

## **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 2021-22 Executive Budget Proposal on Environmental Conservation**

Jan. 27, 2019

My name is Mark Dunlea and I am chair of the Green Education and Legal Fund (GELF). 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 to avoid catastrophic climate change. 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 \$10 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. Something that the political leadership of the state focuses on every single day. As Governor Cuomo said in his recent state of the state, we must replace fossil fuel plants with clean power. There are no ifs, ands, or buts”

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

- Increasing the Clean Water Infrastructure Act by \$500 million;
- Extending brownfield tax credits;
- Prohibiting utility shutoffs during state of emergencies; and,
- Maintaining the Environmental Protection Fund with \$300 million.

#### **\$10 Billion for a Green New Deal in 2021**

#### **The Climate Crisis Threatens Life on the Planet – And New York is moving way too slow**

The United Nations last year announced that we have 12 years left (now 11) for an emergency worldwide mobilization - unprecedented in human history - to halt the use of fossil fuels and eliminate greenhouse gas emissions. They also made clear that we need to try to keep global warming under 1.5 degrees (C), rather than the 2 degrees which has been the target of much of New York's climate policy.

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 will make 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. The UN warns that civilization as we know it may cease to exist. Scientists now provide analysis over the possibility of the extinction of the human species.

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. As the Governor admitted in his State of the State, New York continues to be much better at announcing climate goals than actually achieving them. The Governor and Legislature did take a critical step last year to try to greatly speed up the approval process for renewable energy – and yet, two decades after Governor Pataki announced plans to ramp up such efforts, New York gets a paltry 5% of its electricity from wind and solar. At a minimum, funding should be provided to enable all government buildings in the state to convert to renewable energy including for heating and cooling. Funding should be provided to enable any local government to construct municipally owned energy systems to meet their energy need. A dramatic increase in funding is needed to support expansion of mass transit.

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.

New York provides virtually no funding for renewable energy in the budget. Instead it relies on a regressive surcharge on customers’ utility bills. That practice needs to be ended.

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**

GELF was pleased that two 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. Therefore, the Legislature should require a complete examination of renewable alternatives. A study to convert the Plaza is the next step in transforming the Plaza, the Capitol and our state to a renewable energy future.

- 1. SHARE supports the New York Power Authority's (NYPA) current projects announced in September 2019 to make the ESP complex more energy efficient and renewably powered.** The legislature should ensure that there is adequate funding to

fully realize these projects and reappropriate the \$88 million slated to fund the Sheridan Hollow Project.

2. **SHARE requests \$600,000 for a study to convert the ESP complex to renewable energy with the goal of eliminating steam production at the SASP.** The study should prioritize geothermal and building efficiency measures and involve experts with demonstrated experience in geothermal and thermal load-share technology for large-scale systems. We call on NYPA to rapidly replace all the chillers that are powered by the SASP to chillers that run on electric power provided by renewable sources.
3. **SHARE also calls for a \$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.

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.

### **Enact a State Carbon Tax; Make Polluters Pay**

GELF supports a state carbon tax such as the proposal we helped draft (A77 - Cahill) or the Climate and Community Investment Act (A9856 / S3616 in 2020) 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.<sup>1</sup> 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.<sup>2</sup> 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 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

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

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

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 Service<sup>3</sup> 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. The controversy of cap and trade for electricity in California was perhaps the major factor in blocking Mary Nichols from being selected by President Biden as EPA Administrator.

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.

### **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 negotiated to shut down by 2021 -- are inefficient and dangerous power sources and should be

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

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.<sup>4</sup>

### **End Fossil Fuel Subsidies in the NYS Budget**

We support legislation by Sen. Krueger and As. Cahill ((S6881/A8675) 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

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

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.<sup>5</sup>

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.

Below are Some of the Fossil Fuel Tax Expenditures New York Should Eliminate:

Sales and Use Tax: Non-Essential Fossil Fuel Tax Expenditures amount to \$399 Million

- \$182 Million Annually: Fuel, gas, coal, electricity, refrigeration and steam used directly and exclusively in research & development or production of tangible goods for sale are not subject to sales and use tax. We propose eliminating the subsidies for fuel, gas, and coal.

- \$8 Million Annually: Gas and electricity used in operating pipelines and natural gas distribution lines are not subject to sales and use tax. The exemption for gas and electric distribution infrastructure incentivizes the operation of dangerous gas pipelines--antithetical to the Climate Leadership and Community Protection Act's requirement to transition to carbon neutrality by 2050.

- \$90 Million Annually: Auto fuel is subject to the typical sales and use tax rate up to \$2 per gallon. However, auto fuel over \$2/gallon is subject to the tax at a rate of 8 cents per gallon, greatly reducing the tax owed on the fuel. Transportation is the largest source of greenhouse gas emissions in New York, so it is crucial that we incentivize the transition to electrified vehicles and public transportation instead of polluting auto fuel.

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



- \$118 Million Annually: Airline fuel is exempt from sales and use tax in New York, and air travel is an enormous contributor to climate change. Eliminating this subsidy is one way to save money and improve the environment without detrimentally affecting low- and middle-income New Yorkers.

- \$1 Million Annually: New York State directly subsidizes the fossil fuel industry by exempting certain services used in gas or oil production. The services of installing, maintaining, repairing, or servicing property and land used in the production of oil and gas for sale are not subject to sales and use tax.

#### Petroleum Business Tax: Non-Essential Fossil Fuel Expenditures amount to \$149.6 Million

- \$77.3 Million Annually: Certain petroleum products are exempt from the petroleum business tax. These products include kerosene, the highly polluting bunker fuel used for commercial shipping, and liquid petroleum gases.

- \$66.1 Million Annually: Petroleum businesses receive additional exemptions or partial exemptions for the sales of petroleum products to certain groups, including governments, manufacturing, commercial gallonage (used for electricity generation), and non-residential heating.

- \$4.2 Million Annually: While the products and sales described above are exempt or partially exempt from the Petroleum Business Tax, there are also additional credits, refunds, or reimbursements for certain products or consumers: governments, electric utilities, manufacturing, commercial gallonage, mining or extracting, non-residential heating, and bad debts.

- \$2 Million Annually: Airlines that offer direct flights between four or more cities within New York State are exempt from the Petroleum Business Tax. If we are to adequately address climate change, we cannot subsidize dirty jet fuel for any airlines.

#### Corporation Franchise Tax: Non-Essential Fossil Fuel Expenditures amount to \$2.3 Million

- \$2.3 Million Annually: Public utilities, power producers, and pipeline companies are exempt from the corporation franchise tax. Affordable renewable power production and cheap electricity distribution are necessary to reduce greenhouse gas emissions—fossil fuel power producers and pipeline companies should receive no exemption.

### **Oppose the Use of RECs to weaken NYC's efforts to energy retrofits of buildings**

We believe that the goals outlined in the CLCPA are too weak to avoid climate chaos, and support efforts to strengthen them, such as requiring electricity to be 100% renewable by 2030 rather than 2040. (\$5519 in 2020).

Thus, we oppose the use of carbon credits to enable businesses and individuals to avoid needed emission reduction. This we oppose the Renewable Energy Credit Deductions for NYC Buildings (TEDE Part R): The Executive proposes legislation to allow New York City building owners to purchase renewable energy credits (RECs) offered by the New York State Energy Research and Development Authority (NYSERDA). These credits would be used to offset greenhouse gas emissions pursuant to Local Law 97. Local Law 97 sets limits on greenhouse gas emissions from large buildings and sets a citywide emissions reduction goal to reduce building emissions by 40 percent by 2030 and 80 percent by 2050.

(We would urge NYC to speed up the timelines in the law).

### **Continue to Ban Plastic Bags – Reject Cuomo’s Budget Language**

The State Legislature adopted a law two sessions ago that banned plastic bags at food stores. The Legislature affirmatively decided that all plastic bags would be banned. However, the NY Dept. of Environmental Conservation proposed a new regulation, Part 351, governing the plastic bag ban to allow for the free distribution of thicker plastic bags. The Court hearing the legal challenge to the regulations was so upset by DEC’s behavior that even as they upheld the legality of the ban, they ordered the state to pay the attorney’s fees to the plaintiff, representing the plastic industry, since the proposed regulations were so confusing and violated the law that the legislature has enacted.

Now Governor Cuomo has decided to include an amendment in the Article VII TED bill to allow thicker plastic bags to be used. This effort by the Governor to undercut the ban on plastic bags should be rejected. It is crucial to ensure the law is as strong as possible and bans as many plastic bags as possible; however, these changes may jeopardize the strength of the law.

The intent of some of the changes appears to be to allow more kinds of reusable bags, including those that may look like fabric, but are actually plastic. Given the role that plastic production plays in contributing to the global climate crisis, New York must strongly evaluate if these bags *should* be considered reusable.

Additionally, the legislation adds a new definition for “film plastic.” We need to ensure that clear thicker plastic bags, like those currently being given out illegally by many stores and marketed as reusable, are clearly banned.

If this law is to be amended, it should be strengthened to include:

1. A ban on plastic bags for food takeout and delivery; and,
2. A statewide fee on paper bags.

### **Expand New York’s Bottle Deposit Law**

Updating New York’s Bottle Bill is a key solution to New York’s, and the country’s, current recycling challenges. China, which had been accepting massive amounts of plastic waste, stopped accepting plastic waste imports in January 2018.<sup>6</sup> This has caused global shockwaves and significant strains on municipal recycling programs in the U.S. We support the following expansions:

1. Add a deposit fee to most beverage containers, including: wine, liquor, cider, sports drinks, juices, coffee beverages, iced tea, and other non-carbonated beverages. More containers with deposits will incentivize consumers to recycle these containers, making them less likely to be littered or take up rapidly disappearing landfill space.
2. Increase the deposit from 5-cents to 10-cents. States with higher deposit fees have higher redemption rates than states with a five (5¢) cent fee. In Michigan the deposit fee is ten (10¢)

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<sup>6</sup> Watson, Sara, “China Has Refused To Recycle The West’s Plastics. What Now?,” *NPR*, June 28, 2018, <https://www.npr.org/sections/goatsandsoda/2018/06/28/623972937/china-has-refused-to-recycle-the-west-plastics-what-now>.

cents, and the redemption rate in 2016 was 92.2%. Vermont has a fifteen (15¢) cent fee on liquor bottles and the redemption rate for liquor containers in 2017 was 84%. The data shows that increasing the deposit fee increases the incentive for recycling. A ten (10¢) cent deposit fee would ensure that even more beverage containers get recycled in New York State.

3. Increase the percent requirement for recycled content in new plastic and glass beverage containers. This will strengthen the market for recycled content. The Fahey / Metzger bill wisely requires this for plastic water bottles.

Enacted in 1982, the Bottle Bill, requires a 5-cent refundable deposit to be placed on eligible beverage containers. The program originally covered beer and soda sold in New York and was later expanded to include wine coolers. In 2009, the law was expanded to include bottled water, and the handling fee was increased from 2 cents, which it had been set at since 1997, to 3.5 cents.

Over its 30-year history, New York's Bottle Bill has proven to be a highly effective means of diverting these containers from the waste stream, significantly reducing litter and increasing recycling rates. This program is recognized as New York's most effective litter-reduction measure. In 2017, New York's redemption rate was at 65%.<sup>7</sup> According to DEC, the bottle bill reduces roadside container litter by 70%, and in 2016, 5.1 billion containers were recycled.<sup>8</sup>

Expanding the Bottle Bill to include plastic containers is urgently needed to reduce plastic pollution littering New York's waters and beaches. During Riverkeeper's 2018 Hudson River Sweep, plastic beverage bottles were the third largest type of litter found. The 2018 New York State Beach Cleanup, which had cleanup sites from the shores of Lakes Erie and Ontario to the shores off Long Island, found plastic bottles as the 7th largest type of litter cleaned up – 13,072 plastic bottles were collected.

Additionally, states with bottle deposit laws have far better recycling rates than non-deposit states. 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%.

Not only would the expansion of the 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. China, which had been accepting massive amounts of plastic waste, stopped accepting contaminated plastic waste imports in January 2018, creating a standard many municipal recycling programs cannot meet.

Municipal recycling programs are particularly struggling with glass contaminating their recycling streams. When glass breaks in curbside containers it contaminates other materials, making it far more difficult to recycle and sell. The expansion of the Bottle Bill to include wine, spirits, and hard cider would take a significant amount of the containers that municipal recycling programs are struggling with out of curbside recycling containers. Additionally, municipalities would save money from the costs of litter clean-ups and transportation costs associated with recycling.

Other states with bottle deposit programs have already moved forward with the recommended policies above. Maine's Bottle Deposit Law includes all containers covered in New York's existing Bottle Bill, plus wine, spirits, hard cider and most non-carbonated beverages. Maine has a 5-cent deposit for all beverages, except wine and liquor, which have a 15-cent deposit. Maine's

<sup>7</sup> Container Recycling Institute, Bottle Bills in the USA: New York, <http://www.bottlebill.org/legislation/usa/newyork.htm>.

<sup>8</sup> DEC, New York's Bottle Bill, <http://www.dec.ny.gov/chemical/8500.html>.

redemption rate in 2017 was 84%. Other states with Bottle Deposit Laws that include non-carbonated beverages include: California, Hawaii, and Oregon. Oregon, in 2017, raised its deposit fee from 5-cents to 10-cents, which led to the state reaching a 90% redemption rate.<sup>9</sup>

It has been eleven years since the bottle bill was last updated. It's time to finish the job.

### **Farmer Tax Credit for Regenerative Agriculture (A3281 in 2020)**

We support the legislation by Assemblymember Barrett to create a new 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 (CO<sub>2</sub>). 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 CO<sub>2</sub>. 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.

### **Support funding for the Clean Water Infrastructure Act**

The governor included in his 2019 State of the State a commitment to an additional \$2.5 billion on top of the existing \$2.5 billion for the Clean Water Infrastructure Act ("the Act").<sup>10</sup> Keeping to this promise, the governor's executive budget proposal includes a third installment of \$500 million for the Act. While far more funding will be needed to keep pace with growing needs and demand, the

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<sup>9</sup> Profita, Cassandra, "Oregon Bottle Deposit System Hits 90 Percent Redemption Rate," OPB, January 18<sup>th</sup>, 2019, <https://www.opb.org/news/article/oregon-bottle-deposit-redemption-rate-2018/>.

<sup>10</sup> New York State Governor Andrew Cuomo, 2019 State of the State Address, <https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/2019StateoftheStateBook.pdf>, p. 336

Governor and the Legislature must maintain the \$500 million annual commitment to the Clean Water Infrastructure Act.

It has been estimated that over the next twenty years, New York will need to invest approximately \$80 billion to make needed updates, repairs, and replacements for wastewater and drinking water infrastructure.<sup>11</sup> These estimates are now over ten-years old and have likely increased since then.<sup>12</sup>

That figure doesn't include other water needs that are encompassed in the Clean Water Infrastructure Act, like funding to preserve land around source water, septic system replacement, and water filtration systems. For example, according to the Department of Health (DOH), costs for treating emerging contaminants statewide can cost as much as \$1.5 billion for PFOA and PFOS, and \$1.1 billion for 1,4-dioxane, should a polluter not be identified and made to pay.

Additionally, the FY2017–2018 state budget included \$20 million for the replacement of lead drinking water service lines. Replacing lead service lines is an important undertaking that will need increased funding to ensure all lead service lines are identified and replaced. The \$20 million allocated in the budget covers the expected estimated cost of replacing about 8,000 lines,<sup>13</sup> or about half the number of lead service connections in Syracuse alone.<sup>14</sup>

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<sup>11</sup> Hamilton, Matthew, "New York's water infrastructure needs estimated at \$80B over 20 years," Times Union, February 13, 2017, <https://www.timesunion.com/local/article/New-York-s-water-infrastructure-needs-estimated-10930256.php>

<sup>12</sup> DEC Commissioner Joseph Martens, 2-14-2015: <https://www.youtube.com/watch?v=IDNm9wffsUc>

<sup>13</sup> Fears, D. and Dennis, B., "One city's solution to drinking water contamination? Get rid of every lead pipe," *Washington Post*, May 10, 2016. [https://www.washingtonpost.com/national/health-science/one-citys-solution-to-drinking-water-contamination-get-rid-of-every-lead-pipe/2016/05/10/480cd842-0814-11e6-bdc0-0133da18418d\\_story.html?utm\\_term=.9baa67f857d0](https://www.washingtonpost.com/national/health-science/one-citys-solution-to-drinking-water-contamination-get-rid-of-every-lead-pipe/2016/05/10/480cd842-0814-11e6-bdc0-0133da18418d_story.html?utm_term=.9baa67f857d0)

<sup>14</sup> Mulder, J., "Syracuse's 15,000 lead pipes pose risk to drinking water," *Syracuse.com*, March 20, 2016.

[http://www.syracuse.com/health/index.ssf/2016/03/syracuses\\_15000\\_lead\\_pipes\\_pose\\_risk\\_to\\_drinking\\_water.html](http://www.syracuse.com/health/index.ssf/2016/03/syracuses_15000_lead_pipes_pose_risk_to_drinking_water.html)