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Res. No. 865

Resolution calling upon the United States Senate to reject passage of S. 131, the *Clear Skies Act of 2005*, which undermines both the substance and spirit of the Clean Air Act, one of the nation's landmark environmental laws.

By Council Members Gennaro, Barron, Brewer, Clarke, Fidler, Foster, Gerson, James, Koppell, Nelson, Perkins, Recchia Jr., Reyna, Sanders Jr., Stewart, Weprin and Quinn

Whereas, The Clean Air Act of 1970, amended in 1977 and 1990, one of the nation's landmark environmental laws, limits air emissions from stationary and mobile sources to ensure that all Americans have the same basic health and environmental protections, and allows individual states to have stronger pollution controls; and

Whereas, The Clear Skies Act changes existing protections of the Clean Air Act that enable state and local governments to limit the amount of power plant and industrial pollution that affects the health and environment of their citizens; and

Whereas, The changes to the Clean Air Act include legislation that would: repeal the Clean Air Act requirement that every coal-fired power plant in the nation do the maximum to lower toxic mercury pollution, repeal for two decades the Clean Air Act program to protect national park air quality from smokestack pollution, amend the New Source Review to exclude power plants from the long-standing Clean Air Act requirement to modernize pollution controls when expanding operations and increasing pollution in surrounding communities and neighborhoods, would postpone by years the Clean Air Act deadlines to restore healthy air for major American cities such as New York City and pushing back these deadlines has real consequences that are reflected in asthma attacks in children and other lung disease, would curtail the rights of downwind states and cities to protect their citizens from harmful smokestack pollution produced outside their borders, allows all industrial sources that discharge pollution “through a stack or duct” to take advantage of these new Clean Air Act loopholes and provides additional exemptions from requirements for industrial boilers to control a suite of toxic pollutants such as arsenic and lead, and, finally, the *Clear Skies Act of 2005* ignores heat-trapping greenhouse gases; and

Whereas, The Congressional Research Service has found that these changes “alter, delete or hold in abeyance for some time” existing protections of the Clean Air Act and “would diminish the suite of options states currently have to achieve compliance with air quality standards”; and

Whereas, Refineries and manufacturing plants, may emit a number of hazardous air pollutants, including particulate matter (PM), nitrogen oxides, sulfur dioxides, and mercury, which can cause serious adverse health effects, particularly to sensitive subpopulations such as children, the elderly, and those with already compromised health; and

Whereas Fossil fuel-fired utilities are the largest source of human-generated mercury emissions in the United States, and coal-burning power plants account for about 40% of the mercury emissions, or about 48 tons per year, by far the nation’s largest single source of unregulated emissions of mercury; and

Whereas, The United States Environmental Protection Agency (EPA), the United States Department of Health and Human Services and the United States Food and Drug Administration are so concerned with the high levels of

mercury contained in some fish and shellfish that they jointly issued in March 2004 a federal advisory for mercury in fish noting that consumption “may harm an unborn baby or young child’s developing nervous system”; and

Whereas, According to a news article which appeared in the March 16, 2004 issue of The New York Times, the “Centers for Disease Control and Prevention has estimated that one in eight women have mercury concentration in their bodies that exceeds safety levels”; and

Whereas, According to the EPA “[c]hildren who are exposed to low concentrations of methylmercury prenatally are at increased risk of poor performance on neurobehavioral tasks, such as those measuring attention, fine motor function, language skills, visual-spatial abilities, and verbal memory”; and

Whereas, The Clear Skies Act will allow mercury pollution levels well above what is required by the Clean Air Act and, by repealing the requirement that each power plant to the maximum to lower toxic mercury pollution, and by instead allowing very weak emissions caps, long compliance deadlines and “paper” credits for past reductions, will eliminate the human health benefits of state mercury pollution control programs now in effect; and

Whereas, In light of the alarming health threats posed by mercury, it is incumbent upon us as public servants to address the root of the problem by requiring power plants to reduce their mercury emissions using the best control technologies available; and

Whereas, According to the EPA, the health effects associated with particulate matter (PM) include premature death, aggravated asthma, chronic bronchitis, decreased lung function and acute respiratory symptoms; and

Whereas, It is also believed that the largest proportion of deaths caused by particulate matter (PM) is related to cardiovascular illness; and

Whereas, Nitrogen oxides combine with volatile organic compounds in the air, such as hydrocarbons, to form ground-level ozone, or smog, in the presence of heat and sunlight; and

Whereas, Ground-level ozone may cause a variety of respiratory problems, including aggravated asthma, decreased lung capacity and increased susceptibility to respiratory illnesses, and it is damaging to lung tissue in high concentrations and during long-

term exposure; and

Whereas, The major health concerns associated with exposure to high concentrations of sulfur dioxide include effects on breathing, respiratory illness, alterations in pulmonary defenses, and aggravation of existing cardiovascular disease; and

Whereas, Sulfur dioxide, which converts in the atmosphere to sulfate particles, also contributes to harmful particulate pollution in New York City, lower visibility and acid deposition, the latter of which has been of great concern in New York State; and

Whereas, The EPA has officially designated the New York Metropolitan Area as a nonattainment area for PM 2.5 and the 1-hour and 8-hour ozone standards; and

Whereas, The EPA has declared that 30 counties in New York State fail to meet the federal health-based air quality standard for ozone (“smog”) including the entire New York metropolitan area, Albany and Rochester, and that nearly ninety-percent of New York residents live in one of these counties; and

Whereas, Exposure to ozone can have serious effects on respiratory health and numerous studies have linked ozone with school absences resulting from sore throats, coughs, asthma attacks, decreased lung function in asthmatics, long-term lung damage in children and premature death; and

Whereas, In the five boroughs of New York City alone, more than 1 million people have been diagnosed with asthma, including 300,000 children; and

Whereas, The EPA recently found that the following ten counties in New York State are out of compliance with the federal health-based standard for particulate pollution: Bronx, Kings, Nassau, New York, Orange, Queens, Richmond, Rockland, Suffolk and Westchester; and

Whereas, A vast body of epidemiological and toxicological evidence strongly links ambient particulate pollution exposure to an array of adverse health effects and premature mortality including heart attacks, asthma attacks, and hospital admissions; and

Whereas, Power plant smokestacks across the eastern half of the nation discharge staggering amounts of sulfur dioxide and oxides of nitrogen pollution that is carried hundreds of miles downwind where it forms harmful ozone and particulate pollution; and

Whereas, New York City suffers from some of the highest asthma rates in the country; and

Whereas, According to the New York City Department of Health and Mental Hygiene, in 2000, children in New York City “were **almost twice as likely** to be hospitalized for asthma as children in the United States as a whole,” with the Bronx, in recent years, being the borough with “the overall highest rates of asthma hospitalizations, deaths and prevalence among children as well as adults”; and

Whereas, The New York Times reported in 2003 that a study found that one out of every four children in central Harlem has asthma -- a rate that is far greater than experts had previously expected and that is “one of the highest rates ever documented for an American neighborhood”; and

Whereas, The Los Angeles Times reported in 2004 that additional studies have concluded that “routine exposure to dirty air during childhood actually harms lung development, leading to a permanently reduced ability to breathe” and that “[e]nvironmental pollutants in New York City - including combustion byproducts . . . - may increase the rate of low birth weight babies and babies with smaller heads, both [of] which may be linked to lower I.Q. and poorer school performance”; and

Whereas, The Clean Air Act in its current form, and with adequate implementation and enforcement, contains effective requirements and mechanisms for reducing emissions of nitrogen oxides and sulfur dioxides to levels protective of public health; and

Whereas, Senator James M. Inhofe’s “Clear Skies Act” proposal will undermine both the substance and spirit of the Clean Air Act in several significant ways; and

Whereas The Clear Skies Act delays for too long, until 2016, the date for achieving compliance with pollutant caps for nitrogen oxides and sulfur dioxide, and fails to protect human health from toxic mercury pollution by eliminating the requirement that each power plant control mercury pollution, inappropriately using a trading program for a toxic substance, delaying reductions under the trading program for more than a decade and exempting numerous power plants from any mercury pollution reduction requirement, even the flawed trading program; now, therefore, be it

Resolved, The Council of the City of New York calls upon the United States Senate to reject S. 131, the *Clear Skies Act of 2005*, which undermines both the substance and spirit of the Clean Air Act, one of the nation’s most important environmental laws.

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