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**Testimony of the Green Legal and Education Fund Inc.
To the New York State Legislature Joint Budget Hearing on the
2025-26 Executive Budget Proposal on Environmental Conservation**
January 28, 2025

I am Mark Dunlea, chair of the Green Education and Legal Fund (GELF). I am also the convener of PAUSE (People of Albany United for Safe Energy), the 350.org affiliate in the Capital District.

Our key recommendations are:

- Raise at least $10 billion annually in new funding for the transition to a clean energy future. The Governor's proposal to provide only $1 billion in new climate funding over 5 years is grossly inadequate and is far less than the state provides to keep three out-of-date uneconomical nuclear power plants operating;
- Include the Renewable Capitol Act in the State Budget;
- The legislature needs to take the lead in enacting a robust carbon pricing program now that Governor Hochul has further delayed the implementation of her proposed cap-trade-and-invest program;
- Raise revenues through the Invest in Our New York proposals and Stop Climate Polluters Handout Act;
- Follow through on the Build Public Renewables Act by increasing the goal for NYPA to build renewable energy by 2030 to 15 GW rather than their proposed 3.5 GW;
- Include the NY Heat Act in the state budget to cap low-income utility bills a 6% of income and to align state agency actions with the CLCPA;
- Reject the Governor's proposal to build new nuclear power plants;
- Enact the Bigger Better Bottle Bill;
- Pass the Packaging Reduction and Recycling Infrastructure Act;
- The State should mandate that the state pension plan be divested from fossil fuels. At a minimum, the state legislature should hold a public hearing on the conclusion by State Comptroller Tom DiNapoli that most of the large gas and oil companies are now committed to curbing global warming.

The world – and New York – has run out of time to take essential radical action to avoid climate collapse. Global warming exceeded the target limit of 1.5 degrees Celsius during 2024 while extreme weather has continued to accelerate globally, with the deadly wildfires in Los Angeles being only the most recent example. The United Nations has warned that we have run out of time to prevent climate collapse and slow actions by governments worldwide have opened up the Gates of Hell.

The need for strong climate action by the state is critical with the election of climate-denier-in-chief Donald Trump. On day one he took action to kill essential investments in renewable energy and reductions in greenhouse gas emissions while protecting and incentivizing the oil and gas industry and other large, wealthy corporate polluters. The consequences of this administration will be far reaching for New York, raising costs for everyday people, increasing pollution, and job loss – unless the State steps up. Unfortunately, despite the Governor's own acknowledgement of the urgency of the climate crisis and the economic benefits that are spurred by action, the executive budget proposal is visionless.

New York businesses, workers, and residents are counting on the legislature to deliver on the issues they care about with a budget that ensures affordable energy, protects public health, cuts pollution, and creates good jobs. No one voted for dirty air and water. On the contrary, time and time again New Yorkers show their broad support for actions to fund and protect the environment.

Investments into climate action and environmental protections not only help to cut costs, protect public health, and reduce pollution – these investments also often create good jobs. New York has a substantial green economy. A 2022 report from the New York State Comptroller found that the number of jobs influenced by the green economy in New York exceeded one million in 2019 and 2020. According to NYSERDA, as of 2022, there are 171,000 workers in the clean energy field. The new federal administration's allegiance to the oil and gas industry and other corporate polluters will prevent significant opportunities for economic growth. As one example, the President has already issued an order to suspend approvals for offshore wind projects, which stands to jeopardize the creation of an estimated 14,000 jobs in New York.

Investments into climate and our environment should be understood as a prevention mechanism from even greater expenses down the road. The cost of inaction is greater than the investments necessary to meet New York's climate goals – according to the Final Scoping Plan, by more than $115 billion. But the cost benefits of proper investment are tremendous. The Final Scoping Plan estimated the creation of enough jobs to outnumber potential displaced jobs by a ratio of ten-to-one in 2030. According to an earlier report from the Climate Action Council, net benefits of meeting New York's CLCPA mandates are in the range of $80-$150 billion. Additionally, public health benefits range from $160-$170 billion.

While we applaud the Governor and state lawmakers for taking the small but critical step to make polluters rather than taxpayers pay for the damages they have caused by enacting the Climate Superfund Act, much more must be done. The Governor appears to have given up on trying to meet the already inadequate climate goals laid out in the CLCPA, such as by having 70% of the state's electricity produced by renewable energy by 2030. NYPA's proposed goal to build only 3.5 GW of new renewable energy by 2030 pursuant to the Build Public Renewables Act is inadequate. The State Legislature should intervene to mandate a goal of at least 15 GW,

In addition to providing adequate funding for climate transformation, the Governor and the Legislature have the responsibility to ensure that the funds generated and appropriated for climate are used for purposes consistent with the CLCPA and are not diverted for other purposes. At least two provisions of law have been enacted already: the "investment mandate" provision of the CLCPA, which requires that 35% of energy funds be devoted to benefit disadvantaged communities, and the 2023 establishment of the Climate Action Fund (CAF), which requires that climate spending meet certain requirements, like labor standards and oversight by the State Comptroller. The CAF provision mandates that 67% of revenue raised be deposited in a Climate Investment Account to assist the state to transition to a renewable energy economy, and 30% of revenue be deposited in a Consumer Climate Account to provide energy rebates, cushioning the transition to renewables for New York consumers.

Enact a Robust Carbon Pricing Program to Raise Revenues and Reduce Emissions

The legislature needs to intervene to get a strong carbon pricing program in place now that the Governor is further delaying her inadequate “cap-and-trade" program (aka invest). This initiative is critical to the need to raise at least $10 billion annually for climate action (as outlined in the state’s climate scoping document) and to reduce greenhouse emissions by 40% by 2030 (though the federal target is a 50 to 52% reduction by 2030). Here is the testimony GELF submitted last year:

> “The legislature should enact key provisions related to the Governor’s proposed cap-and-invest program. With DEC estimating that the actual cost of greenhouse gas emissions is $121 a ton, the proposed $23 a ton initial floor on carbon pricing is ridiculously low and continues the state’s massive subsidy of fossil fuels. The state should not exempt electricity producers from the new cap-and-trade program, at most providing a credit for any costs associated with their potential continued involvement with RGGI. The state should also not exempt energy intensive, trade challenged greenhouse gas emitters from the program. The state should significantly speed up the greenhouse gas emission targets in the CLCPA, as the world is already close to exceeding the global warming target cap of 1.5 degrees C. And the state should enact provisions such as those outlined by NY Renews and in As. Kelles’ legislation (A8469) to ensure that emissions are reduced in environmental justice communities.
>
> GELF continues to oppose a cap-and-trade program which even Pope Francis warns has been manipulated by various Wall Street schemers and often has had a negative impact on EJ communities. GELF supports a carbon tax instead."

Cap-and-trade programs historically have failed to achieve the stated emission reduction goals. A key reason is the usually at the last moment state officials appease the fossil fuel polluters by weakening the emission reduction standards. What is unusual in New York is that the Governor has been continually weaking such goals, including prices, years before the proposal is finally adopted. For instance, she has further reduced the proposed floor for carbon pricing to $14 per ton.

As New York focus reported, “New York, by contrast, wants to set a price ceiling that is lower than the *floor* in its peer states. At an initial price of $14 or less per ton, the state is almost certain to sell out of allowances and be forced to issue more, taking the “cap” out of cap and invest. Regulators’ own modeling found that this would lead to emissions at least 15 percent higher than the state’s legal limit in 2030.”

A cap and invest program will only benefit New Yorkers if it is implemented in a just way. GELF supports the cap-and-invest proposals made by NY Renews:

1. Pollution limits must decline every year in every sector, including the electric sector, and these limits must be strongly enforced.
2. Facility-specific caps on greenhouse gas and co-pollutant emissions must be non-tradable, with aggressive penalties for exceeding cap levels. Do not allow permit trading to game the system. Permits should not include trading after purchase, double allowances, offsets, and banking of unused permits year-to-year.
3. Revenue collection must be tailored not to harm vulnerable New Yorkers. The cost burden for New Yorkers who can least afford it must not be made worse. The cap and invest program must include rebates and targeted relief for low- and moderate-income households to ensure energy bills go down. We believe the strongest approach is to create a Climate and Community Protection Fund and direct any funds raised to that fund.

4. Any cap and invest system must be part of a broader regulatory approach to reducing pollution and must ensure that New York can achieve the greenhouse gas reduction mandates in the CLCPA.
5. Pollution reduction mandates for overburdened communities by agencies including the NYS Department of Environmental Conservation, and the Attorney General's office. In addition to a C&I system, we need a broad array of effective regulations and enforcement to reduce pollution.
6. Permits must avoid loopholes. Cap and invest must avoid loopholes that have weakened or undermined other efforts, including permitting banking, offsets, and exemptions. Permit holders should not be allowed to play games with trading after purchase, exemptions, double allowances, offsets, and banking of unused permits year-to-year.
7. Permits should have a clear and escalating price, not set by auction. If the final program auctions the permits, we must ensure a price floor sufficient to support spending and drive emissions reductions and weigh in pricing towards Disadvantaged Communities and environmental justice areas. The price and regulations must be based on the CLCPA's current 20-year cost accounting.

Invest in Our New York Bill Package

GELF supports the Invest in Our New York (IONY) package, which would raise well over $40 billion to support our state's most urgent needs, including climate action. The package contains five bills to: 1) extend and strengthen the 2021 corporate tax reforms (A3690, Kelles/S1890, Hoylman-Sigal); 2) restructure the personal income tax (PIT) to make the tax code more progressive and to raise revenue from the state's top 5% of earners (A3115, Meeks/S2059, Jackson); 3) create an "heirs tax" (A3193, Solages/S2782, Brisport); 4) change the structure of the state capital gains tax (A2576, Kim/S2162, Rivera); and 5) establish a "mark-to-market Billionaires' Tax" that taxes increases in the stocks and investment portfolios of high-income New Yorkers (A3252, Kelles/S1570, Ramos). We also support the proposal by Assemblymember Phil Steck to halt the rebate of the stock transfer tax back to Wall Street trades. This could generate as much as $15 billion annually in needed revenues.

Stop Climate Polluters Handouts Act

GELF supports the Stop Climate Polluter Handouts Act (A7949, Simon/S3389, Krueger), which would repeal certain fossil fuel-related tax expenditures and credits, and limit fossil fuel-related companies from participating in certain economic development programs. While greenhouse gas emissions from the fossil fuel industry warm the planet and pollute communities, oil companies reap enormous profits. Specifically, the industry made a record-breaking $215 billion in profits in 2023, with several of its biggest players (e.g., ExxonMobil, Shell, BP) more than doubling their profits. Yet, New York State provides oil and gas companies with over $1.6 billion in tax handouts annually, in the form of tax breaks, credits, subsidies, and refunds to support all stages of the oil and gas industry, including fuel production, transportation and storage. With the climate crisis, fueled by these companies, threatening our communities, continuing to provide these subsidies is unjustifiable. Eliminating the tax breaks in the bill would raise over $330 million annually for the state budget.

Enact the Renewable Capitol Act; Immediately Start Converting the State Capitol to Use Geothermal

The Renewable Capitol Act (S2689/A5633: 2024 numbers) mandates the conversion of the Capitol and Empire State Plaza to renewable energy. We urge the governor and legislature to include this legislation in Article VII language of the proposed 2025-26 state budget. We also recommend an initial appropriation of up to $150 million for the first year for planning and construction costs as identified by the Empire State Plaza Energy Infrastructure Master Plan (May 2024, Ramboll), for a geothermal system for the buildings connected to the Sheridan Avenue Steam Plant.

The Climate Leadership and Community Protection Act (CLCPA) requires New York to cut greenhouse gas emissions by 40% by 2030. However, current plans to decarbonize the state's properties will not meet this goal. In May, the Office of General Services (OGS) released its long-awaited Empire State Plaza Energy Infrastructure Master Plan (May 2024, Ramboll). The Ramboll plan specified that $150 million is the cost for a thermal energy network, however, it calls for the network to begin in Phase 3 starting in ten years. According to geothermal experts, work on the thermal energy network could be done in conjunction with the maintenance work being done in Phase 1 of the plan. There is no reason to delay geothermal for the Capitol.

Three states presently use geothermal to power their capitol – Colorado, Oklahoma, and Michigan. Michigan was the most recent to convert, completing the project within 18 months after first studying it while providing 500 construction jobs. The geothermal system at the Michigan State Capitol is expected to pay for itself in about 10 years. The system was installed in 2017 as part of a $70 million project to improve the building's facilities.

The Capitol and Plaza should be a priority due to their symbolic significance as the house of New York's government. In addition, the continued operation of the Sheridan Avenue Steam Plant (SASP) which has polluted a low-income people of color neighborhood for over a hundred years to heat and cool the Capitol Complex is contrary to New York's environmental justice policy. The plant has burnt coal, oil, trash and now gas. Department of Health statistics show that the area around the SASP is one of three cancer clusters in Albany County. The state is literally poisoning its neighbors in order to heat and cool the Capitol and Plaza.

Work has begun to decarbonize the Plaza. In 2019 the state legislature rejected a proposed $88 million appropriation to add new fracked gas turbines on Sheridan Avenue and redirected the funding for renewable energy projects. Energy efficient lighting and an electric chiller have been installed to replace one using fossil fuels. In 2023 the legislature appropriated $30 million to study the decarbonization of the top 15 greenhouse gas emitting state owned facilities of which the Capitol Complex is among the top three. The next clear step for decarbonizing the Complex is installing a thermal energy network which includes geothermal.

Work on the Capitol will provide state policymakers and state agency staff with the ability to see for themselves how the transition to renewables can be done and provide a roadmap on how to build a workforce that is ready to take on the necessary buildout of thermal networks to transition our state buildings to renewable energy.

Include the entire NY HEAT Act in SFY 2025-26 Budget

This legislation would save New Yorkers money off their energy bills while cutting climate pollution. With energy bills increasing across the state, New Yorkers need a solution that tackles energy affordability while allowing for a transition away from the expensive and dirty gas system.

This legislation is crucially needed to align regulation and oversight of gas utilities with the climate and equity mandates established by the state's Climate Leadership and Community Protection Act (CLCPA).

New York's current public service law is not compatible with the CLCPA. Existing public service law promotes gas system expansion by establishing a gas utility obligation to serve any customer upon request while providing that existing customers subsidize new service connections, all of which move the state away from the important climate justice directives and binding emissions limits in the CLCPA. In total, New York ratepayers subsidize more than $400 million worth of fossil fuel hookups and infrastructure every year, something this bill ends by removing the requirement that ratepayers subsidize new gas hookups within one hundred feet from residences.

Fossil fuels burned in New York’s building stock for heating, hot water, and cooking account for approximately one-third of greenhouse gas emissions in New York State. Additionally, recent studies illustrate how heating and cooking with fossil fuels like natural gas impacts our indoor air quality, contributing to cases of asthma and heart disease. Existing public service law promotes gas system expansion in its stated obligation to serve customers and its business model. This undermines the important climate justice directives and binding emissions limits in the CLCPA. Thus, this bill better aligns the rules and business practices of the Public Service Commission (PSC) with reduced gas reliance, transition to more sustainable utilities, and prevents energy bill burden by codifying the state goal that customers must be protected from bearing energy burdens greater than 6% of their income.

Provisions to ensure affordability for all New Yorkers are essential as part of this policy because as customers who can afford to leave the gas system continue to do so, fewer people will be left on the gas system, causing their energy bills to rise. The current NY HEAT Act protects consumers who cannot afford to leave the gas system, while also giving utilities the tools they need to help get those customers off the gas system.

Divest NY Criticizes Failure of Comptroller DiNapoli to Fully Divest from Exxon and other Major Oil and Gas Companies

Divest NY, the coalition that over the last decade has coordinated the effort to divest the major public pension funds in New York from fossil fuels, expressed their extreme disappointment in last February’s announcement by State Comptroller Tom DiNapoli to divest only $27 million from Exxon and the other major oil and gas companies. DiNapoli reported last year that the state had close to $5 billion still invested in fossil fuels.

DiNapoli continues to invest more than $500 million in Exxon while only divesting $27 million in direct active investments in Exxon. Equally disturbing is DiNapoli’s determination that other major oil and gas companies such as BP, Chevron, Occidental, Petrobras, Shell, and Saudi Aramco has satisfied his criteria for supporting a transition to a clean energy future.

Divest NY urges state lawmakers to hold a public hearing to obtain input from climate scientists, activists, retirees and taxpayers about whether any of the oil and gas companies made an adequate commitment to invest in a clean renewable energy future. State lawmakers should also pass legislation to require the common retirement fund and the NYS Teachers’ Retirement System to divest from fossil fuels, as the three main NYC public pension funds have done. A previous divestment bill for the Common Retirement Fund had a majority of state senators and nearly a majority of assemblymembers as co-sponsors. The bill was withdrawn in exchange for a commitment by DiNapoli to follow the process used by the NYC Comptroller to divest.

In August 2022, DiNapoli began evaluating Exxon and other major oil and gas companies to determine if they met his criteria related to transitioning to a clean energy future. During the same week when DiNapoli reversed his position, the $230 billion Dutch pension fund, following a similar climate review process to what DiNapoli is doing, decided to divest from almost all fossil fuel companies, concluding that most fossil fuel companies “are not prepared to adapt their business models” to the Paris climate accord. Christiana Figueres, the lead negotiator of the Paris Climate Accords, at the same time said she had given up any hope for fossil fuel companies to have a positive climate impact.

The coalition said it was pleased that DiNapoli was making an effort to decarbonize the state pension plan from fossil fuels and support his plans to double his investments in “climate solutions” to $40 billion investments by 2035.

DiNapoli is justifying his continued massive investment in Exxon in that they are included in the various index funds that most pension funds now passively invest in. DivestNY rejects that distinction between active and passive, one that DiNapoli did not include in his announcement back in 2020 when he agreed to decarbonize the state pension fund in exchange for lawmakers withdrawing divestment legislation that was co-sponsored by nearly a majority in both houses. If DiNapoli wants to continue to pursue a passive index investment strategy, DivestNY and others have offered to help DiNapoli develop fossil free indexes to meet his objective.

The oil and gas companies, led by Exxon, lied to the world for 70 years about how they were knowingly driving global warming. The large oil and gas companies are expanding their investments in fossil fuels. The UN recently released a study that analyzed the 20 major fossil fuel producers and found they plan to produce, in total, around 110% more fossil fuels in 2030 than would be consistent with limiting the degree of warming to 1.5C, and 69% more than is consistent with 2C.

Enact the Affordable and Climate-Ready Homes Program and Community-Directed Grant Programs Advanced by NY Renews

GELF supports the inclusion of two programs in the final state budget championed by NY Renews to direct funding to the buildings sector, the sector of our state economy that is the highest priority to address. The two programs are the Affordable Climate Ready Homes Program and the Community-Directed Grants program. Together these two programs would ensure benefits to environmental justice communities and promote affordability for consumers throughout the state. We must subsidize the transition of our buildings sector away from fossil fuels for homeowners and rental housing if we are to meet the CLCPA targets.

Affordable Climate-Ready Homes Program and GAP Funding: As the Scoping Plan produced by the Climate Action Council (CAC) stated, there are over 6 million buildings in New York State, including 7.4 million households. The buildings section is the largest source of emissions statewide, comprising 32% of emissions as of 2019). The integration analysis done for the CAC indicated that:

> “Energy efficiency and managed electrification in buildings will be critical to meet New York State’s GHG emissions limits under the Climate Act. All scenarios modeled in the integration analysis include the rapid adoption of high-efficiency heat pumps…Switching from fossil fuels to heat pumps for heating and hot water will immediately and significantly reduce GHG emissions and criteria pollutants from buildings.”

Heat pumps often involve greater upfront costs for homeowners and building owners in tenant-occupied buildings. Providing subsidies to enable homeowners and landlords to transition to energy-efficient homes heated and cooled by heat pumps is the central goal of the Affordable Climate-Ready Homes Program (ACRHP). ACRHP will prioritize building decarbonization for low- and moderate-income households. In addition to addressing the climate crisis, it will increase the health of residents, increase energy affordability, and stabilize energy for consumers, and grow and diversify the unionized clean energy workforce in our state.

Legislation to establish a green affordable pre-electrification (GAP) program should be included in the budget, as proposed in a bill sponsored in 2024 by Assemblymember Kelles and Senator Gonzalez (A9170/S8535). The GAP Program would fund and provide technical assistance for homes and buildings in need of a wide range of currently unfunded retrofits necessary for healthy buildings and the achievement of New York's climate mandates. All too many building owners (in both owner occupied and rental housing) are presently unable to participate in energy efficiency and weatherization programs, because some residential buildings need "pre-electrification" rehabilitation work before they can do so. Removing mold, lead, pests, and other hazards can have life-changing positive health impacts for residents, especially children, older adults, and others vulnerable to respiratory issues. This work is often too costly for many homeowners and building owners to take on without state funding.

<u>Community Directed Grants Program</u>: GELF supports NY Renews' proposal for a community-directed grants program to provide grants to community-based organizations in disadvantaged communities, enabling those communities to design and implement community-led pollution projects based on the needs of their communities, including meeting CLCPA targets. The state presently has no specific program to support such community-led plans and projects. NY Renews advocates, and we agree, that this program should have strict climate spending criteria, including reducing climate emissions, reducing co-pollutants (producing demonstrable public health benefits), and meeting the job development standards and economic development requirements the legislature mandated when it created the Climate Action Fund.

<u>New Nuclear Power Plants are a False Climate Solution</u>

The Draft Blueprint for Consideration of so-called "Advanced" Nuclear Technologies is a concerning mix of uninformed and inappropriate "advocacy" by a state authority combined with a cursory and inaccurate analysis of the state of the nuclear industry. Governor Hochul and NYSERDA are attempting to launch a new generation of nuclear power plants in our state without an adequate public participation process and little to no consideration of this technology's serious health, environmental and economic problems.

The production of nuclear energy is an environmental injustice. Standing at less than 272 words of the draft blueprint, the "Environmental and Climate Justice" section failed to acknowledge the real, deadly harms faced by the Onondaga Nation, the Seneca Nation, the Ramapough Munsee Lenape Nation, and other environmental justice communities along the entire fuel chain of nuclear energy, including those who live close to existing reactors, uranium mines and enrichment sites, and nuclear waste dumps. We request that NYSERDA staff read the Red Paper by the Onondaga Nation, Haudenosaunee Environmental Task Force, and American Indian Law Alliance. The Red Paper provides one of the best compilations of environmental injustices experienced by Indigenous peoples in New York and across the U.S., perpetrated by the nuclear industry and the governments that support it.

Nuclear reactors create grave and deadly health hazards. A new generation of reactors threatens the health of people living near such facilities and puts them directly in the path of radioactive and toxic exposures that cause increased cancers, birth defects, reproductive system diseases, and weakened immune systems.

Pursuing and funding nuclear energy deprioritizes renewable energy: Research shows that nuclear development competes with and can prevent interconnection of renewable energy.[2] An example of this is Japan: renewables were blocked from connecting to the grid due to policy choices by the Japanese government; even after the Fukushima disaster, they chose to invest in largely-failed strategies to restart the nuclear reactors vulnerable to earthquakes, volcanoes, and tsunamis.[3,4] In our own state, ratepayers paid over $520 million to subsidize the old upstate nuclear reactors in 2023, while renewable energy has garnered just $51 million.[5] By 2029, nuclear subsidies will total over $7 billion in public money. Imagine if we had invested that money instead in energy-efficient appliances and insulation for the homes of New Yorkers.

Nuclear Power is exorbitantly expensive in comparison to renewables: There is no path to the construction of new nuclear reactors that will not involve a massive infusion of public dollars. New nuclear power costs about 5 times more than onshore wind power per kWh. While the report denigrates "overbuilding" solar, wind, and storage as a strategy to address the intermittency of generating sources, research has found that this is the most cost effective and efficient way to power a grid. "Overbuilding" could just as easily be called "building enough renewables and storage to meet our needs." This idea should not be dismissed and deserves analysis to determine the cost and feasibility of achieving an optimized mix of renewables and storage to meet demand.

Small Modular Reactors are an unproven technology: The Draft Blueprint acknowledges there are questions of "technological readiness", but it does not discuss the abject failure of the nuclear industry to deliver a product remotely on time or within the projected budget. In addition to needed skepticism over timelines and budgets, NYSERDA should not believe attempts by the nuclear industry to sell new reactors as being somehow friendlier to the environment. Contrary to the claim that SMRs are capable of producing less waste on page 22 of the Draft Blueprint, they may create *more* waste than conventional designs, and waste that is more chemically reactive and volatile.

Nuclear energy generates radioactive waste that is deadly for centuries: As there is no facility that will accept this deadly waste, the reactors in Oswego, Wayne, and Westchester Counties are in essence radioactive waste dumps. The shuttered West Valley nuclear reprocessing site is further testament to the failures of the nuclear industry to manage its waste in New York. It is one of the most contaminated places in the country, and despite decades of "cleanup" efforts and billions of federal and state dollars spent, this massive dump of long-lasting and radioactive waste threatens the Great Lakes watershed and the drinking water for millions of people.

The State must follow democratic practices: On September 19, the PSC announced it is modeling nuclear power in its long-term electric system planning process. Good governance practices require that NYSERDA convene a judicious and comprehensive assessment and process with the involvement of the public and the Departments of Environmental Conservation and Health and insist upon an immediate halt to the PSC's modeling exercise until the state has made a decision.

NYSERDA must not waste New Yorkers' time and money in considering an unproven and dangerous technology with serious outstanding economic, environmental, and health problems that have not been addressed. Having reported that the state is behind on our renewable energy targets, now is the time for NYSERDA to focus all its resources and attention on achieving the 2030 and 2040 renewable energy mandates of the Climate Act. The costs of solar and wind power and battery-based energy storage are decreasing; they are low risk, quick to build, and proven. We must prioritize the deployment of these technologies to meet the legal mandates of the Climate Leadership and Community Protection Act. The draft blueprint is a costly and dangerous distraction that New Yorkers cannot afford.

<u>Modernize the Bottle Bill</u>

It is time to modernize New York's Returnable Container Act, commonly known as the 'Bottle Bill.' It's time to update the law to increase the deposit value, and to include popular non-carbonated beverages, wine, spirits, hard cider, and other beverage containers. Expanding the type of beverages in the Bottle Bill deposit program will result in billions of bottles being diverted from landfills and incinerators. An expanded Bottle Bill will further reduce pollution, especially plastic pollution, all while lifting up workers in the recycling and redemption industry.

There are four important steps needed to modernize the law:

Expand the type of covered beverage containers. Modernization expands the types and number of beverage containers covered by the Bottle Bill. Other states from Maine to California include a diverse range of non-carbonated beverages, wine, and liquor with great success. Any modernization plan appropriately exempts all dairy, dairy-like, and 100% vegetable and fruit juice containers.

Increase the amount of the deposit to a dime. The impact of the nickel deposit that was approved in 1982 has eroded over time. A mere inflation update would likely make that deposit nearly fifteen cents. To ensure that those who wish to redeem their deposits can easily do so, we need a portion of the additional revenues collected by the state to be used to ensure better compliance and enhance access to redemption entities. Oregon has already increased deposits on beverage containers to 10 cents, leading to an immediate increase in recycling redemption rates. An additional benefit is that an increased deposit (plus an expansion to new containers) will help "canners," those hard-working individuals who collect redeemable containers that are discarded by the original consumer.

Increase the "handling fee," which has not been increased in 15 years. The "handling fee" is the funding stream for redemption centers, entities which exist to make it easier for consumers to redeem containers as well as helping the state's redemption rate. As you know, the costs of running a business have significantly increased over the past 15 years, but the funding for redemption centers has not. As a result, over 100 centers have had to close, thus undermining the program, reducing consumer convenience, and costing the state jobs. We urge that you include a phase-in increase in the fee as part of your budget.

Modernization has other benefits as well. The bill's reuse provisions would reduce single-use plastic bottles that are made from fossil fuels, bringing it more in alignment with NYSERDA's Climate Plan by phasing out single-use packaging. Deposit programs are also much better for recycling glass. The recovery rates for glass containers under deposit are 2-3 times the rate as they are recycled in curbside programs. The quality of material is significantly better, without contamination, such that the glass from the bottle deposit program is virtually all returned to glass container manufacturing plants in New York and neighboring states in the region.

The above provisions, plus other important reforms, are included in S.237-C/A.6353-A of the 2024 legislative session. We support that bill and urge you to include it as part of your executive budget or embrace it as a program proposal. Modernization of the law was included as part of the DEC's "New York State Solid Waste Management Plan: Building the Circular Economy Through Sustainable Materials Management (2023 - 2032)."

Including the Bigger, Better Bottle Bill in the FY 2025-2026 Executive Budget or as a program proposal will bolster the state's efforts to reduce litter, enhance recycling, create jobs, lift up canners in disadvantaged communities, expand equity, and ease consumer participation.

Other key environmental investments

Include $600 Million for the Clean Water Infrastructure Act (CWIA) – The Governor's proposed budget includes $500 million for the CWIA but needs far outpace available funding and is overdue for an increase. GELF supports the Governor's proposal to authorize funding from the CWIA for private well testing and remediation, which is another of many reasons funding should be increased.

Include $500 Million for the Environmental Protection Fund (EPF) – The Governor's proposed budget includes $400 million for EPF but many programs are oversubscribed. Increased funding would help ensure our needs are met.

- **Protect New Yorkers from toxic forever chemicals (PFAS)**. This is also a key component of the Packaging Reduction Act discussed below.
- **Protect firefighters from PFAS** – GELF supports the Governor's proposal to ban PFAS in firefighting equipment and gear. Any policy must also ensure firefighters are not exposed to equally or more dangerous chemical substitutions.
- **Protecting People, Farmland, and the Environment from PFAS Biosolids** – GELF urges the legislature to pursue policy that fills a regulatory void and prevents PFAS biosolids from being spread on land.

Prevent hunger and food waste

- **$340 Million for Universal Free School Meals** – GELF is excited to see this commitment to provide free breakfast and lunch meals to all students regardless of their family's income, helping reduce food insecurity and costs for families. I first began promoting this more than 3 decades ago when I was Executive Director of Hunger Action Network of New York State. A universal program will help reduce stigma about participating, especially for students in high and middle schools.
- **Uniform food date labeling** - New York should follow California's lead and take action to require companies to use uniform terms to communicate food quality dates and safety dates and to educate consumers about their meanings. This presents a great opportunity to help consumers save money while reducing the environmental impacts of food waste.

Enact the Packaging Reduction and Recycling Act Outside of the Budget

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

When it is adopted, Assembly bill A1749, sponsored by Assemblymember Glick, and Senate bill S1464, sponsored by Senator Harckham, will be the most effective waste reduction bill in the nation.

Reducing waste will save a huge amount of local tax dollars.

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

The New York Climate Law Scoping Plan directed the New York State legislature to pass an Extended Producer Responsibility (EPR) bill for packaging and other materials in 2023 as the main legislative route for reducing waste and greenhouse gas emissions from materials and improving recycling. The Packaging Reduction and Recycling Infrastructure Act is another name for EPR. When put in place, it will be a powerful tool for mitigating pollution from materials production, use, and disposal. However, New York must get the details right or this policy will NOT decrease the use of virgin materials, plastic pollution, and greenhouse gas emissions.

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

The Legislature has a golden opportunity to save tax dollars and protect the environment by passing the Packaging Reduction and Recycling bills currently proposed: Senate Bill S1464 by Senator Harckham and Assembly Bill A1749 by Assemblymember Glick.

Almost half of all plastic produced is used for packaging, most of it single use. While metal, paper, cardboard, and glass packaging can be made from recycled material and can be recycled many times – most plastics cannot. Plastic is recycled at a 5-6% rate in the United States. And the latest marketing attempt by the plastics industry, called “chemical recycling” is a dangerously polluting dead end.

The Organization for Economic Cooperation and Development (OECD) predicts that the amount of plastic wasted annually is on track to triple: from the roughly 350 million tons wasted in 2020 to a projected 1 billion tons wasted by 2060. This growth is spurred by the petrochemical industry rushing to build new plastic production plants that rely on a glut of natural gas from hydrofracking.

Consumers are not asking for more plastics. But we have little choice. It is virtually impossible to avoid plastics in our daily lives – no matter how hard we try.

The projection of a doubling of plastic production in the US in the next 20 years will change only if states like New York adopt strong new policies that reduce the production, use and disposal of plastics.

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

1. <u>Establish Environmental Standards for Packaging</u>
   Similar to fuel efficiency standards for cars and appliances, we need environmental standards for packaging: 50% reduction in packaging over ten years—achieved either through elimination or by switching to reuse/refill systems — and the rest must achieve a 70% recycling rate over 12 years at minimum. A major report by the Pew Charitable Trusts entitled “Breaking the Plastic Wave” shows that it is both necessary *and* feasible to **reduce** plastic packaging by 47%. The bill that passed the State Senate in June 2024 requires a 30% reduction in packaging over 12 years. We respectfully request that this provision go back to 50%.

2. <u>Reduce Toxics in Packaging</u>
   Packaging that contains toxic chemicals is harmful to human health and the environment and can make it unsafe to use recycled materials in future products. Known toxic chemicals and

substances, such as PFAS, formaldehyde, mercury, and lead should be removed from packaging, especially food and beverage packaging.

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

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

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

   False recycling is more of a marketing strategy than an actual solution. Currently, there are under ten facilities of this kind operating in the United States. It is estimated that the existing facilities can only process 0.26% of the plastic waste generated in the US each year--that's one quarter of one percent.

   This is an important environmental justice issue. The Natural Resources Defense Council analyzed U.S. "chemical recycling" facilities in its September 2022 report "Recycling Lies" and found that these technologies generate abundant amounts of hazardous waste, have large carbon footprints, are mostly constructed in environmental justice communities, create small amounts of fuel which generate the same harmful air pollution as burning fossil fuels, and significantly, require the ongoing production of new plastics from fossil fuels. Greenhouse gas emissions from "chemical recycling" facilities can be as bad as those from conventional garbage incinerators, such as the ones operating in Westchester, Glens Falls, and eight other communities in New York.

   "Chemical recycling" is not viable. It has failed and will continue to fail for the same real-world reasons that the conventional mechanical recycling of plastics has failed: because the thousands of resin types are not compatible with each other for recycling, and because it is difficult to make collection, processing and re-manufacturing profitable. Worse yet, its emissions of toxics and greenhouse gases could cause new harm to our environment, the climate, and the health of our most vulnerable people.

This is not innovation. This is just a marketing spin. If these "technologies" are allowed to count toward recycling, it will delay and distract from the real progress that needs to be made.

4. Provide Financial Relief to Taxpayers and Consumers
   Taxpayers should not have to carry the financial burden of managing packaging. Packaging companies should pay fees that are used to reimburse municipalities and consumers for the cost of recycling packaging material, provide new funding for projects that reduce packaging waste and improve recycling, and fund state agencies for managing the program and enforcing the law. Companies should pay no fees for packaging used in reuse and refill systems.

5. Include Both Residential and Commercial Waste
   Commercial waste makes up 40% to 60% of the waste stream. The policy should apply to packaging generated in all sectors.

6. Don't Put the Packaging Industry in Charge
   We would not expect the tobacco industry to implement effective anti-smoking efforts—do not allow companies to self-regulate through Producer Responsibility Organizations (PROs). Binding performance targets should be set in statute, with strong accountability and oversight by state agencies–including the ability to completely disband poor-performing PROs.

7. Ensure Strong Oversight and Accountability
   A law is only as strong as its enforcement. Just as New York has a Watershed Inspector General and a Medicaid Inspector General, legislation should establish a new Office of Inspector General specifically to enforce the packaging waste reduction program. Furthermore, state agencies must receive the funding necessary to implement and enforce the law.