



ENVIRONMENTAL  
ADVOCATES OF NEW YORK

YOUR GOVERNMENT WATCHDOG

## Testimony Regarding the Environmental Provisions of Governor Cuomo's Executive Budget Proposal for SFY 2019-2020

Peter M. Iwanowicz, Executive Director

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Thank you for allowing us to submit testimony. We at Environmental Advocates are greatly optimistic that this is the year New York will begin to reclaim its status as a true global environmental leader. There are no more excuses for failing to enact comprehensive, protective, and common-sense legislation that protects human health and the environment. Working to protect all aspects of our environment is a big job, but it is one the most important jobs for the Legislature this session, as New Yorkers and future generations of New Yorkers, life depends on clean air and water, and vibrant communities.

Governor Cuomo's *State of the State* message set the stage in many ways for dramatic action on environmental issues, in particular climate change. While Governor Cuomo's SFY 2019-2020 Executive Budget proposal moves beyond the status quo budgets of the past, it falls short in many respects in advancing leading environmental policy.

Our recommendations for modifying the Executive Budget proposal and moving New York forward to be the environmental leader this nation needs are as follows:

### **Climate security for all**

***Climate Change:*** The call for climate action transcends regional boundaries, political affiliations, age, race and ethnicity, religion, and socio-economic status. The Climate and Community Protection Act (CCPA) establishes aggressive mandates for ramping up the use of clean, renewable energy, and reducing climate pollution that harms our public health, environment, and economy. The CCPA not only codifies New York's strong climate and clean energy goals – it also sets clear and accountable mandates for doing so equitably across all sectors of the economy, prioritizing climate and environmental justice and the creation of good, sustainable jobs across the state.

The CCPA ensures that all sectors of New York's economy will be powered by 100% clean, renewable energy in less than 30 years, establishing New York as a true global leader on climate

action and demonstrating how embracing challenges and opportunities with aggressive action can deliver a more just and equitable economy.

Unlike recent years, the Governor's Executive Budget proposal acknowledges the need for New York to develop and execute a climate action plan. We are pleased to see aggressive goals for moving the electricity sector to clean and renewable energy. However, any truly comprehensive economy-wide plan to tackle climate change needs more specific and long-range deadlines, planning processes, and accountability for moving our whole economy off of fossil fuels than are currently included. ***We urge the Legislature to move forward and pass the comprehensive Climate and Community Protection Act.***

***Regional Greenhouse Gas Initiative (RGGI):*** RGGI proceeds have always been intended to supplement New York's array of clean energy programs in order to enhance them and expand their reach to a broader set of customers. In recent years, there have been a number of instances where the proceeds have been used to supplant rather than build upon existing funding mechanisms.

For the fifth straight year, the Governor has proposed transferring \$23 million in RGGI funds to the General Fund to cover costs associated with certain energy related tax credits. Since 2015, the state budget process has stripped \$170 million in RGGI dollars from NYSERDA. The lion's share of those funds have been directed to supplant costs associated with energy tax credits and the Electric Generation Facility Cessation Mitigation Program.

To date, \$92 million in RGGI funds have been transferred to support energy tax credits that in some instances had been supported by state operating funds since the mid-nineties. The practice of supplanting state funding with RGGI dollars has raised questions around equitable access to auction proceeds since low-income households have limited ability to take advantage of tax credits.

This latest proposed raid of clean energy funds comes at a time when the RGGI operating budget is in the midst of a three-year austerity plan that has significantly scaled back the number of RGGI supported programs in order to bring the budget back into balance by 2021. Diversion of funds out of RGGI to support long-standing tax credits runs counter to the value of these resources supplementing existing programs and lowers the total amount of funding the state should be spending to move us toward our climate and clean energy goals. Moreover, tax credits offer little to no direct benefit to the lower income and environmental justice communities that are disproportionately burdened by the impacts of climate change and fossil fuel derived pollution. ***New Yorkers would be better served if these funds are repurposed to provide communities on the front lines of climate change with access to clean energy opportunities that are not currently being provided by NYSERDA.***

***Clean Energy:*** The Executive Budget contains Article VII language that would permit the New York Power Authority (NYPA) to grow its footprint in the clean energy sector (Parts KK and LL of the S.1508/A.2008). The proposals authorize NYPA to finance and operate transmission projects that would benefit the development of offshore wind, invest in electric vehicle charging infrastructure, and expand the customer base for the Authority's energy management services,

including the sale of renewable products to Community Choice Aggregation municipalities. ***We urge the Legislature to support the Governor’s proposals.***

***Renewable Energy for Empire State Plaza:*** The Office of General Services (OGS) and the Power Authority of New York State (PASNY) are teaming up to modernize the energy system that powers the State Capitol and the Empire State Plaza/State Office Complex. The initial proposal was to replace aging diesel generators with natural gas. This is short sighted given the State Energy Plan (2015) goal for an entire state economy off of fossil fuels by 2050. It also seems out of step with the Governor's call for the state pension fund and state authorities to divest of fossil fuel holdings. Though PASNY announced in 2018 the project process will include a review of renewable energy options and the Executive Budget proposal for SFY 2019-2020 contemplates expanding the use of the funding for energy efficiency and renewable energy projects for the state capitol complex, we believe that state law must be clear that OGS should not use any appropriated funds to power the State Capitol or the Empire State Plaza/State Office Complex with fossil fuels. Specifically, we ask that the Legislature modify the Executive’s proposal (the language from page 294 of A.2005/S.1504 is pasted below), to remove the words “*natural gas and/or fuel oil number two.*”

The appropriation made by chapter 54, section 1, of the laws of 2017, as amended by chapter 54, section 1, of the laws of 2018, is hereby amended and reappropriated to read:  
For services and expenses related to the design and construction on Sheridan Avenue in Albany of a cogeneration plant and microgrid, to operate on renewable energy, *natural gas and/or fuel oil number two*, and other related renewable energy or energy-efficient initiatives for the Empire State Plaza Complex, including payment of liabilities incurred prior to April 1, 2017 (05CG1705) (26246) ..... 50 87,600,000  
..... (re. \$87,600,000)

***We urge the Legislature to ensure the energy supply for the central nervous system of state government should be 100% clean, renewable power, not dirty and dangerous fossil fuels.***

***Offshore drilling:*** We support the Executive Budget proposal prohibiting state authorizations related to certain offshore oil and natural gas production (Part I of S.1508/A.2008). The United States Department of the Interior is proposing to open nearly all of the coastal waters of the United States to offshore oil and gas drilling through President Trump’s so-called “America-First Offshore Energy Strategy.” This proposal is a dangerous threat to public health, the environment, and our economic well-being.

Offshore drilling operations are inherently dangerous. The process produces harmful wastes including toxic metals, such as lead and mercury, as well as carcinogens like benzene. Accidents that result in oil spills can have long lasting and devastating impacts on wildlife, health, and local economies reliant on tourism and fishing.

By denying access to state marine and coastal district lands, this legislation will prevent the oil and gas industry from establishing extraction sites proximate to New York’s shoreline, thereby preserving opportunities to pursue a clean energy future through the sensible and responsible development of offshore wind. ***Since it is the policy of New York State to move our economy entirely off of fossil fuels by 2050 (State Energy Plan), we encourage the Legislature to***

*consider improving upon the Governor's proposal by amending the bill and expand the drilling prohibition to all state-owned lands.*

### **Clean transportation for all**

***Congestion Pricing and Investment in Public Transit:*** The transportation sector is the largest source of climate pollution in New York, representing 34-percent of the state's greenhouse gas portfolio. Air pollution emitted from tailpipes is a major contributor to smog and poor air quality, which is a direct threat to the health and welfare of New Yorkers.

New York's climate and clean energy commitments require the state's transportation sector to transition completely away from the use of fossil fuels to a system powered by clean, renewable electricity by the year 2050. Getting there will take a comprehensive plan and sustained commitment. New Yorkers will need better access to public transportation systems that are safe, reliable, and robust. If we are to meet our pollution reduction mandates, full funding for public transit systems that serve communities across the state is essential.

Public transit in the New York City metropolitan region is in a state of crisis. Chronic system delays and failures have led to significant drops in public transit utilization and an uptick in the number of vehicles congesting the City's roadways. Plans to modernize the system require sustainable and dedicated long-term funding streams. The Governor's proposal to establish a congestion pricing mechanism for vehicles traveling into Manhattan's Central Business District will help drive down vehicle traffic and tailpipe pollution while providing an infusion of new resources to the MTA. ***We urge the Legislature to support and approve congestion pricing as a critical component to the development of a robust and reliable public transit system, while also committing to a long-term and statewide mass transit support strategy. We oppose the Executive's effort to tie existing MTA capital funding to future approval of congestion pricing.***

***No More DERA Delays:*** The proposed Executive Budget does not include any further delay of implementing the Diesel Emissions Reduction Act of 2006. Though it could be a huge benefit to public health and the cost-savings to Medicare and Medicaid programs, this law has never been fully implemented. The Legislature should reject any notion of further delaying the law through this year's budget process. Emissions from aging, dirty heavy-duty diesel engines are incredibly harmful, causing heart and asthma attacks, leading to premature deaths, and cost New Yorkers over \$12 billion annually in monetized health impacts.

When enacted, DERA was roundly praised as a tool in New York's fight against air pollution and a boon to the upstate manufacturing industry, yet the enacted state budget has delayed its implementation for the past six years. Further delays put the public in harm's way and are unacceptable.

### **Clean drinking water for all**

***Water Infrastructure:*** Aging water infrastructure is a pervasive problem in New York. Water main breaks, sewage overflows, and outdated wastewater treatment plants regularly cause bacteria and other contaminants to enter our lakes, rivers, and drinking water. Over the next

twenty years, DEC and DOH have estimated that New York will need to invest close to \$80 billion to fix our crumbling drinking water and wastewater infrastructure.

One example of the magnitude of this crisis is the threat posed by lead service lines, which can leach dangerous levels of lead into drinking water. The American Water Works Association estimates that there are 360,000 lead service lines across New York, and conservative estimates of the cost of statewide replacement reach at least \$1 billion. Without sustained investment to dig these pipes out of the ground, lead in drinking water will increasingly place New Yorkers' health at risk. Indeed, the cities of Amsterdam and Newburgh have both recently discovered levels of lead in their water that violated U.S. EPA standards.

When the Legislature created the five-year, \$2.5 billion Clean Water Infrastructure Act of 2017 (CWIA), it took a bold step forward in addressing the threats to New York's clean water. Thanks to the grant funding provided by the CWIA, communities previously unable to undertake costly water quality improvements have been able to break ground on much-needed projects. The Water Infrastructure Improvement Act, which receives funding through the CWIA, has awarded approximately \$767 million to communities since 2015.

The Governor's Executive Budget proposal, however, falls far short of what's needed to build on the success of the CWIA. In his State of the State Address, the Governor promised to double the CWIA with another \$2.5 billion investment, yet this \$2.5 billion is nowhere to be found in his budget bills. Instead, the Governor included only \$500,000,000 (S.1504/A.2004 page 109, line 32). Without substantially more funding, shovel-ready projects will continue to be held back. ***To address this water infrastructure crisis, we urge the Legislature to provide \$5 billion over five years in their budget for the CWIA. The Legislature should also increase the percentage of project costs covered by a grant award, so that communities still unable to take part in the program due to financial constraints can benefit.***

***Emerging Contaminants:*** In 2017, the Legislature recognized and responded to the increasing danger of emerging contaminants like PFOA, PFOS, and 1,4-dioxane in New York's drinking water. However, more work remains to be done to ensure that New Yorkers know what's in their water, and that pollution is properly remediated when discovered.

In 2017, the Legislature instructed DOH to create a list of dangerous chemicals to be tested for in every community across the state, but this legislation has still not been implemented. The longer communities go without testing, the greater the chance that people could get sick. ***We urge the Legislature to declare in statute the date by which the Department of Health must publish their Emerging Contaminant Monitoring List. We also urge the Legislature to ban PFAS chemicals and 1,4-dioxane from products, including firefighting foam and food packaging, to prevent these emerging contaminants from entering our water supply in the first place.***

### **Healthy and vibrant communities for all**

***Plastic bags:*** While we are pleased to see a commitment from the Governor in the Executive Budget towards a statewide solution to ban single-use plastic bags, we do not support the proposal. There are serious flaws with the Executive's approach. Significantly, it does not

include a mechanism for paper bags. We recommend a ban on plastic bags be accompanied by a fee on paper to avoid a mere switch from one disposable bag type to another. Thus, the fee on paper bags is a crucial incentive to get customers to bring their own bags.

Data collected from jurisdictions where plastic bag bans have been implemented without a fee on paper bags have clearly shown that customer behavior does not change - customers simply switch to another single-use product. In fact, many jurisdictions saw an increase in paper bag use. A ban accompanied by a fee is the most effective way to achieve the environmental goals of the proposal - reduced waste and litter.

***We urge the Legislature to support S.95, New York State Bring Your Own Bag Act, as the gold standard of ban the bag legislation, incorporating a ban on plastic bags, plus a fee on paper bags, as well as providing for appropriate preemption language to ensure municipalities already taking more stringent steps in this space can lawfully continue their programs. We also encourage the Legislature to be more aggressive on the plastic problem and ban plastic straws.***

***Bottle bill:*** It has been 10 years since the Bottle Bill was expanded and it is certainly time modernize the legislation to account for the plethora of beverages that are on the market in 2019. ***We applaud the Governor's proposal to expand the Bottle Bill, but why stop there? We urge the Legislature to expand the Bottle Bill to include wine and liquor bottles. The Legislature should also consider increasing the deposit level to at least 10 cents with perhaps a greater deposit on wine and liquor bottles.***

***Food waste recovery:*** In the context of the solid waste crisis that many New York communities are facing, we are disappointed the Executive Budget did not include the Food Recovery and Recycling Act, which had a place in past budget proposals. This legislation would target large producers of food waste like supermarkets, restaurants, hotels, higher education institutions, schools and hospitals. This proposal would help reduce the massive amounts of food entering the waste stream, which currently takes up dwindling space in our landfills and contributes to the production of methane, a potent greenhouse gas. ***We urge the Legislature to include this proposal as part of an overall commitment in the SFY 2019-2020 budget to help combat the solid waste crisis.***

***Product safety and disclosure of toxic chemicals:*** The Executive Budget outlines a few proposals addressing the disclosure of toxic chemicals in products used by children and a process for even eliminating certain toxic chemicals found in certain cleansing products. While these proposals are important right-to-know policies, New York needs comprehensive solutions to remove persistent toxic chemicals from our environment. This goes beyond disclosure of chemicals in products, but moving to eliminate the chemicals, in particular nasty flame retardants in children's products and toxic chemicals, such as PFAS, that can be found in household furniture and carpets. ***We urge the Legislature to do more than require disclosure of toxic chemicals, but to take bold steps to ban or regulate the use of certain chemicals that are known to cause serious illnesses.***

***Extended producer responsibility:*** Tackling the solid waste crisis will be an important policy topic for the Legislature this session. While the Executive Budget touches on some important aspects in respect to banning single-use plastic bags and expanding the Bottle Bill, it lacks other innovative solutions to address an ever-expanding waste stream and current recycling challenges. Part of the solution is to foster programs that shift responsibility back on the producers of products, requiring a life-cycle management approach. We have seen these programs work for E-Waste and batteries, but the model can be applied to a wide-range of products from carpets to paint to building materials. ***We strongly urge the Legislature to explore extended producer responsibility regimes for certain products and we see an immediate opportunity to address carpets and paint.***

### **Support for State efforts**

***Environmental Protection Fund (EPF):*** The Governor has proposed a \$300 million authorization for this year's fund. However, the financial plan does not have the full amount of cash to back it. The Governor continues the additional off-loads of agency operations to the EPF capital program. Along with 2017's navigation law program, these off-loads should be removed from the EPF. ***We strongly urge the Legislature to enact a fee on disposable take-out bags (see S.95) and use the revenue generated to support the EPF.***

***DPS staffing:*** The Executive Budget includes \$1.7 million in new appropriations to add eight new Article 10 siting staff members at the Department of Public Service (DPS). We commend the Governor for including the funds for the addition of staff which will allow DPS to meet the growing workload demands in renewable generation siting. The additional staff will enhance DPS' ability to properly ensure the safety and effectiveness of renewable energy projects as well as increase the rate at which renewable energy projects are being sited in the State. We support Governor Cuomo's new goals of 70% clean electricity by 2030 and an increase in DPS Article 10 staff will be necessary to achieve these goals.

***DEC staffing:*** The SFY 2019-2020 budget should restore Department of Environmental Conservation (DEC) staff levels to address the losses sustained at the agency during the last decade's recession. Too many laws are being inadequately implemented and enforced for one simple reason: there aren't enough cops on the beat.

DEC staff members do the best they can with the resources they have. DEC has not recovered the 800-staff lost during the recession deficit reduction budgets; forcing the agency to choose between increasingly poor options as it struggles to carry out its mission to protect our health and the environment, leaving New Yorkers vulnerable to harmful pollution.

***Centers of Excellence in Children's Environmental Health:*** Children's health has changed for the better. Thanks to public health innovations, infectious diseases are no longer the primary cause of morbidity and mortality. But today's children are afflicted with chronic diseases that start in childhood (and often evolve into adulthood) with debilitating effects on not just the children themselves, but their families and communities. Environmental factors play a dominant role. The cost of environmental disease in New York State is over \$6 billion per year. The Centers of Excellence in Children's Environmental Health are a statewide network of health

professionals and institutions whose mission is to provide cost effective interventions to children, families and communities, and offer much-needed expertise on environmental illnesses to physicians across the state who are largely untrained in this area.

This network is an important and invaluable resource for New York. We support the Governor's proposed EPF that provides \$2 million to support these centers.

Thank you for the opportunity to provide this testimony. We look forward to working with the Legislature to advance a budget that is protective of New Yorkers' health and the environment.

*Environmental Advocates' mission is to protect our air, land, water, wildlife, and the health of all New Yorkers. Based in Albany, we monitor state government, evaluate proposed laws, and champion policies and practices that will ensure the responsible stewardship of our shared environment. We support and strengthen the efforts of New York's environmental community and work collaboratively to make our state a national environmental leader.*