

**Testimony of The Nature Conservancy in New York Before the Joint Legislative Hearing
on the Environmental Conservation Portions of the Executive Proposed Budget for
New York State Fiscal Year 2024-25
February 7, 2024**

My name is Jessica Ottney Mahar, and I am the New York Policy and Strategy Director for The Nature Conservancy. On behalf of our tens of thousands New York supporters from every region of the state, thank you Chairs Krueger, Weinstein, Harckham and Glick, as well as other members who have joined the hearing today, for the opportunity to testify regarding the Executive Budget Proposal for State Fiscal Year 2024-25 (FY24-25).

The Nature Conservancy in New York is a division of the world's largest conservation organization. Our mission is to conserve the lands and waters on which all life depends. We work in all 50 states as well as in 79 countries and territories to protect nature for the benefit of people today and future generations. We have a collaborative, science-driven approach to environmental problem-solving. We are engaged in scientific research and innovating new tools and approaches to address the most important environmental challenges: tackling climate change, protecting land and water, providing food and water sustainably and building healthy cities. We have our feet on the ground as land stewards for the 136 preserves we own in New York – almost 200,000 acres -- and we collaborate with all levels of governments, community groups, industry, and other stakeholders locally in New York and around the world to secure a more sustainable future.

I want to start by saying thank you to the Senate and Assembly for continuing to position New York as a national leader on conservation. New York's environmental legacy is strong, as the birthplace of the modern environmental movement, and currently as we work to implement a historic \$4.2 billion Clean Water, Clean Air and Green Jobs Environmental Bond Act, the Climate Leadership and Community Protection Act, and the many critical environmental programs that ensure New Yorkers have access to the clean water, clean air and other natural resources they depend on. Your dedication and leadership on environmental protection will help ensure that future generations can live safe, healthy and prosperous lives in New York.

I also want to thank the Senate and Assembly for your dedication to environmental funding. For decades, with bi-partisan support, we have grown programs that have enhanced New Yorkers' quality of life in every county of our state, including every borough of New York City. Environmental funding programs are not a luxury line in our state budget, they are essential to economic and human well-being in our state. We cannot build the robust, modern, affordable communities of tomorrow if we are living atop the infrastructure of yesterday and our neighborhoods are devoid of nature and unlivable. The Senate and Assembly have remained steadfast champions for robust annual appropriations for the Environmental Protection Fund (EPF), the Clean Water Infrastructure Improvement Act (CWIIA), and capital funding for our State Parks system and Department of Environmental Conservation. These programs, in addition to the Bond Act, are essential as we work towards meeting the massive needs that exist across New York in the communities that you represent. Thank you for your dedication to continuing these investments in New York's environment.

The Executive Budget Proposal for FY24-25 reduces funding for some of these proven environmental programs and threatens the integrity of the EPF. We ask you to reject these proposals.

Environmental Protection Fund (EPF)

Since 1993, when it was created with overwhelming and bi-partisan support from New York's elected officials, the EPF has provided funding for programs that deliver important benefits to residents of communities in every county. The EPF has conserved family farms and forests, supported zoos, botanical gardens and aquaria, created municipal parks, advanced environmental justice, prevented pollution, protected clean drinking water, eradicated invasive species and more. EPF programs create new access to nature for New Yorkers, improve quality of life in communities, and support approximately 350,000 jobs across New York in industries including construction, agriculture, tourism, forestry, fishing and more. EPF supported industries add \$40 billion to the state's economy every year, and for every \$1 invested by the state in land and water protection through the EPF, \$7 in economic benefits are returned to the state. Simply put, the EPF is one of the state's smartest investments.¹

The Executive Budget Proposal reduces funding for EPF programs and improperly diverts \$25 million from the fund to offload the costs of state agency staff. This proposal to raid the EPF must be rejected and the EPF should be appropriated at least \$400 million for program purposes.

The \$25 million reduction proposed would reduce funding for impactful programs with strong demand and need, including zoos, botanical gardens and aquaria; land conservation; farmland protection; non-point source water pollution and invasive species prevention; water quality improvement; waterfront revitalization; municipal parks; municipal recycling, environmental justice, and environmental health. It is not an exaggeration to say that these cuts will have an impact on almost every community in the state.

In addition to reducing funding for valuable programs, this inappropriate allocation of funding away from important programs will threaten the integrity of the EPF. This is not the first time an administration has wrongfully sought to undermine the EPF by shifting funding to staffing – over the years there has been a consistent effort by administrations to dilute the EPF with similar proposals, and *each time the Legislature has wisely rejected offloading agency staff costs into the EPF*. Once the precedent is set and the EPF is used to fund agency staff, the entire Fund could erode. Unless the Legislature stands firm, the door will be open and it is inevitable that the amount of money syphoned from programs and projects in communities and directed to paying for offloaded general fund costs will grow.

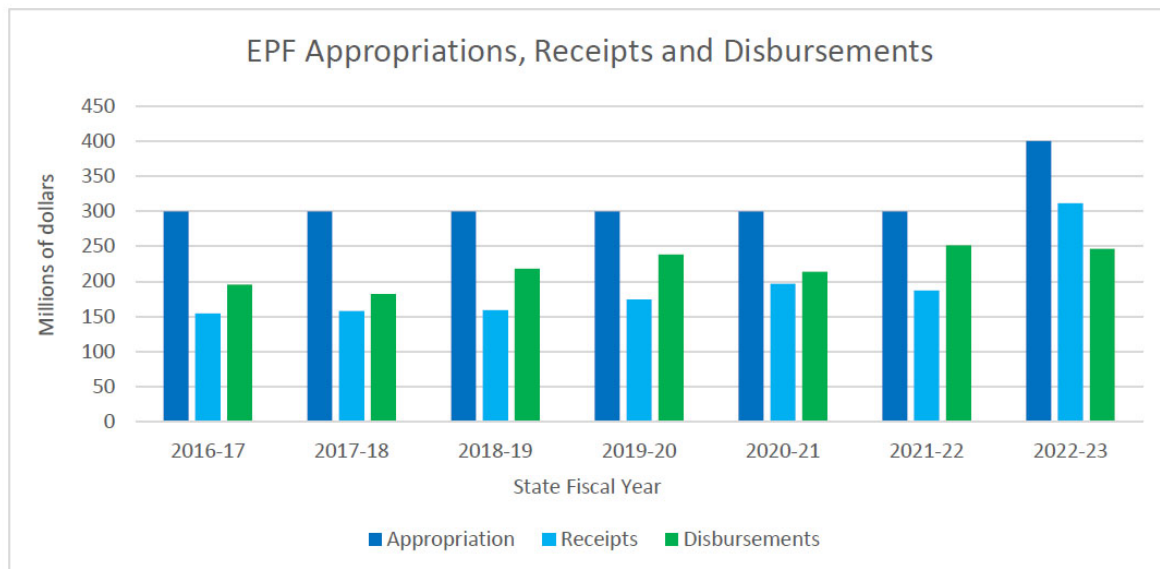
We have seen this type of program erosion and offloading happen already at the local level, which serves as a cautionary tale. Suffolk County has a Drinking Water Protection Fund. There is a dedicated program within the fund that is intended to protect water quality through funding projects such as habitat and shellfish restoration and septic system replacements. In the 1990s, a proposal was made to divert money away from the intended program projects and instead pay for 16-19 full-time equivalent staff (FTE). Despite opposition from environmental advocates at the time, the proposal was approved. Currently, approximately 90 FTEs are paid for out of this fund. In fact, despite the original intent most of the fund now goes to paying for staff. Some of the work these staff do is related to water quality improvement, but most of it is not. The fund

¹ More information about the EPF online at www.cleanwaterandjobs.org/epf

generates approximately \$9-\$10 million annually and approximately \$8-\$9 million is used for staff costs, leaving just \$1-\$2 million for the program's original purpose. This kind of program erosion would be devastating if we let it happen to the EPF.

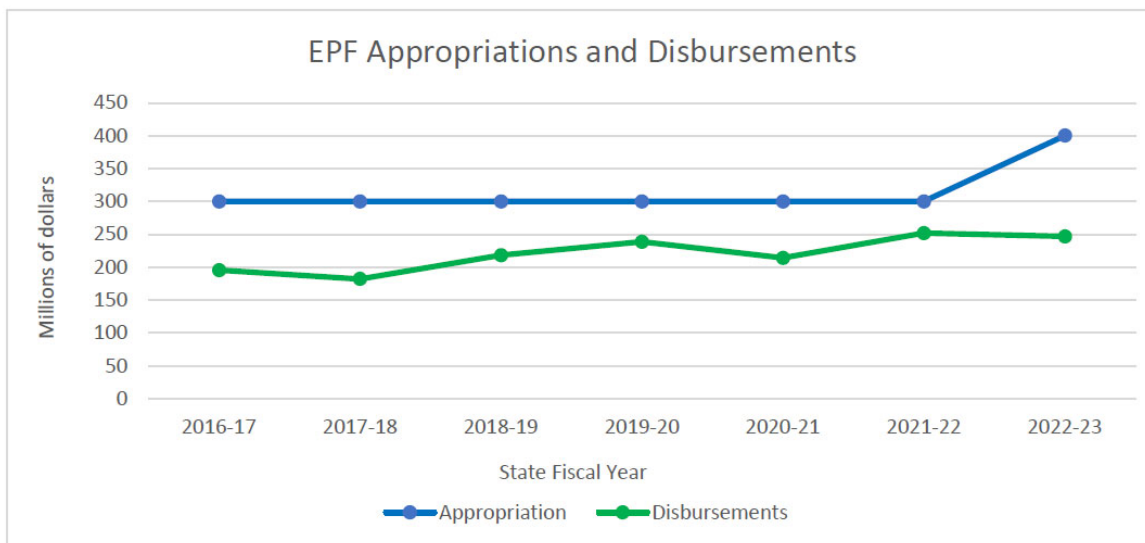
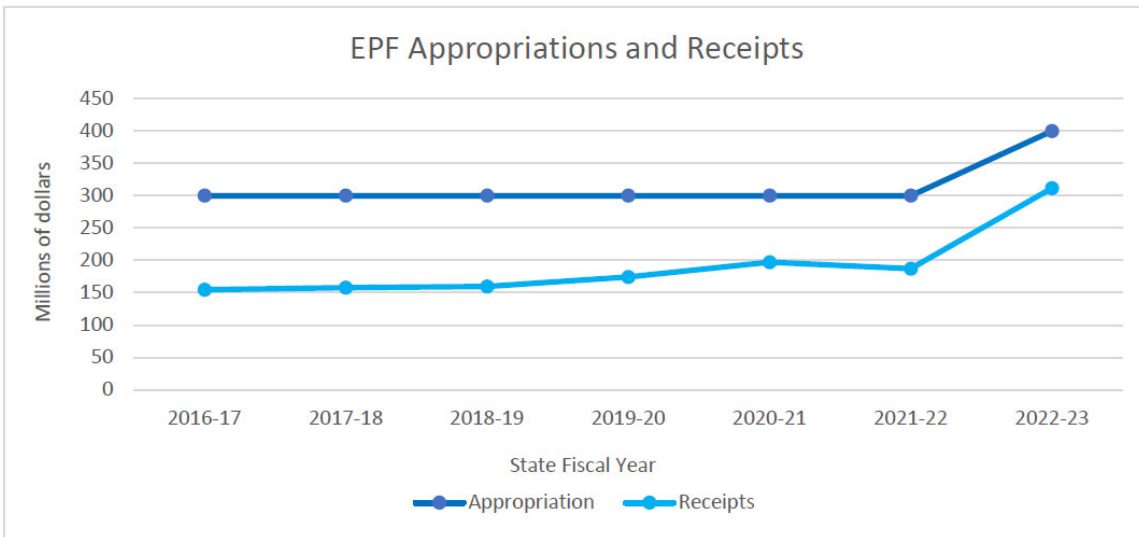
Adding insult to injury, in addition to setting a terrible precedent, the proposed EPF raid will seemingly not help the program run any better. The Executive Budget proposes 0 new FTEs at the Department of Environmental Conservation (DEC). The main argument being made in support of the diversion of funding from important programs is that the money will be used to pay for staff that will administer the Fund, implying that new staff will be added to make it run more efficiently and effectively. The numbers do not support that. In reality, the raid is intended to preserve the status quo by using the EPF as a backstop for general fund gaps, and that would be a tragedy for environmental health and community quality of life across New York.

The status quo is also something that requires attention. Currently, the EPF is neither receiving nor disbursing funds at a level sufficient to meet demand or that is even with the appropriation. Below is a chart documenting EPF appropriations, receipts and disbursements since SFY2016-17, when the EPF appropriation was first increased to \$300 million. As you can see from the chart, disbursements and receipts have been increasing slowly, but have never matched the appropriation. We need the state to spend the entire appropriated amount of environmental funding to ensure communities receive the full benefits of this program.



Looking at appropriations alongside receipts and disbursements individually shows another disturbing trend. As you can see in the line chart below, receipts (money deposited into the EPF) lag behind the appropriation. Although the gap has narrowed a bit and receipts are on the same upward trajectory as the appropriation, which increased to \$400 million in SFY2022-23, this remains a problem. On average, there is \$100-\$150 million less in receipts than in the budgeted appropriation. (The current fiscal year is not included in any of these charts because it is not complete and would skew the data.) The state has not been depositing the full amount appropriated into the EPF, which has been a consistent trend throughout the life of the EPF. Each year the agencies that administer the EPF produce a spending plan and manage disbursements based on that plan, which aims to move less than the annually appropriated amount, despite the need to both pay for contracts awarded for projects in prior fiscal years, and

new funding awards made in the current fiscal year. This means the EPF can never reach its full potential, and important projects are delayed.



Disbursements are also consistently lower than appropriations. The trend in the chart above shows that not only is there a spending lag, but that the trend in spending is moving in the wrong direction. Although the appropriation has increased, disbursements have not, creating only an illusion of greater environmental investment. The EPF was designed to support multi-year projects. It takes time to grant out funding, finalize contracts, and complete work. So, there may be funds that are awarded in one fiscal year and disbursed in a later year. Given the EPF's 30-year track record, the administration of the program should be designed to accommodate a project timeline of a sufficient size to make new awards and pay for existing contracts from prior years at a level that would bring disbursements more in line with appropriations. Furthermore, given that throughout the history of the EPF both receipts and disbursements have been lower than the appropriation, and nearly \$500 million was swept from the EPF over the years with an "IOU" left in place of those funds, the financial plan should be aiming to deposit and spend more

than the annual appropriation. We have catching up to do, and community needs across the state are great.

For FY24-25, the financial plan released with the Executive Budget proposal projects the EPF will receive \$307 million and disburse \$380 million.² The current fiscal year (FY23-24) projection is \$307 million in receipts and \$375 million in disbursements.³ Year to date, FY23-24 disbursements total \$161.9 million.⁴ In order to meet this year's spending goal from the financial plan, the state would need to move \$213.1 million by April 1, 2024, more than the total spent year to date. This would be record-setting monthly spending if it occurs.

The proposed raid will not support new staff at the state agencies to better administer the Fund and ensure it operates more efficiently. However, that's not the plan. DEC, which administers the most EPF programs and is currently below its authorized "fill level" of FTEs, is not projected to grow its ranks.⁵ While we support agencies dedicating staff to administer important EPF programs, we oppose diverting dedicated EPF money from projects to pay for agency staff. The proposed raid threatens the integrity of the EPF and is out of step with the historic and current use of the Fund. This proposal is a general fund offload and we urge the Legislature to reject it, which is consistent with the Senate and Assembly positions on such proposals in the past.

EPF Program Appropriations

Within the EPF, The Nature Conservancy supports the following programs appropriations:

EPF Program	FY23-24 Appropriation	FY24-25 Executive Proposal	TNC Suggested FY24-25 appropriation
Open Space / Land Acquisition	\$38.9 million	\$34.5 million	\$40 million
Land Trust Alliance Conservation Partnership Program	\$3 million	\$3 million	\$3 million
Land Trust Alliance Forest Conservation Easement Program	\$1.5 million	\$1.5 million	\$5 million
Urban Forestry	\$3.2 million	\$3.2 million	\$5 million
Water Quality Improvement	\$22 million	\$21 million	\$22 million
Invasive Species	\$18.5 million	\$17 million	\$18.5 million
Ocean and Great Lakes	\$22.5 million	\$21 million	\$25 million
Hudson River Estuary	\$7.5 million	\$7.25 million	\$7.5 million
Albany Pine Bush Preserve Commission	\$3 million	\$3 million	\$8 million
Peconic Estuary	\$550,000	\$550,000	\$1 million
Zoos, Botanical Gardens and Aquaria	\$20 million	\$17 million	\$20 million
Environmental Justice	\$13 million	\$12 million	\$13 million
TNC Staying Connected Initiative	\$25,000	\$25,000	\$25,000

² SFY24-25 Executive Budget Proposal Financial Plan p. T227.

³ SFY24-25 Executive Budget Proposal Financial Plan p.T207.

⁴ Figure from data compiled by The Nature Conservancy from Monthly Cash Basis Reports from 2023 and 2024 by Office of State Comptroller at <https://www.osc.state.ny.us/finance/pmcbcr.htm>.

⁵ Executive Budget Proposal, Agency Presentations, Environmental Conservation, p. 2.

<https://www.budget.ny.gov/pubs/archive/fy25/ex/agencies/appropdata/EnvironmentalConservationDepartmentof.pdf>

SUNY ESF Center for Native People & the Environment	\$746,000	\$1.142 million	\$1.142 million
New York Protected Areas Database (NYPAD)	\$18,000	\$18,000	\$150,000

State Land Conservation Program

Since the EPF was established in 1993, a bedrock program has been the state's land conservation program. Through this program, New York has protected important natural resources across the state from the high peaks of the Catskills and Adirondacks to the shorelines of the Great Lakes, Finger Lakes, Hudson River and Long Island's beaches and bays to parklands and natural areas in New York City. Historically, New York has conserved an average of 70,000 acres annually since the EPF was created, and these new protected lands and waters have created new recreational opportunities and economic benefits for communities.

Unfortunately, recently the program has slowed. In 2022, DEC and OPRHP acquired a total of just 5,056 acres. Available land is not the issue. Currently, there are more than 100,000 acres valued in excess of \$150 million pending transfer to the state. Organizations, including land trusts like The Nature Conservancy, serve the public interest by acquiring priority conservation lands as opportunities arise, and then work in partnership with the state to transfer these lands into public hands where they can become part of the State Parks system, the Forest Preserve, State Forests and more. With the program now badly backlogged, acquisitions are long delayed which slows down open space conservation program implementation, depriving communities across the state of the benefits of these projects. Delays also greatly increase project costs, reducing the amount of available funds for other conservation projects.

In order to realize our state's conservation and climate change goals, and to fulfill the wishes of voters who strongly supported the passage of the Bond Act and have long supported the EPF, the state's land acquisition program must be improved and streamlined. At the administrative level, DEC has taken steps to modernize and accelerate the program, but there are opportunities for legislative action in this budget to increase the pace of conservation in New York and streamline the land acquisition process that we fully support.

Specifically, we urge the Senate and Assembly to include language in your one-house budget proposals that expressly authorizes the Real Property Bureau of the Office of Attorney General to use private title insurance as a means of addressing certain types of title issues, to more efficiently and quickly advance transactions without incurring unacceptable risk. This authority would be consistent with common real estate practice and bring New York in line with virtually all other state and federal land acquisition programs. New York has persisted in undertaking its own review of land titles and requiring corrective action that sometimes goes back over a century to perfect title, when the issues in any other circumstance would be resolved with readily available title insurance. This practice materially slows down transactions and open space conservation program without providing any significant risk mitigation benefit to the state and requires legislative correction.

Ensure Conservation Easements Remain Eligible for Bonded Capital

Land conservation has also been a cornerstone of every environmental Bond Act in New York. In 2022, New York voters overwhelmingly supported the passage of the Clean Water, Clean Air and Green Jobs Environmental Bond Act, which expressly included an open space conservation program aimed at conserving critical and at-risk natural resources. The Legislature and the voters were clear in supporting land conservation as part of that measure, including the use of conservation easements to conserve land and water.

Part X, Section 51 of the Public Protection and General Government Article VII legislation of the Executive Budget Proposal for FY24-25 clarifies that conservation easements continue to be an eligible expense from monies authorized by the Bond Act. We urge the Legislature to support this provision as it will ensure state agencies are enabled to continue purchasing easements from willing sellers on lands that will provide New Yorkers access to nature and support industries including agriculture, forestry and outdoor recreation.

Climate Smart Communities Grant Program

Part S of the Transportation, Economic Development and Environmental Conservation Article VII legislation of the Executive Budget Proposal for FY24-25 makes amendments to the Climate Smart Communities Program. These changes will allow the state to make larger grants to municipalities that meet the criteria for financial hardship or are a disadvantaged community. The legislation increases the cap on the state assistance grants provided by this program from 50% or \$2 million to 80% or \$2 million. Lowering the required local match in communities that have fewer resources and/or more environmental and economic need will allow those communities to better tap in to state resources to reduce greenhouse gas emissions and adapt to a changing climate. This change will increase program efficacy and move EPF and Bond Act funds out the door into communities faster.

Clean Water Infrastructure Improvement Act

For years The Nature Conservancy has worked with partners and members of the Senate and Assembly in support of enhanced funding for water infrastructure. Thanks to strong leadership from the State Legislature, clean water funding has grown significantly in New York, and more than \$5 billion has been appropriated. To date, spending from the Water Infrastructure Improvement Act, a program of the Clean Water Infrastructure Act, has supported hundreds of grants to communities across the state, helping local governments reduce sewage overflows, repair water mains, and upgrade treatment plants, all while creating local jobs and leveraging federal funding.

The Executive budget proposal includes a dramatic 50% cut to clean water funding, reducing the appropriation from \$500 million to just \$250 million. We urge the Legislature to reject this shocking cut to funding for clean water and a time when there is more federal, local and private funding available to leverage, including funds from the Inflation Reduction Act and Infrastructure Investment and Jobs Act. These funds allow municipalities to upgrade or repair wastewater and drinking water infrastructure, upgrade failing septic systems, protect the sources of our drinking water and undertake other critical projects to improve water quality throughout the State. At a time when New York has tens of billions in water infrastructure funding needs, we must increase our investments, not reduce them – and particularly when state funds are able to be leveraged this is a time to invest, not disinvest.

We support the continued growth of this program and urge the Legislature to reject the proposed cut and increase funding beyond the current fiscal year appropriation of \$500 million to \$600 million in FY24-25. With significant federal resources now flowing to New York for infrastructure, now is a smart time to further increase these types of investments, creating new and enhanced leveraging opportunities.

Capital Funding for State Environmental Agencies

The Executive Budget Proposal includes a \$100 million appropriation for OPRHP for capital projects to commemorate the Centennial of the New York State Parks system. There is also an appropriation of \$200 million in New York Works capital funding for OPRHP to continue work to

repair and restore parks and the natural resources within them. The Executive Budget also includes \$90 million in New York Works capital funding for DEC. We urge the Legislature to support these appropriations.

As a frequent partner with state environmental agencies, including facilitating significant additions to state lands, The Nature Conservancy is eager to see the state take full advantage of the many different values of our natural resources. With an \$800 million outdoor recreation industry in our State that employs more than 13,000 people, these investments benefit our economy and our environment. The Nature Conservancy supports capital investments in our state's outdoor recreational facilities and public lands, which provide the public abundant, safe, and exciting new ways to connect with nature, and draw tourists to New York to enjoy our natural resources. We urge the Legislature to build on the Governor's proposal by increasing the Parks Capital Appropriation to \$250 million.

Funding for Reforestation

The Nature Conservancy strongly supports the goal of planting 25 million trees in New York by 2033, a goal Governor Hochul announced in her 2024 State of the State. This goal will advance New York's climate goals and conserve nature. The goal will also allow New York to deliver on its share of the October 2023 commitment of the Great Lakes St. Lawrence Governors & Premiers to plant 250 million trees in the region by 2033.

To achieve the mandated carbon reductions in the CLCPA, carbon sequestration through reforestation is critically important, and as such, was outlined as a priority strategy in the Scoping Plan. The goal of planting 25 million trees is the first step to achieving the state's 2040 goal of 1.7 million acres of reforestation from the CLCPA Scoping Plan. We believe that this new reforestation goal will spur market development, evolve the workforce and supply chain while leveraging local and federal funding and public/private partnerships.

Reforestation is defined as the planting of ecologically appropriate trees on lands that were once forested. Benefits of a reforestation in New York State include carbon sequestration, water quality improvement, wildlife habitat conservation, flood reduction, urban heat island mitigation, and job creation in sectors including forestry, science, restoration, and the nursery industry. There is newly completed research and science to help the state begin work on a reforestation program. A recent study from Cornell University and The Nature Conservancy⁶ found that New York State landowners are very interested in reforesting their properties to combat climate change, and this program will provide essential resources to achieve outcomes for all. Private land makes up 97% of the acres in New York with the greatest potential for reforestation, therefore support for landowners and conservation service providers should be core components of an effective reforestation program. Cornell University and The Nature Conservancy have also recently conducted additional research and analysis to estimate the amount of land potentially suitable for reforestation.⁷

The Executive Budget Proposal for FY24-25 includes \$15 million to support reforestation through grants to not-for-profits and municipalities for tree planting.⁸ The Nature Conservancy supports this appropriation and urges the Legislature to include it in the budget. The program would benefit from additional funding, including the ability for DEC to provide resources to entities in addition to municipalities and not-for-profit organizations, including businesses in

⁶ <https://ecommons.cornell.edu/items/513d5c40-c3df-47af-8370-4d99fbbe7767>

⁷ <https://tnc.app.box.com/s/kvqys4hs5t0ro6cnah1yl3zrh99ckutg>

⁸ Capital Projects legislation in the Executive Budget Proposal for FY24-25, p. 141-142.

sectors such as the nursery industry to ensure that we take advantage of all the players that can contribute to achieving New York's reforestation goal.

To achieve the goal, funding is needed for tree planting, technical assistance to service providers and organizations, site identification, site preparation, supply chain investments, landowner assistance payments, municipal grants, and planning. The funding proposed in the budget is likely a good match for federal, local, and private funding sources, so flexibility will be important.

Renewable Action Through Project Interconnection and Deployment (RAPID) Act

The Nature Conservancy supports the Renewable Action Through Project Interconnection and Deployment (RAPID) Act as proposed in the Governor's Executive Budget.⁹ To meet New York's aggressive clean energy and climate goals as mandated under the Climate Leadership and Community Protection Act (CLCPA), we need to urgently move forward with siting and deploying both renewable energy projects and the necessary transmission infrastructure needed to connect these projects to the electric grid and deliver this clean energy to residents and businesses throughout New York. This legislation moves the Office of Renewable Energy Siting (ORES) to the Department of Public Service (DPS) and creates a centralized review forum that will coordinate the environmental review of transmission and clean energy projects to help ensure natural resources and sensitive habitats are considered when building clean energy and transmission projects. It will also provide the long-standing expertise of the DPS in transmission siting and will help to alleviate the backlog and lengthy timeframes previously associated with the development of these critical infrastructure projects. As this initiative moves forward, close coordination with host communities to understand and address their concerns about siting will be crucial to expediting these projects. We urge the Legislature to include the RAPID Act in the budget this year.

Conclusion

Thank you again for the opportunity to testify on the proposed FY24-25 state budget. The Nature Conservancy is proud to be working in New York, and with you all, on important issues facing our state. As a global organization we have a broad perspective, and in New York we appreciate the state's historic role as an environmental leader. The progress made in the state budget will help sustain future generations with clean water, healthy air, and a good quality of life. We look forward to working with you throughout the remainder of the budget process and stand ready to bring the resources of our organization to the table to support the implementation of important conservation and climate programs.

For More Information, Contact

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⁹ Transportation, Economic Development and Environmental Conservation Article VII legislation of the Executive Proposed Budget for FY24-25, Part O.