



**TESTIMONY
OF THE
NEW YORK PUBLIC INTEREST RESEARCH GROUP
BEFORE THE JOINT HEARING OF THE
SENATE FINANCE & ASSEMBLY WAYS & MEANS COMMITTEES
REGARDING THE FISCAL YEAR 2023-24 EXECUTIVE BUDGET
ENVIRONMENTAL & ENERGY PROPOSALS
February 14, 2022
Albany, N.Y.**

The New York Public Interest Research Group (NYPIRG) is a non-partisan, not-for-profit research and advocacy organization. Consumer protection, environmental preservation, public health, healthcare quality, higher education affordability, and governmental reforms are our principal areas of concern. We appreciate the opportunity to submit testimony on the Governor's Executive Budget environmental and energy proposals.

Governor Hochul's SFY 2023-2024 Executive Budget proposals include many important environmentally beneficial initiatives to begin to address the growing climate crisis, and expand and improve environmental protection and remediation programs, including the following:

- ▶ Requiring the climate-friendly electrification of newly-constructed buildings implements one of the most important recommendations in the Climate Action Council's (CAC) Final Scoping Plan (Plan). However, the proposal (Part WW, TED) is too slow and too small in the size and type of buildings, weakening the state's efforts to achieve the 2030 goals.
- ▶ A much improved packaging and paper reduction proposal begins to implement the CAC Plan's solid waste sector recommendation. However, it turns on its head the Plan's statutory guidance from the Solid Waste Hierarchy, deprioritizing reduction with only a 15% goal.
- ▶ The major initiative to provide municipalities with funds to clean up PFAS contaminated water is essential to protect the health of New Yorkers. However, the proposed strict, joint and several liability amendments raise a red flag and should be fully assessed, and State Superfund monies should not be used, as they are slated for priority toxic waste sites.

The state budget is the most important legislation the Governor and Legislature act on every year to finance, enable, reform, and prioritize a wide array of policies, programs and government institutions to better serve, protect and lift up all New Yorkers. The state budget provides the critical foundation for a just, fair, equal and compassionate society, but since the enactment of the 2019 Climate Leadership & Community Protection Act (CLCPA or the Climate Act), it has the twin goal of effectively addressing the most important problem of all time—the climate crisis. Now that the CAC Plan has been released, it is incumbent on the Legislature and Governor to implement their timely recommendations legislatively this session, and wherever possible, in the final budget.

To the dismay of hundreds of organizations and businesses, some critically important environmental and energy budget and policy proposals were not included in the proposed FY 2023-2024 Executive Budget, such as the Climate Change Superfund Act, and the Bigger, Better Bottle Bill. New York needs to take bold action on the climate crisis and pollution prevention. The state needs to get on the right track to both generate much-needed revenue to fully implement the Climate Act and ensure New Yorkers have stronger

environmental and public health programs to prevent pollution and clean up contaminated water. The final budget should include the following policies and programs.

- Making climate polluters pay an estimated \$3 billion a year for 25 years through the *Climate Change Superfund Act* is a top budget priority this session as part of New York Renews Climate, Jobs & Justice package. (S. 2129/A. 3351)
- Including the *Stop Climate Polluter Handout Act* in the budget will end the most egregious state subsidies of \$330 million to the fossil fuel industry. (S. 3389/A. 8483 of 2022.)
- Amendments to the Governor’s laudable building electrification proposal with responsible start dates, the CAC Plan recommendations to cover all buildings, and a comprehensive process with integrity and transparency requires the inclusion of the key provisions in the *All-Electric Building Act*. (S. 562A/A. 920A.)
- Expanding the state’s highly successful bottle bill deposit program with the *Bigger, Better Bottle Bill* (S.237), the state’s first Extended Producer Responsibility (EPR) Law, is long overdue and will help achieve the Plan’s recommendation that recycling should be ubiquitous by 2030.
- Amendments embodied in S.1064 will address flaws in the Governor’s proposal by requiring all packaging and paper be reduced by 50% in ten years, full detoxification, and the creation of a process whereby government and independent non-profits with no financial conflict of interest implement strong statutory reduction, recycling and reuse rates with independent technical assistance.
- Two recent assessments by prominent environmental organizations¹ document that the state must double the amount of funds for the Clean Water Infrastructure Act (CWIA) to a total of \$1 billion to meet the needs of communities needing to repair, replace and upgrade water infrastructure, with an additional \$40 million for PFAS contamination, for a total of \$1.4 billion .

We urge the State Legislature to support the inclusion of the following nine initiatives to the proposed SFY 2023-2024 Executive Budget to ensure that New York State adequately funds and approves timely climate crisis prevention and protection legislation, improved public health protections for all New Yorkers, and enhanced protection and remediation for the state’s environment.

The Climate Catastrophe Requires Immediate Action

The judicious implementation of the CAC Plan recommendations is essential to achieve the Climate Act goals. The planet and the public’s health have never been so imperiled. The U.N. Secretary General António Guterres made it abundantly clear what is at stake if the world fails to act aggressively on the climate crisis:

“... [It is] *code red for humanity*. The alarm bells are deafening, and the evidence is irrefutable: greenhouse gas (GHG) emissions from fossil-fuel burning and deforestation are choking our planet and putting billions of people at immediate risk. Global heating is affecting every region on Earth, with many of the changes becoming irreversible.”²

¹ Environmental Advocates of NY, 2/6/23, [Untapped Potential: A New Era for New York's Water Infrastructure](https://eany.org/press_release/new-eany-report-shows-need-to-double-governors-proposed-clean-water-funding/). https://eany.org/press_release/new-eany-report-shows-need-to-double-governors-proposed-clean-water-funding/. Riverkeeper, *More than \$2 billion needed to fix Hudson River watershed sewers*, 10/27/22. <https://www.riverkeeper.org/blogs/water-quality-blogs/more-than-2-billion-needed-to-fix-hudson-river-watershed-sewers/>.

² United Nations, UN News, UN News Global perspective Human stories, “IPCC report: ‘Code red’ for human driven global heating, warns UN chief,” August 9, 2021, <https://news.un.org/en/story/2021/08/1097362>.

The United Nations International Panel on Climate Change (IPCC) April 2022 report resulted in a clarion call from the report's co-chair: "It's now or never, if we want to limit global warming to 1.5°C (2.7°F); without immediate and deep emissions reductions across all sectors, it will be impossible."³ Seven months later, the U.N. Secretary General Guterres, intensified his clarion call at the November 2022 U.N. Climate Change Conference, stating, "Greenhouse gas emissions keep growing. Global temperatures keep rising. And our planet is fast approaching tipping points that will make climate chaos irreversible. *We are on a highway to climate hell with our foot on the accelerator.*" [Emphasis added.]⁴

In response to the existential threat the world is facing, in 2019 New York State adopted one of the most ambitious laws in the nation to address the climate crisis, the Climate Act. The law established goals for reducing the state's greenhouse gas emissions (GHG) and prioritized just transition worker protections and social justice principles, with at least 35% of the benefits directed to disadvantaged communities. At its heart, the law requires the state to meet science-based GHG reduction and renewable energy goals: by 2030 40% reduction in statewide GHG emissions and 70% of electricity produced through renewable energy; by 2040 100% zero-emission electric generation; and by 2050 85% reduction in statewide GHG.

The United Nations states that the world must reduce GHG emissions by 43% by 2030 or civilization will be devastated.⁵ *2030 is only 7 years away.* The UN declaration is in line with New York's goals and thus the state's climate goals set the floor – not the ceiling – for action. Missing those goals ignores climate science and puts New York on a trajectory that can lead to unnecessary deaths, human suffering, and staggering costs from flooding, storms, and heatwaves.

New York is already facing enormous costs from climate catastrophes. A 2022 federal report⁶ found New York State experienced 51 severe storms, tropical cyclones, winter storms, droughts, and flooding disaster events that each cost at least a billion dollars due to the climate crisis from 2000 to 2021. Together, these events cost the state between \$50 to \$100 billion dollars, with up to \$20 billion in 2021 alone.⁷ The think tank *Rebuild By Design* has conservatively estimated that New York faces \$55 billion in climate-related expenses during this decade alone.⁸ In addition, the U.S. Army Corps of Engineers has estimated that it will cost \$52 billion to protect New York Harbor *alone*.⁹

And reality has borne out those estimates: "Super Storm Sandy" caused 53 deaths and \$19 billion in damages.¹⁰ Hurricane Irene devastated the state and resulted in ten deaths and over \$1.3 billion in

³ Jim Skea, Co-Chair of IPCC Working Group III, 2022: *Mitigation of Climate Change*, quoted in UN News, *Climate Report: It's 'Now or Never' to Limit Global Warming to 1.5 Degrees*, United Nations, April 4, 2022. Accessed at <https://news.un.org/en/story/2022/04/1115452>.

⁴ World Economic Forum, United Nations Climate Change Conference, *COP27: The top quotes from climate and world leaders at the UN summit*, November 11, 2022.

<https://www.weforum.org/agenda/2022/11/cop27-quotes-climate-leaders/#:~:text=We%20are%20on%20a%20highway%20to%20climate%20hell,%E2%80%94%20Ant%C3%B3nio%20Guterres%2C%20Secretary-General%20of%20the%20United%20Nations>

⁵ United Nations Climate Change, "Climate Plans Remain Insufficient: More Ambitious Action Needed Now," October 26, 2022, <https://unfccc.int/news/climate-plans-remain-insufficient-more-ambitious-action-needed-now#:~:text=The%20UN's%20Intergovernmental%20Panel%20on,be%20cut%2043%25%20by%202030>.

⁶ National Centers for Oceanic & Atmospheric Administration, <https://www.ncei.noaa.gov/access/billions/events/NY/2000-2021>.

⁷ Ibid.

⁸ Rebuild By Design, "Resilient Infrastructure For New York State," <https://rebuildbydesign.org/wp-content/uploads/2021/12/1329.pdf>.

⁹ U.S. Army Corps of Engineers, NY & NJ Harbor & Tributaries Focus Area Feasibility Study (HATS) <https://www.nan.usace.army.mil/Missions/Civil-Works/Projects-in-New-York/New-York-New-Jersey-Harbor-Tributaries-Focus-Area-Feasibility-Study/>.

¹⁰ 2014 *New York Hazard Mitigation Plan*, NYS Division of Homeland Security & Emergency Services 1/4/2014 www.dhses.ny.gov/oem/mitigation/documents/2014-shmp/Section-3-12-Hurricane.pdf <https://www.usatoday.com/story/news/2013/05/23/superstorm-sandy-deaths-red-cross-cdc-drowning/2354559/>

damages.¹¹ Tropical Storm Lee brought drenching rains that resulted in over \$1 billion in damages.¹² Hurricane Ida shattered those records, causing 18 deaths from tragically drowning New Yorkers in their own cars and homes.¹³

The Climate Crisis Is Already Harming Us and Getting Worse

- Extreme heat is the number one weather-related killer in America, responsible for over 130 deaths in New York City per year, which could increase to over 3,300 deaths annually by 2080 if action is not taken.¹⁴
- From 2010 to 2039, the City is projected to increase the number of days reaching 90°F or more—from an average of 18 per year (1971 to 2000)—up to 33 days per year by this 2020 decade.¹⁵ Extreme heat leads to a substantial increase in medical costs, ER visits, illnesses, and deaths.
- Low-income and communities of color are hit first and worst: either by displacement from hurricanes, hospitalizations from heatwaves, or death from chronic air pollution. A Harvard study found "worldwide, air pollution from burning fossil fuels is responsible for about 1 in 5 deaths—roughly NYC's population."¹⁶
- Sea level rise, storm surges, and erosion contributes to an increase in coastal flooding, including the frequency of "100-year floods."¹⁷ Extreme precipitation events will increase the risk of flooding, waterborne illnesses from sewage overflows and pollutants entering the water supply.¹⁸

Even if New York meets its science-based climate targets, the costs to the state's infrastructure will grow. Inaction will only make those costs dramatically higher.

Heeding the Call of the Climate Action Council Final Scoping Plan

With Washington mired in gridlock and the hobbling of the U.S. Environmental Protection Agency by the U.S. Supreme Court, it is clearer than ever that the states must lead on climate. New York has the tools, know-how, and policy proposals to lead the nation with the implementation of its landmark Climate Act. NYPIRG supports the general thrust of the CAC's Scoping Plan and its critically important recommendations. While there are some areas in which it needs to be strengthened, it is of the utmost importance that the Governor and Legislature pass the following climate bills this session. Climate can't wait.

Funding Resiliency and Infrastructure Damage Through A Climate Change Superfund Act

S.2129 (Krueger)/A.3351 (Dinowitz)

The thrust of the Climate Act is to transition New York to a "green" renewable energy economy while drastically reducing its greenhouse gas emissions. Yet the state faces staggering costs to adapt to a world in which the planet continues to heat up, and extreme weather events continue to increase, forcing investments in a much more resilient infrastructure, and repairing massive damages to communities,

¹¹ Hurricane Irene One Year Later, *Associated Press*, 8/27/12. www.nydailynews.com/new-york/hurricane-irene-year-storm-cost-15-8-damage-florida-new-york-caribbean-article-1.1145302.

¹² *Tier Flood Damage \$1 Billion*, *Press-Sun Bulletin*, 2/1/12, www.pressconnects.com/article/20120201/NEWS01/202010330/Tier-flood-damage-estimate-1-billion.

¹³ <https://www.cnn.com/2021/09/03/weather/ida-eastern-us-flooding-friday/index.html>

¹⁴ "NYC Could See Thousands of Heat Deaths by 2080," *Scientific American*, 6/23/16, <https://www.scientificamerican.com/article/new-york-city-could-see-thousands-of-heat-deaths-by-2080/>.

¹⁵ The City of New York, "A Stronger, More Resilient New York: Climate Analysis," http://www.nyc.gov/html/sirr/downloads/pdf/final_report/Ch_2_ClimateAnalysis_FINAL_singles.pdf.

¹⁶ Environmental Research, February 9, 2021, <https://www.hsph.harvard.edu/c-change/news/fossil-fuel-air-pollution-responsible-for-1-in-5-deaths-worldwide/>.

¹⁷ The City of NY, "A Stronger, More Resilient New York: Climate Analysis," http://www.nyc.gov/html/sirr/downloads/pdf/final_report/Ch_2_ClimateAnalysis_FINAL_singles.pdf, and

¹⁸ The Climate Institute, "Human Health," <http://www.climate.org/topics/health.html>.

especially those along the shores of the Great Lakes, Hudson River, Long Island and the New York City harbor.

As the CAC properly observes, “Even with strong and innovative strategies in place to curb greenhouse gas (GHG) emissions, the impacts of climate change are already being felt and are only projected to accelerate. Climate change mitigation strategies alone are not sufficient to prepare for the impacts of present and future climate change. Therefore, New York State must take bold action to adapt to climate change and enhance resilience in communities, infrastructure, and systems.”¹⁹ The CAC further notes that “The costs of dealing with the effects of climate change will be significant and will continue to rise as the planet warms.”²⁰ Yet the Plan does not offer a funding stream adequate to meet the infrastructure challenges associated with adapting to a hotter world. Currently, those costs will be borne by New York taxpayers, with some federal support. But those costs will be enormous.

The Climate Change Superfund Act will ensure that the oil, coal, and gas industries are held financially responsible for the rising costs of the climate catastrophe that all of us already are—and will continue—enduring.²¹ Those industries’ decisions led to global warming; justice requires that they—not New York’s other taxpayers—be financially responsible for the tragically enormous climate crisis impacts that they created. The fossil fuel industry is now benefiting from windfall profits as consumers pay higher heating and transportation costs. It’s time for some of those profits to be directed to community protection, mitigation and remedial programs to address damages caused by the climate crisis.

Last week, BP – the sixth of the world’s biggest oil companies to share its 2022 earnings – announced it raked in a record \$27.7 billion in 2022. This announcement brings the top oil companies’ combined 2022 profits to a record-shattering \$215 billion,²² allowing them to deliver unprecedented returns to shareholders while doing little to address the climate crisis they knowingly created. In order to make these massive profits, big oil companies blamed the war in Ukraine, using the human rights crisis to price-gouge consumers, resulting in:

- ExxonMobil earning nearly \$56 billion, the most any oil company has ever earned²³
- Shell earning \$40 billion, more than double its 2021 earnings and its highest profits in 115 years of existence²⁴
- Chevron earning \$36.5 billion²⁵
- TotalEnergies earning \$36.2 billion²⁶
- BP earning a record \$27.7 billion, more than double its 2021 profits²⁷
- ConocoPhillips earning \$18.7 billion, its highest profits in 10 years²⁸

¹⁹ New York State Climate Action Council Final Scoping Plan, p.404.

²⁰ New York State Climate Action Council Final Scoping Plan, p.411.

²¹ See Senate bill 9417/Assembly bill 10556 of 2022.

²² *4 oil companies had total sales of \$1 trillion last year*, Money Watch, February 2, 2023

<https://www.cbsnews.com/news/exxon-chevron-shell-conocophillips-record-profits-earnings-oil-companies-most-profitable-year/>.

²³ *Exxon announced record earnings. It's bound to renew scrutiny of Big Oil*, NPR, January 31, 2023.

<https://www.npr.org/2023/01/31/1152776315/exxon-mobil-earnings-chevron-big-oil-biden-windfall-tax>.

²⁴ *4 oil companies had total sales of \$1 trillion last year*, Money Watch, February 2, 2023

<https://www.cbsnews.com/news/exxon-chevron-shell-conocophillips-record-profits-earnings-oil-companies-most-profitable-year/>.

²⁵ Ibid.

²⁶ *TotalEnergies net profits double to record \$36.2 bln in 2022*, Reuters, February 8, 2023

<https://www.reuters.com/business/energy/totalenergies-posts-record-net-profits-362-bln-2022-2023-02-08/>

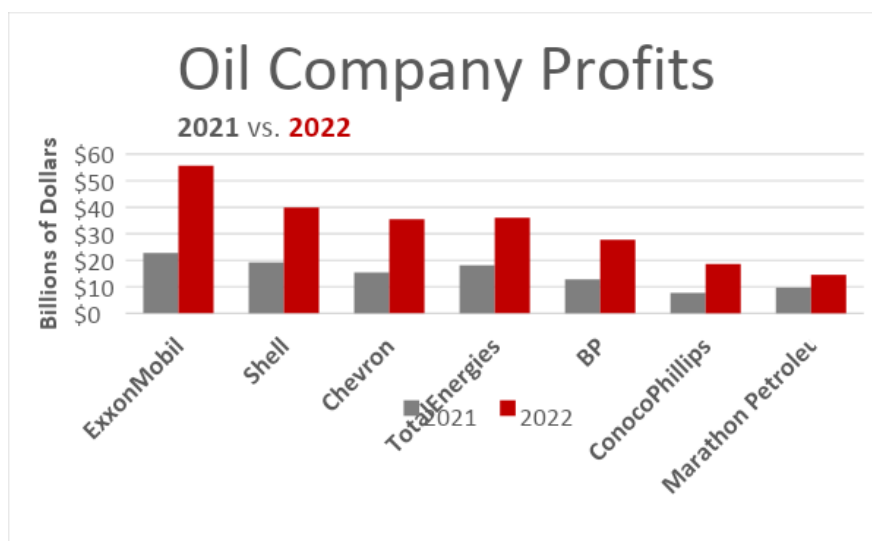
²⁷ *BP posts record 2022 earnings to join Big Oil profit bonanza*, CNBC, February 7, 2023.

<https://www.cnbc.com/2023/02/07/bp-earnings-q4-and-fy-2022.html>

²⁸ *4 oil companies had total sales of \$1 trillion last year*, Money Watch, February 2, 2023

<https://www.cbsnews.com/news/exxon-chevron-shell-conocophillips-record-profits-earnings-oil-companies-most-profitable-year/>.

As seen below, for example, the United States' biggest oil companies – ExxonMobil and Chevron – each more than doubled their profits from 2021 to 2022. *ExxonMobil's \$56 billion profit means they made 6.3 million per hour last year.*²⁹ In fact, every company listed with the exception of Marathon Petroleum more than doubled its earnings.³⁰ And Marathon's still rose by 67%. All told, the companies above pulled in \$228 billion last year, tens of billions of which they used to enrich their stockholders in the form of dividends and stock buybacks.³¹



The United Nations Secretary-General António Guterres said it best this year:

“It is immoral for oil and gas companies to be making record profits from the current energy crisis on the backs of the poorest, at a massive cost to the climate. This grotesque greed is punishing the poorest and most vulnerable people while destroying our only home. The combined profits of the largest energy companies in the first quarter of this year are close to \$100 billion. I urge governments to tax these excessive profits and use the funds to support the most vulnerable people through these difficult times.”³²

It is clear from historical records that for the better half of the late 20th Century, oil companies knew burning fossil fuels was warming the planet. Nevertheless, starting in the 1980s, the industry championed an aggressive climate change denial campaign opposing any policy proposals and undermining climate science. Their success in bamboozling many Americans has pushed the planet to the brink. The New York Times recently reported that starting in the 1970s, scientists working for Exxon made “remarkably accurate projections of just how much burning fossil fuels would warm the planet.”³³ Yet for years, “the oil giant publicly cast doubt on climate science, and cautioned against any drastic move away from burning fossil fuels, the main driver of climate change.”

²⁹ *Exxon smashes Western oil majors' profits with \$56 billion in 2022*, Reuters, 1/31/23

<https://www.reuters.com/business/energy/exxon-smashes-western-oil-majors-earnings-record-with-59-billion-profit-2023-01-31/>

³⁰ Graph represents the seven largest Western, non-government controlled, publicly traded oil companies.

³¹ *ExxonMobil, Chevron's big cash shows cheap gas isn't coming back*, CNBC, 2/1/23 <https://www.cnbc.com/2023/02/01/exxon-chevron-earnings-buybacks-show-cheap-gas-isnt-coming-back.html>

³² *Calling record profits from oil and gas amid global energy crisis "immoral"*, United Nations News Release, 8/3/2022, https://news.un.org/pages/wp-content/uploads/2022/08/GCRG_Brief3_Press_Release.pdf.

³³ *Exxon Scientists Predicted Global Warming, Even as Company Cast Doubts, Study Finds*, New York Times, January 12, 2023. https://www.nytimes.com/2023/01/12/climate/exxon-mobil-global-warming-climate-change.html?campaign_id=54&emc=edit_clim_20230113&instance_id=82625&nl=climate-forward®i_id=56949721&segment_id=122450&te=1&user_id=54e05bcd4678be2a4bf3ed4d35bbbf5e

New York State must take the nation's lead in developing and implementing a responsible and fair approach to fund critically important mitigation, adaptation, and community protection programs to respond to accelerating storms, floods, extreme heat, and other serious impacts of global warming. The Climate Change Superfund Act ensures that those responsible for greenhouse gas (GHG) emissions—the oil, gas, and coal industries—are responsible for the state's climate-related environmental costs.

New York has a strong history in holding the polluting industry accountable for the contamination they created. Both the Federal and State Superfund and the Oil Spill Fund are based on the "polluter pays principle," with funding coming from annual fees placed on the oil and chemical industry for hazardous waste generated, and for their use of toxic chemicals and petroleum. These precedents provide a fitting and appropriate model for the fossil fuel industry—climate crisis contributors should be responsible for the costs related to the growing catastrophe from GHG emissions. There is broad public support for the "polluter pays" principle. New York State polling by the Data for Progress found over 70 percent of New Yorkers support holding climate polluters financially responsible for programs to fight climate change.

The Climate Change Superfund Act requires companies most responsible for greenhouse gas emissions to pay a total of \$75 billion over twenty-five years (\$3 billion annually) for the environmental damage they have done. The Act extends the "polluter pays" principle to greenhouse gas pollution released into the atmosphere from the combustion of fossil fuel, the primary cause of climate change from global warming. The bill states that the funds can be spent on job-creating infrastructure damage and community protection due to the climate crisis. Specifically, infrastructure projects that are "designed to avoid, moderate, repair, or adapt to negative impacts caused by climate change, and to assist communities, households, and businesses in preparing for future climate change-driven disruptions." Two concerns that have been raised about the Act are whether the state has the authority to enact it and whether the costs will be passed onto the consuming public. *Attached please will find analyses by the think tank, Institute for Public Integrity, that answer both of those concerns. Put simply, the state has the authority and the costs cannot be passed onto consumers.*

The climate crisis poses an immediate, grave threat to the state's communities, health, environment, and economy. NYPIRG urges that the Legislature include the Climate Change Superfund Act in the Assembly and Senate one house budget proposals this session. The legislation would make New York a national leader with this first-in-the-nation, just and fair approach to ensure the state's efforts to respond to global warming are appropriately funded by the industry that profited from and is responsible for the climate crisis. The bill is included in the prominent NY Renews Climate, Jobs & Justice legislative package.

Reduce the State's Biggest GHG Emitter, Include the All-Electric Building Act in the Budget S.562A (Kavanagh)/A.920A (Gallagher)

The building sector is the largest GHG emitter representing 32% of the state's GHG emissions, according to the Department of Environmental Conservation.³⁴ Recently, however, Dr. Robert Howarth, Cornell University Professor of Ecology & Environmental Biology and a CAC member, issued a statement on the Final Scoping Plan with new evidence that "the Plan understates the importance of the building-sector."³⁵ Dr. Howarth's scientific calculations are that the building sector is responsible for *more than 40%* of all greenhouse gas emissions in New York State.

³⁴ NYS Department of Environmental Conservation, <https://www.dec.ny.gov/energy/99223.html>. As of February 13, 2023.

³⁵ *Statement of Dr. Robert Howarth*, December 19, 2022

https://www.research.howarthlab.org/documents/Howarth_statement_on_final_scoping_plan_2022_1219.pdf.

NYPIRG commends the Governor for including a proposal to eliminate fossil fuels and electrify new buildings in her proposed FY 2023-2024 Executive Budget (Part WW, TED). However, her proposal is “too little and too late.” It is replete with loopholes, exemptions, risky start date delays and a weakened scope of the size and type of buildings. It undermines the state's ability to reach the Climate Act’s 2030 goals. The start date is delayed from 2024 to basically 2026 (or 12/31/25) for any single family home and residential buildings three stories and under—weakening the seven stories or under size requirement in the All Electric Building Act (AEBA S.562A/A.920A) and New York City Local Law 154. The Governor’s bill exempts commercial buildings from the first phase of electrification. The proposal continues to eviscerate the CAC recommendation and AEBA bill by punting to basically 2029 (12/31/2028) for larger residential and all commercial buildings. In addition, her proposal exempts manufacturing plants, manufactured houses or mobile homes, and other facilities. Last but not least, loopholes in the implementation process are in her proposal, such as to the greatest extent “feasible” or “practicable.” As evidenced by many speakers at the Assembly’s 2022 Legislative Hearing, a number of studies and the expert CAC, electrification of new buildings is technically and economically feasible today. There is no reason for delay and every reason for the state to move swiftly to address the worst sector of GHG emissions in the state.

The AEBA includes a comprehensive set of requirements to modernize the state’s building codes to require all new buildings under seven stories be all-electric starting in 2024 and larger buildings by 2027. The average new single-family home built in New York under this law could cost about \$904 less per year in utility costs,³⁶ when compared to a fossil-fueled home. We urge the Senate and Assembly to include the S.562A/A.920A provisions and timelines in their one-house budget proposals. Again, the eminent Dr. Howarth, emphasized that: “... *the greatest priority for meeting the goals of the CLCPA should be to reduce emissions from the building sector.* I urge the Assembly and Senate to act to mandate that the state move away from fossil fuels more quickly than called for in the Council’s Scoping Plan, using the guidance from the December 2021 draft Scoping Plan.” with a 2024 start date.

New buildings can rely on heat pumps for heating, cooling, and greater energy efficiency. Heat pumps do not combust fossil fuels; they are highly efficient and electric-powered. And this electricity is increasingly powered by wind, solar, and other renewable sources. Everything from deeply affordable housing to skyscrapers are being built fossil free. Buildings built with equipment for fossil-fueled heating and cooling will become “stranded assets” in the Climate Act’s transition to a gas-free future, requiring expensive retrofitting. The cheapest time to electrify a building is when it is being built.

Stop Climate Polluter Handouts Act: Wasteful Taxpayer Subsidies to the Fossil Fuel Industry S.3389 (Krueger)/A.8483 of 2022

The Stop Climate Polluter Handouts Act is an important application of the Climate Act on the state’s fiscal policy. The state provides over \$1.5 billion annually to the climate crisis contributors—the fossil fuel industry.³⁷ Ending state subsidies to the polluting fossil fuel industry is critical to help meet the Climate Act goals as the state is undermining the law by subsidizing the very industry that created this crisis. To the detriment of its citizens, the state is “talking out of both sides of its mouth” by providing funds to the polluting industrial sector it has statutorily declared needs to be phased out.

The bill repeals the most egregious fossil fuel subsidies and saves the state approximately \$336 million annually.³⁸ It signals that the state is seriously and consistently abiding by the goals of the CLCPA and

³⁶ *The impact of the All-Electric Building Act on the cost of heating new homes in New York State*, WinClimate, October 2022, https://drive.google.com/file/d/14cm1hLk4DIY_vK8gyOwTcRIAlaa3kUT/view.

³⁷ Assemblymember Kevin Cahill Sponsor Memorandum, A. 8483, Feb. 2022, [Bill Search and Legislative Information | New York State Assembly \(nyassembly.gov\)](https://www.nyassembly.gov/bill-search).

³⁸ Ibid. Memorandum cites NYS Division of Budget FY 2022 Annual Report on New York State Tax Expenditures.

taking actions to transition to a climate-healthy future. For example, the bill ends: \$118 million in airline fuel tax exemptions; \$89 million in fossil fuel research and development and certain property tax exemptions; \$65 million in petroleum gas tax exemptions; and limits subsidies in a number of economic development programs. After a careful review, the legislative sponsors focused on eliminating these subsidies first as they have a limited impact on consumers.

Climate, Jobs, and Justice Bill Package Will Fund and Advance the Climate Act Implementation

NYPIRG stands with its partners in the New York Renews coalition in advocating for the passage of a package of bills and funding proposals to advance the goals of the Climate Act by raising significant state funds to decarbonize the state's building, transportation and infrastructure sectors while ensuring a green economy for all, to ensure that communities of color and low-income communities fully benefit from the transition, and to ensure a just transition for workers. New York State needs an overall funding level of over \$10 billion annually.

The *Climate, Jobs, and Justice Bill package* includes the Climate Change Superfund Act and the Stop Climate Polluter Handouts Act, and the following proposals.

- The *Climate and Community Protection Fund* would create a pool of money to fund and implement the Climate Act. Its core investments include community benefits and broad labor, procurement, and responsible contracting standards.
- The *Climate Accountability Act* would give state agencies the power they need to effectively implement the Climate Act, ensuring that the state's energy system is accountable and transparent to the public while paving the way for full decarbonization.
- The *Invest in Our New York Bill Package*, developed by Invest in Our New York (IONY), will raise billions of dollars for climate justice and other vital state needs based on the principle of making large corporations and the wealthiest New Yorkers pay their fair share of taxes.
- The *New York Home Energy Affordable Transition Act (NY HEAT)*, S.2016, requires the Public Service Commission (PSC) and the New York State Energy Research and Development Authority to initiate one or more proceedings to develop a statewide plan to better align the PSC's regulation of utility services with the climate justice and GHG emission targets of the Climate Act. The plan will set biennial gas sales reduction targets for each gas company and prohibit new gas plants, the construction of which would lead to gas becoming available in new geographic areas, from coming into service after September 30, 2023.
- The *Fossil Fuel Facilities Replacement and Redevelopment Blueprint Act*, S.2935, mandates that the Public Service Commission, Department of Environmental Conservation, and Long Island Power Authority establish proceedings, after a state study, to phase out, replace and redevelop the state's oldest and most polluting fossil fuel facilities by 2030.
- The *Build Public Renewables Act* expands the capacity of the New York Power Authority (NYPA) to build renewables. The bill mandates a ten-year "climate and resiliency plan" providing for the construction by NYPA of additional renewable energy projects, and provides for NYPA to solely use renewable energy in NYPA projects by January 1, 2030.

In addition, NYPIRG urges support for the *Renewable Capitol Act*, S. 2689 (Breslin) mandates that several state facilities in downtown Albany, including the Empire State Plaza and the State Capitol building, receive their electric power, and heating and cooling, from 100% renewable energy within three years, after a planning process with local community input. This bill follows a successful campaign by the Sheridan Hollow Alliance for Renewable Energy (SHARE), a Capital District-based advocacy group, that stopped the state from building two gas fired turbines to meet state energy needs in Sheridan Hollow, an environmental justice neighborhood near the State Capitol. This bill requires the state to finish the job of protecting local residents from threats to their health due to fossil fuel combustion on the site, while addressing climate change.

Scoping Plan Recommends Major Solid Waste Reduction and Recycling by 2030

The CAC recommends comprehensive action to reduce the state's generation of solid waste citing its role in the generation of greenhouse gases. The Plan states, "GHG emissions from the waste sector represent about 12% of statewide emissions, including landfills (78%), waste combustion (7%), and wastewater treatment (15%). Most of these emissions represent the long-term decay of organic materials buried in a landfill, which will continue to emit methane at a significant rate for more than 30 years."³⁹

The Plan recommends the following set of ambitious but necessary solid waste goals based on a long-standing statute.

- "Vision for 2030. For solid waste management and WRRFs, the major contributors to emissions are associated with landfill emissions, though sources are also found at WRRFs and other facilities. To reduce emissions to achieve the required 2030 GHG emission reductions, significant increased diversion from landfills as well as emissions monitoring and leak reduction will be needed. A circular economy approach to materials management is understood and employed.
- *Vision for 2050.* The Climate Act requires a more dramatic decrease in GHG emissions by 2050, achieving at least an 85% reduction (compared with 1990 levels). *For solid waste and WRRFs, this necessitates a dramatic shift in the way waste is managed, to the point that landfills and combustors are only used sparingly for specific waste streams, and reduction and recycling are robust and ubiquitous.* In addition, methods to monitor leaks and emissions are well developed and implemented, and those emissions are significantly reduced. The circular economy approach for materials management is fully implemented and embraced... (Pg. 319 Plan)

In 1988, the Solid Waste Management Act (ECL § 27-0106) established in law the *preferred hierarchy of solid waste management*. The hierarchy established the following priorities to guide the programs and decisions of the New York State Department of Environmental Conservation (DEC) and other state agencies:

- First, to reduce the amount of solid waste generated.
- Second, to reuse material for the purpose for which it was originally intended or to recycle the material that cannot be reused.
- Third, to recover, in an environmentally acceptable manner, energy from solid waste that cannot be economically and technically reused or recycled.
- Fourth, to dispose of solid waste that is not being reused or recycled, or from which energy is not being recovered, by land burial or other methods approved by DEC."

³⁹ New York State Climate Action Council Final Scoping Plan, p.316.



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Specifically, the CAC recommends that the state should:

- enact legislation to implement expanded deposit container programs where feasible and needed (if not covered by Extended Producer Responsibility [EPR] programs), and.⁴⁰
- should enact and implement new legislation in 2023 that creates an EPR/Product Stewardship framework. Alternatively, individual legislation should be enacted targeting products with the greatest GHG impact (such as packaging and printed paper, carpet, tires, textiles, solar panels, wind turbines, batteries, appliances, especially those containing refrigerants, and mattresses).⁴¹

Reduce Solid Waste GHG Emissions: Waste Reduction, Recycling and Combat Plastic Pollution Crisis

Expand New York’s Most Successful Recycling Program by Passing the Bigger, Better, Bottle Bill S.237 (May)

2023 is the 40th anniversary of initial implementation of the state’s Returnable Container Act, affectionately called the “*Bottle Bill*.” Enacted in 1982, the ‘Bottle Bill’ requires a 5-cent refundable deposit on eligible beverage containers to encourage their return to avoid litter and waste.

New York’s Bottle Bill has been the state’s most effective recycling and litter prevention program. According to the Department of Environmental Conservation (DEC), the Bottle Bill reduces roadside container litter by 70%, and in 2020, 5.5 billion containers were recycled.⁴² After its four-decades of success, we believe that the Bottle Bill should be modernized by expanding the law to include popular non-carbonated beverages, wine, spirits, and hard cider and increasing the redeemable deposit value to 10-cents to increase the rate of recovery.

Modernization of the 40-year-old Bottle Bill will further enhance litter control (most notably in underserved lower income communities), help stimulate recycling efforts, encourage the use of refillable containers, and is a matter of economic justice that will provide badly needed funding for communities that face low redemption rates due to inadequate access to retailers and redemption centers. States with bottle deposit laws have a beverage container recycling rate of around 60%, while non-deposit states only reach about

⁴⁰ New York State Climate Action Council Final Scoping Plan, p.326.

⁴¹ New York State Climate Action Council Final Scoping Plan, p.329.

⁴² New York State Department of Environmental Conservation, “New York’s Bottle Bill,” <http://www.dec.ny.gov/chemical/8500.html> Accessed October 2021.

24%.⁴³ *The national group ReLoop stated in a 2022 report that the bottle bill's expansion and deposit increase to a dime would likely result in a 90% recycling redemption rate.*⁴⁴

Recent developments in global waste policy make an even stronger case for this new measure. China, which had been accepting massive amounts of the nation's waste, stopped accepting such imports in 2018, resulting in these recycled wastes being the responsibility of local governments.⁴⁵ These municipal recycling systems are not equipped to deal with the high amounts of waste that have flooded their systems. The state had been made aware by their own agencies that New York needed further waste diversion tactics. The DEC has called for an expansion of the program since their 2010 *Beyond Waste* plan.

Municipal recycling programs are particularly struggling with glass contaminating their recycling streams. When glass breaks in curbside containers it contaminates the rest of the materials and renders much of it unrecyclable for the municipality. The expansion of the Bottle Bill to include wine, spirits, and non-carbonated beverages, with a deposit increase from a nickel to a dime, will take a significant number of containers out of municipal recycling programs. The costs of recycling many of the containers that are not covered under the state's Bottle Law are too high for many municipalities. For example, the costs associated with collecting and processing PET plastic bottles and glass per ton are higher than revenues per ton for scrap material.⁴⁶ Expanding the Bottle Law would eliminate these costs for municipal programs 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.

Expanding the Bottle Bill would be a major financial benefit both for New York's municipalities and the state as a whole. While recycling an additional 5.5 billion containers, ReLoop estimates that expanding the law would save New York's municipalities \$70.9 million dollars annually through waste diversion.⁴⁷ Not only would municipalities save financially, but diversion on this scale would save an estimated 331,900 metric tons of CO₂, the equivalent of removing 32,000 cars every year.⁴⁸ The unclaimed bottle deposits are a revenue generator to the state's General Fund that brings in millions of dollars to support environmental programs statewide. In 2021, the state received \$117 million from unclaimed bottle deposits.⁴⁹ ReLoop estimates that an expanded Bottle Bill would generate between \$171-349 million for state reinvestment.⁵⁰

NYPIRG recently commissioned a Siena College Research Institute poll, looking at the popularity of modernizing New York's Bottle Law. *The poll found that 71 percent of respondents favor expanding the recycling program to include bottles and cans for beverages including teas, sports drinks, juices, wine and liquor.*⁵¹ The release of the poll amplified a call from more than 300 community, civic, and environmental organizations to Governor Hochul to modernize the state's bottle deposit law as part of her Executive

⁴³ Container Recycling Institute, Bottle Bills, <https://www.container-recycling.org/index.php/issues/bottle-bills>.

⁴⁴ ReLoop Platform, "Reimagining the Bottle Bill," <https://bottlebillreimagined.org/>.

⁴⁵ Quinn, Megan, "National Sword kicked off a wave of MRF investments. 5 years later, tech and funding continue to advance." *Waste Dive*, Sept. 14, 2022. <https://www.wastedive.com/news/national-sword-five-years-mrf-robotics-recycling-investment/630731/>.

⁴⁶ Container Recycling Institute, "Cost of Curbside Recycling for Beverage Containers," May 31, 2018, <http://www.container-recycling.org/index.php/publication>.

⁴⁷ ReLoop, "Reimagining the Bottle Bill," June, 2022, <https://bottlebillreimagined.org/wp-content/uploads/2022/06/Reimagining-the-Bottle-Bill-FINAL-JUNE-2022.pdf>.

⁴⁸ Ibid.

⁴⁹ Container Recycling Institute, "The Fate of Unclaimed or Abandoned Deposits," 2022, <https://www.bottlebill.org/index.php/about-bottle-bills/the-fate-of-unclaimed-or-abandoned-deposits>.

⁵⁰ Ibid.

⁵¹ Barnes, Steve, *Poll: New Yorkers favor expanded recycling, 10¢ deposit*, *Albany Times-Union*, January 29, 2022, <https://www.timesunion.com/environment/article/poll-new-yorkers-favor-expanded-recycling-10-17748223.php>.

Budget. A strong majority of New Yorkers are supportive of the program, believe it reduced litter in the state, and support raising the deposit on beverage containers from a nickel to a dime.⁵²

Pass the New York Packaging Reduction and Recycling Act

S.1064 (May)

NYPIRG urges inclusion of the New York Packaging Reduction and Recycling Act (S.1064) in the Assembly and Senate one house budget bills and the finalized state budget. New York has a solid waste, toxics, and plastic pollution crisis. A 2022 international report found the world is beyond the toxic tipping point. This scientific study, published in the journal *Environmental Science & Technology*, found that "the total mass of plastics now exceeds the total mass of all living mammals," a clear indication that we've crossed a boundary.⁵³ Crucially, production of single use plastics shows no signs of slowing down and have been exponentially increasing. Since 1950, there has been a fifty-fold increase in plastic production. This number is expected to triple by 2050.⁵⁴

NYPIRG strongly supports the concept of holding producers (or polluters) financially responsible for their waste and has been a longtime supporter of extended producer responsibility (EPR) policies. One of the most successful recycling and litter reduction programs in New York, the Bottle Deposit Law, is an extended producer responsibility policy.

Over 99% of plastics are sourced from fossil fuels.⁵⁵ The most common source of plastic resin in the United States is natural gas. This means the more plastic society uses, the longer the fossil fuel industry is kept running. When Coca-Cola, PepsiCo, and Keurig Dr Pepper combined to pour 121 million tons of greenhouse gasses into the atmosphere, they eclipsed the entire climate footprint of Belgium.⁵⁶

Microplastics have been found to cause both allergic reactions and cell death in humans.⁵⁷ Further, looking at hamsters, researchers have found that microplastics appear to lead to blood clotting in mammals.⁵⁸ Inhaling burnt plastics is a well-known cause of cancer, as many of the chemicals within plastics are made of carcinogens.⁵⁹ In fact, China's much publicized decision in 2018 to stop importing solid waste, was cited as a matter of public health.⁶⁰ Not that this decision stopped America from finding other poorer and developing countries to accept the nation's waste such as Bangladesh, Laos, and Ethiopia.⁶¹ The world is also now at a point in which everyone can inhale nanoplastics.⁶² The science is clear that reliance on any plastics, not just single-use plastics, is a detriment to local and global human health.

⁵² Ibid.

⁵³ Environmental Science and Technology, *Outside the Safe Operating Space of the Planetary Boundary for Novel Entities*, January 18, 2022, <https://doi.org/10.1021/acs.est.1c04158>

⁵⁴ Carrington, Damien, *Chemical pollution has passed safe limit for humanity, say scientists*, The Guardian, January 18, 2022, <https://www.theguardian.com/environment/2022/jan/18/chemical-pollution-has-passed-safe-limit-for-humanity-say-scientists>.

⁵⁵ <https://www.ciel.org/wp-content/uploads/2017/09/Fueling-Plastics-Fossils-Plastics-Petrochemical-Feedstocks.pdf>, pg.1.

⁵⁶ Elgin, Ben, *Big Soda's Addiction to New Plastic Jeopardizes Climate Progress*, Bloomberg, July 12, 2022.

⁵⁷ Parker, Laura, *Microplastics are in our bodies. How much do they harm us?* National Geographic, April 25, 2022, <https://www.nationalgeographic.com/environment/article/microplastics-are-in-our-bodies-how-much-do-they-harm-us>

⁵⁸ Thompson, Andres, *From Fish to Humans, A Microplastic Invasion May Be Taking a Toll*, Scientific American, September 4th, 2018. <https://www.scientificamerican.com/article/from-fish-to-humans-a-microplastic-invasion-may-be-taking-a-toll/>

⁵⁹ Campanale C, Massarelli C, Savino I, Locaputo V, Uricchio VF. *A Detailed Review Study on Potential Effects of Microplastics and Additives of Concern on Human Health*, Int J Environ Res Public Health.

⁶⁰ Sara Kiley Watson, *China Has Refused to Recycle The West's Plastics. What Now?*, N.P.R. June 28, 2018, <https://www.npr.org/sections/goatsandsoda/2018/06/28/623972937/china-has-refused-to-recycle-the-westsplastics-what-now>.

⁶¹ Erin McCormick et. al., *Where Does Your Plastic Go? Global Investigation Reveals America's Dirty Secret*, The Guardian, June 17, 2019, <https://www.theguardian.com/us-news/2019/jun/17/recycled-plastic-america-global-crisis>.

⁶² Ibid.

NYPIRG is pushing for the implementation of an Extended Producer Responsibility (EPR) program to ensure corporations are on the hook for a “cradle-to-grave” approach to reduce and be responsible for their packaging waste. A significant contributor to the waste and plastic pollution crisis is the fact that consumer brand-owners have no financial responsibility for the solid waste management of their product packaging. They have no requirements or incentives to reduce packaging waste, create reusable products, make packaging easier to recycle, or boost market demand by using more recycled content. EPR requires companies to be financially responsible for mitigating the environmental impacts of their product packaging, through reduction, recycling and reuse.

Waste accounts for 12% of statewide emissions, most of which comes from landfills that will continue to release significant amounts of methane, a greenhouse gas on steroids, for the next three decades.⁶³ Methane is 25 times more potent than carbon dioxide when it comes to global warming. Methane levels in the atmosphere have doubled over the last 200 years as a result of industrialization.⁶⁴ Reducing this pollutant rapidly would have a tremendous and immediate impact on mitigating the worst effects of climate change. It's more potent than carbon dioxide, but its lifespan is shorter – only about 12 years compared to centuries.⁶⁵ To reduce methane, the Plan will require robust composting. For other waste streams, effective recycling programs are recommended along with placing the responsibility on the producers for electronic waste and packaging. By 2050, landfills should be nearly non-existent.

Even after decades of curbside recycling, cities like New York City divert only 17% of garbage. Any EPR program must have a modernized bottle deposit program to incentivize recycling to improve recycling outcomes. Indeed, the Climate Scoping Plan calls for “significantly increased diversion from landfills as well as emissions monitoring and leak reduction.” Further saying, “a circular economy approach to materials management is understood and employed.” The plan also calls for an expanded bottle deposit law to meet these targets.

The Plan is quite clear how necessary it is to enact an EPR program with real reduction targets, saying “The State should enact and implement new legislation in 2023 that creates an EPR/product stewardship framework. Alternatively, individual legislation should be enacted targeting products with the greatest GHG impact (such as packaging and printed paper, carpet, tires, textiles, solar panels, wind turbines, batteries, appliances, especially those containing refrigerants, and mattresses).”

This year, Governor Hochul has included an Article VII bill in her Executive Budget (Part QQ, TED). *However, the bill is based in part on industry self-regulation, sets weak waste reduction and recycling goals, and is generally ineffective in meeting the current crisis head-on.* Governor Hochul’s bill leaves a lot of room to let producers off the hook for their plastic pollution. The advisory committee does not have nearly enough public oversight and would give too much say to the companies with a clear financial conflict of interest that has led the state into this waste crisis. The state would not allow the oil industry to have a say in how regulators manage the climate crisis, why would it allow plastics manufacturers to have a say in how the state manages its solid waste? The packaging industry should not have a role in regulation. The state must act, with ambitious targets, while allowing for the market to adjust to new regulations. When packaging producers have had decades to increase profits and production with little regulation, they do not need a seat at the table.

As much of the state’s solid waste infrastructure is located in environmental justice communities, it is essential that the advisory committee should include a representative from an environmental justice

⁶³ New York Climate Action Council, “Draft Scoping Plan,” December 2022. <https://climate.ny.gov/-/media/project/climate/files/NYS-Climate-Action-Council-Final-Scoping-Plan-2022.pdf>.

⁶⁴ Misdary, Rosemary, *A lot more than gas stoves: A deep dive into what NY must do to meet its climate law*, Gothamist. Jan. 23, 2023. <https://gothamist.com/news/a-lot-more-than-gas-stoves-a-deep-dive-into-what-ny-must-do-to-meet-its-climate-law>.

⁶⁵ Ibid.

organization, as well as a representative from a community burdened by a solid waste landfill or incinerator. These representatives should receive stipends to ensure social equity.

Additionally, the core tenants around reduction are woefully inadequate. The Governor's bill mandates a pathetic 15% reduction in packaging waste over the course of a decade in direct contrast to the state's legally mandated solid waste hierarchy which prioritizes waste reduction. The bill would take 30 years to get to an 85% recovery rate and 75% recycling rate. These would have been decent regulations a few decades ago, but with production expected to continue to ramp up globally, this bill does very little to mitigate the current plastic and solid waste crises.

There are also glaring problems in the article VII bill related to enforcement. Here is a highlight of some of those problems and loopholes in the proposal.

- Direct Conflict with CAC Plan and State Law: Governor Hochul's bill calls for a reduction of only 15% reduction over the course of a decade. If the state is committed to implementing the CAC Plan and state law, and a future in which landfill and incineration use is exceedingly rare and reduction and recycling are ubiquitous and robust by 2050, this bill fails in achieving the waste reduction goals of the Scoping Plan. Any EPR program has waste reduction as its primary goal - starting with at least 50% reduction in packaging waste in ten years.
- Industry Conflicts of Interest: As currently constructed, oversight would be exceedingly difficult, and hampered by the influence of polluters with a financial conflict of interest. Additionally, the advisory committee should not have any representation from the polluting companies. The Plan recommends a model around Product Stewardship based around the state's landmark 2010 e-waste law, and the 1988 Solid Waste Hierarchy law. In this system, the manufacturers of electronics must register with the state to create a convenient acceptance program for collection, handling, and recycling of electronic waste that is free of charge to consumers. Crucially, the state mandates how this program works, as opposed to looking for recommendations regarding feasibility from the brands with a financial conflict of interest. The state should follow the recommendations of its own climate plan when approaching an EPR program.
- PRO Confusion: The bill would allow for producers to create their own Producer Responsibility Organizations (PRO), as opposed to a single non-profit independent organization which would gather the fees for the program. Having the Department of Environmental Conservation oversee and enforce the program is the model that the state uses for all other waste, such as hazardous and radioactive waste, and for solid waste management by local government. In addition, an independent non-profit can assist with the fee gathering, and technical assistance to industry can be provided with a portion of the fees going to a university. Additionally, the advisory committee should not include any polluter representatives. It would make little sense to allow a fossil fuel company to weigh in on government oversight around climate, why would the state allow a packaging company to advise on packaging reduction? The state should have one body of environmental leaders, consumer advocates, and environmental and public health specialists overseeing the implementation of the law's waste reduction and recycling targets.
- The inversion of the solid waste hierarchy is in direct conflict with the CAC Plan recommendations - very little, if any, packaging waste will be reduced under her proposal. The loopholes make the targets non-binding. The climate and solid waste crisis can't wait. We urge the Legislature to include Senator May's Packaging Reduction & Recycling Act in the one house budget bills and in the final state budget.
- Under the Governor's bill, in order to meet the targets the producers and PROs need to put in a great deal of effort, including investing in reuse, refill, recovery, and recycling, yet if they can apply for waivers when they will miss their targets, there's no incentive to improve the entire system. The

state risks producers/PROs putting in minimal effort, which will all but guarantee that they will fail and miss the targets, and communities will suffer.

We've been here before. Last session, following extensive discussions with the Executive Chamber on a deeply flawed proposed EPR bill, then Assembly Environmental Conservation Committee Chair Steve Englebright and Senator May introduced the *Packaging Waste Reduction Act*, the most ambitious EPR bill in the country. This bill, unlike the Governor's proposal, sets in place a plan where New York can once again lead on tackling pollution, while reducing GHG emissions, and creating a much more equitable waste disposal system for tax-payers.

Key features of the bill, reintroduced by Senator May (S.1064), include:

- Requires companies to reduce their packaging by 50% over 10 years, which can be achieved by either eliminating unnecessary packaging material, such as plastics, and/or switching to reuse and refill systems.
- Requires companies to transition 90% of their remaining packaging over 12 years to be either recyclable, compostable, or made of recycled content.
- Eliminates toxic substances, including PFAS, mercury, lead, and formaldehyde from packaging, making packaging safer for consumers and more recyclable.
- Transfers the responsibility for managing packaging waste from taxpayers to the companies that caused the problem, putting the economic burden where it belongs.
- Provides funding to local governments for waste reduction programs, recycling, and waste disposal through the use of new fees, which are adjusted based on the environmental impacts of the packaging.
- Prohibits the burning of plastic and waste-to-fuel from being considered recycling, protecting communities from this new source of pollution.
- Includes accountability and enforcement mechanisms such as reporting and auditing requirements.
- Requires collection and reporting of data that will provide insight into local recycling and waste management systems.

As opposed to Governor Hochul's bill, Senator May's Packaging Reduction Act meets the Plan's recommendations. Reduction is at the top of the DEC's solid waste hierarchy for a reason. The state will not be able to recycle its way out of the solid waste crisis. The only way forward is through broad packaging reduction requirements. *Governor Hochul's proposed 15 percent reduction is an inadequate target and ineffective in addressing the solid waste crisis.* The CAC is clear, the state must at least reduce packaging waste by half over the next decade if it wants to meet its waste reduction and climate targets.

Improving Drinking Water Protection and Remediation

NYPIRG has long advocated for the safeguarding of drinking water supplies to protect them from leaking toxic waste sites, oil spills, sewage runoff, and other sources of pollution. New York's abundant groundwater and surface water resources are a precious natural treasure. The state has 17 watershed management units, and New York City has the largest unfiltered water supply in the country. Although the state's water systems predominantly deliver safe water to people, they are vulnerable to threats of contamination from an aging and crumbling water infrastructure and an industrial legacy of toxic sites. In addition, municipal water supplies and private wells that are contaminated need treatment, filters and sometimes alternative water supplies, to ensure people's health is protected, especially young children, the elderly, and chemically sensitized people.

Double the Funding to \$1 Billion for the Clean Water Infrastructure Act, and Add \$40 million for PFAS Contamination to Meet the Needs of Communities

New York needs to make sure that water supplies are protected from source to tap, which means that the state needs to properly fund water infrastructure systems, such as the pipes that deliver drinking water and remove waste water. The state has gone decades without properly funding these systems, and billions of gallons of untreated sewage entered waterways and hundreds of water mains break annually.

The New York Clean Water Infrastructure Act (CWIA) needs a significant funding increase to meet outstanding needs. NYPIRG and partner groups successfully advocated for an annual \$500 million increase in the last few budgets, however, double that amount is needed. In addition, \$40 million needs to be added for PFAS contaminated water communities as described in the next section. Recently, two leading environmental organizations working on water quality protection issued a report and analysis documenting the need for at least \$1 billion in the CWIA.

Environmental Advocates of New York reported that in the state's latest grant cycle, \$279 million was awarded to 73 projects, "while \$665 million in local government asks representing 246 shovel-ready projects went unfunded. Twenty-six of those projects not receiving funding would have removed toxic PFAS and 1,4-dioxane from drinking water."⁶⁶ The Riverkeeper reported that "Hudson River Watershed communities need at least \$2.2 billion to repair and upgrade wastewater infrastructure" according to their analysis of the state's 2023 list of projects eligible for federal funding.⁶⁷

NYPIRG urges the Assembly and Senate to include in their one house budget proposals and in the final budget CWIA funding at \$1.4 billion annually.

Support Clean-up of Drinking Water Contamination From PFAS "Forever" Chemicals

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

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

Second, the proposal appropriates \$20 million from the 1996 Environmental Bond Act Environmental Restoration program, and an additional \$40 million from unknown sources of funding. Apparently, the \$40 million could come from either the State Superfund or the CWIA. This would pose a major hardship to the dozens of communities living next to a State Superfund toxic dump designed for cleanup in the next year, and the many communities and local governments in need of public water infrastructure funding in the next year. The Superfund monies are to be spent on only those toxic sites where no responsible party has been found, and the state has a priority list of sites needing cleanup for the year ahead that should not be delayed. The same holds true for the communities needing CWIA funding as stated above. We urge the Legislature to add \$40 million to the CWIA for these hard-hit communities with a total of \$1.4 billion.

⁶⁶ Environmental Advocates of NY, February 6, 2023, [Untapped Potential: A New Era for New York's Water Infrastructure](https://eany.org/press_release/new-eany-report-shows-need-to-double-governors-proposed-clean-water-funding/).
https://eany.org/press_release/new-eany-report-shows-need-to-double-governors-proposed-clean-water-funding/.

⁶⁷ Riverkeeper, *More than \$2 billion needed to fix Hudson River watershed sewers*, October 27, 2022,
<https://www.riverkeeper.org/blogs/water-quality-blogs/more-than-2-billion-needed-to-fix-hudson-river-watershed-sewers/>.

Therefore, pending the Attorney General's evaluation, we call on the Legislature to include in its one-house budget bills the following provisions for PFAS water contaminated communities: 1) \$40 million in *new* CWIA funding for PFAS contaminated water sites plus the \$20 million from the Environmental Restoration Fund; and 2) to eliminate the amendments that weaken the state's long standing strict, joint and several liability common law. *The state should act to help communities clean up PFAS contamination, but not at the expense of neglecting communities exposed to State Superfund sites or needing water supply upgrades. Furthermore, the responsible parties, including polluting companies and solid waste landfill owners, should continue to be held fully financially accountable for funding such cleanups. The state should not "bail-out" PFAS polluting companies.*

Thank you for the opportunity to submit written testimony. NYPIRG looks forward to working with the Legislature so that New York's SFY 2023-2024 budget ensures that all New Yorkers enjoy improved environmental health protections and adequately funded and timely climate crisis prevention and protection actions.