



Governor Kathy Hochul
New York State Capitol
Albany, NY 12224

November 30, 2023

Dear Governor Hochul,

On behalf of the Lead Free Kids NY coalition, we write to you today to seek your support for policies and budget items that will protect New Yorkers - especially children - from the lingering scourge of lead poisoning. Despite the passage of decades since lead was allowed in house paint, drinking water pipes, and automotive gasoline, our state has the horrific distinction of having the most children with elevated blood lead levels of any state in the US. Thankfully, there are clear actions our state can take to reduce the presence of lead in our daily lives. As the first mother to serve as NY's Governor, we urge you to take action now. We can't afford to allow lead to contaminate another generation.

As you know, children, and especially those under the age of 6, are particularly vulnerable to the harmful effects of lead because they are more likely to ingest it and are still in a process of physical and mental development. The American Academy of Pediatrics, the Centers for Disease Control and Prevention, and the World Health Organization all agree that there is no known safe level of lead for children.

Lead Free Kids New York (LFKNY) is a growing statewide coalition of 50 organizations and individuals working together to end New York's childhood lead crisis. Our coalition is comprised of parents, teachers, healthcare workers, advocates, lawyers, organizations serving children, and others. We work together to identify and advance state-level policy solutions that create the regulations and infrastructure to end childhood contact with lead in housing and other community settings.

Thank you so much for introducing and enacting new Public Health Law 1377, and for including the necessary funds to start lead inspections in rental properties in the 24 hardest hit communities.¹ More action is needed in 2024 to make this and other lead-poisoning prevention efforts successful.

Lead Free Kids NY recommends funding the following within the 2024-25 Budget:

- Implementing Rental Registry and Proactive Lead Inspection Program
- Lead Poisoning Prevention Programming Increase
- Clean Water and Infrastructure Funding
- Energy Retrofitting and Green Renovations That Also Address Lead Abatement
- Green Affordable Pre-Electrification (GAP) Funding for Low-to-Moderate Income Households

In addition to budget action, we urge these policy actions:

¹ <https://www.nysenate.gov/legislation/bills/2023/S4007/amendment/C>

- Lead Paint Right to Know - S.2353 (Kavanagh) / A.4820 (Rivera JD)
- NYS Renovation, Repair and Painting Act - S.2191 (Bailey) / A.434 (Bronson)
- Landlord Insurance for Lead-Based Paint- S. 88 (Ryan) / A. 1687 (Rivera JD)

NYS FY 2024-25 Budget Priority Recommendations

Implementing FY 23-24 HMM Part T/Public Health Law 1377

Last year, your budget included the creation of a new Rental Registry and Proactive Inspection Program to identify lead hazards for multi-family rental dwellings in communities of concern outside of New York City, adopted as Part T of FY 2023-24's HMM Article VII budget bill (now codified at NY Public Health Law section 1377). We strongly support the premise of this pilot program, and believe the creation and implementation of this new Program could be a seminal moment in turning around New York's long-stalled effort to *prevent* lead poisoning from lead-based paint, rather than waiting until a child is harmed and then retroactively cleaning up lead paint hazards.

However, this program will only fulfill its promise if it is well-implemented *and* well-funded. The NYS Department of Health (NYSDOH) is now developing regulations to implement, administer, coordinate, and enforce the new Program. These regulations are crucial to the success of the Program and while the NYSDOH must be good stewards of the state's money, it should not be hamstrung in developing a meaningful, enforceable program due to artificial budget constraints. As noted below, society is paying enormous financial costs due to children's exposure to lead-based paint hazards, not even taking into account the social costs and the environmental injustice inherent in the demographics of lead poisonings. It would be penny-wise and pound-foolish to short-shift funding of this important effort.

As part of this program, the State last year allocated \$20M to services and expenses of a lead abatement program to be administered through the housing trust fund corporation all over the state. This funding should be renewed, and the Legislature should ensure that these funds are only available to landlords that have financial need and are engaging in abatement activities, which will eliminate lead as a long-term concern, and not just for efforts like maintaining painted surfaces.

We urge NYSDOH to tie use of state funds for remediation of lead paint hazards on private property to measures that ensure that lead remediation does not drive housing instability. While this is not a complete list of necessary measures to prevent housing instability linked to lead remediation, we urge NYSDOH to require that for any dwelling for which lead remediation is funded (in whole or part) with government funds, tenants who are in place when lead paint hazards are identified must be allowed to return to the dwelling, and to remain there for at least five years (if they choose). In addition, for units remediated with any government funding, there should be a five-year cap on rent increases associated with the remediation (if partially government funded), and a five-year prohibition on rent increases that are tied to the remediation work if the remediation was entirely government funded.

Last year the State allocated \$268,000 (pages 409-410) for staff time spent on lead abatement and \$18,536,000 (page 326) for contractual services for programs that reduce risk of lead exposure in rental properties and in the State Operations Budget.² It created a pool of funding to support landlords with

² <https://nystatewatch.net/www/NY/23R/PDF/NY23RAB03004FIL.pdf>

costs associated with testing and remediation in the Capital Projects Appropriations Bill (pages 380-381)³. We urge you to fund these programs at *at least* the same levels in the FY 2024-25 budget.

Provide Much-Overdue Increases in Funding For County Lead Programs: Support NY's Lead-Exposed Children with \$50M for Local County Health Departments

County health departments are in vital need of additional funding to implement existing state-mandated lead poisoning primary and secondary prevention programs. Although their budgets have remained relatively static, their caseloads have increased significantly over the last few years. The increased need results from a combination of factors, including:

- The legislatively-mandated lowering of New York's blood lead action level from 10 µg/dL to 5 µg/dL in 2019, increasing the number of children whose blood lead levels triggers a legal mandate for the State to respond.
- COVID pandemic safety measures like remote learning and quarantines, which resulted in children spending more time in their homes - many of which contained lead hazards – increasing exposure and therefore blood lead levels.
- The backlog of lead poisoning prevention work resulting from shifting work responsibilities during the pandemic.
- Rapidly rising inflation, thus need for salary increases for existing staff to avoid real-wage cuts.

Despite this uptick in need for funding to county health departments, no additional funds have been provided in FYs 2019-20 onward. These circumstances have left county staff in the incredibly challenging position of having more children who by law must receive care to prevent further harm from lead, and no more (and possibly fewer) staff to do it.

Further exacerbating this problem, in 2022, the State added five additional counties (Cayuga, Chemung, Jefferson, Montgomery, and Rockland) to the existing 15 counties charged with providing primary prevention actions (before a child's test reveals elevated blood lead levels), without adding any additional funding for the program. Functionally, this means a reduction in funds available to each county, even those with well-established and effective programs like Monroe County, which is often held up as an early successful model for primary prevention action. **It is vital that the State increase the line item for county health department lead programs by at least \$50M.**

Clean Water and Infrastructure Funding

Lead pipe identification and removal is extremely important for the health of New Yorkers. We appreciate the work that has already been done identifying lead pipes within the state and removal that is already in queue, but there is still much more work to be done.

The federal Environmental Protection Agency estimates that there are 494,000 Lead service lines in NYS. According to the NYS Department of Health, lead service line replacement should cost at most \$10,000 per line. Therefore roughly \$5B will be needed to address this issue. \$500M has already been secured through the federal Bipartisan Infrastructure Fund, leaving a \$4.5B gap in funding. We would like to see

³ <https://nystatewatch.net/www/NY/23R/PDF/NY23RAB03004FIL.pdf>

at least \$100 million of Clean Water Infrastructure Act funding dedicated to lead service line replacement in the FY 2024-25 budget.

We believe that a 10-year phase out of lead pipes across the whole state would be enough time to plan and execute the removal of all lead pipes around the state. In order to do this, there would need to be an additional \$4.5B or \$450M over 10 years in the budget through a combination of existing state funding streams (i.e., 2022 Clean Water, Clean Air, and Green Jobs, Environmental Bond Act, Clean Water Infrastructure Act, Water Infrastructure Improvement Act, Drinking Water State Revolving Fund) as well as federal funding streams (i.e., American Rescue Plan Act (ARPA), Water Infrastructure Finance & Innovation Act, Water Infrastructure Improvements for the Nation). The funding sources are there; what we need is the political will to make this happen.

Intertwine Energy Retrofitting with Green Renovations That Remediate Indoor Health Hazards Such as Lead Paint Hazards

In 2022, you made a promise that the State would make 2 million of its homes electric or ready to be electrified, with 800,000 of these homes promised to be affordable housing. While this is an exciting promise, it is vital that energy efficiency and electrification upgrades be combined with remediation of toxic hazards and implement programs that will reach low- to moderate-income households and buildings.

In 2022, you made a promise that the State would make 2 million of its homes electric or ready to be electrified, with 800,000 of these homes promised to be affordable housing. While this is an exciting promise, it is vital that energy efficiency and electrification upgrades be combined with abatement of environmental health hazards like lead, mold, and asbestos. These abatements would improve the health outcomes for workers and tenants, as well as increase the speed at which we can meet New York's aggressive climate goals.

Unfortunately, in many disinvested communities, home owners (including landlords) will be unable to take advantage of these programs because of existing hazards or deficiencies in their homes. For owners of older homes who are able to take advantage of these programs, the work may disrupt lead paint that is in the building and create a hazard for workers and occupants.

Additionally, it may be possible to expend fewer overall dollars to bring older homes into electrification and ensure they're properly weatherized *and* eliminate hazards like lead, mold, and asbestos, when these programs are integrated and packaged together.

Therefore we have two recommendations:

- 1) Ensure that contractors who undertake renovations and repairs to upgrade buildings for energy efficiency and electrification be trained in and use lead-safe work practices.
- 2) Leverage existing funds and programs to intertwine hazard abatement with these "green" improvements.

Not only is this critical for the health of New Yorkers, we believe there is already significant funding to accomplish this. New York State's Clean Air, Clean Water, Green Jobs Environmental Bond Act, approved by voters, commits \$4.2 billion over the next five years to environmental projects and environmental

justice issues. We urge that those dollars integrate climate and toxics goals, including addressing lead in paint and pipes, weatherization projects that are free of toxic materials like vinyl, and more funds being allocated to lead abatement.

In addition, we urge you to create a **Green Affordable Pre-Electrification (GAP) Fund** to provide grant funding for low- to moderate-income homeowners, renters, building owners, and public housing authorities to address deferred maintenance and environmental health hazards indoors.

The GAP Fund will direct funding to help households address deferred maintenance issues and eliminate legacy environmental hazards like lead, mold, old roofs, and poor ventilation.

Policy Priorities With Fiscal Impact Recommendations

Lead Free Kids NY is committed to advocating for policies based on credible scientific information to get lead out of New York State, and particularly for those disadvantaged in our current system: Black, Indigenous and other people of color, and low-income people. Toxic chemicals and heavy metals have irreversible yet completely avoidable and disproportionate health implications on communities made vulnerable by the cumulative burdens of environmental injustices.

Lead Paint Right to Know Act

S.2353 (Kavanagh) / A.4820 (Rivera JD)

Passed Assembly in 2023

This bill requires testing of homes built before 1978 for lead paint before they are sold, and requires the results of that testing to be shared with the buyer. This bill creates a mechanism to ensure that a buyer knows the status of painted surfaces in the residence they are purchasing, either through testing completed by the seller, or with a set-aside of funds to conduct the tests themselves. It also requires owners to inform any tenants about the results of the lead paint test. Currently, federal law only requires sellers to disclose what they know about lead in paint, which creates a disincentive to investigate. As a matter of social equality and public health, this bill confronts one of the primary avenues for lead exposure without placing an unfair financial burden on any of the parties involved in the sale or purchase of a property.

NYS Renovation, Repair and Painting Act

S.2191 (Bailey) / A.434 (Bronson)

This legislation directs New York State to assume the duty to administer federal Renovation, Repair and Painting (RRP) rules, including to conduct training, certification, and enforcement of RRP. It requires the use of empirically based dust wipe tests to assure proper cleaning of hazardous dust once work is completed. In so doing, New York State would join 14 other states to co-enforce federal RRP rules, rather than defaulting responsibility to the federal Environmental Protection Agency, which has too few inspectors to efficiently cover the region. A detailed report from the Community Foundation for Greater Buffalo estimates this bill would protect roughly 140,000 children under the age of 6 each year from lead exposure in 483,000 homes undergoing RRP work. Assuming this duty comes with funding - the EPA now

collects fees for certifications that NYS would receive instead. This would bring at least \$500,000 a year to the State. The US EPA also offers grants to states that enforce this program, with the average grant being \$200,000.

Landlord Insurance for Lead-Based Paint

S.88 (Ryan) / A.1687 (Rivera JD)

Passed Assembly in 2023

When a child is lead poisoned in a rental unit, their families are very often unable to recoup the cost of lead poisoning due to “lead exclusion” clauses in owners’ insurance policies. As a result, the financial burdens fall onto the victim, including relocation costs, medical bills, and care for the lead poisoned person. This bill closes the loophole created in the late 1990s by ensuring that landlord insurance policies must cover the costs of tenant lead poisonings due to the conditions of the residence. When landlords and their insurers have financial responsibility, it increases the financial incentive to ensure buildings are renovated to remove lead paint, or at a minimum, maintained to prevent peeling or chipping paint.

The issue of lead poisoning from homes with lead-based paint is too prevalent. When a child is poisoned, there is little recourse for families who now face financial and other hardships, as documented by the *New York Times*.⁴ We do not want communities that are already facing environmental injustices to be overburdened more. This bill would provide necessary support for families.

In addition to the above, Lead Free Kids seeks the Governor’s support for pressing the Department of Health to fill its five (5) long-open vacancies on NYS Lead Poisoning Prevention Advisory Council.⁵ The committee has met infrequently and has few participants of color. The five current vacancies on the 22-member council means more than a quarter of the positions are empty. As members of Lead-Free Kids NY, we can commit to sharing recommendations on who should fill those positions.

The Economic and Social Impact of Lead Poisoning in New York State

New York State has the horrific distinction of being the state with the highest number of children with elevated blood lead levels each year.⁶ We also have the most children in the US impacted by lead exposure: 3.9% of NYS children have blood lead levels of >5 ug/dL.⁷ The causes of this crisis are clear: older housing stock that has not been fully renovated and abated, absence of documentation of locations where lead is present, and underfunded lead poisoning prevention programs.

It is essential that New York make strategic investments in lead poisoning prevention to lower the financial and human costs of lead poisoning on New York’s children. Based on financial analyses done by several groups and scientists, data showed that stronger dust-lead hazard standards would be net beneficial, based on the societal costs of lead poisoning.⁸ As a child’s blood lead level increases, so does the cost of their medical bills and associated costs. Since the effects of lead poisoning are lifelong and often irreversible, intervention and proactive efforts are necessary.

⁴ <https://www.nytimes.com/2022/03/29/us/lead-poisoning-insurance-landlords.html?auth=login-google1tap&login=google1tap>

⁵ https://www.health.ny.gov/environmental/lead/advisory_council/membership.htm

⁶ <https://www.cdc.gov/nceh/lead/docs/cbls-national-data-table-508.pdf>

⁷ https://www.nysenate.gov/calendar/public_hearings/november-30-2021/joint-public-hearing-discuss-childhood-lead-poisoning

⁸ <https://cdn.ca9.uscourts.gov/datastore/opinions/2021/05/14/19-71930.pdf>

While the price tag for action looks high, a 2019 study by Columbia Law School and the Columbia University Mailman School of Public Health calculated that the annual societal costs of lead poisoning (blood lead levels of >5 ug/dL) in children aged one to two years old will accrue each year, including costs for medical intervention, treatment of lead-related ADHD, parental work productivity loss to care for an ill child, special education services, and potential loss of lifetime earnings of the lead poisoned child, costing an estimated \$904 million, a burden of up to \$241 million on taxpayers.⁹

Taking a broader view, an 2008 Economic Policy Institute study found that¹⁰:

- Each dollar invested in lead paint hazard control would result in a return of \$17–\$221 returned in health benefits, increased IQ, higher lifetime earnings, tax revenue, reduced spending on special education, and reduced criminal activity, or a net savings of \$181–269 billion.
- Each IQ point lost equates to \$17,815 lost in lifetime earnings (in 2006 USD). Using a computed total IQ loss of 9.3–13.1 million points, net lifetime earnings loss is calculated to fall between \$165 and \$233 billion for all children under or equal to 6 years of age in the study’s 2006 cohort. The estimate takes into account the indirect effects of lower educational achievement and participation in the workforce as well as the direct effect of lowered hourly wages.
- Effects from lessened working capabilities correlate to lower wages, resulting in the potential tax revenue also decreasing. New York State alone is estimated to lose nearly \$78 million each year due to lead poisoning. Direct costs of lead-linked crime was \$1.8 billion per year including direct victim costs, costs related to the criminal justice system through legal proceedings and incarceration, and lost earnings to both criminal and victim. Indirect costs from criminal action including physical and physiological care are estimated at \$11.6 billion.

According to the office of Attorney General Letitia James, 43% of New York homes have been found with residential lead paint.¹¹ Children, and especially those under the age of 6, are particularly vulnerable to the harmful effects of lead because they are more likely to ingest it and are still in a process of physical and mental development. Experts from the American Academy of Pediatrics, the Centers for Disease Control and Prevention, and the World Health Organization agree that there is no known safe level of lead for children.

As more children and families were staying at home, the exposure and rates of lead poisoning spiked.¹² While bringing the state back from the brink of COVID fiscal disaster, New York utilized increased federal and state revenues to make bold investments in protecting the environment, including the presentation of the state’s \$4.2B Clean Water, Clean Air and Green Jobs Environmental Bond Act before voters in November 2022.

We know you are deeply concerned about the health and safety of New York’s children, and demonstrated this again with the new Public Health Law 1377. For it and existing programs to be impactful, more funding is needed, as well as adoption of the policies discussed above. The Lead Free Kids NY Coalition appreciates the ongoing support the Governor has shown for solving the lead

⁹ https://web.law.columbia.edu/sites/default/files/microsites/clinics/health-advocacy/new_york_cba_1_1.pdf.

¹⁰ <https://ehp.niehs.nih.gov/doi/epdf/10.1289/ehp.0800408>

¹¹ <https://ag.ny.gov/press-release/2021/attorney-general-james-takes-action-protect-children-and-families-lead-poisoning#:~:text=In%201960%2C%20New%20York%20City,higher%20than%20these%20bans%20allow>

¹² <https://www.nyc.gov/assets/doh/downloads/pdf/lead/lead-quarterly-report-2020.pdf>

poisoning crisis in our state, and we look forward to working with you toward the day that we proudly can say that not one more child will be poisoned by the legacy of paint and pipes.

Please do not hesitate to contact us with any questions or for further details on the initiatives described here.

Sincerely,

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