Memorandum of Support

June 10, 2019

A.7482 (Rozic)/S.3286-A (Krueger)

TITLE: Establishes a Nuclear Whistleblower and Assistance Program to Promote Public Health and Safety

PURPOSE: This bill directs the NYS energy research and development authority and public and private operators of each nuclear-powered electric generating facility to establish a nuclear whistleblower access and assistance program; makes related provisions as to elements of the program and provides that employees of such plants shall not be subject to retaliation; requires authority to investigate reported safety concerns; provides that whistleblowers shall have standing to litigate and may do so without exhaustion of administration remedies; authorizes the attorney general to bring actions to enforce the labor law provisions.

STATEMENT OF SUPPORT: New York State’s new clean energy goals are on a trajectory to meet 100% carbon neutrality by 2040 in the electric sector. While we know for certain that this will mean a massive ramp up of solar and wind energy – there is less clarity for what role New York’s remaining nuclear power plants will play in meeting that carbon reduction goal. Seven years after the nuclear meltdown at the Fukushima Daiichi nuclear reactors in Japan, our own upstate New York nuclear reactors still remain unsafe, yet a nuclear subsidy policy, which will cost ratepayers approximately $7.6 billion through 2029, has prolonged the lives of these facilities, primarily because of their low carbon output. While it is essential that we rapidly eliminate carbon emissions from all fossil fuel plants in NY’s electric sector if we are to reverse the most cataclysmic outcomes of climate change – a single accident in any of our remaining nuclear reactors could potentially make large swaths of New York uninhabitable with the spread of radioactive contamination. An analysis performed for the U.S. Nuclear Regulatory Commission (NRC) by Sandia National Labs in 1982 estimated that a severe accident at Fitzpatrick, Ginna, or Nine mile could cause thousands of early fatalities and tens of thousands of near term cancer deaths.

And there is a record of safety problems at these nuclear reactors. Indian Point has had more than 40 safety events, operational malfunctions and shutdowns just since 2012 and the upstate nuclear reactors have experienced many serious problems of their own. According to the Alliance for a Green Economy, upstate New York’s primary
nuclear watchdog organization, recent inspection reports and Nuclear Regulatory Commission (NRC) documents reveal that:

• **Upstate plants were frequently cited for regulatory violations without penalties:** 18 violations of Nuclear Regulatory Commission regulations were reported between March 2017 and February 2018 for the four Upstate reactors but no penalties or fines assessed, giving little incentive for future corrective behavior.

• **Regulations were weakened at the request of nuclear operators in New York.** At the urging of Exelon, the NRC changed the requirement for what constitutes an “unusual event” regarding Lake Ontario flooding, increasing the likelihood of operations during dangerous weather events.

• **Deadlines have been missed for fixing known safety and maintenance issues:** the FitzPatrick plant’s containment structure is not likely to withstand the pressure and radiation released by a potential meltdown, but installation of a required “release” vent has been delayed; Exelon is behind schedule for fixing numerous maintenance issues at FitzPatrick deferred by previous owner, Entergy, because of the originally planned shutdown of the facility.

New York’s four upstate nuclear reactors are old and have unaddressed design flaws and deferred maintenance plans due to the tentative nature of their future operations. New York’s mission must be to reduce all our carbon emissions at the same pace that we are responsibly phasing out and securing our nuclear reactors from future meltdowns and public health catastrophes. A.7482/S.3286 presumes that nuclear power will continue to be in NY’s energy mix for some time to come, and that this dangerous industry must be monitored from the outside, and the inside. This bill creates a program by which full-time and part-time employees, contractors, employees on probation and temporary employees working for the nuclear industry can find easy and secure channels to report safety violations and health threats. The new program will educate potential whistleblowers about their rights, and encourage them to act to protect the public from safety and health threats if they encounter problems at a nuclear reactor. The legislation also gives whistleblower standing to legally challenge violations without waiting for administrative remedies to the problem. Often administrative solutions to a potential disaster can take a very long time, and safety and health issues may need fast action, such as injunctive relief, when the owners of the reactors may defer making expensive fixes or taking public responsibility for illegal activity.

The most daunting part of New York’s nuclear legacy is the thousands of years we will have to maintain the radioactive waste and reactors long after they have been closed and decommissioned. The Sierra Club urges that this legislation should also apply to whistleblowers engaged in the decommissioning and maintenance of closed non-operational facilities, where the risks of a nuclear accident are still unacceptably high.

**The Sierra Club Atlantic Chapter strongly urges your support of this important legislation.**