive Budget would limit tax subsidies to fossil fuel-related businesses as part of economic development programs, including the Excelsior Jobs Program, START-UP NY, Investment Tax Credit, Brownfield Redevelopment Tax Credit, Rehabilitation of Historic Properties Tax Credit, qualified emerging technology tax credits, and special tax benefits for qualified New York manufacturers.

Divest the NYS Teacher's Retirement System for Fossil Fuels

The Teachers' Fossil Fuel Divestment Act (S4783 / A6331) 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 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.

In December 2021, due to the pressure from the growing support in the legislature for the divestment bill (77 current co-sponsors), NYSTRS released a paper responding to the climate change risk. However, it involves only divesting \$66 million in coal holdings out of the overall \$4.6 billion in public equity fossil fuel investments. Instead, NYSTRS wants to continue focusing on lobbying fossil fuel companies on climate through shareholder resolutions, despite more than half a century of ineffective impact. Sixteen teachers' unions in NY, including almost all of the largest, have passed resolutions calling upon NYSTRS to divest and in support of this legislation.

Curtail Proof-of-Work Cryptocurrency Mining in NYS

The state budget should at a minimum include a moratorium on proof of work cryptocurrency Proof of Work (PoW) cryptocurrency until the state completes a complete environmental review of it, starting with an examination of its negative climate impact.

PoW cryptocurrency, used in Bitcoin mining, is created as thousands of high-powered computers work to solve complex mathematical equations. The more machines working on the solution, the better the chances are that the operator solves the problem first and profits. PoW cryptocurrency mining is so energy intensive that it has been shown to use the same amount of energy as entire countries like Argentina and New Zealand. Part of China banned Bitcoin mining because it is undercutting their climate targets. China recently made all cryptocurrency transactions illegal.

The Greenidge Generating Station on Seneca Lake was at one time a shuttered coal fired plant. It has since been repurposed to burn natural gas to supply power to the grid during high demand periods. However, soon after the owner decided to install thousands of Bitcoin machines. In one year alone, CO₂-equivalents and NO_x emissions released from the facility increased tenfold. If left unchecked, Greenidge's expansion plans will cause its emissions to skyrocket to over 1 million tons of CO₂ equivalent per year or 165% of its existing Title V air permit limit, which is up for renewal. Water quality is also threatened with the withdrawal of nearly 140 million gallons of water a day, killing thousands of fish every year and the returned heated water to Seneca Lake contributing to harmful algal blooms.

In North Tonawanda, Fortistar is seeking approval from the DEC to sell a mothballed power plant and transfer its air pollution control permits to Digihost International Inc., a Bitcoin mining company. Digihost in turn intends to use the power plant to generate electricity for a fleet of supercomputers at the facility that would run the energy intensive mining processes to earn Bitcoin and other digital currencies. In addition to energy consumption, the proposed facility would use five hundred thousand (500,000) gallons of water per day to be drawn from the City of North Tonawanda and generate one hundred thousand gallons per day of wastewater discharge to the City's collection system.⁷

PoW Cryptocurrency operators are seeking cheap power sources or power plants that are not operating at full capacity to install powerful Bitcoin mining machines. Nearly 30 other upstate New York power plants could be converted to run full-time as extremely energy intensive data centers, with catastrophic consequences for statewide CO₂ equivalent emissions.

Historically, large industrial scale facilities like power plants were sited in marginalized communities: communities of color, low-income communities, and communities without political clout. To resuscitate these plants – which were permitted to fulfill public needs for reliable and affordable electricity, is to inflict additional damage on communities that rightfully received special protection under the CLCPA.

There are an increasing number of data centers in New York performing Proof-of-Work authentication of different blockchains with some being built or modified to exclusively perform Proof-of-Work authentications. Studies show that the magnitude of the computer processing output required to authenticate a single block uses as much energy as an average American household uses in a month. The annual global energy use for PoW authentication is equivalent to that of the country of Sweden and exceeds the energy consumption of all the global activity of major tech companies like Amazon, Google, and Facebook combined.

The added energy usage and corresponding increased greenhouse gas emissions from these new data centers performing Proof-of-Work authentications in New York could hinder or prevent

⁷ *Id.*

compliance with the critical state carbon emissions goals put in law in the Climate Leadership and Community Protection Act of 2019. NY must determine whether growth of the Proof-of-Work authentication industry is incompatible with our greenhouse gas emission targets established in law, or has other significant detrimental impacts to our air, water, or public health. And even if Bitcoin mining operations were powered 100% by renewable, green energy, it would mean that “it won’t be available to power a home, factory, or electric car.”⁸

Support Renewable Heat Now

GELF supports the Renewable Heat Now campaign to reduce greenhouse gas emissions in buildings by moving to 100% clean, renewable energy. The campaign urges the state to make a massive investment in better buildings in New York, starting in disadvantaged urban and rural communities, where buildings are the least efficient and costs are highest.

Better buildings mean housing that is affordable, free of indoor pollution, and environmentally sustainable. It means workplaces and schools that are comfortable, healthy, and sustainable. Better buildings should contribute to resilient communities where the rights of tenants and undocumented residents are protected, and where generational wealth can be built by Black and Brown households.

Buildings account for one-third of New York’s greenhouse gas emissions because most of us still warm our spaces, cook our food, and heat our water by burning fossil fuels right inside our buildings. Now, we must equitably phase out these fossil fuels and ensure that people can afford to switch to modern geothermal and air source heat pumps and induction stoves – a process called beneficial electrification.

The Renewable Heat Now Campaign includes:

- Set a state target of at least 2 million new and existing energy-efficient, all-electric homes by 2030, at least half of which will be new and existing affordable housing in and for Disadvantaged Communities
- Create a Green Affordable Housing Fund for Disadvantaged Communities
- End fossil fuel expansion with building standards and utility regulation
- Create thousands of high quality, high-paying career jobs, with priority for Disadvantaged Communities and priority populations.

The campaign also supports the Fossil-Free Heating Tax Credit (S3864 (Kennedy) / A7493 (Rivera)) and Sales Tax Exemption (S642A (Sanders) / A8147 (Rivera)) to enact a tax credit and sales tax exemption for geothermal heat pumps, making them more affordable to install.

Include \$1 billion (per year) commitment to a Green Affordable Housing Fund

The proposal would provide \$1 billion annually for all-electric and electric-ready affordable housing in and for Disadvantaged Communities. It is necessary to ensure equitable transition to all-electric housing and to improve housing conditions for the state’s most vulnerable residents

⁸ *Bitcoin Uses More Electricity than Many Companies. How is that Possible?* New York Times Interactive, Jon Huang, Claire O’Neill and Hiroko Tabuchi, September 3, 2021. Accessed at <https://www.nytimes.com/interactive/2021/09/03/climate/bitcoin-carbon-footprint-electricity.html>.

This fund should pay for tightening the building envelope, improving heat pump and induction stove incentives, upgrading electrical panels, and developing new high performance affordable multifamily buildings. It should also provide weatherization and pre-electrification funding and financing to address the health hazards, structural issues, and electrical requirements needed for efficiency and electrification. Not everyone can afford to electrify or get their homes electrification ready, and we need a fund to help people pay for the necessary work remediating mold, asbestos, and lead.

According to NYSERDA, New York currently provides \$250 million annually in energy efficiency and electrification grants, incentives and free technical assistance for low-to-moderate income housing (both subsidized and unsubsidized), and is reaching 20,000 to 25,000 homes

NYSERDA analysis shows that New York must electrify at least 250,000 homes per year to meet our climate goals. The Energy Efficiency and Housing Advisory Panel to the NY Climate Action Council estimated that a minimum of \$1 billion in annual grants and incentives will be required to make the necessary improvements to existing affordable housing on an on-going basis. This will require a quadrupling of current funding levels.

The Fund should build on existing funds already earmarked for efficiency and electrification and add federal and more state funding. The Green Bank alone could invest \$500 million in this sector, and if New York deployed just 5% of its American Rescue Plan funds to upgrade affordable housing, as Maine has done, we could invest another \$600 million. The hundreds of millions of dollars that annually funds fossil fuel subsidies and utility gas expansion is another source of funding.

Without these investments in pre-efficiency and pre-electrification measures, many buildings – particularly those in Disadvantaged Communities – will not be able to electrify, which will deepen existing inequities.

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.

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.⁹

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

⁹ <https://nyc.streetsblog.org/2019/06/25/to-meet-new-yorks-new-climate-law-well-have-to-break-the-car-culture/>

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.¹⁰ There is also a need to improve and strengthen bus service in the city – and statewide.¹¹

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.”¹²

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 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
- For-Hire Vehicle Trip Surcharges on taxis, Lyft, Uber, etc.
- Progressive Carbon Tax that uses part of the revenues to protect low- and middle-income households and part for investments in public transportation and clean energy
- 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

Other mass transit recommendations include:

¹⁰ <https://www.citylab.com/transportation/2019/01/fix-new-york-city-subway-mta-funding-congestion-pricing/579262/>

¹¹ <https://www.timesunion.com/news/article/NYC-s-issues-overshadow-upstate-NY-transit-needs-12532394.php>

¹² <https://www.nyserda.ny.gov/About/Publications/EA-Reports-and-Studies/Energy-Statistics> - page S8

Redirect resources that currently go to enhancing auto capacity into expanding human-scale transit options.

Encourage employer subsidies of transit commuter tickets for employees, funded by government Congestion Management grants.

Use existing auto infrastructure for transit expansion where possible. Light rail could be established in expressway medians through metropolitan high-density corridors.

Include land use decisions in transportation issues, with consideration of the need for mass transit to have a market and be viable, and with attention paid to cross commuting the practice of people commuting to a place where they could and should live.

Make transit passes tax-deductible to encourage workers and businesses to use public transport and make employee parking a taxable benefit.

Transfer ownership and operation of all intercity railroad trackage currently under control of freight railroads to responsible and adequately funded public agencies, as is done with highways, to provide for efficiency and safety of all rail traffic.

Green Transit Green Jobs

The ElectrifyNY coalition has introduced the Green Transit Green Jobs proposal. One bill requires all new transit bus purchases starting in 2029 to be of zero-emission buses (ZEB). The second would create contracting incentives for public transit agencies to procure these buses from manufacturers that utilize labor from high-need communities within New York State and create good green jobs.

This legislation will help decrease air pollution and protect New Yorkers' health, while also helping to achieve the GHG emissions reduction goals in the CLCPA (which is too slow in its timetable). By transitioning all the buses in New York to zero-emissions electric vehicles, transit agencies would eliminate 900,000 metric tons of CO₂ and save approximately \$870 million in health costs.

The value of zero-emission buses in combating climate change is enormous. According to Bloomberg researchers, approximately "270,000 barrels a day of diesel demand will have been displaced by electric buses." Experts estimate that the total greenhouse gas savings of converting all buses at 900,000 metric tons of carbon dioxide equivalent, which is the same as removing over 190,000 passenger vehicles (or 2.2 billion miles driven) from New York's roads for one year.

The "Green Transit" component would task the New York State Department of Transportation with facilitating this conversion. NYSDOT would be explicitly tasked with considering ZEB purchasing in the disbursement of their five-year capital plans and would also help coordinate non-MTA transit agencies on purchasing, installation, and sharing of services.

The timeline included in the bill mirrors a commitment that the MTA has already made to purchase only electric buses starting in 2029. Other transit agencies, including the Capital District Transportation Authority and Rochester-Genesee Regional Transportation Authority, have already launched pilot initiatives or are planning to do so shortly. Governor Andrew Cuomo echoed similar principles in his 2020 State of the State address, calling for five of the largest upstate and suburban

transit systems (CDTA, RGRTA, NFTA – Buffalo, Suffolk County, and Westchester County) to also take steps to shift to zero-emission bus fleets.

There are approximately 8,500 transit buses in New York State, most of which (5,800) are controlled by the MTA. There are at least twelve transit systems across New York State that have a minimum of 25 buses, and many more with fewer than that.

Green Transit Green Jobs also means more local, good-paying jobs because it will encourage electric bus manufacturing in New York and will contribute to the growth of a green economy that no longer exacerbates the risk to public health and our climate. There are 8,500 transit buses in operation throughout the state and transitioning all of them to electric vehicles will greatly improve the health, environment, and economy of the entire state and its people.

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%.¹³ The Bottle Bill reduces roadside container litter by 70%, and in 2020, 5.5 billion containers were recycled in the state.¹⁴

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.¹⁵ 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%.¹⁶ Vermont has a fifteen-cent fee on liquor bottles and the redemption rate for liquor containers in 2020 was 83%.¹⁷ 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.¹⁸ It’s past time for New York to raise its deposit to a dime.

¹³ Container Recycling Institute, Bottle Bills in the USA: New York, <https://www.bottlebill.org/index.php/current-and-proposed-laws/usa/new-york>.

¹⁴ New York State Department of Environmental Conservation, “New York’s Bottle Bill,” <http://www.dec.ny.gov/chemical/8500.html>, Accessed October 2021.

¹⁵ 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

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ 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%.¹⁹ States that have a bottle deposit are 46% more likely to recycle PET plastic bottles than states that do not.²⁰

In 2020, New York’s redemption rate was at 64%.²¹ The Bottle Bill reduces roadside container litter by 70%, and in 2020, 5.5 billion containers were recycled in the state.²²

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.²³

As Governor Hochul emphasized, 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.²⁴ 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

¹⁹ Container Recycling Institute, Bottle Bills, <https://www.container-recycling.org/index.php/issues/bottle-bills>.

²⁰ 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>.

²¹ Container Recycling Institute, Bottle Bills in the USA: New York, <https://www.bottlebill.org/index.php/current-and-proposed-laws/usa/new-york>.

²² New York State Department of Environmental Conservation, “New York’s Bottle Bill,” <http://www.dec.ny.gov/chemical/8500.html>, Accessed October 2021.

²³ Michael Kimmelman, “Recycling in America Is a Mess. A New Bill Could Clean It Up,” *New York Times*. January 27, 2021.

²⁴ 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 (A2042/S4707)

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 Endorses the Budget Testimony of Beyond Plastics. Below are some of their key comments on the need to revise the Extended Producer Responsibility act in Governor Hochul's proposed budget.

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.

New York must adopt an effective Producer Responsibility Law for packaging and some paper. Adopting a weak or ineffectual law will be a giant setback. A well- designed EPR program must REQUIRE packaging to be either reduced, reused or refilled over a ten-year period. The rest of the packaging should be made from recycled material or be easily recycled or compostable. A number of toxic chemicals, not just PFAS and phalates, must be prohibited in from packaging to ensure that toxins are not recycled into new products.

New funding should flow to local governments for waste reduction (the least expensive way deal with waste is by reducing it) and recycling programs. Just like we have fuel efficiency standards for cars, we the above outlines environmental standards for packaging. Equally important, we cannot have a Producer Responsibility Organization that is controlled by the producers of packaging. That is the sector that created the problem in the first place. Putting them in charge of solving this gargantuan problem, with over sight from a business dominated advisory committee and an understaffed state agency simply is not going to work. It is a recipe for failure and delay. There a significant problems with Governor Hochul's EPR budget bill and we cannot support it. Below is a critique of the budget bill and recommendations for changes.

Some key concerns.

Packaging Reductions. The Governor's budget bill has no packaging reduction requirements. Packaging reduction is somewhat acknowledged, but mostly voluntary, meaning that it would result in little to no reductions in packaging waste. It is critically important that any EPR program in New York have the real effect of reducing packaging waste, particularly plastics. In order to see a real reductions in packaging, through either elimination or reuse + refill systems.

It is critical to set requirements in the legislation, not make them voluntary. In addition, any incentives for reusables must be directed to reuse + refill systems, not just the packaging. Reusable packaging that is not contained within a reuse+ refill system will likely result in single-use packaging that is more durable and resource intensive. This would not be a net environmental benefit.

Packaging Design Standards. There are no packaging design requirements in the Governor's budget bill, but instead there is a process whereby a new Advisory Committee will develop recommended rates for recycling and post-consumer content, that the DEC can then put into regulation. The PROs are then directed to recommend changes to these rates in their annual report. This is the equivalent of asking the fossil fuel industry to recommend their rates of Greenhouse Gas emissions each year.

Toxics. Elimination of Toxics from packaging should be contained within the same legislation and should include a broader list of known toxic chemicals and chemical classes found in packaging, as well as known toxic packaging materials. Packaging that contains toxic substances poses a threat to the health of people and the environment during production, use, reuse, recycling, and disposal. These toxic substances can leach out of packaging during use; expose workers producing or handling the packaging; be down-cycled into new products; and contaminate waterways and communities along the packaging lifecycle. In order to achieve a truly circular economy, packaging must be made from the safest materials, free of the most harmful toxic substances. At a minimum, strong EPR legislation should ban the sale or distribution of any packaging or reusables containing specified chemicals and chemical classes.

Definition of Recycling The definition of "recycling" in the Governor's budget bill leaves room for waste-to-fuel or waste-to-energy schemes to be considered recycling. Given that EPR is creating a system to fund better recycling that is paid for by the producers, it is absolutely critical that the funding go to real recycling projects that create more post-consumer materials to be used as inputs for future packaging manufacturing. The budget bill would allow producers to divert packaging waste to these types of projects, as long as another material is also created as part of the process, and call it recycling. This is a serious problem.

PRO Design + Accountability. There are a number of significant problems with how the Governor's budget bill structures the Producer Responsibility Organizations, as it relates to the flow of funding, cooperation to complete projects, overall improvement of recycling, enforceability, and program oversight.

Advisory Committee. There are problems with both the makeup and the role of the Advisory Committee. It is too business-heavy and we know from past experience that the members representing environmental and consumer interests will likely be able to dedicate a small sliver of their time to the work, whereas the industry representatives will have much more resources to spare, further aggravating the imbalance

GELF urges the Legislature to take a close look of the model bill that has been developed by Beyond Plastics and other organizations, which we believe is a more effective approach to solve the packaging problems, particularly for plastic packaging.

GELF Endorses the environmental testimony of NYPIRG. Some key comments highlighted below.

Double the Funding to \$1 Billion for the Clean Water Infrastructure Act to Meet The Needs of Communities in Repairing and Upgrading Their Infrastructures

A \$1 billion investment in the Clean Water Infrastructure Act (CWIA) is needed in this year's budget. While we are pleased to see Governor Hochul propose \$500 million in new funding for the CWIA, it is woefully inadequate. The demonstrated need across the state far exceeds that number. According to a recent report by Environmental Advocates NY, a CWIA program, the Water

Infrastructure Improvement Act, alone can award \$500 million in grants each year to shovel-ready projects.

Only investing \$500 million will leave critical programs underfunded and force local governments to put projects to fix water pipes on hold. The need to repair, replace, and upgrade our water infrastructure is enormous. In 2008, the Departments of Health and Environmental Conservation (DOH and DEC) estimated that the investment needed to upgrade New York’s drinking water and wastewater infrastructure was close to \$80 billion. This is a severe underestimate, since it did not take into account costs to replace lead service lines, remove emerging contaminants like PFAS, or deal with increased flooding caused by climate change.

The CWIA is a win-win for public health and the economy. In 2019 alone, New York’s water infrastructure grants created over 20,000 jobs that pay the prevailing wage. These grants provide a critical boost to local economies as New York continues to recover from the COVID-19 crisis.

Investing in water infrastructure will decrease pressure to raise water rates, helping to ensure every New Yorker can afford their water. A \$1 billion investment in the CWIA will keep long-term benefits flowing to local communities.

Protect All Our Wetlands: For Water Purification, Flood Control, and Wildlife Protection

The Governor’s proposed amendments to the Environmental Conservation Law (ECL) includes statements that climate change related flooding has caused billions of dollars of property damage in the State, and protection of wetlands is of “vital importance.” Subdivision 3 of Section 24-0105 of the ECL, states “Recurrent flooding aggravated by *the loss of freshwater wetlands has serious effects upon natural ecosystems...*” However, the proposed amendments substantially weaken their protection by arbitrarily narrowing the size of wetlands requiring such critical protections to only those that are larger than 12 and 4/10 acres, or are of “unusual importance.” Eliminating protections for most smaller wetlands will exacerbate climate crisis impacts in communities across the state. We urge the elimination of the new size restriction from the bill.

The World Wildlife Fund states that “Marshes and ponds, the edge of a lake or ocean, the delta at the mouth of a river, low-lying areas that frequently flood—all of these are wetlands. The destruction of wetlands is a concern because they are some of the most productive habitats on the planet. They provide a range of ecosystem services that benefit humanity, including water filtration, storm protection, flood control and recreation.

“Without wetlands, cities have to spend more money to treat water for their citizens, floods are more devastating to nearby communities, storm surges from hurricanes can penetrate farther inland, animals are displaced or die out, and food supplies are disrupted, along with livelihoods. They trap pollutants such as phosphorus and heavy metals in their soils, transform dissolved nitrogen into nitrogen gas, and break down suspended solids to neutralize harmful bacteria. New York City found that it could save \$3-8 billion in new wastewater treatment plants by purchasing and preserving \$1.5 billion in land around its upstate reservoirs.”

It is incumbent on the State to protect *all* wetlands as they are “safety valves” for climate-related increased flooding and are nature’s water filters.

Halt Potentially Unsafe and Fiscally Unsound Amendments to the Brownfield Cleanup Program Law and Instead Require a Long Overdue State Comptroller Audit

The Governor's amendments to the Brownfield Cleanup Program (BCP) statute pose potential environmental risks and a fiscally unsound policy. We urge the elimination of the proposed amendment to the general municipal law which transfers the authority to approve testing and other site plans under the BCP's Brownfield Opportunity Areas (BOA) from the DEC Commissioner to the Secretary of State. In addition, we urge the removal of the ten-year extension of BCP funds provided to developers, and instead request that a provision be added to require the NYS Comptroller to conduct a long overdue audit of the BCP.

While amendments to expand the scope of BOA funding to "support job growth, reduce greenhouse gas emissions, increase climate resilience ... achieve environmental justice" and prioritize the development of "renewable energy" facilities, are welcome improvements, transferring the oversight and approval authority to a political entity with absolutely no expertise in environmental remediation poses unnecessary potential health and environmental risks, and violates the legislative intent of the 2003 BCP statute.

In addition, the amendments extend the sunset date of the program by ten years, until 2032. Millions of dollars have been provided to brownfield site developers since the statute was enacted in 2003. Before any extension of these generous allocations, it is critically important that the New York State Comptroller conduct an audit and investigate the benefits, or lack thereof, to the communities saddled with these environmental threats, the cost to the State; and assess whether funds are inappropriately going to well-endowed businesses. In addition, the audit should investigate the quality of BCP site cleanups. For instance, how many have only been cleaned up to industrial use levels thereby limiting a communities' growth, and how many have been cleaned up to health protective unrestricted use levels? After 18 years, the time for such an audit is long overdue.