



## **Senate Bill 4: AAC the Connecticut Clean Air Act**

### **Testimony of the Department of Transportation, the Department of Energy and Environmental Protection, and the Department of Administrative Services**

#### **Joint Committees on Environment and Transportation**

**March 11, 2022**

Senator Cohen, Representative Gresko, Senator Haskell, Representative Lemar, Senator Miner, Representative Harding, Senator Somers, Representative Carney, and members of the Environment and Transportation Committees:

Thank you for considering this joint testimony of the Department of Administrative Services (DAS), the Department of Transportation (DOT), and the Department of Energy and Environmental Protection (DEEP). DAS, DOT, and DEEP deeply appreciate the Committees' commitment to addressing climate change and clean air in this comprehensive piece of legislation. Equitable investments in clean transportation will reduce health burdens of air pollution, slow climate change, improve quality of life and economic competitiveness, and accelerate energy independence. Connecticut's transportation sector is the largest source (38%) of greenhouse gas (GHG) emissions in the state's economy, and the largest source of asthma-causing air emissions (67%) generated in our state. The most recent Greenhouse Gas Inventory issued by CT DEEP in August 2021 indicated that GHG emissions from transportation continue to rise, at a time when we need to be on a path to reduce those emissions by one-third during this decade in order to meet the 2030 emissions targets set by the Global Warming Solutions Act; and that legislative action will be needed to ensure these targets are met. The public health burdens of transportation air pollution are disproportionately borne by environmental justice communities.

The set of proposals contained in this bill is ambitious. We are testifying today to continue the process of working with the Committees to craft legislation responsive to our shared goals. Below, we highlight our areas of alignment and concern with the legislation as currently drafted. Some of these points represent serious implementation or funding issues for our agencies and the executive branch as a whole, and in these areas the bill may need substantial modifications for our agencies to support those sections.

Our most significant broad concern regards the funding mechanisms in the bill. The administration cannot support revenue reductions not currently supported by the Governor's budget, as they will require either spending reductions or revenue increases elsewhere in the budget. Moreover, transferring any Special Transportation Fund revenue to outside accounts may violate the Constitutional Lockbox provision and therefore cannot be supported. The administration also does not support reliance on off-budget accounts that hide expenditures from the appropriations process. Excessive use of off-budget accounts leads to a less transparent budget, which can hide expenditures from frequent review. In addition, the administration cannot support automatic bond authorizations, and all appropriations and bond authorizations will have to be discussed and negotiated within the larger appropriations and bond bill packages.

## **Section 1: State Fleet Electrification Targets**

DAS is fully committed to transitioning from ICE vehicles to electrified vehicles, including battery electric vehicles. However, as we continue with the transition, there are market inhibitors and other external factors which ultimately prevent the obtainment of the goals outlined in section 1.

For example: (1) there is a limited supply of vehicles available for purchase to meet the near-term goals; (2) fleet purchases should not out pace infrastructure; (3) fleet purchases should be fiscally responsible to client agencies; and (4) DAS Fleet vehicles include emergency response, specialty upfit, SUV's, caravans, wheelchair vans, and trucks, that cannot be transitioned in a reasonable timeframe before 2030.

DAS continues to commit to transition as quickly as possible based on budget considerations, market conditions and availability, and matching the appropriate vehicle to the needs of our client agencies.

Section 1(c) would codify Governor Lamont's recent executive order 21-3, prohibiting the Department of Transportation from procuring, purchasing, or leasing, diesel transit buses after calendar year 2023. This is in line with DOT's efforts to fully convert the entire *CTtransit* branded bus fleet to battery electric over the next twelve years. This fleet conversion would not only reduce operating costs for *CTtransit* but would also improve air quality in many communities and reduce greenhouse gas emissions.

## **Sections 2 and 3: Residential Charging Equipment Installation**

The purpose of these sections is to remove barriers to—and establish an orderly process for—the installation and use of electric vehicle (EV) charging equipment by residents of associations and rental properties. DEEP supports these sections because they will increase access to EV ownership for more Connecticut drivers and provide a process through which residents can seek approval for charging equipment installation, while simultaneously protecting the property interests of associations and landlords.

This legislative proposal sets forth the responsibilities of the individual unit owner or renter installing the charging equipment, which include application process requirements; liability insurance coverage; costs for operation and maintenance; costs for electricity associated with the charging equipment; costs for installation and removal of the charging equipment; costs for restoration of the common elements after removal; and disclosure to prospective buyers of the existence of the charging station and the related responsibilities of the owner. In short, this bill places financial responsibility solely on the unit owner or tenant. This bill does not call for the use of any public dollars.

EV owners with access to residential charging do the majority (approximately 80 percent) of their charging at home.<sup>1</sup> Access to charging at home should be available regardless of the type of

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<sup>1</sup> DOE, Office of Energy Efficiency & Renewable Energy. Retrieved February 15, 2022  
<https://www.energy.gov/eere/electricvehicles/charging-home>.

housing a person lives in. Charging at home is often the lowest cost and most convenient charging option as it does not require the use of a public charging station, where fees may be assessed that exceed a typical residential electric rate. Moreover, as the market penetration rate of EVs increases, so too will electricity demand. To prevent negative impacts to the grid from increased demand, vehicle charging will need to occur primarily during off-peak hours. EV owners who are forced to rely solely on publicly available charging infrastructure, because they cannot install charging infrastructure at home, are more likely to charge their vehicles during peak hours.

Connecticut is not alone in working to eliminate barriers to home EV charging for residents living in homeowners' or condominium associations or multi-unit dwellings. Anticipating increasing market penetration of EVs, California, Colorado, Florida, Hawaii, Massachusetts (for Boston), New York, and Oregon, Maryland, New Jersey, Virginia, and Florida have all enacted right-to-charge laws applicable to homeowners' and condominium associations and/or renter-occupied homes in recent years.

On January 1<sup>st</sup>, 2022, the Public Utilities Regulatory Authority (PURA) launched the EV Charging Program. The Program provides incentives to residential customers who participate in a demand response managed charging program by opting not to charge their vehicle during times where reducing demand is critical for Connecticut's electric grid. Given that roughly 11 percent of Connecticut residents live in multi-unit dwellings (MUDs), Connecticut must ensure the opportunities available to single-family home dwellers to own EVSE and participate in demand response programs are also available to those who live in MUDs.<sup>2</sup> If passed, this bill would enable home charging for a greater number of residents living in MUDs, which in turn could bolster enrollment in residential demand response programs, ultimately providing greater benefits from EV charging on Connecticut's grid.

These two sections of SB 4 are identical to HB 5117, An Act Concerning Electric Vehicle Charging Stations, which received a hearing by the Energy and Technology committee on February 24 of this year. Various stakeholders expressed some concerns about the proposal as written during this hearing. DEEP has reviewed these concerns and is committed to working with the committee to revise the language to address a number of them. These include: a suggestion by the Office of Consumer Counsel to limit a tenant's obligation to pay for the electricity associated with charging a vehicle to those electricity costs actually incurred by the landlord; a suggestion by the National Association of Housing and Redevelopment Officials to provide exceptions for properties that qualify for Low-Income Housing Tax Credits; and a suggestion by Imagineers, LLC and the Connecticut Chapter of the Community Associations Institute to allow the award of attorneys' fees to whichever party prevails in an action to enforce compliance with the proposal, be it the unit owner or the association.

#### **Section 4: New Construction Parking Requirements**

Modest up-front investments in new construction can prevent substantial retrofits down the line. While we support the goal of Section 4, we have policy concerns with mandating changes to the building code through statute, and instead recommend achieving these goals through other

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<sup>2</sup> Quick Facts: Resident Demographics. National Multifamily Housing Council. Updated November 2020. Retrieved February 14, 2022 from <https://www.nmhc.org/research-insight/quick-facts-figures/quick-facts-resident-demographics/>.

means, such as through use of Executive Order, internal policies and guidance, and other types of legislation. For example, the goals of subdivision 4(b)(1), which establishes standards specific to state facilities, could be accomplished through a stand-alone directive that does not revise the building code. While DAS recommends the removal of that subdivision, our agency is happy to work with the committee to find alternative means of achieving this goal. As we do so, we recommend clarifying the language applies only to parking spaces for light duty passenger vehicles, not for snowplows and other medium-duty vehicles that may not yet be electrified. We also recommend allowing property owners to offset required level 2 chargers with DC fast chargers.

DAS also suggests the removal of subsection 4(c) because of a concern about these provisions being implemented inconsistently across the state. Allowing local variations of the state building code will erode the regulatory foundations of the code and overtime lead to significant unintended consequences to the safety, health and welfare of our taxpayers

As a result, we are not in support of using the building code to implement subdivision (1) of subsection (b) or subsection (c) and recommend removal of these sections.

## **Section 6: CHEAPR Updates**

DEEP is proud to have established and administered the Connecticut Hydrogen and Electric Automobile Purchase Rebate (CHEAPR) program since 2015, and since 2019 as part of the CHEAPR Board established to provide greater opportunities for stakeholder involvement and input into the program. The retail price of EVs has been declining in recent years, but EVs can still have a higher upfront cost than comparable gasoline-fueled, or internal combustion engine (ICE) vehicles. Fuel costs and maintenance costs for EVs are much lower than ICE vehicles, however, such that—when comparing the total cost of ownership--EVs are a more affordable choice than ICE vehicles. Rebates like CHEAPR that discount the EV purchase price are key to reducing the barrier of a higher upfront cost, to enable more Connecticut residents and businesses to enjoy the cost savings that come with driving an EV.

The CHEAPR program has supported the deployment of almost 8,000 electric vehicles with over \$13 million dollars in funding. The program offers incentives to Connecticut residents who purchase or lease an eligible electric vehicle from a licensed Connecticut automobile dealership. The standard incentive amounts are currently \$2,250 for an eligible new battery electric (BEV) and \$750 for an eligible new plug-in hybrid electric vehicle (PHEV). The Rebate+ New adds \$2,000 for income qualified individuals and the Rebate +Used provides \$1,500 for income qualified individuals who purchase a used EV.

DEEP supports enhancements to the CHEAPR program that will expand access to businesses, municipalities, nonprofits and tribes. Importantly, the bill also provides for increased incentives for residents in environmental justice communities who bear the worst effects of transportation air pollution, to ensure that EV access is affordable for all. The bill also authorizes DEEP to conduct outreach and marketing campaigns, which is necessary to increase consumer awareness and allow DEEP, in consultation with the CHEAPR Board, to increase engagement with consumers and program uptake. According to a recent analysis by DEEP, only 34% of eligible electric vehicles received a CHEAPR incentive since the program re-launch in June of last year. The bill will also require incentives of \$5,000 to residents of environmental justice communities

and increase the number of incentives available to municipalities, businesses, nonprofits and tribes. The bill also increases the maximum manufacturer's suggested retail price to \$50,000 from the current level of \$42,000 for a three-year period ending June 30, 2027. The bill further expands the scope of the CHEAPR program to include vouchers for income qualified individuals up to \$500 for electric bicycles (e-bikes) but does not cap the sales price of e-bikes. DEEP recommends the retail price of eligible e-bikes be capped at \$1,500.

While DEEP supports these program enhancements, we would welcome the opportunity to work with the Committees in modeling the impacts that each of these changes in incentive levels might have on customer participation and available budgets. and to suggest some transparency measures and areas of flexibility to prevent any interruptions to the program based on market conditions.

### **Sections 7 and 19: Electric Vehicle Registration Exemption Removal**

These sections remove the current discount on vehicle registration fees for EVs. DEEP supports this policy direction. DEEP has no data suggesting the registration fee exemption is a factor motivating EV purchases. There is also a recognition that as the EV market grows and matures, the transition away from economic exemptions makes sense. DEEP supports removing this exemption.

### **Section 8: Clean Air Act Fee Redirection**

We do not support Section 8. Section 8 eliminates the General Fund and Special Transportation Fund transfers of the federal Clean Air Act fee. Under the bill, revenue from the fee will be split into the Clean Air Act account and the new "reduce transportation-related greenhouse gases" account. This will result in a revenue loss of over \$9.0 million in the General Fund and \$13.0 million in the Special Transportation Fund. These revenue reductions have not been accounted for in the Governor's recommended budget and are not supported. Removal of Special Transportation Fund revenues to be deposited in off-budget General Fund accounts would be considered a violation of the Constitutional Special Transportation Lockbox.

This section also establishes the federal Clean Air Account which will be used to improve air quality and reduce carbon emissions. The administration does not support the establishment of off-budget accounts. They should be used sparingly; all expenditures should be required to go through the review of the appropriations process and fall under the state's constitutional spending cap.

### **Section 9: Reduce Transportation-Related Greenhouse Gases Account**

This section establishes the reduce transportation-related greenhouse gases account which will be used to by the Commissioner of the Department of Transportation to reduce transportation related carbon emissions. The administration does not support the establishment of off-budget accounts. They should be used sparingly; all expenditures should be required to go through the review of the appropriations process and fall under the state's constitutional spending cap.

### **Section 10: Greenhouse Gas Reduction Fee Redirection**

This section deposits all Greenhouse Gas Reduction Fee revenue into the Connecticut hydrogen and electric automobile purchase rebate program account (CHEAPR). Currently the fee is split between the CHEAPR account the General Fund, with the first \$3.0 million deposited to CHEAPR and the remaining revenue deposited to the General Fund. This results in an approximately \$5.0 million revenue loss to the General Fund and is not currently supported by the Governor's recommended budget.

### **Section 11: Rural Fast Charging Program**

DOT supports the elimination of gaps in the state's fast charging network and has worked with other agencies to identify existing gaps and where fast chargers should be installed to provide for seamless charging for electric vehicles. In February 2022, the Federal Highway Administration released guidance on how DOT could utilize the first year of the five-year, \$52.5 million funding provided to Connecticut for Electric Vehicle Charging Stations under the Infrastructure Investment and Jobs Act. The first step in utilizing the federal funds is the development of a state action plan. In addition, the Public Utilities Regulatory Authority (PURA) recently launched an EV Charging Program to incentivize the installation of EV chargers at commercial and industrial facilities. Existing charging gaps, including in rural areas, may be eliminated through these two programs. DOT recommends that a re-evaluation of charging gaps be conducted after each program has had time to take effect prior to establishment of any new grant program, which would require additional staff resources to administer.

### **Sections 12 and 13: Traffic Signal Modernization**

Modernization of traffic signals to allow for networked equipment and signals that adapt to current traffic conditions has been shown to be one of the most cost-effective ways to reduce transportation emissions. It is an expensive undertaking, with significant programming necessary and expensive computer and electrical equipment that must withstand the elements. Administration of a new local grant program would necessitate increased staffing resources at the DOT. The governor's proposed FY23 midterm budget does not account for the administrative resources necessary to administer such a program, nor does it include proposed bond authorizations necessary to fund a local traffic signal grant program. In particular, automatic bond authorizations are not an approach the administration would support to fund these programs in any scenario.

### **Section 14: Heavy-Duty Voucher Program**

While no funding was included for this program in the Governor's budget, and therefore DEEP cannot support this section at this time, DEEP does support the concept of a heavy-duty voucher program with a focus on providing funding within EJ communities. DEEP has had significant success with the CHEAPR program, as a complimentary policy to DEEP's regulatory requirements to deploy zero emission vehicles. If Connecticut adopts similar medium and heavy-duty delivery requirements, a similar program will be an effective tool in transforming and deploying clean, emission-free technologies within the heavy-duty vehicle sector. Other states have also developed similar programs: New York has already established a heavy-duty voucher program, and Massachusetts is in the process of implementing a fleet incentive program. DEEP would recommend including provisions for the administration of the program and flexibilities similar to the recommendations in section 6 for administering the CHEAPR program, DEEP

recommends a less prescriptive approach whereby DEEP would be authorized to amend adjust key program parameters in accordance with key metrics including program participation rates, in order to maintain program continuity.

### **Section 15:** Allowance of 10-year School Bus Contracts

DEEP would like to incorporate its previously filed testimony for this language on S.B. 92. In summary, DEEP **supports** this language because it will lead to air quality benefits that protect some of the most at risk populations in the state—children. Mobile sources account for sixty-seven percent of NOx emissions in Connecticut.<sup>1</sup> Of that, heavy-duty vehicles (for which school buses are included) account for forty percent of emissions, the largest single source within the mobile source inventory, and are projected to account for as much as sixty-seven percent of mobile source emissions of NOx by 2045.<sup>2</sup> Targeting school buses for electrification has the added benefit of decreasing emissions in neighborhoods, where residents are most impacted.

### **Sections 16 and 17:** Zero-Emission School Bus Program and Funding

Section 16 establishes a target of 100% zero-emission school buses providing transportation services in environmental justice communities by 2030 and 2035 for all other school districts. While DEEP supports this as a directionally correct example of the legislature setting some metrics, it might be appropriate to align these targets with deployment percentages adopted by California as part of the Advanced Clean Trucks rule. DEEP has identified these percentages in the recently released [\*Assessment of Connecticut's Need to Adopt California's Medium and Heavy-Duty Vehicle Emission Standards\*](#).

DEEP supports the concept of providing matching funds to leverage funding stemming from the Bipartisan Infrastructure Law (BIL). In the next five years EPA will be releasing more than \$2.5 billion dollars for the electrification of school bus fleets. However, not all school districts will be able to access these funds due to matching requirements that require the grantee provide sometime up to 40% of the cost of the electrification. Setting up a fund to be able to help, particularly jurisdictions in Environmental Justice (EJ) neighborhoods, will be important to positioning Connecticut grant applications to be competitive with the rest of the country.

Section 17 provides a \$20 million authorization to support school districts in converting their bus fleet to electric. This bond authorization is not included in the Governor's recommended capital budget and should only be considered within the context of a larger bond bill.

### **Section 18:** Transportation Project GHG Reduction

DOT recognizes that the transportation system – largely emissions from vehicles - remains the largest source of greenhouse gas emissions produced in Connecticut. Starting with our own carbon footprint, DOT has recently installed 25 dual-headed Electric Vehicle charging stations at the Newington headquarters, with plans underway to install additional EV charging stations at DOT offices and maintenance garages across the state. DOT is also in the process of converting the entire CTtransit bus transit fleet from diesel-hybrid to battery electric buses; the first battery-electric buses are currently in service, with more coming online each year. DOT also is investing in complete streets across the state, including “road diets” (reducing vehicle travel lanes), making it safer and easier for residents to travel outside of a motor vehicle. Through the award-

winning Community Connectivity Grant Program, DOT has awarded \$38 million to over 100 municipalities across the state to invest in safer streets for all users of the transportation system. The DOT over the past several years has also invested over \$50M in the growth of the East Coast Greenway in Connecticut to provide alternative pathways for cyclists and pedestrians. DOT also continues to invest a significant portion of the capital program in improving the state rail system, upgrading traffic signals to reduce idling, and replacing intersections with roundabouts that improve safety and reduce emissions. Lastly, DOT is also actively pursuing improvements in the customer experience on our bus transit system, including bus stop and shelter enhancements, and establishing new transit routes and increasing frequency of existing bus routes.

Establishing a system to measure greenhouse gas emissions from each “regionally significant project” will be a major undertaking that will require significant resources dedicated to research, study, and development of new processes prior to implementation. DOT already maintains Travel Demand and Air Quality computer models that take into account all current and future transportation projects and performs air quality conformity analysis in conformance with Federal Clean Air Act Amendments (CAAA) Section 176(c). This air quality emissions analysis is performed for the various MTP’s (Metropolitan Transportation Plans) and the TIP’s (Transportation Improvement Plans), by CTDOT. CAAA regulations require that each new MTP and TIP be demonstrated to be consistent with air quality goals and that progress is being made toward achieving and maintaining Federal air quality standards. The analysis must demonstrate that emissions, as estimated in the models, are within the limits outlined in state air quality implementation plans. Modifying and running these models is a time and labor-intensive undertaking. While greenhouse gas emissions are not currently part of the Air Quality model, DOT expects the FHWA will move forward with instituting requirements for greenhouse gas performance measures; DOT believes it is important to see how FHWA directs states to incorporate greenhouse gas emissions into federally accepted modeling, and federal-mandated performance measures, before expending significant time and resources to develop a greenhouse gas measurement methodology.

Colorado is currently the only state in the nation with regulations in place to cap the greenhouse gas emissions from certain transportation projects, but that regulatory process took six years from when the Colorado Department of Transportation first began working on the regulations to when they were approved by the state commission. DOT is in the process of meeting with Colorado on this topic to learn how they developed their regulations, and how they are beginning to be implemented. What is clear from initial conversations is that such a process required significant stakeholder outreach, with dozens of meetings held across the state of Colorado with the public and stakeholders, before regulations were drafted and well before they were adopted.

DOT supports efforts to develop a plan for how a program like Colorado's could be implemented in Connecticut. Moving forward on such a major undertaking without the necessary federal guidance and studies, models, and stakeholder outreach, could result in a system that does not work as intended and would not result in a net reduction of greenhouse gas emissions across the state. DOT looks forward to working with the Transportation and Environment Committees on this important topic.