Testimony of Patrick McClellan, Director of Policy, New York League of Conservation Voters
Before the Joint Legislative Public Hearing on the 2024 Executive Budget Environmental Conservation Proposal
February 7, 2024

Thank you Chairs Krueger and Weinstein and to all of the members of the Committees on Finance, Ways and Means, and Environmental Conservation for the opportunity to testify today. My name is Patrick McClellan and I am the policy director for the New York League of Conservation Voters (NYLCV), a statewide environmental advocacy organization. NYLCV believes that this year's Executive Budget includes several important proposals that will help the State achieve the goals of the Climate Leadership and Community Protection Act (CLCPA), but we also believe that more can be done. Furthermore, we are deeply concerned by proposed cuts to clean water infrastructure funding and the Environmental Protection Fund (EPF).

FUNDING

The Executive Budget proposes reducing funding for clean water infrastructure from $500 million - the appropriation for clean water infrastructure in each of the last five State budgets - to $250 million. This is an unacceptable cut that NYLCV strongly opposes. The unmet need for clean water infrastructure around the state is in the tens of billions of dollars and inflation has made clean water projects significantly more expensive for municipal governments over the past few years. NYLCV supports increasing clean water infrastructure funding in this year's budget to $600 million as part of a new five-year commitment of at least $4 billion for clean water.

The Executive Budget includes $400 million for the EPF, which NYLCV supports. However, the Executive Budget proposes shifting up to $25 million from the EPF to operational expenses at the Department of Environmental Conservation (DEC). This would effectively cut the EPF to $375 million, the effect of which can be seen in the proposed cuts to specific programs funded by the EPF in every account. Using capital funds from the EPF for operational expenses is inappropriate and reduces the EPF's effectiveness. The Legislature has rejected every prior attempt to cut the EPF or shift its funds from capital to operations and we urge you to do so again this year.

The Executive Budget includes $200 million in capital funding for the Department of Parks, Recreation, and Historic Preservation and $100 million in capital funding for New York State Park Centennial projects. We support the funding for centennial projects and also support increased the capital budget allocation for the Parks Department to $250 million.

There are several other appropriations that were not included in the Executive Budget that NYLCV would like to see in the final budget.

First, we support a sales tax exemption on the sale of battery energy storage systems.[1] These battery systems are critical to meeting our climate goals because, by allowing for the storage of distributed solar energy, they can be used at times of peak electric demand, uneven power generation, and power outages. Many New Yorkers who frequently lose power during storms have invested in diesel-fueled backup generators, which are exempt from sales tax. Making it easier for New Yorkers to have reliable backup power is a worthy public policy goal, but there is no reason why New York should encourage the sale of diesel-fueled generators that have large carbon footprints and noxious emission profiles while requiring full sales tax for zero-emission battery storage systems that can do the same job with no negative externalities and have beneficial uses at times other than during power outages.

Second, we support the appropriation of $40 million for a thermal energy network at SUNY Purchase and $50 million for a thermal energy network at the University at Buffalo, SUNY. Forty million dollars would allow SUNY Purchase to engineer and construct an emissions-free heating and cooling thermal network on their campus. Fifty million dollars would allow the University at Buffalo to begin construction of an emissions-free heating and cooling network as outlined in their Clean Energy Master Plan. This is in line with the State's ongoing commitment, as embodied in 2022's Utility Thermal Energy Jobs Act and the legislation in last year's budget requiring decarbonization action plans that prioritize thermal energy networks for 15 of the highest-emitting State-owned facilities, to thermal energy networks as a way of pursuing building decarbonization at scale.

Third, we support including legislation to exempt renewable energy project payments in lieu of taxes (PILOTs) from the tax cap calculation, appropriate funds to support outreach, education, and assistance in communities hosting renewable energy projects, and create a process for community solar projects to appeal unreasonable local siting laws to the Office of Renewable Energy Siting (ORES).[2] New York is, commendably, increasing the rate at which we build new small- and medium-sized solar farms. However, we are still well short of what is required by the CLCPA. These changes would increase the development of community solar and benefit local communities that host renewable energy projects.

Parks capital

ARTICLE VII

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[1] There is current legislation to create such an exemption - S. 4547 (Parker)/A. 4945 (Paulin).

[2] There is current legislation to accomplish these goals - A. 3579-A (Fahy)/S. 8392 (Cooney).

NYLCV strongly urges the Legislature to include a Clean Fuel Standard (CFS) in this year's budget.[3] Transportation is one of the largest sources of greenhouse gas emissions in New York State, and a CFS that reduces the carbon intensity of transportation fuels by 30% over the next decade and 100% by 2050 is one of the most effective policies that we could adopt to reduce those emissions. As you know, New York's cap-and-invest program is scheduled to begin next year. Every state that has a cap-and-invest program also has a CFS because the two programs are complimentary. In California, for instance, the CFS has reduced transportation emissions beyond what the cap-and-invest program would do on its own while also reducing allowance costs under the cap-and-invest program, which means lower costs for consumers. California's CFS, coupled with allowing for the direct sales of zero-emission vehicles, is one of the primary reasons why California has ten times as many zero-emission vehicles on the road as New York. The CFS would also specifically dedicate revenues to transportation electrification in disadvantaged communities.

A cap-and-invest program alone will not reduce the carbon intensity of the fuels used in today's vehicles, reduce diesel pollution in communities near freight hubs or busy highways, accelerate the electrification of our transportation system as quickly, or bring sustainable aviation fuel to our airports. Implementing a cap-and-invest program without a CFS risks creating higher-than-necessary allowance costs that will drive up the ratepayer and consumer costs of cap-and-invest. But with the combination of the two policies, New York can rapidly cut transportation emissions, provide cleaner air, especially in the most polluted communities, and keep costs lower for consumers. We urge you to include a Clean Fuel Standard in this year's budget.

NYLCV supports Part I of the TED Article VII legislation allowing New York City to lower its speed limit to 20 miles per hour, or 10 miles per hour in certain slow zones. Fear of being hit by a car is, for entirely understandable reasons to anyone who has walked around New York City recently, the number one reason why New Yorkers who are capable of walking or biking to their destination choose to drive or take a cab instead. Reducing transportation emissions through mode shift to low- and zero-carbon modes of transportation requires making our streets safer for people who are not behind the wheel of a car.

NYLCV strongly supports Part O of the TED Article VII legislation, the RAPID Act. This legislation would shift the Office of Renewable Energy Siting (ORES) from the Department of State (DOS) to the Department of Public Service (DPS) and add permitting for electric transmission lines to ORES' powers and responsibilities. The legislation would further require ORES to develop uniform standards for the siting and construction of transmission within 18 months, in consultation with DPS, NYSERDA, DEC, and the Department of Agriculture & Markets and create a Farmland Protection Working Group. The CLCPA's goals of 70% renewable energy by 2030 and 100% clean energy by 2040 are not achievable at the current pace that we are building new transmission lines to get renewable energy from where it is being built to where it is needed on the grid. Adding transmission to ORES' portfolio is a common sense way to cut red tape that is slowing down new transmission while still making sure that a

[3] There is current legislation to create a CFS - A. 964-A (Woerner)/S. 1292 (Parker).

careful, thorough permitting process takes place. Moving ORES to DPS will also make the office more effective by allowing ORES to draw on the permitting expertise of DPS staff.

NYLCV strongly supports Part P of the TED Article VII legislation, the Affordable Gas Transition Act. This legislation is a comprehensive proposal, very similar to the NY HEAT Act, to align the Public Service Commission's (PSC) authority over gas utilities with the CLCPA. This includes requiring gas utilities to plan for an orderly transition away from natural gas, halting the expansion of the gas system beyond its current parameters after December 31, 2025, granting the PSC the authority to require gas utilities to align their capital plans with the CLCPA, repealing the requirement that new gas customers who are within 100 feet of an existing gas pipeline have the costs of their connection borne by the utility, and explicitly adding climate justice and emission reductions in line with the CLCPA to the PSC's enumerated powers and responsibilities.

What this legislation does not do is cut off natural gas customers, force homeowners to adopt new technologies against their will, endanger the reliability of gas customers' heat and hot water, or any of the apocalyptic scenarios painted by some irresponsible voices who would have you believe that continuing to burn natural gas indefinitely into the future is not fundamentally at odds with our commitments to climate justice. I will note that the major point of departure between the Affordable Gas Transition Act and the NY HEAT Act is that the NY HEAT Act includes a provision requiring the PSC to develop a plan so that no ratepayer's energy burden is greater than 6% of their household income. The Executive Budget does include a $200 million reappropriation to NYSERDA's capital budget for the Empower Plus program, which aims to limit bill increases for low-income ratepayers who receive aid for energy efficiency and clean heat retrofits. NYLCV supports the Empower Plus program but also believes that the affordability provisions of NY HEAT are important and should be included in the final budget.

NYLCV supports Part S of the TED Article VII legislation, which would increase the share of project costs that can be paid for with a Climate Smart Communities grant from 50% to 80% for disadvantaged communities and communities that are determined by DEC to have financial hardship. This would make the Climate Smart Communities program, which NYLCV strongly supports as an effective means for municipal governments around the state to decarbonize, more accessible for communities with financial hardship.

NYLCV supports Part GG of the TED Article VII legislation, which would ban lithium-ion batteries for e-bikes and e-scooters that do not meet battery safety standards. E-bikes and e-scooters are incredibly powerful tools for reducing reliance on cars, thereby improving air quality and reducing greenhouse gas emissions. However, there are bad actors in this field who manufacture batteries that pose significant fire risks or refurbish older batteries in such a way that they develop a significant fire risk. These unsafe batteries have already taken lives in New York and they threaten to hold back an entire industry that can be a powerful part of the solution to climate change. Batteries that do not meet widely accepted safety standards should be banned from New York.

E-bike and e-scooter batteries can also be made safer by adopting a product stewardship system for the safe recycling or disposal of these batteries at the expense of the battery manufacturers. NYLCV supports including legislation to create such a product stewardship system for e-bike and e-scooter batteries in this year's budget. NYLCV also strongly supports creating a purchase rebate for e-bikes and e-scooters, provided that they meet the battery safety standards mentioned above, so that more New Yorkers can access these zero-carbon modes of transportation.[4]

NYLCV urges you to include legislation in the final budget to streamline the state land acquisition process. Currently, New York State often undertakes its own lengthy, painstaking review of land titles when acquiring property, significantly slowing down the land acquisition process even as the State pursues a statutory goal of conserving 30% of the state's land and waters by 2030. This is not an academic question - there are currently more than 100,000 aces valued at more than $150 million pending transfer to the state. The land acquisition process should be reformed by expressly authorizing the Real Property Bureau in the Office of the Attorney General to use private title insurance, as virtually all private real estate transactions do, when taking title to new land.

Without commenting on any of the specific housing proposals that were included in the Executive Budget, NYLCV reiterates our support for building far more dense, walkable, transit-oriented housing in New York State as part of a holistic plan to reduce the significant greenhouse gas emissions and air pollution associated with sprawl development patterns.

[4] There is current legislation to create a product stewardship program for e-bike and e-scooter batteries and current legislation to create a purchase rebate for e-bikes and e-scooters - S. 643-D (Kavanagh)/A. 7339-B (Glick) and S. 314 (Salazar)/A. 275 (Carroll), respectively.