2023 IMPACT ON ISSUES

1 STEUBEN PL, ALBANY NY 12207
WWW.LWVNY.ORG

LWV LEAGUE OF WOMEN VOTERS® OF NEW YORK

TABLE OF CONTENTS

INTRODUCTION

LWVNYS Impact on Issues is a guide for League leaders on the LWVNYS public policy positions. Every two years, local Leagues participate in the LWVNYS program planning process by reviewing existing positions and making recommendations for the future. Member agreement on issues (consensus or concurrence) follows in-depth study and is developed into the formal positions presented in this publication. These positions are the basis for action.

Included is a significantly revised Summary of LWVNYS Policy Positions, followed by the full LWVNYS position statements in bold type, together with background and actions that have been taken over the years under the positions. This document is updated for legislative action as of the end of the 2023 legislative session. Some sections have an "Action Taken under LWVUS Positions" section to describe how LWVNYS action has been taken under national positions. Therefore, this guide can be used as a companion book to *LWVUS Impact on Issues* when analyzing what action can be taken on an issue using national positions.

Over the last few years, the state Board has received input from local Leagues and members asking that we make it easier to access and understand our public policy positions. Part of the reason for this difficulty is that the state League acts under a combination of LWVUS and LWVNYS positions. Over the years LWVUS has reorganized its positions which are now organized into four broad categories: Representative Government, International Relations, Natural Resources and Social Policy. Three of these categories are also categories under which LWVNYS has also developed positions. The new Summary of Policy Positions has been reorganized to more closely follow LWVUS positions. We hope this will make the Summary somewhat easier to follow and connect with LWVUS positions. Eventually we plan to reorganize *Impact* to follow the same structure.

Leagues at the local and Inter-League Organization (ILO) level should use national and state League positions to take action in their own communities. It is the responsibility of the local or ILO League board to determine whether member understanding, and agreement exist; whether the specific action to be taken is clearly covered under the position(s); and whether the action makes sense in terms of timing, need and effectiveness. An effective action partnership between national, state and local levels of League will benefit all three.

Sally Robinson
LWVNYS Vice President Issues and Advocacy
December 1, 2023

League of Women Voters of New York State 2023

REPRESENTATIVE GOVERNMENT

Promote an open governmental system that is representative, accountable and responsive.

UNDER LWVUS POSITIONS ON VOTING RIGHTS

Support of measures to protect, extend and encourage the use of the franchise, including Election Day registration, no-excuse absentee voting and in-person early voting. Restore integrity to the election process – specifically support for uniformity in election laws and procedures in their implementation and enforcement; promote measures that ensure the integrity of all ballots; support ballot access and fair campaign practices.

UNDER LWVUS POSITIONS ON THE ELECTION PROCESS

Support of comprehensive campaign finance reform, including public financing of campaigns.

LWVNYS SPECIFIC POSITIONS ON ELECTION LAW

New Position-Support extending the right to vote to all currently incarcerated individuals.
Support the continuation of fusion voting in New York State.
Opposition to term limits for members of the New York State Legislature.
Opposition to term limits for New York State statewide elected officials.

UNDER LWVUS POSITIONS ON CITIZEN RIGHTS

Support of citizen rights, including reproductive rights.
Support of effective regulation of lobbying and ethics.

LWVNYS SPECIFIC POSITIONS ON GOVERNMENT

Support of standards to ensure equitable representation in the State legislature and Congress.
Support of improved measures to provide representation for legislative districts in case of a vacancy.
Support of responsive and responsible legislative processes which increase the role of the individual member and the committee system.
Support of procedural reforms in the constitutional convention process to promote openness and nonpartisanship.
Support of the consolidation of government/shared services when it promotes effective and efficient operation of government.

NATURAL RESOURCES

UNDER LWVUS POSITIONS ON NATURAL RESOURCES

Support for protection and management of New York's natural resources in the public interest, including energy conservation and energy options from renewable sources.
Support for climate goals and policies ensuring a stable climate system for future generations.

LWVNYS SPECIFIC POSITIONS ON NATURAL RESOURCES

Support for measures to achieve watershed protection including limiting pesticide use and applying Best Management Practices.
Support for a state-established, intergovernmental system for land resource management.
Support for a proactive role for New York State in regional land use planning, containing urban sprawl and protecting sensitive areas.
Support of reconditioning of the New York State Erie/Barge Canal System and its development for

recreational uses.

Support for preserving and enhancing the environmental integrity and quality of the Great Lakes-St. Lawrence River Ecosystem.

Support for policies that promote: the reduction of waste, the reuse of products and materials over disposal, and the responsible management of waste that can't be reused.

SOCIAL POLICY

UNDER LWVUS POSITIONS ON SOCIAL POLICY

Support for equality of opportunity, meeting basic human needs, childcare, energy-efficient and environmentally sound public transit, gun control and high-speed, affordable internet access.

LWVNYS SPECIFIC POSITIONS ON EQUALITY OF OPPORTUNITY

Support for equity in employment laws and practices and equal pay for jobs of comparable worth.

LWVNYS SPECIFIC POSITIONS ON EQUALITY FOR ALL

Support of measures that hold marriage to be an economic partnership with a presumption of equality between the spouses.

Opposition to measures that contain a presumption of joint custody of the children.

Support of measures to reduce the incidence and effects of domestic violence

LWVNYS SPECIFIC POSITIONS ON MEETING BASIC HUMAN NEEDS

Support measures to meet the needs for affordable and accessible housing through use of state funds and incentives to localities

Support of a livable wage for all localities in New York State

LWVNYS SPECIFIC POSITIONS ON STATE FINANCES

Support reforms for greater equity in education financing (K-12) for both pupils and taxpayers.

Support raising funds to provide New York's children with a sound basic education through increases in the New York State personal income tax, implemented in a progressive fashion.

Support for the replacement of the existing local residential property tax relief programs in which relief goes to all with programs based on need, with annual cost of living adjustment.

Oppose in principle the use of public funds to support non-public schools (K-12).

Support the funding of public higher education and the existing formula for financing the community system, 1/3 tuition, 1/3 state aid, and 1/3 county support.

Support a uniform equitable assessment and property tax system.

Support of measures to provide for openness and accountability in the operation of the New York State public authority system.

Support of a timely and responsive state budget.

LWVNYS SPECIFIC POSITIONS ON HEALTH CARE

Support equitable access to quality care, public health investments, health and safety standards that protect patients and providers, cost-effective payment and delivery alternatives, and regular public evaluation.

Support of measures that enable individuals to assume responsibility for their own health and to participate in decisions, including extraordinary life-extending procedures.

Support for the option of medical aid in dying for the terminally ill.

Support single-payer public financing as a viable and desirable approach to implementing equitable access, affordability, and financial feasibility.

LWVNYS SPECIFIC POSITIONS ON JUDICIAL ISSUES

Support of a unified state court system with improved provisions for judicial selection.

LWVNYS SPECIFIC POSITIONS ON CRIMINAL JUSTICE

Support of a criminal justice system that is just effective, efficient and transparent.

Support of statewide guidelines for law enforcement at all levels to prevent racial and economic profiling.

Support of alternatives to incarceration.

Support of measures to improve pretrial procedures in the criminal courts.

Support of measures to promote a fair and efficient jury system.

Support the rights of indigent defendants to representation at public expense.

Support of legislation and changes in public policy to stop human forced labor and sex trafficking.

REPRESENTATIVE GOVERNMENT

VOTING RIGHTS

The League of Women Voters of the United States believes that voting is a fundamental citizen right that must be guaranteed. Statement of Position on Citizen's Right to Vote, as Announced by National Board, March 1982. (LWVUS *Impact on Issues*, 2022-2024, p. 23)

Although the right of every citizen to vote has been a basic League principle since its inception, this tenet was made a position following the conscious effort of the League to emphasize the extension of voting rights under the Voting Rights Act of 1965 and its subsequent amendments. (See Voting Rights in the Apportionment section below.)

APPORTIONMENT

The League of Women Voters of the United States believes that congressional districts and government legislative bodies should be apportioned substantially on population. The League is convinced that this standard, established by the Supreme Court, should be maintained and that the U.S. Constitution should not be amended to allow for consideration of factors other than population in apportionment. Statement of Position on Apportionment, as announced by the National Board, January 1966 and Revised March 1982. (LWVUS *Impact on Issues*, 2022-2024, p. 35)

The apportionment of election districts was a state issue until the 1962 and 1964 Supreme Court rulings, requiring that both houses of state legislatures must be apportioned substantially on population transferred the issue to the national arena. These rulings, which spelled out the basic constitutional right to equal representation, prompted introduction in Congress of constitutional amendments and laws to subvert the Supreme Court's 1954 one-person, one-vote decision. Leagues in 33 states already had positions on the issue when, in 1965, the LWVUS council adopted a study on apportionment. By January 1966, the League had reached national member agreement on a position that both houses of state legislatures must be apportioned substantially on population. The 1972 convention extended the position to cover all voting districts.

In New York, provisions of the state constitution for allocating representation to the people and areas of the state were already being challenged in the federal courts when delegates to the 1963 LWVNYS convention added Apportionment to the program.

By January 1965 the League Membership had agreed on standards for establishing legislative districts and announced the following position:

APPORTIONMENT

Statement of Position

As announced by the State Board, January 1965

The League of Women Voters of New York State supports the following standards for establishing legislative districts that conform to federal constitutional requirements for equality:

1) Districts should follow existing political subdivisional boundaries, especially county lines, as far as practicable. Counties are recognizable political units that define some communities of interest. As a unit of party organization, they also affect representation through their function in nominating candidates.
2) Districts should be of contiguous territory with the smallest perimeter possible. Compactness limits opportunities for gerrymandering within political subdivisions, particularly cities.
3) The constitution should prescribe the limits within which the size of the legislature can vary at each redistricting. The size should be flexible enough to allow the other standards to be used in conjunction with population equity.
4) Each Senate and Assembly district should be represented by one legislator with a single vote. Single member districts improve the quality of representation by fixing responsibility. Weighted voting is opposed because it distorts representation.
5) Districts should be based on current census statistics.
6) Districting standards should be established in the state constitution.

An extra year of study found Leagues unable to agree on what governmental institution should draw the lines; i.e., the legislature, a commission, the governor, etc. Consensus was reached, however, in two additional areas regarding the procedures for redistricting:

APPORTIONMENT

Statement of Position

As announced by the State Board, 1966

The constitution should provide for an alternative districting procedure if the responsible agency fails to draw the lines within the limits specified.

Whoever is responsible for districting should utilize an impartial commission for drawing the lines.

Recent League Activity

2023

New York's redistricting legal battles continue well past the 2022 election in which the state's Congressional and state senate lines were redrawn by a special master after a finding by the state's highest court that the Congressional maps were a partisan gerrymander and the process used to pass both maps violated the state's Constitution. The assembly maps were challenged in a separate case but there was not enough time to implement a revised assembly map before the 2022 election.

The assembly case ultimately resulted in the Independent Redistricting Commission being reconstituted to draw new assembly maps that were passed by the legislature and signed by the Governor in April of 2023. The League supported the alternative of new assembly maps being drawn by the same special

master who drew the Congressional and state senate maps. A different case, Hoffman vs. Independent Redistricting Commission continues and is now seeking to have Congressional redistricting re-opened and new maps drawn by the IRC and approved by the Legislature for the 2024 election. The League strongly opposes this result and believes there is no basis under the precedent of the Harkenrider decision and the state Constitution to redraw maps before the 2030 census.

2022

The League was a strong supporter of the Constitutional amendment on redistricting that was approved by voters in 2014. That amendment established an Independent Redistricting Commission ("IRC") and adopted a ban on partisan gerrymandering. The IRC initially submitted a set of maps that were rejected by the Legislature. The Constitutional amendment required the IRC to send a subsequent set of maps to the Legislature for a second up or down vote after the initial rejection, but the IRC failed to submit a 2nd set of maps. The Legislature then drafted and adopted its own redistricting maps.

Republican voters sued to reject the Congressional and State Senate maps as unconstitutional under the 2014 Amendment. The lower court held a trial in March and found the Congressional map violated the new Constitutional provision against gerrymandering, and in addition voided that map as well as the State Senate and State Assembly maps because the redistricting procedure set forth in the Constitution was not followed.

The defendants appealed to the Appellate Division, Fourth Department. The League filed an amicus curiae ("friend of the court") brief with the Appellate Division that called for the Court to invalidate the Legislature's electoral maps, as the constitutionally mandated process for redistricting was violated by both the IRC and the Legislature. The League argued in its brief that, as a result of the violation of the required process, the Constitutional amendment now required that the New York courts, not the Legislature, draw the electoral maps.

The Appellate Division, by a plurality decision on April 21, 2021, rejected the State Supreme Court's determination that the redistricting process had violated the Constitution, but held that the Congressional map violated the anti-gerrymandering provisions of the Constitution, and ruled that the Legislature would be given until April 30 to enact a constitutional replacement for the Congressional map. The Appellate Division upheld the State Senate and State Assembly maps. One Justice dissented from the plurality opinion's conclusion regarding the process, stating that the Justice "largely adopt[s] the well-reasoned analysis of the procedural issue offered in the amicus curiae brief filed by The League of Women Voters of New York State."

The Appellate Division's decision was appealed to the Court of Appeals, New York's highest court. The League filed a supplemental amicus curiae brief with the Court of Appeals contesting certain conclusions in the Appellate Division decision and arguing that the Constitution clearly provides for the Judiciary, not the Legislature, to remedy the violations of the process mandated by the 2014 Constitutional Amendment. The League further argued that the 2014 Amendment's process was carefully designed to further substantive goals and values – accountability, deliberation, and some independence from the worst of the partisan political process – that should be respected by the Court. Our brief concluded:

> "To be sure, [the amendment's] carefully-specified process does not guarantee that the scourge of gerrymandering will be eliminated, but the Judiciary should give that framework a chance to work. The Court would thereby honor the promise of the amendment – an independent redistricting process that conduces to competitive elections rather than protection of incumbents or particular political parties."

The Court of Appeals met on Tuesday, April 26 for oral argument. The oral argument was livestreamed through a video-link at https://www.nycourts.gov/ctapps/live.html . In view of the extraordinary importance of this appeal and, in particular, the procedural process mandated by the 2014 Amendment to reduce partisan gerrymandering, the League's counsel had requested that the Court permit it the opportunity to provide oral argument.

You can read a copy of the League's initial amicus brief at: https://lwvny.org/wp-content/uploads/2022/04/Exhibit-A-Amicus-Brief.pdf and a copy of the League's supplemental amicus brief at https://lwvny.org/wp-content/uploads/2022/04/LWV-CoA-Amicus-Letter-Brief-Final-042422.pdf

The Court of Appeals decided to invalidate the Congressional and state Senate maps drawn by the legislature.

As a result of the Court of Appeals landmark decision invalidating Congressional and state Senate maps drawn by the legislature, the legislative lines for Congress and state Senate were drawn by a special master appointed by the trial court and finalized on May 20, 2022. Primaries for Congress and state Senate were moved to August 23rd, but the state Legislature declined to move the statewide and Assembly races from their scheduled June 28th date. The state League filed two pro bono lawsuits -- one in federal court and one in state court -- to get the primaries consolidated. The federal case claiming infringement of voters' First and Fourteenth Amendment rights under the Constitution was decided against the League, but the judge noted in his ruling that the case was "worth bringing and trying."

The state case was an Article 78 proceeding filed in Supreme Court in Albany to invalidate the Assembly lines that the Court of Appeals said were unconstitutionally drawn but could not be struck down in that case for procedural reasons. This case was decided against the League, but in a separate and parallel state case an Appellate level judge ordered that the Assembly lines be redrawn for 2024. The rationale was that it was too late for 2022.

2019-2021

As the state census count began the League was active in ensuring New York's first Redistricting Commission would be nominated according to the constitutional deadline. The League was given grant funding through LWVUS to participate in a nationwide campaign, People Powered Fair Maps, that is focused on ensuring all new legislative maps are drawn as fairly and nonpartisanly as possible.

In the fall and winter of 2019, the League sent several letters to legislative leaders reminding them of the imminent February deadline to appoint their commissioner picks and urging them to consider the importance of an on-time appointment process so that the commission could begin its work. In mid-February the first 8 commissioners were appointed just before the deadline. The final two commissioners would not be selected until the fall of 2020.

During the 2020-2021 state budget process, the League submitted testimony urging the legislature to provide adequate funding for the new commission and to dissolve the existing Legislative Task Force on Demographic Research & Reapportionment so that the commission would not be undermined by the legislative controlled agency. The League was ultimately successful in lobbying for $750,000 through the Department of State for the commission to begin its work.

The League partnered with NALEO Educational Fund and the LatinoJustice PRLDEF in the spring of 2020 to urge the seated commissioners to consider the need for greater diversity when appointing the final two commission members. The initial 8-member commission only had one-woman commissioner and no Latinx

commissioners. The League sent a letter to all seated commissioners and legislative leaders urging them to prioritize gender and racial diversity when selecting the final commission members. The League and our partners were successful in our endeavor and the final two commission members were appointed in October of 2020.

When the legislature met for its remote session in July and August of 2020 it held a hearing on the new redistricting process. The League testified in favor of the release of the commission's funds through the Department of State, the need for transparency and accountability throughout the process, and a focus on additional operational support until the commission was fully up and running. The League urged the legislature not to consider amending the new process that voters had approved in 2014 until after it was implemented in the next redistricting following the 2020 census. However, after the hearing the legislature put forward a new constitutional amendment to change the voting structure for both the commission and the legislature when voting on whether to accept proposed maps, effectively cutting off the minority party from having any influence on the redistricting process. The League issued a memo of support opposing the amendment and worked remotely to lobby legislators to oppose the bill. Unfortunately, our efforts were unsuccessful, and the bill had first passage in August of 2020. The League will continue to oppose second passage of the amendment in 2021.

In July of 2020 and January of 2021, the Senate and Assembly passed a constitutional amendment to change New York State's new redistricting process put in place since the last redistricting process. The amendment would effectively cuts off all minority party influence on the redistricting process and undermines the role of the Commission. The League opposed this amendment because it would disempower minority party appointees to the Redistricting Commission and limit the input of minority party legislators by changing the voting structure of the Commission and legislature when voting to approve maps. Under the new amendment, if both the Senate and Assembly are controlled by one party, there is no longer a requirement of two thirds vote of support. Additionally, the amendment repeals the requirement for a Commission's redistricting plan to be approved by at least one Commission member appointed by each of the legislative leaders, including the two minority leaders. Lastly, the proposal would take away the voting rights of minority party-appointed Commission members in appointing the two co-executive directors of the Commission.

The League opposed the first passage of this amendment in August of 2020 not only because it would strip away any input from the minority party, but also because it would change the untested process before it even has the chance to function. This is the first time the 2014 amendment establishing the commission will be put into effect for a redistricting cycle. The amendment was put to the voters for consideration and ultimately voted down. During the 2021 election the League worked to conduct voter education on this issue as well as a ballot campaign opposing the amendment. The League was successful in our efforts and the amendment was rejected by New York State voters.

In addition to opposing the amendment, the League worked to secure funding for the new Independent Redistricting Commission. After a major delay in the release of Commission funds, the League partnered with more than 30 diverse stakeholder organizations to call on the legislature to fully fund the Redistricting Commission. The League submitted joint testimony to the Legislative Budget Committees regarding the need to immediately fund the Commission so they can begin their work. The League also encouraged our members to help in our advocacy efforts. We were successful in our efforts and secured $4 million for the Redistricting Commission to complete their work redrawing our state and congressional district lines.

Past League Activity

1966

Since 1966 the League has worked for adoption of a constitutional amendment to set specified, permanent guidelines for the redistricting process.

1979

In 1979, the League as a leading member of the Committee for Fair Representation developed an expanded list of guidelines for redistricting. These guidelines are as follows:

Guidelines for Redistricting 1979

The League's redistricting guidelines are based on four principles - equal population, contiguity, integrity of existing political sub-divisions (to the extent possible) and, finally, geographic compactness. Adherence to the guidelines in their prescribed order would inhibit the temptation to indulge in the practice of equal population gerrymandering.

1. Population Equality - In compliance with the U.S. Supreme court's "one man-one-vote" requirement, population must be apportioned equally among districts. Deviations from this ideal were sharply limited by the Supreme Court in the case of congressional districts; however, the court found deviations of 10% or less in the "overall range" to be acceptable for legislative districts if based on legitimate state policy. The Court found maintaining the integrity of political subdivisions such a policy.

2. Contiguity - Districts should be of contiguous territory with the smallest perimeter possible. They should consist of land parcels adjacent to one another. Areas divided by water should not be included in the same district unless connected by means of a bridge or tunnel with both termini in the district. This provision assures that the land parcels in a district have some physical relationship to each other. No city block shall be sub-divided, since a city block is the smallest parcel for which census data are available.

3. Integrity of political subdivisions - The guidelines are designed to minimize the fractionalization of political subdivisions where fragmentation is necessary to comply with the equal population requirement. Maintaining counties, towns, cities and villages intact, is an important element of redistricting because these subdivisions have reasonably permanent boundaries which are more unlikely to be tampered with for political advantage i.e. gerrymandering, and their populations often have commonality of interests that merit representation by the same member of congress or legislator. Political party machinery is structured along county, town and city lines and its functioning is impaired when these units are periodically divided and recombined. The following guidelines delineate which counties, cities and towns should be divided first when choices must be made and in what manner. These particular provisions limit discretion and the opportunity for manipulation. The most heavily populated units are divided more easily to obtain population equality and can be expected to retain significant political power even when apportioned to two or more districts:

    a. The number of counties, towns, and cities divided among more than one district shall be as small as possible. If these subdivisions must be divided, they shall be divided among as few districts as possible.

b. Counties that are more populous shall be subdivided in preference to less populous counties. Within counties that are divided among districts, more populous cities and towns shall be divided in preference to less populous cities and towns.

c. In dividing a county, city or town, as populous as possible a portion of such county, city or town shall be placed in a district or districts wholly within that subdivision and only as small as possible a portion of the subdivision's population shall be separated from the rest.

d. Within towns that are divided among districts, no village shall be divided unless necessary to meet equal population requirements.

e. Within cities that are divided into wards or similar subdivisions, whose boundaries have remained substantially unaltered for 15 years, the number of such wards or subdivisions divided into more than one district shall be as small as possible.

4. Compactness - Compactness is achieved by comparing the aggregate length of all the district lines in the plan with those of any other proposed plan, which complies as well with the other guidelines. Districts will not be exactly regular in shape because of the requirements for population equality, for preserving counties, etc. But the compactness rule will prevent the arbitrary pushing of a particular boundary line a few blocks in one direction or another to achieve political advantage.

2001

In 2001, the legislature was charged with redistricting state legislative and Congressional districts. The League testified at all The Task Force on Demographic research and reapportionment hearings statewide. In all testimony we stressed the need for ensuring a process that better allows for citizen input and for legislative districts that give all voters a fair and equal voice in our representative democracy. We also lobbied in the legislature for a nonpartisan commission to draw the lines based on the League's criteria; however, because this is the most partisan process undertaken by the legislature and determines the districts in which the legislators will run for the next decade, this was indeed a heavy lift. In the end not even members of the Task Force had input into the process, as it was done entirely by the majority leadership in each house.

The League continues to advocate for the following to insure that all voters have a fair and equal voice in our representative democracy:

1. A "Transparent" Process - Allow the public to participate in the redistricting process.

2. A non-partisan redistricting system for drawing lines - The League believes that lines should be drawn by a non-partisan advisory commission and then submitted to the legislature for their vote. We believe that the NYS Constitution would permit such a body to be appointed to oversee the process. The League looked to other states for examples and found that Iowa has utilized such a plan since 1980 and Arizona has recently adopted this method. Lines should be drawn by utilizing the criteria previously outlined. The use of incumbent's home addresses or the party affiliation of voters should not be factors in this process.

Competitive elections are the lifeblood of democracy. Only through the clash of ideas can voters intelligently understand complex public policies and think through the implications of policy alternatives. Competitive elections stimulate voter interest in elections and increase voter turnout.

Historically, New York's redistricting process has been extremely partisan, done to maintain incumbency protection. The Democrats in the State Assembly and the Republicans in the State Senate each control the district lines in their respective houses. Both houses agree to the other's plans and the legislation is then sent to the Governor for his signature. By using techniques like "packing," whereby lines are drawn to concentrate many supporters of political opponents into a few districts, and "cracking," whereby opponents' supporters are split among several districts, they dramatically increase their party's chances of incumbency for the next decade. These "designer districts" literally allow for legislators to choose the voters before the voters have a chance to choose them.

In all of its 80+ years of history, the League has stood for fair and equitable representation for the people of our state. We believe that the overriding concern in drawing new districts is to assure that all New York resident are assured of fair representation in Congress and the Legislature. The League believes it imperative that our guidelines and process be applied so that people, not parties, are protected.

2010

In 2010, in addition to testifying at LATFOR hearings statewide, the League participated in a broad campaign, ReShapeNY, calling for a better redistricting process for New York. Many Leagues held public forums highlighting the need for reform using the materials the state League provided in the fall of 2010. This followed years of the League advocating for a constitutional amendment setting forth permanent and fair guidelines and establishing an independent commission to draw lines free of partisan gerrymandering. We have long felt that the pen that draws legislative lines needs to be removed from the hands of the legislators, but understandably this was an uphill fight given the inherently political nature of the redistricting process.

The first set of state legislative lines for the 2012 election was released by the Legislature in January 2012 and we criticized those lines as partisan and gerrymandered, as did our good government colleagues and many others, and we called for both improving the lines and implementing lasting structural reform to a fundamentally flawed process. It became obvious that the redistricting process in New York was broken. The courts again stepped in as they had in past decades of Congressional redistricting.

The League called for the Governor to use his veto threat, and the power it gives him to negotiate with the Legislature, to not only improve the 2012 lines but also to achieve certain and permanent structural reform to the redistricting process. Permanent structural reform can only be achieved through a constitutional amendment but momentum for this has typically diminished greatly in the years following each redistricting battle. The League felt that 2012 was a unique opportunity for reform in light of the unprecedented campaign that has been waged by many different groups, including those allied with us in ReShapeNY, to hold legislators to their pledge to enact redistricting reform and Governor Cuomo's insistence that the status quo could not stand. The League supported the successful first passage of a constitutional amendment in 2012 and an accompanying statute, creating structural reform that permanently takes the redistricting pen away from the legislature and provides the voter with the power to choose their elective representatives. While not perfect, we felt that the constitutional amendment would provide a significant improvement on the LATFOR status quo. Certainty was added to the process by coupling first passage of a constitutional amendment with an accompanying statute, ensuring reform even if the amendment does not achieve the second legislative passage necessary to go on the ballot.

THE VOTING RIGHTS ACT OF 1965 AND ITS AMENDMENTS

The right to vote is basic to American citizenship. Who possesses that right and the extent to which that right is guaranteed has long been the focus of congressional action and judicial interpretation. In 1870 with the ratification of the Fifteenth Amendment to the Constitution, citizens were promised that the right to vote would not be abridged by the United States or any state because of race, color or previous condition of servitude. In the years following the ratification of the Fifteenth Amendment, states and local governments found ways to circumvent the intent of the law. It was almost a century after the passage and ratification of the Fifteenth Amendment; Congress passed the Voting Rights Act of 1965. Primarily the Act protected the right to vote as guaranteed by the Fifteenth Amendment.

1965

Since 1965, Congress has reconsidered the Act, passing amendments to it in 1970, 1975, and 1982. The 1970 amendments expanded who is covered by the act and the length of time they are covered. Additionally, the 1970 amendments mandate a nationwide five-year ban on the use of tests and devices as prerequisites to voting.

1975

In 1975 the Act was amended again, extending for the second time the length of time jurisdictions were covered and again expanding who was covered by the provisions of the Act. The scope of Section 5 was expanded beyond race and color to members of language minority groups by requiring pre-clearance procedures in jurisdictions in which more than 5% of the voting age citizens were members of a single language minority and in which printed election materials were available only in the English language. Native Americans, Asian Americans, Alaskan natives, and Hispanics are members of language minority groups.

1982

In 1982, Congress again amended the Voting Rights Act. Two sections that were amended, Sections 2 and 5, affect the redistricting process. Section 2 applies to all jurisdictions. It prohibits any state or political subdivision from imposing a voting practice that results in the denial of the right to vote. Section 5 does not apply to all jurisdictions. It applies only to "covered" jurisdictions; that is, jurisdictions subject to pre-clearance as a result of meeting certain criteria established in the test of Section 5. In New York State, only Manhattan, Queens, and Brooklyn are subject to Section 5. Covered jurisdictions are required to pre-clear all changes in their electoral laws with either the Department of Justice or the U. S. District Court for the District of Columbia. Section 5 also creates a legal cause of action giving citizens the right to turn to the federal courts for protection when a "covered" jurisdiction institutes electoral changes without pre-clearance.

Once a jurisdiction becomes subject to pre-clearance, any change in its electoral process must meet Section 5 pre-clearance requirements. Such changes include, but are not limited to: (1) any change in qualification or eligibility for voting; (2) changes concerning registration; (3) changes involving the use of a language other than English in any aspect of the electoral process; (4) changes in the boundaries of voting precincts or in the location of polling places; (5) changes in the boundaries of a voting unit through redistricting, annexation, de-annexation, incorporation, reapportionment, changing to at-large elections from district elections or changing to district elections from at-large elections; (6) changes in the method of determining the outcome of an election; (7) changes affecting the eligibility of persons to become or remain a candidate; and (8) changes in the eligibility and qualification for independent candidates.

Although the Section 5 pre-clearance procedures were originally temporary in nature, they have been repeatedly extended by Congress. Under the 1982 amendments, pre-clearance procedures will automatically expire in 2007 unless extended by Congress.

The 1982 Voting Rights Act Amendment Impact on Redistricting

In the period following the enactment of the 1965 Voting Rights Act (VRA), officials responsible for reapportionment focused on creating districts of substantially equal population, deciding how much deviation was permissible and for what purposes. The problem was not in creating equally populated districts but in choosing a plan from the infinite number of ways to draw the district lines. The League and other good government groups devised neutral principles for guiding legislators in drawing boundaries, principles which would go beyond the equal population requirement, principles designed to prevent the practice of equal population gerrymandering (the drawing of district boundaries of equal population but drawn in strange shapes for partisan advantage). However, legislators chose to draw more creative district boundaries, which would serve partisan advantages.

The two sections of the Voting Rights Act amended in 1982 directly affect states in their redistricting efforts. The amendments, designed both to prevent dilution of minority strength and to enhance minority access to the governing process had been given the first consideration in the redistricting process. These amendments and ongoing court decisions interpreting their implementation took precedence over all previous guidelines. However, the Supreme Court decisions of June 1993, June 1995, and subsequent decisions have cast some doubt on the constitutionality of this interpretation enhancing majority minority districts in the redistricting process.

In the 1995 Georgia case, the court struck down Georgia's majority-black 11th District and cast doubt on all such districts, on the grounds that race played a predominant role in the district's creation. Georgia's district was not "bizarrely" shaped to incorporate blacks, like the North Carolina one the courts struck down in 1993. In three cases, the court has upheld the position that race should not be the predominant determining factor in redistricting.

At the heart of the public's discontent over the state of New York's democracy is a feeling that state lawmakers rig the system for their own political gain. Nowhere is this more apparent than in the legislative district lines are drawn.

Currently, the State Senate Republicans and the State Assembly Democrats are allowed to draw the lines for their respective house—ensuring their re-election in the process. This has created a body of legislators that are not responsive to their constituents' concerns. The only check on this system is whether the Governor chooses to allow this practice to continue or use his veto powers to force changes. As in so many areas of reform, this Governor has shown no leadership on this important issue.

We believe that creation of an independent redistricting commission must be a top priority for those interested in reform. Lawmakers should support legislation ensuring that the drawing of legislative district lines is not done by those who stand to directly benefit from how they are drawn.

Following the census of 2000, the LWVNYS and several local Leagues were very active on redistricting issues. The state League testified at the Redistricting Task Force Hearing in Albany on March 19, 2002. The Buffalo and Rochester Leagues paved the way for the Albany hearing by putting pressure on the Task Force during the hearings in both Buffalo and Rochester. Complaints by the League and other good government groups about no Task Force hearing between Rochester and the Bronx finally forced legislators to add an additional hearing date in Albany.

After the statewide Redistricting Task Force Hearings, legislation was crafted by the Democratic controlled Assembly and the Republican controlled Senate to insure that their majority members would be re-elected. Although the League had lobbied vigorously for an independent redistricting commission the legislation was sent to the Governor for his signature. We lobbied the Governor to hold this legislation hostage to accomplish some reform in the area of campaign financing of elections. But, like Governor

Cuomo before him, Governor Pataki signed this incumbency protection legislation into law. Senate Democrats sued New York State under the Federal Voting Rights Law, but lost the case in the Federal District Court.

This issue has taken on national importance and will continue to be a state League priority to bring about real reform and elections that are more competitive. This issue will again be of prime importance following the 2010 census.

Following the election of Governor Eliot Spitzer in November 2006, our legislative director, Barbara Bartoletti was asked by Governor-elect Spitzer to sit on the Government Reform Committee of his transition team. Redistricting was an issue prominently discussed by the transition team and recommendations from the Government Reform Committee were made to the Governor-elect.

Once in office Governor Spitzer introduced a program bill with a bi-partisan Redistricting Commission instead of the League supported non-partisan commission. The League was party to several of the Governor's office negotiations on this proposal. At the end of session 2007, the Senate or the Assembly had taken no action on this program bill.

ELECTION PROCESS (CAMPAIGN FINANCING)

The League of Women Voters of the United States believes that the methods of financing political campaigns should ensure the public's right to know, combat corruption and undue influence, enable candidates to compete more equitably for public office, and allow maximum citizen participation in the political process. (LWVUS *Impact on Issues*, 2022-2024, p. 42) Statement of Position on Campaign Finance, as Announced by National Board, January 1974 and Revised March 1982.

A clear focus on campaign financing emerged from the LWVUS concern about spending abuses in the presidential and congressional campaigns of 1972. In 1973 an accelerated member study and agreement led to the initial Campaign Finance Position of the LWVUS, first announced in January 1974 and revised in March 1982. It was under this National League position that the LWVNYS took action until April 14, 1991, when the New York State League consensus was adopted.

CONSENSUS STATEMENT: ELECTION LAW

CAMPAIGN FINANCING

Statement of Position

As announced by the State Board, April 1991

The League of Women Voters of New York State reaffirms its belief that it is necessary to improve methods of financing political campaigns in order to ensure the public's right to know, combat corruption and undue influence, enable candidates to compete more equitably for public office and promote citizen participation in the political process. (LWVUS *Impact on Issues*,).

In order to restore public confidence in the political process:

Appropriate limits should be placed on campaign contributions which can be made to each candidate from individuals, corporate funds (in the aggregate where there are subsidiaries), political party monies, donations by PACs and special interest groups.

Funding limits on statewide candidates should be set at a higher level than on candidates running in smaller districts.

Equal access to the political process for candidates should be enhanced by supporting measures which would open the system to challengers and by enacting a public financing law for statewide offices.

The New York State Election Law should enable rather than limit candidates' attempts to gain ballot positions. All qualified candidates aspiring to public office should have access to the ballot through a fair, simplified petition system that is straightforward and that does not present a maze of technical minutiae. Basic safeguards against fraud should not require excessive rigidity.

Enforcement of the election law pertaining to campaign finance requires analysis of the data collected under the established procedures for reporting the receipt and expenditure of funds.

The League calls for centralized computerization of campaign finance records for local and statewide elections. In order for this information to have any meaningful effect, it must be monitored, analyzed, and disclosed. Oversight and enforcement must be vested in a government entity with the independence, power, and adequate resources to enforce the law.

The League supports measures to restore integrity to a system which has become flawed by political partisanship.

The League of Women Voters of New York State supports passage by the legislature of a legally valid Fair Campaign Code. Fair Campaign Practices Committees can play an important role in establishing ethical campaign guidelines at all levels of government and can focus public opinion on the conduct of campaigns. We urge their widespread use across the state.

Recent League Activity

2023

In March of 2023, there were signs of outward criticism of the new Public Campaign Finance Program despite a study done by Data for Progress and Stand Up America that showed that New Yorkers overwhelmingly support the program. In fact, 62% of New York voters say lawmakers must give the state's public campaign financing program sufficient funding. You can find the study here and read more about the pushback here, here, here and here.

The League was incredibly frustrated to hear pushback on a program we worked for so long to get into place. The new small donor public matching program, in effect for the 2024 State Senate and Assembly elections puts the power in the hands of the people of New York. The system helps candidates spend more time engaging with constituents and fund campaigns without depending on big donors. Together with our partners at the Brennan Center,

> *"For decades the League, along with our good government colleagues, has tirelessly worked to reform the pervasive pay-to-play culture that continues to reveal itself in scandal after scandal. New York now has before it a historic opportunity to enact sweeping improvements to our broken campaign finance system which has for far too long undermined democracy and encouraged public distrust in government,"* said Laura Ladd Bierman, Executive Director of the League of Women Voters of New York State.

The State League worked with our coalition partners to send out a press release on the topic. Read the press released here.

In order to be fully operational for the 2024 election, the new public campaign finance board, requested $114.5 million in funding for FY 2024. Governor Hochul appropriated $39.5 million in her executive budget. We asked the State Senate and Assembly to fully fund the program in their budgets. There were many rumors that the program would be defunded entirely and that there was a lack of support from many legislators. Ultimately, in the final budget for 2023 the program was funded at a total of $39.5 million.

Along with the Brennan Center and the Rockefeller Institute at SUNY Albany we held an informational presentation on the program on March 9, 2023. This presentation, co-hosted by the League of Women Voters New York State, the Rockefeller Institute, and the Brennan Center for Justice, explored how public financing fits into the post-Citizens United landscape and how the reform amplifies the voices of everyday New Yorkers in our elections and government.

In June of 2023, lawmakers introduced a bill (S7564/A7760) to substantially change the public financing law in ways that would undermine the program's core objective of empowering small donors. There were several proposed changes, but the most significant was that the program would now match the first $250 of any contribution instead of only matching contributions of $250 or less. We released a statement and a joint memo of opposition with other good government groups. Read the statement here and the memo here. The bill was passed in both the Senate and Assembly and has not yet been signed by the Governor.

2019-2020

Despite the League's continuing effort to finally pass campaign finance reform during the 2019 legislative session, the legislature and the governor punted the decision to a non-elected Public Campaign Financing Commission whose recommendations would automatically become law unless changed by the legislature.

In September of 2019 the League testified strongly at a public hearing of the Commission that in addition to public financing, any reforms must include lower contribution limits, including on political parties and those doing business with the state, and an independent enforcement agency. The League also worked with the Fair Elections coalition and our good government partners to ensure that the Public Campaign Financing Commission proposed comprehensive campaign finance reforms. We signed onto a letter to the Commissioners asking them to release their interim recommendations in the first week of December. We asked that they uphold a minimum standard in their recommendations and ensure a 6 to 1 match, a reduction in contribution limits, and the creation of an independent oversight agency to oversee the program.

Unfortunately, the Commission's report fell short in several respects, not touching party contributions or pay-to-play and leaving candidate limits still far too high. It also courted controversy by significantly raising signature requirements for third parties to be on the ballot. Not surprisingly, the resulting automatically enacted laws were challenged in the courts and overturned by a lower level court on the basis that the Legislature had unlawfully delegated its law-making to an unelected entity.

Subsequently, during the 2020 budget process the Legislature passed a campaign finance bill mirroring the recommendations of the Commission from last year (which became law automatically) that were successfully challenged in court. The bill allows candidates for statewide office and the Legislature to opt into a system of public financing that incentivizes small dollar donations by matching them with public funds. Candidates for statewide office can now raise a maximum of $18,000 in a four-year election cycle from an individual contributor, down from about $70,000; state Senate candidates can raise $10,000, down from $19,300; and state Assembly candidates can raise $6,000, down from $9,400. Unfortunately, limits on contributions to political parties and those doing business with the state were left untouched in this legislation as well.

The new legislation also put back in place the Commission's controversial changes to party thresholds and ballot access requirements. Statewide candidates now have to get 45,000 signatures from voters to get on the ballot, up from 15,000. For an automatic ballot line, a party must receive at least 130,000 votes or 2% of the vote, whichever is higher, every two years in a gubernatorial or presidential election, up from 50,000 votes every four years in a gubernatorial election.

2016

Even after the indictment and conviction of the Assembly Speaker and Senate Majority Leader, the legislature once again failed to pass meaningful ethics and campaign finance reforms during the 2016 legislative session. The Senate and Assembly had both created independent ethics bills which they passed during the budget. The two packages were completely different with the Assembly focusing on outside income and lobbying practices while the Senate only passed a bill to limit term limits for leaders. The Senate also restated their support of a pension forfeiture bill they had advanced in 2015. The League issued a memo calling on the two houses to work together and pass a single ethics package to address all of these reforms as well as reforms to campaign financing, restructuring of JCOPE, and strengthening financial reporting.

Although the Governor had stated he planned to institute new ethics reforms, no legislation was proposed until the final days of session. When the Governor finally did put forward an ethics packaged, it was aimed primarily at independent expenditures and included some problematical disclosure rules for non-profits. On the other hand, the package includes some reforms that we have been fighting for nearly a decade: pension forfeiture of elected officials convicted of corruption, the timely closure of political PACs after a candidate passes, and having political consultants register as lobbyists, all measures the League supports.

What we did not support is how the Governor quickly put together this package, without including laws aimed at bigger issues such as closing the LLC loophole and eliminating pay to play by lowering contribution limits, and then the two houses passed the package in the dead of the night (Senate at 2:00am and Assembly at 5:00 am)

2015

The 2015 legislative session was one that saw the leadership of both houses change as the then leaders Sheldon Silver and Dean Skelos were arrested on federal corruption charges.in January and May respectively. Unfortunately, even this did not result in any progress being made in the legislature on campaign finance reform. However it ended up being a year in which the League and its good government allies pushed to see the LLC Loophole finally closed Legislation to do this was introduced in January by Assemblyman Brian Kavanagh and Senator Daniel Squadron. While the Assembly was quick to pass the measure, the Senate Republicans refused to even consider the legislation forcing Senator Squadron to file a motion with the Senate Elections Committee asking the members to honor senate rules and vote on the bill. On the floor of the Senate this motion was deemed non-germane and failed on a straight party line vote.

Going at the problem through a different avenue, advocates also attempted to overturn the 1996 State Board Election's opinion that created the LLC loophole at the April meeting of the New York State Board of Elections, but the effort failed with a 2-2 vote; both republicans voted against, democrats voted for. The GOP Commissioners insisted this type of reform was better left to the legislature. The League and several other good government groups voiced their outrage over the board's gridlock and reiterated the importance of replacing the ill-advised and outdated 1996 advisory opinion that treats limited liability companies (LLCs) like individuals, rather than corporations. At September's meeting of the State Board of Elections, a request for a re-hearing of the 1996 advisory on LLC was raised and again the vote was stalemated at 2-2.

This "5-Point Ethics Package" did not even begin to touch on the issues we have highlighted all session. The League was quick to issue a statement criticizing the legislature for passing the insufficient reforms in the dead of night without public input.

2014

For the first time, Governor Cuomo put Campaign Finance Reform in his proposed 2014 state budget. Because of previous Court of Appeals decisions granting the executive far more control over the state budget, the Governor gambled that the Legislative Branch would not risk delaying the budget beyond the April 1st deadline and therefore the budget would include his proposed Campaign Finance Reform. Despite the grave reservations of some good government groups, consensus was reached that this could be the best opportunity to accomplish Campaign Finance Reform.

Throughout the 2014 budget session, local Leagues and the state League lobbied their local legislators and the leadership offices to ensure that comprehensive campaign finance reform proposal remained as part of the proposed state budget. Unfortunately, the governor and legislature reached an agreement behind closed doors which was significantly watered down and included only a publicly funded pilot program for the Comptroller but did not use his budgetary powers to secure comprehensive CFR and the legislature passed a significantly watered down budget agreement with a governor appointed campaign finance enforcement official, who would provide a fifth vote only on enforcement matters conducted in the enforcement entity.

The League expressed its extreme disappointment that Governor Cuomo and the Legislature failed to seize upon a historic opportunity to pass comprehensive campaign finance reform. We were particularly disturbed that the Governor failed to push more strongly to fully implement the findings of his own Moreland Commission. The budget agreement omitted fundamental and long-sought reforms such as reasonable limits on campaign contributions, banning of housekeeping accounts, limiting party transfers, and the closure of the LLC loophole. The system of public financing limited to candidates for State Comptroller during the current election cycle was woefully lacking in both time and scope to be effective as a pilot program. The current Comptroller declined this deeply flawed and inadequate faux "reform" leaving New Yorkers with a government still susceptible to the corrupting influence of big-moneyed special interests. In a devastating move by the Governor, the day following passage of the State budget, the Moreland Commission was disbanded. For the remainder of the legislative session, much media attention was focused on the political ramifications for the Executive because of his disbanding of his public integrity commission.

Following passage of the budget, the League and good government colleagues continued to lobby the legislature for comprehensive campaign finance reform, however, no legislative action was taken.

2013

In 2013, during a legislative session that saw the indictment of numerous legislators on corruption charges, the League continued its advocacy for comprehensive campaign finance reform and changing Albany's "pay-to-play" culture. The indictments heightened public interest and support of campaign finance reform and pressure on the governor and legislature to act. Assembly Speaker Silver reintroduced his campaign finance reform legislation (A.4980/S4705 – The Fair Elections Act) of which the League's misgivings remained. The Senate Independent Democratic Conference, led by Senate Majority Coalition Co-Leader Klein, introduced a more comprehensive campaign finance reform legislation (S4897 – The Integrity in Elections Act). The League welcomed the addition of a more comprehensive package to the public discourse. However this legislation had no same as in the Assembly and, given the politics of the Senate during the 2013 session, had very little chance of passing. In June 2013, Governor Cuomo also proposed his own campaign finance legislation in Program Bills #3 and #12. The League, with NYPIRG, applauded the governor for highlighting campaign finance reform in the closing weeks of the session, but urged the governor and legislative leaders to come together to produce results and actually pass comprehensive legislation.

The League also provided testimony on campaign finance reform before the Independent Democratic Caucus at their "Restoring the Voters' Trust in New York State Government: Reforming New York State's Campaign Finance and Election Laws by Increasing Accountability" hearings in both Buffalo and Albany. In addition to working with our good government partners on this issue, the League was also a participant in the Fair Elections Coalition to pass comprehensive reform. While lobbying the issue in Albany, the League continued to support local leagues in holding educational forums on campaign finance reform. While Speaker Silver's bill was passed in the Assembly, ultimately no campaign finance legislation was passed in the Senate, as the Senate leadership refused to bring it to the floor for a vote.

PAST LEAGUE ACTIVITY

1980s

While functioning under the national position, the LWVNYS supported campaign-financing rules limiting contributions and expenditures. The League consistently lobbied for partial public financing of campaigns for statewide offices and strongly endorsed a funding system incorporating a state income tax check-off.

In 1982, the League interpreted its campaign financing position to include ballot issues as well as candidates. During the 1983 legislative session, the League actively supported a bill, subsequently signed into law that would require political action committees to report all contributions and expenditures made for the purpose of supporting or opposing ballot issues.

Closing a serious gap in the state election law, a bill that prohibits candidates and political committees from diverting excess campaign funds to personal use passed with League support in 1985. Until this restriction became law, candidates and committees were free to use excess funds in any manner they desired. Loose enforcement of the law has resulted in continued misuse of campaign funds for personal expenses.

Another loophole in the law was addressed in 1988 when the legislature passed a law requiring the disclosure of "housekeeping" funds. These funds are for the purpose of maintaining political party offices and are to be used only for normal office expenses. They are not meant for use in political campaigns. However, since the law formerly required no reporting of these funds, there was no way to determine that they were expended properly. The new law has not been successful in eliminating the abusive practices in connection with housekeeping accounts, however.

1999-2004

In 1999, the State Board of Elections began requiring candidates in state elections, who spend more than $1000, to file their financial disclosures electronically. This electronic disclosure is then published on the Internet. This law was expanded in 2006 to include all candidates for local elections who spend more than $1000, as well.

Through the 2000's, LWVNYS continued to support campaign-financing legislation that met the criteria of our position. In the 2000 session, the Assembly leadership introduced the same partial public financing bill that had been introduced for the past fifteen years. In the 2001 session, the League, Common Cause and NYPIRG lobbied members of the Democratic majority conference to amend their campaign financing legislation to include a 4-1 public match component patterned after New York City's successful public financing law. Assembly Democrats amended their legislation to reflect the system in New York City, and it passed the house. The League then turned its attention to the Senate where we were able to secure a majority sponsor (Sen. Goodman) for similar-to legislation. This bill will have to pass the Senate in a future session in order to go to joint conference committee to resolve differences. Full public financing, "Clean Money, Clean Elections," was introduced as far back as the 1998 legislative session. Only Democratic sponsorship in the Senate could be secured and the legislation was never addressed in committee. In the Assembly the bill had majority sponsorship, but, as in the Senate, was not taken up in committee. No action on this legislation has taken place since 1998. The Governor has repeatedly said that he is not in favor of full public financing of elections.

On the last day of the regular 1999 session in June, Governor Pataki announced a campaign finance program bill. Although disappointed the legislation came so late, League supported this comprehensive approach and requested that the Governor become an actual advocate for his legislation. Clearly this legislation came too late to be debated fully by the Legislature and did not get sponsorship or was not introduced during that regular session. The Governor's program bill on campaign finance reform did not obtain a Senate sponsor until late in the 2001 session (introduced by Rules Committee). The bill did not see any action in the 2001 session. The bill would have:

- Ban soft money
- Dramatically lower contribution limits
- Crack down on sham issue ads

- Restrict fundraising during the legislative session
- Enhance disclosure
- Toughen enforcement

Passage of the McCain/Feingold law at the national level brought hope for reform of New York's lax campaign finance laws. Although the Assembly Speaker sponsored comprehensive legislation in 2002 that passed overwhelmingly in the house, the Senate has never introduced or passed similar to legislation.

The Speaker has publicly stated his support of going to a public, joint conference committee on campaign finance reform if the Senate acts on the Governor's proposal. The League called on the Governor and the Senate to support a plan based on the successful New York City system of public financing, in which candidates receive public funds to match small private contributions raised. At a minimum, the League has urged the Senate to support the Governor's legislation and to take up the Speaker's offer of a joint conference committee negotiation on campaign finance reform. Although the League continued to lobby for campaign finance reform, no action was taken on this legislation in 2003 or 2004.

2005

In the 2005 session, the League, in coalition with NYPIRG, Common Cause, and Citizens Union, continued to support comprehensive campaign finance reform through the following recommendations:

- Creating a voluntary system of public financing modeled on New York City's,
- Overhauling existing campaign finance laws,
- Requiring candidates for local government to report their contributions in electronic format and then posting those filings on the Internet as contributions for state office are,
- Limiting the use of campaign contributions to those activities directly involved in campaigning.

Again, the Assembly passed legislation the League supported. Governor Pataki had proposed a comprehensive campaign finance plan that was similar to the Assembly legislation except it did not include a public financing system. The Governor continued to not push the Senate to act on his plan. Unfortunately, the Senate did not offer its own reform plan and blocked more limited measures to reform the system. Advocacy on this issue has been directed at moving the Senate to act on the Governor's bill so that a conference committee could resolve differences on the two bills. Campaign finance reform was one of ten issues targeted during the reform lobby day in May 2005.

2006-2007

The session of 2006 preceded legislative elections and a gubernatorial election. The reform coalition continued to push the legislature to adopt the Assembly Speaker's campaign finance legislation, but began the process of making the issue of campaign finance reform a campaign issue for both the legislature and candidates for governor. For the first time, every legislator was a "reformer" and reform day in 2006 drew hundreds of citizens into the legislature to push for reform issues, most prominently, campaign finance reform. Unfortunately, the session concluded with no legislative action, but with a clearer vision for renewed anticipation of a more receptive Governor and legislature in 2007.

The election of November 2006 brought a new Governor and several new legislators into office. The League was asked to sit with other reform groups on Governor Elect Eliot Spitzer's Transition Team, specifically on the government reform committee. One of the recommendations given to the new Governor was campaign finance reform. This Governor had campaigned on a reform agenda and there was anticipation that campaign finance reform would be a top priority. In the Governor's first State of the State message, he talked about the need for campaign finance reform.

"To neutralize the army of special interests, we must disarm it. In the coming weeks, we will submit a reform package to replace the weakest campaign finance laws in the nation with the strongest. Our package will lower contribution limits dramatically, close the loopholes that allow special interests to circumvent these limits, and sharply reduce contributions from lobbyists and companies that do business with the state.

But reform will not be complete if we simply address the supply of contributions. We must also address the demand. Full public financing must be the ultimate goal of our reform effort. By cutting off the demand for private money, we will cut off the special-interest influence that comes with it." State of the State Address, Assembly Chamber, The Capitol, Albany, NY, Monday, January 3rd, 2007"

Shortly after the Governor's State of the State address, reform groups including the League were asked onto the second floor (Governor's Offices) to help craft comprehensive campaign finance legislation. Negotiated language with the Governor's office included elements listed below; however, during the regular legislative session of 2007, these reforms were not introduced as actual legislation.

- Lowered campaign contribution limits.
- For statewide candidates – from current total maximum of $55,900 from a single source per cycle to $20,000 total.
- For Senate candidates – from current $9,500 general/$6,000 primary to $5,750/$5,750.
- For Assembly candidates – from $3,800 for each primary and general to $2,300/$2,300.
- For party and legislative committees from current $94,200 to $50,000 per year.
- While we supported the Governor's plan, his contribution limits would have moved New York from having the highest contribution limits of states with limits, to second highest.
- Limited donations to "housekeeping accounts." The proposal would limit "soft money" contributions, currently unlimited, to $50,000 in aggregate from each source per year.
- The Governor's proposal would still allow staggeringly high donations, but would have eliminated the possibility that one entity would be able to pour millions of dollars into one party's political committee – which would have diminished the appearance of a conflict of interest.
- Close loopholes. The proposal would have closed the loopholes that allow corporate subsidiaries and LLCs to skirt the law.
- Strengthened enforcement. The Governor's plan would add a fifth commissioner to the State Board of Elections. This bipartisan appointee would have broken enforcement logjams that exist currently.
- Strengthened disclosure. The proposal would require all contributors to provide information on their occupation, employer, and business address; would require additional reports during the legislative session; and add a 15-day pre-general election disclosure report.

Campaign finance reform was also highlighted at reform day April 2007. Governor Spitzer and Speaker Sheldon Silver attended and committed to pass reforms, however, Senate Majority Leader Joseph Bruno did not attend and made it clear that his conference did not intend to pass campaign finance reform. In response to Majority Leader Joseph Bruno's assertion that citizens did not "give a hoot" about campaign finance reform, the League initiated public forums across upstate New York to highlight the concern of citizens for this necessary reform. These public forums were held in Syracuse, Rochester, and Schenectady and were held to put legislators of both political parties on the record about their position on campaign reform. These forums were well attended by the public, but not by most legislators.

For the last two months leading up to the end of the regular session, it became apparent that campaign finance reform was to be held "hostage" to other issues primary among them a judicial and legislative pay raise. Governor Spitzer also began to aggressively go into Senate Republican districts to highlight the Senate's inaction on this issue. A war of words began in the final days of the session and it became apparent that until campaign finance was addressed by the Senate, no other issue would be addressed. The 2007 legislative session ended without campaign finance reform and with many issues left undone.

2008

In 2008, the League drafted the "Campaign finance reform, enforcement, transparency, and accountability Act of 2008." This act strived to improve disclosure, enforcement and transparency. It also attempted to lower campaign contribution limits. Unfortunately, it failed to garner support in either house.

2010

In 2010 both houses passed ethics reform legislation that included campaign finance reform. While there were some concerns with this legislation, it represented a welcomed and needed improvement over the status quo. In February 2010, Governor Patterson vetoed the bill, stating it failed to go far enough. The league lobbied the legislature to override the veto. This legislation included critical changes to campaign finance enforcement by strengthening the independence of the State Board of Elections, and by requiring them to garner a majority vote in order to stop an investigation from proceeding. It also improved disclosure requirements by creating a mandatory uniform format electronic disclosure system and requiring disclosure by groups who expend or contribute independent of the candidate.

2011

In 2011, the League joined with NYPIRG to support a bill which provided for public financing for the position of Comptroller. That bill passed the Assembly but was not passes by the Senate.

2012

In 2012, Governor Cuomo included campaign finance reform as one of his goals in the State of the State Address. Thereafter, Assembly Speaker Silver introduced campaign finance legislation which included public financing. The League and its good government colleagues at NYPIRG and Citizen Union expressed some misgivings about this legislation because it created a two-tier system in which persons who participated in public financing would be subject to one set of rules administered by one regulatory body whereas those who did not participate would be governed by another set of rules, administered by a different regulatory body.

Also in 2012, acting in response to the actions of the Governor and the elevated interest in campaign finance law piqued by the United States Supreme Court's decision in Citizens United, and the huge influx of money into the presidential and other campaigns fostered by that and other Supreme Court cases which permit unfettered contributions and expenditures for independent expenditures, LWVNYS developed a power point presentation, supplemented by background materials, for use by the local leagues in their attempts to foster active efforts by league members and others to encourage the passage of meaningful campaign finance reform. The League obtained a grant from the Robert Sterling Clark Foundation to support this campaign. The program was presented in leagues throughout the state and before other civic organizations.

Throughout this time, the League continued to work with other good government groups in support of campaign finance reform. The lobbying focus has been on public financing of campaigns, real and independent campaign finance enforcement, and regulatory reforms. The League continues to advocate for both, believing that meaningful reform of the current laws is a necessary substrate to a successful

public financing system. A beginning for these reforms is the campaign finance aspects of the 2010-vetoed Ethics Reform Act. Other focuses include:

- Significantly decreasing sky-high campaign contribution limits that are among the highest in the country.
- Eliminating soft money by limiting donations to "housekeeping accounts."
- Eliminating the transfers of campaign contributions. Currently, there is no limit to the amount that parties and candidates can donate to other parties and candidates.
- Banning campaign fundraising during the legislation session.
- Limiting lobbyists involvement in campaign activities
- Disclosure of employers and bundlers.
- Banning personal use of campaign funds by candidates.

COMPUTERIZATION OF CAMPAIGN FINANCE RECORDS

1996-1999

Following vigorous lobbying during 1996 and 1997, including much media work, the Take Back Democracy Coalition was finally successful in securing an appropriation through the 1997-98 state budget to computerize campaign finance reports filed with the State Board of Elections. Computerization would begin in July of 1999. The implementing legislation would require candidates planning to spend more than $1,000 on their state campaigns file their required financial reports on computer disk with the State Board of Elections.

On July 1, 1999, the State Board of Elections began computerizing and putting out on the internet all campaign finance records of candidates who spend more than $1,000 on their campaigns. This now enables anyone with access to the Internet the ability to follow campaign contributions to candidates for statewide and legislative offices. The League will continue to lobby to extend computerization to local boards of election.

2002-2003

During the 2002-2003 session the League worked to pass local computerization of campaign finance records. The legislation had majority Senate and Assembly sponsorship. Although the League lobbied vigorously to pass local computerization of campaign finance records and the Assembly did pass the bill, the 2003 session closed without the Senate taking any action.

2005

Late in the 2005 session, after extensive lobbying by the Reform New York Coalition, the Senate and Assembly agreed to computerization legislation which would require candidates for local government to report their contributions in electronic format and then post those filings on the Internet. The new law went into effect January 2006. This was a major success for the reform coalition.

As part of the League's transition with Governor Elect Eliot Spitzer, the issue of adequate funding for the state Board of Elections, Campaign Finance Enforcement Unit was addressed. As a result, the executive budget allocated $1.5 million dollars for increased staffing for this enforcement unit. The legislature agreed to this appropriation and with passage of the budget on April 1, 2007, several new staff positions were created.

FAIR CAMPAIGN PRACTICES

In 1973 the first Fair Campaign Practices Committee (FCPC) was established in Monroe County by the Rochester League. This committee, composed of selected community leaders, establishes guidelines for the conduct of ethical political campaigns and has the influence to produce a positive effect on the tenor of campaigning. The committee hears complaints made by opposing candidates and releases findings to the media. The negative campaigning of the 1988 elections was a major impetus to citizen concern about the election process and stimulated renewed interest in the establishment of FCPCs. Several FCPCs now function in various parts of the state; local Leagues were the impetus for their creation.

The League is concerned about the ethical conduct of candidates for political office. The practice of self-monitoring by candidates, campaign committees, their media advisors and political party committees may be commendable, but it is not always successful. In an attempt to improve the conduct of individuals and groups involved in the electoral process, the Fair Campaign Code was written into the Election Law; however, it has never been implemented because a section has been found unconstitutional. Since 1983 a Fair Campaign Code bill has been introduced regularly whose purpose is to remove the section, which had invalidated the Code. The League has lobbied for its passage.

ELECTION LAW

ACTION TAKEN UNDER LWVUS POSITIONS

> **The League of Women Voters of the United States believes that voting is a fundamental citizen right that must be guaranteed. Statement of Position on Voting Rights, as Announced by National Board, March 1982, (LWVUS *Impact on Issues*, 2022-2024, p. 23.)**

The League of Women Voters believes that voting is a fundamental citizen right that must be guaranteed; therefore, its basic mandate is to protect, extend and encourage the use of the franchise. Underlying all League positions is a philosophy that emphasizes participation in the electoral process.

Many of the New York State League's positions on election law are based on positions taken by the National League. These positions will be referenced in text by indicating the specific page they appear on in the LWVUS Impact on Issues, 2022-2024 edition.

The first election law reform advocated by the League of Women Voters of New York State was the one which gave birth to its founding as an organization—the women's suffrage amendment. Since the 1920s, the League has been in the forefront as a grassroots advocate on behalf of all voters. Its steadfast dedication to the issues and its history as a responsible presence in Albany has earned the League the respect of legislators, governors, boards of election and the public. Many areas of the election law have come under League scrutiny and have been subject to its campaigns for reform.

REGISTRATION PROCEDURES/BALLOT ACCESS

RECENT ACTIVITY

2023

Automatic Voter Registration and Online Voter Registration Implementation

The State League has been meeting with the State Board of Elections along with the Brennan Center, Citizens Union, Common Cause, NALEO, Brooklyn Voters Alliance and other good government groups to discuss the planned implementation of automatic voter registration and online voter registration in New York State. We have been meeting with the state Board to discuss the timeline for implementation, how to test the system, and to ensuring the board has feedback from our organizations as it relates to the needs of voters. The State Board of Elections rolled out the initial Online Voter Registration system in May of 2023. There are several issues with the system, the largest issue being that individuals need to create a NY State ID account before they can register to vote. Forcing individuals to create an account could be seen as a form of voter oppression due to difficulty of access.

Outcomes of 2023 Legislative Session

Below is an overview of significant legislative outcomes from the 2023 Legislative session.

Mandatory Training Curriculum for Poll Workers (S587 Comrie/A268 Walker)
The League worked hard to pass this bill. The bill relates to mandatory training curriculum for poll workers; requires the state board of elections to develop and provide to each county materials for a model poll worker training program which the counties may use to train individuals to serve as poll workers in state and county elections. This bill was signed by the Governor on September 20, 2023.

Plain Language Ballot Initiative (S1381 Comrie/A1722 Zinerman)
This bill will require proposed amendments to the constitution or other ballot proposal to be submitted to a statewide vote be submitted to the people for their approval in plain language. All amendments must be written at no more than an 8th grade reading level. As of September 26, 2023, this bill has not yet been signed by the Governor, but the State Board of Elections has already chosen to implement some of the guidance included in this bill for the 2023 statewide ballot measures.

10-day Voter Registration Implementation (S5984A Kavanaugh/A6132A Carroll)
This bill would allow for the effective implementation of the 10-day voter registration bill that was passed last session. It would allow voters to complete a conditional voter registration application and cast an affidavit ballot. This bill was signed by the Governor on September 20, 2023.

Additional significant bills that were passed that the League did not advocate for are below:

New York Early Mail Voter Act (S7394A) The League does not have a position on this issue and therefore did not support or oppose the bill. This bill was signed by the Governor on September 20, 2023.

Even Year Election Bill (S3505B): The League does not have a position on this issue and therefore did not support or oppose the bill. As of September 26, 2023, this bill has not yet been signed by the Governor.

Citizens Released from Jails and Voting Bill (A4009): We support this bill, but did not advocate for it during session. It requires information to be distributed on voting for all eligible citizens released from NYS jails.. This bill was signed by the Governor on September 20, 2023.

2022

Early in 2022, the League supported a bill to expand poll sites to college campuses with 300 registered voters or more. This bill was proposed and ultimately passed in the NYS Budget that was approved by the Legislature and Governor Hochul. The final budget also included $4 million for local boards of elections to reimburse the cost of pre-paid postage for absentee ballot applications and absentee ballots.

As we neared the 2022 mid-term elections, the state League launched an education campaign to provide local Leagues and members with materials that detail how NYS runs secure, reliable, and fair elections. These materials were used as talking points with local news outlets, delivered to county board of elections, and distributed to voters who might have questions about how it all works.

The League also took part in the Election Protection effort (1-866-OUR-VOTE) run by the Lawyers Committee for Civil Rights Under Law and Common Cause. During early voting and on election day we were in the command center working to escalate issues called in from voters across the state to ensure everyone had equal access to the ballot this year. The State League recruited local Leagues to participate in a post-election ballot canvassing observation led by the Lawyers Committee and Common Cause. Volunteers observed the canvassing of ballots to look for inconsistencies and report any sort of disruption at canvassing sites. Volunteers from the League were recruited from the following counties: Kings County, Suffolk County, Orange County, Ulster County, Dutchess County, Putnam County, Rockland County, Onondaga County, Tompkins County. These counties were chosen either because they had seen an uptick in election denialism organizations or had contentious races this season.

In November of 2022, the League of Women Voters of the Mid-Hudson Region along with The Andrew Goodman Foundation (AGF), county-based Dutchess Student Voting Coalition, and the New York Civil Liberties Union (NYCLU) filed a lawsuit against the Dutchess County Board of Elections when they failed to add a poll site to Vassar College campus even after Governor Hochul signed this bill into law in April. The lawsuit was decided in our favor and a poll site was placed on Vassar College campus, even though one of the Commissioners claimed they would be unable to do so given how close it was to the election. The Honorable Christie L. D'Alessio of the Supreme Court of the State of New York granted the entire petition of a lawsuit filed just two days prior, which argued that the Dutchess County Board of Elections (BOE) was in violation of state law. Judge D'Alessio's decision effectively orders the Dutchess County BOE to situate a polling place at Vassar College immediately. In April, New York Governor Kathy Hochul signed new legislation to mandate polling places on college campuses with 300 or more registered students or at a nearby site proposed by the college, and that such designations be made by August 1, 2022. The legislation also prevents the division of college campuses into multiple voting districts as of January 1, 2023. Judge D'Alessio's order cited this "plain language" as a clear and specific mandate to place a polling site on Vassar's campus. The November 3, 2022 decision and order is the first to interpret the new state mandate.

Below is an overview of significant legislative outcomes from the 2022 Legislative session.

- **10-day Voter Registration**: Passed in the Senate on May 31 and in the Assembly on the last day of the session. This bill will reduce the voter registration deadline to the constitutional minimum of ten days. It will be effective on January 1, 2023. This bill was signed by the Governor.

- **Wrong Church**: This bill will be effective on January 1, 2023. This bill requires counting affidavit ballots of eligible voters if a voter appears at a polling place in the correct county and assembly district but in the incorrect election district. This bill was signed by the Governor.
- **John R. Lewis Voting Rights Act of New York State**: This marks a monumental achievement for voting rights in the state of New York and will serve as an example to other states and Congress. The John R. Lewis Voting Rights Act of NYS is a state-level Voting Rights Act would help prevent and redress acts of voter suppression, disenfranchisement, or intimidation; require certain localities to clear local changes to voter access that could infringe civil rights with the NYS Attorney General; designate SUNY as a transparent state steward of election data; and improve language assistance. This bill will be effective immediately, although some sections of the bill won't be active until a year or three years after it's signed into law. The Governor signed this bill on June 20, 2022 on Medgar Evans College campus and the League was there. This bill includes preclearance provisions, but does not include the statewide database we supported. We will advocate for the database bill in the 2023 session.

Additional bills that were passed that the League supported, but did not advocate for are below:

- A8432A/S7565B – Extends voting by absentee ballot where there is a risk of contracting or spreading a disease that may cause illness to the voter or to other members of the public
- A1144A/S253A – Counting ballots where the express intent of the voter is unambiguous
- A1819A/S1851A – Relates to state party names; prohibits a state party from using the word "Independent" or "Independence" in its name.
- A7748A/S3855A – Authorizes registration records of victims of sexual violence to be kept confidential in certain cases
- A7933C/S6901B – Includes individuals who do not identify exclusively as a binary gender in eligibility for party positions

Finally, provisions of EL 9-209 became effective in April 2022. This amendment to election law requires an extended canvass period, of absentee, military, and special ballots, **prior** to Election Day (previously this canvass happened post-election day).

In August of 2022, the State League joined the Vote Yes for Clean Water and Jobs Coalition in support of the Environmental Bond Act that was on the ballot in November of 2022. The coalition is led by The Nature Conservancy. LWVNYS and many local Leagues took part in webinars, press conferences and other measures to support passage of the ballot. The Act was passed by New York voters.

2022

State Studies

In 2022, the new position on the structure of election administration in New York state sent to local Leagues in January failed to gain the necessary 2/3 approval. Twenty-three Leagues and 11 individuals responded. However, our current positions fully allow us to support needed reforms to election administration that fall short of eliminating the bipartisan constitutional requirement for "qualifying voters, or of distributing ballots to voters, or of receiving, recording or counting votes at elections."

At the same time as the election administration study, Local Leagues and members were asked to support a new position allowing individuals in prison the right to vote while still incarcerated with a felony conviction. Twenty-three Leagues and 11 individuals responded, and the new position was approved overwhelmingly. The Board adopted the following new position on June 7th.

Enfranchisement of Individuals Who Are Incarcerated

Statement of Position

As approved by the State Board, June 2022

The League of Women Voters of New York State supports extending the right to vote to all currently incarcerated individuals.

2021

In 2021 the League continued to advocate for expansion of early voting and expanded funding for boards of election to carry out new poll site mandates. In 2020, the League supported a new law to mandate county boards of election to have at least one early voting poll site in the county's largest municipality. The bill also increases the maximum mandated cap on early voting poll sites from 7 to 10. The legislation was passed in July of 2020. In 2021, the legislature also passed a law to lower the number of voters designated to early voting poll sites to one poll site per 40,000 voters in each county with at least 500,000 registered voters, and for every full increment of 30,000 voters in each county with fewer than 500,000 registered voters. This provision also extended voting polling site hours of operation during early voting.

As a result of this increased access to early voting, the League focused our efforts on the need to advocate for greater funding for early voting. The League testified before the Joint Budget Committees on Public Protection in 2020 and 2021 and encouraged our members to hold meetings with their Assembly Members and Senators advocating for these funds. Together with our voting coalition partners, the League successfully secured $2 million for early voting expansions; $5 million for the State Board of Elections to implement new election programs; and $20 million for county board of elections to reimburse the cost of technology and equipment upgrades.

The League also advocated for greater access to absentee voting including pre-paid postage for ballot returns, universal ballot drop boxes, and ballot tracking. The legislature did not pass these reforms but did pass a bill to expedite the counting and processing of absentee ballots. The League was supportive of this measure but continues to believe that accurate absentee ballot counts are more important than immediate election results. The League also worked to oppose a measure that would reduce the timeline for a voter to request an absentee ballot by mandating the voter submit their request fifteen days before an election instead of seven days ahead of the election. The League partnered with VoteEarlyNY to oppose this measure but unfortunately it passed late in the legislative session. The League will continue to work on ensuring voters have a fair timeline to request their absentee ballot in the coming legislative session.

Although we failed in opposing the absentee ballot deadline measure, the League was successful in working to pass a law to allow any person on parole to have their right to vote restored automatically upon release from incarceration. The new law states that all individuals will be notified both verbally and in writing that their voting rights will be restored, and that the person will be provided a voter registration form and assistance in filling it out, along with voter education materials by the Board of Elections. Either the person registering or the Department of Corrections will transmit the completed

registration application to the local board of the individual's residence. The League worked collaboratively with the Let NY Vote coalition in helping to pass this measure.

Throughout the summer of 2021, the Senate Election Committee toured New York State to speak directly with voters about their experiences voting in New York State. These hearings were held in Rochester, Syracuse, Westchester, New York City, and Albany. The League testified at the Albany hearing and shed light on the issue of inconsistent transparency, accountability, and information at the county level. The League urged the Election Committee to implement uniform standards for all boards of elections, and to give the State Board of Elections the power to punish bad actors. Following these hearings, the Senate Election Committee released a 63 page report with their plans to reform our boards of elections in New York State.

Finally, in 2021 the League successfully advocated for second passage of constitutional amendments to allow for no-excuse absentee voting and to eliminate the 10-day voter registration deadline. These constitutional amendments were put on the ballot for voters in November of 2021. Unfortunately, the two amendments were rejected by New York State voters. The League and our voting rights partners plan to continue to advocate for these amendments in the coming legislative session.

2020

In 2020 the League's election reform advocacy focused on ensuring New Yorkers had ballot access during the coronavirus pandemic. The League successfully urged the Governor use his emergency powers to issue an Executive Order to consolidate the Presidential and State/Congressional primaries to June. Consolidating the Presidential Primary from August to June allowed county boards of elections to prepare for the huge increase in absentee ballot requests for the primary. In addition to consolidating the primary, using his emergency powers, the Governor issued an Executive Order to allow any voter to apply for an absentee ballot under the "temporary illness" excuse.

After the primary, the League continued to advocate for absentee voting expansions. The Governor's initial Executive Orders only applied to the June primary and were not extended for the general election. In July and August, the legislature met remotely to pass legislation related to the ongoing pandemic including legislation extending the rules related to allowing all voters to request an absentee ballot using the "temporary illness" excuse. In addition to this limited statute, the legislature also passed legislation to allow voters to apply to vote by absentee ballot more than 30 days ahead of the election; and to allow Boards of elections to process absentee ballots received the day after the election that do not have a visible postmark date. The legislature also passed an automatic voter registration bill that included agencies outside of the Department of Motor Vehicles. This reform will not take effect until 2023.

The League also joined a lawsuit to allow voters to cure deficiencies with their absentee ballots. The League partnered with the Campaign Legal Center and successfully settled a lawsuit that now allows New York State voters to receive notice is there are absentee ballot deficiencies related to their signature, witness declaration, or the sealing of their affirmation envelope. The settlement also removed previous rules that allowed ballots to be challenged if the voter marked outside the designated area, used non-black or blue ink, or sealed their envelope with tape.

Prior to the State of Emergency shutting down the State Capitol and in-person advocacy, the League worked on expanding early voting poll sites, mandating poll sites on college campuses, and allowing for online voter registration in New York City. These reforms passed in the Senate but did not pass in the Assembly.

The League also worked with our civil rights partners to advocate for a New York State Voting Rights Act bill that would reinstate election protections in New York that had been removed from the federal Voting Rights Act following the Shelby County v. Holder Supreme Court ruling. The New York State Voting Rights Act would ensure that a voter's ability to cast their ballot is not biasedly hindered by state, county, local governments, or political subdivision. The League testified in favor of this newly proposed policy and emphasized the importance of provisions to ensure transparency in the electoral process.

2019

In 2019 the League successfully advocated for the passage of a slate of voting reforms to modernize and enhance New York State's elections procedures. The new laws included early voting, primary consolidation, state-wide voter registration transfer, pre-registration of 16-and-17-year olds, improving the look and layout of ballots, and online voter registration. Most of these laws would take effect as soon as the 2019 election which online voter registration not taking effect until 2022. In addition to these laws, the legislature passed constitutional amendments to allow for no-excuse absentee voting and same day voter registration.

These statutes and amendments passed early in the session, but the League continued to advocate for additional voting reforms including automatic voter registration and funding for early voting. The League testified before the Joint Budget Committees on Public Protection and sent a letter to legislative leaders and the Governor urging them to designate funds for counties to use for New York's first period of early voting. After heavy grassroots advocacy, the Governor allocated $10 million to the State Board of Elections to reimburse counties for their expenses related to early voting and $14 million to purchase new equipment.

Following the first period of early voting, the League conducted a voter satisfaction survey to assess voters' experiences voting early for the first time. The League used these results to guide our advocacy around improvements to the early voting process and to make a case for an increase in funding for county board of elections for early voting poll site expansions.

2018

For the 2018 legislative session, the League focused our efforts on including funding for early voting in the 2018-2019 budget. The Governor responded to our advocacy and included $7 million in his executive budget to fund early voting beginning in 2019. The League commended the Governor for this inclusion and immediately got to work encouraging the Senate and Assembly to include funding in their budgets as well. From January to March we conducted countless lobby visits with Legislators and the Executive, submitted testimony to the Joint Budget Committee on Public Protection, and encouraged our members to meet with their Legislators in their district offices during the spring recess. We worked with our coalition partner Let NY Vote (formerly Easy Elections NY) to organize a rally and lobby visits before the one-house budgets were introduced. Sadly, funding for early voting was stripped from the final budget.

We continued to advocate for voting reforms throughout 2018. Post budget, we shifted our focus to passing a Constitutional Amendment to allow for no-excuse absentee voting. We joined in several rallies and press conferences supporting the reform. We were able to garner bi-partisan support for the amendment in both the Assembly and Senate. Toward the end of the session, a Republican Senator introduced his own version of the amendment. Unfortunately, because Constitutional Amendments require opinion from the Attorney General, there was not a sufficient amount of time to have the bill reviewed and passed.

At the end of session, the League testified before the Senate Elections Committee in support of early voting, closing the LLC loophole, and automatic voter registration. These bills passed in the Assembly but did not pass in the Senate.

2017

In 2017, we pushed harder than ever to pass early voting, and for the first time ever the bill moved from the Senate Elections Committee to the Senate Rules Committee. The League was instrumental in making this happen. Our members lobbied their Senators for weeks leading up to its vote in the Senate Elections Committee. On the day the bill was taken up, nearly 20 of our members filled the committee meeting room to watch the Senators vote. Originally the bill was referred to the Senate Local Government Committee, but after a week of intensive lobbying by our members who urged the committee's chair to move the bill, it was sent to Rules. Although we were disappointed that the bill was never taken up in the Rules Committee, this was still a major win.

In May 2017, the Assembly passed their early voting bill for the second year in a row. They also passed electronic poll books, no-excuse absentee voting, the Voter Friendly Ballot Act, and consolidation of primary elections. In total, they passed 11 voting reforms that would make voting easier and more accessible. We were very happy to have so many reforms pass in the house this year and expect to see even more reforms to pass in the Assembly next session.

One of the biggest wins on 2017 was a new coalition partnership the League formed with more than 30 organizations, unions, and good government groups. **Easy Election NY** is a brand new partnership focused solely on making voting easier and more accessible. Our coalition worked together to push for early voting, no-excuse absentee voting, the revision of strict party change deadlines, automatic voter registration, and consolidation of primaries.

2016

During the 2016 legislative session, the League advocated for many of our long standing election law positions. In the beginning of the session we worked with a Voter Coalition network consisting of several good government and voting groups from around the state. We co-sponsored a forum at the Rockefeller Institute for NYS legislators that brought election administrators from Colorado, a state where they have successfully increased their voter turnout by implementing common sense reforms like early voting that make voting participation easier and more convenient for the voter. Our objective was to show that higher turnout can be achieved without increasing fraud and loss of ballot integrity. We advocated for many of our election law bills and were pleased to see passage of early voting, the Voter Friendly Ballot Act, an amendment for no excuse absentee voting, and a bill to allow for electronic poll books in all counties in the Assembly. Unfortunately, these bills were not considered by the Senate.

2015

In 2015 there were multiple bills regarding voting rights which the League supported. No excuse absentee ballots, early voter registration for 16 and 17 year olds, the Voter Friendly Ballot Act, and allowing email addresses on voter registration were all positions the League had lobbied for in 2014 and 2015 (LWVUS Impact on Issues, 2016-2018, p. 13-14). The Voter Friendly Ballot Act and optional email address legislation passed the Assembly but action was not taken in the Senate. Unfortunately, the other legation proposed by the assembly failed to advance.

The Voter Empowerment Act (VEA) was of particular interest to the League in the 2015 session. The legislation would improve New York's inadequate voter registration system by digitalizing the process. The VEA would modernize New York's voter registration system by providing convenient and secure options for voters to become and stay registered in a way that largely eliminates the errors and frustrations that plague the current system. Not only would this save the state money, it would enhance registration accuracy and reliability, and increase the number of eligible voters who are registered. (This position aligns with the US LWV position regarding access and accessibility for voter registration.)

A second important piece of legislation supported by the League was the Voter Friendly Ballot Act. This act would improve the ballot layout so voters can easily read and mark their ballots with greater accuracy. The League's support of this legislation stemmed from a statewide survey conducted by the League in 2010 and 2012. The League surveyed over 1,000 voters who used the paper ballot optical scan voting machines. A significant number of voters participating in both surveys indicated they had problems using the paper ballot and wanted an improved ballot design. The Voter Friendly Ballot act would force New York State to conform with guidelines created by the United States Election Assistance Commission (EAC). These guidelines for ballots would improve readability, usability, and result in more accurate voting. (This position aligns with the US League's position regarding the Help America Vote Act which would provide an enhanced voting system and improve ballot design.)

2014

LWVNYS Election Law Legislative Priorities for 2014 included: requiring that a single primary election be held in June; improving the paper ballot for readability and clarity, "the Voter Friendly Ballot Act"; allowing 16 and 17 year olds to pre-register to vote; and introducing Early Voting options for New Yorkers. Memos of support for these bills were issued to the appropriate Election Law committees in the Senate and Assembly. These positions align with the US League's position on increasing access and accessibility for voter registration, the High School Voter Registration Project, and the Help America Vote Act.

In addition, since NYS has complied with the Help America Vote Act mandate to provide accessible voting for New Yorkers, the LWVNYS has opposed the continued use of lever voting machines as an option for local elections, such as school districts, improvement districts, fire district elections, and village and town elections. The League has advocated for a single, statewide system of accessible, accurate and recountable voting. Lever voting machines cannot meet those criteria. The LWVNYS opposed A.9321-A Schimel which would permit the use of lever machines for certain elections for a one-year period but the bill passed both houses and was signed into law by Governor Cuomo

2013

In 2013, legislation was introduced that would allow 16-17-year-olds to pre-register to vote (A.2042A/S.1992A). The League advocated for the passage of this legislation, but, although the bill was endorsed by the Governor, it did not pass out of committee and come to the floor of the chambers for a vote.

PAST LEAGUE ACTIVITY

In addition, the League has continued to actively support the implementation of the National Voter Registration Act of 1995 (NVRA) in New York State. The law mandates that the agencies use a combined form for voter registration and that the agency staff assist in helping register voters. The League opposed any cuts in the funds necessary to provide the proper training, monitoring and oversight of agency employees. The League actively monitored the various agencies across the state for compliance. In **April**

2009, the League provided testimony to the NYS Senate Elections Committee in NYC on the record of NYS implementation of the NVRA. LWVUS President Mary Wilson in a letter of March 2009 to the US Senate Committee on Rules and Administration alerted that Committee to the failure of states to fully implement the requirements of the NVRA. The US DOJ was also cited for its failure to enforce provisions of the 1993 NVRA. The League urged the Senate to investigate the track record of the NYS BOE in fulfilling the NVRA mandate through the DMV and other state agencies and to assure that voter registrations are processed in accordance with the provisions of the NYS Election Law.

The League has also continued its support of same day voter registration. Between the years of 1991 and 2006 there was no action on same day voter registration. The League continued to advocate for this, but during the administration of Governor George Pataki no legislation was introduced to address this issue. In January 2007, following the election of Governor Eliot Spitzer, same day voter registration again became a priority. Governor Eliot Spitzer's Transition Team on Government Reform recommended same day voter registration and early in the 2007 legislative session, the Governor introduced a program bill to address this issue. By the end of the 2007 legislative session, neither house of the legislature had introduced the Governor's program bill. (This position aligns with the National League's position on the Help America Vote Act.)

1967

Permanent Personal Registration (PPR) became mandatory in 1967, primarily due to the unflagging pressure of the League of Women Voters. In 1926 the League began a long campaign to attain a system of permanent personal registration for New York State. Although the 1938 Constitutional Convention authorized such a system, it was not until 1954 that the legislature provided for optional PPR. By 1965 as a result of the work of local Leagues, eighty percent of New York's counties had provided for PPR, with the remainder falling into line when PPR became mandatory in 1967. The system was further improved in 1969 when the mandatory house-to-house check of registrants was eliminated and replaced with verification by postcard. In 1970 another successful League effort led to a statewide, uniform final day of local registration.

1973

In 1973 the League reached consensus for a simple and accessible voter registration system, including registration by mail. A system of mail verification passed the legislature in 1975 and survived a 1976 challenge to its constitutionality in the state Court of Appeals. After 11 years of League prodding, in 1985 the legislature approved and the governor signed a bill providing for the printing, purchase and distribution of a standard voter registration form by the state Board of Elections.

It is a continuing goal of the League of Women Voters to simplify and clarify the Application for Registration Form by eliminating irrelevant questions that serve to intimidate or turn away prospective voters. The passage of legislation to remove the questions relating to employment on the application form was a long-sought victory for the League and other good-government groups who have continuously lobbied for its demise.

In the process of lobbying for a simplified registration system, the League has clearly supported safeguards against fraud, such as the signature check, the mail verification and periodic purging of the rolls. In 1967, the League accepted the two-year Purge that was written into the New York State Election Law; it was formally adopted by LWVNYS consensus in 1973. A review of that consensus in 1975 reversed League position and returned to the pre-1967 position advocating a four-year purge. In 1979 the legislature added primaries and special elections to general elections as voting opportunities where participation would maintain a voter's active status. In 1989 the LWVUS in its Advocacy for the Voter Campaign, came

out in favor of repealing the purge of voter registration rolls; the LWVNYS removed its 1975 position by consensus in 1991, affirming the LWVUS position against purging.

1991

The League has always supported the widespread availability of registration forms; therefore, it responded positively to a Governor's Executive Order in 1984 to place the forms in some state agency offices. This order withstood a court challenge, with League support as an amicus curiae, and was declared legal in 1985. The League joined good government groups backing the Governor's Program Bill of 1991 that mandated state agencies to make voting registration forms and assistance available, as of April 1, 1992. League has been lobbying for the extension of agencies distributing the registration forms, for monitoring the visibility of and publicity for agency-based registration forms, and for the goal of trained assistance for those wishing information about registration. The LWVNYS was represented on the ad hoc Advisory Task Force on Implementation of the National Voter Registration Act of 1993, a committee appointed by the New York State Board of Elections, to ensure New York State compliance with federal law.

1995

The National Voter Registration Act (NVRA) became effective January 1, 1995. This federal legislation requires the state to have "motor-voter" registration, "agency based" registration and "mail in" registration. It also forbids the state to purge voters from the registration list because they have not voted.

Since its adoption in 1976, registration by mail has become widely accepted throughout New York State. For the 1990 general election, the New York State Board of Election figures show 89% of statewide registrations were made by mail and only 7% were made at local registration days. The League worked for the abolishment of local registration days because of the costs involved for few registrants. With the 1991 passage of legislation making local registration days optional to the locality, the position on abolishment of local registration days was dropped (as accomplished) at LWVNYS convention in June 1995.

The League promotes election-day registration at polling places, within strict guidelines to prevent fraud. The 1991 passage of legislation permitting in-person registration at a board of election on any day except a day of election and reducing mail registration deadlines was a welcome step.

VOTING QUALIFICATIONS

1963

In 1963 a LWVNYS consensus resulted in support for reduction of the New York State residence requirement to three months, retention of the requirement for literacy in English and the voting age of 21, and elimination of the 90-day waiting period for newly naturalized citizens. Two years later, however, in 1965, with passage of the Federal Voting Rights Act, literacy in Spanish was permitted, and in 1967, the legislature reduced the residency requirement to three months, only to have the 1970 Federal Voting Rights Act further reduce the residency requirement to 30 days in the election district. In 1969, a court ruling eliminated the 90-day waiting period for naturalized citizens.

1969

In 1969, a LWVUS re-evaluation resulted in a change in position on the voting age to support the franchise for 18 year olds. League members then worked for ratification of the 26th Amendment to the United States Constitution. The League supported the right of 17 year olds who would be 18 by Election Day to register and urged that they be allowed to participate in a primary election to choose candidates for that election.

1972

In 1972, LWVNYS members concurred in a position supporting the right of students to establish residence in their college communities for voting purposes. A class action suit on this issue was brought in 1980 and is still awaiting a decision. At present the right to vote in college communities is determined by local boards of elections; the League monitors those boards who attempt to exclude voting at college residences by using any standard, practice or procedure not used by all applicants. The League continues to lobby for a law to make the students' voting right mandatory statewide. In **April 2009**, the League testified before the NYS Senate Elections Committee on specific election legislation which is needed to clarify the right of college students to register and vote where they want to. Legislation has been routinely introduced in the Assembly which would change the definition of residence in the election law to conform to that set forth in Ramey v. Rockefeller to clarify the meaning of "gaining or losing a residence," and to make more specific the criteria by which a board of elections may determine a voter's qualification to vote in a particular election district. Of particular concern to the League is that under the current law residency requirements for voter registration are applied arbitrarily and often in a discriminatory fashion specifically in dealing with college students. The eighteen to twenty-four year age group is a mobile population in transition; however, they should not be selectively targeted by local boards of election in applying different residency standards than other applicants.

1977

In 1977 the LWVNYS supported legislation establishing a procedure permitting voters whose poll cards are missing from the ledger on Election Day to vote by affidavit ballot pending confirmation of their registration. Similar provisions were added to the law in 1981 to enable voters who claim their enrollment records are incorrect to vote in primary elections. The 1985 session saw the strengthening of the affidavit system; League-supported legislation now requires election officials to inform voters of their right to an affidavit ballot. In addition, provisional ballots are required by the HAVA federal legislation in 2002.

1988

In 1988 LWVNYS successfully supported passage of legislation giving newly naturalized citizens the right to register in person at the Board of Elections up to ten days before an election. This law permits those who were naturalized after the 30-day registration deadline to participate in the next election.

ABSENTEE VOTING

RECENT LEAGUE ACTIVITY

2023

During the pandemic, New York State enacted a law which allowed voters to use "fear of illness" as an excuse to obtain an absentee ballot. The League supported efforts led by VoteEarlyNY to enact a permanent version of the law, which sunsetted in December of 2022. These efforts were not successful.

2020

In 2020 the League's election reform advocacy focused on ensuring New Yorkers had ballot access during the coronavirus pandemic. The League successfully urged the Governor use his emergency powers to issue an Executive Order to allow any voter to apply for an absentee ballot under the "temporary illness" excuse. After the primary, the League continued to advocate for absentee voting

expansions. The Governor's initial Executive Orders only applied to the June primary and were not extended for the general election.

In July and August, the legislature met remotely to pass legislation related to the ongoing pandemic including legislation extending the rules related to allowing all voters to request an absentee ballot using the "temporary illness" excuse. In addition to this limited statute, the legislature also passed legislation to allow voters to apply to vote by absentee ballot more than 30 days ahead of the election; and to allow Boards of elections to process absentee ballots received the day after the election that do not have a visible postmark date.

The League also joined a lawsuit to allow voters to cure deficiencies with their absentee ballots. The League partnered with the Campaign Legal Center and successfully settled a lawsuit that now allows New York State voters to receive notice if there are absentee ballot deficiencies related to their signature, witness declaration, or the sealing of their affirmation envelope. The settlement also removed previous rules that allowed ballots to be challenged if the voter marked outside the designated area, used non-black or blue ink, or sealed their envelope with tape.

2018

In 2018, after failing to secure funding for early voting in the state budget, the League shifted its focus to passing a Constitutional Amendment to allow for no-excuse absentee voting. We joined in several rallies and press conferences supporting the reform. We were able to garner bi-partisan support for the amendment in both the Assembly and Senate. Toward the end of the session, a Republican Senator introduced his own version of the amendment. Unfortunately, because Constitutional Amendments require opinion from the Attorney General, there was not a sufficient amount of time to have the bill reviewed and passed.

2016

In 2016 the bill allowing for a Constitutional Amendment to be made for no-excuse absentee voting was passed in the Assembly. The League has advocated for this change for many years and we were very happy to see its passage in the Assembly. Unfortunately, the bill was not considered by the Senate.

PAST LEAGUE ACTIVITY

1963

The 1963, LWVNYS position stipulated that all those otherwise eligible to vote in New York State should be able to vote by absentee ballot. That same year the voters, with active LWV campaigning, approved an amendment to the state constitution authorizing the legislature to extend absentee voting to all eligible voters who would be absent from their counties on election day; therefore, in 1964, "vacations" was added to the list of acceptable reasons for an absentee ballot.

1972

In 1972 a League consensus called for absentee voting in primary elections. This passed in 1974, followed in 1975 by a provision for absentee voting in special elections.

A three-fold plan was developed by the League in 1977 to simplify the absentee voting process:

1. Wide distribution of absentee ballot applications;
2. Ability to apply in person for absentee ballots through the day before the election and fill out the ballot immediately; and

3. Simplification of the absentee application form.

The second of these became law in 1978. Continued prodding resulted in further easing of the law in 1981 to allow local boards of elections to provide "an appropriate number" of applications to distribution sources that request the forms and are approved by either the state Board of Elections or any of the local boards.

1988

In 1988 after several years of League effort, the election law was amended to permit a letter to serve as an application for an absentee ballot. Prior to that time a voter was required to write a letter to request an application, a system that required double effort on the part of the voter as well as of the Board of Elections.

Also in 1988 the League initiated legislation, now law, to amend the election law in regard to obtaining an absentee ballot after the deadline for application by mail had passed. The law now allows a person other than the absentee voter to obtain the ballot from the local board of elections by presenting the voter's completed and signed application.

1993

In 1993, the League testified at statewide hearings called by the State Board of Elections on the absentee ballot application, arguing for simplification of the process and the form. No modifications to the form have been made although legislative and agency proposals have been introduced.

Absentee voting by residents of nursing homes and residential care facilities is governed by section 8-407 of the New York State Election Law. Implementation by local boards of election of this provision has been permissive, not mandatory. Leagues, which monitor elections throughout the state, found evidence of irregularities in the conduct of this type of absentee balloting that violates the integrity of the electoral process. Residents of nursing homes and adult homes, many of whom are elderly, may be subject to undue pressure to vote for a particular candidate or to cast a ballot. League-supported legislation to mandate implementation of the existing law requiring bipartisan election officials to supervise absentee balloting in institutions where there are five or more residents was introduced in the legislature in January 2001. It was passed with intensive League advocacy and signed into law by the Governor in August 2001.

2010

In 2010, after seventeen years of advocacy to support revision of the absentee ballot application that required certain unnecessary personal information, the League achieved success on this much needed reform. For our successful efforts in reforming the absentee ballot application, the League received a "pen certificate" from the bill's sponsor, Assemblywoman Sandra Galef, AD 95 in June 2010. Another statutory change to the absentee ballot application process included allowing requests for a form by letter, telefax, or other written instrument. (This position aligns with the National League's positions on Public Advocacy for Voter Protection and the Help America Vote Act. LWVUS Impact on Issues, 2016-2018, p. 8, 12)

DIVISION FOR SERVICEMEN'S VOTING

In 1943, a Division for Servicemen's Voting (DSV) was established to assure adequate servicing of military absentee ballots at a time when our country was at war and there was no separate state body whose sole charge was to inform and assist military personnel in voting information and procedures. The creation of a statewide Board of Elections in 1974 and the assignment of responsibility to the Department of Defense for encouraging military personnel to vote made the DSV obsolete. The League

lobbied repeatedly for the repeal of legislation continuing the DSV. In the final hours of the legislative session in July 1991, the DSV was abolished.

THE PRIMARIES (SEE ALSO BALLOT ACCESS)

PAST LEAGUE ACTIVITY

One of the founding principles of the League was support for the direct primary as the nominating procedure for all offices, including those elected statewide. New York was among those states that had adopted the direct primary in the wave of reform that swept the country in the early part of the century; however, its extension to statewide offices came only in 1968. While the League has worked since the 1920s on a number of major provisions regarding primary elections, its present action position is limited to the date of the primary election.

1957-1978

The LWVNYS extended its position on the primary in 1957 to include support for a permanent, single, June primary date. The legislature passed a "permanent" June date in 1965, but the League found vigilance was needed annually when the political calendar was determined. Then, in 1974, over vehement League opposition, the legislature established a "permanent" September primary, with a second primary to be held in April during presidential election years. A League reevaluation of its position in 1978 reaffirmed the permanent, single June primary as being best for voters, candidates and boards of elections. On the strength of this reaffirmation, the League continues to work for a constitutional amendment to guarantee this reform.

In 1977 LWVNYS lobbying achieved an extension of the right to vote in a primary to those voters who were newly registered up to 30 days before the primary and to those who moved to another county after the previous general election and re-enrolled in the same party.

1991-2000

In 1991 legislation, the registration deadline for which a mail registration may be received before a primary, general or special election, was reduced from 30 to 20 days; it also allowed qualified voters who moved within the county to re-register in person up to ten days before the primary in order to vote in the primary.

Public dissatisfaction with a presidential primary ballot, which did not list the names of the presidential contenders, led the LWVNYS to call for a change in the law in 1976, 1980, and 1984. Legislation was passed in 1983 allowing presidential candidate names to appear on the ballot with their pledged convention delegate candidates. However, each party may or may not choose to use this option. League efforts, therefore, continue to stress the need for a primary system for both parties in which voters can cast a meaningful ballot and express a clear choice in selecting delegates to national nominating conventions.

In a related ballot access case, Molinari v. Powers, which challenged the witness residence requirement for designating petitions (section 6-132, NYS Election Law) in the 2000 NYS Republican Presidential Primary, the Eastern District New York Court ruled that this requirement "placed an undue burden on the right to vote under the First Amendment." Plaintiffs in this suit were Sen. John McCain and Steve Forbes, Republican presidential candidates. The New York State League was amicus to the brief filed by the Brennan Center for Justice that was successful.

A similar case, Lerman v. Board of Elections (2nd Circuit, 2000), dealt with the same provision of the NYS Election Law as it applied to a petition to gain party nomination for a New York City Council seat in the

primary election of September 1999. The League was again amicus to the brief filed by the Brennan Center. The case was appealed from a judgment of the U.S. District Court for the Eastern District of New York, which upheld the requirement. The U.S. Court of Appeals for the Second Circuit reversed that decision holding that the witness residence requirement "significantly burdens interactive political speech and political association, without advancing any legitimate state interest and, therefore, violates the First Amendment." As a result, a candidate can send a team of campaign workers into any district to collect signatures as long as the workers are registered members of the party in New York State.

2007

In the 2007 legislative session, bi-partisan legislation was introduced to move the date of the New York State Presidential Primary to February 5, 2008. This was driven primarily by the need by both Democrats and Republicans to make New York State more relevant in the Presidential Primaries. New York State will join eight other states having Presidential Primaries on February 5th, in what is being called "super-duper Tuesday."

2011

In 2011, League legislative action turned to the immediate need for NYS to become compliant with the federal Military and Overseas Voter Empowerment (MOVE) Act. This Act aimed at ensuring the fullest possible participation of America's armed forces serving outside of New York along with qualified citizens and NYS voters who reside abroad. New York was under a federal court order to become compliant after receiving several waivers due to delays in the Help America Vote Act implementation. Legislation was introduced and enacted to be effective with the Presidential Primary, scheduled for April 24, 2012. (This position aligns with the Nation League's position on the Help America Vote Act. LWVUS Impact on Issues, 2016-2018, p. 12)

2012

In 2012 the League, along with the NYS Election Commissioners Association, the New York State Association of Counties, and good government groups, collaborated in endorsing a single June Primary. Otherwise New York State would hold four elections during the year: a Presidential Primary, a federal (congress) primary, a NYS Legislature primary, and a General Election. A press conference, memos and lobbying were not successful. The NYS Assembly passed legislation to make the change, but the Senate did not take up the bill. An additional concern was to maximize the ability of boards of elections compliance with the MOVE Act. The MOVE Act requires that ballots to military and overseas voters be received by at least 45 days before a primary or general election, almost a virtual impossibility under the current September primary New York schedule.

UNIFORM ADMINISTRATION OF THE ELECTION LAW

Help America Vote Act of 2002

On October 29, 2002, President Bush signed the Help America Vote Act (HAVA). The bill authorized $3.86 billion dollars over three years to improve elections as a response to the problems which occurred in the 2000 presidential election. The intent of the legislation is to modernize and standardize the election process nationwide and to ensure that every eligible voter is enfranchised and every legitimate vote is counted.

New York State is slated to receive over $200 million dollars. It is estimated that $140 million dollars will be used to replace New York's aging lever machines. The remaining $60 million dollars will be used to create a statewide voter registration list at the NYS Board of Elections, provide voter education, poll

worker training, and improved accessibility of polling places. To obtain federal funds, HAVA required that each state submit a State Plan documenting how it would meet the requirements of the law. A HAVA Task Force was appointed (LWVNYS Off-Board Elections Specialist, Aimee Allaud, was one of two citizen representatives appointed to the Task Force) which met five times during February and March, 2003. The highly partisan Task Force did not have binding power; ultimately the HAVA State Plan was written by the staff of the State Board of Elections. After public hearings around the state, the Plan was submitted to the Federal Election Commission in September, 2003. The Plan calls for replacement of nearly 20,000 lever machines in New York by the first federal election in 2006. HAVA also requires that all states have in place by January 2006 a statewide voter registration database which becomes the official list of registered voters.

Both the State Assembly and Senate introduced legislation in June 2003 to implement HAVA, but no action was taken. A joint conference committee process was initiated in April-May 2004 but failed to resolve the major differences between the bills. New York State did obtain a waiver for the establishment of a statewide voter registration database and for replacement of lever voting machines until 2006. Stopgap legislation to implement the new ID requirements was passed in August, 2004, and went into effect for the primary and general election in 2004. This legislation, while it met the federal mandate, did not go far enough in naming a wide variety of IDs which would be acceptable for first-time voters registering by mail who are required to provide ID. Also, a noncontroversial bill which would meet a HAVA requirement to provide a voters' bill of rights, and sample ballot in polling places was signed into law effective for the November 2004 election.

PAST LEAGUE ACTIVITY

1973-1986

The omnibus 1973 LWVNYS position on election procedures recognized the state responsibility for uniform and efficient administration of elections, the need for a single state elections office and improved election officials training. In 1974, a four-member bipartisan state Board of Elections was established to assume this responsibility. Mindful of its leadership role in the creation of the state Board of Elections, the League encourages and supports the board's attempts to provide strong administrative leadership to local boards of elections.

Recognizing the importance of adequately trained election officials to the uniform administration of election law around the state, the League developed a legislative program in 1977 for improved training for commissioners, inspectors, poll clerks and other election workers. League-supported legislation, effective after 1986, required all boards of elections to reproduce a booklet of instruction prepared by the state Board of Elections and required each election inspector be given a copy. Also, as of 1986, election inspectors must attend a course of instruction every three years; in many areas, more frequent instruction is offered and/or required.

To avoid problems at the polls, which often result from inadequately trained, minimally paid personnel, the League continues to work for legislation in these areas and supports the role of the state Board of Elections in improving election procedure.

2000-2002

The presidential election of 2000 revealed flaws in our national and state election laws and processes. In New York State and, specifically, New York City, there were many cases where violations of the election law and poor election practices led to the disenfranchisement of eligible voters. The New York State League documented these cases as did other organizations and called for bipartisan hearings by the Legislature and the Governor to identify the problems and recommend solutions. Both houses in the Legislature responded by creating their own task forces and holding separate hearings. Governor Pataki did likewise. Attorney General Spitzer also issued a report after conducting an investigation. League

members around the state testified at all hearings by providing their experiences at the local level. Problem areas of the election process which were identified are: insufficient numbers of election inspectors, inadequately trained election inspectors, out-of-date and unreliable voting machines, inaccessible polling places and machines, unnecessarily complicated absentee ballot application and process, inaccurate voter registration lists. Agreement on some immediate solutions proposed by the Legislature and Governor was reached with an appropriation of $25-30 million tentatively approved. However, this appropriation was eliminated in the baseline budget passed by the Legislature in August 2001.

Concerns over a projected budget shortfall in 2002 as well as the economic impact of the September World Trade Center disaster on the state budget impacted this appropriation and there became little hope for election reform at the state level. The final report of the Governor's Task Force on Election Modernization was released in June 2002 and contained many recommendations for improving elections in the state as identified above. It also recommended amending the election statute requiring the full-face ballot to allow other technologies, paving the way for electronic type voting machines (ATMs). To read the final report, please go to: http://www.state.ny.us/governor/electionmodernization.

The Governor's Task Force Report and the Attorney General's Report identified the issues for a major overhaul of New York election laws, but those reforms were being considered against the backdrop of a major Congressional reform effort under negotiation in Congress, titled The Help America Vote Act (HAVA). One of the goals of HAVA is to establish uniformity in federal election procedures throughout the decentralized state administered elections system.

2005-2007

Major HAVA Requirements

The primary impact of HAVA will be on the voter registration system and election administration:

- Each state must establish a statewide computerized voter registration list.
- New ID requirements – a) first-time voters who register by mail must show ID at time of registration or when they first vote, unless identifying numbers described below are matched in an existing state database, b) all new applicants must provide a driver's license number or the last four digits of their social security number unless the applicant has neither number.
- A provisional ballot (affidavit ballot in NYS) must be provided to any person who declares they are (1) registered to vote and (2) eligible to vote in a federal election.
- States must put training systems in place for poll workers and other election officials.
- States must develop a uniform and nondiscriminatory administrative procedure that allows the filing of complaints.
- Voter education information, such as sample ballots, must be posted in every polling place on Election Day after January 1, 2004.

The League has been a major player in a statewide voting coalition, NYS Citizens Coalition on HAVA Implementation. The Coalition, composed of some thirty statewide organizations, has produced position papers on all aspects of HAVA implementation to demonstrate the impact of proposed legislation on the future of voting in New York State, testified at hearings, and met with legislative staff and members since 2003. The Coalition presented testimony before the Assembly Elections Committee at a hearing in NYC on December 20, 2004, reiterating the broad positions adopted by the Coalition for implementation. In addition, the NYS League has initiated Action Alerts through Citizen Action ToolKit (CATT) on some specific HAVA related issues. Through updates in the State Board Report (SBR) and the website we have encouraged members and local Leagues to keep pressure on the Legislature to enact legislation in a timely fashion which would ensure that state and local elections officials and New York voters are well prepared for the implementation date of 2006.

In 2005, the Senate appointed a new Elections Committee chair, Senator John Flanagan (R), Suffolk County. The Senate passed their package of HAVA bills in mid- February, 2005, paving the way for a HAVA conference committee. The Assembly had passed their slightly modified 2004 HAVA package in early January 2005. The League noted with concern that the Senate did not introduce legislation to consolidate election operations at the county level (not a HAVA requirement) although the Assembly had passed such legislation. This had also been a recommendation of the Governor's Task Force on Election Reform as well as the NYS Election Commissioners Association.

The first HAVA joint conference committee met on March 7, 2005, and met for five times during March. As a result of often contentious discussions between legislators, resolution of differences on creation of a statewide voter registration database, voter ID, funding in the budget, and a complaint process for aggrieved voters was finally accomplished. The HAVA Coalition issued a strong memo of opposition to the joint Assembly-Senate database bill citing a lack of specific privacy protections for confidential voter information and detailed specifications concerning the state databases of agencies offering voter registration in the bill. The Coalition supported the joint administrative complaint procedure bill and issued a memo of support.

The conference committee process stalled again during April because of a continuing partisan disagreement between Democrats and Republicans over the issue of appointing an Executive Director and Deputy Executive Director at the NYS Board of Elections. The Board of Elections is the implementing agency for HAVA in the state and should be fully bipartisan in staff and in the appointment of its four commissioners to ensure the fair and equal representation of all voters in the state. The League supported legislation to correct that imbalance and lobbied the Senate to pass legislation which would create co-Executive Directors (the Assembly had passed their bill in March 2005).

The New York State League Board voted on March 9, 2005, to endorse the use of optical scan voting machines, with the addition of ballot marking devices for accessibility, to replace lever voting machines statewide. Using the LWVUS' criteria of secure, accurate, re-countable and accessible, the Board decided that the League's voice should be heard in the public debate about the best voting system for NYS.

The Assembly proposed legislation which described both DREs and optical scan voting machines technologies by setting forth specific standards for these voting systems. The Senate legislation, while it did not exclude optical scan equipment, did not specifically name it, as the Assembly bill had done and only addressed only general standards for new machines. Both bills included requirements for a voter verified paper trail for DREs. However, there are no machines currently qualified by the federal government and certified for use in NYS which meet that requirement. Machine selection was further complicated and limited because of New York's full-face ballot requirement which the Legislature did not repeal despite the recommendation of the Governor's Task Force and the advocacy efforts of the HAVA Coalition and others.

The HAVA joint conference committee resumed on May 4, 2005 with discussion on the three remaining issues and several new compromise proposals were shared between Assembly and Senate conferees. The League endorsed a report issued by NYPIRG on Election Day Registration in New York State and appeared at a press conference in support of the proposal (a LWVUS position).

After two years of intensive work to ensure that the Help America Vote Act was implemented so that New York voters could be assured of more accurate, modern, uniform elections, legislation was passed in June 2005 and signed by Governor Pataki in July of that same year.

The following is a brief description of the new law:

I. Election Reform Modernization Act – voting machine replacement. This law will allocate $190 million dollars to purchase new voting machines that will have to be certified by the State Board of Elections to determine compliance established by the legislation. Funds will be allocated based on the percentage of voters in each jurisdiction. Localities can choose to purchase either optical scan machines or electronic voting machines. If local elections commissioners cannot agree on the type of machine for their county, the State Board of Elections will execute a contract for the purchase of the required voting machines and charge the county for the expense. If electronic voting machines are certified by the state, they must be equipped with a voter-verified paper ballot.

An appointed Citizen's Election Modernization Advisory Committee will advise the SBOE on which machines meet the standards. Once the SBOE certifies that a machine meets the standards it is eligible to be purchased by a county. The SBOE will act as the purchasing agent and direct the State Comptroller to release HAVA funds to vendors who in turn deliver the machines to the county and will ensure bulk purchase savings and that manufacturers provide counties with educational and technical support.

Every polling place must have at least one disability-ready machine for use in the November 2006 election and remaining replacement of lever voting machines must be accomplished by September 2007. An automatic random audit of 3% of the voter verifiable audit records of an election is required.

Provisions of the bill would also allocate funds for the training of poll workers, increase compensation for those training sessions and require a public campaign to educate voters on the new voting machines and other changes affecting voters at the polls on Election Day.

II. Election Consolidation and Improvement Act of 2005 – county consolidation of election operations and voting machines. This law will consolidate election administration within the local boards of elections. Counties will own the voting machines and all equipment related to the conduct of elections and be required to conduct at least one annual mandatory training session for poll workers with an exam. Counties will be permitted to charge back to the municipalities within the county for the cost of election operations within that municipality.

III. Voter Registration – new ID requirements for first-time voters who register by mail and have not previously voted in a federal election. This law makes permanent the identification legislation which was enacted in 2004 and was in effect for the November 2004 election. It was in effect for one year only (until July 2005). Under the bill, the following identification can be submitted by a voter to avoid identification requirements at the polls:

1. A driver's license or DMV non-driver's photo ID number;
2. The last four digits of the individual's SS number;
3. A copy of a current and valid photo identification; and,
4. A copy of a current utility bill, bank statement or government document that shows the name and address of the voter.

IV. Voter Verification -- establishes the process for verifying the identity of individuals registering to vote through state databases or with Social Security numbers. HAVA requires that states should attempt to "match" information provided on voter registration applications with that in

driver's license and social security databases for the purpose of verifying the accuracy of the information provided by new registrants in order to prevent voter fraud. This law requires board of elections to offer the new registrant multiple opportunities to correct the registration record before Election Day or to inform him/her that they must present HAVA ID in order to vote on a machine. (all voters are allowed to vote using provisional (affidavit) ballots if they forget ID or are not listed in the poll books.) Affidavit ballots are counted after election officials verify the individual's identity and voter registration.

V. Administrative Complaint Procedure – HAVA mandates that a complaint procedure for aggrieved voters to be administered by the NYS Board of Elections be established. This legislation was passed and signed into law earlier in the 2005 session.

VI. Statewide Voter Registration Database – HAVA requires that states must establish a statewide voter registration system, effective January 1, 2006. The statewide voter registration list will serve as the "official" list of registered voters and will merge the existing county registration lists into a statewide list, available to all counties. This law, passed earlier in the 2005 legislative session, appropriated monies and the requirements for the system.

VII. New York State Board of Elections Governance – alters structure of the board in order to achieve bipartisanship. This law was not required under HAVA.

Bipartisanship will be achieved in two ways: creation of two co-chairs on the board of SBOE commissioners and co-executive directors at the staff level, with salaries set by the SBOE commissioners (for staff). The law will also establish that if a vacancy occurs among the commissioners, and if a recommendation for appointment is not approved by the governor within 30 days of the recommendation, the appointment can be made by the legislative leaders themselves.

The effective date for the NYS BOE governance law was August 1, 2005. At the August 8th meeting of the NYS BOE, the two co-executive directors were formally acknowledged by the commissioners in their new positions. However, the board still lacked a fourth commissioner (Democratic appointment). The recommendation for this appointment was to be presented by the Senate Minority Leader, David Patterson. At the December 15th NYS BOE meeting, a new Democratic Commissioner was seated filling the vacancy and returning the board to two Democrats and two Republicans.

HAVA action now goes to the local BOE for decisions regarding new voting machines.

Delegates to the 2005 biennial state League convention approved a *Convention Action Motion* which was sent to over 1,000 county elected officials throughout the state: "As delegates to the League of Women Voters of New York State convention, held in Albany, New York, on May 20-22, 2005, we request that you support precinct-based optical scan voting systems with accessible marking devices to replace lever voting machines currently in use in the state."

Recognizing that the decision on new machines was to be made by local officials, the League moved to educate our members with an intense Campaign for Optical Scan in the summer of 2005. A series of four advocacy training sessions in Buffalo, Syracuse, Albany and NYC were held for League members and others. The trainings were conducted by the League's elections specialist and a colleague from New Yorkers for Verified Voting. A videotape of the training session was produced and made available for purchase for those unable to attend.

New York's HAVA statute required the New York State Board of Elections to prepare voting system standards to implement the requirements of the law. The League and fellow members of the NYS Citizen's Coalition on HAVA Implementation submitted testimony on the Draft Voting System Standards in December 2005. The League's separate comments criticized the proposed standards as weak, inadequate, and unable to protect the integrity of New York State's voting process for the following reasons:

1. Public confidence in the election process is directly linked to the transparency of the process (which we objected to as being non-transparent);

2. The standards should be written by independent voting system and computer professionals who should be selected by a diverse cross-section of computer scientists and professionals and government and civic representatives;

3. Vendors are given the power to determine what information they will provide to the State agency to satisfy state requirements for equipment;

4. Testing of machines should be done publicly and by a truly independent body;

5. There should be a transparent and public certification process;

6. The Citizen's Election Modernization and Advisory Committee should be representative of the public as well as the elections community and should have access to all information that the Board of Elections has in order to fulfill its mandate;

7. The proposed Regulations are incomplete and inadequate and should be re-written.

A revised set of standards was issued in February 2006 but only minimal changes were made and continue to stand as the requirements for voting systems. The League, along with fellow members of the NYS Citizen's Coalition, in a February press conference, called for the commissioners of the BOE to reject the revised regulations.

In January 2006, New York was officially notified by the US Department of Justice that the State was not in compliance with the federal HAVA deadline of 1/01/06 for establishment of a statewide interactive voter registration database and an implementation plan to provide for replacement of voting machines. (NYS had received a waiver until 1/01/06). The State was told that unless a negotiated settlement between the State and the DOJ could occur, the Court would impose a settlement, a solution no one wanted. Such settlement might require full compliance by September 2006. In March the League, fearing that such a possibility existed, decided to become interveners in a lawsuit to oppose the suit by the DOJ. A coalition of four individuals and the League filed a Motion to Intervene asserting that the relief sought by the DOJ – rushing out new electronic voting machines for the September 2006 primary -- would inevitably cause mass chaos on election day and would deny the right of citizens to have their votes counted. The Motion was denied by the U.S. District Court Judge in the case on the grounds that the case would become too unwieldy if too many parties became involved, but held open the possibility that the proposed Interveners might be allowed to participate later, at a point when a specific plan for HAVA compliance was proposed. The Court also asked for clarification from DOJ on whether it was seeking to force full and complete HAVA compliance by September 2006. Attorneys for DOJ said that they did not intend to do so. The Court also ordered the NYS BOE to produce a proposed compliance plan by April 10, 2006. In April 2006 the BOE proposed "Plan B" which would provide partial compliance for accessibility by allowing each county to determine the number and location of accessible voting

equipment to be in place for the Primary election in September. The Court accepted this solution, as well as an interim solution for the establishment of a statewide voter registration database.

"Plan A" (the original plan would have required full compliance by September 2007), the BOE was required to provide the full description of the process of testing, certification, ordering of new voting machines and the process for county acceptance testing and related procedures by August 2006.

Legislation which would expand the Citizen's Committee with two additional members, one from a representative of the League of Women Voters, was introduced in January 2006 by Senate Elections Chair, John Flanagan. The bill had Assembly sponsorship and passed both houses of the legislature in April 2006 and was signed by Governor Pataki. We had called for an expanded Committee and supported this bill. Our appointee to the committee is a member of the League with expert technical credentials and professional experience. Committee members observed the first stage of certification processes in summer 2006 when ballot-marking devices were tested by the NYS BOE.

League members continued local advocacy during the summer of 2006 by focusing on county legislatures and elected officials in a *Campaign for Accountability*. Some county legislatures indicated their support for optical scan voting by passing non-binding resolutions favoring optical scan. Petition drives and letters of support were initiated.

Widespread failures of DREs and some optical scan systems in the November 2006 election received national media coverage. The League and fellow advocates for paper ballot optical scan voting held a press conference in November to point to these failures as an example of how New York election officials could take advantage of this experience by selecting optical scan for their counties.

With a newly-elected governor, the opportunity for gaining support for a single statewide optical scan system increased. The League had a member appointed to sit on the transition team. One of the top recommendations of the team on election reform was that the state should implement a single statewide system using optical scanning equipment which would also provide accessibility. Advocates held a press conference in February calling on the new governor to endorse optical scan voting and learn from Florida's mistakes, as well as others. We followed that with an Action Alert/blast FAX campaign urging the governor to take the lead and introduce legislation to achieve this. Unfortunately, the Governor did not respond and the 2005 statute leaving the decision on voting machine technologies in the hands of county election commissioners continued.

The certification process which began in fall 2006 came to an abrupt halt in January 2007 when NYS suspended testing with the independent testing authority under contract to New York because this agency was disqualified by the US Election Assistance Commission for inadequate security testing procedures. New York would have to issue a new contract for an Independent Testing Authority (ITA), making it unlikely that the state would be able to meet the September 2007 DOJ court order for full implementation ("Plan A"). However, until a renegotiated agreement occurred, counties continued to make plans for September implementation.

In a related matter, in April, the Troy City School District (Rensselaer County) voted to accept the loan of uncertified voting machines from a prospective vendor for use in their May school district election. The League and our partner, New Yorkers for Verified Voting, mounted an intensive campaign to counter the vendor's claims of security and reliability and urged the school board to reconsider their decision. Because of a loophole in the NYS Education Law which governs school elections, this was a permissible decision. The Assembly's Education Committee chair introduced legislation disallowing such action in the future, but the election was held using the uncertified electronic voting machines. LWVNYS sent a letter to the

716 school district superintendents in the state to inform them of the danger of using uncertified voting machines in school district elections.

The 2007 NYS Legislature concluded with the passage of a bill which extends the life of the Citizen's Election Modernization Advisory Committee until 2010. (The previous bill was a one-year authorization) Under provisions of this bill created in statute, the committee gains access to all technical and proprietary information on voting machines submitted for NYS certification and the testing of same. A League representative will continue to sit on this advisory committee. In an unusual situation, the League issued a memo in opposition to a bill which didn't then exist! Having learned of a potential threat to the HAVA statute of 2005 which requires voting machine vendors to place in escrow their source code information and documentation, we issued a memo in opposition to alert the legislature of that possibility. This is a frequently used lobbying strategy to scare off the introduction of legislation because public awareness existed of its potential evils. When the Legislature returned for a special session in July they took up the 2007 implementation date which New York had passed in 2006 and recognized that it was no longer feasible. The new statute reflected reality and required that counties provide at least one location per county with one or more ballot marking devices for persons with disabilities and permits the use of lever voting machines until new machines are certified and available for purchase by the counties.

The League issued a memorandum of support for this solution to a difficult situation.

In June 2007, a Citizen Election Modernization Committee (CEMAC), created under the original 2005 HAVA state implementation statute, was extended until the voting machine selection process was completed. A League representative on the committee was guaranteed under the statute. This committee would have the power to approve the qualifications of voting machines after testing and certification processes had occurred and to make recommendations for purchase by the counties. The four commissioners of the NYS Board of Elections would vote on the qualified machines to be submitted to the counties. Bo Lipari, LWVNYS and Tompkins County LWV member, and Executive Director of New Yorkers for Verified Voting (NYVV), was asked to represent the League on the Committee because of his expertise in computer technology and security issues with optical scan voting machines.

In November 2007, the League and New Yorkers for Verified Voting (NYVV) held a press conference to announce our opposition to a NYS Board of Elections plan that would allow DREs (direct recording electronic voting machines to be used as accessible marking devices. A follow up FAX Blast/Action Alert to members and the public resulted in over 3,000 calls to the NYS Board of Elections protesting this proposed waiving of the standards.

In December 2007, the League, NYVV and NYPIRG submitted an *Amici Curiae* brief to the Federal District Court for the Northern District of NY in response to the US Department of Justice Motion to Enforce NYS Compliance with HAVA by September 2008. The grounds for the Brief were that by requiring the NYS to comply with HAVA by the 2008 presidential election the very rights that the Help America Vote Acts would seek to ensure would be jeopardized. The Court accepted the application.

2008

In January, 2008, the League and NYVV asked League members in an Action Alert to contact county election commissioners to urge that they select ballot marking devices (BMDs) which would be compatible with the scanner they would be purchase for general voting use in their county. County boards of election commissioners also received an information packet.

In January 2008, CEMAC released their report of the Committee's evaluation of BMDs. The report evaluated devices which had been submitted for their usability for persons with disabilities.

In September 2008, the League and NYVV continued to press for full certification of voting machines despite pressure from the US Department of Justice to expedite the process by using uncertified scanners and BMDS for the fall presidential election. (New York was two years behind the 2006 deadline for HAVA implementation.) A compromise was achieved resulting in the Court permitting the use of lever voting machines to record votes and BMDs placed in polling sites for accessibility.

2009

In January 2009, the League as a member of the statewide NYS Citizens Coalition for Voter Participation and Fair Elections, signed on to a letter to the NYS Secretary of State that lists "Thirty-one Common Sense Steps to Better Elections in New York State."

In February 2009 the League and NYVV released a position statement, "Do Lever Machines Provide a Better Voting System for Democracy?" This joint campaign is a response to an emerging call by some county legislatures to retain lever voting machines.

In April 2009, the League in a letter to the US Department of Justice Voting Rights Division urged the DOJ to allow New York to proceed with a full certification process for voting machines and to delay full statewide implementation until 2010.

The League was also represented on the second HAVA Implementation Task Force convened by the NYS Board of Elections under the federal HAVA. The first stage plan (2003) set out goals and timelines for the implementation. With other members of the HAVA Coalition, the League commented on the draft amended plan. The amended plan reviewed implementation to date and established new benchmarks and timelines.

In May 2009, LWVNYS presented testimony to the NYS Senate Elections Committee on legislation introduced by the Senate Democrats on a variety of elections issues.

In November 2009, the League initiated an online Election Survey to record voter responses to the introduction of the paper ballot optical scan voting system in the NYS Board of Elections Pilot Project for some jurisdictions in the state.

Also, in November 2009, the Election Survey 2009 Report was presented as part of testimony provided to the NYS Senate Elections Hearing in Albany. The LWVNYC also provided testimony to the NYS Assembly and Senate hearing on elections in October. League Testimony emphasized the need for uniformity in elections in the state and recommended that the dates for local elections throughout the State be realigned so that county boards of elections could more easily administer elections.

With the passage of the NYS County Consolidation Act of 2007, which abolished town and city ownership of voting machines, the way was paved for uniform procedures and administration of all local elections at the county level.

2010

In January 2010, the NYS Board of Elections commissioners approved two optical scan voting machine systems for use in the state following a three-year voting machine certification process. LWVNYS was represented on the CEMAC by Bo Lipari. Mr. Lipari dissented in the full committee approval of the two systems. County boards of elections were required to make their selections and enter purchase orders for equipment for use in the fall 2010 elections.

In November 2010, the first complete statewide use of optical scan voting equipment in the General and Primary elections occurred. To prepare voters for this experience, NYS LWV and NYVV produced a pre-election voter education article, "How You Can Be Pro-Active with the New Voting System." LWVNYS Voter Services also emphasized education on the voting machines as part of the 2010 Facts for Voters materials.

LWVNYS conducted an online Election Survey that documented over 1,000 responses to questions about all aspects of the voting process in the polling place. The major areas for improvement recommended in the Election Survey Report 2010 were:

- Ensuring privacy for the voter while executing her paper ballot and in the scanning process,
- Revising the paper ballot to improve usability,
- Increasing voter education on the new machines, and
- Improving training for elections personnel.

In December 2010 LWVNYS announced the results of the Survey in a Press Release and distributed copies of the Survey Report 2010. In January 2011, the Survey report was presented to the NYS Board of Elections commissioners and staff at their monthly meeting.

2011

Also in January 2011, the League's Legislative Agenda endorsed better ballot design for usability, but no bill is introduced in the legislature.

In February 2011, the League testified before the Joint Fiscal Committees of the NYS Senate and Assembly on the budget of the NYS Board of Elections. The testimony requested increased funding for the campaign finance unit and emphasized the need for state assistance to local boards of elections in the initial years of HAVA implementation and in order to fully comply with the requirements of the Military and Overseas Voter Empowerment Act (MOVE) which the Board will fully implement in 2012 under a US DOJ court order.

In February 2011, the League urged Governor Cuomo to veto legislation which would permit the continued use of lever voting machines in village elections. However, the legislation was signed into law in both the 2011 and subsequent 2012 legislative sessions.

2012

In the 2012 legislative session, the League issued a memo of opposition to a bill that would permit the continued use of lever voting machines for school district elections; however, the Assembly and Senate passed the legislation which was signed into law for school district, villages and special districts, effective until December 31, 2014. The League position has been that uniformity in election procedures and equipment is important for voter understanding and for accuracy and integrity of the ballot canvass.

In November 2012 LWVNYS conducted the third online Election Survey that resulted in over 1,000 voter responses to twenty questions on the voting process.
Results of the survey were summarized in a report presented to the NYS Board of Elections commissioners and staff in February 2013, and copies were sent to all county boards of elections commissioners. Local league presidents were asked to contact their local boards of elections to discuss the Report and encourage collaboration where possible.

2013

During the 2013 legislative session, a significant challenge to the League's position against the continued use of lever voting machines was mounted by the NYC Board of Elections which maintained that it would

be impossible for the Board to conduct a Primary and Mayoral Runoff election using the PBOS system within the time frame established by the NYS Election Law. Over objections raised by the good government groups throughout the legislative session, and in a joint memo, the legislature passed a bill allowing NYC to use the lever voting machines for one year only. Governor Cuomo signed the bill (Chapter 99) on July 8, 2013. The League will continue to work for a single statewide voting system for use in all elections. Also during the 2013 session, reforms were introduced: (1) improving the ballot for usability by formatting changes, removing unnecessary current requirements for ballots, establishing a minimum print size and font (A.2040), and (2) permitting early voting for specific periods of time prior to Election Day at various locations in the counties. Although these bills were also endorsed by the Governor, they did not pass out of committee and come to the floor of the chambers for a vote. The League expects these bills to be reintroduced in the 2014 session.

ELECTRONIC VOTING EQUIPMENT

Since the appointment of a New York State Temporary Commission on Voting Machine Equipment in 1984, the League has favored legislation that would allow local governments the option of using electronic voting equipment. After a year of study and equipment testing, the Commission recommended changes in the state law allowing the use of electronic voting machines. The New York State Board of Elections developed a comprehensive set of regulations and guidelines for the machines' certification, testing and management; the machines would be purchased and maintained by individual counties, cities or towns. In 1986 legislation was passed enabling localities to replace their antiquated, failing equipment with electronic machines. They are being used, selectively, in many areas across the state. Since 1984 the LWVNYS has favored government action to advance the evaluation of electronic voting systems and has favored legislation that would allow local governments the option of using electronic voting equipment.

In 2001, the League supported bipartisan legislation which would allow the State Board of Elections to authorize a county board of elections to use a voting system (i.e., machine) not previously approved by the State Board. By giving this discretionary power to the State Board, county boards would be able to test newer machines before purchasing. With the passage of the Help America Vote Act in October 2002, which will require the replacement of all lever voting machines in the state by 2006, this recommendation became moot.

PETITIONING PROCESS: BALLOT ACCESS

1950s

League concern about the petitioning process is long standing. Since the 1950s the League has been a strong advocate for simplifying the format and procedures for obtaining petition signatures for potential candidates. Complexities in the process and minutiae in the petition format create opportunities for inadvertent errors. Such errors have increasingly been the cause for court challenges to the validity of the petition signatures. The League believes that simplifying the petitioning system and at the same time, including fraud-prevention measures, will benefit would-be candidates and provide voters with a broader choice on election day.

1990

The League is an active member of the Coalition for Effective Government, a lobbying group that formed in 1990 as an outgrowth of the Governor's New York State Commission on Government Integrity, Feerick Commission. The election law goals of the coalition are the simplification and improvement of ballot access, agency-based registration, elimination of the non-voting purge, 17-year-old registration, college student voting, the 15-day registration deadline and intra-county re-registration.

1994-1997

In October 1994 a federal Court judge in Albany rendered a decision in a case involving the nominating petitions of a minor party candidate for governor which will probably impact on the future interpretation of the NYS election law with respect to the requirement that petitions include the election or Assembly district of each person who signs a petition. This requirement has often meant that petitions have been totally rejected for the lack of perhaps only a few legally valid signatures. The decision directing the courts to "liberally interpret" the intent of the election law governing petitions will be precedent setting. In fact, in the Assembly legislation passed in January 1995, this provision to "liberally interpret" which had appeared in previous Assembly ballot access bills was deemed unnecessary following this decision. However, there has not been any movement on the reduction of signatures requirement that directly impact less well financed campaigns.

The Take Back Democracy Coalition, consisting of the League, Common Cause/NY, the New York Public Interest Research Group, and United We Stand America/NYS, has taken an active role in pursuing ballot access reform in New York State Election Law. In 1996, the Governor introduced a Program Bill simplifying the ballot access process; thus making it simpler and fairer for candidates in political party primary elections and for independent candidates in general elections. Legislation passed both houses and was signed by the governor (Chapter 709 of the Laws of 1996).

Monitoring and close scrutiny of the process continued in 1997 as regulations implementing this new law were promulgated by the State Board of Elections. Following much delay and one statutory extender, proposed regulations were finally issued in March 1997, but only after League criticism in the media of the apparent procrastination by both political parties. Draft regulations were forthcoming and during the public comment period, the Take Back Democracy Coalition submitted joint comments, which were eventually incorporated into the final regulations. Following Justice Department review, the regulations were in place for the June 1 primary process. Following submission of primary petitions in the New York City Council races, challenges to those petitions continued at a rate equal to or greater than the 1993 New York City-wide elections. The League will continue to bring to the governor's and legislative leadership's attention the need for further simplification of ballot access.

Historically, ballot access laws in New York State have been used as a tool by candidates to have challengers thrown off the ballot. Once a bill becomes law, the need to monitor the process does not end. The League continues to observe, comment and lobby on all steps of our governmental process, including in this instance, the regulatory process.

SIMPLIFICATION OF ELECTION LAW

A major recommendation of the LWVNYS's 1963 election position was the need for a complete recodification of the Election Law. During the following decade, a Select Committee on Election Law worked on recodification, with advice and encouragement from the League. When the results were introduced in bill form, the League lobbied through three legislative sessions, finally achieving a recodified law, which became effective December 1, 1978.

SCHOOL ELECTIONS

In 1979 the League succeeded in getting a prohibition against electioneering within 100 feet of the polls in school elections.

CITIZENS RIGHTS

CITIZEN RIGHTS

The League of Women Voters of the United States believes that democratic government depends upon the informed and active participation of its citizens at all levels of government. The League further believes that governmental bodies must protect the citizen's right to know by giving adequate notice of proposed actions, holding open meetings and making public records accessible. (LWVUS *Impact On Issues*, 2022-2024, p. 52.)

As part of its citizen's rights concerns, the League has long worked for the citizen's right to know and for broad citizen participation in government. While initial activities focused on making materials available and meetings open to citizens, current activity has focused more on second-generation issues, including:

- Making legislative processes, including the budgeting process, more open and transparent;
- Opening up enforcement proceedings for violation of a number of good government measures, including ethics and lobbying violations against legislators, other public officers, and lobbyists, campaign finance enforcement proceedings, including proceedings brought for failure to disclose information, and proceedings for judicial misconduct;
- Making materials available electronically on-line in a searchable format and filming open meetings;
- Using all technology and social media tools to ensure that the activities of government are transparent to its citizens and that those citizens have the ability to interact with the governmental bodies which make decisions.

Past League Activity

1972-1976

League support for open meetings was first made explicit in 1972; in 1973, Leagues were empowered to apply that position at the state and local levels. In 1974, the National Convention added the requisite that government bodies protect the citizen's right to know by giving adequate notice of proposed actions, holding open meetings and making public records accessible. The League continues to support the NYS Sunshine Law, enacted in 1976, to enhance citizens' access to information.

In 1976, the LWVNYS worked vigorously for the enactment of open meetings and freedom of information laws in New York State. Following the adoption of these laws, the Committee on Public Access to Records (COPAR) was established to oversee them. Throughout the state, local Leagues monitored the governments' implementation of the laws.

1980-1985

In 1980 and 1981 the League supported legislation that would provide the option for legal fees to be awarded to successful plaintiffs in "freedom of information" suits by the agency that had been judged to have wrongly withheld requested information. Both years the measure passed the legislature but was vetoed by the governor. The legislation passed again in 1982 and this time was signed into law.

In 1983, another League-sponsored bill, one that opened zoning boards of appeal to the public, became law. This bill also changed the name of COPAR to the Committee on Open Government.

In the closing days of the 1985 legislative session, the League and other good government organizations learned that the legislature had hastily passed an amendment to the Open Meetings Law that all but destroyed its original purpose. Just as hastily, the governor signed the bill. The amendment changed the law to allow any business to be discussed in the private political caucuses and extended this provision to local governing bodies as well as the state legislature. Several court decisions over the years have decreed that the intent of the law was such that only political business could be discussed in these private meetings. Any business that was to come before the public was not to be considered behind closed doors. Efforts to reverse this serious infringement on open meetings have been defeated to date; however, the League and other good government groups continuously lobby for proposed legislation that would restore the original intent of the Open Meetings Law.

1996-2003

In December 1996 after being barred from entering the NYS Assembly gallery during a special session while debate and voting were taking place on a controversial bill, the League was able to force the gallery to be open to the public. Subsequently, we met with the Executive Director of the Committee on Open Government to clarify the parameters of the Public Officers Law, Article 7, which states:

> *It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens of the state be fully aware and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy. The people must be able to remain informed if they are to retain control over those who are their public servants. It is the only climate under which the commonwealth will prosper and enable the governmental process to operate for the benefit of those who created it.*

We were assured that Article 7 cites no exceptions except for executive sessions. A meeting was then held with Assembly Program and Counsel staff, and the League received a draft policy on March 31, 1997. The draft left many questions unanswered. This issue continues to be problematic and has extended to the Senate. During the active lobbying on the issue of rent control, in June 1997 the Senate galleries were empty, although the State Police maintained that they were full; in addition, even though the Senate was in session, the public was not allowed above the Capitol lobby without identification and appointments. The League strenuously objected to the Sergeant-at-Arms in the Senate, and the matter was resolved. Citizens were again allowed in the galleries. These issues continue to be pursued.

Following the terrorist attacks on the World Trade Center and the Pentagon the NYS Senate used the fear of terrorism to introduce legislation to seriously weaken the Freedom of Information Law (FOIL). The League with its good government colleagues, NYPIRG and Common Cause, were successful in educating the State Assembly and the bill was never introduced in that house. During the 2003 session the State Senate took no further action on the legislation, however the League continues to be vigilant on this issue.

2005-2008

In 2005, recognizing that electronic communication impacts the processes of state government, the League and other organizations advocated for expanding the Freedom of Information Law to require that "foil-able" documents be available on the internet. Legislation to strengthen and modernize this 25-year-old law needed to be made. The reforms were based on the recommendations of the Department of State's Committee on Open Government. In May 2005, FOIL was amended to require government agencies to abide by reasonable deadlines in responding to requests for information. FOIL now requires that agencies respond to requests for records within five business days by exercising one of several options. They can grant access or deny access in whole or in part within that time, and in any instance in which a request is denied, the person denied access has the right to appeal to the head or governing body of the agency of that person or body's designee. If more than five business days is needed the agency

must acknowledge the receipt of the request within five business days and, in most cases, provide an approximate date within twenty business days indicating when it believes, it will grant a request in whole or in part. So long as the approximate date is reasonable, the agency is complying with law. If a request is unusually voluminous and complex, and more than twenty business days will be needed, an agency in its acknowledgement must include an explanation of the delay and a "date certain" by which it guarantees that it will grant the request in whole or in part.

When those deadlines are not met – when an agency fails to respond to a request within five business days, when twenty business days pass without a response, or when the guaranteed date is missed – the law now states that those failures constitute denials of access that may be appealed.

When an appeal is made, the agency has ten business days to grant access to the records of "fully explain in writing" the reasons for further denial. If an agency fails to determine the appeal within that time, the appeal may be deemed denied, and the person denied access may seek judicial review of the denial.

Broadening the current allowance for attorney's fees when a citizen brings a successful FOIL action against a stonewalling agency was another reform of the Freedom of Information Law that advocates pressed for. The single biggest complaint heard about New York's FOIL is the difficulty citizens have in obtaining government records. There is a widespread belief that agencies make it unnecessarily difficult for the public to access records. The new provision (see below) will help knock down unnecessary barriers to public access.

For activity with respect to the budget process in New York, see the **State Budget Process** in the **State Finances** section of this document. See also **Legislative Procedures** below.

In 2008 the League successfully advocated for amendment of the Public Officers Law to create a cause of action against governing bodies for violations of the Open Meetings Law and to allow successful litigants to recover attorney's fees.

In 2008, the League unsuccessfully lobbied the Commission on Public Integrity to open its adjudicatory hearings into alleged lobbying violations.

In coalition with other good government groups, the League issued in March of 2012 specific recommendations to the leaders of New York State Government on how to harness the explosion in information technology to realize a new level of transparency for state government and, later in 2012, the League and coalition partners urged the state government to use all available forms of internet and other information technology tools to ensure that the work of the commissions reviewing the response to Superstorm Sandy is transparent and fosters public discussion, participation and accountability.

INDIVIDUAL LIBERTIES

> **The League of Women Voters of the United States believes in the individual liberties guaranteed by the Constitution of the United States. The League is convinced that individual rights now protected by the Constitution should not be weakened or abridged. Statement of Position on Individual Liberties, as Announced by National Board, March 1982. (LWVUS *Impact on Issues*, 2022-2024, p. 55)**

Individual liberties are a long-standing League principle that became an integral part of national program positions in the mid-1970s. This basic League concept has been periodically at the center of the League's attention, especially during times of national tension.

PUBLIC POLICY ON REPRODUCTIVE CHOICES

> **The League of Women Voters of the United States believes that public policy in a pluralistic society must affirm the constitutional right of privacy of the individual to make reproductive choices. Statement of Position on Public Policy on Reproductive Choices, as Announced by National Board, January 1983. (LWVUS *Impact on Issues*, 2022-2024, p.57)**

Using this position, LWVNYS has vigorously opposed:

- Attempts to encroach upon a woman's (including a minor) right to control her reproductive health
- Measures that would make reproductive health services more difficult to obtain
- Measures that would defund reproductive health programs or that would exclude reproductive health coverage from medical insurance.

Recent League Activity

2023

Below are the two reproductive health bills we focused on this year. They are both ones that our partners on PowHer have been talking about and are responses to the US Supreme Court's Dobb's decision overturning Roe v. Wade – and to the plethora of anti-abortion bills being passes in many states.

- *Reproductive Freedom & Equity Program*
  Establishes the reproductive freedom and equity program to ensure access to abortion care in the state by providing funding to abortion providers, government entities and non-profit organizations whose primary function is to facilitate access to abortion care. This legislation was passed in the Senate and is in committee in the Assembly.

- *Reproductive Telehealth*
  Provides certain legal protections for reproductive health service providers who provide legally protected health activities including protection from extradition, arrest and legal proceedings in other states relating to such services; restricts the use of evidence relating to the involvement of a party in providing legally protected health activity to persons located out-of-state. This legislation has passed the Senate and Assembly and was signed by the Governor.

2011-2019

LWVNY has for many years supported the Reproductive Health Act and the Comprehensive Contraceptive Care Act. We were present to cheer both houses at their joint press conference when the Assembly and the Senate passed both bills on January 22, 2019 (the anniversary of the Roe v. Wade decision). The Governor signed the law later that same day.

The Reproductive Health Act updated New York's laws by:

(1) Moving abortion out of criminal code and into health code, so that providers are not afraid of providing services;
(2) Ensuring that the health of the mother, not just her life, is a factor for access to abortion;
(3) Protecting a woman from being forced to carry a non-viable pregnancy to term;

(4) Updating the list of medical providers that can provide abortions so access is not diminished because of a lack of providers.

The Comprehensive Contraceptive Care Act requires that insurance companies in New York State cover a wide range of contraception; including all FDA approved contraceptive drugs, devices, and products; and allow women to access 12 months of contraception at one time (instead of the 1-3 month allotments usually dispensed).

Maternal Mortality Review Board – LWVNY worked in coalition to support the creation and funding, in the budget, of this board to investigate the disparity in pregnancy outcomes for women of color and rural women as compared with the general population.

The League has supported the Reproductive Health Care Act since it was introduced in 2011. Refer to page 50 of Impact on Issues for additional details. League activity in the 2014 legislative session was centered on passage of Women's Equality Agenda. The Senate Leadership Coalition, following the elections of 2014, will determine significantly action on the Women's Equality Agenda.

In 2011 the League supported passage of the Reproductive Health Act, (S.2844/A.6112) developed to update New York's law with respect to reproductive health by enshrining the woman's right to choose articulated in ***Rove v. Wade*** in state law. It would:

- Guarantee a woman's right to control her reproductive health
- Ensure that a woman will be able to have an abortion if her health is endangered
- Takes abortion out of the penal code, and regulates it as a matter of public health and medical practice
- Protect the fundamental right of a woman and her doctor to make private medical decisions
- Guarantees everyone the right to use or refuse contraception.

In his 2013 State of the State address, Governor Cuomo included passage of the Reproductive Health Act as part of his 10 point Women's Equality Agenda (later the Women's Equality Act)t. As the 2013 legislative session continued, the reproductive health provision in the Women's Equality Act (WEA), morphed slightly from the RHA. The Women's Equality Act would ensure that a woman can access abortion care in New York State when her health is at risk by:

- Codifying in New York State law the 1973 Supreme Court decision in Roe v. Wade;
- Ensuring that a woman in New York can get an abortion within 24 weeks of pregnancy, or when necessary to protect her life or health;
- Ensuring that physicians operating within their scope of practice cannot be criminally prosecuted in New York for providing such care; and
- Retaining those provisions in state law that allow the state to prosecute those who harm pregnant women.

The League lobbied extensively for passage of the WEA, but it did not pass during the 2013 legislative session. For a complete narrative on the League's advocacy on WEA, please see the *Women's Issues* section

The League has also supported passage of the "public university emergency contraception act"; which requires every college and university of the state university of New York and the city university of New

York to provide emergency contraception to any student requesting it. This bill has been introduced in the legislature numerous times since 2007, the latest being 2011.

In addition, the League has supported the passage of the "unintended pregnancy prevention act"; which would increase access to emergency contraception by allowing women direct and immediate access to emergency contraception from a pharmacist, registered nurse or licensed midwife, using a non-patient specific order written by a licensed medical provider.

Past League Activity

1994-1995

In support of this position, the League of Women Voters of New York State has vigorously lobbied to assure that the right to privacy continues to extend to minors by opposing legislation before the New York State Legislature requiring parental consent/notification for minors under the age of 18 seeking to obtain an abortion. In late June of 1995, the Senate passed a parental notification bill, which lowered the age for notification to two parents of those minors who have not yet attained the age of 16. The vote was 32-20, thus putting on record Senators who had never previously voted on this issue. These minor's bills have consistently been held (no action) in the Assembly Health Committee.

The League has also worked to prevent further erosion of a woman's right to reproductive choice in opposing a bill, first introduced in the 1994 legislative session, which would require a 24-hour waiting period after the first visit before an abortion and require "informed consent." Informed consent is currently done as standard medical procedure, and as such, bills requiring further information are viewed by the League as tantamount to biased counseling. Requiring women to delay exercising their reproductive choice option, absent any legitimate health concern, is not justified. Particularly for many rural women who must travel to a facility, the 24-hour provision would create significant obstacles and increase the potential for harassment. The delay may also cause more women to have second trimester abortions that are much riskier than ones performed earlier in a pregnancy. In 1994, the League successfully lobbied to hold this bill in the Assembly Health committee. In the 1995 session, this bill did not come before the Health committee in either house.

MEDICAID FUNDING OF ABORTIONS

1978-1997

The League believes that low-income women should have the same access to legal medical procedures for which income-independent women are able to pay. From 1978 through 1997, the League lobbied against attempts to withdraw this funding in New York State. The 1995 budget negotiations included language that would mandate family planning counseling before a Medicaid funded abortion. The League opposed this budget language and, as a result of vigorous lobbying, it was not included as part of the budget. The League has and will continue to monitor this very important right for low-income women. (During every budget vote, anti-abortion legislators have unsuccessfully attempted to delete Medicaid funding from the state's budget.

2001-2007

Medicaid funding for women of low income was included in the "bare-bones" budget passed in August 2001.

Medicaid funding for women of low income has not been an issue during 2002 or 2003 budget mainly due to the large state budget deficits and the need by legislators not to provide any other issue for holding up the agreed to budget. Of particular note, during the 2005 legislative session the Senate took up the issue of Medicaid funding fully two-months after the budget was passed. The debate on this issue was extremely anti-woman and done primarily to appease the Conservative party and the Catholic conference. The Assembly did not address any abortion related legislation. Medicaid funding for low-income abortions was not addressed during the budget in late March 2007. However, the Senate introduced it in late May 2007. It passed the Senate only and was judged non-germane in the Assembly. No action on any other reproductive choice legislation was taken in the 2006 or 2007 session.

LWVNYS: A PLAINTIFF IN HOPE V. PERALES

1990

In September 1990, the LWVNYS joined as a lead plaintiff with the New York Civil Liberties Union, family planning clinics, religious organizations, and others in a lawsuit against the New York State Department of Social Services and the Department of Health. The suit challenged abortion discrimination in prenatal care legislation enacted by New York State in 1989. The state League supported the original intent of the legislation that provides prenatal services to poor women but argued that the New York State Constitution does not permit the state to condition the funding of pregnancy related health care to the waiver of the right of reproductive choice. A June 1991 New York State Supreme Court ruling in the case recognized a New York State constitutional right to abortion and to the funding of abortion services under the expanded Medicaid program. The plaintiffs had hoped for an immediate appeal to the Court of Appeals (the highest court in the state); however, the Court of Appeals decided in September 1991 that the case should first proceed through the lower appellate process, based on the premise that a positive outcome of this slower process would result in a firmer legal footing for a final appeal to the Court of Appeals. In April 1993, the Appellate Court ruled 4-1 to uphold the lower court decision in Hope v. Perales. *(See Medicaid Funding of Abortion under Social Policy section.)*

1994-1997

In May 1994, the NYS Court of Appeals in a narrowly drawn decision ruled that abortion services do not have to be funded under the expanded Medicaid prenatal care program. Although this decision was not the outcome the League had hoped for, the judges did not rule on the constitutionality of a right to privacy in reproductive choices in NYS. As a test case on the right to privacy in the NYS constitution, Hope v. Perales was perhaps not the most appropriate vehicle. In the future, another case may arise which will establish this important right in the state constitution.

In 1996, legislation was introduced to ban catastrophic late-stage abortion procedures in New York State (also called "partial birth abortion"). A physician performing this procedure could be subject to Class E felony charges, fines and imprisonment for a minimum of two years. In New York State, an abortion is legal if done within the first 20 weeks of pregnancy; however, under Supreme Court ruling, Roe vs. Wade, there is a compelling state interest in the third trimester, which begins after 24 weeks. After that a termination of pregnancy is allowed only to save the life or health of the mother, or if the fetus is incapable of sustaining life outside the womb. This legislation passed the Senate but was not addressed in the Assembly during the regular session. In December 1996, a special session was held; "partial birth abortion" legislation, in the form of a hostile amendment, was attached to a League-supported ballot access extender bill. The Assembly Speaker allowed Assembly member Eric Vitaliano of Staten Island to attach this amendment. The amendment was defeated on the issue of germaneness with debate on the floor tightly controlled by the Speaker.

In the 1997 session, this legislation again passed in the Senate but was held in the Assembly Health Committee. This extremely emotional issue promises to resurface next year, in one form or another.

Medical experts note the procedure should be only performed to save the health of the mother, to assure her continued fertility, and when the fetus has such severe abnormalities that it is incompatible with life outside the womb. Women with healthy fetuses are not considered by the medical community to be eligible for this procedure.

All other barriers to reproductive choice were defeated in the Assembly Health Committee. Medicaid funding for abortion for low-income women continues to be funded. (See Access to Health Care, in this publication for more information on clinic access and Medicaid funding for abortion.)

1998-2003

The 1998 session saw the Senate again pass the so called "partial birth abortion" legislation in the same form as 1997. The vote remained the same, however, the debate was shorter and less emotional, because every state in the nation that has passed similar legislation has had it ruled unconstitutional, this bill has become little more than a political necessity by the Senate Republicans for the continued support of the State Conservative Party. The legislation was held in the Assembly Health Committee.

Again, in the 1999 legislative session, the Senate passed "partial birth abortion" legislation early in the session. Late in the session, the Assembly Republican Minority Leader, under pressure from the Conservation Party, used a Motion to Discharge to bring the Senate bill to the floor of the Assembly for a vote. The motion was ruled out of order by the chair (President Pro-temp of Assembly) and the vote taken was a vote to sustain the ruling of the chair. This issue has become a very political issue having to do with election politics and nothing to do with the merits of the bill. A woman's health, future fertility, or even her life has long since been swallowed up in political maneuverings. The League will continue to lobby against this harmful legislation. No other anti-abortion legislation was passed through committee by either the Senate or Assembly.

During the 2000 legislative session, an election year, the Senate passed the so-called "partial-birth" abortion bill yet again. However, it was not addressed in the Assembly. No other legislation eroding a woman's access to reproductive health was addressed in that session.

However, in the 2001 session, new legislation was introduced known as the "unborn victims" bill. This measure would establish criminal penalties for "death" of a fetus during an attack on a pregnant woman. Although this bill may sound reasonable, it is in reality a back door way of creating personhood for a fetus. This legislation did not move in either house.

During the legislative sessions of 2002 and 2003, the Senate again passed the "partial birth abortion" bill but in 2003 session, the bill passed with fewer votes. In 2003, the Senate also passed its version of the "unborn victims" bill. However, no action has been taken on either pieces of this legislation in the New York State Assembly. 2004-2005 session saw no legislative action from either Senate or Assembly on "partial birth abortion" legislation or "unborn victims" legislation.

The good news for the 2003 session was the passage of legislation to provide emergency contraception to rape victims. This legislation signed by Governor George Pataki requires hospitals to counsel rape survivors about the use of emergency contraception to prevent pregnancy and offer the medication on-site. Emergency contraception, also known as the "morning after pill," is not the same as RU-486 and does not disrupt or harm an established pregnancy. Emergency contraception is not needed if a woman was already pregnant prior to being raped, so the new law does not require hospitals to dispense emergence contraception in such circumstances.

2004-2007

In 2004, the League successfully opposed measures which would have encroached on a woman's right to choose, including parental notification bills, a bill requiring a 24-hour waiting period before a woman could obtain an abortion. These bills were both held in the Assembly Health Committee although they passed in the state Senate.

In 2005, the League successfully lobbied for the Unintended Pregnancy Prevention Act, passed in both the Assembly and Senate, only to be vetoed by Governor Pataki, who was believed to have been pandering to the Religious right in an attempt to burnish his credentials for a Presidential bid. The measure would enable a physician to write a standing non-patient specific prescription to a pharmacy for emergency contraception allowing women to obtain this type of contraception within 72-hours of intercourse without the need for a prior doctor's appointment. In 2007, the League again lobbied for this legislation, the bill did pass the Assembly, but saw no action in the Senate.

In both 2006 and 2007 the League lobbied vigorously with Family Planning Advocates in support of the Healthy Teens Act, introduced in the Assembly by Gottfried and in the Senate in 2007 by Winner. It would have established a grant program through the Department of Health to fund age-appropriate sex education. In 2007, this bill passed the Assembly and was referred to the Senate Health Committee.

January 2007 saw a new administration come into Albany. Governor Eliot Spitzer had campaigned on the right to privacy and full access for women to reproductive health. In late March, Governor Eliot Spitzer spoke at the annual Family Planning Advocates Conference and reaffirmed his commitment to safe, legal abortion and to making privacy in reproductive choices a guaranteed right in New York State. The Governor introduced a program bill which the League supported which would have established a fundamental statutory right to privacy in making personal reproductive decisions, decriminalized abortion and updated New York law to embody Roe v. Wade protections in state legislation. Unfortunately, neither the Senate nor the Assembly introduced this legislation indicating that this would become a bill for political haymaking in the election year of 2008.

In mid-April 2007 the United State Supreme Court upheld by a 5-4 decision on an abortion ban which had been passed by Congress and signed into law by President Bush in 2003. This law also known as "partial birth abortion" bans a medical procedure found necessary and proper in certain situations by the American College of Obstetricians and Gynecologists. This ruling affects a method that doctors use to terminate pregnancy – and makes no exceptions for a woman's health or fetal anomalies. This dangerous law was opposed by major medical associations including the American College of Obstetricians and Gynecologists (ACOG), the American Nurses Association and the American Public Health Association.

ETHICS AND LOBBYING

The League has long felt that the laws of New York State inadequately define, monitor or discipline unethical behavior in the public sector, both on the part of public officials and lobbyists, those who seek to influence the behavior of public officials.

Recent League Activity

2023

In September of 2022 the new Commission on Ethics and Lobbying in Government (the "Commission" or CELG) started to come together. The League, along with several other good government groups, monitored the nomination process and progress. In early September, we encouraged them to get to work as the New York State Independent Review Committee (composed of the state's law school deans)

had approved seven out of eleven commissioners, enough commissioners appointed for a quorum – the legal minimum required to conduct business. We identified the creation of the new Commission as an opportunity to "reset" public and state officers and employees' expectations about state ethics oversight. The Commissioners are urged to do the following:

- Clearly firewall Commissioners from the elected officials (or their representatives) who appointed them (prohibit ex parte communications).
- Fully use the Commission's powers under state law to fulfill the Commission's mission of restoring public trust in state government.
- Pursue enforcement matters promptly, including previous Joint Commission on Public Ethics (JCOPE) matters.
- Reexamine current protocols and procedures regarding advisory opinions to avoid abuse of authority (such as by requiring Commission approval of all opinions regarding agency heads and statewide elected officials).
- Appoint an Executive Director after a nationwide search.
- Ensure state workers feel confident in reporting allegations of misconduct.
- Require trauma-informed harassment training for all Commissioners and senior staff.
- Increase transparency and access to public information through use of open data for financial disclosure reports, improving the lobbying database, collaborating with the Attorney General's New York Open Government portal, and developing clear guidelines regarding disclosing the status of investigations.
- Hold an annual hearing starting in 2022.

2022

On February 8th, along with seven good government groups, the League submitted a letter to Governor Hochul and Legislative leaders in support of the need for an independent ethics commission to replace the Joint Commission on Public Ethics (JCOPE). New York State government has a significant and ongoing problem with conflicts of interest, the abuse of power and corruption. It is clear that the Joint Commission on Public Ethics is not designed for – nor capable of – enforcing ethics laws fairly and effectively. JCOPE must be replaced by an independent ethics commission. Letter has being posted to state website.

The final budget approved a new state ethics committee- Commission on Ethics and Lobbying in Government- however, it fails to address many of the reasons we called for reform in the first place. On April 22nd, the League along with multiple good government groups submitted a letter to Senate and Assembly leaders highlighting the serious deficiencies in the new state ethics law.

The letter focused on the lack of independence in the selection process. There is an obvious conflict between an elected official's duty to select a person who will enforce the law without fear or favor and their self-interest in avoiding or minimizing accountability should they violate the state's ethics laws.

The post-appointment vetting role of the law school deans does nothing to mitigate these conflicts. The deans are limited to reviewing background and expertise; if the deans reject elected officials' appointees, which may take great fortitude, they simply get to appoint another.

The letter highlighted six areas where action should be taken to fix the state's ethics laws:

1. Independence;
2. Transparency;
3. Nonpartisanship;
4. Discriminatory harassment;
5. Reporting misconduct; and
6. Removing preferential treatment of the legislature.

As of July 8th, the Joint Commission on Public Ethics (JCOPE) ceased to exist. The Legislature agreed to replace JCOPE with a new state ethics and lobbying oversight committee- the Commission on Ethics and Lobbying in Government (CELG).

Under state law, New York's statewide officials and legislative leaders appoint the members to the new Commission on Ethics on Lobbying in Government. Instead of elected officials making direct appointments to the Commission, as has historically been the case, the new law created the Independent Review Committee ("IRC") comprised of the Deans of the State's 15 law schools to determine whether or not nominees should be confirmed for appointment. The League along with other good government groups sent the statewide and legislative officials a letter in June asking that they appoint independent members to the new ethics commission. The letter can be read on the state website Our groups separately encouraged law school deans to adhere to procedures that would increase the transparency and independence of the vetting process for ethics commissioners.

As of August 1st, most nominations have been submitted. Public comment on candidates were welcomed by the IRC.

2021

Transparency

In person restrictions caused by the ongoing pandemic highlighted the immediate need for the state legislature to make its meetings accessible while the Capitol remained closed to the public. The League joined our good government partners to call on the legislature to webcast all meetings and make meeting webcasts accessible to the public.

Although the Senate quickly made accommodations for livestream webcasts, the Assembly was slow to make its meetings available in anything but an audio format. This slow action was even more concerning as the Assembly Judiciary Committee began to discuss the Governor's impeachment investigation. Despite the meeting being held via Zoom for Assembly Members and its lawyers, the public was only able to listen to the meeting through an audio feed. While audio for this meeting was archived on the Judiciary Committee website, audio for other committee meetings had not been archived.

The League and six of our good government partners sent a letter to NYS Assembly Speaker Carl Heastie asking that the Assembly fully webcast all its committee meetings and archive committee videos on its website.

Later in the legislative session, the League signed onto a joint letter to the Governor and Legislative Leaders calling for further pandemic transparency in the reporting of past and future response to the COVID-19 emergency. Our joint organization called for open COVID-19 data, oversight hearings, and an independent assessment of the state's response.

JCOPE Reform

Throughout the pandemic there were several scandals involving high level elected officials, but none of them were as impactful on state ethics reform as the sexual harassment allegations against Governor Andrew Cuomo. After several women came forward with their experiences while working for the former Governor, the legislature finally began to make progress on reforming the Joint Commission on Public Ethics.

On August 25, shortly after the Governor had resigned, the New York State Senate's Standing Committee on Ethics and Internal Governance invited good government groups to testify at a hearing on reforming the state's ethics and enforcement procedures. The League testified in favor of combining the Legislative Ethics Commission with the Joint Commission on Public Ethics to create a single agency. The League also called for total Commission independence and urged the legislature to consider an appointment process that completely removed elected officials as potential appointers. After the hearing the new Governor, Kathy Hochul, expressed interest in championing reform of the two agencies. The League and our partners are continuing to work with the Governor's office on finding a thoughtful solution to the issue of elected officials selecting Commission appointees.

2018

In 2018, between January and June, 8 public officials left office after either being indicted for, found guilty of, or accused of corruption. During these six months, four court cases related to public corruption unfolded; including the trail of Governor Cuomo's former top-aide, Joseph Percoco. Each trail resulted in a guilty verdict. The League and our good government partners used these cases to highlight the need for additional ethics reforms in New York State.

Throughout the session, the League advocated for reforms to the state's contract procurement process. In addition to our typical ethics policy agenda, the League advocated for two bills: the Database of Deals and the Procurement Integrity Act. These reforms would increase transparency and accountability in the contract award process. The Database of Deals would mandate contractors to report on how they have spent their state funds and how many jobs their projects have created. The Procurement Integrity Act would restore oversight authority of state contracts to the State Comptroller.

Both reforms garnered bipartisan support in both the Assembly and Senate. The bills passed in the Senate but stalled in the Assembly. The League worked up until the final days of session lobbying Assembly Members to co-sponsor the common sense legislation. Unfortunately, we were unsuccessful in moving this important legislation.

2017

In 2017 the League turned its attention to state procurement processes. In the fall of 2015, 8 individuals were indicted after the District Attorney of Southern New York uncovered a massive $800 million bid rigging scheme that involved state employees from SUNY Poly Tec, the Regional Economic Development Council, and several private contracting companies. The scandal resulted from a contracting bidding process that favored specific real-estate companies who had made large donations to Governor Cuomo's previous campaign bid.

Immediately after the news broke, the League partnered with our good government allies to call for stronger oversight in the procurement process. We sent a letter to the Governor urging him to give the Comptroller back his oversight authority of all state contracting. We asked this office to create a "database of deals" that would allow the public to see how all state contracts are awarded and what the money is spent on. The Governor was unresponsive to our requests.

When the legislative session began, we were quick to call upon the legislature to act. The Senate and Assembly introduced two bills that mirrored our requests. We spent much of the session pushing these reforms. Unfortunately, they did not pass before the end of session.

2016

Even after the indictment and conviction of the Assembly Speaker and Senate Majority Leader, the legislature once again failed to pass meaningful ethics and campaign finance reforms during the 2016 legislative session. Although the Governor had stated he planned to institute new ethics reforms, no legislation was proposed until the final days of session. The Senate and Assembly had both created independent ethics bills which they passed during the budget. The two packages were completely different with the Assembly focusing on outside income and lobbying practices while the Senate only passed a bill to limit term limits for leaders. The Senate also restated their support of a pension forfeiture bill they had advanced in 2015. The League issued a memo calling on the two houses to work together and pass a single ethics package to address all of these reforms as well as reforms to campaign financing, restructuring of JCOPE, and strengthening financial reporting.

In total the League held 5 press conferences on ethics and issued both memos and letters to the legislature and Governor. We requested several meetings with Governor Cuomo but did not get to speak with him until the last two weeks of session. During that time he created a bill to reform independent expenditures but did not address any of the other ethics reforms we had been asking for all session. On the final day of session the legislature announced that they had reached a deal on ethics and in the dead of the night passed their package without public review. The reforms included tightening the coordination rules determining what is or is not an independent expenditure, disclosure of political consultants who also act as lobbyists, lowering the threshold for source of funding disclosures for (c)(4) organizations that lobby and (c)(3)s who receive support from (c)(4)s, and pension forfeiture. The package did not address any of the larger issues we had advocated for all session. Besides being relatively weak reforms, the League was extremely displeased that the bill was passed with such little transparency. In short, very little was accomplished this session regarding ethics.

2015

Good government groups proposed strong reforms similar to their past efforts, but made little advances. New York's leading reform groups asked Cuomo and the legislators to work together and fix Albany's broken ethics system. NYPIRG, Common Cause, Citizens Union, and Reinvent Albany sent letters to the governor and assembly and senate leaders asking for a complete ethics overhaul. The groups suggested several alterations including ethics reforms to JCOPE, better ethics disclosures, stricter oversight of lobbyists, and changes to the campaign finance system.

The groups asked that lawmakers merge the Legislative Ethics Commission into the Joint Commission on Public Ethics (JCOPE). They asked that changes be made to the new JCOPE board, including reducing the number of members, banning elected officials from becoming members, and prohibiting executive or legislative staff from becoming JCOPE staff until after a certain period of time. The groups asked that JCOPE comply with FOIL and Open Meetings Law, and enact a strict requirement that board members are sworn to protect the interests of the public – not the interests of their appointing authorities.

Attention was also focused on lawmaker's financial disclosures and their relationships with lobbyists. The groups said that full disclosure of outside business clients for all lawmakers, including lawyers, should be accounted for. Stricter oversight of lobbyists was proposed by broadening the definition of lobbying to include public relations efforts in support of government actions. Finally, the groups suggested much lower campaign contributions from lobbyists and those receiving government contracts as well as enhanced disclosures of such contributions.

The League agreed with nearly all suggestions put forward by the groups except a ban on outside income for legislators. Instead, the League advocated for stricter disclosure requirements for members and increasing transparency when submitting these disclosures.

In April, the governor announced that he would be creating an ethics review panel to evaluate the performance of the Joint Commission on Public Ethics and the Legislative Ethics Commission. The groups asked that the panel be chosen on a nonpartisan basis and that they conduct their review openly and independently. They urged the new panel to comply with FOIL and open meeting laws, maintain a public website, and supply webcasts or archived videos and materials from its meetings. They asked that the panel hold public hearings across the state and identify the best ethics practices nationwide and apply them to the evaluation. The panel's report is expected to be released November 1st 2015.

In 2015, Governor Cuomo came under fire after a report regarding his office's email retention policy was leaked by a state employee. The email procedure would permanently deleted unsaved emails after only 90 days. Instead of immediately addressing the issue, the Governor defended the nearly decade old policy that had been instituted during Governor Eliot Spitzer's administration. Cuomo had expanded the procedure to cover most other state agencies, which previously operated under different guidelines. After severe backlash from the public, Cuomo called for a joint meeting with legislators, the comptroller, and attorney general but most elected officials chose to skip the meeting and little was accomplished.

The League along with NYPIRG, Citizen Union, and eleven other good government groups wrote a letter to the Governor imploring him to issue an executive order requiring state agencies to keep emails for 7 years; a policy that has already been implemented by most federal government agencies. Cuomo's 90 day policy had the potential to inadvertently delete emails containing public records that would be subject to disclosure under the Freedom of Information law.

Eventually the Governor agreed to change the policy but would not follow the model put forward by the federal government. Instead, the staff will delete emails on their own accord and are only required to keep certain important records for a longer period; however no official retention time has been established. The League believes that a more formal retention policy needs to be enacted in order to prevent government documents subject to FOIL rules from being deleted.

Watchdog groups also pushed to see the passage of the "Faster FOIL" bill. This legislation would reduce the total time government agencies in New York State have to appeal a judge's decision ordering the release of public records to three months from ten, to improve agency compliance. The bill passed both houses and is awaiting Governor Cuomo's signature.

2012-2013

In June 2012, the League testified before JCOPE on developing guidelines and regulations for new reporting requirements for lobbyists and clients of lobbyists.

In January 2013, the League testified before the NYS Office of the Attorney General on proposed regulations related to disclosure requirements for nonprofits that engage in electioneering. The League commended Attorney General Schneiderman and his staff for taking an important step in providing transparency in political spending and provided suggestions for the improvement and implementation of the regulations. The disclosure requirements, which went into effect in June 2013, require nonprofits to disclose in annual reports to the Attorney General their political spending, donors, and expenditures related to New York.

Past League Activity- Ethics

1954

The League has lobbied since 1954 for legislation regarding conflict of interest, financial disclosure, revolving-door prohibitions and related areas of conduct for state employees and office holders.

1987

The 1987 Ethics in Government Act, which took effect January 1, 1989, attempted to change the ethical environment in New York State significantly by providing the public with closer scrutiny of the financial activities of elected and appointed New York State officials and certain of their employees.

The conflict of interest prohibitions and financial disclosure measures of the act were strongly advocated by the League and came after many false starts and long months of negotiations between the houses of the legislature and the governor. However, its passage was followed almost immediately by proposed revisions that would lessen its impact.

1991

In 1991, legislation was introduced as a result of a Governor's Temporary State Commission on Local Municipal Ethics, which contained regulations concerning financial disclosure, conflicts of interest, involvement in political campaigning and campaign contributions. No action was taken by the legislature.

The League continued to advocate for a tightening of ethics legislation during the remainder of the 1990's. Much advocacy during this period was done with the media and editorial boards, however, Governor Pataki and the legislature continued to ignore us.

2004

In 2004, prison convictions, scandals, and other complaints of ethical misconduct appeared on the front pages of New York State's newspapers. As a result, how New York State regulates political ethics again became a front burner issue in the legislature. Because New York's ethics laws are loophole-riddled and poorly-if at-all enforced, the need for legislative reform became ever more clear to everyone but legislative leaders.

2005-2006

During the 2005 legislative session, little was accomplished. However, one weakness in the law was strengthened. New York State's ethics law previously limited enforcement only to those who were still working for government. Once a government employee left public service, the short arm of the ethics law could not reach them. In order to ensure that government officials do not flaunt the public's trust, the League and other civic groups, argued that New York State's ethics law should be enforceable even after public employment. A limited version of reform was approved that closed this egregious loophole.

Because only modest reforms to the state's ethics laws were done in 2005, there was increasing demand for further reforms to the ethics law in the 2006. The good government groups, led by the League, NYPIRG, and Common Cause advocated for the following reforms:

- Restrict gifts from lobbyist to lawmakers and other top policy makers.
- Ban on lawmakers accepting honoraria.
- Create a new, independent ethics oversight agency for both the executive and legislative branches.
- Establish a full one-year "cooling off" period for all legislative staffers and top party officials to prohibit them from lobbying immediately after leaving their government jobs.
- Restrict campaign contributions from lobbyists and those receiving government contracts.
- Strengthen ban on use of campaign contributions for personal use.
- Require disclosures of and recusal for potential conflicts of interest.

(For further information see A Work in Progress, January 2006 Blair Horner, NYPIRG)

The 2nd Annual Reform Lobby Day was held in May 2006, where citizens including many members of local Leagues, came to Albany to press for the above reforms. Although legislator's rhetoric in this election year was: "I'm a true reformer", no legislative action was taken during the 2006 session.

2007

In 2007, which marked the 20th anniversary of the original Ethics in Government Act, both houses of the legislature unanimously passed and Governor Spitzer signed into law legislation that reformed the state's ethics and lobbying laws and created a "Commission on Public Integrity."

Because this agreement between the three leaders was done primarily behind closed doors, the good government groups, expressed concerns about the process, the groups and sought legislative hearings to review key elements of the proposed legislation. The groups were particularly concerned with the proposed "Commission on Public Integrity" and urged further public deliberation on the proposal before a vote was taken in the legislature. Unfortunately, the Governor and the legislative leadership did not hold the hearings as requested, and on February 14, 2007, both houses of the legislature unanimously passed and the Governor signed this legislation into law.

This legislation:

- Banned all gifts of more than a nominal value from registered lobbyists to public officials;
- Strictly limited lobbyists from paying or reimbursing travel and accommodation expenses of a public official;
- Strengthened the "revolving-door" provisions that applied to legislative employees for a "cooling off" period that prohibited lobbying before the Legislature for two years after leaving their position;
- Banned lawmakers from accepting honoraria;
- Forbid elected officials and candidates for elected local, state or federal office from appearing in taxpayer-funded advertisements;
- Toughened penalties for ethics and lobbying law violations;
- Created a permanent executive branch watchdog, the Commission on Public Integrity (CPI) with 13 members, seven appointed by the governor, and one each appointed by: the comptroller, the attorney general, and each legislative leader.
- Reconstituted the Joint Legislative Ethics committee as a nine-member commission with five legislators and four non-legislators appointed by legislative leaders.

Also under the bill, both the Commission on Public Integrity and the Joint Legislative Ethics Commission would be required to maintain Web sites and make publicly available notices of reasonable cause to initiate an investigation, disposition agreements, settlement agreements and summaries of advice.

While the ethics changes of 2007 included important reforms, major items were ignored and remain unresolved. The Commission on Public Integrity and the Joint Legislative Ethics Commission continued the tradition of splitting ethics oversight between the executive and legislative branches. Furthermore, the ethics oversight commissioners have limited independence because they monitor the ethics of the officials who appoint them.

2009

In 2009 the Inspector General issued a scathing report of the Commission on Public Integrity (CPI) investigation of *Troopergate*, in which he found the Commission had repeatedly failed to investigate clear allegations that the Public Officers Law had been violated. The report called for the resignation of

Executive Director Herbert Teitelbaum, whose testimony about the matter it found unbelievable. During the course of the investigation, Chairman John Feerick resigned.

In 2009, the League supported a Senate bill, which adopted the League-supported approach of placing enforcement in the hands of a nonpartisan commission. This bill failed to win support of the Assembly, which supported a weaker bill.

2010

In 2010, the League supported an ethics and campaign finance reform bill, S.6457/A.9544 that passed both houses. While the bill fell far short of the League ideal, it moved forward by requiring disclosure of independent third party expenditures. It also expanded the powers of the enforcement arm of the State Board of Elections, appointed the Executive Director for a fixed term, removable only for cause, and made the enforcement process more transparent to the public. However, in February 2010, Governor Patterson vetoed the bill, stating it failed to go far enough.

Following the election of Governor Cuomo in the fall of 2010 on a platform that included ethics reform, efforts to reform the ethics system continued. In June of 2011, a three-way agreement was reached between Governor Cuomo, Majority Leader Skelos and Speaker Silver on an ethics reform package, the Public Integrity Reform Act of 2011. The Act established an independent Joint Commission on Public Ethics (JCOPE) to oversee violations of law by both the executive and legislative branches, oversee financial disclosure and lobbying rules. Disclosure requirements were significantly expanded and made fully available to the public for the first time. The League, along with our good government colleagues, supported this bill as a significant improvement over the status quo, particularly with respect to strengthening disclosure and unifying oversight of the executive and legislative branches, although we will continue to monitor how JCOPE works in practice.

Past League Activity - Lobbying

1995

In 1995 the League, Common Cause, and NYPIRG supported draft legislation, which would reform the lobbying regulations in NYS. The proposal called for an outright prohibition on lobbyists from direct campaign contributions to state lawmakers, a prohibition on lobbyists from offering gifts of any size to lawmakers or top policy makers, and a requirement that lobbyists' clients annually disclose the amount of campaign contributions they gave to state legislatures' re-election efforts. In addition, it would create a permanent Lobby Commission, which has been operating since 1977 on a temporary basis and has required an extension every two years. Giving the Commission permanent status and strengthening its investigative powers would constitute a major reform in improving the climate in which legislation is enacted in NYS.

1996-1999

In 1996, United We Stand America/NYS joined with the League, Common Cause, and NYPIRG to form the Take Back Democracy Coalition, and continued to call for lobbying reform. In 1997, with the "Temporary" State Commission on Lobbying due to expire on December 31, the opportunity to reform the lobbying laws in New York State took on a new urgency. The Integrity in Government legislation was introduced by Assembly members Grannis and Galef. This legislation built on the 1995 draft legislation, also supported by the League. Different in the 1997 legislation was the extension of lobbying regulations to localities. Local Leagues across the state held press conferences and lobbied county legislatures to

pass resolutions calling on their state representatives to pass this legislation. After a session-long media blitz and much lobbying of all legislators and leadership, including the governor's office, both houses of the legislature, in the final hours of the 1997 session, passed another two-year extension, until March of 2000, of the "Temporary" State Commission on Lobbying, now 20 years old.

After intensive lobbying by the League and its coalition partners AND a major lobbying scandal involving tobacco giant Phillip Morris, limited lobby reform was passed in December 1999. This "reform" provides greater disclosure of lobbying activity and extends the law to include local government lobbying. The League wanted much more. We lobbied for an extension of the regulations to include state agencies and a ban on gifts from lobbyists to legislators. We also wanted a restriction on campaign fundraising during the legislative session. This deal was struck between Governor Pataki and Assembly Speaker Silver to protect their own constituents.

Following much media pressure, the Senate voluntarily pledged not to accept gifts and expensive dinners from lobbyists. The Assembly refused to do the same.

2000-2003

During the 2000 session the League attempted to secure the inclusion of procurement lobbying disclosure of State Agencies into the procurement law which was about to expire; instead the legislature merely extended the procurement law for another 14 months.

No action was taken on lobbying reform of State Agency procurement during the 2001-2002 session; however, because of several "government scandals" procurement lobbying became a visible issue in the Legislative Session 2003. Early in 2003, the League, NYPIRG, and Common Cause secured majority Senate sponsorship to expand the definition of lobbying to include contract procurement by State Agencies. The session was spent lobbying both houses to pass "same as" legislation. Following much media work and editorial support throughout the state, it appeared that legislation to include State Agency procurement lobbying would actually pass. Very late the last night of the 2003 session, the assembly did pass its bill and we moved our efforts to the State Senate. Four hours later, in the early morning hours of the last day of session, the State Senate introduced legislation under new sponsorship. This legislation advanced much weaker legislation and removed the existing members of the Lobbying Commission.

Cloaked, as a "reform" measure the legislation would seriously undermine the work of the Lobbying Commission. It would "vacate" the current members of the Lobbying Commission. The bill also sets a much higher standard for the Commissions' investigators to punish lobbying violations. It does this by requiring the lobbyist "intentionally" violated the law, instead of the current "willfully" violated the law.

The League and NYPIRG tried for the rest of the night to stop the legislation in the senate, however, it did pass. The Assembly, however, went home the next day without addressing the Senate version of the bill. The status quo in procurement lobbying continues. It is speculated that Governor Pataki put pressure on the State Senate to halt any disclosure of procurement lobbying of his state agencies.

During the summer of 2003 the League, NYPIRG and Common Cause mounted a media campaign to address procurement lobbying when they returned for the fall session. However, the Assembly never returned for a fall session and the Senate in its one-day fall session did not address the issue.

2004-2005

The 2004 legislative session saw agreement by the Governor and the Senate leadership on legislation that was narrow and weak compared to the Assembly lobbying reform legislation which expanded the definition of lobbying by any public official relating to the procurement of goods or services, it also covered executive orders and tribal-state compacts. The Senate bill, which was supported by the

Governor, expanded lobbying oversight only. However, these bills could not be reconciled in Conference Committee and no action was taken.

In 2005 legislative session, New York State lobbyists and their clients reported spending well over $149 million persuading and cajoling state officials to grant favors or block policies that may affect them. The common Albany practice of holding political fundraisers that are attending by professional lobbyists exacerbates the public perception that lobbyists are "buying" access to elected official. In a typical session, lawmakers are schedule to be in Albany for 60 days, including 40 nights. During that time, as many as 200 Albany-based fundraisers can occur.

The League and its good government colleagues put forward the following reform measures to restore the public's confidence in their government:

- End Albany's "pay to play" culture. Lobbyists in Albany curry favor with public officials with large campaign contributions to their campaign committees and to the legislative leadership committees known as "housekeeping" accounts. Through such contributions, lobbyists create an uneven playing field that allows them or their clients to have greater access to officials than members of the public.
- A ban on gifts from lobbyists to lawmakers and other top policymakers. Allowing lobbyists to offer gifts to lawmakers is inappropriate. It was, in fact, at the heart of the Philip Morris/lobbying scandal. Some states have a "zero tolerance" standard for gift giving. Massachusetts, South Carolina, and Wisconsin are such states. New York State should adopt this standard.
- A ban on lawmakers accepting honoraria. Giving speeches and being available to the public are part of a legislator's official duties. Allowing groups to offer state lawmakers honoraria allows special interests to subsidize the income of these officials. In doing so, the practice creates an obvious conflict-of-interest. Twenty-three states prohibit honoraria if they are offered in connection with a legislator's official duties. New York State is one of the remainder that does not. It should.
- Create a new, independent ethics oversight agency for both the executive and legislative branches. Thirty-nine states provide external oversight of state government through an ethics commission. New York is one of six of those states (the others are Illinois, Michigan, North Carolina and Ohio) whose commissions do not have authority over the legislature. New York State should create a new, independent ethics watchdog for both the executive and legislative branches.
- The establishment of a full one year "cooling off" period for all legislative staffers and top party officials. New York State currently places such limits on state legislators, elected officials in the executive branch and staff of the executive branch to begin lobbying immediately after leaving their government jobs. However, legislative staff and party officials enjoy far weaker restrictions. A minimum one-year "cooling off" period would ensure that no one could immediately cash in on political contacts by lobbying their former colleagues.
- The elimination of the loophole that prohibits prosecutors from investigating ethical misconduct. If either the state attorney general or local prosecutors wish to investigate political corruption, there should be no legal barrier to such activities.
- Ensure that the public knows the fate of prosecutorial actions. The enforcing agency must be required to announce the outcome of any publicly filed complaint as well as other information that will allow the public to know of the agency's decisions.

The legislation session of 2005 did see agreement on legislation that ended the five-year fight over the expansion of the lobbying law. The new law went into effect on January 1, 2006. This was a hard fought for and won League victory.

Key elements in the new law include:

- Definition of lobbying was expanded to cover lobbying to influence executive orders, state-tribal compacts, and procurement decision of governmental agencies. The old monitored lobbying efforts that targeted state and local government legislation, utility rates, agency rules and regulations.
- Procurement lobbying; monitoring. The new law addresses procurement lobbying differently than any other type of advocacy. Contracts worth less than $15,000, contracts relative to procurements for "preferred sources" (typically entities whose workers have handicaps), intergovernmental agreements, certain railroad and utility accounts, eminent domain transaction and grants are all exempt.

GOVERNMENT

ACTION TAKEN UNDER LWVUS POSITIONS

The League of Women Voters of the United States defines the fundamental goals of the government program and action to:

Promote an open governmental system that is representative, accountable, and responsive.
(LWVUS *Impact On Issues*, 2022-2024, p.17.)

The League works at all levels of government to improve legislative procedures, assure equitable representation, and protect the rights of all Citizens. LWVNYS action on Citizen Rights, Ethics and Lobbying, and Reproductive Choices is guided by National positions. LWVNYS action is taken in accordance with State positions on Apportionment (Redistricting) Legislative Procedures, Constitutional Convention and Consolidation of Governmental Units and Sharing of Major Governmental Services.

AWARDING ATTORNEY'S FEES AS AN INCENTIVE FOR COMPLIANCE

For many years, FOIL permitted the courts to award attorney's fees to those denied access only in rare circumstances. To make an award, a court was required to find first that the applicant substantially prevailed; second, that the agency had no reasonable basis for denying access; and third, that the records were of "clearly significant interest to the general public." There have been many cases in which agencies clearly failed to comply with law, but where the records were of significance only to the person requesting them. Moreover, when records individually were not of significant interest to the public, even if the event to which they related was of substantial public interest, the Court of Appeals found that attorney's fees could not be awarded [see Beechwood Restorative Care Center v. Signor, 5 NY2d 345 (2005). Despite an agency's recalcitrance, the courts had no authority to award attorney's fees or impose a penalty.

In August 2006, an amendment passed broadening courts' authority to award attorney's fees when agencies engage in stonewalling or foot dragging. A court now may award attorney's fees when an applicant substantially prevails and the agency had no reasonable basis for denying access or when the agency failed to comply with the new provisions requiring timely responses to requests.

As part of its citizen's rights concerns, the League supports lobbying disclosure reform to provide information on the pressures exerted on the policy-making process while at the same time guarantees citizen access to influencing the process. (See **Legislative Procedures**.)

LEGISLATIVE PROCEDURES

A study of state legislative procedures was adopted in January 2017. At the 2015 State Convention, League members agreed that it was time to update our position on whether or not we should have a full time or part time legislature and how long the terms of state legislators should be.

LEGISLATIVE PROCEDURES

Statement of Position

As approved by the State Board January 2017

Terms for legislators in both houses should be 4 years and they should be staggered. Outside income of legislators may be limited, preferably using the federal model of a percentage of base income. Stipends, commonly known as lulus, should continue for committee chairs and leadership positions. Legislators should disclose all financial holdings and sources of income, including all clients and services if the matter involves business before the state whether or not the legislator personally performed services or referred the client.

Members of the state legislature should have a greater impact on legislative proceedings. There should be restrictions on how long a legislator is allowed to serve in any leadership position in both the Senate and the Assembly but not a lifetime ban. Committee chairs should have a restricted tenure but could take on a different committee leadership or be reappointed after a specified period of time.

Legislative staff should be full-time professionals, independent of partisan control, and more equitably distributed among freshmen and more senior members, majority and minority, Senate and Assembly. Information about staff salaries and assignments should be publicly available.

A variety of approaches is needed to reduce the number of bills submitted each year: reducing the number of "home rule" bills on which the legislature must act, consolidating or eliminating individual sponsorship of bills, and requiring active support by sponsors for their own bills.

Lobbying regulation should require reporting by all groups and agents who expend significant funds for lobbying. Sufficient resources as well as strong investigatory and enforcement powers should be provided to the agency or agencies enforcing lobbying and ethics rules. All disclosure filings should be timely, electronic and available to the public in easily accessible form on the Internet as well as in downloadable form.

Past League Activity

Legislative Terms

There has been minimum activity within the legislature regarding the legislative term of office, except for a serious attempt in the 1984 and 1985 sessions to support a constitutional amendment for four-year terms for all legislators. First passage was unexpectedly achieved in the 1989 session, but there was no further action.

Legislative Operations

1989-1995

Since 1989, the League in cooperation with other good government groups has been lobbying for internal reform of legislative operations. LWVNYS activities have included giving testimony, writing letters to key officials, issuing press releases and giving media interviews calling for government reform, as well as working together with organizations such as Common Cause and NYPIRG to call on the legislature to police itself. Key points of our agenda are:

- Creating a C-SPAN for New York State;
- Ending abuse of publicly funded legislative mailings;
- Vigorously supporting open meetings;
- Ending all night legislative sessions;
- Recommending that Senate committees be required to act on any piece of legislation if requested to do so by the sponsor;
- Requiring quarterly reporting of legislative expenditures;
- Improving Freedom of Information; and
- Adopting guidelines on political campaign activities of legislative employees as recommended by the Commission on Government Integrity and the Wilson Commission.

Reform seemed promising with the Court of Appeals decision in December 1994 (the Siris decision), upholding application of the Freedom of Information Law to operations of the state legislature. The leaders of both houses opened the 1995 legislative session by unveiling a series of reforms aimed at making the legislature more accountable and responsive to the people of the state: increased disclosure of spending, limits on taxpayer funded mailings, banning all-night legislative sessions, and limiting the number of bills that can be introduced. Many of the proposed changes were accomplished administratively with simple "rule" changes in the houses or by resolution. A resolution, however, is not binding and does not have the "teeth" that a law does.

1996

On January 30, 1996, both houses passed a joint resolution "authorizing a joint committee on conference to consider and report upon substantially similar but not identical legislation that has passed each house." Only one piece of legislation was conferenced: the 65-mile per hour speed limit. After one try at joint conference of the budget, this process was dropped and negotiations were returned to the leadership. (See Budget Process under State Finances section.)

2005

The 2005 Legislative Session was a banner year for government reform. Following citizen outcry and the loss of three incumbent legislative seats, the leadership in both the Assembly and Senate was spurred to show the electorate that they had gotten the message on reform. Subsequently, at the beginning of the 2005 session both houses of the legislature made changes to their respective operating rules. To a modest extent, the Assembly's changes improved the way it operated. The Senate's changes arguably made the situation in that house worse.

While several of those changes constituted critical first steps toward comprehensive reform, much still needed to be done to improve the legislative process.

Among other reforms, we argued for the following to be codified:

- Committees: (1) Committee chairpersons should have independent control over hiring/firing of committee policy and legal staff; (2) committees should hold a public hearing upon the request of one fourth or more of the committee's members; (3) proxy voting of any kind should be prohibited in committees; (4) all committee meetings should be recorded and the tapes made available to the public and aired, where appropriate, on the newly established "NY-SPAN"

programming; (5) all bills favorably reported by a committee should be accompanied by a full committee report with section-by-section analysis, etc.; and (6) committee chairpersons should hold a vote on any bill, upon the sponsor's request, no later than the earlier of the end of the calendar year and the end of the session.

- Bringing Bills to the Floor. (1) A mechanism should be established for rank-and-file legislators in the Senate and Assembly to bring bills that have been voted favorably out of committee, or have the support of a majority of members, to the floor for debate and a vote (even over the objection of the Majority Leader or Speaker); and (2) limits on discharge motions should be further relaxed and the individual members' votes on such motions recorded.
- Voting procedures: Messages of Necessity should not be requested by the Speaker or Majority Leader, and should not be approved by the Governor, except upon a vote of 2/3 of the elected members of the chamber.
- Conference Committees: Conference committees should be convened automatically upon the request of either the prime sponsors of the bills from each chamber or the Speaker and Majority Leader.

2006-2007

The 2006/2007 legislative sessions saw no rules changes although the League worked with the minority in both houses to secure equal funding for minority party legislators.

Before the start of the newly elected Legislature began sessions in 2010 and 2012, the League joined with our good government colleagues to send a letter calling for four main changes:

- Increase the strength and efficiency of committees so they function fully and effectively
- Provide greater opportunity for rank and file members to bring legislation with majority support to the floor, even over the objection of leadership
- Eliminate the unfair allocation of resources between the majority and minority parties
- Increase transparency in the chamber.

2013

During the 2013 legislative session, the League joined with NYPIRG and Common Cause in supporting legislation (A.7103/S.3412) that would prohibit votes in either house of the legislature on everything but procedural matters between the hours of 9:00 PM and 9:00 AM. The bill was not voted on in either house.

C-SPAN FOR NEW YORK

Since 1992 when NY-SCAN (New York State Community Access Network) was shut down after seven years of operation, the League, Common Cause, and NYPIRG have worked with the legislature to propose legislation to create an acceptable alternative. This new channel would televise, with editing, the sessions of the state legislature, committee meetings and hearings, Court of Appeals sessions and other state government meetings. It would be a joint public-private partnership and would air statewide.

Following intensive media scrutiny and attention on the issues, the State Senate and Assembly were forced to consider bringing the legislature into the 21st Century by using current technology. Neither house appears to be able to agree to do this independent of their own house operations, which is what the League has advocated for.

2002

In the 2002 Legislative session, the Assembly began with live, gavel-to-gavel coverage of legislative sessions. However, they are only available on the Internet and by a closed circuit TV system available in

the Capitol and Empire State Plaza! Although preparations for a digital broadcasting system had been made to the Assembly Chamber, no appropriation was been made to enable connection to satellite for transmission. A representative of the Assembly leadership said that due to September 11th WTC disaster the money was not available. As recently as 2001, the Assembly had promised to provide this service statewide. The Senate also has put their gavel-to-gavel coverage on the web, available at http://www.senate.state.ny.us/. The problem that League has with this new arrangement is that it depends on a citizen having a computer and the ability to use real time.

No action on a C-SPAN for New York was taken in the 2003 session. The League will continue to advocate for a true New York State C-SPAN in the future.

A true League victory occurred at the end of the reform session of 2005, when both Senate and Assembly leadership agreed to full public cable access for statewide gavel-to-gavel sessions. We will continue to lobby for cable access to legislative committee meetings and other important legislative hearings.

2007

In January 2007, newly elected Governor Eliot Spitzer issued Executive Order number three requiring all State agencies and public authorities to develop plans for broadcasting on the Internet all meetings subject to the Open Meetings Law by July 1, 2007. Anyone with computer access may now follow the board meetings of such agencies as the State Board of Elections, Public Authority Control Board, and any of the many public authorities in New York.

EXECUTIVE ORDER NO. 20

In November 1995, the Governor issued Executive Order No. 20 (E.O. #20), which among other things requires all state agency heads to submit proposed rules to the regulatory reform office for approval. The order also requires that all new regulations be reviewed and approved by the secretary to the governor, the governor's counsel, the director of state operations, and the budget director.

The League of Women Voters of New York State joined with nine other organizations and one individual as plaintiffs in a suit against the Governor; the Governor's Office of Regulatory Reform; Robert King, Director of Regulatory Reform; Bradford Race, Secretary to the Governor; Michael Finnegan, Counsel to the Governor; James Natoli, Director of State Operations; and Patricia Woodworth, Director of the NYS Division of Budget, as defendants charging that the Governor's Executive Order No. 20 is unlawful, unconstitutional, null and void, and unenforceable. The plaintiffs also sought a permanent injunction prohibiting defendants from enforcing or implementing E.O. #20 or from interfering in the statutory rule making or permit issuing process.

On April 18, 1997, Justice J. C. Teresi of the Albany County Supreme Court found that the plaintiffs had standing to pursue their claim and that the action was properly brought as a declaratory judgment but rejected the argument that the executive order was unconstitutional, finding that it was "a constitutional exercise of the Governor's executive authority in creating an executive office that performs regulatory review functions". The League, along with other plaintiffs, appealed this process.

On May 7, 1999, the Court of Appeals handed down its ruling unanimously affirming the Third Department decision thus dismissing our lawsuit on E.O. #20. In affirming the decision of the Appellate Division majority, the Court of Appeals ruled that the harm suffered by the various organizations (and their members) was too speculative or remote to afford them standing to maintain the action. Although disappointed in the decision, the League felt strongly that our participation in this type of suit serves to maintain the government watchdog mission of our organization.

2017 CONSTITUTIONAL CONVENTION BALLOT PROPOSAL

After discussion and review of the process under which the state board applies League positions, and the precedent of how the League board applied the Constitutional Convention position to the 1997 ballot question, the state Board voted in March 2017 to support the 2017 constitutional convention ballot question. Under the Constitutional Convention position, the League does not have a standing position on whether or not a Constitutional Convention should be held. Instead the determination is made by the state board every 20 years given current policy circumstances. The 2017 decision was made on the basis of giving New York voters the opportunity to consider critical reforms that state government has refused to undertake, such as voting reforms, anti-corruption measures, completely independent redistricting, modernizing the court system, and further guaranteeing personal freedom and meeting basic human needs. In June of 2017 the 2017-2019 state Board affirmed the state League decision to support the ballot measure

A wealth of information on the ballot proposal question on whether to hold a constitutional convention, including articles in favor and against the proposal, was made available on the state League website.
We believe that our pro position gave us a unique voice in this process and gave the state League a significant amount of publicity. Throughout the campaign, the biggest argument in opposition was the fear that a significant number of protections would be stripped from the Constitution. We countered this argument with the fact that this has never occurred at a convention. The other argument was the potential for dark money to influence a convention. We shared this fear but believed that there was no greater risk of dark money's influence than what we already experience at the state legislature. The final biggest argument was that delegates would be selected based on gerrymandered Senate districts and would likely be the same corrupt politicians currently serving. Although we agreed that the gerrymandered Senate districts were a real issue, we believed that this convention would not have the same reform gridlock currently plaguing our legislature. We were able to counter each argument but we were vastly outspent.

After the convention vote failed to be approved by the voters, we put out a press statement reaffirming our commitment to amending our state Constitution and calling for widespread reforms. We continue working in partnership with other reform organizations to advance priority Constitutional amendments through the legislative process.

1992

At the recommendation of the Board of the League of Women Voters of New York State, a brief study of the New York state constitutional convention process was undertaken during the 1992 program year. It was recognized that under Article XIX of the New York State constitution, a concise definition was established for ways in which the constitution might be amended. The method used most often requires passage by two consecutively elected legislatures; the other is by constitutional convention. In either case, a proposed amendment does not become effective until the voters of New York State, by referendum, approve it.

There are two ways to call a constitutional convention. Article XIX provides that every 20 years, there shall be submitted to referendum the question, "Shall there be a convention to revise the constitution and amend the same?" That provision required the question to appear on the ballot in 1997. But the amendment article also authorized the Legislature to put the convention question to referendum at other times.

Without a position, the LWVNYS could not adequately respond to questions raised by the timing of the calling of a convention, the pre-convention preparation, or the processes under which a convention functioned. A basis for action is provided in the following consensus statement.

CONSTITUTIONAL CONVENTION

Statement of Position

As announced by the State Board, February 1993, revised June 2015

The League of Women Voters of New York State does not support or oppose the holding of a constitutional convention.

The League of Women Voters of New York State recognizes that a constitutional convention is an acceptable (legal) method of amending the New York State Constitution and that the provision requiring periodic mandatory submission of the question of calling a convention is a proper procedure.

The impetus for a convention between the mandated twenty-year referenda should come from the public. However we feel that certain principles are essential throughout the process:

- Education and involvement of the public must be an integral part of each phase of the process.
- Planning should be given adequate time and sufficient funding.
- Nonpartisanship is essential.

The League believes that specific conditions should be incorporated in the policies and procedures established for constitutional conventions:

- Pre-Convention Commission: A preparatory commission should be appointed with adequate time to study the issues, establish the agenda and procedures and prepare position papers for the convention. Such a commission should provide ongoing information to the public and solicit its participation.
    - Convention delegates: The League supports the following reforms as positive factors in deciding on support for a constitutional convention. Delegates should be elected by a fair nonpartisan process that complies with federal voting rights provisions and eases ballot access to encourage participation by racial and other minorities. Public financing should be provided for candidates and their positions on issues and convention goals should be widely publicized to enable voters to cast informed votes at their election. Statewide office holders, state or federal legislators, and state judges should not serve as delegates. Revised June 2015.
- Convention process: Procedures must be put in place to reduce partisanship, by assuring that committees and committee chairmanship are beyond party control.

Reasonable time limits must be placed on the length of the convention and its costs.

The issues to be considered must be determined in advance by the pre-convention commission and researched by position papers, which are complete and available at the time of the convention. Meetings of the delegates should be open, held at acceptable convenient hours, with full media coverage.

- Ballot Issues: Widespread public hearings and adequate voter education are necessary prior to the placement of referenda on the ballot. Constitutional amendments recommended by a convention should be submitted to the voters as separate issues.

1993-1999

Following his intent to press for the calling of a constitutional convention before 1997, Governor Cuomo appointed a Pre-Convention Commission during the spring of 1993 to begin deliberations on the convention agenda. The president of the LWVNYS, Shirley Eberly, was a member of the Commission that was chaired by Peter Goldmark, president of the Rockefeller Foundation.

The Temporary State Commission on Constitutional Revision issued its final report in February 1995. The report does not support the call for a Constitutional Convention in 1998 but instead advocates the creation of four action panels. The action panels would be created in the following areas: education, public safety, state finance, and state-local government relations, their purpose being to reform NYS government.

These panels would report to the governor and the legislature, which would make a prior commitment to take action on the recommendations by a certain date. If these action panels were not created, or fail to make recommendations, then the majority of the Commission would call for a Constitutional Convention in 1999.

While we endorse the concept of the action panels, it is the League's position that the question of whether or not to call for a constitutional convention is linked to the openness and fairness of the delegate selection process. We are committed to working for reform in this area. The League decided that it would evaluate any reforms that have been made in the delegate selection process as well as possible gains or losses in other areas of League program should a convention be held, before deciding whether or not to take a position on the ballot question itself.

The State League became a member of the Steering Committee for the Coalition for Effective Government. This Commission's original mission statement was to educate the public to the problems and solutions available to the present delegate selection process. At that time, the Coalition did not support or oppose the calling of a Constitutional Convention.

In December 1996, the LWVNYS board of directors voted unanimously to oppose the November 1997 ballot question regarding the convening of a constitutional convention in 1999. The board's decision was based on the state legislature's failure to reform the delegate selection process and concern that valued provisions of the constitution might therefore be jeopardized.

In the late summer and early fall of 1997 League became the lead spokesperson in opposition to the ballot question on a constitutional convention. The League opposed holding a convention because the Legislature had failed to reform the delegate selection process sufficiently to ensure New Yorkers would be equitably and fairly represented in convention deliberations. League leaders fanned out across the state from Long Island to Buffalo speaking to various groups, including colleges and the media. Although a coalition was formed involving several special interest groups, the League remained outside any coalition trusting that our organizational credibility was our greatest asset. We spoke loudly and New York's voters heard us; the ballot question was defeated on Election Day by a 2-1 margin.

The League will continue to work whenever appropriate for the Legislature to reform the delegate selection process so that a future constitutional convention reflects the consensus of all its citizens.

FILLING OF VACANCIES IN THE STATE LEGISLATURE

Support of improved measures to provide representation for legislative districts in case of a vacancy. In 1980 League members concurred in a position advocating a change in the Public Officers Law to permit a special election to be held if a legislative vacancy should occur prior to July 1 of the last year of the term

of office. This extension from April 1 is necessary because of the increased length of legislative sessions. While working for a change in the law, the League continues to monitor the response of the governor in calling promptly for special elections as needed. The League also called for a mechanism to be established whereby constituent services are maintained at state expense for a district until a successor takes office.

INDIRECT INITIATIVE

LWVNYS does not have a position on indirect initiative.

The position supporting indirect initiative, adopted June 1978 by the state board, was dropped in 1985 by delegates to the state convention. At the time the position was adopted, the League believed the initiative to be a much-needed system by which citizens could initiate and pass legislation. Over the years, as the League observed the evolution of this system in other states, it concluded that what had once been a public benefit was fast becoming a benefit to well-funded special interest groups which had the power to affect the outcome of initiated proposals.

CONSOLIDATION OF GOVERNMENTAL UNITS AND SHARING OF MAJOR GOVERNMENTAL SERVICES

2007

The Commission on Local Government Efficiency and Competitiveness (Lundine Commission) was established in April 2007 to examine ways to strengthen and streamline local government, reduce costs and improve effectiveness, maximize informed participation in local elections, and facilitate shared services, consolidation and regional governance. It noted in its 2008 final report that, "The vast majority of our municipalities were established and their boundaries set during the horse-and-buggy era. There are also outdated laws and offices for which no modern rationale exists. Over the years we have added to this outdated system, but rarely simplified, and today we have nearly 5,000 local government entities." The Commission went on to recommend the possibility of considerable taxpayer savings through the consolidation of governmental units and the sharing of major governmental services. In 2009 legislation was introduced and passed at the state level to streamline and facilitate the consolidation process.

2009

Because the LWVNY had no position in this area, the delegates at the 2009 State Convention authorized a study of up to two years. The study committee decided to devote the first portion of the study to the development of standards with which to evaluate proposed changes to state law and proposals for local consolidation /sharing of services. After a study of approximately ten months, the board adopted the following position on consolidation/shared services.

CONSOLIDATION OF GOVERNMENTAL UNITS AND SHARING OF MAJOR GOVERNMENTAL SERVICES

Statement of Position

Adopted July 15, 2010

The League of Women Voters of New York State (League) supports the efficient and effective operation of government. Consolidation[1] of governmental units and the sharing of major governmental services may be a way of promoting the efficient and effective operation of government. In achieving this goal, the League supports a cooperative and transparent process, in which citizens have sufficient and timely information with which to make informed decisions about proposed actions, and well-defined channels for citizen input and review. Administrative and fiscal efficiency should be included in the criteria by which local governments consider whether to consolidate or share major services.

The League supports a system of state-funded grants to local governments to study the feasibility of the consolidation of governmental units or sharing of governmental services.
In determining whether to support a consolidation/shared services proposal at the local level, as a way of making government more efficient and effective, local Leagues must consider both the adequacy of the process and the likely effects of the proposal's implementation.

In determining whether to support a consolidation/ shared services proposal as a way of making government more efficient and effective, local Leagues should apply the following criteria. While it is not necessary that each standard be met, the League recognizes that these standards represent potential benefits of consolidation, leading to more efficient and effective government:

- Will the proposal result in projected cost savings and a positive effect on taxes over the long term;
- Will the proposal either result in an increased quality and/or efficiency of services or, at a minimum, maintain services at existing levels;
- Will the proposal fairly address disparities in employee contracts;
- Will the proposal result in increased social and economic justice;
- Will the proposal result in a reduction in the number of governmental entities?

[1] *As used in this position, consolidation refers to both the process of consolidation and the process of Dissolution*

NATURAL RESOURCES

ENVIRONMENTAL PROTECTION & POLLUTION

UNDER LWVUS POSITIONS ON NATURAL RESOURCES

Promote an environment beneficial to life through the protection and wise management of natural resources in the public interest. (LWVUS *Impact On Issues*, 2022-2024, p. 90)

While much of the action taken by LWVNYS in this area relies on national positions, LWVNYS has developed its own positions on Watershed Protection, Land Use, Urban Sprawl and the Erie/Barge Canal.

Recent League Activity

2023

In the 2023 legislative Session, the NYS League continued its focus on the climate and impacts to human health.

.

Energy and Climate Change

Consistent with the CLCPA which went into effect on January 1, 2023, the League is supporting legislation that favors the development of laws governing renewable energy policy and practices to reduce greenhouse gas emissions, slow climate change and establish climate justice in communities that are currently disproportionately adversely impacted. This includes maintaining measurement of greenhouse gas emissions using the established twenty-year timeline and establishing a climate change superfund whose resources would come from the largest greenhouse gas emitters to cover costs that would otherwise be carried by taxpayers.

Climate Legislation Under Attack

In early April of 2023, Senator Parker and Assemblymember Barrett, introduced S6030 which would have a disastrous impact on NY State's Climate Leadership and Community Protection Act (CLCPA). The CLCPA measures greenhouse gas (GHG) emissions using a 20-year time frame. Heat trapping methane emissions, which account for approximately one-quarter of global warming effects today, present the greatest planetary harm in the first 20 years after release. This change would delay harmful emissions reductions and prolong unacceptable conditions that pollute, provoke extreme weather and could potentially trigger irreversible climate effects. The role of human generated GHG must be addressed aggressively and cannot be delayed. The NYS League strongly opposes the recently proposed bill and wrote a memo of opposition which you can read here. Later this week, the Governor announced that S6030 would be taken out of budget negotiations, but that does not mean that the bill can't move once the budget has passed. We will continue to monitor this issue.

In the 2023 session we focused primarily on passage of an updated Bottle Bill, a Plastic Reduction Bill, the Climate Superfund bill, the Birds and the Bees bill and the All Electric Building Act.

Members lobbied their representatives on the All Electric Building Act in the pre-budget session and the bill was successfully passed as a part of the budget. The bill provides that the state energy conservation construction code shall prohibit infrastructure, building systems, or equipment used for the combustion of fossil fuels in new construction statewide no later than December 31, 2023 if the building is less than seven stories and July 1, 2027 if the building is seven stories or more.

We worked in coalition with NYPIRG, Beyond Plastics, Sure We Can, Zero Waste, and several other organizations to try to pass an updated Bottle Bill and Plastic Packaging Reduction bill. Neither bill passed this session.

LWVNYS signed on to a letter of support for the Climate Superfund Bill and participated in a press conference in June of 2023 to encourage legislators to pass the bill before the session was over. The bill was not passed.

Lastly, we pushed for the passed of the Birds and the Bees Protection Act, which was passed in the final days of session. This bill will eliminate unnecessary and harmful uses of neurotoxic neonicotinoid pesticides ("neonics") on seeds in New York State. We signed a memo of support on April 27th along with 260 other organizations. The full memo can be found here.

Following the unanimous adoption of a resolution declaring climate change an emergency at its June 2021 biannual convention, the League of Women Voters of New York State (the "NYS League") has followed through with action to address the myriad impacts the climate emergency presents to New York.

In recognition of the Climate Leadership and Community Protection Act of 2019 (the "CLCPA") passed by the New York State Legislature and to educate New Yorkers about the intent and scope of the CLCPA, the NYS League hosted Environmental Advocates of New York in April for a webinar titled Tackling New York's Climate Emergency.

To address the potentially harmful and exhaustive use of fossil fuel for cryptocurrency operations, in January 2022, the NYS League wrote a letter to Governor Hochul requesting issuance of an executive order for a moratorium on blockchain transactions that use proof of work authentication methods for cryptocurrency operations; this was followed by a Memorandum of Support of legislation to establish a moratorium on consolidated operations that use proof-of-work authentication methods to validate blockchain transactions; provided that such operations would be subject to a full generic environmental impact statement review. The NYS Assembly and Senate each passed the legislation, imposing a two-year moratorium, pending performance of an environmental impact review. In November 2022, Governor Hochul signed this legislation into law.

Prior to passage of the 2022 state budget, the NYS League signed a group letter urging Governor Hochul to amend the extended producer responsibility (EPR) package in the state budget. The Governor's resulting budget removed reference to EPR.

With focus on New York's ambitious goals under the CLCPA, estimated by NYSERDA to cost $300 billion, the NYS League supported the 2022 Clean Water, Clean Air, Green Jobs Bond Act which was on the ballot for the 2022 mid-term general election to help fund the associated projects; it was voted for by New Yorkers at the ballot box. The Act's terms require that at least 35% of bond proceeds will be

spent in disadvantaged communities, with a goal of up to 40%. Allocation is as follows: (i) Climate Change Mitigation (including funds for electrifying school buses)-$1.5 billion; (ii) Restoration and Flood Risk Reduction-$1.1 billion; (iii) Open Space Land Conservation and Recreation-$650 million; (iv) Water Quality Improvement and Resilient Infrastructure-$650 million; (v) Unallocated-$300 million. The 2022 Environmental Bond Act authorizes New York State to raise money for projects directly related to the Bond Act's legislation by issuance of general obligation bonds to investor/bondholders which the State will repay on the terms and over the period of years as specified in the bond issue.

Comments Objecting to Transco Request for Extension

In May of 2023, the League of Women Voters of New Jersey, New York, and Pennsylvania asked for 30-day extension to the 15 day public comment period to allow interested organizations and members of the public time to research, prepare, and get comments through the necessary administrative approval processes on the Transco Pipeline. We also ask that their request for a permit extension be denied. This project is for a massive methane gas compressor station and a 23.4 mile methane gas pipeline. The public has just 15 days to submit comments and this pipeline will significantly impact New Jersey and New York communities, as well as the Raritan Bay, Lower New York Bay, and the Atlantic Ocean from Sayreville, New Jersey to Rockaway, New York.

Time is required to share this extension request with the hundreds of citizens who have objected to this project over many years. Additionally, organizations may need extra time to review draft response letters for approval. In its May 15, 2020 "Notice of Denial of Water Quality Certification," the New York State Department of Environmental Conservation (NYDEC) ruled that under the Clean Water Act, Section 401, this pipeline failed to meet the state's Water Quality Standards. There has been no indication that the construction and operation of NESE would comply with the water quality standards for which it was denied permits without the use of a 500-foot mixing zone for mercury, copper, PCB's and other metals and toxics.

No action has been taken to address this problem and the problem is fundamental to their building this pipeline both now and in the future. In the past two years during the current extension of their FERC permit, we have seen no good faith efforts to obtain needed certificates and permits from the NYDEC and the New Jersey Department of Environmental Protection (NJDEP) for the NESE Pipeline Project. Nor have they claimed any unforeseen or extenuating circumstances preventing them from meeting FERC's current May 3, 2023 deadline. In fact, we have learned that in the summer of 2021, Transco canceled the lease agreement and payments for the right to use a private road ---the only access -- to the area where they were to build Compressor Station # 206 in Franklin Township, New Jersey. With no action taken or substantive efforts made to address the deficiencies of their application, and no forward action toward building and completing the construction of this Project and making it available for service by the May 3, 2023 deadline, it is hard to see why Transco's request for an additional two-year extension for the NESE Pipeline should be granted.

2022

At its June 2021 biennial convention, members of the League of Women Voters of New York State (the "NYS League") unanimously adopted a resolution declaring climate change an emergency and advising the NYS League's 46 local chapters to urge state and local governments to adopt and publicize Declarations of Climate Emergency. The resolution cited damage to marine ecosystems and food sources, a rise in sea levels resulting in flooding and the displacement of coastal businesses and residences, extreme weather events, adverse impacts on human health, and species extinctions as grounds for state and local governments to declare climate change an emergency and take action. The NYS League joined the state Leagues of Alaska, California, Colorado, Florida, Illinois, Massachusetts and Oregon who have also passed similar resolutions to urge action addressing the climate crisis.

In January 2022, the NYS League wrote a letter to Governor Hochul requesting issuance of an executive order for a moratorium on blockchain transactions that use proof of work authentication methods for cryptocurrency operations; and a Memorandum of Support of legislation to establish a moratorium on consolidated operations that use proof-of-work authentication methods to validate blockchain transactions; provided that such operations shall be subject to a full generic environmental impact statement review.

Following delivery of this letter, during the spring 2022 legislative session, the NYS Assembly (A7389C) and NYS Senate (S6486D) each passed legislation imposing a two-year moratorium, pending performance of an environmental impact statement, on cryptocurrency mining operations that use proof-of-work authentication methods (involving a carbon-based energy source) to validate blockchain transactions on issuing permits to new firms, or renewing permits to existing firm intending to increase electric energy consumption. Governor Hochul has not yet signed this legislation into law. The NYS League continues to monitor implementation of this law.

Prior to passage of the 2022 state budget, the NYS League signed onto a group letter urging Governor Hochul to amend the extended producer responsibility (EPR) package in the state budget. The Governor's resulting budget removed reference to EPR. The NYS League is in support of a (i) comprehensive EPR bill that creates a program substantially reducing packaging (especially plastic), establishes mandatory standards for waste reduction and recycling, reduces use of toxic chemicals, prohibits incineration and provides for third party oversight instead of self-enforcement by the manufacturing industry; and (ii) a parallel bill updating New York's beverage deposit law known as the "Bottle Bill" by expanding the required types of beverages sold in glass and plastic bottles that require deposits to include non-carbonated and alcoholic beverage and increasing the deposit from a nickel to a dime. The NYS League supported the original Bottle Bill that was enacted in June 1982 and went into effect in July 1983. No legislation on either of these bills was passed during the Spring 2022 legislative session. The NYS League will continue to monitor and support consistent versions of these bills in the next legislative session.

In recognition of the Climate Leadership and Community Protection Act of 2019 (the "CLCPA") passed by the New York State Legislature, the NYS League hosted Environmental Advocates of New York in April for a webinar titled Tackling New York's Climate Emergency. As the CLCPA rolls out, this Committee will continue to review and provide support for legislation and host educational programming that furthers the climate-neutral goals of the CLCPA.

It has been 26 years since New York State last passed an environmental bond. With focus on New York's ambitious goals under the CLCPA, estimated by NYSERDA to cost $300 billion, the 2022 Clean Water, Clean Air, Green Jobs Bond Act will be on the ballot for the 2022 mid-term general election to help fund the associated projects. The $4.2 Billion 2022 Environmental Bond will be enacted if it receives a majority of votes. The Act's terms require that at least 35% of bond proceeds will be spent in disadvantaged communities, with a goal of up to 40%. Allocation is as follows: (i) Climate Change Mitigation (including $ for electrifying school buses)-$1.5 billion; (ii) Restoration and Flood Risk Reduction-$1.1 billion; (iii) Open Space Land Conservation and Recreation-$650 million; (iv) Water Quality Improvement and Resilient Infrastructure-$650 million; (v) Unallocated-$300 million.

In November of 2022, the majority of New York voters voted in favor of the 2022 Environmental Bond Act, which authorized New York State to raise money for projects directly related to the Bond Act's legislation by issuance of general obligation bonds to investor/bondholders which the State will repay on the terms and over the period of years as specified in the bond issue. The NYS League joined the "Vote Yes for the Clean Water, Clean Air, Green Jobs Bond Act" coalition to advocate for this ballot

measure. We hosted an educational webinar with The Nature Conservancy, WeAct, the New York State Conference of Operating Engineers, and Delta Sigma Theta Sorority, Inc. attended by over 200 people. We participated in press conferences in Albany, Buffalo, and NYC. We also provided educational material in a toolkit which was made available to all League members statewide.

2021

In 2020 and 2021 The League supported a constitutional amendment that would add a right to clean water, clean air, and a healthful environment to the New York Constitution's Bill of Rights. The measure passed in both houses and appeared as a ballot referendum in the 2021 election. The League is thrilled that voters elected to support this measure. The new provision will be added to the state constitution in January of 2022.

In 2021, the League signed a joint letter to the Department of Environmental Conservation and Governor Cuomo to urge them to deny the renewal of Norlite (Cohoes, NY) Aggregate Air Title V and Part 373 hazardous waste permit applications. Norlite, LLC, was founded in Cohoes in 1956. It manufactures ceramic lightweight aggregates from shale. Norlite mines the shale from an on-site quarry and processes it in a high-temperature kiln. Norlite fuels the kiln using toxic waste and natural gas. Norlite had become a threat to the health and well-being of Capital District residents, especially the residents of a public housing apartment complex home to 70 families that is 100 yards from the site. The letter was also signed by the League's Capital Region chapters.

At its June 2021 biannual convention, the League of Women Voters of New York State's members unanimously adopted a resolution declaring climate change an emergency and advising the League's 46 local chapters to implore state and local governments to adopt and publicize Declarations of Climate Emergency. Declarations of Climate Emergency acknowledge that humanity is in a climate emergency and encourage governments to plan next steps for climate change mitigation. The resolution cited damage to marine ecosystems and food sources, a rise in sea levels resulting in flooding and the displacement of coastal businesses and residences, extreme weather events, adverse impacts on human health, and species extinctions as grounds for state and local governments to declare climate change an emergency and take action.

Following the November election, the League partnered with NYPIRG, the Sierra Club, Environmental Advocates, and other environmental groups to support reforming the New York State Bottle Bill. First enacted in 1982, the law, officially the New York State Returnable Container Act, requires a 5-cent refundable deposit to be placed on eligible beverage containers. The law requires retailers who sell covered beverages to accept returns of empty containers for the products they sell and refund the deposits, and it requires beverage distributors to pay retailers a handling fee for the cost of collecting empty containers.

The Bottle Bill was last expanded ten years ago to include water bottles. Our joint organizations worked to call on Governor Hochul to expanded Bottle Bill to:

- Expand the types and number of beverage containers covered by the Bottle Bill. Other states from Maine to California include a diverse range of non-carbonated beverages, wine, and liquor to great success.
- Increase the amount of the deposit to a dime and direct a portion of the additional revenues collected by the state to ensure better compliance and enhance access to redemption entities in currently underserved communities.

The League will continue to work on this issue in the coming legislative session.

2020

After years of deadlock, key legislation that regulates oil and gas waste passed 2020. The League supported a bill to close a longstanding loophole that exempted dangerous oil and gas industry waste from New York's hazardous waste regulations. Since 2010, 600,000 tons of solid and liquid waste of liquid and solid waste from fracking operations, some of it radioactive, has been dumped in landfills in New York.

2019

In 2019 the League joined 90 advocacy groups to call on the State Legislature to support the Green Amendment to amend Article 1 of the State Constitution to include: "Each person shall have a right to clean air and water, and a healthful environment." The amendment would prevent situations or conditions in which water becomes too polluted, air too dirty, land too contaminated, and natural landscapes too decimated to support healthy lives, including a healthy economy.

2018

In 2018, the League submitted recommendations to the Department of Environmental Conservation regarding regulations for implementing the State Environmental Quality Review Act. The League encouraged the strengthening of regulations to allow for public comment and participation and the improvement in government responsiveness.

At the beginning of 2017 and 2018, the League sent a joint letter with the State Leagues of New Jersey, Delaware, and Pennsylvania, advocating for clean drinking water in the Delaware River Basin Commission. The Delaware River Basin provides drinking water to 5% of America's population. The Commission is charged with maintaining and preserving the basin. Our joint letter urged to continue indefinitely the moratorium on gas drilling and hydraulic fracturing in the Delaware River Basin.

During the legislative session the League advocated for several environmental policies including an amendment to article 1 of the New York State Constitution making clean air and water and a healthful environment to a Constitutional right. The League also advocated for a $5 billion clean water bond act to repair our aging water infrastructure and a ban on the use of coal tar for residential and commercial development.

2017

In 2017 the League testified at a hearing on New York State Environmental Quality Review. The League expressed its support of transparency and optimization of public engagement throughout the environmental review process. The League also supported a review process that includes assessments by impartial experts of actual and potential environmental impacts on both our natural resources and human health. In addition, the League supported consistent enforcement to ensure compliance with the outcome of the review process.

2015

At the end of the legislative session, we sent a letter to Governor Cuomo urging him to ban the importation of both liquid and solid waste produced from high volume hydraulic fracturing and its use or disposal, in any manner, anywhere within New York State. Although the Governor banned hydraulic fracturing in 2015, the state has not enacted adequate regulations to ensure that the waste produced by other states will not be used or disposed of within our state.

In addition to our advocacy work, the League launched an on-line educational resource that engages citizens to preserve natural resources and address the impacts of climate change through their consumer purchases, activities of daily living and advocacy communication with elected representatives. The campaign titled "Be Earthwise" educates about the impacts of animal agriculture, household cleaning

products and Americans' penchant for acquiring "stuff." Recommendations are given to become meat free (or eat grass fed meat), be chemical (toxic) free, and reduce, reuse, repurpose, pre-cycle and recycle, in an effort to preserve natural resources and reduce the effects of climate change. Be Earthwise includes extensive information and research on each of the topics, helpful tips on how to get started, recommendations for communicating to elected officials and a pledge that enables the League to contact the participants. Be Earthwise will continue to present educational information, periodically on relevant topics. Be Earthwise is available at http://lwvny.org/earthwise/

On June 30th, 2015 DEC Commissioner Joe Martens announced his departure. No replacement for Commissioner Martens has been announced.

Over the last several years the issue relating to the proposed presence in New York and expansion elsewhere of the lifecycle associated with high volume hydraulic fracturing combined with horizontal drilling ("high volume gas drilling") has been a pressing issue so a substantial amount of the efforts of the League's Committee on Energy, Agriculture and the Environment have been focused on that topic. This included educational forums and in 2014 commissioning a study by petroleum geologist Arthur Berman and petroleum engineer Lyndon Pittinger on the economically recoverable shale gas in New York State which we sent to Governor Cuomo and DEC Commissioner Martens. In December 2014, Governor Cuomo announced that based on the results of a health assessment that had been performed by the New York State Department of Health, New York State would not issue permits for high volume gas drilling in New York State. The Committee considers this a successful outcome to its long-term efforts in this area..

In the 2015 legislative session, the Committee recommended passage and the League supported passage of New York legislation (identical bills: S884 and A6859) which would characterize and require the treatment of waste from gas drilling as "hazardous waste." This bill was not passed but is expected to be reintroduced in the next legislative session.

New York State continues to accept waste from out of state high volume gas drilling operations. In addition, gas pipeline expansion, gas storage and train transport of oil through New York and the potential export of liquefied natural gas present formidable challenges which the League has been taking action to meet.

In January 2015, within weeks of announcing the ban on high volume gas drilling, the League wrote to Governor Cuomo to request that imported waste from these gas drilling operations ("frack waste") be included within the ban. No definitive action was taken on this point in the final EIS issued by DEC. The League will therefore continue to support passage of proposed legislation to ban the importation of this waste which has not yet made it to the floor of the state legislature. The League has also been involved at a municipal level with the passage of local laws (in a dozen or more locations statewide) which prohibit the acceptance from out of state of the hazardous frack waste into our waste treatment facilities, our landfills or for road spreading to melt ice or control dust, as this unregulated material ends up in the very water supplies we seek to protect. New York City currently has a bill to ban frack waste under consideration which is supported by the New York City League. We will continue to pursue the local approach until passage of a statewide ban on frack waste.

If the Port Ambrose Liquefied Natural Gas (LNG) Import Port Final EIS and License Application is released, the New York City League would like to comment and testify on the License Application at a public hearing and perhaps comment on the EIS with the state League. After this public hearing, Governors Cuomo and Christie must decide within 45 days to support or not support this LNG Port. The state League and the New York City League have already asked Governor Cuomo to disapprove this potentially dangerous Port which would be situated among the shipping lanes coming into the Port of New York and New Jersey, in

the same area as a proposed wind farm which has been in the developing and regulatory review processes for some time. If either Governor disapproves this LNG Port, this application will be turned down.

2014

In 2014 the League supported PASSAGE of (i) the Hazardous Waste Bill A1046/S674 (ii) a Bill which Suspends Hydraulic Fracturing for the Extraction of Natural Gas or Oil; Suspends the Issuance of New Permits for Such Drilling (S012010); and legislation which encourages the development of solar energy throughout NYS. None of those bills made it to a full vote. The League has supported in our written comments to the draft supplemental generic environmental impact statement (known as the SGEIS) and the proposed regulations, a moratorium for a period of 120 days after completion of the EPA's water study on hydraulic fracturing and its potential impact on drinking water sources as well as the results of New York's health review. The EPA water study and New York's health review are each still in process.

Since fracking was introduced as a topic of importance in New York State, several League chapters throughout New York have been engaged in ongoing public education on the topic by inviting experts to speak on issues relating to potential environmental impacts, health impacts and economic impacts. In certain instances, the League's attention to unconventional gas drilling is addressed at the local level, such as the Algonquin/Spectra and Constitution pipelines-and proposed compressor stations, the proposed Port Ambrose LNG facility and the interstate transport by rail through Albany of crude oil. This coming year proposed legislation which addresses agriculture and renewable energy will be a focus of the committee on energy, agriculture and the environment.

There is also a robust interstate collaboration. For example, the states of New York, New Jersey, Pennsylvania and Delaware work together on matters impacting the Delaware River Basin and the Susquehanna River Basin, such as joint letters to the respective River basin Commissions. We also coordinated with the national League on issues of national importance relevant to our issues. On September 21, 2014, LWV chapters from across the country joined together for the People's Climate March in New York City to support the national League's goal to curb climate change.

Past League Activity

2009

In 2009, the League provided testimony before the New York State Committee on Environmental Conservation regarding clean water. The League testimony called for:

- A regional watershed approach requiring regulations that cross municipal boundaries
- Requiring communities to keep their water and sewage infrastructure in good working condition
- Limiting the use of pesticides, herbicides, and fertilizers; and
- Improving coordination between the various agencies charged to protect our drinking water supplies.

Also in 2009, the League saw a major victory with the passage of the Bigger Better Bottle Bill (see Waste Management section for more information).

2009-2013

New York State was introduced to High Volume Hydraulic Fracturing (fracking) at the 2009 State League convention through Susan Multer who lives in Horseheads, Chemung County. Susan, who was a founding member of and is still active in the LWV of Steuben County, invited Earthjustice managing Attorney Deborah Goldberg to address the environmental and health effects of fracking. The rest is history. The

Hydraulic Fracturing committee (now known as the Committee on Energy, Agriculture and the Environment) has established itself as a leader in New York and within the League network on this topic.

At the 2010 national convention in Atlanta, the Tompkins County, New York League of Women Voters presented a resolution calling for strong regulation of drilling and mining for energy resources. League members from around the country helped with the caucus, the information table, and the lobbying for passage of the resolution, which passed by unanimous consent. (LWVUS Impact on Issues, 2022-2024, p. 95). Committee member Catherine-Kay-Wagner helped to spearhead this effort.

Since fracking was introduced as a topic of importance in New York State, several League chapters throughout New York have been engaged in ongoing public education on the topic by inviting experts to speak on issues relating to potential environmental impacts, health impacts and economic impacts. Other state Leagues are involved in educating on the issue, as described below. There is also a robust interstate collaboration. For example, the states of New York, New Jersey, Pennsylvania and Delaware work continuously together on matters impacting the Delaware River Basin and the Susquehanna River Basin, such as joint letters to the respective River basin Commissions.

In the summer and early fall of 2010, the E.P.A. held hearings in four states in order to gather information they can use for their study of fracking. Their main focus was to be on the use and risks of pollution of water supplies, but many at the hearings urged them to have a broader scope for their study. Members of the June caucus held at the national convention in Atlanta testified at the hearings in Colorado, Pennsylvania, and Texas. Several local Leagues from around NYS prepared and submitted written statements to the E.P.A. and also gave oral testimony.

In the fall of 2009 local League chapters gave written and oral testimony on the first version of the Draft SGEIS and again in 2011 several local Leagues gave written and oral testimony in response to the updated Draft SGEIS concerning fracking that was produced by the DEC. In January 2013 local Leagues responded to the corresponding proposed regulations written by the DEC and made public in late November 2012.

The LWVNY committee on Energy, Environment and Agriculture has members from counties located in upstate and downstate New York and remains in continuous close contact. When issues or questions arise on the topic from chapters elsewhere in the state or Country, this Committee shares its resource material. Susan Multer keeps an archive of material on the topic. Mary Beilby has a veritable library on any issue related to the topic. This committee has submitted formal written comments to the DEC with respect to the Draft SGEIS in 2009 and 2011 and proposed regulations in 2012 and 2013.

In addition, this committee presented two workshops at the convention held in Albany in May 2011. The workshops were led by committee chair Elisabeth (Beth) Radow (Westchester County) and presentations were also made by Mary Beilby (Cortland County), Susan Multer (Chemung County), and Kay Wagner (Tompkins County) on issues related to fracking. During the convention they also took the opportunity to brief members of the Cuomo staff on fracking, with emphasis on the complex environmental and economic issues involved. At the 2012 National Convention Beth Radow and Beth Kelley (New York County) collaborated with Roberta Winters (Pennsylvania) and Linda Phillips (California) at a caucus to discuss the environmental impacts of various forms of extractive mining.

LWVNYS wrote memoranda of support for moratorium legislation in 2010, 2011 and 2012; for hazardous waste legislation, in 2012 and 2013 (A1046/S674). The hazardous waste bill, which has not made it to the floor of the Senate for a vote, would require hazardous waste produced from oil and natural gas activities to be subject to the requirements for treatment of hazardous waste, from which they are currently exempt. In a June 2013 letter to the editor of the Times Union, the League urged the Senate

majority coalition to bring the hazardous waste bill to the floor for a vote, noting that it had the bipartisan support of 33 senators. However, the session ended without a vote being allowed on the bill.

During the spring of 2013, the LWVNY committee on Energy, Environment and Agriculture has been reviewing information relating to the proposed Liberty Natural Gas Liquefied Natural Gas (LNG) facility (Port Ambrose) which would be located off the New York/New Jersey coast. They are in the process of composing a letter to Governor Cuomo about the committee's findings.

The League has also continued action on natural resource issues other than fracking.

2010

In 2010, the League joined several environmental and cancer prevention organizations in urging Governor Patterson and Governor-Elect Cuomo to reconsider the state's decision to suspend its role in the federal Superfund sites cleanups in NYS.

Earlier in 2010, on the matter of the final environmental impact statement for decommissioning and/or long-term stewardship at the West Valley Demonstration Project and Western New York Nuclear Service Center, the League supported the Department of Energy's decision to shorten the time frame for decision-making as stated in the draft EIS, from 30 years to ten years, if the Phased Decision-Making Alternative was chosen. However, the League still favored Site-Wide Removal of the radioactive and other chemical and hazardous waste at the site, maintaining that the site was unsuitable for storage of such waste because of the high precipitation rate in the area and the geographic instability of the terrain, subject to erosion.

2012

In 2012, the League supported the EPF Enhancement Act (A.10519/S.7525) and recommended that Governor Cuomo sign the bill into law. The bill, which the governor vetoed, would have provided much-needed additional funding for the state's Environmental Protection FUND (EPF).

AIR QUALITY

(Further Guidelines and Criteria, LWVUS Impact on Issues, 2022-2024 p. 96)

1990-2015

Over the years, the League has lobbied the New York State Legislature to bring New York's laws and regulations into compliance with federal laws. The League was directly involved with defeating the first proposed New York Clean Air Compliance Act (NYCACA); also know as the NY Dirty Air Bill, and the successful passage of the final NYCACA. This brought the state into compliance with the 1990 Amendments to the Clean Air Act (CAAA). However, each year until 2015 regulatory changes will have to be put in place; and League members will have a role to play guaranteeing their timely implementation. The federal Environmental Protection Agency (EPA) will also be releasing rulings on environment standards that New York will need to adopt in a timely fashion. In 1997, the emphasis was on limiting smokestack emissions to reduce ground level ozone and reduction in the size of particles that could be trapped in the lungs. The League and others also argued that southern and midwestern states should not be excluded from the CAAA, as pollution knows no boundaries.

For discussion of clean indoor air, see the **Healthcare** section.

Over several legislative sessions, the League has actively lobbied for burn barrel legislation, which would ban outdoor burning of substances such as leaves, tires, and other toxic materials. This legislation passes the Assembly but has been stalled in the state Senate.

League participated in the development of state air regulations and the State Implementation Plan (SIP); and members served on the Air Toxics Task Force as one of only two environmental groups. The League will continue to give written and oral testimony as needed to protect air quality.

WASTE MANAGEMENT

WASTE MANAGEMENT

(Further Guidelines and Criteria, LWVUS *Impact on Issues*, 2022-2024, pp. 99)

STATEMENT OF POSITION

Members of the League of Women Voters of NYS agree that effective policies concerning waste are integral to ensuring the clean water, clean air and healthful environment guaranteed in the Environmental Rights Amendment to the New York State Constitution. We also agree that we're embedded in an ecosystem, and that the land, water, air, energy, waste, and biota in our ecosystem are dynamically interrelated. We agree that the concept of waste includes greenhouse gases, that waste management practices can themselves emit these gases, and that we urgently need to reduce the production of these gases in society and in waste management in order to preserve and restore the world's climate.

We agree that human health and safety, the wellbeing of wildlife, the preservation and restoration of habitat, and the conservation of primary materials such as timber, minerals, ores, and energy are deeply affected by our practices concerning waste. To protect these resources, the League supports policies that promote: the reduction of waste, the reuse of products and materials over disposal, and the responsible management of waste that can't be reused. We agree that our ultimate goal is a circular economy with zero waste.

The League supports, first, the following policies aimed at minimizing the production of waste:

1. Products and buildings designed to accommodate deconstruction and reuse of component parts;
2. The use of durable materials and designs that prioritize longevity in product manufacturing and construction;
3. Support for repair, rather than disposal, of products;
4. Reduction of single-use plastics and items that cannot be recycled, and promotion of reusable packaging for products;

WASTE MANAGEMENT

(Further Guidelines and Criteria, LWVUS *Impact on Issues*, 2022-2024, pp. 99)

STATEMENT OF POSITION, Continued

5. Limitation of greenhouse gas emissions and processes that produce them, such as the burning of fossil fuels, excessive fertilizer use, disposal of items containing refrigerants in a way that causes those refrigerants to leak, reliance on landfills for organic waste disposal; and
6. Regular monitoring of sources of potential greenhouse gas leaks and speedy fixes of leaks in lines carrying greenhouse gases (such as methane and refrigerants), and reduction of fugitive emissions from solid waste landfills, wastewater treatment plants, and appliances.

We also support the following policies aimed at facilitating the transfer of discarded items and components to entities that can use them:

1. The development and strengthening of easy-to-participate-in civic infrastructures for:
    a. Recycling items to extract useful material for reuse in new products; and
    b. Collecting, processing, and transferring reusable items to new owners, including excess edible food from restaurants, grocers, and farms to groups addressing food insecurity; and
2. The expansion of community-based operations and facilities (e.g., composting, anaerobic digestion, and biochar pyrolysis) that enable communities to create useful products out of non-toxic organic waste, and the diversion of non-toxic organic waste from landfills (where it can produce fugitive methane emissions), towards beneficial use through these processes.

For items that cannot be reused or redistributed, the League supports waste management policies that promote:

1. An end to the processing of hazardous waste in ways that can spread its toxicity, including the use of incineration for waste that contains toxins;
2. Careful recovery, processing, and safe disposal of hazardous materials in the waste stream, including in biosolids and digestate byproducts of sewage treatment and biodigesters, and at concentrated animal feeding operations (CAFOs);
3. Careful capture and safe disposal of greenhouse gases, including refrigerants from products at time of disposal, and methane and nitrous oxide from large producers, including industrial sites, landfills, and CAFOs;
4. Corporate responsibility with public oversight for the end-of-life processing of products and packaging, including all related costs;
5. Limited miles of waste transport from its source to where it is processed and stored, with communities encouraged to take responsibility for their waste by, as much as possible, locating needed facilities within their boundaries;

WASTE MANAGEMENT

(Further Guidelines and Criteria, LWVUS *Impact on Issues*, 2022-2024, pp. 99)

STATEMENT OF POSITION, Continued

6. Collaboration among communities in the siting of regional high-tech waste management facilities as needed to support reuse and recycling;
7. Environmental Justice in the siting of waste facilities and provision of services;
8. Easy resident access to legal and responsible waste disposal methods.

To reinforce these efforts, we also support:

1. Green procurement policies that boost the market for products made with recycled, recyclable, and non-toxic de-constructable content;
2. The expansion of opportunities to purchase items with either reusable, returnable, or purchaser-provided packaging;
3. Adequate monitoring and enforcement of waste regulations;
4. A rapid transition away from fossil fuels to renewables, and away from high global warming potential (GWP) refrigerant gases to low GWP refrigerant gases;
5. The transformation of wastewater treatment plants from simply waste processing centers to facilities that emphasize the capturing of beneficial products (e.g., biogas) while ensuring removal of hazardous waste before returning to the environment;
6. Reduction in the use of CAFOs and promotion of more sustainable farming methods;
7. Opposition to corporate secrecy about the toxicity of their products and processes;
8. The embedding of sustainability principles into public information campaigns, school curricula and licensure certification programs.

The League supports direct involvement of citizens and local governments at all stages of planning, development, operation, and monitoring of waste management plans and projects. The consumer should be educated to exercise care in purchasing, to demand quality products, to participate in reuse policies, to recycle, and to resist throw-away cultural practices. Standards for operation of these facilities should be established and enforced by the public sector, whether actual operations are conducted by private or public entities.

Recent League Activity

2022 and 2023

Plastic Packaging, Bottle and Can Waste Management

The NYS League is supporting a comprehensive extended producer responsibility bill that creates a program substantially reducing packaging (especially plastic), establishes mandatory standards for waste reduction and recycling, reduces use of toxic chemicals, prohibits incineration; and (ii) a parallel bill updating New York's beverage deposit law known as the "Bottle Bill" by expanding the required types of beverages sold in glass and plastic bottles that require deposits to include non-carbonated and alcoholic beverage and increasing the deposit from a nickel to a dime. The NYS League supported the original Bottle Bill that was enacted in June 1982 and went into effect in July 1983. Similar bills were introduced but not passed during the spring 2022 and 2023 legislative session.

Past League Activity

1980

Since 1980, the League has supported legislation to encourage source separation and recycling of solid waste. Passage of the Bottle Bill was the League triumph of 1982, the result of an eight-year campaign.

We continued to support General Municipal Law (GML) 120AA which mandates municipalities to source separate certain materials such as glass, metals and some papers. Leagues around the state urged local officials to implement and enforce this legislation. In the 1980s, the League adopted the state's solid waste hierarchy of Reduction, Reuse, Recycle, Incinerate and Landfill. In 1991 LWVUS proposed a moratorium on incinerators until fiscal, health and recycling impacts were fully examined. We have lobbied extensively for an environmentally sound packaging act, which would reduce the amount of packaging, reduce the use of virgin materials, and create recycling markets. This is an area where League members have shown true leadership with the development of the environmental shopping program and school education projects. In this process, League members have joined boards, committees and encouraged solid waste management activities at the local, state, and national levels.

While many New York State localities are doing an excellent job of recycling, and encouraging reuse and reduction, other places have never heard of the Solid Waste Hierarchy or GML 120AA. Therefore, League members continue to advocate and educate.

1995-2009

In 1995-96 most of the legislation raised at the state level was minor. With the stronger incinerator regulations enacted in the year 2007, this issue will become more important. Legislation is still actively being proposed at both the state and federal levels to limit the transport of solid waste across state lines. Business groups continue to try and have regulations repealed, an attempt to pass on to the taxpayers the costs of doing business. For years, waste disposal has been borne by taxpayers and consumers, rather than the manufacturers that produce it. Several communities have passed laws preventing the importation of waste for disposal within their municipalities. However, there is still no real pressure to reduce the amount of solid waste and this will continue until the DEC starts to enforce the recycling regulations. In 2007, Governor Eliot Spitzer appointed an environmentally strong Commissioner of DEC. Our hopes were renewed that recycling regulations would be better enforced.

During the 2003 legislative session, the League revisited an issue from the early 1980's. Because of strong League leadership, in 1982 New York State passed the "bottle bill" that requires a deposit on soft drink containers. Since that time, the use of plastic water bottles, juice bottles, and other non-carbonated beverages has proliferated, and there have been numerous attempts to pass a "Bigger Better Bottle Bill" to include these containers. Passage of a BBBB has been a priority since 2004. With a new governor in office in 2007, there was a major effort by a large coalition, including LWVNYS, to pass a BBBB that would have recycled an estimated two billion additional containers, and generated $100 million for the Environmental Protection Fund. Governor Eliot Spitzer had included the bill in his budget; but it was removed by the legislature. Governor Spitzer promised to introduce the "Bigger Better Bottle Bill" as separate legislation. Following Governor Spitzer's resignation in March 2008, Governor Patterson came into office and promised to get the legislation passed. The League continued to lobby vigorously for this legislation through to 2009 when the legislature passed the bill and Governor Patterson signed it into law.

SUPERFUND

2001-2003

Funding for Superfund continued to be an ongoing issue in the legislature. Whether the reliance for cleanup was based on engineering controls (creating hazardous waste landfills) or institutional controls (using deed restrictions), this issue fell off the negotiating table following the September 11, 2001 attacks. Late in October, during a special budget session, $30 million was restored to keep the program running through the 2001 fiscal year.

In the fall of 2003, New York Governor Pataki signed into law new measures to refinance and reform the State's Superfund and Brownfield programs in an effort to clean-up thousands of contaminated properties,

and to encourage new investment and redevelopment for local economies. The legislation provides $120 million a year to refinance New York's bankrupt State Superfund, and expands the program to include additional sites such as dry-cleaning facilities.

2007-2008

The new Brownfields Program offers liability reform, tax incentives, and a predictable process for cleaning up hazardous waste sites throughout the state. By the summer 2007, the environmental community was concerned that tax incentives to developers in the Pataki law far exceeded the actual benefits of the brownfields clean up. It is anticipated that the new Spitzer administration will revisit this issue with new legislation in the 2008 legislative session.

HAZARDOUS WASTE

(Further Guidelines and Criteria, LWVUS Impact on Issues, 2022-2024, pp. 99)

Recent League Activity

In 2023, League members lobbied for the passage of the Birds and Bees Protection Act. This bill was passed in the final days of session. The act will eliminate unnecessary and harmful uses of neurotoxic neonicotinoid pesticides ("neonics") on seeds in New York State. We signed a memo of support on April 27th along with 260 other organizations. The full memo can be found here.

Past League Activity

1980s

Throughout the 1980s and the 1990s, League members have lobbied for a wide range of legislation such as the NYS Superfund Environmental Quality Bond Act, the Hazardous Substances Bulk Storage Act, the Pesticide Reporting Bill, and other regulatory measures necessary to track the use of hazardous substances within the state. Of primary concern has been the disposal of these toxins in a safe and traceable manner. League members have supported upgrades of enabling legislation, commented on proposed regulations, opposed many beneficial use concepts, (designed to hide or disguise the hazardous content of the waste) and supported the rights of citizen suits. We support recognition of Household Hazardous Waste and have worked for public education and safe collection programs.

1995

During the 1995 legislative session, the League gave testimony supporting the use of "volunteer developers" to cleanup polluted sites known as "brownfields," so that they could be used. In 1996, we supported the Clean Water/Clean Air Bond Act, which allocated funds for this purpose. Once signed by the governor, it then appeared on the November ballot for passage by the voters. The League educated voters (pro and con) and encouraged the bond's passage. Following passage, the League worked with other organizations to ensure an open and accountable process for projects selected. This was to ensure that there was equitable management of the allocated funds to promote sound environmental policy.

We are opposed to holding owners of polluted sites liable for cleanup, if they truly are an "uninvolved party." i.e. did not cause the pollution. The League continues to require the state to find the "actual polluters" and require them to pay for the cleanup costs, rather than the taxpayers. The League is concerned about the waste of taxpayer dollars and the time wasted in determining responsibility for brownfield cleanup, and has pushed for a procedure that would serve the best interests of the public.

2000-2001

Pesticide Notification Law

This law was passed in 2000, went into effect in July 2001, and was a major League accomplishment. This is enabling legislation that must be adopted at the local level. This could mean a lack of action because of local costs for implementation.

However, part of the law is mandatory. It requires notification for schools and day care centers. After July 1' 2001, public and private schools must notify parents at the start of the school year if pesticides will be used. Parents may request 48-hour notification and the school must make it known three times a year when and where pesticides are used.

Comparative Risk Project to Prioritize Pollution Prevention Activities

The NYS Assembly Legislative Commission on Toxic Substances and Hazardous Wastes issued a publication critical of the Department of Environmental Conservation's report on Comparative Risks. This project was to evaluate and compare the risks associated with toxic chemicals in the state in order to set priorities for the DEC's pollution prevention activities. The project divided work groups into various categories such as Human Health, Ecosystems, and Quality of Life. The steering committee released a Phase I Final Report and charged the Risk Reduction Strategies Work Group with carrying out Phase II. They will build on the risks identified in Phase I to develop a pollution prevention strategy for the state.

The Commission is concerned that the Project has focused too exclusively on the hazards that are well known, while placing little emphasis on problems and chemicals that are less well known. The analysis was limited to quantitative data, and this data is not available for many non-cancerous effects, such as hormone disruption. Out of 1,300 chemicals listed as hazardous by DEC and 70,000 chemicals used in the workplace, the Project evaluated only 220.

As a result, the Project overlooks many of the risks for which little quantitative data is available, such as the risks posed to children by chemical exposure, as well as the risks of developing non-cancerous disease, such as neurological damage, and birth defects.

RESOURCE MANGEMENT

ENERGY

(Further Guidelines and Criteria, LWVUS Impact on Issues, 2022-2024, pp. 97)

Recent League Activity

2015

In 2015, the League joined other organizations in a letter to Governor Cuomo and speakers of the Assembly and Senate expressing support for the Microbead-Free Waters Act (A. 5896 Schimel / S. 3932 O'Mara). This legislation was not passed in the 2015 session and is expected to be reintroduced in the next legislative session, with bipartisan support. Local ban bills are being passed while the state legislature continues to deliberate on this statewide bill.

Our work also includes ongoing initiatives to make community living more sustainable and resilient through energy choices, conservation and waste management. This includes support for local "solarize" programs, and diverting food waste through public education and community efforts among other things.

In the coming year, the League intends to further expand public education on renewable energy options and conservation efforts.

Past League Activity

1995-1997

In 1995-97, we continued our support for energy conservation, by serving on a Federal Energy Regulatory Commission (FERC) and a Department of Environmental Conservation (DEC) Collaborative Cooperative Process (CCP) team to re-license the St. Lawrence Dam for the New York Power Authority (Hydropower).

The CCP team process is an experimental idea to regulate sources requiring a FERC license. It allows all interested parties to present issues of concern at the onset—allowing changes only for grammar, content, or consolidation, and only with the consent of the interested party. All interested parties means that if you show up or submit a written statement, you are an official interested party. The purpose is to reduce controversy, limit litigation, and promote understanding. This process should decrease time and money spent on the regulatory process. Several small projects were successful; several were less successful. The team process to re-license the St. Lawrence Dam was the largest project. League principles got quite a workout, mainly because League is the only organization that studies the open process.

Deregulation of the electric utility industry is an area of significant concern at both the state and local levels of League. Trying to sort through the process is difficult because of all of the interests involved. New York continues to have some of the highest utility rates in the country primarily due to the regulatory process and the impact of air pollution. One of the issues addressed in the 1997 Clean Water/Clean Air Bond Act was the purchase of electric vehicles; the state was a pioneer in this area. Since gasoline powered vehicles are the largest source of air pollution, the state has taken an active role in encouraging other low emission vehicles with its support for natural gas-powered buses and cars.

For the past few years we have placed increasing emphasis on the role of renewable energy and sustainable practices which address the impacts of a changing climate. The presence of large utility plants raises the issue of upgrading our electrical grid so that it can support renewable energy. We have supported proposed legislation on community solar and will continue to support this legislation as it makes its way through the state legislature. The League has also undertaken research which includes development of a revised grid system which makes sourcing renewable energy more democratic.

WATER RESOURCES

(Further Guidelines and Criteria, LWVUS Impact on Issues, 2022-2024, pp. 105)

Recent League Activity

2023

In May of 2023, Holtec International and its affiliates threatened to discharge radiological agents into the Hudson river due to the decommissioning of the Indian Point Energy Center. LWVNYS lobbied members and sent a memo to the Senate and Assembly in support of a bill that would prohibit the discharge of any radiological agent into the waters of New York State. This bill was successfully passed at the end of the 2023 session and was signed by the Governor in August of 2023.

Past League Activity

1965-1997

Since 1965, League members have had a continuing interest in water issues leading in 1997 to our state position on WATERSHED PROTECTION. We continue to push for legislation protecting the state's waters. Members serve on water resource advisory committees at all levels. The League works with other environmental and conservation groups statewide to support regulations conserving our resources and protecting the riverine systems (all source waters that lead to a river system) to prevent overuse and pollution. We support statewide strategies as well as financial aid that would rehabilitate water supplies, cleanup wastewater, eliminate watershed threats, meter all sources, and oversee water discharge permits.

As a result, of our position supporting regional management of water resources, the League created:

- The Lake Erie Basin Committee composed of Leagues from New York, Pennsylvania, Ohio, and Michigan.
- The Tri-State Committee (before 1996 - it was the Tri-State League) composed of members from the New York Metropolitan area, New Jersey and Connecticut.

These organizations monitor and advise on water management in their areas. They have alerted other Leagues to take action on legislation or problems that affect their water basins. We support funding for the Great Lakes Commission and are following the proposed Great Lakes Water Initiative (better known as the Great Lakes Water "Guidance"). The Guidance will result in a major change in NY's water regulations. For the first time terrestrial and aquatic resources will have to be taken into consideration when considering regulations. Until 1997, human impact was the only consideration guiding the regulatory process. The importance of the whole ecosystem in maintaining human health is just receiving the attention it deserves.

Through the Tri-State League, we supported the Interstate Sanitation Commission (ISC) which advocates for improved water quality through regulation enforcement, research and monitoring for the Long Island Sound, lower Hudson River Valley and other tri-state waters.

At the 1995 Convention, the League adopted a mini-study: *"Need For Measures to Achieve Watershed Protection for Drinking Water, Including Pesticide Issues."* The basis for this study was the BOCC League watershed study, which was adopted for concurrence by the Westchester ILO. Upon examination of issue, this study was expanded to two years.

NEED FOR MEASURES TO ACHIEVE WATERSHED PROTECTION OF DRINKING WATER, INCLUDING PESTICIDE ISSUES.

Statement of Position

As announced by the State Board, April 1997

The League of Women Voters of New York State's position is based on the League of Women Voters of the United States water resources position in support of:

- Water resource programs and policies that reflect the interrelationships of water quality, water quantity, ground water, and surface water and that address the potential depletion or pollution of water supplies;
- Stringent controls to protect the quality of current and potential drinking water supplies, including protection of watersheds for surface supplies and recharge areas for ground water.

New York should continue to set standards, determine classifications, and issue permits; in addition, localities may impose more stringent permit limits than the state standard.

The League supports state enforcement compliance with a strong role for county and local government.

In New York State the quantity of water is not an issue; however, there is a need for comprehensive ecosystem management within each watershed. This should include a regional approach to water regulation. League members recognize that management of water supplies will entail higher costs and restrictions.

Additionally, they recognize the need for strengthened contingency plans to provide for alternative supplies of water.

Water quality in New York State is adequate but threatened. Therefore, members support strong regulations to reduce nonpoint source pollution. There is a need for education and technical assistance to address issues of best management practices to control nonpoint source pollution. Best management practices should be applied to all sources of nonpoint pollution.

The League supports:

- A regional watershed approach requiring regulations that cross municipal boundaries;
- Requiring communities to keep their water and sewage infrastructure in good working condition;
- Limiting the use of pesticides, herbicides, and fertilizers; and
- Improving coordination between the various agencies charged to protect our drinking water supplies.

The League is opposed to any proposal by the state for self-monitoring and/or self-determined compliance for water regulations.

1998

In 1998, the NYS Department of Health's Bureau of Public Water Supply Protection began the development of a Source Water Assessment Plan (SWAP) as per the guidelines issued by the US Environmental Protection Agency. Future federal funding for source water protection will require that an approved assessment program be implemented. Millie Whalen, LWVNYS Natural Resources off-board specialist served on the Public Policy Participation working group of the SWAP advisory committee. This working group was responsible for determining the most effective methods for facilitating public participation. Local Leagues were encouraged to participate in the development of the plan via the DOH's teleconference and public meetings held throughout the state. The SWAP was completed in 2000.

LAND USE

(Further Guidelines and Criteria, LWVUS Impact on Issues, 2022-2024 p. 97)

1976

League members have been active in their communities in many land use issues. In 1976, the League did a state study that among other things supported establishing a statewide intergovernmental system for land resource management. This position has been re-examined over the years and found to still be valid. As a result of the 1996 Watershed study, "such as watersheds" was added.

LAND USE
Statement of Position
As announced by the State Board, May 1976
As amended, (underlined), April 1997

The League of Women Voters believes that New York State must develop an intergovernmental system for land resource management. Such a system would require:

1. Local governments to adopt local land use plans under minimum state standards with direct or indirect financial and technical help from the state.
2. Review by higher levels of government of those land use decisions which have larger-than-local impact, <u>such as watersheds</u>.
3. The development of land to meet public needs (such as low and moderate-income housing, recreational and open space uses) under a system which fairly distributes the costs and benefits of such uses within a region.
4. The strengthening of county and multi-county regional planning bodies.
5. The use of regional commissions to represent larger-than-local interest in managing unique natural resource areas of the state.

The League of Women Voters is concerned that inadequate planning at the state level wastes resources: natural, social and fiscal.

The state must coordinate functional plans of state agencies with each other, with federal programs, and with the budgetary process. The combined impact of state plans and actions upon land use should be considered.

The state must coordinate standards and guidelines in state programs to reduce inconsistencies, which frustrate citizens and local governments.

1975

The State Environmental Quality Review Act of 1975 (SEQRA), updated in 1996, was supported by the League. We strongly opposed attempts to weaken.

1978

In 1978, LWVNYS agreed on key components of an intergovernmental process for managing land within the state and supported the Adirondack Park Agency (APA). The key features of the APA that the League supports include:

1. Support the Adirondack Park Agency and the State Land Master Plan, including the unit management plans for state-owned lands. This plan calls for comprehensive review every five years.
2. Support the Land Use and Development Plan applied to the private lands in the Park.
3. Support the concept of the state and local governments sharing the planning and control process over use of private lands in the Adirondack Park.
4. Support local government in providing sound local land use planning throughout the Park.
5. Support preservation of open space, consisting of both private and public lands, and development of supporting facilities necessary to the proper use and enjoyment of the unique wild forest atmosphere of the Park.

The League continues to monitor changes to the Park, supporting some that we feel strengthen the original legislation and opposing proposed laws that weaken the purposes of protecting this unique natural resource.

The League supported legislation designed to improve the quality of land use planning and enforcement. Passage of these bills was an attempt to codify court decisions that have occurred over the years and to provide a uniform basis for zoning.

1981

We supported the laws on Coastal Zone Management in 1981 and the update of these laws in 1992. In 1996, we supported the inclusion of funds of waterfront revitalization plans in the Clean Water/Clean Air Bond Act.

The League supports the inclusion of the principles of the Public Trust Doctrine into our land use laws. Because they have laws that date back to colonial times, New York and the Long Island region have unique status with rights and privileges granted to them. The recognition of these laws has resulted in opening up bodies of water for the public's use.

1990

In 1990, we supported the Environmental Quality Bond Act, which was defeated by the voters. However, we continue to support the establishment of an Environmental Trust Fund/Act that follows the NYS Open Space Plan for land acquisition. This Trust Fund could be used for such environmentally necessary purposes as closing landfills, supporting recycling programs, and funding sewage treatment projects. We have also supported the creation of a dedicated fund to finance these activities. This dedicated fund has been subject to raids on the monies or non-disbursement of funds and has been the subject of much dispute.

1999

In the spring of 1999, the LWVNYS was a co-sponsor of the National Audubon Society of NYS's Smart Growth Conference held in Albany.

2001

Funding for the Environmental Protection Fund received no monies in the 2001 executive budget. It continues to be funded by fees ($125 million this year). The legislation did not add any funds in the "bare-bones" budget and following the September 11 attacks; there was no impetus to include any new monies.

URBAN SPRAWL

At convention in 1999, delegates voted to review study materials necessary for concurring with a statement pertaining to urban sprawl. That review took place in Spring 2000 and the State Board announced the following new position:

URBAN SPRAWL
Statement of Position
As announced by the State Board, May 2000.

In order to conserve natural resources and improve the quality of life for its residents, New York State should take a proactive role in regional land use planning, enhancing urban neighborhoods, containing urban sprawl, and protecting agricultural land, open space, watersheds and other sensitive areas.

The League's natural resources positions on land use are based on positions reached from 1958 through 1986; on water in the 1960's; on equality of opportunity in 1968; and on access to transportation, and on regional and metropolitan planning to prevent haphazard urban growth from 1971 through 1988. The League's urban policy position to promote the economic health of cities and improve the quality of urban life was announced in 1979. In 1976, the state League did a study that led to a position in support of establishing a statewide intergovernmental system for land resource management. The position on watershed protection, arrived at in 1997, is the most recent.

Armed with its new position on Land Use, the League has followed pertinent developments around the state initiated by the governor, the legislature, and civic groups.

2000-2004

In early 2000 Governor Pataki issued an executive order creating the Quality Communities Interagency Task Force charged with studying community growth and with developing measures to assist communities in implementing effective land development, preservation and rehabilitation strategies. League members participated in the roundtable discussions held by the Task Force around the state. Its report entitled, *State and Local Governments-Partnering for a Better New York*, was issued on January 31, 2001. The report includes 41 recommendations for improving the quality of life in communities throughout New York.

The New York State's Quality Communities program, as developed in the report, emphasized collaborating with localities and a using bottom-up approach to curbing sprawl, rather than the State leading by articulating a coherent vision and taking action to support it.

An informal coalition of 30 organizations was established at the first Smart Growth Conference in 1999 to monitor and guide the next steps for achieving smart growth in New York State. The State League

joined the Smart Growth Working Group (SGWG) in January 2001. In addition to monitoring the Quality Communities Interagency Task Force and its Advisory Committee, the SGWG lobbied the State Legislature on smart growth issues. Implementation of the Quality Communities Task Force Report was the focus of the Third Annual Smart Growth Conference held in April 2001 in Albany. The Conference, which the State League cosponsored, was held under the leadership of Audubon New York and the SGWG that it chaired. The SGWG and the Department of State jointly conducted a fourth Smart Growth Conference on May 25 and 26, 2004. The conference proceedings were published, but there has been little activity since then.

2006-2007

The State League worked with a coalition, the Campaign for CPA, in support of a statewide "Community Preservation Act" in 2006 and 2007. The act would allow local communities to create community protection funds to protect open space, support working farms, and preserve community character using funds raised by a real estate transfer fee. Legislation for the five East End towns on Long Island was enacted 10 years ago and since renewed. Thousands of acres have been preserved. Warwick and Red Hook, Chatham and Fishkill have also worked to secure this same Community Preservation legislation. In August of 2007, Governor Spitzer signed into law the "Hudson Valley Community Preservation Act" for cities and towns in Putnam and Westchester counties.

In December 2007, Governor Spitzer established the Governor's Smart Growth Cabinet by executive order. The executive order recognized that state policies, practices and capital investments shape economic development and land use patterns throughout the state, and can have the unintended effect of encouraging sprawl, development of open space, shifting investment away from developed areas and abandoned areas. It stated, "New York State government can take affirmative actions to encourage communities to use "smart growth " to grow and develop in a responsible, efficient, and sustainable manner that enhances quality-of-life, environmental quality, and economic prosperity," marking a significant change in the role of the state regarding land use. The Cabinet consists of the commissioners of all state agencies that affect land use. It reviews state regulations, practices and policies and advises the governor on the most effective mechanisms to promote and facilitate smart growth in the state. A Smart Growth Office was also created within the Department of State's Division of Local Government to oversee the Smart Growth Cabinet. Governor Paterson has continued support for the Smart Growth in the state.

2008-2009

Smart Growth bills have been introduced in the legislature for the past several years. In 2008, for the first time, a smart growth bill, State Smart Growth Principles Act (S.8612, A.7335a), passed both the Assembly and the Senate. The bill "directed state agencies and public authorities to adopt and utilize smart growth principles." The LWVNYS sent out an action alert in support of this bill. However, Governor Paterson vetoed the bill stating that its "amorphous" definitions and weak language made it unenforceable and that the Smart Growth Cabinet was sufficient to accomplish the goals of the bill. The bill was a watered-down version of the State Smart Growth Infrastructure Policy Act introduced by Congressman Sam Hoyt (A 7335) and reintroduced (A543) in 2009. This bill defined smart growth principles and requires state agencies to base funding decisions on these principles.

In early 2009, the League officially joined Empire State Future. Empire State Future (http://www.empirestatefuture.org/) is "a coming together of many civic improvement organizations, planning groups, and individuals interested in advancing the principles of "smart growth" and turning them into reality in cities, towns and villages all across the Empire State." Empire State Future monitors the activities of the governor's Smart Growth Cabinet and smart growth initiatives throughout the state. It is currently (2009) organizing regional smart growth groups bringing together organizations within a region which support smart growth principles. A conference, cosponsored with the Department of State, titled,

"Revitalizing NY: Building a New Economy through Sustainable Development" was held in Schenectady in October 2009.

With leadership from the State, the prospects for Smart Growth and sustainable development in New York are better than they have ever been.

While neighboring states are doing something about sprawl and preserving open space (Connecticut, Massachusetts, Pennsylvania and New Jersey have all adopted new legislation since 2000), New York has lagged behind.

AGRICULTURE

The NYS League is also supporting policies that protect safe food production and distribution which includes in this session support for legislation that would eliminate the use of neonicotinoid pesticides (neonics) in New York State. To the fullest extent possible, the League supports regenerative agriculture and putting food to productive use with a priority to redirect edible excess food to the state's food insecure population.

ERIE/BARGE CANAL

ERIE/BARGE CANAL

Statement of Position

As announced by the State Board in 1994

The League of Women Voters of New York State supports the use of the Erie/Barge Canal for recreation purposes.

In addition, LWVNYS stresses the need for controlled economics and recreational development. Any development should maintain the aesthetic character of the canal in all its projects. Recreational development along the Canal should also balance historic preservation and public access.

The League favors the continuation of the regional planning process with full public participation to monitor and comment on the "Canal Recreationway Plan" as it evolves over time.

At convention in 1993, the delegates voted to study the Erie/Barge Canal System for concurrence with the Rochester Metro League's position statement of: "Support of reconditioning of the New York State Erie/Barge Canal System and its development for recreational uses."

Local Leagues responses, and adoption by the State Board enabled us to support the Recreationway Plan adopted in 1995. Members will continue to monitor its development and implementation. This has the potential to become the longest linear park on the east coast, and a historic asset for the public.

GREAT LAKES ECOSYSTEM

In September of 2011, the Michigan League of Women Voters contacted LWVNYS, hoping to have New York and other states in the Great Lakes area adopt this position by concurrence. Council in 2012 agreed to put the question to local leagues. All local leagues who responded agreed to concur with the position and the geographic distribution requirements for concurrence were met. Accordingly, the state Board approved the following position in March 2013.

GREAT LAKES ECOSYSTEM

Statement of Position

As announced by the State Board in 2013

The League of Women Voters of New York supports preserving and enhancing the environmental integrity and quality of the Great Lakes-St. Lawrence River Ecosystem.

We support the attainment and maintenance of high water quality standards throughout the Great Lakes Basin, with emphasis on water pollution prevention. Water conservation should be a high priority of all governments in the Basin.

I. Protective Measures

To achieve protection and improvement of this valuable, international resource, the League of Women Voters of New York supports efforts to:

- Limit uses of "fragile," historical, cultural and scenic shoreline areas.
- Preserve wild and pristine areas within the watershed, with no new development in these special habitats without adherence to strict criteria as prescribed by federal, state, or local governments.
- Provide for appropriate recreational opportunities in and public access to sensitive areas without destruction or harm to the ecosystem.
- Protect the quality of the air and waters of the ecosystem by strict adherence to agricultural, industrial, residential, environmental, and commercial zoning regulations that prohibit the introduction of toxic or polluting discharges or detrimental land use techniques within the Basin.
- Protect the remaining dune formations. Enforce strict regulations of sand dune mining or development on the dunes.
- Strengthen upstream land management to eliminate sources of siltation and pollution.
- Control the invasion and spread of non-native aquatic and terrestrial nuisance species.

II. Threats to the Ecosystem

The League of Women Voters of New York opposes the following activities as they can lead to the degradation of the special natural resources of the Great Lakes Ecosystem:

- Inefficient or excessive water uses. Proposals for new or increased withdrawals within the Basin, e.g. for agricultural or municipal uses, should be carefully evaluated before being permitted. Withdrawals should be regularly monitored for potential or actual damage to the ecosystem.
- Destruction of marshes and other wetlands throughout the watershed. Mitigation should be accepted only as a last resort. Mitigation proposals should be rigorously evaluated and projects should be strictly monitored to assure no net loss to the ecosystem.
- New or increased diversions or transfers by any means of Great Lakes waters and adjacent groundwaters to a place outside the Basin. Projects already in place should be carefully monitored and restricted if there is evidence of damage to the ecosystem.
- Dredging and filling of river inlets, harbors, lakes or wetlands except for tightly-controlled, non-degrading and non-repetitive activities.
- Discharge to air or water of toxic pollutants and other material from industrial, agricultural, residential or commercial operations that may damage the ecosystem in violation of laws and ordinances.

GREAT LAKES ECOSYSTEM

Statement of Position

As announced by the State Board in 2013 (continued)

III. Public Participation

- The League of Women Voters of New York supports informed and responsible action on behalf of the preservation of the Great Lakes Ecosystem. Relevant information should be readily available to the public. Opportunities for public input should be timely, accessible, convenient and well-advertised.

IV. Role of Government

The League of Women Voters of New York supports:

- Coordination of functions among various governmental agencies charged with protecting the Great Lakes and elimination of unnecessary overlap.
- Use of area-wide coordinated management plans and techniques in the solving of Great Lakes Ecosystem problems.
- Participation by all affected governments in the Basin in review and decision-making on Great Lakes agreements and projects, facilitated in open meetings and hearings.
- Strengthening of existing mechanisms for intergovernmental discussions and decision-making.
- Separation of responsibility for submitting recommendations for governmental projects from issuing permits for such projects.
- Monitoring and enforcement of treaties, ordinances, laws and master plans.

V. Research Priorities

The League of Women Voters of New York believes that research on Great Lakes issues should focus on:

- Effective, non-toxic control and removal of invasive aquatic and terrestrial species.
- Restoration of health to the overall resource.
- Survival of native aquatic and terrestrial species and their nutrient sources.
- Continual testing of Great Lakes water quality for impact from the following: pesticides and fertilizers, resistant bacteria, persistent pharmaceuticals and other chemicals.
- Evaluation of water accountability systems, groundwater monitoring and water use planning and conservation efforts throughout the Basin.

INTER-LEAGUE GROUPS

LEAGUE OF WOMEN VOTERS LAKE ERIE BASIN COMMITTEE (LEBC)

LWVNYS is a member of the LEBC, an inter-league organization that represents and works with state and local Leagues in Michigan, Ohio, Pennsylvania, and New York on matters relating to the Great Lakes, in particular to Lake Erie. The purpose of the LEBC is:

To coordinate the activities of the local Leagues of Women Voters in the Lake Erie Basin so that by study, agreement and action in a concerted manner they may have the greatest possible effect on the wise use of the basin's water resources.

POSITION STATEMENT

The goals of the League of Women Voters Lake Erie Basin Committee are:

- To preserve and restore Lake Erie and its tributaries through pollution control, abatement and prevention;
- To improve planning and management of water and related land resources; and
- To achieve the objectives of the 1978 United States-Canada Great Lakes Water Quality Agreement.

Lake Erie Basin Committee positions by consensus are:

Position on Water Resources and Water Quality

1. Support of public understanding and participation in decision making as essential elements of responsible and responsive management of our natural resources.
2. Support of potable, swimmable, fishable domestic water supply as highest priority use of Lake Erie's water.
    a. Improved municipal and industrial waste treatment; treatment of all water discharged into the lake from municipal and industrial sources; monitoring water quality; adequate training for operating personnel.
    b. Control of run-off from community development, agriculture and highway use.
    c. Prohibition of solid waste disposal in Lake Erie or tributaries.
3. Support of improved coordination and regional cooperation between the United States and Canada. Planning and administration along watershed lines and across political boundaries. Modernization and enforcement of legislation and regulations.
4. Support of emphasis on prevention of water pollution from all sources: air, land use, agricultural, dredging, and nuclear and hazardous materials and wastes.
5. Support of education, recognizing that all environmental problems are inter-related, that conservation is an environmental principle and that many jurisdictions are involved — international, national, state and local.
6. Support of adequate financing for pollution abatement, including incentives to governments and industries.

The natural resources position of the League of Women Voters of the United States calls for promotion of an environment beneficial to life through the protection and wise management of natural resources in the public interest by recognizing the interrelationships of air quality, energy, land use, waste management and water resources.

Position on Phosphate Detergent Ban

1. Support of a ban on phosphorus in home use detergents, for the following reasons:
    a. Excessive phosphorus loading is a major factor in eutrophication of Lake Erie.
    b. Nearly all the phosphorus in detergents is biologically available. Addition for clarification: Too great a loading of nutrients into a natural water system can affect all the biota in the system. Increased nutrients result in increased growth of plants, creating dense shade, causing death of vegetation. Additional nutrients will then be released from decomposition of dying plants, encouraging increased growth of algae.
    c. Costs of phosphorus removal at municipal treatment plants are high.
    d. Reduction in the amount of sludge improves the treatment process in terms of more efficient settling, sludge disposal, and energy conservation.
    e. Nonphosphate detergents are widely available to the public at comparable cost.

Position on Drilling for Gas and/or Oil in Lake Erie

1. Support of a ban on drilling for gas and oil in Lake Erie for the following reasons:
    a. Lake Erie's use for drinking water supply must have priority over all other uses.
    b. Possible economic benefits are offset by inescapable risks of further degradation of water quality in the lake.
    c. Resolving our nation's energy problem must begin with elimination of waste and over-consumption, more efficient utilization of fuels currently being produced and in the safe, orderly development of alternate energy sources, particularly wind and sun.
    d. Lake Erie oil and gas reserves ought to be the very last such reserves to be developed.

Nuclear Issues - Power Plants and Radioactive Waste

The Lake Erie Basin Committee will follow the LWVUS guidelines in memorandum sent to all Leagues in the United States dated April 1, 1980.

INTERBASIN TRANSFER OF WATER

Interstate and interbasin transfers of water have been made in the past to serve municipalities, industries, energy development, and agriculture. However, approval of those transfers was based on less complete information about their effects on aquatic ecosystems than is now available. It is inevitable that requests for such transfers will be made in the future and will require carefully considered responses.

However, construction costs of large-scale water transfers are high and economic losses in the basin of origin may also be high; environmental costs of water transfers may include quantitative and qualitative changes in lake levels, wetlands, and related fisheries and wildlife, diminished aquifer recharge, and reduced stream flows; lowered water tables may affect ground water quality and cause land subsidence.

Therefore, any diversion plan must include an understanding of the fragility and the incomplete knowledge of the ecologic, economic, and social nature of the area of origin, the area through which the water must pass, and the receiving area; must contain methods for reviewing and adapting the plan to protect the affected areas during all stages of development, operation, termination, and post-termination of the interbasin transfer.

As we look to the future, water transfer decisions will need to incorporate the high costs of moving water, the limited availability of unallocated water, and impacts on the affected ecosystems.

Criteria for evaluating both the decision-making process and the suitability of a proposed interbasin transfer project should include:

1. Ample and effective opportunities for informed public participation in the formulation and analysis of proposed projects;
2. Evaluation of all economic, social, and environmental impacts in the basin of origin, the receiving area, and any area through which the diversion must pass, so that decision makers and the public have adequate information on which to base their conclusions;
3. Examination of all short- and long-term economic costs including, but not limited to, construction, delivery, operation, maintenance, and market interest rate;
4. Examination of alternatives including, but not limited to, supply options, water conservation, water pricing, and reclamation;
5. Participation and review by all affected governments;
6. Accord with international treaties;
6. Procedures for resolution of intergovernmental conflicts;
7. Responsibility for funding is to be borne primarily by the user with no federal subsidy, loan guarantees or use of the borrowing authority of the federal government unless the proposal is determined by all levels of League to be in the national interest;
8. An enforceable intergovernmental agreement with supervision separate from implementation and with assurances that any mitigation offered to alleviate any adverse impacts be financed; As the waters of the Great Lakes basin are interconnected, the present and future condition of the Great Lakes' ecosystem should be a primary consideration when weighing the water needs of other areas. The Lake Erie Basin Committee recommends that:
9. Water conservation should be a goal of all concerned governments in the Great Lakes Region;
10. All concerned governments in the Great Lakes region should have water accounting systems and should adopt water use plans as a basis for prudent management of the Great Lakes;
11. Canadian interests must be considered in Great Lakes resource decision-making. At a minimum, existing mechanisms for these international discussions, such as the International Joint Commission, and ad hoc technical task forces should be strengthened;
12. Because the Great Lakes are international, future investment and development in the region should include cooperative United States-Canadian management of the water resource;
13. Since the Great Lakes' waters are currently used for multiple and competing purposes, any proposals for additional diversion decisions must take into account the potential impact on ecological, economic, aesthetic, navigational, energy generation, national security, and general welfare values.

SOCIAL POLICY

State action on social policy issues is primarily carried out by LWVNYS under LWVUS social policy positions. Under this broad position, there are specific positions on childcare, early intervention for children at risk, equality of opportunity, healthcare, meeting basic human needs, urban policy, fiscal policy, gun control, the death penalty, and violence prevention. **(LWVUS *Impact on Issues, 2022-2024*, pp. 118).** However, LWVNYS has developed its own positions on **Housing** (in this section), the **Death Penalty** (under **Judicial**) and **Pay Equity, Domestic Violence** as noted below, as well as its own positions under **State Finances. Healthcare** is a separate portfolio for LWVNYS and information regarding state League action appears under **Healthcare** in this publication.

CHILD CARE

Support efforts to expand the supply of affordable, quality childcare for all who need it. **(LWVUS *Impact on Issues, 2022-2024*, p. 151)**

The history of recent LWVNYS advocacy in this area appears under **State Finances** in this publication.

Past League Activity

1989-1994

During the period 1989-1994, a simultaneous tax reduction and budget shortfall adversely affected a range of needed services. The LWVNYS therefore was cautious about lobbying for childcare services in preference to other needed state programs. In 1991, the state League board decided on a moratorium on lobbying program dollars for all fiscal legislative issues. (Each year until the moratorium, the League had supported expanding the funding and framework of childcare centers.) However, with the introduction of the 1995-1996 Executive budget, Governor Pataki included a four-year tax cut of 25%. These circumstances led the state Board to lift the moratorium on League legislative lobbying concerning social service funding. The League has continued support for legislation that would give tax benefits to corporations that provide day care services to their employees, and increase appropriations for good developmental day care for children of low-income working parents.

1988-1989

In 1988 and 1989, the League worked to provide salary enhancements to child care workers and to increase funding for childcare resource and referral agencies across New York State. Governor Pataki's 1995-96 Executive budget proposal deleted all funding for childcare resource and referral agencies. However, the legislature restored $500,000 for this valuable service. In 1996-97, League continued its effort to expand the supply of affordable quality childcare for all who need it. In 1996-97, the push for employment-based welfare reform provided an opportunity for childcare advocates to expand and improve childcare for all NYS parents. The League joined 30 other organizations in support of the NYS Child Care Coordinating Council's "CHILD CARE WORKS . . ." campaign. The campaign's five-point plan

in brief was to: keep child care affordable; maintain health safety standards; support quality child care; expand the supply of child care; and increase funding for child care resources and referral services that will help parents make informed decisions regarding child care. League lobbied with other campaign members in support of these five points.

The League continued its involvement in the Child Care that Works Campaign (CCtW) and in 1998-99 the League joined with other Child-welfare advocates as part of the campaign in supporting a major legislative proposal to address the critical shortage of affordable, high quality child care/early learning programs in New York State. The total proposed cost of the CCtW proposal in State Fiscal Year 1999-2000 was to be $277 million. As a way to meet the needs of both parents and children under the CCtW proposal, investments are made in three main component areas: 1) expanded eligibility for subsidized child care, 2) a series of quality initiatives to ensure that New York's child care/early learning programs are the best possible for children, and 3) facility renovation & construction to expand supply. The members also support proposals to improve quality by investing in teacher pay and education. The League participated in conference calls and lobbying visits.

Since 1999, childcare advocacy efforts have been joined with budget advocacy for universal Pre-Kindergarten and early grade class size reduction programs. In 1996, expanded preschool education was the subject of a report by Lieutenant Governor Ross. The League supported the intent of the report. Assembly Speaker Silver has continued to advocate for funding for this program. Although the 1997-98 final budget included a $5.5 billion education plan, which would phase in over five years pre-kindergarten classes for all 4-year-olds, full-day kindergarten for all children, and smaller class sizes in the early grades, this program has never been fully implemented.

The League participates in the Pre-K Coalition (formerly called the Emergency Coalition to Save Universal Pre-K), a statewide consortium. The Pre-K Coalition continues an active annual lobbying program in Albany and throughout the State. Their advocacy materials and list of members, including the LWVNYS, are available at http://www.winningbeginningny.org/. The basic premises are that in Pre-K, children develop the cognitive, sensory-motor and social skills they need to succeed in school. The League believes that investing in children's early years lays the foundation for reading, writing, and math skills, critical to academic success and economic self-sufficiency.

Each year since the early education legislation passed in 1997, Governor Pataki has proposed less than full funding of the amount scheduled during the phase-in period. During the budget negotiations in 2003, following intense lobbying by the Pre-K Coalition, the legislature overrode vetoes by Governor Pataki and supported funding for Pre-K programs, although not at the required level to provide universal Pre-K throughout the State.

The League has participated in attempts to restore the funding cuts, and has met with varying degrees of success. The cost of providing quality programs has increased, making it more difficult to spread the program to all eligible children and to provide quality professionals, transportation, and space.

2005

By 2005, the Governor and legislature had still not implemented the multi-year phase-in. Approximately ¼ of NYS 4-year-olds attend pre-kindergarten classes. Full-day kindergarten is still not universally provided. The League continues to support the full phase-in of these programs statewide.

With the support of the newly elected governor, Eliot Spitzer the 2007-2008 state budget included full funding for universal pre-school education for all four year olds.

TRANSPORTATION

The LWVUS believes that energy-efficient and environmentally sound transportation systems should afford better access to housing and jobs and will continue to examine transportation policies in light of these goals. (LWVUS *Impact on Issues*, 2022-2024, (p. 151)

LWVNYS also relies on its **Urban Sprawl** position located in the **Natural Resources** section of this publication, which does not mention transportation explicitly, but which transportation infrastructure does affect in very direct ways.

LWVNYS encourages legislators to shape transportation decisions toward a coherent policy that supports energy efficiency and smart growth. Priorities in this area include maintenance and repair of existing transportation infrastructure, provision of capital and operating needs for transit agencies, and creation of a railroad network that provides adequate capacity for both passenger and freight systems. The League will specifically continue to monitor and support high-speed rail corridor development.

2014

In 2014, LWVNYS Transportation Specialist, Gladys Gifford, urged local leagues to raise the need for upstate funding for public transit. This was accomplished in the budget process, through a change in the formula for distributing NYS sales tax.

2016

In 2016, for the first time, the League submitted budget testimony to the Joint Committee on Transportation. The testimony was focused on increasing transportation funding for upstate highways and public transportation authorities. We addressed the need for funding to repair upstate infrastructure and roadways. Later during session, we issued a memo of support for a bill to require greater transparency from the New York State Department of Transportation. The bill would require that the NYSDOT submit Capital Plans in a timely manner and allow for public comment to be considered.

GUN CONTROL

LWVUS' Statement of Position on Gun Control, as Adopted by 1990 Convention and amended by the 1994 and 1998 conventions:

> **The League of Women Voters of the United States believes that the proliferation of semi-automatic/automatic weapons in the United States is a major health and safety threat to its citizens. The League supports strong federal measures to limit the accessibility and regulate the ownership of these weapons by private citizens. The League supports regulating firearms for consumer safety.**
>
> **The League supports licensing procedures for gun ownership by private citizens to include a waiting period for background checks, personal identity verification, gun safety education, and annual license renewal. The license fee should be adequate to bear the cost of education and verification.**
>
> **The League supports strong limitations on access to semi-automatic/automatic weapons, enforcement of strict penalties for the improper possession of and crimes committed with handguns and assault weapons, and allocation of resources to better regulate and monitor gun dealers.: (LWVUS *Impact on Issues*, 2022-2024, p. 153)**

Recent League Activity

2014

In 2014, LWVNYS issued a memo of support for "Nicholas' Bill" (A.7328 3A), which would require the safe storage of all guns not in the immediate possession or control of the gun owner, either in a safe storage depository or with a locking device, to prevent access by children and others who should not have access to them.

Two recent Supreme Court cases make it clear that the Second Amendment protects the individual's right to possess a firearm, unconnected to service in a militia, and to use the firearm for traditionally lawful purposes, such as self-defense within the home.

2013

In January 2013, in the wake of the Sandy Hook Elementary School shootings in Connecticut, the legislature passed and Governor Cuomo signed into law the New York Secure Ammunition and Firearms Enforcement Act of 2013 (NY SAFE Act, A2388/S2230). Among the NY SAFE Act provisions are universal background checks on gun purchases, increased penalties for people who use illegal guns, mandated life imprisonment without parole for anyone who murders a first responder, and an assault weapons ban. The bill was passed using a message of necessity. The League joined its good government partners in praising the public safety goal of the anti-gun violence legislation, but criticized the use of a message of necessity, pointing out that the public interest is best served when public policy making includes robust public discussion and a transparent legislative process.

Past League Activity

1991-1993

Several bills (introduced by Assemblyman Silver and Senator Volker) to increase the penalties for firearms infractions were supported by the League, passed by the 1991 legislature, and signed into law by Governor Cuomo. The League actively lobbied in support of a bill sponsored by Assemblyman Koppell and Senator Frank Padavan to restrict the ownership of certain assault weapons. This legislation passed the Assembly during the 1993 session but was not addressed in the Senate.

1994-1995

During both the 1994 and 1995 legislative sessions, the assault weapons bill, now sponsored by Assemblywoman Matusow, passed the Assembly, but was not addressed by the Senate. LWVNYS supported this legislation because passage at the state level will allow local prosecutors to enforce the restrictions in state courts. During the 1998 legislative session due primarily to the school shootings across the country there was renewed interest within the legislature to address gun safety where it pertains to children and guns. Late in the 1998 session, legislation was introduced by Assembly member Naomi Matusow that would require child safety locks on all guns sold in New York State. The League supports this legislation under the LWVUS position on violence prevention. This billed passed the Assembly but was not addressed in the state Senate.

1999

Again, in the 1999 legislative session, the League lobbied for the Matusow legislation and joined with New Yorkers Against Gun Violence in a coalition involving several groups around the issue of child safety and school violence. Following the Littleton Colorado violence and close on the heals of other school shootings across the nation the League lobbied for better restrictions of gun shows and background checks on weapons sold at gun shows and flea markets. School violence legislation passed the Assembly but was again not addressed in the state Senate.

2001-2005

The League had worked for several years in coalition with New Yorkers Against Gun Violence to pass sensible gun laws. Both houses of the legislature passed the Governor's bill and it went into effect on January 1, 2001. This comprehensive legislation will:

1. Establish criminal sanctions for possession and sale of assault weapons and large capacity ammunition feeding devices;
2. Requires that a gun locking device be provided when a rifle, shotgun or firearm is sold at retail;
3. Establishes a NYS ballistics identification databank;
4. Requires all sales at gun shows to be subject to a background check;
5. Establishes a minimum age of 21 yrs. for purchase of handguns;
6. Establishes a funded gun trafficking interdiction program;
7. Authorizes a study of the availability and effectiveness of existing technology for use of smart guns.

The League joined with the New Yorkers Against Gun Violence coalition in support of strengthening legislation to revoke firearms to individuals who have violated an order of protection which would change the standard from one "serious physical to "physical injury" which is easier to prove. The legislation did not pass during the 2001-2003 sessions. However, in December 2005 the Governor called the legislature back into special session to deal with violence against police officers. Following a three-way agreement the legislature passed legislation to increase the penalties for killing a "peace officer" to life without parole. Legislation was also passed to increase the penalties for illegal gun use.

2006-2007

During the session of 2006/2007 the Assembly again passed legislation to provide child safety locks on all handguns in New York State. This same legislation was not addressed in the Senate. Legislation was also passed in the Assembly both sessions to ban the use of a fifty-caliber machine gun, again this legislation was never addressed in the Senate.

2008

In the 2008 case of ***District of Columbia v. Heller***, the Supreme Court held that the District's gun control act, the Firearms Control Regulations Act of 1975, violated the Second Amendment insofar as it banned handgun possession in the home and required that any lawful firearm be disassembled or bound by a trigger lock while in the home. In issuing its opinion, the Court noted that the Second Amendment right was not unlimited. It does not provide a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose: For example, concealed weapons prohibitions have been upheld. The Court's opinion should not be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.

2010

In 2010, the Supreme Court extended the Second Amendment rights articulated in Heller to state attempts to ban and/or regulate guns. In ***McDonald v. Chicago***, the Court held that the right of an individual to "keep and bear arms" protected by the Second Amendment is incorporated by the Due Process Clause of the Fourteenth Amendment and applies to the states.

The League anticipates that these two Supreme Court opinions will engender additional litigation, as individuals attempt to further define both the scope of the Second Amendment right and the ability of the state to limit that right.

HUMAN TRAFFICKING

In his January 2013 State of the State, Governor Cuomo announced his 10-point Women's Equality Act (WEA), which included provisions to combat human trafficking. The League, already in support of nearly all of the other WEA measures, was eager to take a position on human trafficking. In March 2013, the state board recommended an immediate post-convention concurrence with LWV of Ohio's Human Trafficking position. 2013 Convention delegates approved asking local leagues to vote on the concurrence. In June 2013, the question was put to local leagues. All local leagues who responded agreed to concur with the position, consensus was reached, and the geographic distribution requirements for concurrence were met. Accordingly, the League adopted the following position on human trafficking in 2013.

HUMAN TRAFFICKING
Statement of Position
As announced by the State Board in 2013

Human forced labor and sex trafficking should be stopped through legislation and changes in public policy. Those who have been commercially sexually exploited or coerced into slave labor, or who are minors, should be considered as victims of human trafficking. Victims of human trafficking should be provided with services to facilitate integration into the community.

During the 2013 legislative session, LWVNY joined the NY Women's Equality Coalition to lobby for passage of Governor Cuomo's Women's Equality Agenda/Act (WEA). The WEA included provisions that would offer better protection to survivors of human trafficking, especially minors, by treating survivors as victims and increasing penalties to punish offenders by:

- Creating an affirmative defense to a prostitution charge that the individual was a trafficking victim;
- Increasing penalties across the board for human trafficking and labor trafficking;
- Creating new offenses, in increasing degrees, of aggravated patronizing a minor; and
- Creating a civil action for victims of trafficking against their perpetrators.

The League lobbied extensively for passage of the WEA, but it did not pass during the 2013 legislative session. For a complete narrative on the League's advocacy on WEA, please see the *Women's Issues* section.

RATIFICATION OF THE EQUAL RIGHTS AMENDMENT

The League of Women Voters of the United States supports equal rights for all regardless of sex. The League supports action to bring laws into compliance with the ERA: a) to eliminate or amend those laws that have the effect of discriminating on the basis of sex; b) to promote laws that support the goals of the ERA; c) to strengthen the enforcement of such existing laws. Statement of position as adopted by the 1972 Convention and expanded in 2010 (Impact on Issues 2022-2024, pg 122).

United States Constitution

Delegates to the League's national convention in May 1972 voted to support the Equal Rights Amendment (ERA) to the U. S. Constitution and to add to the national League social policy position a specific reference

to equal rights regardless of sex. Although New York and 35 other states ratified the federal amendment, the needed 38 were not gained by the June 30, 1992 deadline. **(LWVUS *Impact on Issues, 2022-2024, p. 119*)**

New York State Constitution

Recent League Activity

2023

This proposed Amendment started out being called the Equality Amendment, but as passed in a special July session in 2022 it is called the New York Equal Rights Amendment. The Equality Amendment would amend Article 1, Section 11 of the New York State Constitution The amendment would prohibit discrimination "on account of their race, color, ethnicity, national origin, disability, creed, religion, or sex including sexual orientation, gender identity, gender expression, pregnancy, pregnancy outcomes, reproductive healthcare and reproductive autonomy. It received second passage in the 23-24 legislative session and will go on the ballot for voters in 2024. The League is planning an active education campaign for the Amendment, in collaboration with New Yorkers for Equal Rights (the outgrowth of the informal coalition).

2019

LWVNY has been working in informal coalition to support an equal rights amendment for NYS that guarantees equal rights for women and other groups subject to discrimination. There is disagreement between the Governor, the Senate and the Assembly about the most appropriate wording, which is not expected to move ahead this year.

Past League Activity

1975-1984

In 1975 after playing a leading role in obtaining second passage of an Equal Rights Amendment to the state Constitution, the League and a statewide coalition unsuccessfully campaigned for voter approval in the general election. Strong nationwide opposition succeeded in defeating it. In 1984, Governor Mario Cuomo submitted an ERA to the legislature. The League was among the organizations working in support of the amendment that passed easily in the Assembly but was not considered in the Senate. A positive result of that unsuccessful effort was the emergence of a strong network of organizations that has continued to meet and work for issues important to women.

EDUCATION

As explained in **LWVUS *Impact on Issues***, the 1974-76 national program included the phrase "equal access to quality education," yet the LWVUS has never undertaken a process for determining a common League definition of "quality" that could serve as a basis for action nationwide. When the definition of quality is a key factor in a state or local community, a local or state League must conduct its own study rather than relying on the LWVUS position to take action. Accordingly, LWVNYS has developed positions on quality in education, which appear under **State Finances** in this publication.

The League strives to protect funds for education programs that would aid the disadvantaged. To this end, support is given to budget bills that provide money for opportunity programs, urban centers for vocational training, and pre-kindergarten programs. The League has also supported special aid to urban school districts having problems associated with poverty.

Since 1983, the League has taken a lead in the formation of and participation in the Sex Equity in Education Coalition. Since 1985, the League has actively supported legislation, which would provide equal access for all students and employees in education programs and facilities that receive state financial assistance.

EMPLOYMENT

For action on pay equity, please see **Pay Equity** under the **Social Policy** section of this publication.

Recent League Activity

2013

During the 2013 legislative session, LWVNY joined the NY Women's Equality Coalition to lobby for passage of Governor Cuomo's 10-point Women's Equality Agenda/Act (WEA). The WEA included employment related provisions that would address discrimination women face in the workplace. These WEA provisions would:

- Extend New York State's law that prohibits sexual harassment in the workplace to workplaces with fewer than four employees. (Currently, those working for employers with fewer than 4 employees cannot file a complaint with the State because small employers are currently exempt from the provisions of State law that prohibit harassment.)
- Outlaw discrimination against parents in the workplace (Current state law protects against familial status discrimination in housing and credit, but not employment.)
- Address pregnancy discrimination in the workplace by requiring employers to provide reasonable accommodation to pregnant workers

The League lobbied extensively for passage of the WEA, but it did not pass during the 2013 legislative session. For a complete narrative on the League's advocacy on WEA, please see the *Equality of Opportunity* section.

Past League Activity

1970

In the early 1970s, the national League acted to eliminate discriminatory hiring practices in state-financed or assisted construction activity. The League has worked for legislation that will assure affirmative action in state-awarded hiring contracts. (**LWVUS *Impact on Issues, 2018-2020*, pp. 67**)

In the 1970s the League also focused on the plight of migrant workers, especially the need for adequate standards of health and housing, better education and day care facilities, and prevention of punitive measures that would restrict the right of migrant workers to work for better conditions.

1981

In 1981, LWVNYS supported a constitutional amendment to increase the loan capacity of the Job Development Authority. LWVNYS support was an important factor in its subsequent acceptance by voters.

FISCAL POLICY

Although the LWVUS has adopted a federal deficit and tax policy, these apply only to fiscal policy at the national level. **(LWVUS *Impact on Issues, 2022-2024*, pp. 134)**

The LWVNYS must oppose any state bills or other actions that would call for a constitutional amendment to balance the federal budget. Subject to this exception, LWVUS fiscal policies cannot be used at the state level without separate League study and membership agreement. LWVNYS's positions on Fiscal Policy are found primarily in the **State Finances** section of this document.

WELFARE REFORM

1970-1973

LWVNYS action on welfare reform is taken under this LWVUS position. The League has worked since 1970 for a decent level of public assistance and curtailment of repressive and punitive welfare legislation in New York State. Support has been given to cost of living increases in public assistance allowances. In 1973, the League was successful in securing the restoration of a 10% cut in benefits, which had been passed during the budget crisis of 1971. In 1972 and in 1981, the League successfully lobbied for both a general increase, and an energy-related increase. In 1989 a year of state budget austerity, League successfully supported legislation to increase public assistance benefits by 15%.

1988

LWVUS opposed the Family Support Act of 1988, citing inadequate funding and mandatory participation quotas for job training programs. Concerned League activists worked at the state and local levels to shape Job Opportunities and Basic Skills (JOBS) programs to provide the best possible education and job training.

1994

In the 1994 session, legislation was introduced and passed by the legislature to expand the pilot Home Relief fingerprinting project. The League opposed this legislation based on the lack of clear evidence that this process would have the desired result—fraud prevention and cost savings. The savings noted in the two pilot projects may have been the result of deterring bona fide recipients from seeking genuinely needed assistance.

1995-1997

After the governor's proposed budget was introduced in early February 1995, the League joined with other advocacy organizations to oppose reductions in funding for programs and services vital to the welfare of children and families throughout NYS. Governor Pataki's budget proposed a dramatic change in the way child welfare services are funded by the state Department of Social Services. The 1995-96 State Budget created a block grant for Family and Children Services, both merging and cutting funding for multiple child welfare programs.

The Executive Budget for the 1996-97 Fiscal Year contained proposals for welfare reform predicated upon presumed federal action that would be employment-based, limit the time recipients could receive benefits, and essentially hand over welfare to the states. The League monitored this effort to reform welfare and urged the governor, and the leadership in the Senate and the Assembly to make this reform more than symbolic politics. Support was given for reform that would prevent or reduce poverty and promote sustained self-sufficiency for individuals and families. When the 1996 legislative session ended in early July the outcome of federal reform was uncertain and ideological differences between the Assembly and the governor prevented a bipartisan compromise on welfare reform. In the final budget; the proposed time limits, benefit cuts, block grants to local governments, and earnings disregard failed to be adopted.

In August 1996 President Clinton signed The Personal Responsibility Act of 1996, ending an era when entitlement to cash assistance was assumed and the oversight of the welfare system was carried out by the federal government. All states were faced with developing welfare reform designed to implement the

new federal requirements. The federal reform requires that 50% of all adults in single parent families and 90% of adults in two parent families will have to fulfill the work requirements by 2002. In November, the governor announced his reform proposal: New York Works. In an effort to prevent the negative effects this reform would have on the local level, local Leagues were urged to schedule appointments with their Department of Social Services Commissioners to discuss reform and seek answers to specific questions. This provided the information necessary for lobbying based on the local effects of welfare reform.

The state League along with six other organizations released a joint position statement addressing the following pivotal provisions in the reform debate: expansion of alternative sources of income support such as child support and the state earned income tax credit; child care; transitional benefits including health care coverage; follow-up case management and other support services that help maintain someone in employment; and workable models for providing sufficient funding for training and transportation needs. In addition to these provisions, we supported expansion of the Child Assistance Program (CAP) to all counties with the local share of the administrative costs to be borne by the state and increased funding for preventive family planning services. The League opposed any reduction in cash benefits, a cashless Safety Net Program (vouchers), and allowing counties the option of accepting their funds in the form of a block grant.

2000-2007

During the 2000 through 2007 legislative sessions, the League has supported and will continue to support funding for childcare and Temporary Assistance for Needy Families (TANF) in the New York State budget.

RURAL CAUCUS COMMITTEE

Recent League Activity

2020-2023

The League of Women Voters New York State Rural Caucus (NYSRC) was formed in the spring of 2020 at the instigation of the St Lawrence County MAL Unit, and in December of 2022 was made an Issue Committee. Our original idea was to create a space where local Leagues in rural areas, or in counties that include large rural areas as well as more urban ones, could share their experiences of doing League work in rural communities. We have succeeded in doing that, and a good deal more.

The NYSRC currently includes members of fourteen local Leagues, representing nineteen counties around the state. Commonly, most League interactions are between the "vertical" levels of the organization, but our bi-monthly zoom meetings have provided a welcome opportunity to connect "horizontally" with our peers around the state to share ideas, information, and encouragement. Since we have had an NYSRC member on the LWVNYS Board for the past two years, and two LWVNYS Board Presidents have regularly attended our meetings, the Caucus has also helped to raise awareness of rural affairs at the state League level. For the first time Rural issues are mentioned in the 2023 editions of the LWNYS Legislative Agenda brochure and Pre-Budget Advocacy Packet.

Caucus members have been sharing information and experience concerning the following rural problems:

- How can county government help close the rural "digital divide" by providing universal—and affordable-- access to high-speed broadband service? What government funds have become available as a result of the Covid pandemic, and how can they be accessed? How can public awareness accelerate the process?

- How to address the crisis in rural health care? Rural ambulance and emergency services are closing down due to the shortage of funds and the lack of volunteers; fiscally driven "consolidation" has created "maternity deserts" by eliminating maternity wards at many rural hospitals. How can we draw attention to this crisis? How can we publicize and support the good work being done in rural areas by Community Health Centers and similar health care providers?
- The endemic shortage of adequate child care continues to hobble economic activity in persistently poor areas, and it has been exacerbated by the loss of home-based providers during the pandemic. This problem demands greater public awareness. It affects the overall economy of rural areas, but it risks being overlooked or misunderstood by economically comfortable taxpayers. It therefore tends to be neglected by local politicians.
- We all recognize the imperative of replacing fossil fuels with solar energy and wind power. Economic logic dictates that large projects, generating over 25 megawatts, be sited in under-populated areas. These industrial scale projects, however, raise both environmental and financial issues for small towns. The impact of this necessary transition on rural communities needs to be taken into consideration, both in the interest of fairness and to minimize local opposition. Broad public awareness and civil discussion of the issues is especially important in this realm, since solar projects are under state regulatory jurisdiction rather than local laws: in other words, Home Rule does not apply to industrial scale solar power.

Finally, the NYSRC has already had a modest national impact. Rural Leagues in Texas have formed a Rural Caucus for that state after learning of the NYSRC. Caucus members worked with League members in other states to form a fledgling National Rural Affairs Caucus (RAC). We began with a survey of League members in thirty states to determine what they felt were the most important issues facing their rural areas.

One of the top vote-getters was affordable broadband access. The Digital Equity Concurrence that was passed at the LWVUS Convention in 2023 was a direct result of NYSRC members working for months with League members from CT, NM, MA, and VT to craft, promote and present the Concurrence.

EQUALITY OF OPPORTUNITY

The League of Women Voters of the United States believes that the federal government shares with other levels of government the responsibility to provide equality of opportunity for education, employment and housing for all persons in the United States regardless of their race, color, gender, religion, national origin, age, sexual orientation or disability. (LWVUS *Impact on Issues, 2022-2024*, pp. 122).

Recent League Activity

2022

New York State Equal Rights Amendment

In 2022, the League worked on passing a comprehensive equal rights constitutional amendment called the New York Equal Rights Amendment, which passed in a special session in July. The NYSERA would amend Article 1, Section 11 of the New York State Constitution. The amendment would prohibit discrimination "on account of their race, color, ethnicity, national origin, disability, creed, religion, or sex including sexual orientation, gender identity, gender expression, pregnancy, pregnancy outcomes, reproductive healthcare and reproductive autonomy." If passed again in the 23-24 legislative session it will then go to the voters in 2024. The League is planning an active education campaign for the Amendment.

The week of January 9th, 2023 the State League launched the statewide LWV ERA Taskforce to work on second passage of the New York State Equal Rights Amendment. We have representation from 30 Leagues and 36 members. In addition, LWVNY's Deputy Director and Issue Specialist serve on a state-wide ERA advocacy task force. We expect to add more delegates as we get closer to a vote in 2024. The bill passed for a second time in both the Senate and Assembly on January 24th—two days after the 50th anniversary of Roe v. Wade. The next step in the process is for the proposed amendment to go on the 2024 ballot.

The taskforce will now launch a statewide voter education campaign before voters have a chance to vote on the bill in November of 2024. If voters approve the amendment it would prohibit discrimination against groups who have been historically targeted, including those with disabilities, LGBTQI+ individuals, immigrants, women, and pregnant people. It would also codify abortion access in our state constitution. Although this amendment will not protect these groups from national legislation or federal court rulings denying their protection, it will protect those groups in NYS and provide a clear legal basis for NYS action.

2019

After many years of advocacy, in 2019, the League was able to successfully pass the Reproductive Health Act and the Comprehensive Contraceptive Care Act which codifies Roe v. Wade into state law. The Reproductive Health Act updated New York's laws by: (1) Moving abortion out of criminal code and into health code, so that providers are not afraid of providing services; (2) Ensuring that the health of the mother, not just her life, is a factor for access to abortion; (3) Protecting a woman from being forced to carry a non-viable pregnancy to term; (4) Updating the list of medical providers that can provide abortions so access is not diminished because of a lack of providers.

The Comprehensive Contraceptive Care Act expands birth control access by requiring that insurance companies in New York State cover a wide range of contraception; including all FDA approved contraceptive drugs, devices, and products; and allow women to access 12 months of contraception at one time (instead of the 1-3 month allotments usually dispensed).

The League also worked in coalition to support the creation and funding of a Maternal Morality Review Board in the budget. This board was created to investigate the disparity in pregnancy outcomes for women of color and rural women as compared with the general population.

In 2019, the legislature passed legislation to prohibit discrimination based on gender identity or expression and adds transgender New Yorkers to those protected by the state's Hate Crimes Law. The law commonly known as GENDA (Gender Expression Non-Discrimination Act) was supported by the League in prior legislative sessions. The bill will ensure basic protections for all New Yorkers regardless of their gender or sexual orientation.

2018

In 2018, the League continued its fight to codify Roe v. Wade in New York State law. During the 2018-2019 budget negotiations, the Governor invited the League and several other women's organizations to participate in a round table discussion about potential reforms to women's issues that could be included in his executive budget. These reforms included the Reproductive Health Act, Comprehensive Contraceptive Coverage Act, and a ban on employers from asking employee candidates about their previous salary history. In the end, none of these reforms were included in the final budget.

After the budget, the League continued to advocate for these reforms. Unfortunately, all of the above mentioned reforms passed in the Assembly but failed to pass in the Senate.

2017

Women's Marches, Reproductive Health Act, and Comprehensive Contraceptive Coverage Act

2017 started off with a monumental act of unity as men and women from all over the country marched to show their commitment to ensuring all people would be protected from potential threats at the federal level. Women's Marches occurred throughout New York State and our members joined marches in New York City, Albany, Glens Falls, Seneca Falls, Sag Harbor, Hudson, Ithaca, Utica, Rochester, and Syracuse. Some members even made the long journey to march in Washington DC. The passion and enthusiasm of our member carried on long after the marches were through.

At the beginning of the legislative session we joined Planned Parenthood for their annual lobby day. The event drew in more than 1,000 attendees who were all ready to fight to pass the Reproductive Health Act (RHA) and the Comprehensive Contraceptive Coverage Act (CCCA). The CCCA would mandate that insurers cover all forms of birth control, not just those they choose to cover. It would also allow 12 months of birth control to be dispensed at one time. The law would ensure all women and men have adequate contraception that must be paid for by their insurer. The RHA would codify Roe v. Wade in New York so that if federal laws were to change, New York women would still be guaranteed their right to choose.

The two bills passed in the Assembly early in the session. We worked with Planned Parenthood and NYCLU on moving these bills in the Senate for the remainder of the six months. We met with members of the Senate throughout the session, nearly every day, urging them to bring these bills to the floor for a vote. We worked with NYCLU and Planned Parenthood collecting petition signatures to have the two bills taken up in the Senate. Our groups worked up until the very last day of session on lobbying Senators. During the last week of session, Planned Parenthood organized a visual demonstration by dressing their supporters as handmaidens from the popular novel: "A Handmaid's Tale". The handmaidens stood outside the Senate Chamber with signs and flyers urging Senators to vote on the bills. Unfortunately, the two bills were never taken up.

The New York State Department of Financial Services did change their own regulations to require private insurance coverage for medically necessary abortions without a co-payment; including a narrow religious exemption that reflects the current religious exemption in the Women's Health and Wellness Act, and allowing for dispensing of 12 months of contraception. The regulations would also require coverage of contraception without a co-payment of one type of contraception in each of the 18 FDA categories (Federal ACA standard). These regulations mirror the language within the CCCA and we were pleased to see DFS taking proactive steps.

In addition to women's health care, the League focused on new regulations for Paid Family Leave Insurance. We sent several letters to the Workers Compensations Board and Department of Financial Services with recommendations of how the program should be apportioned. We were pleased with the final regulations that were passed. The program will begin in 2018, private sector workers can receive 8 weeks of leave at 50% of their average weekly wage up to a cap. Once fully phased in in 2021, it will provide workers with 12 weeks of leave at 2/3rds of their own wage up to a cap. Paid Family Leave is an insurance program paid for by a 0.126% per week payroll deduction from employees up to a maximum of $1.65 per week for those with higher incomes. The insurance program pays you while you're out on leave, not your employer, and your health insurance continues with the same arrangement you've had with your employer.

2016-2017

Paid Family Leave Insurance

In 2016 the legislature finally passed Paid Family Leave Insurance in New York State. After years of lobbying for this issue, the League was very happy to finally see the bill included in the 2016-2017 budget. The legislation would allow for up to 12 weeks of paid leave in the event of a pregnancy, sick family member, or to relieve pressure when a family member is called to military service. The law will be slowly implemented beginning in 2018.

Contraceptive Coverage Act

The League also worked with Family Planning Advocates on lobbying for the Contraceptive Coverage Act. The bill would require insurance providers in New York State to cover all forms of contraceptives including vasectomies, hormone implants, birth control pills and IUDs. The bill would also allow doctors to issue 12 months of birth control rather than 1 to 3 month allotments. The bill passed in the Assembly but was not considered in the Senate.

2013-2015

Women's Equality Act

In his January 2013 State of the State, Governor Cuomo introduced his 10-point Women's Equality Agenda, later the Women's Equality Act (WEA), which included a provision to address discrimination in housing based on domestic victim status and on source of income, discrimination closing tied to gender. The WEA would:

- Prohibit building owners, managers and leasing agents from refusing to lease or sell, or evicting a tenant because of their status as a domestic violence victim
- Create a task force to study the impact of discrimination based on source of income in housing, in particular discrimination against tenants receiving Section 8 rental assistance, with focus on any sex-based impact

In his January 2013 State of the State, Governor Cuomo introduced his 10-point Women's Equality Agenda, later the Women's Equality Act (WEA), which aimed to break down barriers and promote fairness and equity for women across various aspects of their lives, including health, work, and safety. For details of the specific provisions included in the 10-point plan, please see the *Public Policy on Reproductive Choices*, *Employment*, *Equality of Opportunity*, *Human Trafficking*, *Pay Equity*, and *Domestic Violence* sections.

Following the State of the State, LWVNY joined the NY Women's Equality Coalition to lobby for passage of Governor Cuomo's 10-point Women's Equality Agenda/Act (WEA). The League lobbied extensively for passage of the WEA. League members throughout the state participated in rallies and press conferences and visited, called, and wrote lawmakers. On Thursday, June 20, the Assembly passed the entire 10-point WEA (A8070). In the Senate, the Independent Democratic Conference (IDC)/Republican ruling coalition refused to bring the full WEA, which included a reproductive health provision that would codify Roe v. Wade into state law, to the Senate floor for a vote, instead opting to break down the provisions into separate bills. On Friday, June 21, Senate Co-Leader and IDC conference leader, Senator Klein, introduced the reproductive health provision as a hostile amendment to S4174, a bill about medical records. After a debate about abortion, all Republican Senators and two Democrats voted that the amendment was not germane to the bill (32-30). Following the hostile amendment maneuver, the remaining nine points of the Women's Equality Act were each introduced in the Senate as separate bills, debated, and passed. The Assembly refused to consider the separate bills before adjourning on Friday

evening. Consequently, the WEA was not passed during the regular 2013 legislative session because there was no "same as" bill in either house.

LWVNYS and 47 of our local Leagues remained signed on as supporters of the Women's Equality Act in the 2014 legislative session. Once again, the Assembly has passed the entire WEA. We called on the Senate to pass the Assembly's omnibus bill (A.8070). The League, with its coalition partners, continued to advocate for passage of the entire WEA in the 2014 session, but to no avail. The session concluded with no progress on these issues.

On the first day of the 2015 legislative session the Senate passed 9 of the separate bills of the WEA, omitting the Reproductive Services Act (RSA). The Assembly agreed to break the Women's Equality Act into its component pieces of legislation, enabling the passage of 8 of the bills the Senate had approved (the order of protection piece had passed in 2014 in another bill).

The League worked with the Women's Equality Coalition to push for passage of the full WEA package but the Senate refused to pass the RSA, claiming it would increase the number of women seeking abortions. That bill actually ensures our state laws regulating abortion comply with the U.S. Constitution (as interpreted in Roe v. Wade) and will likely be reintroduced next legislative session.

Past League Activity

1994

Private Clubs

The League actively supported the "Private Clubs" Bill to prohibit discrimination in evaluation application for membership in places of public accommodation, resorts, or amusement (except in distinctly private clubs). In the 1994 legislative session, this legislation passed both houses and was signed into law.

2002

Sexual Orientation Non-Discrimination Act

The LWVNYS lobbied for passage of SONDA, the Sexual Orientation Non-Discrimination Act. It was successful in 2002, when discrimination in housing, employment, and public accommodation on the basis of sexual orientation became a prohibited activity under the New York State Human Rights Law.

2010-2011

Marriage Equality

At the LWVUS Convention in June, 2010, this national position was amended to include marriage equality, the ability of two people of the same sex to marry.

When in 2011 Governor Cuomo came out in favor of legislation granting individuals of the same sex the ability to enter into civil marriages in New York State, the League actively worked to help pass the Marriage Equality Act. Individual members of the legislature were identified as important to the passage of the legislation, and members of the League, equipped with talking points provided by state, lobbied those legislators in an effort to win their support. The New York legislation passed in 2011.

Gender Expression Nondiscrimination Act (GENDA)

LWVNYS continues to work for passage of the Gender Expression Nondiscrimination Act (GENDA). This act would prohibit discrimination in housing, education, and public accommodation based on gender expression or identification and add crimes against transgender individuals to a list of hate crimes. Although the positions of both the state and national Leagues interpret gender equality to prohibit discrimination based on gender identity or expression, SONDA (see below) did not so define gender. Consequently, discrimination in housing, employment, and public accommodation (like restaurants and movies) based on gender identity or expression is still legal in New York State, except where prohibited under local law, as is the case in many jurisdictions.

LWVNY continued to advocate for passage of the Gender Expression Nondiscrimination Act (GENDA) throughout these years and celebrated its passage in January of 2019. This act prohibits discrimination in housing, education, and public accommodation based on gender expression or identification and adds crimes against transgender individuals to a list of hate crimes.

PAY EQUITY

The League has long supported the passage of legislation that would implement a state policy of compensating employees equally for work of comparable value. Job titles disproportionately held by women and people of color have traditionally been undervalued and paid less than comparable job titles with the same level of skill and responsibility as judged by gender neutral job evaluation systems commonly used by employers.

Recent League Activity

2022-2023

Pay Transparency

Advocating as a part of the PowHer coalition, LWVNY issued a MOS supporting legislation requiring employers to publish the minimum – maximum compensation range for external and internal job openings. (Not knowing what the salary range for a particular position is puts applicants – particularly women – at a disadvantage as they negotiate a proposed salary. This is compounded for women of color, women with disabilities, LGTBQ+ individuals and mothers). This legislation was passed in 2022, but vetoed by Governor Hochul. PowHer is in conversation with the Department of Labor to help them design a section of an existing report to capture compensation by sex and race. An amended version was passed in 2023, and the League sent comments on the proposed regulations for implementation of the new law.

Raise the Wage

LWVNY signed on to a letter in support of Raise the Wage which would increase the minimum wage and then have it be indexed to inflation, based on our support for a living wage and its relationship to the minimum wage. The signed letter can be found here.

Fair Pay for Homecare

In 2023 LWVNY signed on to a letter in support of Fair Pay for Homecare and also in the comments we submitted on the One-House Budgets we communicated our support for continuing the $3.00 which

homecare workers won in 2022, and having their pay rate be 150% of the minimum wage. We also called for protections to guarantee that these increased wages get passed down to the workers and agencies, and not just be absorbed by the insurance companies.

2021 -2022

We worked with PowHer, our coalition partner for gender justice, to craft and then support a Salary Range Transparency Bill A6529 (Joyner)/S5598b (Ramos). The Salary Range Transparency bill requires employers to disclose compensation or range of compensation to applicants and employees upon issuing an employment opportunity for internal or public viewing or upon employee request. The bill passed through the Labor and Codes committees early in 2022. The League issued a MOS to all Assembly Members on the last day of February 2022. This legislation passed both house of the legislature in 2022 and is awaiting the Governor's signature.

EMPLOYMENT IN NEW YORK STATE

Statement of Position

As announced by the State Board, November 1982

The League of Women Voters of New York State supports state policies for both public and private sectors of employment to ensure equal pay for equal work and equally evaluated jobs, to encourage affirmative action in hiring and promotion practices and to eliminate sexual harassment.

To achieve equal access and opportunity of employment for women throughout New York State, the League believes it is necessary to educate the public about existing laws and procedures, to improve the enforcement of laws and to fund these efforts adequately.

The League of Women Voters of New York State supports state legislation and regulations that will establish greater equity in wage compensation for comparable jobs. Comparable worth of jobs should be determined by gender-neutral criteria such as responsibility, effort, skill, education and experience required, and the working conditions.

2019 – 2020

Since 1982 the League has supported the passage of legislation that would implement a state policy of compensating employees equally for work of comparable value. We didn't make any progress in the Senate until 2018 when A.2549/S.3262 – calling for a study of civil service wage disparities related to job titles segregated by gender, race or national origin, when using a gender neutral point system to determine comparable worth – was passed in both houses and signed into law on 12/7/18. For the 2019-20 legislative session LWVNY issued a MOS for A. 0762 –Rosenthal/ S. 0838-Montgomery – which would establish comparable worth for all public employees, but we also pointed out to Assembly staff that it didn't make a lot of sense to pass this bill until the study required by A.2549 was completed. Now that the Senate is likely to pass the Assembly's pay equity bills, the Assembly is giving the wording of these bills closer scrutiny. LWVNY is working in coalition to refine the wording of the pay equity bills. For 2019 we are supporting a law banning the use of salary histories in hiring.

After several years of advocacy in 2019 the League and its coalition partner, PowHerNY was successful in passing legislation prohibiting all employers - both public and private - from asking prospective or

current employees about their salary history and compensation. The law also prohibits businesses from seeking similar information from other sources.

Paid Sick Leave was passed in this year's budget bill and will take effect at the beginning of 2021. It provides payment for absence due to personal or family member sickness (40 hours in businesses of 5-99 employees; 56 hours in businesses with 100+ employees). Businesses with fewer than 5 employees must allow up to 40 hours of unpaid sick leave. LWVNY worked in coalition with PowHer to support this legislation, in which employees earn 1 hour of sick time for every 30 hours worked. In addition emergency legislation to respond to the pandemic provides paid sick leave for many in this calendar year.

Pay Equity LWVNY sent an action alert to all members that included a toolkit for publicizing the underpayment of women's work, particularly the low wage workers on the front lines of the coronavirus pandemic.

2018

In 2018 the Governor took a special interest in passing a ban on employers asking salary history of potential employees. Early in the session, the bill passed in the Assembly and was looking like it would be brought to the floor for a vote by the Senate. On Equal Pay Day, the Governor introduced his own program bill that highlighted this reform. The Governor's proposal was shorter than the original bill and rooted in Human Rights Law rather than Labor Law. The introduction of the bill caused the issue to stall in both houses. The equal pay coalition, PowHer NY, worked hard to secure new sponsors for the program bill. Unfortunately, there was not adequate time to have the bill move through the two houses and the program bill did not pass.

2017

In 2017, the League worked with PowHer New York on pay equity issues. In 2017 we pushed to pass a bill that would ban employers from asking potential employees about their previous salary history. This legislation would ensure women are not unfairly paid a lower wage because of a previous salary. We lobbied the bill throughout the legislative session and were happy to see it pass in the Assembly.

2016

In 2016 the legislature finally passed Paid Family Leave Insurance in New York State. After years of lobbying for this issue, the League was very happy to finally see the bill included in the 2016-2017 budget. The legislation would allow for up to 12 weeks of paid leave in the event of a pregnancy, sick family member, or to relieve pressure when a family member is called to military service. The law will be slowly implemented beginning in 2018.

The League also worked with Family Planning Advocates on lobbying for the Contraceptive Coverage Act. The bill would require insurance providers in New York State to cover all forms of contraceptives including vasectomies, hormone implants, birth control pills and IUDs. The bill would also allow doctors to issue 12 months of birth control rather than 1 to 3 month allotments. The bill passed in the Assembly but was not considered in the Senate.

On the first day of the 2015 legislative session the Senate passed 9 of the separate bills of the WEA, omitting the Reproductive Services Act (RSA). The Assembly agreed to break the Women's Equality Act

into its component pieces of legislation, enabling the passage of 8 of the bills the Senate had approved (the order of protection piece had passed in 2014 in another bill).

The League worked with the Women's Equality Coalition to push for passage of the full WEA package but the Senate refused to pass the RSA, claiming it would increase the number of women seeking abortions. That bill actually ensures our state laws regulating abortion comply with the U.S. Constitution (as interpreted in Roe v. Wade) and will likely be reintroduced next legislative session.

In 2016, the League worked with PowHER NY on legislation that would force companies receiving state contracts to disclose wages for all employees. The bill titled "Equal Pay Disclosure With Respect To State Contracts" was aimed at ensuring companies receiving state funds were paying minority groups and women equal wages to their white male colleagues. The League participated in a social media campaign and signed onto a joint memo of support. The bill passed in the Assembly but was not considered by the Senate.

2015

In 2015, on the very first day of session, the Senate passed S.1 (Savino) making equal pay for equal work (for people in the same job title) more enforceable by protecting workers from retaliation if they discuss their compensation with other employees and by increasing liquidated damages to 300% and also tightening the definitions so that it is harder for employers to defend differential compensation. This bill was one of the ones negotiated by Governor Andrew Cuomo as a part of the Women's Equality Agenda. On April 27 the Assembly passed A.6075 (Titus) the bill that is the same as S.1. The governor is expected to sign this and other Women's Equality bills.

Also on April 27th the Assembly passed a package of equal pay for job titles of comparable worth pay-equity bills that would cover only employees of the state (A.0437, Rosenthal), or of all public employers (A.01574, Jaffee) or of private and public employers (The NYS Fair Pay Act A.06397, Titus) or require a study of the extent of inequity between job titles and of the cost of making corrections (A.5088, Lifton). The League issued memos of support for all of these bills but the Senate did not take up any of them.

The League was invited to participate in a Roundtable discussion about Equal Pay and Pay Equity that was organized by the Assembly Standing Committee on Labor and the Assembly Task Force on Women's Issues on April 27, 2015, the same day that the Assembly passed the package of pay equity bills. The League and other Women's Equality Coalition participants met with experts from Cornell University who shared new research on pay disparities.

The League will continue to support legislation that advances pay equity, and other issues that enable women to be equal participants in the workforce.

2014

In 2014 LWVNY issued memos of support for the three comparable worth pay equity bills, The NYS Fair Pay Act [A05958 (Heastie), S01491 (Krueger)]; A01729A (Jaffee); and A00753A (Rosenthal), S01871A (Montgomery) but these bills weren't acted on by the Legislature which saw them as conflicting with the equal pay provisions of the Women's Equality Act (which the Assembly passed in its entirety, but the Senate did not pass). The equal pay section of the Women's Equality Act would prohibit employers from terminating or retaliating against employees who share wage information, a practice that enables wage disparities to persist undetected in the private sector. This would not "Achieve Pay Equity" but would facilitate that objective in the private sector and be an important move toward ending

discrimination against traditionally female job titles that have been underpaid for centuries and will continue to be underpaid until equal pay for job titles of comparable worth legislation is in place.

Also in 2014, LWVNY concentrated on building grassroots support for fair pay by participating with other members of the Women's Equality Coalition to have localities issue Proclamations in support of Fair Pay, and to generate letters to the editor on the subject for Equal Pay Day 2014. Leagues succeeded in securing 10 Proclamations, at least 8 letters to the editor, and a great number of Facebook photo posts. (Page down to Proclamations and Photos for the details).

In addition to lobbying for the Women's Equality Agenda LWVNY and NYSPEC will continue to advocate for comparable worth legislation.

2013

In his January 2013 State of the State, Governor Cuomo introduced his Women's Equality Agenda, which included under the topic of "Achieve Pay Equity" prohibiting employers from terminating or retaliating against employees who share wage information, a practice that enables wage disparities to persist undetected." This section also indicated that current NYS law would be amended to "ensure that women receive the wages they were always entitled to, as well as provide for an additional amount of liquidated damages equal to 300% of the back wages due." Subsequently, LWVNY joined the NY Women's Equality Coalition to work for the principles included in the governor's Women's Equality Agenda (of the 10 points we have positions supporting nine of them).

On the next to the last day of the regularly scheduled Legislative session the Assembly passed A8070 (the omnibus 10 point Women's Equality Act) and the next day (since the Senate Leadership refused to introduce the omnibus bill) the Senate introduced and passed unanimously nine of the points (but not the reproductive choice piece). One of the nine separate bills was S.5872 (Savino) which includes the equal pay provisions described above. The Assembly adjourned without passing any of the individual bills, so there is no "same as" bill to be signed by the Governor.

Past League Activity

1985

Twenty-five years ago, in the spring of 1985 the League became a member of the New York State Committee for Pay Equity, which worked to further the principle of equal pay for jobs of comparable worth and to close the gap of wage discrimination. The state agreed in 1986 to a one-time-only funding pool to cover pay equity adjustment for state employees. The set-asides represented one percent of the gross payroll in 1986-87 and 1987-88.

In the absence of legislation, however, there has been no reexamination of pay equity for those in state service and no extension of pay equity to all those in the private and broader public sector including cities, counties, and school districts.

1998

Pay equity bills have consistently passed the State Assembly since 1998. The League is a key member of the New York State Pay Equity Coalition (NYSPEC), which includes Women on the Job, American Association of University Women (AAUW), National Organization for Women (NOW), New York Women, New York Women's Agenda, New York State United Teachers (NYSUT), United University Professors (UUP), United Public Service Employees Union (UPSEU), Service Employees International Union (SEIU)

and District Council 37. This coalition has played an important role in pushing for legislative passage of pay equity reform. Despite the fact that the pay equity bills are consistently passed by the Assembly these bills have been stalled in the Senate.

2003

In October of 2003, the League and its coalition partners met and decided to concentrate efforts on legislation to create the NYS Fair Pay Act. The Fair Pay Act is strongly written enforceable legislation, which, if passed, would provide equal pay for jobs of comparable worth in both the public and private sectors requiring that job titles where people of color and/or women predominate receive equal pay with comparable job titles. Job titles disproportionately held by women and people of color have traditionally been undervalued and paid less than comparable job titles with the same level of skill and responsibility as judged by job evaluation systems commonly used by employers.

.

Another important strength of the NYS Fair Pay Act which is particularly important for private sector workers is that it allows employees to voluntarily share salary information without fear of being fired or reprimanded for disclosing information about pay. *The vast majority of workers are employed in the private sector where salaries can be kept secret and employees can be fired for sharing salary information*. Without salary information, it is impossible for private sector employees to know whether they are being paid equally for equal work.

2006

In preparation for legislative advocacy in 2006, our coalition partners UUP and NYSUT passed ***resolutions*** at their Assemblies to make pay equity an important part of their lobbying package.

2007

During the 2007 legislative session, representatives of NYSPEC's member organizations secured sponsorship by the Senate of the "same as" Assembly New York State Fair Pay Act. Senator Craig Johnson a recently elected Democrat was felt to be an appropriate sponsor because of the possible Democratic takeover of the Senate in 2008. Clearly the pay equity reform effort was being stifled by the Republican Senate Majority.

2008

During the 2008 legislative session with the Republicans still holding the majority, NYSPEC held a Gloria Steinem Day for Fair Pay in the Well of the LOB on April 2nd. Gloria Steinem spoke to a very large turnout of roughly 500 people. Many bill sponsors and Democrats from the Senate spoke. A similar event was held in 2009 and 2010 on Equal Pay Day.

The scandal leading to the resignation of Gov. Eliot Spitzer on March 12, 2008 resulted in Lt. Governor David Paterson becoming Governor. With the elections of November 2008 the Democrats started the 2009 legislative session with a two-vote majority in the Senate. With the change in Senate Leadership, **the Senate Labor Committee passed The NYS Fair Pay Act on April 6th, 2009. There were no nay votes!** Then came the coup, and counter coup, and all legislative action ground to a halt.

2011

In April of 2011, the Assembly passed the package of pay equity bills as it has done every year since the turn of the century (2000). But before the bills were passed the Republican Assembly members grilled each sponsor with questions which they deemed unanswerable in an attempt to make the sponsors and the issue look foolish. In response the Assembly Democrats held a press conference so that the sponsor

of each bill could explain the issue. An outgrowth of this was that Assemblymember Rosenthal appeared on a television news program concerning pay equity.

December 12, 2011, the Assembly Standing Committees on Labor; Governmental Employees; Governmental Operations; Oversight, Analysis and Investigation; and the Assembly Task Force on Women's Issues held PUBLIC HEARING on PAY EQUITY. The PURPOSE statement for the hearing reads: "Almost 50 years after the passage of the Equal Pay Act (EPA) and Title VII of the Civil Rights Act, women and minorities continue to suffer the consequences of unequal pay. This hearing will examine wage disparities that continue to exist in New York State and discuss ways to eliminate discriminatory practices."

Seventeen testimonies were submitted from individuals and organizations such as the Cornell University Institute for Compensation Studies, the State Bar Association, Hunter College, the YWCA, the Equal Pay Coalition of NYC, the New York State United Teachers, Local 1180 of the Communication Workers of America, the Work and Family Legal Center and the Institute for Women's Policy Research. All of the testimonies spoke in favor of the pay equity reform, except the one from the Business Council. LWVNY submitted testimony as did the New York Pay Equity Coalition (NYSPEC), the Coalition that we work through on this issue.

Following the hearing NYSPEC provided technical assistance to Assembly central staff as they revised their package of pay equity bills and introduced and passed them in the 2012 session.

2012

Democratic Women Senators held a roundtable discussion of the Economic Issues facing Women in NY on May 15th, 2012. LWVNY and NYSPEC participated in the discussion, providing information about pay equity, but the discussion was broader, also addressing pregnancy and family status discrimination, reproductive health, domestic violence, human trafficking, etc.

EQUALITY FOR ALL

WOMEN AND THE LAW

The 1979 LWVNYS Convention adopted a study, Women and the Law, which focused on some of the laws in New York State that affect women. Because of the complexity of the issues, the study was divided into two parts: (1) marriage and divorce; and (2) child custody, insurance, pensions and credit.

WOMEN AND THE LAW

Statement of Position

As announced by the State Board, March 1981

The LWVNYS believes that marriage is an equal economic partnership. Marital property (property acquired during a marriage) is presumed to belong equally to each spouse. Separate property (as defined in the Equitable Distribution Law {EDL}) remains separate.

During an ongoing marriage, each partner is entitled to participate equally in decisions with regard to marital property, e.g., to spend, to bequeath, to use as a basis for credit.

Couples wishing to end their marriage should be able to divorce by mutual agreement following a waiting period. Fault grounds should be retained as an option for the blameless spouse because proof of fault on the part of one spouse may influence a more favorable settlement for the blameless spouse. This part of the League position is not applicable as fault is not a criterion considered under the EDL for marital property distribution.

In distribution of marital property at divorce, the presumption of equality should prevail. If adjustment is required, the criteria in the EDL should be used.

With regard to maintenance (alimony), the League supports measures to achieve a standard of living as nearly equal as possible for each spouse. Recognition should be given to the contribution of each spouse (as breadwinner and/or homemaker) and to loss of potential earning power by the spouse who had stayed at home during the marriage. Maintenance (alimony) should be awarded according to the criteria in the EDL.

The League supports stronger measures to achieve prompt payment of child support and/or maintenance (alimony) payments. However, neither support payments nor visitation rights should be used as enforcement measures. It should not be possible to withhold support payments because visitation has been withheld nor should the reverse be true. Children should not be used as reward or punishment in adult battles.

In laws governing intestacy (dying without a will), the League supports measures to incorporate the principle of marital property so that one-half of the marital property is recognized as belonging to the surviving spouse and therefore not part of the estate. The remainder of the estate should be divided in such a way that the surviving spouse would receive more than the one-third of the estate presently allotted by law.

DIVORCE

1990

In 1990, a major divorce reform bill was introduced that provided equal economic distribution, permanent maintenance, and no fault divorce as a cause. The League supported this legislation as it provided for the needs of women and children on a more equal basis. After much debate, this bill failed to be reported out of committee. In 1991 legislation was introduced that would offer greater financial remuneration to surviving spouses. Despite League lobbying efforts, no action was taken in the legislature.

1995

Each year since 1982, legislation to ensure equal rather than equitable distribution of marital property has been introduced in the state Assembly. Again, in the 1995 legislative session, the LWVNYS supported an equal distribution bill, which passed the Assembly but was not taken up by the Senate. Responding to 1995 LWVNYS convention delegates, support was given to legislation that would provide that attorney fees for the nonmonied spouse be awarded. Passage in the Assembly was achieved, but the bill was not taken up in the Senate. Each legislative year, passage of this legislation by the Assembly is pro forma, but there continues to be no action by the state Senate.

2006

Between the early 1990s and 2006, no legislation was introduced to deal with divorce reform. However, in 2006 the Women's Bar Association of New York State study on no-fault divorce renewed debate of this issue in the legislature. In 2007, the Assembly Judiciary Committee introduced a draft study bill on no-fault divorce. The New York State Board Association, Women's Bar Association of New York State, and several women's organizations, including the League, began informal coalition round table meetings to educate and discuss further refining no-fault divorce legislation.

2010

Following Senate passage on June 15 and Assembly passage on July 1, on August 15, 2010, Governor David Paterson signed no fault divorce into law in New York State, making it the last state to adopt no fault divorce.

CHILD SUPPORT/CUSTODY

CHILD SUPPORT/CUSTODY

Statement of Positions

As announced by the State Board, June 1981

CUSTODY OF CHILDREN

In determining the custody of minor children, the League opposes the presumption of joint custody. We believe that the best interests of the child should be the primary consideration; joint custody is, certainly, one option.

The best interests of the child should include the following considerations:

1. principal care giver—the parent who has borne the primary responsibility for caring for the child;
2. degree of interest shown in the child by each parent; and
3. preference of the child (maturity of the child is to be taken into consideration).

INSURANCE

The League of Women Voters believes that gender should be eliminated from the factors that are used to set insurance rates and benefits. The use of gender penalizes women unfairly most often, but in a few cases penalizes men. We do not object to the use of other factors, which are gender-neutral such as age, occupation, personal health and accident history, smoking, etc.

Dependent spouses who lose their insurance coverage through the loss of a wage earner by death or divorce should be able to convert the wage earner's accident and health insurance contracts to their own without increase of premium or loss of coverage.

We also believe that disability insurance should be available to homemakers at reasonable rates, so that they will receive income when they are injured and cannot perform their household duties.

PENSIONS

The League believes that gender should not be used as a criterion in establishing pension rates and benefits. We recognize there are problems with pensions that are created by different typical work patterns of men and women. Changes are needed in eligibility for pensions benefits, and consideration should be given to earlier pension eligibility and shorter vesting periods.

Also, allowance should be made for breaks in service for child-rearing, just as for military service, and accrued pension credits must be protected so that vested interest is not lost.

All pension plans should provide automatically for survivor's benefits. The worker can waive the survivor provision, but the spouse must be notified and give written acceptance of this waiver.

CREDIT

In accordance with our position which holds marriage to be an equal economic partnership with marital property belonging to each spouse, the League believes that credit should be extended to homemakers based on marital property (which includes spouse's income) as well as on a homemakers own separate property.

The items in this position statement were the second part of the Study: Women and the Law, and although titled Child Support/Custody, this is a misnomer. Child Support was included in the first part of the study position announced above (March, 1981). This position statement was announced June, 1981 and deals with Custody of Children, Insurance, Pensions and Credit.

LWVNY continues to monitor legislative and regulatory actions for opportunities to advance these positions and to prevent backward steps on goals already accomplished.

Past League History

Child Support

1998-1999

In the 1998 legislative session, the state League supported legislation sponsored by Senator Saland that established an expedited procedure for obtaining child support orders. The LWVNYS has long supported stronger measures to achieve the prompt payment of child support believing the most effective way to do this is to streamline the process. Unfortunately at the end of the 1998 legislative session, this legislation was caught in a political battle. That battle continues. The League will continue to champion this initiative.

In 1999, another measure was introduced by Governor Pataki and the Office of Child Support and Enforcement that contained the excellent provision of increasing the pass through from $50 to $100 to welfare recipients. Currently, the state government offers a $50 pass through to encourage cooperation from non-custodial parents to make child support payments when their families are on public assistance. Families on public assistance are allowed to keep the first $50 of the child support money thus increasing their monthly income. The rest of the money goes to the government to compensate for public assistance payments. The pass through encourages Mothers to identify the fathers of their children while fathers are encouraged to make payments when they directly benefit their children. Raising the pass through will increase this cooperation.

This initiative, too, was caught in a political battle between the Assembly and the governor's office.

Custody of Children

1982-1997

Since the 1982 legislative session, the League has lobbied successfully to prevent the passage of legislation that requires a presumption of joint custody in determining custody for minor children. In 1996 and 1997, League testimony opposing the presumption of joint custody (shared parenting) was given at Senate and Assembly sponsored hearings. The League also lobbied successfully to prevent pensions from being excluded from the Equitable Distribution Law.

In the 1994 and 1995 legislative sessions, the League supported legislation to require courts to consider evidence of domestic violence in child custody proceedings. In both years, the bill was passed in the Assembly but not taken up by the Senate. After three years of League lobbying, in 1996 legislation was signed into law requiring state Family Court judges to consider domestic violence as a factor in child custody cases.At the very end of the 2000 session, legislation was introduced changing the term "joint-custody" to "shared custody." This was an effort by the Father's Rights Organization to make the joint custody legislation more "legislator friendly." The League lobbied extensively with Children and Family Committee members and the bill was held late in the committee during that session. No action was taken in the 2001 session.

2002-2003

During the 2002-2003 sessions the League lobbied behind the scenes to hold "joint custody" legislation in the Assembly Children and Families Committee. Joint custody legislation has not been brought up in the State Senate.

2006

Each session that involves an election year, the issue of shared custody becomes controversial legislation. In 2006, the Father's Rights Organization used a familiar tactic to them, of threatening members of the Assembly Children and Families Committee. The League, again working deep behind the scenes to protect the League, was able to hold this legislation in committee by a vote of 15-1. Both democrats and republicans received death threats following their committee vote. It is anticipated that as long as the Father's Rights Organization continues this type of advocacy legislators will be adverse to addressing shared custody.

Insurance, Pensions and Credit

In 1982, the League supported, successfully, the passage of an amendment to the New York Civil Rights Law to include gender in the kinds of discrimination that are prohibited.

DOMESTIC VIOLENCE

DOMESTIC VIOLENCE

Statement of Position

As announced by the State Board, June 1983

Domestic violence is a serious crime but because of the special relationship between the parties, the League of Women Voters of New York State believes that it should be possible to bring such cases in Criminal and Family Court.

Special training should be required for judges, police officers, medical personnel, attorneys, social workers, court personnel and others likely to have contact with perpetrators or victims of domestic violence. Both the victim of a violent act and the person who commits it need special services to break this pattern. The LWVNYS recognizes that the person who resorts to abuse of an individual needs help and therefore supports existing prevention and treatment programs and the creation of new programs as means of reducing domestic violence. Services such as shelters, counseling, legal services and hot lines are also needed to provide for the safety of the victims of domestic violence because of the ever present physical and psychological danger to them.

Programs to reduce the incidence and effects of domestic violence should be funded by a combination of public and private funds.

Past League Activity

1983-1984

The League supported legislation in 1983, which set up a trust fund with state revenues to fund programs that contravene domestic violence. The Children and Family Trust Fund was established in 1984 and funding legislation was passed with League support.

The League lobbied vigorously for the Family Protection and Domestic Violence Intervention Act of 1994. Passed by the legislature and signed into law, this measure provided much needed comprehensive domestic violence reform. The League position allowed us to support critical provisions in the legislation such as: individuals' ability to bring cases in either civil or criminal court, mandatory arrest for perpetrators of domestic violence, law enforcement and judicial training.

1995

At the 1995 LWVNYS convention, delegates supported editorial changes in the domestic violence position that reflects the changes made by the Family Protection and Domestic Violence Intervention Act in allowing cases to be brought in both the Criminal and Family courts. The original language read ". . . to bring such cases to either the Criminal or Family Court." The position now reads ". . . to bring such cases in Criminal and Family Court." Another change in the position's wording was from ". . . spouse . . ." to ". . . individual . . . ."

In lobbying for the Family Prevention and Domestic Violence Intervention Act, the LWVNYS found that our position limited action to violence perpetrated against spouses. Recognizing that domestic violence is not limited to spouses, but rather occurs between many individuals in an intimate or formerly intimate relationship regardless of marital status, the League has lobbied for a broader interpretation in statute of the definition of "family" with respect to the incidence of domestic violence. Proposed legislation would address the realities of domestic violence and the League concern that safety be afforded to all victims of battering.

The League has lobbied for the redefinition of family. The Assembly has passed the legislation each time, but the bill never gets out of the judiciary committee of the State senate.

In 1994 delegates to the LWVUS convention adopted by concurrence a position on Violence Prevention, based on work done by a number of state and local Leagues. The League subsequently endorsed the Violence Against Women Act (VAWA), which passed Congress and was signed by the President in the Fall of 1994 as part of a comprehensive crime bill.

This legislation has been renewed every five years. It is significant in that it created the first federal legislation acknowledging domestic violence and sexual assaults as crimes and provides federal resources to encourage coordinated community responses to combat violence.

In between the five year increments of reauthorization, it has been necessary to follow the appropriation process each year to be sure the programs are adequately funded.

The LWVNYS joined as Amicus Curiae in the Nussbaum v. Steinberg case, which was filed on February 6, 1995. In that case, Hedda Nussbaum sought money damages from Joel Steinberg for extensive physical and psychological injuries he inflicted upon her between 1978 and 1987. Steinberg moved for summary judgment because almost all of the events alleged occurred more than one year before the action was commenced and as such were time-barred by CPLR 3211(a)(5). The Nussbaum brief opposed this action on the basis that CPLR 208 allows a tolling of the one-year tort statute of limitations upon her qualifying incapacity. This case would set a precedent for women to bring suit against an abuser notwithstanding

the one-year statute of limitations based on proven diminished capacity. The League joined in support of Hedda Nussbaum believing that the case presents important issues concerning a battered woman's right to civil redress.

1996-1997

In 1996 and 1997 League supported time limit exemptions for domestic violence victims receiving public assistance. According to survey results released by the National Organization for Women Legal Defense Fund, in some areas 60%-80% of welfare recipients have been victims of domestic violence as adults.

1998-1999

In 1998-99 the League worked closely with the NYS Coalition Against Domestic Violence attending regional meetings and lobbying on several initiatives. Using the League's national position on violence prevention, we supported the Anti-Stalking legislation. (*Impact On Issues*, 2002-2004, p. 66, LWVUS) This bill would define stalking as a separate crime in the Penal Code adding stiffer penalties than were previously imposed for the crimes of menacing and harassing. The League believed the current laws against stalking were inadequate and placed women at risk. New York was the only state without a specific crime of stalking. The menacing and harassing statutes were rarely prosecuted and conduct that constitutes behavior commonly identified by the public as "stalking" was poorly defined in the statutes. Inconsistent definitions and law enforcement, judicial, and jury misinterpretations resulted in increased freedom for stalkers to perpetuate their intolerable behavior.

Previous attempts were made by the Legislature to address some forms of stalking by including stalking behavior in the Penal Code under menacing and harassment. However, it was poorly defined and left a very important loophole—stalkers needed to use a weapon or dangerous instrument to be prosecuted for more serious offenses. The Anti-Stalking legislation was combined with a clinic access bill, also supported by the League. This bill was passed by the Assembly in the final hour of the regular session. This agreed-to legislation was passed by the Senate later in the year, signed by the governor and took effect December 1, 1999.

Other measures supported by the League in 1998-99 included lowering the evidentiary threshold for the proof of physical and serious physical injury and continued to lobby for legislation expanding the definition of family in the Family Court Act and Criminal Procedure Law (as noted above).

The HIV/partner notification bill supported under the League's position on health care contained a section on domestic violence, thanks to the League. As a result of the League's active involvement we participated at a NYS Health Department conference designed to establish protocols for the domestic violence provision in the HIV/partner notification law and wrote a critique of the draft protocols when they were issued. We continue to monitor the success of the provision.

2003-2007

In 2003, the Legislature passed a number of measures, which were supported by the League, to further safeguard domestic violence victims and their children. Ch. 579 of the Laws of 2003 increased the maximum duration of orders of protection issued by a family court from one to two years. The duration of orders of protection where aggravating circumstances exist was increased from the current maximum of three years to five years. In addition, violation of a valid order of protection will constitute aggravating circumstances. Currently, victims of domestic violence who need continued protection must return to court to extend the order when it expires. This measure will help victims by giving the court greater discretion to issue orders of protection for longer periods of time. Ch. 261 of the Laws of 2003 extended the law that allows domestic violence victims to go to family court at night to obtain orders of protection without the abuser being present ("ex parte").

The League in conjunction with local and state Domestic Violence Coalitions has continued to lobby for legislation to protect and make it safer for victims of these crimes. Recent bills signed by the governor include:

- 6/23/06: Eliminates the statute of limitations on first degree rape, first degree criminal sexual act, first degree aggravated sexual abuse and first-degree course of sexual conduct against a child.
- 8/26/06: Requires the Supreme Court to assign counsel to indigent people in divorce cases for issues in Family Court such as family offense, custody and child support. This does not apply to the divorce action.
- 7/26/06: Allows protection of companion animals to be added to an order of protection issued in a criminal court or family court.
- 8/25/06: Extends the maximum length of criminal court orders of protection.
- 11/1/06: Amends the penal law regarding sexual contact with a child to eliminate the lower penalty when the sexually abused child is closely related to the perpetrator
- 11/25/06: Prohibits an insurance company from disclosing to the person against whom an order of protection was issued the address and telephone number of the insured victim.
- 2/12/07: Directs the NYS Office of Children and Family Services to facilitate the establishment of Child Advocacy Centers to serve child victims of sexual assault and serious physical abuse.
- 6/4/07: Relates to termination of a residential lease by victims of domestic violence.
- 7/18/07: Authorizes an experimental program in which orders of protection filed and entered by the family courts of certain counties (Erie, Onondaga, Nassau, New York, Westchester, Richmond, Kings and Albany) shall be transmitted electronically.
- 8/19/07: Providing for revocation or ineligibility for firearms license or surrender thereof for willful violation of order of protection involving physical injury.

2007-2008

As a part of the Women's Equality Agenda (WEA) the League supported S.5 (Robach) A.6354b (Peoples-Stokes) which prohibited building owners, managers and leasing agents from refusing to lease a unit, or evicting a tenant because of her status as a domestic violence victim. We also supported legislation would authorize New York's courts to establish a program to permit a victim of domestic violence seeking a temporary order of protection to provide testimony via video conference. Both bills were signed into law in 2015.

After 20 years of lobbying for the Expanded Access to Family Court Act, the bill was passed and signed into law on July 21, 2008. The League joined over a hundred organizations in a coalition at the beginning of the year and pressed for passage through phone calls, presentations, media releases etc. This is a significant event because it changed the definition of who can receive an order of protection in family court from any member of the same family or household to former spouse whether or not they are living together now or unrelated persons who continually or at regular intervals reside in the same household as well as persons who are, or have been, in a dating or intimate relationship whether or not they have ever lived together. This law has caught up with what intimate relationships represent in the 21st century. Over 3000 people, who would have been previously excluded, have used this law since July.

Persistence is an important aspect of League activity and one person can make a difference as well as a coalition. An example is the passage of a local bill in the Monroe County legislature against discrimination in housing. This bill was introduced in September of 2007 with the expectation that the majority party would bury the bill. However, Carly W. began her campaign. First, she prepared a letter for all the supporters to sign. Then she contacted every legislator in both parties on the state level. These people had been contacted for several years on issues of DV so they knew Carly and her expertise. They in turn

wrote the local legislators in support of the bill. She next spoke at every open meeting of the legislature from September to December and explained its necessity from a variety of viewpoints.

Our local League wrote our letter of support. She told me that every time she met with the legislators, she would mention the League to show the broad support for this bill. On December 11, 2007, in the wee hours of the morning this anti-discrimination bill passed. It should be noted that the only other county in NYS to have anti-discrimination in housing legislation is Westchester County.

Legislation passed in 2008:

- 7/6/08: "911 Law" which criminalizes interference with calls for emergency assistance?
- 5/2008: Free Security Freeze on Credit Report for DV victims
- 4/2008: Non-Penalties for Good faith Efforts to Protect Child in Custody/Visitation
- 9/25/08: Provides for Undocumented Immigrant Eligibility for DV Shelter
- 9/2008: Allows Child Protection Services Access to Criminal History Reports of Adults in Residence

Efforts in 2009 were directed at passing the anti-discrimination bills in housing and employment on the State level, though none were. However, momentum for both has increased since the 2013 State of the State.

2013

In his January 2013 State of the State, Governor Cuomo introduced his 10-point Women's Equality Agenda, later the Women's Equality Act (WEA), which included protecting victims of domestic violence by allowing them to apply for orders of protection via closed circuit TV (rather than having to be in the same room with their abuser).. The WEA also included a provision to ensure in law that protected parties cannot be held to violate an order of protection put in place to protect them and a provision to prohibit building owners, managers and leasing agents from refusing to lease or sell, or evicting a tenant because of their status as a domestic violence victim.

Following the State of the State, LWVNY joined the NY Women's Equality Coalition to lobby for passage of Governor Cuomo's 10-point Women's Equality Agenda/Act (WEA). The League lobbied extensively for passage of the WEA, but it did not pass during the 2013 legislative session. For a complete narrative on the League's advocacy on WEA, please see the top of the *Women's Issues* section.

BASIC HUMAN NEEDS

FAIR HOUSING

Support for measures to meet the needs for affordable and accessible housing through use of state funds and incentives to localities.

League action in housing began in 1968 when the LWVUS added support for equality of opportunity in housing to that for education and employment. LWVNYS reached a position in 1970 providing the basis for action in housing.

HOUSING

Statement of Position

As announced by the State Board, September 1970

Revised to reflect State Convention action, 1999

1. Support for increased state funds for affordable and accessible housing and for rent subsidies.
2. Support for incentives to encourage communities to accept their share of the overall responsibility for providing sufficient housing for low and moderate-income families.
3. Support for the participation of counties in meeting housing needs, through such methods as permitting the establishment of County Housing Authorities.
4. Support for legislation which requires local governments to take affirmative action to provide some of their vacant land for low-income families.

Past League Activity

1974-1975

The League has worked to eliminate discrimination in rentals to low-income families and has supported government subsidies for housing for these families. In the early 1970s, the League worked for fair housing by seeking adequate funding for the Division of Human Rights and administrative changes in, and expansion of, the Human Rights Law to make it more effective.

In 1974 and 1975, there was a successful effort for the passage of the Warranty of Habitability Law, which added an obligation by landlords to maintain rental properties in compliance with applicable codes and an obligation of tenants to pay rent. In 1979, the League successfully supported a Retaliatory Eviction bill, which protects tenants against retaliation when they notify officials of housing code violations or otherwise act in good faith to secure their rights to habitable housing.

1989-1991

Since 1974, the League has supported implementation of the Housing and Community Development Act, which consolidated federal assistance under the block grant approach. In 1989 the League supported legislation for a constitutional amendment, which would extend to counties the housing and development powers now granted to cities, towns and villages, an amendment, which would help provide affordable housing. This bill received first passage. However, it needed two successive sessions to approve this legislation, and it was defeated in 1991. The League continues to support this form of legislation.

The League has consistently monitored the New York State budget to assure adequate state funds for affordable and accessible housing and for rent subsidies.

LIVING WAGE-MINIMUM WAGE

Following guidance from LWVUS that Leagues could support a minimum wage increase for their area (under the national position on meeting basic human needs) after conducting appropriate research, the State League decided to conduct research on minimum wage-living wage in New York State. The Living Wage Committee was created to determine what an appropriate living wage is for our state and its localities and to define the relationship between a living wage and the minimum wage. The League believes that one of the goals of social policy should be to promote self-sufficiency for individuals and

families. LWVNYS defines a living wage as one that provides sufficient income without government assistance, for food, clothing, housing, energy, transportation, health care, education, child care, and a small amount of discretionary income. We believe that the minimum wage should be set close to, but not more than, the living wage.

LIVABLE WAGE

Statement of Position

As announced by the State Board, December 2015

Support of a livable wage for all localities in New York State determined by using either of the following calculators (or one that may in the future be developed which includes the same items), whichever has been updated most recently. Each of these calculators presents its findings of the costs involved in meeting basic human needs on a county-by-county basis, for families of different sizes and composition, and indicates the wage needed to meet those costs on an hourly, monthly and annual basis.

1. This is the link to the MIT developed calculator for a living wage, which is available by County in NYS: http://livingwage.mit.edu Originally done in 2004, it was updated in 2014.

2. The self-sufficiency standard developed by Empire Justice Center/NYS Community Action Association http://www.selfsufficiencystandard.org/docs/New-York-State2010.pdf especially pp. 57 to 89, which lists the self- sufficiency standard for different family configurations for each county, and expresses it on an hourly/monthly/annual basis. P 91 compares the self- sufficiency standard to the federal poverty rate.

We further support that the minimum wage, if set state-wide, be set no higher than, but close to, the living wage for a family consisting of one wage earner and 2 children, in the county with the lowest living costs. The League has long supported equal pay for equal work, and does not recommend that the minimum wage be set, or employers pay employees, based on the number of their dependents. On the other hand employees working full-time at the minimum wage should be able to make a living wage for themselves and one to two dependents.

In 2016, after determining our new position, the League quickly took action and came out in support of increasing New York's minimum wage. The League submitted budget testimony to the Joint Committees on Work Force Development encouraging them to follow the MIT developed calculator to determine a proper livable wage. The testimony also supported the implementation of paid family leave for all New Yorkers. We were pleased when Governor Cuomo announced that the legislature had agreed to a budget that raised the minimum wage. This will occur in increments: In NYC it would reach $15 and in the rest of the state $12.50 by 2020. After 2020, the DOB gets to decide how many more years it will take the rest of the state to reach $15.

In 2023, LWVNYS supported efforts to have minimum wage indexed to inflation. These efforts were ultimately successful as the bill was passed in session. See more about the Leagues activities around minimum wage and a livable wage in the *Pay Equity* section of this document.

STATE FINANCES

FINANCING EDUCATION (K-12) AND STAR

LWVNYS involvement in school finances began with the national League position for equal educational opportunity. **(LWVUS *Impact on Issues*, 2022-2024, pp. 132)** The state League adopted a position in the **1950s** for greater state sharing in school funding.

1972

In 1972 the state League's fiscal policies study focused on financing education. A position resulted which favored full state funding of education using a state property tax and a progressive income tax.

1983

In 1983, an LWVNYS re-evaluation of financing education in the state dropped the full state funding and state property tax advocacy and called instead for a slight increase, if necessary, in all state taxes to achieve greater equity in school funding. It also supported increased state funding of the state aid formula and called for reduced funding of dis-equalizing forms of aid.

1995

Delegates to the 1995 state convention adopted a two-year study of public financing of school education through Grade 12 including examination of alternative sources of funding and distribution formulas. Delegates felt many changes had occurred since the League's 1983 re-evaluation of financing education, and that it was time to re-evaluate our position in an area that affects all citizens. Much had changed since the last study. State aid to education, once the largest part of the state budget, had decreased and represented only 1/5 of the New York State budget. Transportation aid formulas had been changed. Questions were being raised regarding the expenditure of state education aid by cities. Our goal had been to ensure that aid reflects our commitment to both equity and excellence; however, the disparity between wealthy and poor districts continued. Equity in state aid was being challenged in the Court of Appeals in *Campaign for Fiscal Equity v. State of New York* (CFE) and the distribution formula was expected to change. There was new pressure to have aid given to non-public schools. Many areas of the state placed more reliance on property taxes and taxpayer alliances were seeking reductions in taxes. There was renewed interest in finding alternate methods of funding education. At the same time, there were growing challenges to the current assessments.

Under the direction of a state-wide committee, local Leagues throughout the state participated in this study of financing education. Leagues conducted interviews of local school and community leaders. The data and opinions gathered produced a survey of 56 school districts, eight percent of the more than 700 school districts in the state. Suburban, small cities, large cities, and rural school districts were represented in the survey. The purpose of the survey was to learn the components of school finance, the problems in achieving more equitable financial support for all school children and explore the changes being advocated by educators and community activists.

Scope:

- Phase I: Examine and evaluate the current distribution formulas for allocating state aid, study alternate methods.
- Phase II: Examine and evaluate the current sources of funding at both the local and state levels, study alternate sources.

2005

In 2005 LWVNYS delegates to the State Convention again determined to study K-12 financing of education. The Court of Appeals had issued a ruling in CFE (see next section), and additionally, since the prior study in 1995, the state had implemented the School Tax Relief (STAR) Program in 1997. Delegates continued to voice concern about the growth of charter schools and public funding of private schools. Accordingly, these two topics were the focus of the new study. The first phase was completed and announced in spring of 2006; the second phase on charter schools was completed and announced in late 2006. The scope of the two-year study was originally to include an analysis of potential increased use of gambling revenues to support education, but this facet of the study was never staffed, because the bulk of member interest was in the first two topics. In 2006, the current position language, including its new position in opposition to STAR, was announced by the State Board.

2005-2006 Statewide Study of K-12 Education: Amendment of Financing Public Education K-12, and Adoption of a Position on Charter Schools

During the first year of the study (September, 2005 to May, 2006) the League considered how the State should raise the additional funds required to implement the CFE order on a statewide basis and the role of the STAR Program (School Tax Relief) on the funding of education. Local Leagues completed the consensus process in May 2006 and the Board amended Financing Public Education K-12 and Real Property Taxation positions in July 2006 to reflect the consensus results.

Briefly stated, the League amended its Financing Education position (K-12) to support greater equity in education financing for both pupils and taxpayers, removal of education from the political arena by adoption of a foundation approach to education finance, recognition of savings by replacement of the STAR program with a meaningful needs-based circuit breaker program with annual cost of living adjustment, increased stability of education finance by creation of a dedicated education reserve to make up shortfalls in times of economic downturn, and the raising funds to provide New York's children with a sound basic education through increases in the New York State personal income tax, implemented in a progressive fashion.

The League amended its real property tax position to provide for replacement of existing residential property tax relief programs, in which relief was designed to go to all regardless of need (such as basic STAR until 2011), with programs based on need, adjusted annually in accordance with changes in the cost of living.

During the second phase of the study (September to November, 2006) the League considered whether to adopt a charter school position as part of its overall financing education positions. Local Leagues completed the consensus process in November 2006 and the Board adopted a Charter School position in November 2006 to reflect the consensus results, which were then posted on the website. In December 2006, the League cancelled the third phase of its study, the use of gambling revenues to finance education, for lack of sufficient local League interest.

FINANCING EDUCATION K-12

Statement of Position

As announced by the State Board, June, 1997

And amended in July, 2006

The State's Obligation

New York State bears a constitutional responsibility for the education of its children. This duty has been defined by litigation of more than a decade's duration, during which the Court of Appeals has held the State must provide all children with a sound basic education, defined as the opportunity for a meaningful high school education, consisting of the basic literacy, calculating, and verbal skills necessary to enable them to eventually function productively as civic participants capable of voting and serving on a jury. Included in the goods and services that constitute a sound basic education are minimally adequate physical facilities and classrooms which provide enough light, space, heat, and air to permit children to learn, minimally adequate instrumentalities of learning such as desks, chairs, pencils, and reasonably current textbooks, and minimally adequate teaching of reasonably up-to-date basic curricula such as reading, writing, mathematics, science, and social studies, by sufficient personnel adequately trained to teach those subject areas.

This duty extends to all the State's children, and to the extent that children with special needs (students with disabilities, with limited English proficiency, and in poverty) require a greater input of funds to obtain their constitutional due, the State must support that input.

While ultimate responsibility for adequate funding of education rests with the State, it may fulfill its obligation by requiring a local contribution to education that is reasonably correlated to a district's ability to pay.

Means of Raising Money

The State's system of financing education should be progressive, with a higher portion of the cost paid by those having greater ability to pay. The means of raising money should incorporate the principles of simplicity and transparency, stability, insofar as progressivity is not sacrificed, and exportability, either in terms of payment by out-of-state residents or by partially offsetting any increase in State taxes with a decrease in federal taxes. In general, the means of raising money should incorporate principles of horizontal equity, with similar groups of taxpayers being treated equally and similar goods and services being taxed equally, provided that such treatment neither violates other League positions nor renders a tax more regressive.

Additional funds necessary to provide the State's children with a sound basic education should be raised through increases in the State personal income tax, implemented in a progressive fashion. Stability of income tax should be increased by creating a substantial reserve dedicated to education, sufficient to maintain uniform stream of State revenues for funding of education in times of economic downturn.

FINANCING EDUCATION K-12

Statement of Position

As announced by the State Board, June 1997

And amended in July, 2006 (continued)

Distribution and Use of Monies for K-12 Education

The goal for distribution of additional state aid should be to narrow the expenditures gap between wealthy and poor districts.

Although additional aid does not preclude a decrease in local real estate tax, the school district is expected to maintain its local tax effort to sustain or improve its performance in meeting educational standards.

Additional state aid should be used not only for basic operating expenses, but also for funding the construction and rehabilitation of school buildings, the acquisition of technology and the fulfillment of state mandates.

Aid for operating costs should enable school districts to provide all their children with a sound basic education and to fulfill educational standards established by the State Education Department. Aid should incorporate a district's ability to pay, regional cost differences, population sparsity, and transitional adjustments to bridge large reductions in aid caused by sudden changes. Extra costs incurred for students with special [learning] needs (i.e., learning disabilities, limited English proficiency and poverty) should be factored into basic operating costs as well, in order to keep categorical grants to a minimum.

The League supports implementation of educational efficiencies in the provision of a sound basic education, provided that the proposed efficiencies do not affect adequacy of education. State aid policies should promote cost-effective measures such as consolidation of services, shared services, shared resources and other management efficiencies.

Property Tax Relief and its Impact on K-12 Education

Local financial support for the schools will continue to depend, in part, upon real estate taxation but several measures are essential to eliminate the inequities that unfairly burden taxpayers.

The League supports reform of the real property assessment system on which school district taxes are based, alleviation of the tax burden for low-income individuals through such measures as an increase in the circuit breaker tax relief benefit, along with automatic annual cost of living adjustments to the maximum income provision and the maximum property value provision of the circuit breaker tax relief benefit. The League supports an equitable redistribution of non-residential real estate taxes to the schools within a region or county.

Major efficiencies should be recognized by replacement of programs that provide residential real property tax relief irrespective of ability to pay with programs that target local residential real property tax relief to those most in need, with lower income individuals receiving the greatest relief.

FINANCING EDUCATION K-12

Statement of Position

As announced by the State Board, June 1997

And amended in July, 2006 (continued)

Reform of the present system and administration real property assessment requires that it be:

1. Equitable in its distribution of the tax burden,
2. Based on uniform standards,
3. State assisted, monitored and enforced,
4. Easily understandable and accessible to taxpayers; and
5. Kept current by periodic reassessments.

Use of Public Funds for Non-Public Schools

The League is opposed in principle to the use of public funds to support non-public schools. The League would not deny public funding for existing services to students who attend private schools. However, we believe public funds should be used to support public schools.

Schools as Community Centers

The League supports efforts to utilize schools as community centers to integrate the delivery of social services so long as these services are funded separately from the education budget.

Dependent (Big Five) School Districts

The League believes that the integrity of state education funding applies as well to the Big Five school districts where education and municipal funds are co-mingled in a single budget. State aid should not be used to divert local education dollars to cover other municipal expenses.

Recent League Activity

2023

The 2022-23 legislative year, in a multi-year perspective, will be remembered by public education supporters as the year when, at long last, Foundation Aid was fully funded in the state budget. Foundation Aid, for the uninitiated, is an amount of funding, statewide, which is distributed annually to the state's school districts for "foundational" support of operating aid in the classroom. It does not include the cost of transporting students, building or repairing school buildings, or providing extra money for students with specialized educational needs. From the League's perspective, we lobbied for fully-funded Foundation Aid from the very outset of the Campaign for Fiscal Equity lawsuit filed in 1993, so this is a victory since previous administrations and legislatures were unable to provide adequate funding to fulfill the court order. This brief summary is not intended as a full explanation of Foundation Aid or the lawsuit. The main takeaway is that the League will mark this year as the end of a long lobbying process. Or will it?

As with many legislative victories, this one is temporary. It is temporary because federal, state and local sources of revenue have many near-future competing demands. It is inevitable that Foundation Aid's value as a percentage of overall student cost will erode, and without vigilance the differences in per-pupil expenditures between wealthier and poorer school districts will widen. Knowing this is likely to happen, the League is supporting the revision of the calculation of Foundation Aid to reflect changes in regional costs, poverty weightings, and weightings for students with special needs.

The League has been supporting efforts to increase civics education in the schools, in keeping with the principles set forth in the Campaign for Fiscal Equity lawsuit pertaining to the need for an educated citizenry capable of understanding democratic processes and voting procedures. This work will be ongoing, and to that end the League is participating in the Democracy Ready coalition formed by the Center for Educational Equity at Teachers College Columbia University. Among its goals are to see to it that civics curriculum is taught in New York schools throughout New York State.

Charter schools have been an active lobbying issue during this past year, because the Governor introduced legislation to expand the number of charter schools, much to the displeasure of both houses of the Legislature. This was one of the issues that held up the budget for 2023-24. The legislature has agreed to add 14 charter schools in New York City under a provision referred to as the Zombie charter clause. Zombie charters are ones that were closed after having been issued a charter. We opposed an increase in the number of charter schools in this year's budget when we testified in February. We will continue to monitor the operations of these newly authorized schools as well as existing charter schools.

The League did a major study of charter schools in 2005-2007. One of the concerns of those who participated in the study was that two charter school authorizers (SUNY and the Regents) would ultimately conflict with one another. There is evidence that SUNY's procedures and guidelines for charter issuance and renewal differ qualitatively from the Regents' procedures. We are currently watching a bill which would cause SUNY charter applicants to submit to final review by the Regents.

2021

In 2021, the League continued its efforts to fully fund New York State schools in the state budget. The League's Education Financing Specialist, Marian Bott, testified before the Joint Budget Committees on Elementary Education. Marian recommended that the state seek to adjust factors in Title I funding to allow schools greater access to receive these funds. Title I provides federal funds to schools with high percentages of low-income students. These funds pay for extra educational services to help at-risk students achieve and succeed regardless of any disadvantages through no fault of their own. How much funding a school gets is determined by a formula used to measure poverty.

The testimony also discussed education of homeless children, school tax relief, local district funding adjustments, NYC fiscal stabilization grant, elimination of NYC charter facilities aid, and the Smart Schools Bond Act. Marian also continued to advocate for full funding of Foundation Aid for New York Schools. The League has advocated for Foundation Aid since 2007 immediately following a 2006 state court decision in the case of Campaign for Fiscal Equity v State of New York that assessed whether or not the state was funding schools at a level that ensured all students received a "sound basic education" as required by the state constitution. Foundation Aid takes school district's wealth and student need into account to create an equitable distribution of state funding to schools.

In 2021 the League was pleased that during the state budget process, the Senate and Assembly agreed to funnel $1.4 billion more towards Foundation Aid over the next three years. This was a monumental win for education advocates and the League was proud to be part of the fight to secure these funds.

2019-2020

In 2019 and 2020 we testified before the Joint Budget Committees on Finance and Education. We advocated for additional funding for high needs school districts and reminded the Committees about the recent surge of English Language Learners and the need for resources to ensure that these students learn and thrive. We called for a full phase in of Campaign for Fiscal Equity (2006 Court of Appeals

decision and recommended fiscal remedy) funding and an increase in Foundation Aid. We also asked the legislature to revisit the Pupil Needs Index which determines the weightings for poverty and ELL's.

2018

In February 2018 the League testified before the Joint Budget Committees on Education in support of the distribution of state aid to high needs school districts. The testimony used five examples of such districts: New York City, Hempstead, Poughkeepsie, Utica, and Schenectady. The League recommended increasing the fairness of distribution of aid by resisting "share" geographic distribution, improving the treatment of the poorest districts in the State Sharing Ratio, revising the way English Language Learners are weighted, and re-calculating Student Poverty to re-weight Lunch vs. Census Poverty. The League also continued to advocate for a true property tax circuit breaker instead of a STAR rebate.

2017

In 2017, we were pleased that Governor Cuomo did not include the Education Investment Tax Credit in his executive budget proposal. The Senate did add the proposal to their budget language but the proposal was not included in the final budget. After the budget was passed, the Senate introduced a second bill similar to the Education Investment Tax Credit but with a different sponsor and name. The League worked with its fellow education advocacy groups to ensure this bill was not taken up during the session.

2016

The New York Senate kicked off their 2016 legislative session by passing their Education Investment Tax Credit bill on the second day of session. The bill was pushed through the Rules Committee and voted on by the full Senate in the same afternoon. One week later at the State of the State address, Governor Cuomo once again used his executive budget to push his version of the bill. There were heavy lobbying efforts from the Catholic Conference and Charter School organizations but luckily the League and its education partners were able to keep the legislation out of the budget. Over the course of session, we issued countless memos of opposition, held several joint press conferences, and conducted a legislative briefing for Assembly members. We were very pleased that the bill did not move in the Assembly.

Education financing was a major issue during the 2016 budget negotiations. Many members argued for full Campaign for Fiscal Equity (CFE) funding but unfortunately it was not included in the final bill package. Foundation aid did receive a 4% increase of $627 million and $434 million was budgeted to finally fully eliminate the Gap Elimination Adjustment.

2015

The Governor's 2015 State of the State address proposed a linking of formulaic percentage school aid increases to controversial revisions in teacher evaluation policies. Unlike 2014, the Governor also proposed the funding of $100 million of "education investment tax credit" initiatives, allowing individuals and corporations to receive a state income tax credit in exchange for directed donations. On the day of the State of the State address, in fact delaying it due to heated debate, the State Senate introduced and passed its own Education Investment Incentives Act, which the League had successfully opposed (in similar form) in 2014.

As in 2014, in response the League convened education and civic groups to prepare for a vigorous lobbying campaign. The League moderated three press conferences, and the coalition opposed to this tax giveaway grew to over 40 organizations. We worked with Assembly Speaker Sheldon Silver's staff and, following his sudden resignation as Speaker, that of the newly member-elected Speaker, Carl Heastie, to prevent this measure from being included in the budget passed in early April. After the Governor indicated

that this credit would be addressed "post budget," the state and local Leagues continued (until the end of June) to vigorously lobby in opposition of this tax credit scheme.

At the end of 2015 session the Governor and legislative leaders agreed to a STAR Rebate for property owners up to $250,000 income with a onetime $185 check to all homeowners in October 2016 with incomes below $100,000. The League participated in a coalition that instead supports a circuit breaker. In both 2015 and 2014, the League also testified to the Assembly Ways and Means, Senate Finance and Assembly and Senate Education Committees regarding its continued support for a property tax circuit breaker, its opposition to the state's School Tax Relief (STAR) and its opposition to the property tax cap. See: http://www.lwvny.org/advocacy/education/2015/Testimony-on-joint-hearing-financial-ed_020315.pdf

2014

During the 2014 legislative session the League and its coalition partners successfully defeated the so-called "education investment tax credit" proposal that would support private school scholarships as an indirect form of a tuition voucher. It emanates from ALEC (American Legislative Exchange Council) model legislation. In prior years there was little Assembly support but in 2014, increased pressure from religious groups and charter schools coalesced. Substantial differences existed between the two houses' versions. Until session-end, the League successfully partnered with over two dozen other organizations, hosting several press conferences, and testifying before the Assembly Ways and Means, Senate Finance, and Assembly and Senate Education Committees, to stall the initiative. See http://www.lwvny.org/advocacy/education/2014/ed-finance-testimony_0114.pdf

In 2014, the League also actively opposed legislation related to financing of special education services in private schools in New York City. The League had successfully fought this same bill in 2013 when it was to be implemented statewide. In 2014, it reappeared limited only to New York City. The League along with the New York City League continued to fight this bill because it would impose an additional monetary burden (over $200 million) on City schools during appeals of special education placements. The legislation passed in the Senate but an agreement to settle this issue administratively was agreed to without legislative action.

2013

In 2013, the League continued to lobby for reforms consistent with our position statement. Lobbying included providing testimony at the joint legislative fiscal hearings on elementary and secondary education on January 29, highlighting a) inequities in the Governor's budget proposal for state aid distribution, b) our recommendation for a targeted circuit breaker property tax relief program instead of the current STAR program, c) our recommendation that local property tax assessment and collection processes be reformed, d) our opposition to the property tax cap as structured, e) our questioning of $203 million out of $889 million of increased funds to be devoted to "fiscal stabilization" unspecified and f) our objection to a proposed program of competitive grants for pre-Kindergarten programs, which we believe should instead be universally funded. At the end of the 2013 legislative session, the League lobbied against the passage of A.7786/S5842, concerning the guidelines for granting tuition vouchers to parents for certain special needs students to attend parochial schools. Following League lobbying efforts, similar legislation had been vetoed by the Governor at the end of the 2012 legislative session.

Past League Activity

2007-2012

In 2007 the League successfully supported Governor Spitzer's proposal to move to a foundation approach for the funding of education that included a financial commitment to universal pre-K and full-day kindergarten and pledged a new focus on early childhood development, with emphasis on children from birth to age 3. The League supported these initiatives, which were largely reflected in the enacted budget.

It was unsuccessful, however, in it attempts to stop legislative tinkering that increased STAR benefits and provided other educational benefits to Long Island districts. The addition of tax relief and other benefits maintained the traditional shares approach in distribution of state education aid. The League lobbied unsuccessfully to prevent an increase of the STAR program. The League lobbied successfully for adoption of a transition assistance program for school districts severely financially affected by charter schools, but was unsuccessful in its attempts to prevent an increase of the number of charter schools allowed.

In 2007-12, LWVNYS continued to advocate for full implementation of the foundation aid formula, developed in response to the CFE litigation. After the issuance of the New York State Commission on Property Tax Relief (known as the Suozzi Report) in 2008, the League issued a statement in opposition to tax caps unless and until foundation aid, with regular updates based on student need and income and property wealth, is fully implemented. The League recommended the replacement of the STAR programs with a property tax circuit breaker, which would tie property tax relief to the taxpayer's ability to pay.

Testimony was provided at the joint legislative education and finance hearings in February of each of those years. See separate discussion under the caption Real Property Taxation herein for a fuller discussion of the League's advocacy related to STAR. In 2010, the middle class STAR program was revised, curtailing some benefits to wealthier taxpayers, and imposing an income limitation of $500,000 beginning in 2011 on refunds. However, the Legislature still did not seriously consider substituting a property tax circuit breaker, but rather discussed it as an additional program. In 2012, the League testified at the public hearings of the Governor's New New York Education Reform Commission, focusing primarily on League support for implementing the CFE decision and pointing to problems with the newly instituted tax cap.

CAMPAIGN FOR FISCAL EQUITY

Past League Activity

1993-2004

The Campaign for Fiscal Equity (CFE) litigation was commenced in 1993 on behalf of New York City school children who alleged that the state had denied them their state constitutional right to a sound basic education. Subsequently, League members across the State participated in the "Accountable Schools, Accountable Public" and other public engagement projects designed to educate citizens and elicit opinions about the issues. The LWV submitted an Amicus Brief (2002) in support of that suit, premised primarily on the concept that the democratic system rests upon an educated electorate. The brief contended that it is the role of the public schools to prepare students for civic participation and that public schools failed to do so. After ten years of litigation, in a 4-1 Court of Appeals decision, CFE won its lawsuit against the State for under-funding New York City schools. The Court ruled on June 26, 2003 that every public school student is entitled to "the opportunity for a meaningful high school education," which was defined as "one with skills and knowledge to function productively as civic participants in the 21st Century, including being capable and knowledgeable voters and jurors able to sustain employment." The Court also ordered the Governor and Legislature to determine the cost of a sound basic education in New York City, to reform the State's funding formula to ensure necessary resources and to implement an accountability system that would ensure that the opportunity is received. July 30, 2004 was designated as the deadline for instituting these measures. Judge Leland de Grasse, the New York State Supreme Court judge who had rendered an earlier affirmative decision in the case, announced his intention to appoint a master by July 30, 2004 if the legislature fails to produce an adequate remedy by the deadline.

Commencing in 2003 after the CFE decision, the League has testified before legislative and official state commission representatives, making recommendations about the CFE remedy. In the fall of 2004, the

League filed a second Amicus brief, following the legislature's and the Governor's failure to resolve the case by the July 30, 2004 deadline imposed by the Court of Appeals. The League testified in opposition to the Governor's proposed 2006-2007 budget because it did not provide the additional state operating aid mandated by CFE.

2006

In 2006, the legislature addressed the capital needs New York City schools to bring them into compliance with that portion of the CFE order addressing capital funding.

On November 20, 2006, the New York State Court of Appeals reaffirmed the state's responsibility to increase funding for New York City schools. Although its decision established as reasonable an additional funding figure of $1.9 billion in operating expenses, or $2.5 billion statewide, adjusted for inflation from 2004, the court noted that the governor and legislature were best able to arrive at the appropriate figure to provide all New York City students with the opportunity for a meaningful high school education. To that end the Campaign for Fiscal Equity, which the League supported in this litigation, called for additional annual funding of between $4 and $6 billion for NYC, a figure previously supported by both Governor Spitzer and former Governor Pataki.

The League's position supports the higher level of funding in two respects. First, it provides that money must be sufficient to enable children to meet all Regents standards in addition to enabling districts to provide a sound basic education, the constitutional minimum. The first Court of Appeals decision in CFE noted that funding need not be at a level sufficient to enable children to meet all Regents standards. While this distinction was relatively unimportant in light of the Appellate Division decision supporting CFE funding in the $4 to $6 billion range, it becomes paramount in light of the intervening Court of Appeals decision in support of the lower minimum remedy.

Pre-Kindergarten Advocacy

The LWVUS has a position in support of early childhood education, including preschool, as part of its social policy position advocating early intervention for children at-risk. Studies have shown that at-risk children enter school without the requisite readiness skills, and they are unable to overcome the initial gap. Quality pre-school education can help to alleviate this gap. In keeping with these positions, the League has joined a number of advocacy groups in calling for implementation of the CFE order statewide at a level higher than the minimum amount.

The League supports a foundation approach to funding education, in which the State provides any shortfall after calculation of a reasonable local share.

TUITION TAX CREDITS, VOUCHERS, AND CHARTER SCHOOLS

At its 2005 convention delegates voted to study charter schools as part of the larger update of its study on Financing Public Education K-12. At the time, there was no transitional funding to support school districts with growing numbers of charter schools, and standards for evaluating student performance relative to non-charter schools were inadequate. While the League already had a position favoring the targeting of taxpayer funds to public schools, delegates representing areas with high concentrations of charter schools believed that an updated review was warranted. This activity culminated in new position language.

CHARTER SCHOOL

Statement of Position

As announced by the State Board, November 2006

The League recognizes that charter schools represent an educational experiment whose efficacy has never received appropriate validation. Moreover, a review of the performance of charters in New York State indicates that, while some do an excellent job of educating children, others are less successful than the most substandard traditional public schools. Therefore, The League supports public funding of academic research into the characteristics of charters that lead to student academic success.

Authority to grant, oversee, renew, and revoke charters, other than those granted in public school conversions, should be vested in a single entity. Charters should be subject to more stringent oversight of charter compliance in the renewal/revocation of process, with greater emphasis on positive educational outcomes.

The League supports measures to limit the negative financial impact of charter schools on their home districts, including: transition assistance; home district payment to charters based on the same standard used to pay operating aid to school districts (While the League supports enrollment as the appropriate measure, it believes the measure should be identical for both charters and traditional public schools.); separate levels of reimbursement for elementary and secondary education to charter schools based on what the home districts spend for the level of schooling provided; limitation of the percentage of a school district's budget that could be paid to charter schools. The League is opposed to State provision of capital construction and renovation services and reimbursement of capital expenditures for charter schools.

The League supports limitation of the number of charters issued in New York State. As a general matter, it believes that the number of charter schools should not be increased without prior successful implementation of the improvements outlined in this position.

Any increase in the cap on charter schools should be tied to amendment of the Charter School Act so that charters are required to prove positive educational outcomes for all children (disaggregated by special needs) exceeding those in traditional public schools as a precondition for charter renewal. To more accurately measure student outcomes in charters and to compare them to those in traditional public schools, the League supports public funding to measure educational growth in individual students as they progress from grade to grade in charter schools (a value added approach).

Past League Activity

1985

In 1985, bills were introduced in both the New York State Senate and Assembly to provide tuition tax credits for parents of non-public school students. The League took strong action in opposing this move on the grounds that this would erode the amount of money available for the traditional support of the public schools.

1991-1993

In 1991, a proposal came before the Board of Regents, which would have allowed parents to remove their children from particularly poor public schools and send them to other institutions through the use of vouchers. Once again, the League opposed the plan and the Regents withdrew it.

In the next legislative session, the issue of vouchers was again raised, and the League along with other public education supporters opposed their passage. In 1993, the aid formula was simplified and transportation aid keyed to take into account a district's wealth. The Regents' term of office was reduced from seven to five years.

1996

In October 1996, an Action Alert was issued urging members to contact the State Board of Regents and Commission of Education Richard P. Mills to voice the League's opposition of a voucher experiment that would permit the use of public tax dollars to give students vouchers to attend private or religious schools. The Board of Regents met on November 7, and the proposal by Regent Emeritus Carballada was defeated by a vote of 12-3.

1998-2000

Early in the 1998 legislative session, Governor Pataki sent to the Legislature a program bill creating a Charter School Program for New York State. During the session, the League lobbied vigorously against the proposed legislation on the theory that, without a dedicated funding stream for charters independent of the funding for traditional public schools, the legislation would dilute the money available to traditional public schools while continuing to require them to function as educators of last resort. The PTA, AAUW, and the School Boards Association joined us in our opposition to this legislation.

The LWVNYS was successful in holding the bill in the Assembly during the regular session, however, during the special session held in late December the legislation became part of a trade with the Legislature for their 38% pay raise. The League was able to work in the Assembly Democratic conference to take out of the bill some of the most onerous language but in the middle of the night without legislators seeing the final printed language and with no debate in the Assembly, the Charter School Action 1998 was passed. It also passed in the Senate where retiring Senator Charles Cook, chair of the Education committee spoke eloquently in opposition to the legislation. Governor Pataki signed the legislation and it became law immediately.

Delegates to the 1999 League convention directed the League board to conduct a monitoring project of the Charter Schools in New York State. The Albany County League will be monitoring The New Covenant School, one of three charter schools to open in 1999. Several more charter schools are slated to open in September 2000.

2006

In 2006 the Governor proposed, as part of his 2006-2007 budget, an income tax credit for certain individuals to offset the cost of private school tuition or tutoring. The League opposed this measure, and it was deleted from the final budget.

The League of Women Voters of Albany County, in conjunction with the State League, has developed a Charter-School monitoring instrument. Leagues who are interested in assessing Charter Schools in their local area can contact the State League for the research-monitoring instrument.

FINANCING PUBLIC HIGHER EDUCATION

The League of Women Voters of New York State undertook a study of the financing of public higher education in response to member interest and delegate support at the June 1997 Convention. League members were interested because of the dramatic policy changes that had occurred in the SUNY system. Tuition rates had increased sharply from 1995 to 1996; remedial education was under fire; the Tuition Assistance Program had been severely cut; and a mission review was introduced for the entire SUNY system. Some League members were aware that many policy shifts were underway; yet, there was little public awareness or discussion of these shifts. A League study on the issue of Financing Public Higher Education could potentially raise the level of public awareness of higher education issues, and it followed the just completed study on Financing Public Education K-12. After eighteen months of study, local Leagues, led by the State Committee on Financing Public Higher Education concluded their study and consensus.

FINANCING PUBLIC HIGHER EDUCATION

Statement of Position

As announced by the State Board, June 1999

The League of Women Voters of New York State believes higher education contributes to individual gains in the quality of life, but more important, it improves the collective good of the state. The State University of New York (SUNY) system provides the majority of the state's teacher education and offers programs ranging from the liberal arts to engineering and medicine. The community college system offers worker retraining programs, occupational studies and transfer degrees. Because of these extensive services, the League believes it is clearly in the public interest to fund public higher education.

The League recommends both increasing financial aid for students and increasing state operating aid to all campuses. Lack of finances has made it more difficult for New York state students to attain access to public higher education. Tuition increases and cuts in the Tuition Assistance Program (TAP) have raised the level of student indebtedness. Increasing financial aid for students and state aid will help individual students as well as strengthen programs and improve facilities on the SUNY four-year and two-year campuses.

The League believes that all state colleges should charge the same tuition for similar programs. Charges should not vary depending on an individual campus' operating costs or geographic location. Tuition should be the same for all students and not based on student or family income.

The League supports sharing of resources among campuses: classes (distance learning), libraries, services, facilities, and accounting systems. The League supports closer alignment of undergraduate and transfer requirements, articulation agreements[1], and joint teaching and degree-producing arrangements among the campuses. Cost containment in operations is important. Any reforms, however, must not negatively impact academic standards or the quality of services on the state campuses. The League supports retaining and finding mechanisms to enforce the existing funding formula for financing the community system, 1/3 tuition, 1/3 state aid, and 1/3 county support. Both the state and county sponsors should be obligated to pay their chartered proportion.

[1]agreements made among different educational institutions, in this case two and four year colleges, to ensure a seamless transition with regard to requirements and courses.

PROPERTY TAX

Statement of Position

As announced by the State Board, January 1980

And revised to reflect State Convention action, 1983

And further revised to reflect Financing Education state study 2005-2006

The League of Women Voters of New York State believes that the assessment of real property must be:

1. Equitable in its distribution of the tax burden;
2. Based on uniform standards;
3. State assisted, monitored, and enforced;
4. Easily understandable and accessible to taxpayers.

The League has determined that the assessment system that best meets these criteria is one that is based upon an initial determination of full value and then applies to those full value assessments differential assessment ratios or tax rates according to class of property. The state legislature should define a limited number of such classes of property and establish a permissible range of assessment ratios for each class. Within that range local legislative bodies would then be able to adopt local assessment ratios, which best meet their land use, economic development and social policies.

Property tax bills should contain all relevant information including: the classification, the assessment ratio, the tax rate, the full value assessment and the classified assessment, as well as the procedure for appealing. Taxpayers should have access to all existing appeals procedures as well as an intermediate non-judicial appeal body in order to protest both their assessments and their classification at low cost.

Administration of the property tax should be improved. The state should provide financial and technical assistance to localities, establish qualifications for assessors, provide training and otherwise monitor and enforce local implementation of more uniform assessment practices. Adequate state funding should be provided to carry out these services.

Tax exemptions extended to charitable, religious and educational institutions should be re-examined to insure continuing eligibility. Annually, each taxing jurisdiction should make public a list of all exempt properties, their true value and the amount of tax revenue lost to the locality because of each exemption. Owners of tax-exempt properties should pay appropriate fees for services rendered to the exempt property by local government.

Statutes governing exemptions should be reviewed with the intention of severely limiting new classes of exemption and preventing abuse of existing exemptions. Provisions of law must be clarified and made more stringent so that properties held by nongovernmental tax exempt bodies which are used for profit or for any purpose not directly related to the tax exempt purpose of the organization do not escape taxation.

PROPERTY TAX

Statement of Position

As announced by the State Board, January 1980

And revised to reflect State Convention action, 1983

And further revised to reflect Financing Education state study 2005-2006

(continued)

The State should replace local residential property tax relief programs that grant taxpayers relief regardless of ability to pay with programs in which tax relief is limited to those individuals with a limited ability to pay and made available on a sliding scale according to need. The "circuit breaker" type of relief, in which state funded reimbursement is given to homeowners and renters whose property taxes exceed a certain percentage of income, should be expanded and should be automatically adjusted on an annual basis to reflect cost of living adjustments to the maximum income limit and maximum property value for eligibility.

The option of tax deferral should be made available to senior citizens with the taxes owed constituting a lien against the sale of the property or the liquidation of the owner's estate.

The League of Women Voters would like to see voluntary adoption of tax base sharing by counties or regions of the state.

Past League Activity

1972-1981

The 1972 LWVNYS fiscal policy position called for more uniform assessment procedures. A 1975 Court of Appeals decision calling for implementation of full value assessments prompted a study of property tax in 1977 to amplify and clarify what the League meant by "uniform assessment." In 1980, a new position emerged calling for an initial determination of full value, with assessment, or tax rates, set by local governments within classes defined by the state.

The League has supported a variety of bills improving the assessment procedures. A bill, which preserves fractional assessments and all existing local assessment methods, was enacted into law over strenuous League opposition in 1981.

Despite League members' recognition of the generally high level of taxation in New York State, they believe that all of the above recommendations, if implemented, would provide adequate relief. They are firmly opposed to any further legislative or constitutional tax or expenditure limitations, but urge that efficiency, productivity and prudence in government at all levels be encouraged.

2003

Because of the June 26, 2003 Campaign for Fiscal Equity decision (see "State Finances" above), the League commenced testifying on property tax assessment and collection reform, in accordance with our position statement.

2005-2006

In 2005 and 2006 the League, in conjunction with the update of its Financing Public Education K-12 position, studied the STAR Program and reached consensus calling for the replacement of tax relief programs that are not related to need with those that are targeted to individuals most in need. In July 2006, the board amended its Property Tax position to reflect this consensus.

In 2006, the League testified unsuccessfully against expansion of the STAR Program to include a further reduction of school taxes, irrespective of need, in the form of a tax rebate check mailed to each taxpayer eligible for STAR immediately before the November election. On September 21, 2006, the League was invited to participate in an invitation only roundtable discussion of the role of property tax in education finance, hosted by Assemblywoman Galef. It supported statewide funding of CFE, adoption of a foundation approach to education, in which a reasonable rate of local taxation would be established and the remainder of funds would be supplied by the State, and replacement of property tax relief programs made available regardless of need with relief based on need. Written testimony is available online under legislative advocacy.

2007-2012

In 2007-2012, pursuant to the recommendations in our 2005-06 state study, the League continued to advocate for revisions to the STAR property tax relief program by replacing the STAR program, which is imperfectly targeted to need, with a property tax circuit breaker program, which would provide greater relief once real property taxes reached a percentage of income. Testimony was provided at the joint legislative education and finance hearings in February of each of those years. In 2007, during Governor Spitzer's tenure and prior to the financial markets' dramatic decline, a Middle Class STAR program was instituted. Although the League had lobbied for income limitations, this expensive program was layered on top of BASIC and ENHANCED STAR, sending rebate checks directly to taxpayers with an income phase-out at $250,000. In 2009, this program was repealed (§1306 of Real Property Tax Law was deleted), but the Basic and Enhanced STAR programs continued.

Property Tax Circuit Breaker. Proposals for a property tax circuit breaker were supported by the League and other organizations in 2008-12. However, the Legislature did not seriously consider substituting a property tax circuit breaker for STAR, but rather discussed it as an additional program. In early 2009, the League co-sponsored a seminar for policymakers on the property tax circuit breaker. Governor Patterson proposed a property tax circuit breaker to be phased in upon the receipt of budget surpluses in the fall of 2009. In late 2009, as the legislature passed mid-year budget cuts, the possibility of further curtailments to the STAR program was under consideration, largely due to the continuing economic recession. In 2010, the legislature enacted a limitation on income for eligible recipients of Basic STAR at $500,000. The League had advocated means testing of Basic STAR as a second option (if STAR was not to be replaced with a more targeted property tax relief circuit breaker).

Middle Class STAR Elimination:

The Middle Class STAR program was eliminated in the April 2009 budget (§ 1306(b) of the Real Property Law).

Property Tax Cap Opposition:

Governor Cuomo proposed a property tax cap, which the legislature passed in June 2011 (S5856/A8518 signed June 24, 2011 pursuant to a Message of Necessity by Governor Cuomo including rent control law extensions, and now §2023-a of NYS Education Law) The League strongly opposes the property tax cap. Enacted in June 2011 but effective for the school years beginning 2012-13, this measure has already begun to show its deleterious effects on school districts, disproportionately harming poorer districts. The League's website provides evidence of strenuous opposition advocacy prior to the passage of the legislation.

The League continues to advocate for 1) full implementation of the foundation aid formula, developed in response to the CFE litigation, 2) in opposition to tax caps unless and until foundation aid is fully implemented (with regular updates based on student need and income and property wealth) and 3)

replacement of the STAR programs with a property tax circuit breaker, which would provide relief based on taxpayer's ability to pay.

PUBLIC AUTHORITIES

Public authorities are legal entities established by the New York State Legislature to undertake large-scale works many of which are fiscally self-sustaining (e.g., mass transit, public housing). Although government creates them, authorities are publicly owned, raise their own capital by issuing bonds, and are vested with certain administrative and financial powers.

At the outset public authorities were single purpose and financially independent. In recent years, however, their projects have included many which have produced little or no revenue (e.g., mental health facilities) and have required government loans, grants, and subsidies.

In recent years, the legislature has sold, traded, and assigned state facilities (e.g., prisons) to public authorities in order to obscure budget deficits.

By early 1986, public authorities had amassed a $26 billion debt, which was guaranteed by the full faith and credit of the state. Critics of the public authorities system have long cited their failure in long-range planning and their lack of accountability to the public.

In 1986 the League undertook a study, "Public Authorities: Their Organization, Function, Financing and Accountability."

PUBLIC AUTHORITIES

Statement of Position

As announced by the State Board, May 1987

The League of Women Voters of New York State believes that the legislature should create public authorities only when it has determined that there is a need for the services/projects that government agencies and private organizations are unable or unwilling to undertake.

Greater accountability and oversight should be built into the system. The governor, comptroller, and legislature should monitor actively those areas for which they are legally responsible and should report their findings to the public.

The jurisdiction of the Public Authorities Control Board should be extended to large authorities, which are not dependent on state budget subsidies and thus are exempt from much legislative scrutiny. This increased oversight should include the power to deny new financing. Authority debt should be limited by such means as sunset provisions and debt ceilings. Authorities should adhere to sound financial practices including competitive bidding where appropriate, timely standardized reporting and management, and performance audits.

Authorities should coordinate with their counterparts in government on matters of planning and purchasing.

Members of authority boards should be broadly representative of the community and qualified by appropriate expertise. Political affiliation should not be a consideration when selecting members of authority boards. Boards of directors should be subject to the same state laws that apply to personnel in government line agencies in matters of ethics, disclosure, open meetings, and liability. They should be responsible for the actions of senior management.

Recent League Activity

2023

In May of 2023, we signed on to a letter in the interest of public transparency and the spirit of New York's Freedom of Information Law, we asked that the Public Authorities Control Board publish and maintain a searchable online list or database of meeting agendas, materials, and meeting minutes. The PACB website currently provides meeting agendas and materials for one meeting at a time. This sharply reduces PACB's public accountability, and makes it very hard for the public, scholars, and members of the media to keep track of PACB's deliberation and decision making. The submitted letter can be found here.

Past League Activity

2000-2003

During 2000-2003, the League has become increasingly aware of the need to monitor the Public Authorities Control Board (PACB). The League's Legislative Director now monitors the meetings held monthly. We have encouraged the press to also attend these meetings to assure the public is aware of the importance of the activities carried out by this Board. Because of the budget deficits following the World Trade disaster, there is the potential for State borrowing to increase to a greater degree than is currently done. Also, because of the publicity surrounding alleged irregularities in the MTA (Metropolitan Transportation Authority), the Canal Corporation there is increased potential for legislative action involving public authorities. During the 2004 legislative session, this issue may take center stage in League legislative activities.

2004

Early in 2004 the New York State Comptroller issued a report entitled "Public Authority Reform: Reining in New York's Secret Government." In that report, the Comptroller documented scores of incidences of scandals and corruptions at New York State Authorities. As a result, of this scrutiny and work done from the Assembly Corporations Committee there appears to be a broad based agreement that the states' authority be subject of greater public scrutiny and oversight. Governor Pataki agreed and by executive order created the Public Authority Governance Advisory Committee to review and make recommendations regarding each authority's corporate governance plan. The panel, known as the Millstein Panel was charged with examining authorities' practices.

Because of this scrutiny, both the legislature and the executive branch came forward with legislation to advance Public Authority reform. Attorney General Eliot Spitzer and Comptroller Allen Hevasi called for the creation of a Commission modeled on the commissions used by Washington to shut down unnecessary military facilities to examine each of the state's authorities to determine whether they should be re-organized or shut down altogether. The Governor's plan was advanced by legislation, which would:

- Requires those lobbying for authority contracts to register with the State's Temporary Commission on Lobbying.
- Increased public disclosure to the Public Authority Control Board, Senate Finance Committee and Assembly Ways and Means Committee; for those authorities already required to report to said bodies.
- Same authorities must also give their approved budget and independent audit to the yet to be created Independent Budget Office.
- Annual independent audits.
- State Comptroller must audit each authority every three years, rather than every five as currently required by law.

In addition, Assemblyman Brodsky proposed advanced legislation which would:

- Require those lobbying for authority contacts to register with the State's Temporary Commission on Lobbying.
- Create the office of the Public Authorities Inspector General, the attorney general would appoint the Inspector General.
- Enable the IG to investigate and report his or her findings and to work on policies to avoid corruption and other abuse, including improper lobbying, in public authorities.
- Create the Public Authorities Independent Budget Office.
- The Comptroller would appoint the head of the Public Authority Independent Budget Office. Requires the IBO to collect, distribute and assess information about the yearly budget for each authority.

Unfortunately, the 2004 legislative session ended without these initiatives being passed.

2005

The 2005 legislative session saw the exact above measures reintroduced. Ultimately, the Senate and the Assembly took the first step toward improving oversight and governance of New York's Public Authorities by passing the Public Authorities Accountability Act. The legislation essentially codified recommendations made by the Millstein commission and created an Authorities Budget Office and Inspector General, appointed by the Governor.

The League supported the Public Authorities reform legislation, however, we regretted that it did not address the issue of closing down inactive and/or redundant Authorities. At that time, we called for a

one-time review of each Public Authority and Subsidiary Corporation with a report-recommending disillusion of those that no longer served a useful function.

The League and its good government coalition partners continued to lobby that session for more oversight over the amount of public debt that Authorities can issue. Most of this debt issued by Public Authorities is without legislative or voter approval. The League feels there also needs to be a requirement that decisions to issue debt of a large amount should be subject to public approval.

2006

In 2006, no legislative action was taken on further Public Authorities legislation however attention turned that session to the Public Authorities Control Board (PACB). The League has monitored this control board for several sessions and was present at the highly controversial Westside Stadium Control Board meeting to decide if this stadium would be created on the Westside of Manhattan. Most PACB control board meetings are held in a small conference room on the first floor of the Capitol and attended by the Assembly Ways and Means and Senate Finance staff. Decisions are made by the leadership in the two houses and the Governor's budget division behind closed doors and then rubberstamped at the PACB meeting.

Because of the controversy surrounding the Westside stadium the meeting was moved to the large meeting room off the concourse adjacent to the convention center. For this PACB meeting, the room was filled to overflow with approximately 500 people in attendance. Most of them construction workers who stood to gain or loose jobs. After four hours of waiting the Assembly Ways and Means and Senate Finance staff entered the room surrounded by State Troopers. The meeting was ruckus and following the decision not to fund the Westside stadium the staff and a few lobbyist were escorted out the back of the meeting room by State Troopers.

2007

In the 2007, the Public Authorities Reform Act of 2007 was introduced which would create an independent public authority office, provide for a fiscal year start date of July 1, and clarify aspects of the Public Authorities Accountability Act of 2005. This legislation was unanimously passed by the Assembly, but was not addressed in the state Senate. This legislation did address concerns that the government reform coalition sited in 2005.

2009

In December 2009, Governor Patterson signed the Public Authorities Reform Act of 2009 into law. The League and other good government groups saw this legislation as a truly significant attempt to address ways to make the authorities more accountable and transparent. The bill reflected fundamental positions the groups had long held:

- An Independent State Public Authorities Office to oversee the authorities, much as the NYC Independent Budget Office does not for the City
- A requirement that members of public authority board's have a fiduciary duty of loyalty to their authority
- Some meaningful State Comptroller review of billions of dollars annually in authority contracts
- Limits on giving away assets and protections for whistleblowers.

STATE BUDGET PROCESS

Spurred by a continuing budget crisis in New York State, delegates to the 1991 state League convention adopted a study of the New York State budget process. The inability to determine the true state fiscal

status compromised the effectiveness of the League in lobbying for League positions such as financing education, affordable housing, child care and Medicaid funding for abortion. Delegates felt that the League should be able to comment on such fiscal and budget practices as "member items," or the use of questionable revenue enhancers like the selling of highways and prisons in order to make the state's accumulating deficit seem smaller. During the two-year study, League members examined the process, by which the state adopted its budget, including budget timetable, format, public involvement, accountability, revenue forecasting, bond ratings, budget caps, and the like. In January 1993, the state League approved a position, which emphasized timely passage, responsiveness, and open process.

STATE BUDGET PROCESS

Statement of Position

As announced by the State Board, January 1993

The formulation and passage of the state budget is one of the most important functions of state government. The League of Women Voters of New York State believes that the state budget process requires reform so that it will be both timely in passage and responsive to the state's various constituencies. In order to affect these goals, changes in the budget process should cover reforms in how the state allocates spending and plans for revenues.

The League supports measures to provide:

- A clear concise budget document;
- A balanced budget according to Generally Accepted Accounting Principle (GAAP);
- More accountability for member items;
- Public disclosure of off-budget items;
- Consensus revenue forecasting;
- Joint conferencing;
- Adequate funding and sunset provisions;
- Periodic adjustments to the budget;
- A three-year financial plan;
- Use of the prior year's budget on an interim basis if the new budget is not passed by the start of the fiscal year; and
- For Agency budgeting process to be open to the public.

The League opposes measures, which would:

- Place a cap on budget growth;
- Require a super-majority for tax increase;
- Replace an annual budget with a biennial budget; and
- Adopt the governor's budget in lieu of timely passage.

The League supports a budget process that requires consensus revenue forecasting and compromise through joint conferencing by a committee from both houses. Such changes would reduce some of the political maneuvering and expedite the budget process. We support adequate funding and sunset provisions, in addition to the required fiscal impact statement, for all fiscal bills in order to guarantee the funding source and provide regular review. An established review process would determine a bill's effectiveness and need for continuation and would prevent yearly "spending creep."

STATE BUDGET PROCESS

Statement of Position

As announced by the State Board, January 1993 (continued)

We oppose placing a cap on budget growth, requiring a super-majority vote to increase taxes, or changing from an annual to biennial budget. The above reforms, coupled with a requirement for a three-year financial plan would help reduce state spending in reaction to yearly political pressures and provide a mechanism for analyzing the long-term impact of spending. To reduce emergency situations at mid- year or year's end, periodic scheduled adjustments to the budget should take place during the fiscal year. In order to gain a truer picture of the state's financial condition and to limit budget "gimmicks," the constitution should be amended to require a balanced budget according to GAAP, as submitted by the governor and passed by the legislature.

"Member Items," or legislative initiatives, are recognized as a part of the state budget; however, the process of awarding them must be reformed. All member items must include:

1. Presentations of need and costs in order to obtain legislative approval;
2. Public disclosure and accountability; and
3. Formal review before re-awarding.

In the event that appropriations bills are not passed before the beginning of a new fiscal year, the governor's budget should not be automatically adopted as the final year's budget, nor should the legislature be prohibited from conducting business. Instead, an interim budget should be required, based on the figures from the prior year adjusted for inflation and certified by the comptroller.

The budget process should strive for openness and citizen involvement, requiring:

1. Agency budget requests and agency budget hearings held by the Division of Budget to be open to the public;
2. A budget document which is more lucid, concise, understandable, and which clearly identifies non-recurring revenues; and
3. The same degree of public disclosure and scrutiny for "off budget" items (i.e., public authorities and special revenue accounts) as for the Executive budget.

Note: This budget process position covers only the executive budget. (See **Legislative Procedures** under **Government**.)

Recent League Activity

2023

The League testified at the Public Protection hearing on February 7, 2023. We asked for:

- $20M in funding for county boards of elections
- $5M to support the John R. Lewis Voting Rights Act Database bill
- An additional $75M to fully fund the matching portion of the new Public Campaign Finance Board Read our full testimony here.

In addition to orally testifying at the Public Protection hearing we also submitted written testimony to the Elementary and Secondary Education hearing, the Environmental Conservation hearing, and the Health and Mental Hygiene hearing. Ultimately, the budget was delayed.

One House Budgets

The League reviewed and assessed the Senate and Assembly one-house budgets. We were pleased to see support for many of the issue areas on which we work. See the statement summarizing the decisions we support and those we oppose at

- Senate: https://lwvny.org/wp-content/uploads/2023/03/2-One-House-BudgetStatement-2023-Senate.pdf .
- Assembly: https://lwvny.org/wp-content/uploads/2023/03/2-One-HouseBudget-Statement-2023-Assembly.pdf

In January of 2023, we signed onto a coalition letter with the Citizens Budget Commission, Common Cause New York, the Fiscal Policy Institute, New York Public Interest Research Group, and Reinvent Albany requesting several reforms to the state's budget and fiscal management processes. In the letter we included the following recommendations:

1. **Include basic financial plan tables with one-house budgets and the enacted budget**. At present, legislative one-house budget proposals are not accompanied by a set of basic financial plan tables, showing a complete list of reasonably disaggregated receipts and disbursements. This prevents the public from fully understanding the implications of the proposals and 2 comparing them to each other and the Executive Budget. Furthermore, the same basic financial plan tables are not included with the bills when the budget is enacted and announced. This year and going forward, both sets of bills should be accompanied by basic financial plan tables.
2. **Include complete fiscal impact statements with all relevant bills**. Individual 'non-budget' bills also should be accompanied by fiscal impact statements when they affect spending or receipts. For example, the Green CHIPS legislation passed at the end of last year's session—a bill which established annual and aggregate caps on the program's costs—did not have a fiscal impact estimate. The accompanying memo stated that costs were "TBD." Fiscally relevant bills should always be accompanied by an estimate of their costs.
3. **Avoid using messages of necessity for budget bills.** Messages of necessity have been used to bypass the three-day aging process for at least one budget bill in each of the past nine budgets. These messages of necessity rush bills through voting before the public—and indeed some legislators—are able to review their contents, subverting transparency and eliminating the time stakeholders should appropriately have to review budget bills before a vote.
4. **Further increase funding to the Authorities Budget Office (ABO)**. The ABO provides oversight for nearly 600 public authorities holding $273 billion in public debt and annual spending of nearly $80 billion. The Public Authorities Reform Act of 2009, which established the ABO's current responsibilities, estimated that the ABO would require more than $5 million annually in current dollar terms. Last year's budget increased the ABO's funding from $2.1 million to $2.9 million. Thus, additional funding is necessary to provide a level of oversight commensurate with the ABO's responsibilities.
5. **Exclude excessive budget powers and appropriations.** There has been a trend to increasingly include extraordinary budget powers and dry and/or lump sum appropriations in the budget, especially since the onset of the pandemic. Authority for the Governor to make transfers of appropriations and lump sum can create ethical and fiscal risks to the State as significant sums can be spent quickly and unilaterally after the budget is passed. Furthermore, billions of dollars in other dry appropriation authority allow the State to spend during the year on purposes which were not funded in the enacted budget and decrease the budget's transparency. We recommend that this year's proposals omit such extraordinary powers and appropriation authorities.
6. **Hold a joint legislative hearing on the budget process.** We recommend that legislative committees hold a public hearing on long-term problems and strategies to improve the State

budget process. Many of our groups have made other individual recommendations or comprehensive plans to improve the State budget process over the years. For example, the Citizens Budget Commission recently released their own plan for comprehensive budget and fiscal management reform.4 A public hearing would facilitate examination of various proposals from our groups and other experts who have varied perspectives on budgeting and fiscal policy.

Unfortunately, we did not see any significant changes in the process.

The 2023 budget was significantly delayed and was not finalized until early May. The delay in the budget led to frustration in the legislature and from advocacy groups. There was some pressure to introduce more stringent regulations that would ensure a delay like this wouldn't happen in future years. No significant changes to the process were made in this session.

Past League Activity

1993

Testimony on reform of the NYS budget process was given before the NYS Minority Task Force on Legislative Reform in March 1993.

1994-1995

In 1994 and 1995, the League supported Assemblywoman Sandra Galef's proposal for a constitutional amendment to implement the previous year's budget in the event a budget is not enacted by April 1. Other Galef reform proposals supported by the League in 1995 were limitation on the number of bills introduced, and legislation to open conferences.

The League sent a letter with NYPIRG and Common Cause (March 29, 1995) urging the leadership of both houses to use the public and open process of a joint conference committee to debate and develop a state budget. Such a joint conference was used to negotiate the 65 m.p.h. speed limit, but after one budget joint conference, the process was dropped and budget negotiations returned to the leadership-closed circle. (See Legislative Procedures under Government section, Joint Conferencing.)

In July 1995, Senate Majority Leader Bruno announced his intention to introduce a package of budget process reform legislation in the next session.

1996-1997

During the 1996 legislative session, the legislature passed and the governor signed legislation, which would call for joint revenue forecasting to be in place by March 10, 1997.

Also, during 1996 the leadership, under pressure from the League and other good government organizations and the media, held an open leadership budget meeting, which was universally considered staged and unproductive and was never repeated. No open leadership meeting or joint conferencing was done during budget negotiations in 1997. Beginning with the 1996 budget negotiating session, the practice of tying the budget to a political issue became apparent. The issue in 1996 was reform of the workers' compensation laws. Once that issue was resolved, budget negotiations began in earnest and a budget was enacted 104 days late.

In 1997, the League again supported Assembly member Galef's proposal for a constitutional amendment to implement the previous year's budget if a budget is not adopted by April 1. This legislation was sponsored in the Senate by John DeFrancisco and had wide bipartisan support. With League support, it passed in the Senate but was not addressed in the Assembly. The League subsequently did much press work around this issue. The League continues to call for joint conference committees; more input from

rank and file legislators, and a three-year financial plan to reduce state spending in reaction to yearly political pressures. Without reform measures in place, the 1997 state budget was a record-breaking 126 days late. The practice of holding the budget hostage to one political issue continued during the 1997 session, the issue being rent control legislation for New York City and suburbs. Because of the continued overwhelming lateness of the budget, pressure from the media, and the League, all three leaders have vowed, publicly to reform the budget process in the next legislative session.

During the fall of 1997, the Assembly Speaker held hearings statewide on the budget process. The League was invited by the Speaker to attend and testify at all the hearings.

Because of local League participation at every site across the state, the League received much media attention and became the lead organization on reform of the budget process.

1998

During the League's campaign to defeat the ballot question, "Shall there be a constitutional convention?" it was evident that citizens' main impetus behind wanting a convention was the frustration over the chronic late state budgets. This plus the League's constant drumbeat on budget process reform and the forthcoming 1998 elections prompted the Legislature to begin the 1998 session in a budget process reform mode. Although the March 10 statutory deadline for revenue forecasting was not met, the legislative leaders made good on their public vow to hold open joint conference committees.

Beginning in early April 1998 and lasting for 10 days, general conference committees made up of the two leaders, their finance chairs, both minority leaders and the most senior members of the leadership met in open public session with legislators, lobbyists and the press present. It was pure political theater and the seats to this event were prized. It was held in a hearing room of the Legislative Office Building (LOB), too small to accommodate everyone who wished to watch it. The League, because of the very public position on reform was given a front row seat.

For 10 days, nine subcommittees met all over the capitol and LOB. These were made up of rank-and-file legislators who were anxious to have input into the budget making process. Subcommittees were formed according to subject area; i.e., Health Committee, Education Committee. Minority legislators finally had a voice and they quickly became good at articulating their fiscal priorities. When recommendations and appropriations to implement those recommendations being given to the General Conference Committee, there was standing room only in the hearing room. Lobbyists were jammed into every corner and on every step. Some people waited in line outside the hearing room for an hour or so to get a seat.

The budget passed just nine days late and there was a general euphoria among members, lobbyists, and the press that had taken a first step toward something good. The leaders vowed they would never go back to "three men in a room" budget making. One week later, the euphoria turned to anger and depression. The governor felt that he had been left out of the process and so he used his veto pen to strike out all Democratic (Assembly) additions that also were not Senate additions; Pre-kindergarten, monies to ensure small classroom sizes additional monies for family planning and other Democratic additions. Much to the chagrin of the Assembly, Governor Pataki also vetoed Democratic member items but left Republican member items intact. The Assembly was not able to override the governor's veto and a very distrustful and angry atmosphere would carry over to the 1999 budget session.

During a mid December 1998 session to address expiring legislation, the Assembly and Senate agreed to a trade with the governor to obtain a 38 percent pay raise for legislators and judges. The governor's salary was also increased. In exchange for these raises and as a cover for expected citizen outrage they agreed

to withhold their salaries if the state budget was not passed by the April 1, 1999 deadline. In a middle of the night session, also in exchange for the 38% pay raise, the Governor extracted legislation creating Charter Schools. The League lobbied extensively during that all-night session to achieve some accountability for Charter Schools. (See the section entitled: Tuition Tax Credits, Vouchers, and Charter Schools in the State Finance Section, page 212).

1999

The 1999 budget process began with the anger and distrust of the end of 1998 still very evident. The governor's budget of approximately $72 billion did not address the universal Pre-K monies, health care monies or education monies desired by the Assembly and to a degree by the Senate.

The March 10 statutory deadline for forecasting of available revenues was not met and the political posturing, nastiness and distrust continued. On April 14, legislators received their last paycheck, although the governor continued to be paid. The League, along with NYPIRG and Common Cause sent recommendations to the majority and minority leadership to further reform the budget process. Over a period of seven months, we sent three letters and heard only from the minority in both houses. Following much media work and extensive grassroots lobbying, the "budget process" began in early August ending 126 days late tying the record for late budgets. The "process" of holding three-day conference committees was little more than a sham done just to say they had not done the budget with "three-men-in-a-room." In reality, that is exactly what happened. The leadership and the Governor's staff made all major decisions. What had begun in 1998 with such promise had deteriorated back to a process no different than previous years. The fear of a governor's veto resulted in a deal being made to keep the process behind closed doors between just the three leaders. Following the August 4 budget passage, no line item vetoes were done but an open, accountable process had become the victim.

2000-2001

The budget in 2000, because it was an election year, contained lots for everyone; there was an increase in school aid, family planning services were expanded up to 200% of federal poverty level. This increase made the program secure, particular to League interests. There was also an increase of $1.5 million to the 2000 budget in family planning services. Debt reform was the outstanding issue and it was finally resolved, but in a less than satisfactory way according to most independent budget analysts. The main issue had been over whether the first passage of a constitutional amendment limiting such things as "backdoor-borrowing" should be done this year.

Second passage would be in the 2001 newly elected legislature and it would go to the public in statewide ballot. The leaders could not agree to a longer commitment to debt reform and Speaker Silver had only agreed to first year passage. Bond raters told the leadership that something immediate must be done to keep NY's bond rating from falling like it had been doing. Subsequently, there is now a two-year statute with a ten-year phase-in of caps. However, a future legislature could repeal and/or modify the statute at will.

After an eight-month long budget battle that encompassed nastiness among the parties not seen in two decades, no budget activity, no joint conference committee work, nothing was accomplished. On August 2, 2001 just before midnight, the New York State Legislature sailed headlong into uncharted waters! Into the first hours of August 3rd, legislators passed an austere "bare-bones" baseline budget. They also refused to pass an 800-page amendment by the Governor, setting up a power struggle between the Legislative and Executive branches of government.

The Legislature said their "bare-bones" base-line budget was a budget and would have provided stability to the state while legislators and the Governor negotiated a supplemental budget. They also said it would allow state government to function responsibly (without coming back every week to pass budget

extenders). The Comptroller said that although it was not a good budget, it was "sufficient for the ongoing operations and support of state government" (legislators can now get paid). The Governor said that it was not a budget, was illegal, and could cripple the operation of state government; he threatened to sue the Legislature.

This new budget also changed some of the traditional political alliances in Albany, pitting Republican Majority Leader Joe Bruno against his Republican Governor and with his usual nemesis, Democratic Assembly Leader Sheldon Silver. The Legislature intended this base-line budget to shift the political dynamic in Albany and give the Legislature more leverage with the Governor to bring him to the table to negotiate a supplemental budget. Under a 1993 state Court of Appeals ruling the Legislature can only increase or decrease the Governor's spending plan, but can't change the wording of his proposals. Once a budget is in place, however, the Legislature has the authority to initiate its own spending bills. The strategy of the Legislature was to gut his budget proposals of all the economic and other initiatives he wanted and thus force him to the table to negotiate with the Legislature. A supplemental budget would then be negotiated on more equal footing. Under this bare-bones budget, but after August 31st, the state won't be able to incur new obligations for capital projects, thus halting approximately $3 billion in new monies for roads, bridges, and infrastructure repair. After September 15th, all "reappropriations" would have been eliminated. These were monies that needed to be reauthorized for programs begun in previous years such as the Adolescent Pregnancy and Prevention Services Program; many other not-for-profit social services programs including domestic violence programs, homeless shelters, and food pantries, and by October 31st, the Child Health Plus Program will run out of money.

On September 11, 2001, terrorists attacked the World Trade Center and life, as we knew it in New York State was changed. Both houses of the legislature united with the Governor and issues intransigent before September 11th no longer had the same political significance.

Therefore, in an emergency session called by the Governor on September 19, reappropriations were approved, Child Health Plus was extended, and a resolution condemning the terrorist attacks was passed without any significant debate. The events of September 11th and the massive destruction to lower Manhattan created a nine billion dollar deficit. Any prospect for a supplemental budget crumbled with the World Trade Center.

Budget process reform has continued to be an issue of longstanding League concern. The state budget has been late for a remarkable 19 straight years. As was expected in the post September 11th atmosphere a two-year budget shortfall of 6.8 billion occurred because of the WTC disaster and the recession. There were lost revenues resulting from the impact on financial services, banking, insurance, and the tourism industries. The Governor proposed to meet the shortfall by using some of the reserves built up over the last seven years. The budget shortfall was projected to be 1.1 billion in the current year and 5.7 billion in 2002/2003. Reduction of the state work force through attrition and early retirements, maximizing federal revenue supports were proposed to close the gap.

2002

The 2002 budget session was characterized by an off budget health care package negotiated between the Governor and Local 1199 of SEIU. This included legislation, which would increase Medicaid payments over the next three years to hospitals and nursing homes throughout the state. It was widely speculated the Governor in anticipation of a re-election bid had negotiated this legislation in exchange for the endorsement by this large union. No budget reform measures were enacted in this session and most importantly, no joint conference committees were held. The public statements by both legislative leaders and the Governor that they would never go back to "three men in a room" appear to be lost. The budget was again negotiated by "three-men-in-a-room".

Court Ruling on Governor's Suit Against the Legislature on the Budget

In an important decision, which might alter the way future budgets are negotiated, a State Supreme Court Justice ruled that the Governor, not the Legislature, has the authority to alter the language on budget bills. The Governor had argued in his suit (August, 2001) that the NYS Constitution allows him to insert policy changes to state law into appropriations bills and that the Legislature is barred from making changes to that language. Legislative leaders appealed the decision to the Court of Appeals. The lower court decision was upheld and the Governor's powers were strengthened. Meanwhile, the judge stayed his decision until a higher court can review it. This issue arose during the 2001 budget process over Medicaid, education, and the Environmental Protection Fund.

2003-2005

The 2003 budget session was the most interesting in many years. It was characterized by Governor's vetoes and Legislative overrides that increased money for school districts, health care, and many not-for-profits. Notable, however, is that there were again no budget reforms enacted. The budget continues to be negotiated by "three men in a room" or more accurately this session by "two men in a room". As a result, of the budget overrides, the animosity between the legislative leaders and the Governor was palpable and continued throughout the session.

The overriding issue for the 2004 legislative session, as with the previous twenty sessions, was the perennial late state budget. For several years, the League had been extremely vocal about reform of the state budget process. We supported specific reforms including:

- An independent budget office (IBO);
- A clear concise budget document;
- Public disclosure of off budget items;
- Consensus revenue forecasting;
- Joint budget conferencing;
- A three-year financial plan;
- Agency budgeting process open to the public;
- Use of a contingency budget if a new budget is not passed by the start of the fiscal year.

A League budget reform measure, the enactment of a contingency budget, would require a constitutional amendment. If a budget were not adopted by May 1, this reform would require the automatic imposition of a contingency budget that would continue the previous year's budget for the ensuing fiscal year pursuant to statute. If a revenue shortfall is forecast, and the Legislature does not act, appropriations in the contingency budget may be modified to ensure a balanced budget, pursuant to Legislative authority. This reform would require first passage this session and second passage in the new legislature next session. It would then go on the ballot in November 2005. The Governor does not get to act on a Constitutional Amendment. It is widely believed that this specific reform is the legislature's attempt to reestablish itself as more of a co-equal with the Governor in budget negotiations. Legislation should be out by the end of April.

As referred to above, both houses did reach agreement and passed (first passage) a constitutional amendment on a contingency budget. However, the Governor does get to act on implementing legislation of a Constitutional Amendment. In late November 2004, the Governor did veto the implementing legislation, which then set up legislative override possibilities. The Senate, because it passed the legislation first, by law would have to override the Governor's veto first. Majority Leader, Joseph Bruno, publicly stated that his house would override the Governor's veto during a special session in December. That did not occur and the speculation was rampant that the Governor had threatened and cajoled several

Republican members of the Senate. When the Senate returned four days before Christmas, Mr. Bruno again publicly stated that the Senate would be overriding the Governor's veto. After a very lengthy party conference on December 21st, the Senate announced that instead of overriding the Governor's veto they would pass compromise budget reform legislation. This legislation was passed along a straight party line vote in the Senate and because it was one-house legislation, it died on December 31, 2004. The session ended with the status quo "no budget reform."

During the regular session of 2004, the Senate and Assembly had passed similar to, but not identical budget reform bills and following League urging convened joint conference committee to attempt to resolve their issues. These joint conference committees were fascinating to watch and reassuring in the fact that rank-and-file legislators can think through and negotiate very complex issues. These open negotiating sessions were so instructive that the League suggested to the leadership that they be televised statewide.

Four hours before the start of the new fiscal year on April 1, 2004, the joint conference committee announced its reform recommendations. Most of the recommendations were right on point with the League position on budget reform. A great League victory! The outline for reform is as follows:

- All agency requests will be made public prior to submission of the executive budget;
- Three-year financial plan;
- Enhanced fast start (similar to the Leagues recommendation of revenue forecasting);
- Creation of a joint independent budget office;
- "Off-budget" items such as HCRA included as part of the state budget (an issue the League strongly advocated for);
- Fiscal year will move from April 1 to May 1.

However, an on time budget was not to be. Budget negotiations dragged on for the entire 2004 legislative session with no agreement. Because the scenario in Albany that "nothing is done until everything is done," other issues became entangled with CFE case and the budget, subsequently nothing was accomplished. The legislature left Albany with a six-week budget extender ending August 1st.

Finally, in mid-August, the budget, which was the latest in the state's history, was passed by the state Legislature. However, a week after the legislature left Albany, Governor Pataki vetoed 195 appropriations given to him by the legislature.

There are several reasons why the 2005 state budget was on time. First and foremost, the voters in New York State get the greatest credit for an on-time budget. Their frustration level after 20 straight years of late budgets was taken out at the ballot box last November when three incumbents lost their seats primarily on the reform issue. Many candidates who ran for open seats also ran on reform platforms and won. Legislative leaders knew that this was the year they had to bring a budget in on time and so began to work together toward that end.

Of course, the Court of Appeals decision last December which gave the Governor total control over constructing a budget helped focus them. The Court of Appeals ruling was the result of lawsuits going back to 1998 and 2000 in which the Assembly Speaker and then the Legislature sued the Governor for creating policy within the budget. The Court said that the Governor was the "constructor" of the budget and the Legislature could add, delete, delay or negotiate but could not "substitute" for the Governor's language in the budget. Another reason for the on-time budget was the Governor's own poll ratings. His job approval was lower than it had been at any time in his tenure; he also needed to look like a reformer and he could not let his legacy be one of never having an on-time budget during his Governorship.

The actual 2005 budget process was fascinating to watch. The Governor gets credit for pushing open the leaders meetings that were held in the red room on the second floor of the Capitol and were actually open (we had to push our way into the first one). They included the two minority leaders so there were actually five men in a room and perhaps five is their lucky number because the minority leaders did seem to have a calming effect on the usually caustic atmosphere around the Speaker and Governor. Having all the press and reform advocates in the room avoided stalemates or stonewalling. They could not just cross their arms and refuse to negotiate. A time frame was set up and followed. The joint budget conference committees were done in a very short time and were in many respects nothing more than a reporting mechanism to report what the staff had negotiated in private.

Rank-and-file legislators did get to articulate broad policy guidelines during these conferences. The budget was passed on March 31, 2005 in both houses. Following the April 1 deadline, when the spotlight receded, the hard negotiations for the "big" issues that had been taken off the table during the open process actually began. Funding for $1.1 billion was still out there for the TANF (temporary assistance to needy families), Environmental Protection Funds, and HAVA money to fund voting machines and the statewide voter database along with Medicaid issues. Those issues did finally get resolved 11 days later and the budget was finally done. That scene was much more typical of the Legislature; it was done at night with the bills warm from the copying machine. CFE funding was not included in the budget. The Governor has appealed the decision of State Supreme Court that had taken the recommendations of the Special Masters. That appeal will now go to the Appeals Court and then to the Court of Appeals. The Legislature did agree to $880 million more in education funding in this budget, but they did not change the funding formula.

The League has long lobbied for a timely and responsive budget. In the 2004 session we were able to secure first passage of a constitutional amendment requiring a contingency budget of the previous year's funding level go into effect if no budget passed by the beginning of the fiscal year. In 2005 the Assembly and Senate, gave second passage to this amendment paving the way for voter approval in November. Also included in this amendment is a change of the fiscal year from April 1 to May 1, an independent budget office (IBO) that would project available revenue eliminating the perennial Albany problem of the three principles never agreeing on available state revenues. The legislature last session was unable to override the Governor's veto. The legislation was again passed this session by both the Senate and the Assembly and again vetoed by the Governor. Early in May, the Senate did override the Governor's veto. Eight Senate minority votes were needed for the 2/3 override. The League worked hard to get these eight votes necessary for the override. In a press conference, Mr. Bruno publicly thanked the good government groups, especially the League, for their help with this legislation. The Assembly had also committed to overriding the Governor's veto.

The voters in the November 2005 election by a 2-to-1 margin defeated the contingency budget legislation, known as Proposition One. All of the major editorial boards in the state, the Governor, and the Comptroller opposed this ballot proposition. Governor Pataki mounted a television campaign, which the League and its good government partners did not have the resources to respond to. Therefore, the 2006 session began with no budget reform enacted.

2006

The 2006 budget session was characterized by election politics. Because neither the legislature, nor the Governor wanted to be seen as "dysfunctional," the budget was enacted on time. CFE continued to dominate the budget negotiations. No budget process reforms were enacted.

Following the election of a new governor in November 2006, budget reform once again became a priority issue. Chapter One of the laws of 2007 became a three-way, agreed to, budget reform law. Unfortunately, this agreed to legislation was negotiated behind closed doors, but it did contain most of

what the League had been advocating for over the past two decades, with one notable exception, an IBO. The League and its coalition partners had long advocated for an independent budget office (IBO). Rather than an IBO the agreed to legislation specified that the Comptroller would be the final arbiter for available state revenues. The legislation as passed into law contains the following:

- "Quick start" budget discussions will be required each November and quarterly meetings will be held thereafter between executive and legislature;
- The consensus revenue process will be expedited;
- The State Comptroller will be authorized to resolve disputes over revenue;
- Plain language impact statements will be prepared on a range of program areas, including funds for TANF, Medicaid and Environmental Protection Fund;
- Requires joint budget conference committees within 10 days of submission of the Executive Budget;
- The legislature will be statutorily required to enact a balanced budget;
- The legislature will be required to explain fiscal impacts of changes it makes to the governor's budget bills;
- Lump sum appropriations, including "member items," will be itemized.

There will be a new "rainy day" fund, setting aside three percent of the General Fund in reserve, which will be added on top of the current two percent "rainy day" fund for a total of five percent. The new fund can be used in the event of economic downturn or disaster.

2007-2008

The League achieved a partial victory with the 2007 round of budget reform, in which the legislature, working with Governor Spitzer, finally passed budget reform. The legislation adopted a "quick Start" to budget deliberations by beginning discussions in November, required fiscal impact statements for legislative changes to the budget prior to adoption, required member items to be listed individually, making them subject to the Governor's veto, required deference to the Comptrollers' revenue forecasts if the governor and legislature could not agree by March 1, required the use of conference committees to resolve differences, and required the Governor to explain in plain language the impact of proposals on local government. In 2009, the League testified before the Senate select committee on budget and tax reform and noted that many reforms in the 2007 Budget Reform Act have not implemented.

The League remains adamant that additional reforms are needed:

- A clear concise budget document and public disclosure of off-budget items
- An independent budget office
- Mandated joint conferencing and public meetings
- More accountability for member items
- Limiting the use of "messages of necessity".

Some Progress in Timeliness and Disclosure

One of the aims of the 2007 budget reforms was to increase the time for budget deliberations with "quick-start" budget discussions required each November. We were encouraged when the Governor released his 2009 Executive budget early in December allowing for earlier budget discussions. Unfortunately, in the end the process lacked involvement by rank and file legislators or the public. Progress was made in 2009 in accordance with another 2007 reform that called for fiscal impact statements for legislative changes to the budget prior to adoption.

Clear and Concise Budget Document

Both legislative deliberation and citizen involvement require a budget document that is lucid, concise, and understandable. The League feels that the budget should clearly identify non-recurring revenues and allow for the same degree of public disclosure and scrutiny for "off-budget" items as for the Executive budget.

Consensus Revenue Forecasting and an Independent Budget Office

In our view the single most important reform not accomplished by the 2007 budget reforms was the creation of an independent budget office. Instead, the Comptroller would be the final arbiter for available state revenues. The Comptroller is an elected official and does not have the same public perception of objectivity, particularly in election years. Independent, nonpartisan forecasting and economic analysis would be one important means of enhancing long-term planning capabilities and ensuring greater fiscal stability for the state.

Joint Conferencing and Public Meetings

The League has long urged the use of joint conferencing and public meetings to facilitate the budget process and increase public participation. Despite rules changes as a result of the 2007 budget reforms, and the use of conference committees in 2008, conference committees were not even formed in 2009. A deeply flawed process in developing the 2009-2010 budget left the public without adequate information or input. The law should be changed to mandate the creation of joint conference committees and adequately noticed joint public meetings

Messages of Necessity

The League continued to urge that the use of "messages of necessity" during the budget process be restricted to genuine instances in which a delay would case substantial and irreparable harm.

The legislature was able to pass a budget by the April 1, 2007 fiscal deadline. However, we were extraordinary disappointed in the budget process as it was done behind closed doors by the usual three-men-in-a-room. We severely criticized the Governor and leadership and were assured by the Governor that he had gotten our message and this would be the last year of a budget done primarily in secret by leadership only.

The next year, 2008, saw a budget process more secretive and more behind closed doors then we have seen in probably fifteen years. If you were partial to three-men-in-a room, behind closed doors, then you just loved this budget session.

January 2007, shortly after the new governor, Eliot Spitzer took office, he and legislative leaders made much fanfare over a three-way agreed to budget reform legislation which became known as Chapter 1 of 2007. Under this new law, a quick start budget process for the agencies and new legislative budget process was to begin. By the end of 2007 that agency budget reform process was working well. Under the new law, available revenues must be determined by March 1st of each year.

On Friday, March 7' 2008 the sky fell in and on Monday, March 10th Governor Spitzer resigned. The following Monday, David Paterson was sworn in as Governor and had to quickly orient himself to budget negotiations. Later that week, Wall Street took a nosedive and with it went revenue that New York State counted on. The new Governor re-estimated revenues to be lower by $800 million dollars and asked the agencies and the legislative leadership to cut spending in this new budget. But of course, this is an election year and asking legislators in an election year to cut spending, even in very trying economic times, is like trying to tell your four year old "you can't have a cookie, before dinner." Legislative leaders stomped their feet, ignored the governor and continued their election year binge.

The issue currently holding up the budget and keeping Albany in a state of either suspended animation or dumbfounded amazement is congestion pricing. This is an issue the League does not have a specific position on. It is a proposal championed by NYC Mayor Michael Bloomberg. It would reduce congestion below 60th Street in Manhattan by charging $8.00 per car for anyone driving in the City from 60th Street down to the tip of Manhattan at high peak traffic hours of the day. Environmentally, this may be a laudable goal. However, it has created a huge political firestorm. Budget negotiations (behind closed doors, between three-men-in-a room) have come to an abrupt halt while hour, after hour, after hour the issue was debated in the Assembly Majority Conference. On April 7th the Assembly Majority decided not to bring the issue to the floor of the Assembly for a vote, killing congestion pricing. Following the announcement by the Assembly Democratic Majority, the Assembly adjourned. This prevented the Assembly Republican Minority from introducing a hostile amendment on the floor of the Assembly. Meanwhile over in the Senate, the Senate Democratic Minority walked off the floor preventing a quorum so that the Senate Republican Majority could not force a vote, thereby putting the downstate Democrats on the record on congestion pricing.

Following the failure of congestions pricing on Monday, April 7th, both houses of the legislature moved quickly to reach agreement on a budget. An agreement was announced on a $121.9 billion dollar budget on Tuesday night and by 2:30 on Wednesday afternoon the Senate had passed the budget and adjourned. The Assembly followed shortly after. It is almost impossible at the moment to tell what exactly is in this budget as it was passed in secret with only briefings to the legislators in party conference. There were not open leaders meetings except for one. Some joint legislative budget committees never met and the rest met only once. The bulk of the election year budget was done in one big ugly bill; a process that the Governor and the legislative leaders both conceded was awful.

2011

In 2011 for the first time in five years the New York State budget came in right on time. However, the Wednesday proceeding passage was a hectic day of protests and budget bills passing at lightning speed. Approximately 2000 people occupied the interior of the Capitol, the stairwells, the million dollar staircase and the 2-4th floors. Shortly after the buses began to arrive at 1 p.m. the Sergeant at Arms shut down the lobby outside the Senate Chamber and one of the two galleries overlooking the Senate floor. The Assembly shut down both of their galleries and the League negotiated the remainder of the afternoon with the Assembly to comply with the Open Meetings Law.

The budget bills were finally passed in the Senate by midnight and in the Assembly by 1 a.m. Governor Cuomo said in his State of the State message that he wanted an on time budget and that he wanted cuts to education and health care—he got all three. He was definitely the winner in this budget.

2012

In 2012, the leadership in the Legislature was negotiating the last two sticking points in the 2012-2013 state budget---education and health. In the education budget, the sticking point dealt with the governor who had proposed $250 million in competitive grants statewide and the legislature who wanted that money to go to the high needs districts. After many days of negotiations, the legislature won this one. The governor ended up getting $50 million and the legislature put $200 million back into high needs districts. As many League members may remember, in 2011 the governor had agreed to add 4% more in education money to this year's budget; on top of that, the executive budget appropriated a total of $805 million to this year's education budget.

The major controversy in the health care budget concerned the creation of a Healthcare Exchange. The Senate Republicans staunchly refused to go along with the Healthcare Exchange in the fear that they will be accused of supporting "Obamacare."

The process around the budget played out differently than the process two weeks earlier when we did the "Big Ugly". The Big Ugly comprised the redistricting lines, constitutional amendment on structural reform for redistricting, pension reform Tier 6, DNA database, and the constitutional amendment on gambling. Except for the district lines and the constitutional amendment, the legislation was presented with a message of necessity and importantly in the middle of the night. The governor and the legislature were severely criticized for the process an it was decided by the governor and the leadership in the legislature that the budget would be done during the day and only after they had been on the desks of legislators for the required three days. An on time budget was important because it allowed the governor and the Republican majority in Senate to be able to say that Albany is no longer dysfunctional and that the gears of government are functioning smoothly.

HEALTHCARE

Health Care advocacy in New York State is based both on LWVNYS positions and the positions of LWVUS. (LWVUS *Impact on Issues*, 2022-2024, p.129)

The LWVNYS Healthcare Update Committee was charged at the 2019 NYS Convention with updating our current positions on Healthcare and Financing Healthcare. These positions were last updated in 1991. A committee of seven, co-chaired by Barbara Thomas, LWV Saratoga, Valerie King, LWV Hamptons and consisting of five other members from around the state. They worked diligently for more than a year via Zoom and completed a 50 page document, mainly consisting of study materials and appendices. After approval by members, the new positions were adopted by the state Board.

HEALTHCARE Position

Adopted by LWVNYS Board of Directors

March 20, 2021

GOALS

The League of Women Voters of New York State (LWVNYS) believes that everyone should have access to essential physical and behavioral healthcare. New York State has a proper role in the regulation of healthcare and must assure high quality care that is affordable and accessible to all. Resources should be devoted to health promotion and disease prevention so that people can take active responsibility for their own health. People should have opportunities to participate effectively in decisions regarding their personal health and in healthcare policy decisions.

The League believes that New York State's primary role in healthcare is to assure that quality care is available to all New Yorkers. We believe that the state should provide planning and regulations to assure everyone, including the medically indigent, access to an essential level of quality physical and behavioral healthcare. Cost containment should be an important criterion in developing regulations. Such regulation, however, should not compromise the quality of care or its accessibility.

The League supports regulatory incentives to encourage the development of cost-effective alternative ways of delivering and paying for healthcare, appropriate to all areas of NYS, with coordination across regulatory bodies to avoid undue delays and contradictory, duplicative regulations. Delivery programs may take place in a variety of settings, including the home and online, and must provide quality care, meaning consistent with "standard of care" guidelines, by trained and licensed personnel, staffed adequately to ensure their own and patient safety.

Coordination of services is essential to assure that community needs are met. As public health crises increasingly reveal, NYS should protect the health of its most vulnerable populations, urban and rural, in order to protect the health of everyone. In addition, all programs should be evaluated regularly. Provider reimbursement should include incentives for efficiency and for disease prevention and health promotion activities. Public health, environmental health and research activities should be continued. Decisions on medical procedures that would prolong life should be made jointly by patient, family, and physician. Patient decisions, including those made prior to need, should be respected.

HEALTHCARE Position

Adopted by LWVNYS Board of Directors, March 20, 2021

continued

ESSENTIAL LEVEL OF QUALITY CARE

The League supports uniform eligibility and coverage of essential healthcare services, both physical and behavioral, ideally including coverage of services such as vision, dental, hearing, and long-term care, through public financing. Access to optional insurance coverage for care not covered by public financing should be available. The League has a strong commitment to an emphasis on preventive care, health education, and appropriate use of primary care services.

FINANCING OF HEALTHCARE POSITION

Adopted by LWVNYS Board of Directors, March 20, 2021

As a continuation of the 1985 statement of position on healthcare, a two-year study and consensus on the financing of healthcare was conducted from 1989 to 1991. Following study in 2019-20, this position was updated again in 2021. The League of Women Voters of New York State believes that any proposed healthcare financing system should provide access to essential healthcare at an affordable cost for all New Yorkers, both patients and taxpayers. The League supports the single-payer concept as a viable and desirable approach to implementing League positions on equitable access, affordability, and financial feasibility. In any proposed healthcare financing system, the League favors funding supported in part by broad-based and progressive state income taxes with health insurance access independent of employment status.

FEDERAL v STATE ROLES

Although the League prefers a healthcare financing system that includes all residents of the United States, in the absence of a federal program that achieves the goals of universal, affordable access to essential health services for New Yorkers, the League supports a healthcare program financed by NYS which includes continuation of federal funding.

FEASIBILITY

The League believes the financial feasibility of any single-payer NYS program requires:

- Levels of federal support appropriate for the cost of the program
- Sufficient cost-savings to be identified so that estimated overall program cost will approximate the cost of current overall health services (as funded from all sources) or less • New state funding from individual taxpayers, employees and businesses, that is equitable and progressive to ensure affordability for all
- A healthcare trust fund managed by the state, that operates in a similarly efficient fashion as Social Security or Medicare trust funds.

COST-CONTROL METHODS

To reduce the impact of any tax increases, healthcare reform should contain costs. The League believes that efficient and economical delivery of care can be enhanced by such cost-control methods as:

- Reduction of administrative costs — both for this plan and for providers
- Negotiated volume discounts for pharmaceuticals and durable medical equipment to bring prices closer to international levels — or importing of same to reduce costs
- Regionalization of specialized tertiary services to ensure timely access and quality
- Evidence-based treatment protocols and drug formularies that include cost/benefit assessments of medical value
- Malpractice reforms designed both to compensate patients for medical errors and to avoid future errors by encouraging robust quality improvement processes (at individual and systemic levels) and open communications with patients
- Investment in well-care — such as prevention, family planning, patient education, primary care — to increase health and reduce preventable adverse health events/expenditures
- Investment in maternal/infant and child care, chronic disease care, and behavioral healthcare Provision for short-term and long-term home-care services to reduce institutionalization
- Innovative payment and record-keeping.

Specific cost-control methods should reflect the most credible, evidence-based research available on how healthcare financing policy affects equitable access to healthcare, overall quality of care for individuals and populations, and total system costs of healthcare and its administration. Methods used should not exacerbate disparities in health outcomes among marginalized New Yorkers.

PUBLIC PARTICIPATION

The League supports public input as integral to the process for determining health care coverage and funding. To participate in public discussion of health policy and to share effectively in making policy decisions, NYS residents must be provided with information on the health care system and on the implications of health policy decisions.

ACCESS TO HEALTH CARE

Recent League Activity

2022-2023

The LWV of NYS Healthcare Committee (HCC) has met most months since March 2022, building relationships among advocates around the state, sharing ideas and resources, discussing legislation and allies, and prioritizing advocacy. In January 2023, it reached out to other issue specialists to cross-fertilize on common concerns; and in February, during the highly successful LWV of NYS "Hot Topics," which showcased the priorities of all nine issue areas, Healthcare noted overlap with six of them.

In June 2022, the LWVUS Convention concurred with the Health Care Position Update From NYS by a nearly unanimous vote; and the Digital Equity Position, spearheaded by the NYS Rural Caucus and supported by healthcare advocates (e.g., because of telehealth), also earned enough votes to become a US position. During the Convention, Dobbs vs Jackson Women's Health was handed down, prompting delegates to join thousands at a spontaneous rally on the grounds of the Denver Statehouse.

National and state politics kept healthcare in the headlines, specifically fall-out from Dobbs, but also Covid's continuing death toll and rising concern about disparate access. Following Dobbs, NYS quickly

passed several laws to protect reproductive rights, and it passed the NY Equal Rights Amendment (the first step to changing the NY Constitution). By December 2022, 14 state legislatures had enacted total bans on abortion (affecting 25+ million women) although ballot measures allowed voters to keep it legal in a few states. NYS became a safe haven for ever more women needing care, so we supported additional bills seeking to protect NY providers (including those who offer telehealth for abortion across state lines) and to ensure digital privacy around such services, bills outlined by the Equality of Opportunity report above, which also describes League support for Medical Aid in Dying legislation.

Our Healthcare Committee on advocacy for health reforms and funding targeted New York's most vulnerable and under-served. Happily, some 2022 bills we supported are now law:

- Beyond the 4th Trimester increases NYS Medicaid coverage from 60 days post-partum to one year — because maternal/infant mortality can be reduced by consistent regular healthcare for mothers and infants.
- End Medical Debt #1: Ban on Medical Liens and Wage Garnishments prohibits hospitals from imposing liens on patients' homes or garnishing wages for medical debt, since no one should lose their home because they needed healthcare.
- End Medical Debt #2: Ban on Facility Fees for Preventive Care & Required Disclosure hospitals must notify patients about facility fees in advance, and it prohibits facility fees for preventive care. Reducing "surprise billing," for otherwise fully covered health services benefits even higher income patients.
- Protecting Confidentiality of Vaccine information, removing individual names from public databases avoids vaccination hesitancy for sexually transmitted diseases. Healthcare should not "out" people.
- Synchronization of Multiple Medicaid Prescriptions so those most likely to have issues getting to pharmacies and refilling prescriptions can have prescription refills synchronized for fewer pickups.

The NYS Budget was delayed so that many bills the LWV could support have not been introduced as of this writing. The LWV supported these in pre-budget testimony:

1. Equitable access for New York's children — to reduce disparities in health outcome:
    - Community Schools, Wrap-Around Services, School-Based Health Clinics to protect fiscal viability and quality of health clinics located in high-need schools, it extends Medicaid managed care waiver.
    - Coverage for All to allow those of NY's half-a-million undocumented residents who are aged 19 to 65 (who are income-eligible) to buy into NY Essential Plan, of which about 154,000 are eligible.
      (NY Medicaid covers over-65's; children are covered by Child Health Plus.)
    - Expanded Medicaid Coverage for Doulas, a cost-effective way to reduce maternal/infant mortality.
    - First 1000 Days: Extending Medicaid Eligibility for Infants to 3 Years — "churning" children on/off Medicaid, based on parent eligibility, wastes NY administrative time/dollars and harms children's health. Eliminating the "churn," even with added care for perhaps 40% of NY children, saves money.

2. Equitable access for financially vulnerable New Yorkers — Care shouldn't cause poverty:
    - Enroll Incarcerated Persons into Medicaid Prior to Release 60 days in advance to ensure no gap in prescriptions or care — important since 80+% of those released have chronic or major health issues. Those who need insulin, asthma inhalers, psychotropic medications should not be released without them.

- Ounce of Prevention requires providers to adopt a standard patient financial aid application, with clear and consistent eligibility rules and patient protections so that eligible patients can actually access aid.
- Cap Cost-Share of Insulin lowers the cost-sharing cap for insulin from $100 to $30 for all NYers.
- Other Reforms to ensure that funds allocated for indigent care are used for indigent healthcare which will also mean safety-net hospitals get reimbursed for services (protecting their financial viability).

3. Protecting providers in rural and high-need areas — to protect patient access:
    - Revitalized Emergency Medical Services and Medical Transportation — ambulance services are at risk in both rural areas and in cities, and trained EMS workers are retiring faster than they can be replaced. The NYS Budget speaks to this concern but negotiating how to implement a new vision will be difficult.
    - Fair Pay for Homecare sets wages for home care aides as at least 150% of minimum wage requires insurers (for-profit managed care insurers) to reimburse agencies and their workers. NYS is facing the worst shortfall of home care workers in the nation: 25% of patients who need it cannot find anyone.
    - Funding for Broadband and Digital Infrastructure, federal dollars are available, but how they get dispersed will affect whether rural/underserved areas get what they need.
    - Maintain Recently Expanded Coverage For Telehealth, including parity of telehealth coverage for behavioral health and disability services, and prescriptions based on those visits.

Emerging issues include safe consumption facilities to reduce deaths from substance abuse, protecting safety-net hospitals (both urban and rural) from closing (by requiring assessment of community impact and by targeting NYS charity care funds toward facilities that target their care to the uninsured and underinsured), and increasing transparency around hospital policies designed to limit healthcare services for reasons other than medical standard of care (for example, facilities that limit what reproductive services they provide or refuse to follow certain kinds of advance directives with no transparency).

Post-budget the committee focused on several bills and successfully passed the School Based Healthcare Bill, which provides that services provided by school-based health centers shall not be provided to medical assistance recipients through managed care programs. This bill was passed on June 1, 2023, and has yet to be signed by the Governor.

2021

After many years of advocacy, in 2021 the legislature passed two safe staffing bills for nursing homes and hospitals to ensure both patients and healthcare workers are protected requiring them to meet minimum staffing levels of nurses and other health care staff.

Under the new laws, the state health commissioner will establish minimum staffing levels for nursing homes and will impose civil penalties if the homes fail to meet the minimum standards. Each resident would receive an average of 3.5 hours of care a day, with at least one hour from registered or licensed practical nurses and two hours from certified nursing assistants.

The new legislation also sets up clinical staffing committees in hospitals to determine staffing guidelines and decide the proper ratio between patients and staff. The panels would include hospital

administrators as well as registered nurses, licensed practical nurses, and other staff members who provide direct patient care.

The League has been supportive of this legislation since 2016 and we are pleased it has finally passed.

2016-2017

In 2016, the League took action on a bill that would allow for safer staffing ratios for nurses and patients by setting a minimum staffing requirement in nursing homes and acute care facilities. This new legislation provides for better patient outcomes because of increased patient safety. The legislation would provide for lower costs for hospital and nursing home facilities by reducing rates of incidents. The League issued a memo of support for the bill but unfortunately it did not pass.

In 2017, the League had a major win with the passage of a bill to include e-cigarettes in the Clean Indoor Air Act. This is legislation the League had been working on for several years. The legislation would ensure that e-cigarettes cannot be used inside any public or private schools. Studies show that e-cigarette usage is extremely high among teens. We hope that this legislation will help deter teens from using the harmful substance.

Past League Activity

1985-1987

Acting on member support for home care for the frail and disabled, the League supported passage of a law, in 1985, to provide training for family members and friends of those who require care at home.

Since adoption of the Health Care position, the League has lobbied hard for measures that assure access to quality health care, with prenatal and child health care a League legislative priority in 1987. In 1986, the League successfully supported legislation for a prenatal care assistance program and worked again in 1987 for the establishment of a permanent prenatal care assistance program within the New York State Department of Health. Lobbying efforts during 1987 also focused on the inclusion of entitlement to services for pregnant women living at or below 185% of the poverty level.

Funding for prenatal care services for women with incomes above the federal poverty level passed in 1989 but not with a full range of services including abortion. In spite of the need for such services, the League opposed the legislation because Medicaid funding for abortions was not included. Recognizing that early and continuous health care is the first step toward a productive future, the League has been active in supporting bills which would raise income eligibility standards for Medicaid, so that poor children can receive needed health care, and has supported nutrition outreach legislation.

Regarding increased availability of health care services, the League has supported a bill which would encourage physician participation in Medicaid funded maternity services by doubling the reimbursement fee, and a bill which would increase the operation cost component of Medicaid reimbursement to hospitals. The League opposed a Medicaid co-payment bill because it felt the program would be a disincentive to providers to participate in Medicaid and could discourage Medicaid clients from seeking services.

1989-1994

Funding for health planning agencies was continued in 1989 after extensive debate and lobbying. The League supported this legislation under its position of public input and rational allocation of resources. During the budget negotiations for 1995-96, the League lobbied unsuccessfully to restore cuts in funding to the health systems agencies.

In the 1992, legislative session, the League lobbied for legislation which would provide technical assistance to school districts and BOCES in the development of school health care services for pre-school and school age children. This bill died in the Senate Rules committee.

One of the most important legislative proposals the League has lobbied for, beginning with the 1993 session, was the Health Care Facilities Access bill. Passing the Assembly with an overwhelming margin, the bill died that year in the Senate. This legislation is vitally important since it provides access to health care and seeks to protect health care workers from intimidation and harassment.

During the 1994-1995 session the John/Cook Facilities Access legislation again passed the Assembly with an overwhelming margin and was held in the Senate Republican conference.

Since the 1994 legislative session, the League has continued to support legislation that would make the funding for school based health services permanent.

The League in 1994, successfully supported legislation, to require routine obstetric and gynecologic services offered by Health Maintenance Organizations (HMO's).

1995-1997

The rapid development of managed care entities and market concentration in New York State prompted statewide discussions during the 1995 legislative session on the impact of managed care on the quality and delivery of health care. Legislation and a similar, though not identical bill in the Senate would have set standards and provide protection for consumers and providers.

The League supported this legislation and gave testimony on League position concerning managed care. Dubbed the "Health Care Consumer Bill of Rights," passed the Assembly but was not addressed by the Senate. Also in the 1995 session, the administration's proposal to mandate Medicaid managed care prompted action by the state League. Letters were written opposing cuts in Medicaid reimbursement rates to providers and commenting on proposals for reforming the NYS Medicaid program.

In 1996, the League, as a member of two broad based coalitions, The Coalition for Quality and Choice in Managed Care and Health Care Campaign, launched an all-out lobbying effort to secure passage of managed care consumer protection legislation. Because of nonstop lobbying by all sides, the Legislature passed and the governor signed three major pieces of legislation that will significantly impact the way health care is delivered and financed in New York State for years to come. (See additional information under Financing of Health Care.)

Two of the three new laws (Managed Care Consumer Bill of Rights - Chapter 705, Laws of 1996, and Medicaid Managed Care - Chapter 649, Laws of 1996) provide consumers with additional rights and protections in dealing with health insurance companies, particularly managed care organizations. Both laws establish new standards and procedures to improve health care quality and access. These include:

- Disclosure of important information about health insurance plans, such as—benefits provided;
- Costs to enrollees, choosing physicians and medical facilities, the definition of "medical necessity";
- The right to receive referrals to specialists; use of emergency room services based upon the "prudent layperson" definition;
- Greater regulation of the "utilization review" process; and a timely grievance and appeal process to challenge adverse decisions.

The two new laws also prohibit the infamous "gag clauses", which insurers have used to keep providers from advocating on behalf of their patients or speaking freely to their patients about treatment options.

Although both laws have much in common, one applies to all insured persons, whereas the other extends protection specifically to Medicaid patients who are enrolled in managed care plans. League worked hard for effective Medicaid managed care protections. We were concerned that, once the federal government approved the states mandatory Medicaid managed care plan, a flood of new enrollees would overwhelm the system and have an adverse impact on Medicaid patients.

In 1996, the League joined a coalition of health care and environmental groups to lobby for legislation that would require the reporting of publicly accessible data on pesticide use and sales in New York State. The compromise legislation that was enacted also established a health research science board and breast cancer research and education fund.

In 1997, the League began lobbying efforts early in the legislative session to obtain passage of important provisions of the Managed Care Consumer Bill of Rights that had been eliminated from the comprehensive measure that was passed in 1996. Our priorities for 1997 included:

- Experimental and investigative treatments legislation to improve medical care for the seriously ill;
- Health maintenance organization (HMO) liability, which will hold HMOs liable for the health care decisions they make;
- Establishment of an ombudsman program to assist consumers with their health insurance questions;
- Extension of anti-gag rules to cover health care professionals other than physicians.

Although prospects for passage of these measures looked promising at the beginning of the legislative session and all were passed with bipartisan support in the Assembly, the state Senate took no action on them.

However, the League recorded some notable health care successes. In 1996, media attention focused on the issue of "drive-through" deliveries. Legislation was introduced, which the League supported, requiring insurers to cover a hospital stay of 48 hours for mothers and newborns following a normal vaginal delivery or 72 hours following a caesarian birth. This popular proposal easily passed in both houses and was signed into law.

Similarly, in 1997, legislation was introduced requiring insurers to allow patients and their doctors to decide the length of hospital stay following a mastectomy as well as requiring insurers to pay for reconstructive surgery following a mastectomy. The League lobbied for this legislation, which passed in the legislature and was signed by the governor.

2007

In 2007 legislative session, the League worked to allow for reimbursement of Child Health Plus (CHP) and Family Health Plus (FHP) funding in school based health clinics. This has become a big lift because of the Division of Budget fiscal impact. In the 2008 legislative session, it is anticipated that there will be a push to allow social work reimbursement in these clinics. The League will support this effort.

In 2007, the League supported two measures designed to increase patient access to quality health care. The Nursing Care Quality Protection Act, introduced in the Assembly would require hospital disclosure of levels of nursing and patient care staff and would document the number of adverse hospital incidents. This legislation passed the Assembly. Another bill introduced in the Assembly and supported by the League, would have required the Department of Health to develop minimum nursing levels for nursing homes throughout the day in consultation with an advisory council. This legislation passed the Assembly, but was held in the Senate.

2012

In 2012 the League supported legislation to establish the New York Health Benefit Exchange. The Health Benefit Exchange will create a marketplace where individuals and small businesses can compare and purchase health insurance; it will also provide a single location where eligibility for public insurance or subsidized health insurance can be determined. The New York Health Benefit Exchange will provide low cost health insurance for more than one million newly-insured New Yorkers. In April 2012 Governor Cuomo signed an Executive Order establishing the NY Health Benefit Exchange after the Senate Republican Majority refused to pass legislation creating the Exchange. The legislation had passed in the Assembly.

MANAGED CARE LEGISLATION

In 1998 the push for additional managed care consumer protection legislation continued. Two League supported measures were combined into one piece of legislation and signed into law. This legislation created an External Review Board, giving HMO enrollees, the right to appeal an insurer's decision to deny medical care, including the carrier's refusal to permit use of experimental or investigational (Clinical trials) treatments. Patients could request action from the independent External Review Board when they had exhausted their insurer's internal appeals process.

No further legislative action was taken in 1998 or 1999 on other League supported managed care reforms, including HMO liability (now titled the Health Care Accountability Act) or on establishing the Managed Care Consumer Assistance program.

WOMEN'S HEALTHCARE

Recent League Activity

2013

In 2013 during his State of the State address, Governor Cuomo introduced the Women's Equality Agenda. This ten-point agenda includes a proposal that will protect a women's freedom of choice and will align NYs abortion laws with federal statue. It will also move NY's abortion provisions from the penal law to the public health law. The League is an active participant and member of the Steering Committee of the Women's Equality Agenda Coalition. The Coalition has more than five hundred organizations signed-on. For more on this see the Reproductive Rights section of this publication under Government.

Past League Activity

1998-2000

In October 1998 all New York was shocked when Dr. Barnett Slepian was shot and killed in his Amherst, NY home. Dr. Slepian was an obstetrician and gynecologist who performed abortions at a Buffalo Women's Clinic. For the seventh year, League, and many other health care advocates, lobbied for much needed Safe Clinic Access legislation and the Assembly quickly passed its bill early in the session. In response to the doctor's murder, Governor Pataki publicly stated his support for such legislation. Although the Senate rejected a companion measure to the Assembly bill, in June 1999 it did pass its own version that incorporated an anti-stalking provision. In the final minutes of the 1999 legislative session, the governor and the Assembly reached a compromise. The law went into effect December 1, 1999.

In 1998 and 1999, the League supported the Women's Health and Wellness Act (WHWA). Many insurers do not cover the most common health problems experienced by women. This act requires health insurers

to cover contraceptive drugs and devices, annual pelvic exams and pap smears, annual mammograms for people aged 40 and over, and osteoporosis screening and treatment. In both years, the bill was overwhelmingly approved by the Assembly only to stall in the Senate.

In the 2000 legislative session, the Senate pushed for and was successful in passing an insurance mandate to cover PSA tests for prostate cancer screening. The League supported that legislation, however, we made it clear to the Senate that in failing to pass the WHWA they were continuing to put women's health care at a lower priority.

2001-2007

The League lobbied extensively again in the 2001 session in support of the Women's Health and Wellness Act. Early in the 2001 session, the Senate Majority Leader introduced a bill, which, while mandating coverage of some preventive health services, differs from the Assembly in that it allows insurers to charge co-pays and deductibles. It also includes a loophole, "the religious conscience clause", allowing some employers and insurance plans to deny coverage for contraceptive care. The Senate promptly passed this legislation and the two houses went to conference committee. After three committee meetings, the Assembly appeared to have the momentum so the Majority Leader pulled his members from the committee process.

Intense lobbying on this issue continued for the rest of the session and during the legislative sessions of 2002 the League had a major women's health care victory. In the closing days of the 2002 session, after much grassroots lobbying by league members and our coalition partners, the Women's Health and Wellness Act was passed by both houses of the legislature and signed into law by the Governor. It went into effect on January 1, 2003. The new law contains all those elements for which the League had lobbied including insurance coverage of contraceptive drugs and devices, annual pelvic exams and pap smears, annual mammograms for woman over forty and osteoporosis screening and treatment. This will have a very real effect on preventive health care for women in New York. Shortly after the law was enacted, the New York State Catholic Conference sued in state court and the law was stayed. The court action extended all the way up to the New York State Court of Appeals. In the court session of 2007, the decision came down that the WHWA was indeed constitutional and the law went into effect immediately. After many years, this is a success for both the League and women's health.

THE UNINSURED

Recent League Activity

2020

The LWVNYS Healthcare Update Committee was charged at the 1991 NYS Convention with updating our current positions on Healthcare and Financing Healthcare. These positions were last updated in 1991. A committee of seven, co-chaired by Barbara Thompson, LWV Saratoga, Valerie King, LWV Hamptons and consisting of five other members from around the state. They worked diligently for more than a year via Zoom and completed a 50 page document, mainly consisting of study materials and appendices. The LWVNYS are asking all the Leagues around the State to hold concurrence meetings to determine whether to accept or reject the two new positions. The results will be presented at the 2021 State Convention.

2019

In 2019 the State League has issued memorandums of support for the New York Health Act. The League also continued to engage with the Campaign for New York Health, a coalition of more than 180 organizations working to gain passage of this legislation. The League's Westchester County healthcare

committee was also active in providing grassroots support, holding forums, speaking to groups, lobbying legislators in Albany and locally, and writing op ed articles and letters-to-the-editors.

2016-2018

In 2016, 2017, and 2018 the League continued its advocacy efforts on the Single Payer New York Health Program. The League sent action alerts to all members asking them to contact their legislator and ask them to vote in favor of the bill. The League issued a memo of support and held lobby visits in legislator's district offices on the bill. Many League members participated in rallies and phone banking events. The legislation once again passed in the Assembly but was not considered in the Senate, although it did gain 31 co-sponsors, just one vote away from a majority, a significant step forward.

The 2015 legislative session was the first session where legislation on the Single Payer New York Health Program passed the Assembly. The League of Women Voters of New York State has long supported policies that promote access to a basic level of quality care at an affordable cost for all, while ensuring the efficient and cost effective delivery of care.

2013

The League continues to advocate for a single payer health plan and supports Assemblyman Gottfried and Senator Perkins 2013 New York Health legislation (A. 5389 / S. 2078). Until a single payer system is enacted, the League supports efforts to expand access to health coverage through the implementation of the Affordable Care Act.

Past League Activity

1996-1999

In 1996, League supported the state's child health insurance program, entitled Child Health Plus (CHP) that offered subsidized health insurance to children of families unable to afford health coverage. In 1998, we supported expansion of this program using new federal funding incentives. As part of its eligibility to receive federal funds, NYS was required to launch an all out effort to enroll children in either the Medicaid or CHP programs. This effort began in the fall of 1999.

Similarly, League examined other proposals to make health insurance affordable for more New York residents. We gave our support to a proposal that would create a "Family Health Plus" program modeled after the CHP insurance plan. (See detailed information on this and the CHP program under FINANCING HEALTH CARE.)

In keeping with our goal of universal health care, in 1998 and 1999 League focused attention on the growing number of people without health insurance. By 1996, the uninsured in New York had surpassed 3.1 million, a 40% increase from 1991, and the number was continuing to rise.

2009

In 2009, the League worked successfully for implementation of universal health insurance at the national level. Over the next four years, it will follow implementation.

In 2009, there was no forward movement in health care at the state level. (See detailed information about specific proposals under FINANCING HEALTH CARE.)

MENTAL HEALTH PARITY

Mental health parity has been a League priority since the 1999 amendment of its 1985 health care position. This issue came to the forefront in 2006, when a constituent (9 year old boy) of a powerful Assembly member, killed himself. After intense lobbying by the boy's family and awareness statewide the legislature was compelled to pass legislation creating mental health parity in private health insurance. The League supported this legislation. Programs such as Child Health Plus (CHP) and Family Health Plus still remain without mental health parity and must rely on the Medicaid system.

With the implementation of the Health Benefit Exchanges with enrollment starting in October of 2013 and coverage beginning in January 2014, New York must provide the Essential Health Benefits, which include mental health and substance abuse services. Essential benefit requirements apply to individual and small group plans sold within and outside the new exchanges. The requirements also apply to benefits provided to the population that will be newly eligible for Medicaid coverage.

DISEASE PREVENTION AND HEALTH PROMOTION

In 1992, the League actively lobbied for legislation, which would mandate that insurance companies cover annual cervical cytology screening for women aged 18 and older. Legislation to authorize approved organizations within the breast cancer detection and education program to provide early cervical cancer detection and diagnostic services was successfully supported by the League in 1995. This legislation passed the legislature and was signed into law.

The League successfully worked on legislation in the 1994 session that expanded immunizations for vaccine-preventable diseases, Hib, and hepatitis B. This bill passed the legislature and was signed into law.

Anti-Tobacco Legislation

During the 1993 legislative session, the League lobbied successfully for an increase in the excise tax on cigarettes, raising that tax 17 cents per pack. Legislation, known as the PRO-KIDS bill would prohibit smoking on school grounds and other places such as fast food restaurants and day care facilities, which children frequent. It would also ban fixed advertising of tobacco products. A watered-down version of the original bill finally passed the Assembly the day before the legislature recessed; the Senate did not address it. In the 1994 session, the Coalition for a Healthy New York, of which the League is a lead organization, lobbied vigorously for this measure, which passed the Assembly early in the session and was propelled through the Senate by the artful lobbying effort of the Coalition. Signed into law, it took effect September 1, 1994.

In addition to PRO-KIDS, the League has worked for a range of anti-smoking legislation designed to promote better public health. The League supported:

- Legislation, which would prohibit the erection or maintenance of billboards advertising tobacco products within 1000 feet of schools. League support has been ongoing since 1994, as these bills have consistently passed the Assembly, but have not been addressed by the Senate.
- Legislation, which would require cigarette manufacturers to disclose the chemical substances used in the manufacture of cigarettes. Passed in Assembly in 1995; no Senate sponsor.
- Legislation allowing the state to recover the cost of Medicaid benefits NYS currently pays for illnesses caused by tobacco products. Introduced late in 1995 session; no action taken; no Senate sponsor.
- Legislation amending Public Health Law and Tax Law allowing local health departments to license tobacco retailers and increase enforcement of current restrictions on access a minor has to tobacco products. It would also create a public health programs fund to provide pro-health messages concerning the health risks of tobacco use. In the 1995 session, League lobbied

aggressively and did considerable public relations work around this legislation, known as the "Healthy Children Act," to educate legislators in anticipation of action in future sessions. No Senate sponsor.

In 1996, the League opposed Senate legislation, introduced late in the 1995 session, by the Senate Rules Committee. This legislation referred to as the "Tobacco Industry Relief Act," this legislation would weaken New York State's Clean Indoor Air laws, repeal strong local smoke-free laws in NYC, Suffolk County and other areas; and would preempt other localities from passing stronger restrictions in the future. This was one-house legislation and the Assembly took no action.

Also in the 1996 and 1997 legislative sessions the League lobbied extensively for passage of legislation which would not only protect children from the dangers of second-hand smoke, but also from the impact of the tobacco industry's advertising efforts to entice teenagers to begin smoking.

The League and the Coalition for A Healthy New York were successful in preventing "preemption" legislation from passing either house of the NYS legislature. Local Leagues, particularly in Erie, Westchester, and Nassau Counties had been successful in passing through their county legislature or through their Health Department stricter anti-smoking measures than the state standard. Suffolk County's law was challenged successfully in court.

Early in 1997, Governor Pataki announced his tobacco control initiative. This multifaceted approach would:

(1) Improve enforcement of the Adolescent Tobacco Use Prevention Act (ATUPA).
(2) Ban self-service of tobacco products in groceries and convenient stores.
(3) Provide for media and education programs.

The Coalition for a Healthy New York encouraged the governor to work with the Coalition to pass legislation with this initiative in it. Unfortunately, no legislation materialized. Legislation called the Healthy Children Act, which incorporated much of the governor's initiatives, was also not addressed.

However, after negotiations with the governor's office by Coalition members, $2.5 million was added to the 1997-98 state budget for enforcement of ATUPA. Provisions include:

- Spot checks to heighten compliance of vendors selling tobacco products to minors.
- Public education efforts to inform minors of the health hazards of tobacco use.
- An evaluation of the state's efforts to reduce the use of tobacco by minors.

Legislation sponsored in the Assembly to allow the state to recover the costs of Medicaid benefits caused by the use of tobacco products was not reintroduced in 1997 due to class action lawsuits brought by several attorneys general, including NYS Attorney General Dennis Vacco.

During the 1998 legislative session the Assembly passed several pieces of legislation which would; increase penalties for selling to minors, decrease the availability of self-service displays in convenience stores and supermarkets, and restrict billboards within 1000 feet of schools and day care facilities. However, the Senate took no action on any of these bills.

The 1999 legislative session brought new hope for tobacco legislation as the Attorney General's law suit against big tobacco was settled and the prospect of $25 billion over twenty-five years coming into the state of New York became a reality. As in 1998, anti-tobacco legislation, referred to above, again passed the Assembly, and was not addressed in the Senate.

Following on the heels of the Attorney General's historic federal tobacco settlement in 1999, the League and fellow anti-tobacco advocates had our most successful session ever! Six anti-tobacco bills passed both houses of the legislature and were signed by Governor Pataki. The bills included:

1. The Cigarette Fire Safety Act. NY is the first state to require (by 2003) manufactures to sell self-extinguishing cigarettes. This is widely expected to spur Congress to pass national legislation.
2. Increased penalties for ATUPA violations. This would increase the penalties for retailers who sell cigarettes to minors.
3. License flipping in the event of revocation of cigarette dealers license. This legislation would prevent dealers from "flipping" their licenses to their spouses or other relatives in order to escape revocation of a license when they are guilty of selling tobacco to minors.
4. Limits sale of "Bidis" to tobacco shops. Bidis are specially wrapped cigarettes that taste better than regular cigarettes therefore, they are particularly sellable to teens.
5. Restricts sale of herbal cigarettes by including them among tobacco products in ATUPA.
6. The bootlegging legislation. Although not technically an anti-tobacco bill, this legislation would ban Internet sales of cigarettes. The Indian Nations in N.Y. are expected to fight this new law in court.

The League has continued to work with the Tobacco Coalition in support of measures to restrict the reach and desirability of smoking. In 2006, it supported Governor Pataki's Tobacco Prevention proposals, including a state cigarette tax of $1 per pack and funding of the state's Tobacco Prevention Program at the $95 million minimum level recommended by the U.S. Centers for Disease Control and Prevention (CDC). These prevention proposals became part of the 2006/2007 state budget. In 2007, the League again, working with the Tobacco Coalition, supported two bills to further regulate tobacco products. The first, supported by the Assembly would have amended the Public Health Law to prohibit the sale of flavored cigarettes, which appeal primarily to children. This legislation was not addressed by the state Senate. Disclosure of cigarette ingredient legislation has been a focus of Assembly legislation for the last five years beginning in 2000. This legislation consistently passes the Assembly Health Committee, but has not passed the Assembly and has no companion sponsorship in the state Senate. The tobacco industry is still powerful enough to keep this legislation from passing through the entire Assembly or being introduced in the Senate.

In 2009, the League continued to work with the Tobacco Coalition to amend the Public Health Law to prohibit the sale of flavored cigarettes, which appeal primarily to children. The measure passed the Assembly and was referred to the Senate where it died in committee.

In 2015, the League partnered with the American Heart Association, American Cancer Society Cancer Action Network, and American Lung Association of New York to push the Senate and Assembly to include electronic cigarettes in the Clean Indoor Air Law. The Assembly passed the bill in June but the Senate referred the legislation to the Rules Committee, effectively killing the bill for the 2015 session.

The Tobacco Control Program in the Department of Health has endured significant and ongoing budget cuts in recent years. Governor Cuomo's 2013-2014 Budget Proposal consolidates all of the Department of Health's public health programs in six pools and includes an across-the-board reduction. The League is deeply concerned that the Executive Budget Proposal eliminates the vast majority of the funding dedicated to the Tobacco Control Program and consolidates numerous prevention programs into competitive pools that will have funding awarded based on an RFP process with awards determined by the Department of Health. While not as high as those prosed by the governor, the final budget did include cuts to anti-tobacco programs.

The Clean Indoor Air Act 2003

The Clean Indoor Air Act, which bans smoking in ALL restaurants and bars statewide was passed early in the 2003 session and immediately signed into law by the Governor. This law has few exceptions and although patterned after the New York City law it is more stringent. The law took effect on July 24, 2003. The League has lobbied vigorously for this legislation for several years, and sees this new law as the most significant advance in public health in many years. In early December 2003, taking advantage of a loophole in the new law, the NYS Health Department (DOH) issued guidelines for "hardship exemptions" for the forty-three counties where no County Board of Health exists. Local Boards of Health are responsible for issuing these exemptions. In 2004, the League was successfully in opposing legislation that would have partially rolled back the benefits of the *Clean Indoor Air Act of 2003*. This legislation would allow smoking in certain places of public accommodation if they had in operation a state-certified air purification device.

PERSONAL HEALTH DECISION-MAKING

DEATH WITH DIGNITY

Statement of Position

As announced by the State Board, March 2018

1. The League of Women Voters of New York State believes state laws should grant the option for a terminally ill person to request medical assistance from a relevant, licensed physician to end one's life.

2. The League of Women Voters believes such legislation should include safeguards against abuse of the dying and protections for medical personnel who act in good faith compliance with the law.

Recent League Activity

2022-2023

In the Fall of 2022 LWVNY participated in Compassion & Choices' Winter Tour (a week of public, media worthy events in each of five sections of the state: North Country, Central NY, Western NY, Capital District and the Hudson Valley, NYC, Long Island area. League members planned and participated in these events designed to educate the public and exert pressure on their legislators. The 2022 election brought a new crop of legislators and it wasn't till January of 2023 that we learned that Amy Paulin would continue as the Assembly Sponsor, and that Brad Hoylman-Sigal would assume the Senate Sponsorship. There is only one Medical Aid in Dying bill (A.995/S.2445) being considered by the legislature, and it meets all the requirements of our position. League members have joined in zoom and in-person lobbying sessions and visibility events arranged by C&C's lobby firms and League members turned out in numbers for C&C's lobby day on April 24th. League members continued to lobby on behalf of the bill through the 2023 session, but it unfortunately did not move forward in the Senate or the Assembly.

2021-2022

The League continued its advocacy for passage of a law that builds on the principles and the law pioneered by the State of Oregon, however the law did not come to the floor in either house of the

legislature in the 2021-22 session. There will be a new Senate Sponsor due to the retirement of Senator Savino, and new bill numbers in both houses, in the upcoming legislative session.

2019-2020

Medical Aid in Dying Despite the fact that the Governor came out in support of Medical Aid in Dying during the summer of 2019 he failed to include it in his budget message. Early in the 2020 session some LWV members joined with Compassion and Choices to visit legislators in support of this issue. These efforts were dropped as the pandemic struck and are not expected to be picked up again this year.

Past League Activity

1989-2007

Following the principles that individuals should be responsible for their personal health and should participate with their family and their physicians in decisions regarding it, the League has supported the following legislation:

- In 1989 with extensive League support, a law was passed concerning "do-not-resuscitate" instructions in hospitals and nursing homes. This law was expanded in 1991 to include home and ambulance sites.
- In 1989, the League supported legislation that establishes "living wills." These instructions relieve family and health care providers of uncertainty should decisions need to be made when a patient is unconscious or incompetent.
- In 1990, the League supported health care proxy legislation, which became law in 1990 and took effect in January 1991. A proxy provides for alternative individuals to make health care decisions on the patient's behalf.
- In 1995, the League supported the "Family Health Care Decisions Act", which would allow family members of patients who do not have either a living will or a health care proxy to make decisions affecting their loved ones within specific guidelines.

The Task Force on Life and Law, appointed and funded by former Governor Cuomo in 1985, consisted of prominent physicians, nurses, lawyers, clergy of different faiths and others. The Task Force debated legal and ethical issues in medicine and developed the above referenced legislation. In the 1995-96 Executive budget the Task Force was defunded; it is still in existence with limited funding through the Department of Health.

Family Health Care Decision legislation continued to bubble under the surface through every legislative session. The League will continue to look for opportunities to advance this important legislation.

In the 2006 and 2007 legislative sessions the Family Health Care Decisions Act was again introduced in the Assembly. However, major opposition to this legislation by the NYS Catholic Conference, the Conservative Party and the Right to Life Committee continue to hold sway in the NYS Senate. No action was taken.

2010

On March 16, 2010 Governor Paterson signed the Family Health Care Decisions Act. The FHCDA allows family members to make health care decisions, including decisions about the withholding or withdrawal of life-sustaining treatment, on behalf of patients who lose their ability to make such decisions and have not prepared advance directives regarding their wishes. The new law establishes procedures authorizing family members, or other persons close to patients who lack decision-making capacity, to decide about treatment, in consultation with health care professionals and in accord with specified safeguards.

HIV/AIDS

1994

In 1994, legislation was introduced by Assemblywoman Mayersohn and Senator Velella, which would unblind the newborn sero-prevalence test for HIV. Although unblinding would indicate the possible HIV status of newborns, it would disclose the absolute HIV status of the mother. The League opposed this legislation on the basis that it violates the right of individuals to make their own health care decisions. More importantly, we believed such a punitive measure would have a negative impact on promising new treatment programs that were reducing the rate of HIV transmission from infected mothers to their newborns. Therefore, the League actively supported legislation in the Senate that would mandate prenatal HIV counseling and voluntary HIV testing. This legislation did not pass in either house of the legislature.

1995

In 1995 League wrote in support of a program, recommended by the Centers for Disease Control and implemented by the NYS Department of Health, that combined counseling and voluntary HIV testing with an aggressive AZT treatment program for HIV infected pregnant women. Once again, legislation opposed by the League and many health care providers and women's groups was introduced by Assemblywoman Mayersohn and Senator Velella to unblind the newborn HIV test. This bill passed in the Senate but was held by Assembly Speaker Silver.

1996

In 1996, the Assembly Health Committee was pressured by the Assembly leadership to release the Mayersohn HIV Newborn Screening bill from Committee. This bill would give the Commissioner of Health authority to disclose the results of the newborn HIV test whether or not permission was given by the mother. Once out of Committee, this mandatory HIV testing bill passed both houses and was signed into law. In restating our opposition to the legislation and its implementing regulations, League argued (unsuccessfully) that the voluntary program already in place was working and that the prenatal HIV transmission rate was decreasing as predicted.

1998

In 1998, League actively supported HIV name reporting/partner notification legislation. League recognized that the voluntary system of partner notification was not working. Notification had long played a role in controlling syphilis and gonorrhea and we agreed that HIV/AIDS should not be exempt from this life-saving practice. Primary prevention was paramount. The final version of the bill created a name-based surveillance system and a universal partner notification system. It gave public health workers primary responsibility for notifying the partners of HIV positive individuals. The legislation included safeguards that were essential for League support. These included: voluntary compliance; no criminal penalties for noncompliance; continuous anonymous testing option; creating protocols in cases of domestic violence; and, confidentiality of HIV individuals during the notification process. The legislation was passed by the legislature and signed into law by Governor Pataki.

On July 30, Governor Patterson signed into law a new HIV testing bill (S8227 and A.11487, introduced by Senator Tom Duane and Assemblyman Richard Gottfried). The law was enacted to increase HIV testing in the state and promote HIV-positive persons entering into care and treatment. The law includes provisions requiring that HIV testing must be offered to all people between the ages of 13 and 64 receiving hospital or primary care services with some limited exceptions. The offer must be made to inpatients, people seeking services in emergency departments, primary care as an outpatient from a

physician, physician assistant, nurse practitioner or midwife. The law allows that consent for HIV testing may be part of a general consent to medical care.

FINANCING OF HEALTH CARE

1987-1993

Hospital case-based reimbursement passed in 1987 and was the focus of legislative hearings on the "hospital crisis in New York State," due partly to the increasing demand for services caused by AIDS and drug abuse. The League supported the legislation with reservations and testified at the hearings. Before 1987, reimbursement was on a per-diem basis.

During the 1992 legislative session, the League supported legislation in the Assembly known as "community rating" which would require health maintenance organizations accept individuals in small groups on an open enrollment basis. It passed the legislature, was signed into law, and went into effect in April 1993.

Of great concern in the 1993 session was the New York Prospective Hospital Reimbursement Methodology (NYPHRM V). This legislation sets the reimbursement rates for hospitals and health care facilities. NYPHRM has been consistently extended and is currently the statute under which hospital reimbursement is determined.

1996-1998

In 1996, the state ended its 13-year-old hospital rate setting system, the New York Prospective Hospital Reimbursement Methodology (NYPHRM), and enacted the Health Care Reform Act (Chapter 639, Laws of 1996) to take its place.

The Health Care Reform Act (HCRA) of 1996, that replaced NYPHRM, sought to control rising health care costs by encouraging market competition. No longer protected by the state's hospital rate setting system, health facilities would now bargain directly with insurers for services. However, HCRA continued programs to safeguard public access to health care including, notably, funding for graduate medical education, bad debt and charity care, and the Child Health Plus program.

As originally created, the state's Child Health Plus (CHP) program was an innovative but limited program offering subsidized health insurance to the children of low-income families. In 1997, the Federal Government passed Title XXI, or the State Children's Health Insurance Program (SCHIP), a 10-year, $50 billion federal effort to develop state health insurance programs for children. Together with other child and health advocates, League supported expansion of the state's existing CHP program to make use of these federal funds. In 1998, the CHP program was greatly improved by offering dental, vision and hearing benefits, and mental health and substance abuse services. It increased eligibility to age 19, increased income eligibility, and reduced cost of coverage for families. As part of the state/federal partnership, NY is required to identify eligible children and to enroll them in the appropriate insurance programs, either Medicaid or CHP.

2000-2007

The League worked closely with other consumer-oriented organizations to ensure the inclusion of Family Health Plus, a subsidized health insurance program for working adults based on the state's successful Child Health Plus program, as part of HCRA 2000.

HCRA expired June 30, 2003, and was reauthorized. Pressure from the SEIU 1199 and other health advocates HCRA funds continued to include both Child Health Plus and Family Health Plus. Money derived from securitization of the tobacco funds were used to fill budget gaps.

Legislative activity between 2003 and 2005 surrounded the health care funding in the state budget. In 2003, the Assembly introduced numerous measures including Child Health Plan (CHP) and Family Health Plus (FHP). These measures would expand insurance coverage. Although the League has supported such measures, they have gone nowhere. The League continues to support expansion of measures that make health care accessible and affordable for additional New Yorkers.

The League believes that New York State has a proper role in the regulation of health care and must assure high quality care that is affordable and accessible to all. Historically, since 1965, New York State through Medicaid began its most formal role in providing public health care for individuals and families with low income and resources. In 2000, with the passage of the Health Care Reform Act (HCRA), New York State substantially increased its role in public health care by subsidizing programs for the underinsured through such programs as Family Health Plus, Child Health Plus, and Medicaid. Since 2000, HCRA has been renewed in 2003 and 2005 and will be up for renewal in 2007.

In January 2007, Governor Spitzer announced his plan to increase access to uninsured New York children by increasing eligibility for subsidized coverage to families with incomes up to 400 percent of the federal poverty level thereby extending coverage to nearly all of the 400,000 currently uninsured children in New York under age 19. In August 2007, because President Bush had announced new regulations for the State Child Health Insurance Plan (SCHIP) the Governor's efforts for expansion were impeded. In October 2007, New York and five other states were prepared to sue the federal government to block the new rules.

2009

In January 2009, Congress voted to expand the program after nearly two years of battling with former President George W. Bush on the subject. The federal legislation, which extended the program through 2013, provided $32.8 billion in new financing over that period, paid with an increase in tobacco taxes. New York, which had been paying for expansions with state money, is now applying for federal matching funds.

In 2009, the League supported a number of measures, which, if enacted, would have made health care more accessible and affordable for the state's citizens. However, given the disarray within the Senate, these measures went nowhere. A measure that would have created a prescription drug discount program passed the Assembly and referred to the Senate, where it died in committee. A measure that would have given children enrolled in Chile Health Plus access to school-based health centers and would have awarded grants for such centers to enroll eligible children in publicly funded health insurance passed the Assembly, was reported out of the Senate Health Committee, and died in the Senate Finance Committee. A measure that would have made school-based health centers permanent passed the Assembly and died in the Senate Health Committee. A measure that would have prohibited health insurance policies from requiring greater co-pays for more expensive drugs (other than the traditional differentiation between generic, preferred, and non-preferred drugs) died in committee in both the Assembly and the Senate.

JUDICIAL

The State League's positions on justice cover many aspects of the judicial system, running the gamut from the organization of the courts, to the way judges are selected, touching on many aspects of the criminal justice system from profiling of suspects, through the criminal justice process and ending with alternatives to incarceration and the death penalty. The League also has positions on the manner in which the civil justice system in administered.

THE NEW YORK STATE JUDICIAL SYSTEM
Statement of Position
As announced by the State Board, 1957

The League of Women Voters of New York State supports measures to obtain a unified, statewide court system.

Framework: The framework of our judicial system shall be incorporated in the state constitution in broad outlines with the details spelled out in implementing legislation.

Structure: There shall be an integrated, statewide court system consisting of a minimum number of trial courts of broad jurisdiction. Cases and judicial personnel shall be transferable from one court to another to the greatest extent possible.
Administration: Authority and responsibility for the effective administration of the integrated, statewide court system shall be centralized in a single person or body.

Fiscal Control: The integrated, statewide court system shall be financed by means of a judicial budget, which shall be prepared, by the central administrator or administrative body.

Judicial Personnel: To the fullest extent practicable, all judicial personnel shall be fully qualified members of the bar, prohibited from practicing law, required to devote full time to their judicial duties and restricted from holding any other public or political office.

Recent League Activity

2022

The League advocated for two separate bills on court simplification. Neither of which were passed in the Assembly or Senate. The first bill, S8424, relates to consolidation of the unified court system. Consolidate New York's trial court system, allow for the creation of additional justices of the supreme court, require considerations of diversity in all judicial appointments and designations, allow for the creation of new judicial departments and appellate divisions, and repeal the mandatory retirement age for judges.

The second bill, A09401, represents the culmination of a decades-long effort to consolidate New York's major trial courts. Over a three-year period beginning January 1, 2025, it would abolish the State Court of Claims, the County Court, the Family Court, and the Surrogate's Court and merge their jurisdiction and personnel (both judges and nonjudicial staff) with the Supreme Court. Also, the present constitutional cap on the number of Justices of the Supreme Court that the Legislature may create would be eliminated. Finally, on January 1, 2030, this measure would abolish the NYC Civil and Criminal Courts, the District Courts on Long Island, and the upstate City Courts in favor a Municipal Court system.

2021

In 2021, the League supported the Less Is More Community Supervision and Revocation Act to modify the standard of evidence and certain other procedures when determining whether to revoke the

community supervision of a person. The proposal provides speedy hearings and allows people subject to community supervision to receive "earned time credits," to help encourage positive behavior by accelerating discharge from supervision. The proposal limits the circumstances under which people subject to community supervision may be re-incarcerated for violations of the terms of community supervision and capping the length of such re-incarceration for technical violations and shortens the timeframe for adjudicatory hearings. The bill was passed and signed into law.

2020

The League joined the Simplify the Courts coalition to urge the legislature to reverse the adverse impact that a poorly designed, confusing state court structure and consolidate New York's 11 different trial courts into a simple three-level structure consisting of a Supreme Court, a Municipal Court, and Justice Courts serving New York's towns and villages.

2014

During the 2014 session we concentrated our advocacy efforts on lobbying for more Family Court judges state-wide. The state LWV and many local Leagues joined a coalition of over 100 organizations to lobby for the creation of more Family Court judges. The legislation successfully passed the legislature and was signed into law by the governor. Overburdened Family Courts throughout the state now will find relief through the addition of new judges.

The LWVNY's long-standing goals of court simplification, though not addressed in the form of a constitutional amendment, find wide-spread de facto implementation, with judges routinely reassigned to courts in need of extra help. The League should continue to monitor this process and evaluate whether it should be formalized via a constitutional amendment.

Merit Selection of judges has been another long-term goal of the League. Some steps have been taken in this direction by the Office of Court Administration (OCA) administratively through appointing Independent Judicial Election Qualification Commissions (IJEQC) which evaluate and rate judicial candidates who submit to the process voluntarily. (Each Judicial District has such a commission, and I was recently appointed to the IJEQC for the 4th Judicial District). Ratings of candidates by the commissions are available on line for voters who wish to be more informed of a candidate's rating. While the process is voluntary, it is a positive step in the direction of selecting well qualified judges.

In the area of juvenile justice, the League should await the reports from the governor's commission which evaluates current practices and makes recommendations for the future. Currently, NYS is only one of two states which treats juveniles over 16 as adults! Similarly, local LWV's should also keep an open eye out for how all justice issues are handled at the county levels in criminal and civil legal defense, especially for the indigent, in alternatives to incarceration as well as in efforts to re-integrate ex-offenders into society, reducing recidivism.

Past League Activity

1955-1957

The New York State Court System has been an important League issue for almost 50 years. When the League began its study of the courts in 1955, there was widespread concern over the state of the judicial system. At that time, there were approximately 1500 separate and autonomous courts in the state. This general disorganization had prompted the establishment of a Temporary Commission on the Courts (Tweed Commission), which was in the process of formulating recommendations at the time the League study was adopted. Adopted in 1957, the League's position in support of a unified court system coincided

with the Tweed Commission report calling for a sweeping reorganization of the courts. Since its adoption, this position has been the cornerstone of League activity in this area. In 1975 the New York State Bar Association presented the League with the association's first public service award in recognition of the League's work toward improving the judicial system, and in 1990 the League received the Samuel J. Duboff Award from the Fund for Modern Courts in recognition of our long-standing efforts in the area of court reform.

1961

In 1961, the League worked for passage of a new constitutional judiciary article, the Court Reform Amendment of 1961. Though the new article, which went into effect in 1962, was an improvement, it did not fully satisfy League goals. While the court system was centralized under the Administrative Board of the Judicial Conference, the delegation of this authority to the four Judicial Departments diluted effective central control. The new article did require all judges be lawyers, except those in town and village courts, and judges were prohibited from practicing law while holding judicial office.

Building on the initial court consolidation of 1961, the League continues to work for an integrated system:

- Supporting the incorporation of the Courts of Claims, the Surrogate's, Family, County and the Civil and Criminal Courts of the City of New York into the Supreme Court;
- Establishing a District Court in every county in the state to replace town and village courts; and
- Opposing legislative proposals to fragment existing courts by establishing special parts to meet particular problems.

1970-1975

In 1970, the League was instrumental in the establishment of a new State Commission on the Courts to work on resolving the remaining problems within the system. The commission report, issued in 1973, was compatible with League position with one exception: selection of judges.

In 1971, the League joined with the New York State Bar Association to mobilize a broad coalition of groups in a major campaign for state financing of the courts through a state judicial budget. This goal was finally achieved in 1976 when a bill passed in special session of the Legislature providing for a four-year phase-in of full state funding for court operating costs, except for town and village courts. (Operating costs should be distinguished from construction, repair, or maintenance of court facilities, which are still a local responsibility. The League had no position on the "court facilities" bill passed by the Legislature in 1987.)

In 1972, the League led a successful campaign to defeat a proposed constitutional amendment that would have created a Fifth Judicial Department, thereby causing further division of administrative authority. The necessity to oppose creation of an additional department became moot when voters approved the 1977 constitutional amendment, which unified administration of the state court system and imposed state responsibility.

Although defeated on the ballot in 1975, the amendment for centralized court administration, under a chief administrator, was passed in 1977 with strong League support. The Chief Judge was clearly established as head of the state court system and fulfillment of League goals in this area was nearly complete. The first uniform rules of practice and procedure for the state's trial courts went into effect January 1, 1986.

1980-1987

In 1980, the League, together with the Committee for Modern Courts, Citizens Union and others, drafted a model constitutional amendment to merge the major trial courts and provide for merit selection of judges of the newly merged courts. This was introduced by a large, bipartisan group of legislators. The governor and the New York State Bar Association introduced similar proposals, but the Legislature failed to take any action on court reform in that session. This 'model' court reform bill has been introduced, with growing bipartisan support, in almost every session of the Legislature since 1980, serving to keep the issues alive.

In July 1986, the League supported, and the Legislature voted, first passage of a constitutional amendment merging the state's major trial courts. The method of selecting judges was left largely unchanged; those judicial offices now filled by election remained elective and those filled by appointment remained appointive. Although the amendment did not fully satisfy League goals concerning judicial selection, inclusion of the District Court, and partial merger of the Surrogate's Court, this proposal was viewed as a significant improvement over the present fragmented court system. Despite intensive League lobbying both at the state and local levels, the newly elected 1987 Legislature failed to vote second passage in the first regular session as required in the constitution.

The 1987 legislative session beggan with high hopes and intensive lobbying for second passage of a court merger constitutional amendment but ended with no action.

2009-2012

In 2009, no new efforts were made to address the need for restructuring via a constitutional amendment. The current Chief Judge, Jonathan Lippman, has not yet addressed the issue or advocated for it. Even though some of the most burdensome problems litigants face in the fractured courts have been addressed by administrative measures, e.g. the Integrated Domestic Violence Courts which can deal with all aspects of a case in one court, before one judge, or the other specialty "problem-solving" courts, such as drug and mental health courts, a restructuring constitutional amendment continues to be the desirable long-term solution. Successful passage of such a constitutional amendment would help redistribute resources in favor of the most over-burdened courts, especially the Family Courts.

Although dealing with society's most pressing needs and the well being of children, the current system still treats the Family Court like a "step child", while the Supreme Court fares much better in allocated resources and staff compensation. Given the fact that New York State Chief Judge Lippman continued to omit any reference to court restructuring in his 2012 State of the Courts address, we anticipate no efforts to move forward with court restructuring. However, we continue to work with the Fund for Modern Courts on the issue.

COURT REFORM

1988

In 1988, Governor Mario Cuomo proposed a court reform constitutional amendment calling for merger of the major trial courts, merit selection of judges, and retention election for incumbent judges. The League vigorously supported this legislation through lobbying legislators, participating in press conferences and issuing an all member "Call To Action".

The campaign for reform was reinforced by the publication of the Commission on Government Integrity (Feerick Commission or COGI) report, Becoming a Judge: Report on the Failings of Judicial Elections in New York State, highly critical of judicial election as a method of selecting judges. The commission

recommended a merit selection process by which the mayors would appoint judges to City Courts outside New York City and the Mayor of New York City would appoint Family, Civil, and Criminal Court judges within the city; county level judges outside of New York City would be appointed by local county executives; Supreme Court justices, Surrogate's and Court of Claims judges would be appointed by the governor with Senate confirmation. (See Merit Selection below.)

Family Court Merger Proposal

A different approach to court consolidation was taken by Assembly Judiciary Chairman G. Oliver Koppell who introduced 14 measures to achieve "piecemeal" court merger. Only one of the proposals was even partially successful. First passage was given to a constitutional amendment authorizing Family Court to share concurrent jurisdiction with the Supreme Court over matrimonial actions, distribution of marital property, and custody and support determinations incidental to these actions. After public hearings in the fall indicated lack of support, the measure was not reintroduced for second passage in 1989.

League opposed first passage because we felt that this measure would increase the Family Court's already overburdened case load without corresponding increases in financial support such as would be forthcoming if the Family Court were merged with the Supreme Court. Furthermore, concurrent jurisdiction with the Supreme Court exacerbates the situation concerning the existence of separate courts for the rich and the poor and the perception that two kinds of justice are dispensed.

1989

Governor Cuomo's 1989-1993 Merger/merit Selection Proposal

In 1989, the governor launched a new initiative providing for merger of the major trial courts and a process for local merit selection of most of the judges in the merged court system. This proposal has been introduced in the Assembly every session through 1994. (In the 1994 version, the full-time City Courts were added to the merger.) The League worked with the Committee for Modern Courts to generate a formidable list of Assembly co-sponsors. By the end of the 1993 session, there were 61 Assembly sponsors and co-sponsors and 14 sponsors in the Senate.

The bill provided for local nomination by the chief elected county official for all judges of the merged courts, except for successors to the Court of Claims judgeships (approximately 55 in number, to be appointed by the governor) and the judges within New York City (approximately 400, nominated by the mayor). The County Executive would nominate in the 16 counties where that office exists, and the chair of the county Legislature or board of supervisors would nominate in the other 41 counties, for approximately 400 judgeships.

In previous proposals, the governor was to be the appointing officer for all Supreme Court justices except for successors of the Criminal, Family, and Civil Courts in New York City who were to be appointed by the mayor.

1994-95

Court Merger

In the 1994 session, Senate Judiciary Chairman James Lack introduced a merger bill, which did not include the District Court (Nassau and parts of Suffolk counties), Family Court and the New York City Civil and Criminal Courts. The League and Modern Courts could not support a merger plan that did not include the Family Court. We also indicated we would prefer to see the New York City courts included in the plan. The 1995 version did include Family Court. The League took no position on this proposal.

In 1995 League unsuccessfully supported second passage of a constitutional amendment increasing the monetary jurisdiction of the New York City Civil Court from $25,000 to $50,000, and raising the jurisdiction of the District Court from $15,000 to $50,000. This would have eased the caseload in

Supreme Court and since filing fees are lower in the Civil and District Courts, would have increased access to these courts for litigants. The goal of court merger is one trial court of uniform jurisdiction, and this amendment was viewed as a step in the right direction. The proposed amendment was narrowly defeated on the November 1995 ballot.

1997

Chief Judge Kaye's Court Restructuring Proposal

A "restructuring" proposal submitted to the Legislature by Chief Judge Judith S. Kaye and Chief Administrative Judge Jonathan Lippman has breathed new life into efforts to bring order to the state's system of multiple courts of overlapping or fragmented jurisdiction. New York State has one of the most complex court systems in the nation with a cumbersome structure of nine major trial courts. Merger of the major trial courts has been a League goal since 1955.

Under this proposed constitutional amendment, a two-tiered system would be created, with a "Supreme Court" consisting of the current Supreme Court, Surrogate's Court, Court of Claims, County Court, and Family Court. A new "District Court" would consist of the current New York City Civil and Criminal Courts, the City Courts outside of New York City, and the Nassau and Suffolk District Courts. Town and Village Courts would not be included in the restructuring, nor would the Court of Appeals.

As proposed the Supreme Court would be the single trial court of unlimited jurisdiction with special divisions established for public claims, family, probate, criminal, and commercial matters. The District Court would have limited jurisdiction and include civil and criminal divisions.

Particularly significant in the restructuring proposal is the establishment of a unified Family/Matrimonial Division of the Supreme Court. Families going through divorce would no longer be required, as they are now, to appear in both the Supreme and Family Courts to resolve different issues in the same case involving separation, custody, support and visitation.

The manner of selecting judges would remain unchanged (merger-in-place). Judgeships in the merged courts, coming from elective positions remain elective; judgeships coming from appointive positions remain appointive.

Another benefit for women and minorities is— this structure would dramatically increase the pool of judges eligible for designation to the Appellate Division, as all judges in the expanded Supreme Court could be considered for appellate service. Presently the governor appoints Appellate Division justices from sitting Supreme Court justices and this pool is predominantly white male and Caucasian. The new Supreme Court would include former Family Court and County Court judges where women and minorities are more numerous.

In addition to creating the new two-tiered trial court system, the proposed measure would:

- Remove the constitutional limitation, based on population, on the establishment of Supreme
- Court judgeships, replacing temporary judicial assignments with permanent judges; and
- Create a Fifth Judicial Department within the Appellate Division of the Supreme Court to ease the burden on the Second Judicial Department.
- Save court system $92 million during only the first five years due to increased efficiency.

The amendment must be passed by two consecutive, separately elected Legislatures and by the voters in the following general election.

In 1997, the state board approved in principle this bold initiative and League testified in support of this concept at the public hearings in the fall of 1997.

1998-1999

Court Restructuring

Although the 1998 legislative session ended without first passage of a constitutional amendment to merge New York State's major trial courts into two tiers; i.e., Supreme Court and District Court, we had another opportunity for first passage in the 1999 session.

In the spring of 1999, we were cautiously optimistic. The Senate reintroduced their court restructuring constitutional amendment, similar to Chief Judge Kaye's proposal. The Assembly passed their proposal for partial merger of Family Court and County Court into the Supreme Court. The point is, unlike the 1998 session, both versions were on the table in time for serious negotiations to take place between the two houses.

Unfortunately, the delayed budget stalemate and very late passage in early August prevented official action or reaction.

2000-2001

Court restructuring bills were again introduced in both houses during the 2000 legislative session. The Senate bill supported the original proposal. The Assembly no longer tied its proposal to funding for the indigent (which had succeeded in killing the bill the previous year). It now backed a plan that would omit the Surrogate's Courts from the consolidation. Both Judge Kaye and Judge Lippman were ready to make compromises, but again nothing happened. The failure in 2000 meant any change would be postponed yet another two years. It was clear that the proposal never captured broad citizen support in spite of the fact that it had the support of the Governor, prominent legislators, the editorial boards of most newspapers and good government groups such as the League and the Committee for Modern Courts. Change was always tied to other matters and many Supreme Court and Surrogate Court judges were successful in their quiet opposition to what they perceived would weaken their importance.

A glimmer of hope appeared in the fall of 2000 when the Committee for Modern Courts conducted a survey asking New York State legislature candidates whether they favored court restructuring. A large number did. Local Leagues were asked to confront their legislators, asking those who were now on record as favoring restructuring what they planned to do about ensuring its passage and asking others to consider it. Each League received a sample Op-Ed/Letter to the Editor supporting restructuring.

With the beginning of the 2001 legislative session, Judge Kaye took the bold step of initiating integrated domestic violence pilot projects in a few areas whereby a family would be assigned to one judge for all of its judicial problems—something that would be possible for everyone with court restructuring.

Again, in 2001, the legislative session saw a budget stalemate and passage in early August of a "bare bones" controversial budget that pitted the executive and legislative branches against one another. Court restructuring was not even on the radar screen. We still agree with Judge Kaye when she said in January 2001, "Court restructuring [is] an essential foundation for a vibrant court system. While we can, through our integrated domestic violence pilots egregious consequences of splintered courts, we need systemic, comprehensive court merger."

The League continued to advocate for court restructuring in the legislative sessions of 2002 through 2006. The current system of 9 separate trial courts is confusing to litigants and costly to everyone involved in

the courts: litigants, the court system itself, and taxpayers. Unfortunately, even with advocacy efforts from the League and the Fund for Modern Courts, no activity occurred in the Senate or the Assembly.

In 2007, efforts to restructure the current inefficient and costly system received new energy, when Chief Judge Judith Kaye appointed the "Commission on the Future of the Courts". The commission's recommendations to simplify the court structure into a two-tier system were introduced as a Governor's program bill in the spring of 2007. Unfortunately, no action was taken in 2008, the second year of the legislative session, which would have been the opportune time for first passage of a constitutional amendment, such as court restructuring.

Typically, constitutional amendments, which require votes by two separately elected legislatures and ratification by the voters, are more forcefully promoted during the second year of the legislative session. Such a constitutional amendment on court restricting should also include the creation of a fifth department to alleviate the heavy burden on other departments. In addition, it would promote greater diversity on the bench by elevating more judges to Supreme Court status. The League hoped for first passage of this constitutional amendment in the 2008 legislative session. However, it was the year when Governor Spitzer resigned and the state began to see increasing fiscal pressures. In addition, Chief Judge Judith Kaye retired at the end of 2008, having reached her mandatory retirement age.

ADEQUATE FUNDING OF THE JUDICIARY

Recent League Activity

The League continues to press for adequate funding for the judiciary, a separate, independent and co-equal branch of government.

Past League Activity

1991-1992

Because of the budget crisis in the 1991 legislative session, the governor cut the judicial budget by $97 million in the financial plan he submitted to the Legislature in January. The Legislature restored $20 million leaving the judiciary with a $77 million reduction. The League joined the Coalition to Adequately Fund the Judiciary in January and worked with the coalition throughout the session urging the governor and the Legislature to approve the judicial budget as originally submitted by the chief judge.

A controversy arose between the judiciary and the executive branches over the constitutionality of the judicial budget cuts. At issue was Article VII, Sec. 1 of the New York State Constitution which requires that "itemized estimates of the financial needs...of the Judiciary, approved by the Court of Appeals and certified by the Chief Judge of the Court of Appeals, shall be transmitted to the Governor . . . for inclusion in the budget without revision but with such recommendations as he may deem proper." Although the governor submitted the judiciary's budget to the Legislature "without revision," he cut the judicial budget in his financial plan, which forms the basis for the Legislature's negotiation of a final budget.

The impact of the judicial budget cuts initially was felt in the civil area as court officials try to cope with the criminal courts and Family Court calendars. The chief judge brought suit in the state court against the governor and the Legislature on the grounds that "severe under funding" of the courts is unconstitutional. In January 1992, an agreement was reached between the governor and the chief judge whereby the courts would be protected from further cuts in the following fiscal year and receive a $19 million increase.

2007

In the 2007 legislative session, League lobbied vigorously in favor of Chief Judge Kaye's Judicial Pay Raise reform legislation. Our memo of support was used on the floor of the Senate by the Majority Leader to

signify this as a good government reform. It became clear that the judicial pay raise, because it is by custom linked to legislative pay increases, would be held hostage to other legislative issues. Campaign finance, another good government reform, was the issue cited as the trade on judicial pay raises. The League wrote several opinion editorials on this issue and will continue our advocacy in the 2008 legislative session.

2010

In 2010 the Court of Appeals issued an opinion in three different cases challenging the constitutionality of the legislature's failure to give judges pay raises for 11 years, holding that the failure violated the separation of powers doctrine by threatening the ability of the courts to perform their function as an independent arm of state government. The court declined to impose its own remedy and sent the cases back to the legislature for "appropriate and expeditious legislative consideration" of the issue on its merits alone.

JUDICIAL SELECTION

JUDICIAL SELECTION AND DISCIPLINE

Statement of Position

As announced by the State Board, December 1966

Judges should be chosen on the basis of merit. Ultimate control over a major governmental institution should rest with the people, however. Therefore, the League supports:

1. The establishment of broadly based, nonpartisan nominating commissions, composed of lawyers and lay people, to propose a list of candidates for appointment to judicial vacancies or newly established judgeships.
2. Mandatory appointment by the appropriate chief executive from among the names so proposed.
3. Ratification or disapproval of the appointment by the voters after a suitable period of time. A Tenure Commission should make available to voters an evaluation of the judge's record in office prior to a retention vote.

Judicial Discipline

The League of Women Voters of New York State believes inadequate the present (1966) constitutional provisions for selecting judges and for administering reprimands to, forcing the retirement of, or removing judges of the state court. They are not sufficient to protect either the interest of the public or of the judges. Therefore, the League supports:

1. The establishment of broadly based, nonpartisan Judicial Tenure (Conduct) Commissions, composed of lawyers and lay people, to (a) evaluate the record of a Judge scheduled to run for retention and prepare a report for public information; and to (b) receive and investigate in strict confidence complaints from any source about judicial conduct or disability.
2. The submission of recommendation of the Tenure Commissions to an established court so that no judge would be publicly reprimanded, forcibly retired or removed without appropriate legal proceedings.

Recent League Activity

League continues to support a constitutional amendment to establish a merit process for selection of all state judges.

2023

Citizens Union, the League of Women Voters of New York State, and the Committee for Modern Courts, opposed Governor Hochul's "program bill" to change the selection process for appointing judges to the New York State Court of Appeals. This bill unfortunately passed in both the Senate and the Assembly. If an Associate Judge of the Court of Appeals is appointed to be the Chief Judge, the Governor will be permitted to nominate someone to the vacant Associate Judge position from the list of recommended names that the Commission on Judicial Nomination provided to fill the Chief Judge position. This will heavily politicize a sensitive nomination process that centers appropriate qualifications for each Court position, and conflicts with the plain language of the State Constitution. Here are the top reasons we oppose this measure:

- We believe this proposal would be unconstitutional.
- Associate Judge and Chief Judge of the Court of Appeals are two positions requiring different qualifications.
- This proposal would reintroduce politicization into a sensitive nomination process that should be left detached from political-horse trading.

Past League Activity

1974

In 1974, the League, along with other citizen's groups, opposed a constitutional measure for appointment of judges to the Court of Appeals because it lacked the necessary safeguards to remove the process from politics. Instead, support was given to a model bill for appointment of all judges using nonpartisan nominating commissions.

1977-1983

A major breakthrough was made in 1977 with the passage of a constitutional amendment providing a merit selection plan for the Court of Appeals. This amendment and the implementing legislation, which followed its approval, established a process whereby the state's top judges are appointed by the governor with Senate confirmation from a limited list of candidates recommended by the Commission on Judicial Nomination. This 12-member commission is balanced politically between lawyers and laypersons, and the power of appointment to the commission is shared by the governor, the Chief Judge of the Court of Appeals and the majority and minority legislative leaders.

Originally, the commission was mandated to submit seven names for the position of Chief Judge and from three to five names for the position of Associate Judge. In the 1983 legislative session, however, a proposal to raise the minimum and maximum numbers of nominees for Associate Judge was considered. League effort to keep the minimum number of recommendations at three was successful, but the maximum number of permissible recommendations was increased from five to seven so that presently the commission may submit as few as three and as many as seven names to the governor when a vacancy for Associate Judge occurs.

Every session of the Legislature brought a number of bills to "reform" the nominating process by returning to an elected Court of Appeals or by turning the Commission on Judicial Nomination into a "screening" body by removing the limit on the number of names it may submit to the Governor for consideration of appointment. The League continued to oppose vigorously all efforts to dismantle or weaken the current nominating process.

1991-1995

Judicial Diversity through Merit Selection

In 1991, the Supreme Court of the United States (Chisom v. Roemer) ruled that judicial election districts must conform to the mandates of the Voting Rights Act to prevent dilution of minority voting strength. In February 1992, the Governor's Task Force on Judicial Diversity Report, in addition to highlighting the gross under-representation of women and minorities on the NYS court benches, also warned that the large multi-member judicial districts for the state Supreme Court violated the mandates of the Voting Rights Act and probably would not survive a court challenge. In a letter to the New York Times and in testimony at the Joint Senate, Assembly hearings on May 21, 1992, we suggested a better way to achieve diversity on the bench and to meet the requirements of the Voting Rights Act: Abolish judicial elections and establish a merit selection process as now used in selecting judges for the NYS Court of Appeals. A Call To Action was issued in June 1992, but the Legislature recessed without taking any action.

Three suits were filed in the federal Southern District Court challenging New York State's method of electing Supreme Court justices and New York City Civil Court judges (France v. Cuomo, Del Torro v. Cuomo, Healty v. Cuomo). In 1993 in response to this challenge posed by the Voting Rights Act to New York's system of electing trial court judges, the League joined with the Committee for Modern Courts, the New York State Bar Association, the Citizens Union of the City of New York, New York State Women's Bar Association, New York State Council of Churches and State Communities Aid Association in a campaign to secure a constitutional amendment for merit selection of judges. To help spread the word, the League prepared a new publication, Questions and Answers on Merit Selection of Judges, April 1994.

Throughout 1993 and 1994, the legal challenges to New York's system of electing judges seemed to present a real opportunity for reform. The choice appeared to be merit selection v. redistricting, creating more and smaller judicial districts. League opposed creation of smaller districts because we felt smaller districts increased the potential for politicization of judicial elections—concentrating the influence of political interests.

While the League continued to work with the court reform groups in supporting the Cuomo merger/merit constitutional amendment in the 1994 session and opposing legislation to create smaller judicial election districts, the Justice Department was concluding an investigation into the Legislature's creation of 15 additional Supreme Court judgeships in 1982, 1990 and 1994. As a result of this investigation, the Justice Department tried to block the November 1994 judicial election of these judges or their successors, contending that the state Legislature violated the Voting Rights Act by creating these judgeships without gaining pre-clearance under Sec. 5 of the Voting Rights Act, thereby illegally expanding a discriminatory voting system. A Washington, D.C. federal court overruled the Justice Department and the elections were held and certified.

The Justice Department appealed that decision to the federal Supreme Court but withdrew the appeal without explanation in May of 1995.

Meanwhile, the League agreed to join Modern Courts in urging the Justice Department to view merit selection as a progressive step in securing minority voting strength. The reply from Justice indicated it scrutinizes each case individually on its merits but assured us that it has in the past favorably reviewed certain states' merit selection systems.

Governor Pataki's Executive Order

The governor appoints Appellate Division justices and, with Senate confirmation, judges to the Court of Claims and fills vacancies on the Supreme Court and countywide courts. Governors Carey and Cuomo,

by Executive Order, established a system of committees to screen candidates for gubernatorial appointments to judgeships.

The League and our court reform allies urged Governor Pataki to improve on previous governors' executive orders governing gubernatorial judicial appointments by: (1) instituting a merit selection process (i.e., placing a limit on the number of nominees forwarded by the screening panels); and (2) mandating diversity in the composition of the screening panels and among those nominated for judgeships.

We were not successful in either of these goals. The Executive Order signed in April 1995 provides no limit on the number of nominees forwarded to the governor. Although the order declares "highly qualified candidates should be drawn from a cross-section of the state, reflecting a diversity of experience and background," the order also states that committee members reviewing qualifications "shall not consider the race, religion, gender, national origin, sexual orientation or political party affiliation of a candidate."

The Executive Order establishes a statewide committee to review candidates for the Court of Claims, four departmental committees to screen nominees for the Supreme Court and the Appellate Divisions in the four judicial departments, and individual county committees for local courts.

While the structure of the committees is similar to that of his predecessors, the balance of appointees to the panel has shifted. In our view, it is heavily weighted to the executive branch. Governor Pataki has five appointments and the State Attorney General two appointments to each of the 13 member departmental panels; the governor's counsel is a member of the statewide committee to select Court of Claims judges. (Under the Cuomo committees, the governor named four appointees to a 10 member departmental panel; the Attorney General had no appointments and the governor's counsel was not a member of any committee.)

The League expressed concern over the lack of provision for non-lawyer representation on the committees and unsuccessfully urged the Attorney General to consider making non-lawyer appointments.

1997

Voting Rights

The prognosis is poor for reform of judicial selection through application of the Voting Rights Act Amendment in New York State. Federal Supreme Court decisions of the past few years, particularly the 1995 Georgia case where the court ruled that race could not be the predominant consideration in redistricting decisions, it seems to cast doubt on the constitutionality of this application of the Voting Rights Act as amended in 1982. (Since 1993 the Supreme Court has struck down minority-majority voting districts in North Carolina, Georgia and Texas.)

2003

Feerick Commission

Chief Judge Judith S. Kaye established the Feerick Commission, a blue-ribbon commission in 2003 to foster public confidence in the judiciary through an examination of the current judicial election process. The League Judicial Specialist, Lenore Banks, was a member of this commission. An Interim Report was issued in December 2003 and a Final Report in June 2004, calling for independent screening of judicial candidates, reform of the state Supreme Court judicial nominating convention process and tough new ethics and campaign finance rules for those running for judgeships.

Fordham University School of Law Professor John D. Feerick, chairman of the 29-member commission,

said at a news conference that the proposal for a state-sponsored system for screening judges running for election would be the first in the nation.

The League has long held a position of support for appointment of all the state's judges through a merit selection process, (now called 'commission-based qualifications commissions'). In 2003 however, based on the realization that this is not going to happen in the foreseeable future, as an interim step, the League state board decided to focus on how to bring merit to the election process. The League supports reform of the current system of party control over the selection of Supreme Court judicial elections through reform of party nominating conventions; establishment of election qualifications commissions for all the state's elected judges and public financing of judicial elections. We continue to support a constitutional amendment to provide for merit selection of judges, i.e. a commission-based appointive system, as the best method of selecting all state court judges.

The League believes these judicial election qualification commissions should include: provisions for a broad and diverse panel or commission, composed of lawyers and lay persons necessary to reflect the diversity of the community; independence of the process so that no one faction controls the outcome and a limit or cap on the number of 'well qualified' or 'most qualified' nominees recommended to the party for nomination. The panel would screen candidates and propose a limited number of Well Qualified or Most Qualified candidates from which the party leader(s) must choose. There is a limit or cap on the number of nominees forwarded to the party officials who do the final selection of candidates, preferably three names for each vacancy. The cap or limit is used to narrow the field to well or most qualified choices in the selection of candidates.

The current method of screening for convention or for primary is the standard "Qualified" or "Not qualified". In other words, current screening commissions do not have to meet standards of excellence. The standard is to weed out the absolutely unqualified. Merit selection of candidates for election means that nominees must pass the qualification standards, such as the American Bar Association Standards.

Public confidence means a judiciary, whether elected or appointed, that is independent of public opinion and independent of party control and a judiciary that is well qualified, not merely qualified.

League supports the Feerick Commission proposals for reform of party judicial nominating conventions for Supreme Court justices to provide for smaller, more responsive, more accessible conventions. We believe the party judicial nominating conventions can be reformed to meet the constitutional deficiencies noted by the court and we support such efforts if combined with screening by independent judicial qualification commissions. Such convention reforms as electing delegates months before the convening of the convention, three year terms, lowering petition requirements, providing for a smaller body capable of deliberation, allowing candidates to address the convention, education for the delegates as to their authority, rights and responsibilities, and providing delegates with the opportunity to consider the reports of an independent judicial qualification commission - should all facilitate conditions for a more open, deliberative and independent body.

Finally, as long as judicial election is the way we nominate and select judges, public financing is necessary.

The League's position on election reform calls for public financing of statewide executive and legislative candidates. The same reasoning holds for judicial elections.

2003-2005

As a result of Feerick Commission report, two bills, which the League supported, passed the Assembly. The first Assembly (A. 7) called for the creation of qualification commissions to screen candidates for

nomination. The other bill (A. 8) called for voluntary public financing. The Judicial Qualifications bill was the subject of Senate public hearings in March 2005, and the League testified in support. No action was taken. We will continue to support these proposals in the 2008 legislative session.

2005-2007

Supreme Court Judicial Nominating Conventions

During 2006 and 2007, various legislative proposals and a constitutional amendment were discussed to change the current method of party nominations for NYS Supreme Court Judges in order to meet the requirements of the Gleeson decision in the Lopez Torres case which declared use of the traditional nominating conventions unconstitutional, as violating the First Amendment rights of candidates and voters. These proposals ranged from:

- A constitutional amendment to institute a merit selection process for all state judges;
- Reforming the convention process (Feerick Proposal);
- Requiring all judges to run in an open primary (Brennan Center);
- A compromise proposal to have judicial candidates run in party designating conventions (similar to that used by political parties to nominate statewide candidates for executive and legislative races), screened by judicial qualifications commissions, with provisions that candidates can go directly to the primary with a limited number of petition signatures or with 25% of the convention votes. (Modern Courts, Brennan).

2008

In 2008 the United States Supreme Court reversed the decision of the District Court for the Southern District of New York, affirmed by the Second Circuit Court of Appeals, in *Lopez Torres v. New York State Board of Elections*, declaring that New York's convention system for nominating Supreme Court Judges violates the First Amendment rights of challengers running against candidates favored by party leaders and granting an injunction mandating a direct primary election to select Supreme Court nominees. With its holding that Plaintiff/Appellee's rights were not jeopardized by current New York State law for the nomination of Supreme Court Judges, the impetus for reform in this area was removed, and no further movement has occurred.

JUDICIAL DISCIPLINE

Recent League Activity

The League will continue to work to retain confidentiality of the complaint and investigation of charges of misconduct but to open the hearing to the public after the Commission on Judicial Conduct has found basis for bringing formal charges and will continue to oppose separation of the Commission on Judicial Conduct's investigative and adjudicative functions.

Past League Activity

1966-1975

The study on judicial selection and tenure also resulted in a position, adopted in 1966, calling for a commission to handle the discipline and removal of judges.

In 1972, the League was instrumental in introducing a bill in the Legislature to establish a Commission on Judicial Conduct and interested Governor Nelson Rockefeller in the concept. Success came in a relatively short period of time. A temporary Commission on Judicial Conduct was established by statute in 1974 pending the approval of the constitutional amendment to make it permanent.

The Legislature gave first passage in 1974 and second passage in 1975, and the Commission on Judicial Conduct was approved by the voters that fall. In 1976, the League supported a new constitutional amendment to streamline the disciplinary process by eliminating the special Court on the Judiciary and consolidating the investigative and adjudicative functions within the commission subject to review by the Court of Appeals.

This amendment, which was approved by the voters in 1977, established the Commission on Judicial Conduct in its present form. Until the formation of the commission, judicial discipline lay entirely within the judiciary itself, leaving decisions to discipline most judges in the hands of the Appellate Divisions. To remove high court judges, it was necessary either to impeach them through the Legislature or call a special Court on the Judiciary; both methods were cumbersome and seldom used. In fact, in the previous 100-year period in which responsibility for disciplining judges was left to the judiciary, only 23 judges were removed from office for misconduct. Since 1975 when the Temporary Commission commenced operations, 102 judges have been removed. The old system discouraged complaints from lawyers, who might have to appear before a judge against whom they lodged a complaint, and from the general public who had difficulty finding the proper avenue for complaints under obscure procedures. The Temporary Commission, and later the permanent Commission on Judicial Conduct, provided for disciplinary procedures partially independent of the judiciary, kept its proceedings confidential to protect judges from unfounded charges, and gave citizens a clear path for lodging complaints.

1987-1993

During every session, the League has vigorously opposed efforts to weaken the authority of the commission in disciplining judges. In 1987, the commission came under heavy criticism from the Chief Judge of the Court of Appeals, primarily for focusing too much time and attention on town and village court justices, many of whom are nonlawyers. This prompted the Assembly Judiciary Committee to hold public hearings to evaluate the commission's ten years of operation. The League testified in support of the commission.

As a result of the hearings, the chairman, G. Oliver Koppell, sponsored a number of bills concerning the commission in the 1988 legislative session, some at the request of the commission. One proposal, supported by the League, became law: creation of an ethics panel to issue advisory opinions on judicial conduct. This legislation authorizes the Office of Court Administration to appoint an advisory panel to give specific interpretations of the state Code of Judicial Conduct. The Commission on Judicial Conduct considers judges who adhere to the panel's advice as having acted ethically in any subsequent investigation; i.e., opinions issued by the panel would be considered binding on the commission in any future investigation.

Another Assembly proposal creating an office of judicial inspector general was introduced in 1988 and reintroduced every session through 1993. In 1989 and 1991, legislation passed in the Assembly but died in the Senate. The legislation was calendared in the 1993 session but never reached the Assembly floor for a vote. The proposed bill would separate the investigative and adjudicative responsibilities of the commission. An independent inspector general, appointed by the commission for a four-year term, with removal only for cause, would investigate and bring charges against judges' accused of misconduct. The commission would decide whether the charges merited sanctions.

The League opposed this bill because the state constitution gives the commission the authority to "receive, initiate, investigate and hear complaints . . . and may determine that a judge or justice be admonished, censured or removed from office . . ." (Article VI, Section 22). This arrangement is called the "one tier" system in which the investigative and limited adjudicative functions are combined within the same agency. New York is one of 42 states with a one-tier system. The one-tier system is consistent with American Bar Association standards, which do not recommend the use of multiple bodies to handle matters of judicial

conduct. (Commentary to ABA Standards 1.5.) The system has worked well since the present commission was established in 1977.

A one-tier structure does not mean that the courts are removed from the judicial disciplinary process. The Court of Appeals has the power to review commission disciplinary determinations, and the commission is subject to the jurisdiction of the federal and state courts on procedural and other matters raised by judges and others. In over 100 challenges, the state's highest court has never found the commission's powers, practices, or procedures, to be too broad, unfair, or unconstitutional.

Furthermore, in commission proceedings, the investigative and judicial functions are separated where appropriate. Members of the staff who investigate or try cases against a judge are prohibited from later assisting the commission in rendering a decision. The commission prohibits its investigative and litigating personnel from assisting or advising the commission in its deliberations at any stage of formal proceedings. The clerk of the commission, who does not participate in any investigative or adversarial capacity, in any case, assists the commission and referees.

Confidentiality and Public Hearings

In 1977, voters approved a constitutional amendment, which established broad outlines for the present Commission on Judicial Conduct. In 1978, when the specific legislation to implement the amendment was considered, the League took the position that the whole process should be confidential in order to protect judges from unfavorable publicity arising from unfounded or frivolous charges. At that time, the commission was not operational, and there was no way to foresee the comprehensive nature of the investigative process.

The 1988 Annual Report of the Commission on Judicial Conduct recommended legislation to open to the public the hearing stage of the disciplinary process. At present, the initial complaint, the investigation, and the hearings are closed to the public by state law. The public becomes aware only when disciplinary action is taken to remove, censure, or admonish judges. The commission's proposal, if adopted by the Legislature, would retain confidentiality of the complaint and the investigation. Only after probable cause has been found and formal charges preferred would the subsequent hearing be open to the public.

The LWVNYS State Board voted at its March 1988, meeting to support the commission's proposal to retain confidentiality of the complaint and investigation but to open the hearing to the public after the commission has found basis for bringing formal charges.

The state League board decision to support open hearings was based on the following reasons:

- Judges are adequately protected from unjust or frivolous complaints because confidentiality remains throughout both the filing of complaints and the investigation. The process becomes open only when the 11-member commission finds there is sufficient evidence, or "probable cause," to warrant filing formal charges. Most judges who are charged are either disciplined or removed. They have the right to appeal to the Court of Appeals, although the high court has never dismissed any of the cases where disciplinary measures were decided in the hearings but has raised or lowered some penalties.
- Public confidence in the integrity of the process would be enhanced if the hearings were open to the public. At present, the closed nature of the entire process may fuel speculation and rumor to the detriment of judicial reputations and public trust. Action of the commission becomes public only at the end of the process when the commission has already judged the judge. Public proceedings would make the commission more accountable, defusing some judge's claims that the commission acts as a star chamber.

Also, as noted in the commission's Annual Report, under the present law there can be no evaluation of the commission's work regarding matters it dismisses. It is impossible for the Legislature and the public to know whether the commission ever improperly dismissed a case.

In 1989, a bill opposed by the League proposed creating the office of judicial inspector general. This bill, which only passed the Assembly, originally contained a provision for opening the formal hearing to the public. It was amended both in the Assembly and Senate to delete that provision, but the bill never reached the Senate floor for a vote.

PRE-ARREST PROFILING

In 1973, reflecting a growing concern with both the protection of defendants' rights and the ability of the courts to handle increasing caseloads, the League adopted a study of pretrial procedures in the criminal courts, focusing on four areas: counsel for the indigent, bail and alternatives to bail, plea bargaining, and the grand jury. Consensus was reached in 1975. A 1986 consensus updated the section dealing with the indicting function of the grand jury. (See Grand Jury Position Statement.)

The Fourth Amendment to the United States Constitution, as interpreted by the Supreme Court, requires police have reason to believe a person is involved in criminal activity before stopping or detaining that individual. The perception of racial and economic profiling, stopping individuals based on race or apparent economic status raises doubts about the fairness of the criminal justice process. While some law enforcement officials across the state have begun to address this issue, countless citizens continue to feel that they have been targeted because of their race or economic status.

Recognizing the importance of this issue, the League adopted a study at state convention in 2001 to consider whether racial and/or economic factors impact on the treatment of individuals during arrest and actions leading up to arrest. Upon completion of Alternatives to Incarceration (ATI) study in 1993, the portion of Pretrial Procedures relating to Alternatives to Bail was moved under the ATI position. (See ATI Position Statement.)

PRE-ARREST PROFILING

Statement of Position

As announced by the State Board, May 2003

The League of Women Voters of New York State believes that racial and economic factors do influence the treatment of citizens during arrest and actions leading up to arrest. The multi-jurisdictional law enforcement system and lack of uniform law enforcement procedures makes assessing the degree of racial and economic profiling and its prevention difficult. To monitor and prevent this practice the League supports the establishment of statewide guidelines for law enforcement at all levels to prevent racial and economic profiling, including:

- Policy statements,
- Hiring practices,
- Training, including pre-service training and in-service training,
- Interactions with civilians,
- Record keeping, including collecting data on all stops (pedestrian or vehicle),
- Reporting and publicizing results,
- The handling of complaints,
- Disciplinary actions for law enforcement personnel who exhibit inappropriate behavior.

In addition, the League supports the issuance of separate guidelines for interacting with youths to assure non-discriminatory pre-arrest treatment.

The League recognizes the legitimate use of race as an identifying factor by law enforcement in certain instances, for example when issuing a wanted description, and supports that continued use.

PRETRIAL PROCEDURES

Statement of Position

As announced by the State Board, December 1975

The ultimate recourse for justice, both for society and the offender, is the court system. The judicial system in New York State still needs reforms in the method of selecting judges, and court structure. Due to the inefficiency and congestion of the judicial system, most criminal proceedings never actually reach the courts.

Given these present realities, the League of Women Voters, while continuing to press for court reform, recommends that the following improvements be made in pretrial procedures:

The rights of defendants should be protected at every stage of a criminal proceeding, including the pre-arraignment period. They should be entitled to competent legal counsel at every stage.

At present, indigent defendants must be provided counsel at full public expense. The quality of defense provided for the indigent should be improved by better training and screening of attorneys.

PRETRIAL PROCEDURES

Statement of Position, Continued

As announced by the State Board, December 1975

The League believes those not deemed indigent, but unable to afford full legal fees, should be required to pay for counsel only according to their financial ability. To assure uniform administration of justice, procedural guidelines should be developed for defining indigency for purposes of retaining counsel. Local determination of eligibility should be flexible, however, and each county should continue to determine what system can best provide counsel for its indigent defendants (i.e., public defender, assigned counsel, etc.). Funding for indigent defense should come from all levels of government.

The League concedes the continued necessity for the practice of plea-bargaining to handle the criminal caseload.

Full written records in the pretrial process are essential to gain public trust and to protect both society and the defendant. They should be kept for all negotiated pleas and all grand jury proceedings, subject to deletions by the court to protect witnesses and defendants. Plea bargaining records should contain, for example, evidence that the defendant understood the implications of his plea and was fully informed of all negotiations, and reasons for the judge's accepting the plea and any promises made to the defendant.

Information about the defendant's background and previous criminal record should be reviewed by all parties before an agreement is reached or sentence imposed. Procedural guidelines should be developed to assure equal treatment in the plea bargaining process.

There is an inherent and unresolved conflict between society's need to be protected from dangerous defendants and its need to protect the defendant's constitutional rights. To address this dilemma, as well as many other problems of the pretrial period, guarantee of a speedy trial is an imperative.

GRAND JURY

In 1985, delegates to State Convention voted for a re-evaluation of the League's position in support of the grand jury indicting and investigative functions. The following year, in March 1986, delegates to State Council agreed to limit the re-evaluation to the indicting function only.

The April 1986 consensus showed clearly that the League was divided on the question of support for the indicting function of the grand jury. Many members favored abolishing this function while others felt it should be retained. Thus, we neither support nor oppose the indicting function of the grand jury. All did agree, however, that procedural reforms to protect citizen rights should be instituted in all grand jury proceedings.

GRAND JURY

Statement of Position

As announced by the State Board, May 1986

The League of Women Voters of New York State supports the grand jury as an investigative body. Whether the grand jury is sitting as an investigative or as an indicting body, grand jurors should be selected at random from a broad cross section of the community and should have clear understanding of the full scope of their powers and responsibilities. Grand jury witnesses, as well as potential defendants, should be entitled to counsel while testifying. Such counsel would serve in an advisory capacity.

Procedural reforms of the indicting function are needed to protect citizen rights.

The League supports reforms such as: disclosure of exculpatory evidence (favorable to the defendant); increased access to transcript for the defendant and access for witnesses to their own testimony; and statewide standardized instruction for grand jurors, written as well as oral.

Random selection of both grand and petit juries was made mandatory in 1977, and legislation was enacted in 1978 permitting counsel for witnesses before the grand jury who had waived immunity. The League will continue its efforts to extend this provision to all grand jury witnesses.

Since 1993, the League has unsuccessfully supported Assembly legislation to increase a defendant's access to the transcript. In 1996, League unsuccessfully supported legislation to require judges to provide grand jurors with written instructions concerning the scope of their authority and responsibility.

LEGAL SERVICES FOR THE INDIGENT

The League believes that indigent criminal defendants and indigent civil litigants are entitled to legal services at no cost to them in order to provide them with access to the third arm of government – the judiciary. The League has worked to improve the quality of and funding for such services. Since 1998, the League has been working with the New York State Defenders to improve legal representation for the income eligible defendants in the courts of New York State. The League Judicial Specialist, Lenore Banks, was League Liaison to the NYS Defenders Association and a member of the Client Advisory Board. We have worked with New York State Defenders Association (NYSDA) and others to co-sponsor public hearings on the adequacy of public defense programs across the state and as members of the Gideon Coalition. We participate annually in "Gideon Day," to lobby state legislators on the necessity of reform.

LEGAL SERVICES FOR THE INDIGENT

Statement of position

Adopted by the League in 1975:

The rights of the defendant should be protected at every stage of a criminal proceeding. At present, indigent defendants must be provided counsel at full public expense. The quality of defense provided for the indigent should be improved by better training and screening of attorneys. Funding for indigent defense should come from all levels of government.

Past League Activity

2001-2005

League participated in the 2001 Gideon Legislative Day. League and coalition members urged legislators to:

1. Restore to the budget those public defense programs that the governor cut.
2. Raise the rate of compensation set for assigned counsel and abolish caps on those fees and related expenses.
3. Establish a schedule of state appropriations to subsidize the rate increase so that it would not simultaneously undermine the provision of public defense services by organized providers (public defenders, legal aid societies and not for profit providers).

Also in spring 2001 The New York State Defenders Association released a report: 'Resolving the Assigned Counsel Fee Crisis: An Opportunity to Provide County Fiscal Relief and Quality Public Defense Services'. This report called for similar legislation actions as the Gideon coalition had in their March lobby day.

A lawsuit in New York City, demonstrated how the low assigned counsel fees created a crisis of constitutional proportions in the delivery of public defense services. This resulted in an injunction raising fees from $25 in court/$40 out of court to $90 per hour across the board in the City. Before that lawsuit could be implemented, the Legislature raised fees statewide in 2003 (effective 2004) to $60 per hour for misdemeanors, $75 per hour for all other matters.

In the midst of the fiscal crisis of 2003, the Legislature passed a reform of public defense services in New York State providing for an increase in fees paid to some providers, the first increase since 1986. Fees in cases begun as misdemeanors were raised to $60 an hour, in or out of court. In other matters for which publicly paid counsel is provided, including felonies (other than capital cases), appeals, and family court matters, the fees were raised to $75. This represented a substantial jump from fees of $25/hour out of court and $40/hour in court, though it is well below the $90/hour rate set in litigation in New York City as described in the previous paragraph. Caps or limits placed on amounts payable per case were unfortunately not dropped, but were increased, as was the cap on fees for investigators and other expert services needed to assist counsel.

An important aspect of the new law was that New York State agreed to support the public defense function by providing a projected 20 percent increase on top of what localities were already paying. The bill also created an Indigent Legal Services Fund in the custody of the Comptroller and the Commissioner of Taxation and Finance. Four revenue streams were to feed this fund, expected to generate an estimated $65 million per year. Of this, $25 million was designated for law guardian payments, the remainder to be distributed pursuant to a formula to counties and the City of New York. The state funds were not earmarked for the assigned counsel fee increase.

The law did contain a 'maintenance-of-effort' provision that requires localities to use state money to improve the quality of public defense, stipulating that as long as the funds are used to improve the quality of the local public defense system (public defender office, assigned counsel program or legal aid society), localities may use these funds as they see fit. In order to receive state funds localities must certify that they spent the same amount in the preceding fiscal year as the year before, unless they can demonstrate a measurable increase in quality. For the first time in New York State history, the examination of the use of experts and investigators, caseload limits, training, resource and similar issues is part of the funding calculus.

The fee increase, while welcome, did not constitute needed reform. Real oversight, with standards by which to measure public defense services, still does not exist.

The long-standing crisis in public defense -- overwhelming caseloads, delay in representation, etc. -- did not end with the fee increase for assigned counsel passed by the Legislature in 2003 (effective in 2004). That legislation did provide for eventual payment of some state funds to counties, funds that were not earmarked for assigned counsel fees but are to be used to improve public defense of any type. However, counties received no state money as a result of the legislation until 2005. That delay, along with uncertainty about the amount of state funds that would be ultimately forthcoming as a result of that legislation and about how those state funds would be distributed, caused chaos in counties. Focusing almost exclusively on cost rather than on quality of defense services, half the counties in the state considered changing their mechanisms for providing counsel, and many did. Now, questions are arising about whether state funds are being used, as the legislation requires, supplementing, and not supplanting county expenditures, to improve the quality of representation that public defense clients receive.

2010

In 2010, the state enacted the Legislature passed a public defense reform bill as part of the Public Protection budget. The bill did not create the Independent Public Defense Commission sought by the League; however, it did create an Office of Indigent Legal Services and an Indigent Legal Services Board in the Executive Branch to monitor, study, and make efforts to improve the quality of services provided under County Law article 18-B, relating to public defenders, legal aid offices, assigned counsel, conflict offices, and representation in Family Court.

The League will continue to:

- Monitor implementation and push for expansion of the Public Defense Reform Act, in concert with the NYS Public Defenders Association;
- Seek permanent adequate funding for civil legal services;
- Seek independence of the Judiciary through expanded recusal requirements and disclosure of corporate campaign contributions to judicial elections, in concert with the Fund for Modern Courts.

Public Defense Reform

The League has participated for several years in "Gideon Day," the annual observance of the right to counsel case Gideon v Wainwright, educating legislators and the public about the need for and problems in our public defense system. In 2003, the League joined the New York State Defenders Association (NYSDA), the New York State Community Action Agency Association, and the Committee for an Independent Public Defense Commission in co-sponsoring a Gideon Day Client-Defender Speak Out. Testimony at that Speak Out again illustrated the need for public defense reform.

In the 2004 and 2005 legislative session, the League was involved with NYSDA and other groups, in hearings held in specific client communities. The League and other groups concerned about quality have sought to keep up with the effects of the 2003 legislation and continue to advocate for improvement in the quality of public defense.

On March 11, 2005, League's Judicial Specialist appeared before Chief Judge Judith Kaye's Commission on the Future of Indigent Defense Services to present the League's views on reform of the present New York State public defense system. Later in March, the Gideon Coalition, of which the State League is a member, went to Albany to demand reform of the state's public defense system.

Independent Public Defense Commission

In 2002, the State League made "Establish an Independent Public Defense Commission" a priority on its Legislative Agenda. Such a commission would protect constitutionally and statutorily required legal services from control by those with conflicting interests and provide a single, accountable entity to which any and all concerned groups could turn when quality representation is not met. It would act as a conduit for transmitting state funds to localities that meet standards established by the commission.

On July 9, 2001, the Committee for an Independent Public Defense Commission composed of many former legislators who supported the original 1965 legislation setting up the current system of delivery, announced presentation to the governor and the legislature of proposed legislation which: increased the rate of compensation for lawyers providing legal representation to the poor (so called assigned counsel); provided for an increase in state funding for publicly provided legal representation (Public Defenders); and established a public defense commission to oversee the expenditure of state funds and the provision of publicly provided representation.

The public defense commission was to be housed in a public benefit corporation governed by an independent board. The commission was empowered to create and enforce standards regarding the selection, training, workload, and performance of lawyers, as well as eligibility standards of clients. It would have functioned as the conduit for state financing, fiscally accountable to the state, yet independent of both the executive and judicial branches of government.

The proposal also provided for a nominating committee structure to be chaired by the LWVNYS to help assure independence from both the executive and judicial branches of government. In a letter to the League, July 6, 2001, the chair of the Independent Committee, Michael Whiteman wrote to the League: "We have named the New York State League of Women Voters as one of the members of the nominating committee because we believe your organization represents the kind of experience, integrity and independence that will allow the nominating committee process to succeed."

Under the proposal, the 13-member unpaid commission would have included representatives of the governor, legislative leaders, the New York State Association of Criminal Defense Lawyers, the Vera Institute of Justice, Community Action Association of New York, the New York State Defenders Association, and the New York State Bar Association. It would have been independent of the Department of Criminal Justice Services and the Judiciary and run by a full time director. While the commission would not have had the authority to alter rates - that power would remain with the legislature - it would have established standards for indigent counsel. The general proposal was endorsed by 29 counties through two organizations, the Inter-County Association of Western New York and the Inter-County Association of the Adirondacks. No legislative action was taken on this proposal. In the 2003 legislative session, bills similar to the one proposed by the Independent Committee were introduced. In the 2004 and 2005 legislative sessions, bills were again introduced in the Assembly, but no action was taken in the Senate.

In 2006-2007 a Commission appointed by Chief Judge Kaye to study public defense issued an interim report supporting creation of a statewide independent public defense commission and the final report in June 2006. Release of the final report, calling for a statewide system of defense services headed by an independent commission, engendered statewide public awareness of the need for this public commission. Findings of the commission included: that the system fails to protect defendants' rights, New York's current fragmented system of county-operated and largely county-financed indigent defense services fails to satisfy the state's constitutional and statutory obligations to protect the rights of the accused indigent.

Recommendation include: establishment of a statewide defense system overseen by an independent commission; this statewide defender office should consist of an Indigent Defense Commission, a Chief

Defender and Regional and Local Defender Offices, a Deputy Defender for Appeals, and a Deputy Defender for Conflict Defense. This recommendation will ensure the delivery of indigent defense services in New York State to insure accountability, enforceability of standards, and quality representation.

The League believes that the Judiciary cannot reform public defense alone. The advent of a new Administration provides what we hope will be a welcoming ear in the Executive on this issue.

Locally and on a state level the League will press for Executive support for state legislation creating an Independent Public Defense Commission in 2008.

The League has advocated for an *Independent Public Defense Commission* to protect constitutionally and statutorily required legal services from control by those with conflicting interests and to provide a single, accountable entity to which any and all concerned groups could turn when quality representation is not met. The commission would act as a conduit for transmitting state funds to localities that meet its standards.

ALTERNATIVES TO INCARCERATION

The 1991 LWVNYS Convention adopted a study of Alternatives to Incarceration (ATI) to expand the judicial position, which had previously addressed only certain aspects of pretrial situations. The 1993 League Legislative Advocacy conference allowed the League to present the new ATI position, announced in February, to the legislators.

Delegates to the LWVNYS Convention in June 1993 voted for "an extension of the ATI study to examine the need for alternatives for those incarcerated under laws and/or significant circumstances that have since changed." Delegates to Council in 1994 voted to discontinue the study based on the state board recommendation that we could take action on these concerns under the current position.

ALTERNATIVES TO BAIL

Statement of Position

As announced by the State Board, December 1975

Assurance that a defendant will return for trial should be obtained through means other than bail, since bail is inherently discriminatory. Alternatives include expanded use of the appearance ticket, release on own recognizance, conditional or supervised release, and detention by written determination of the judge that there is no other alternative.

Our position supports the use of ATI at all levels of the criminal justice process, including re-entry, for nonviolent felony offenders. The American Bar Association eligibility criteria adopted as part of our position state that community-based sanctions should be available to an offender who, although convicted of a violent crime, had no pattern of violent behavior and would not pose a threat to the community.

ATI POSITION

Statement of Position

As announced by the State Board, February 1993

Recognizing the enormous costs of state prisons and local jails, and the distressingly high rates of recidivism, the League of Women Voters of New York State, at its convention in 1991, adopted a study of Alternatives to Incarceration.

In the criminal justice system there is a need for a broad range of punishments less restrictive than incarceration. Prisons and jails must be viewed as a scarce and expensive resource to be utilized only when necessary. The current system wastes time, money, and human resources. The LWVNYS strongly supports the use of ATI for nonviolent offenders. There is a need for earlier, more effective intervention and, if applicable, treatment. Sanctions should be more innovative, constructive and less restrictive.

ATI POSITION

Statement of Position, Continued

As announced by the State Board, February 1993

Eligibility

The League concurs with the American Bar Association Model Adult Community Corrections Act of February 1992. The following offender groups shall be eligible for sentencing to community-based sanctions:

1. Those convicted of misdemeanors;
2. Nonviolent felony offenders, including drug abusers and other offenders with special treatment needs;
3. Violators of parole, probation, and community corrections conditions whose violation conduct is either non-criminal or would meet either criterion (a) or (b) above had it been charged as a criminal violation;

4. Offenders who, although not eligible under criteria (a) through (c) above, are found by the court to be the type of individuals for whom such a sentence would be appropriate. In making such a determination, the judge shall consider factors that bear on the danger posed and the likelihood of recidivism by the offender, including but not limited to the following:
    a. That the offender has a sponsor in the community;
    b. That the offender is employed or has enrolled in an educational or rehabilitative program;
    c. That the offender has not demonstrated a pattern of violent behavior and does not have a criminal record that indicates a pattern of violent offenses.

Evaluation of individual offenders

From the time of arrest, individual offenders should be carefully screened and matched with appropriate programs. In the screening process, the highest priorities are:

1. Public Safety
2. Rehabilitation of the offender, including treatment for substance abuse, education beginning with basic literacy skills, vocational responsibility training, and family intervention
3. Severity of the crime
4. Violence of the crime

State legislation

The League strongly favors state legislation supporting ATI programs. This legislation should include a Master Plan that provides:

1. Funding incentives for the use of ATI programs.
2. Evaluation of individual programs
3. Minimum standards in local program operations
4. Methods for encouraging community support.

In conclusion, the LWVNYS believes it is essential that there be long-term evaluation and sufficient funding of alternative programs.

Past League Activity

1994

The state League board at its March 1994 meeting affirmed that an example for using this criterion might be the case of a battered woman who struck back or killed her abuser in a single act of violence, provided that she had no previous history of violence and would pose no threat to the community.

At its March 1994 meeting, the board affirmed a broad interpretation of the term "alternative" in our position. Thus, we could support sentence reduction measures, such as good time and clemency, for classes of individuals. However, the board felt it inappropriate for the League to support clemency for any particular individual.

The state League board supported in concept other re-entry programs such as (but not limited to) earned eligibility, conditional release, and early parole. The Board also reaffirmed support in concept for treatment, vocational and rehabilitation programs under our ATI position. Support for specific legislation will depend upon the criteria in our position.

Persons "incarcerated under laws and/or significant circumstances that have since changed," can use a petition process for sentence review, starting with a direct appeal up through the highest state court. If that fails, the person can file a "440 motion" or "Collateral Attack on a Criminal Conviction". Prisoners Legal Services provides a packet of sample forms for this complex process upon request. The packet is based on A Jailhouse Lawyer's Manual, available in prison libraries.

Our current position already allows the League to take action in opposition to mandatory drug laws and second felony offender laws under which so-called "drug mules" are incarcerated.

2000-2001

During and since 2000, the League supported several drug law reform bills. One bill, in both the Assembly and Senate, would have given the option of a sentence to probation for all controlled substance felony convictions, including second felonies. Judges could then impose conditions for rehabilitation, including drug programs, according to existing penal law. That bill also permitted retroactive setting aside of some sentences. Another bill, significant for its Senate Republican sponsorship, would have permitted, for first time B, C, or D drug felonies, a definite sentence of one year or less, or of probation or conditional discharge. No action occurred on either bill.

The League continued support for these bills when they were re-filed in 2001. Members had chosen drug law reform as an issue for emphasis in 2001. Responding to increased community agitation for drug law reform, the governor, and leaders in the Assembly and Senate proposed a variety of changes, which ended up as two omnibus bills, one in each House. Unfortunately, these bills were far different from the straightforward ones supported by the League. They reduced some sentences and increased others. They detailed the types and extent of drug treatment, limiting participation in some cases and mandating treatment in others. They did not meet our position standards for access, flexibility, and innovation. Nor did they take account of the poor outcome data for current programs, including the Willard program.

Just before adjourning in June 2002, the Assembly and Senate passed different drug law reform bills, modifications of the ones on which they had taken no action in 2001.

2003

In March 2003, the Senate passed a bill dealing only with "Class A" drug felonies. Then in early June the Assembly passed a modified form of their 2002 bill, and filed another, shorter bill in mid-June. Heated

negotiation among the leaders did not result in a compromise bill. The League continued to press for more options for alternatives for more offenders.

The budget bill passed in May 2003 included several items regarding early discharge from prison or parole. Class AI drug felons can earn merit time. A new presumptive release program bypasses the parole board by allowing the Corrections Commissioner to issue a certificate of earned eligibility to some inmates. Merit termination from parole was shortened from three years to two years for Class A drug felony offenders and after one year for others.

In 2005, the legislature approved remedies for those still incarcerated under the harsh Rockefeller Drug Laws. Drug law reform has long been a League issue. Guidelines for immediate review and possible release of affected prisoners did not bring about the results supporters had hoped. More needs to be done in this area.

2007

In March 2007, Governor Spitzer signed Executive orders 9 and 10. Executive Order 9 orders that certain violent offenders be barred from temporary release programs. Executive Order 10 establishes a Commission on Sentencing Reform to study and make recommendations on sentencing consistency, effect, and appropriateness. In addition, the commission is to study victim impact issues, the effect of early release of convicts on the public at large, the use of alternatives to incarceration, and the fiscal impact of many aspects of the sentencing process. An initial report was scheduled to be submitted to the governor by 9/1/2007 with the final report to be issued by 3/1/2008.

The League continues to support and advocate for alternatives to incarceration for non-violent drug offenders. It is hoped that the Commission on Sentencing Reform will include in its study, a review of why many non-violent Rockefeller era drug offenders continue to be held at in NYS prisons.

2009

In 2009, Jonathan Lippman was named Chief Judge of New York. He, and his predecessor, Chief Judge Kaye introduced the idea of the courts as a problem-solving entity, more relevant to society's current needs and problems. ATI programs were the natural result of this focus. With dozens of drug treatment courts and dozens of other problem-solving courts, New York has become is a national leader in the area of problem-solving. For example, drug courts operate under the goal of treating nonviolent addicted offenders and reintroducing them into society as valued members of the community rather than incarcerating them. These ideas have been expanded to arrested person suffering from mental health illnesses. At the present time, according to the New York State Division of Probation and Correctional Alternatives (DPCA), it funds and oversees approximately 165 ATI programs designed to reduce reliance on pretrial detention and/or incarceration and operate in a manner consistent with public safety such as Mental Illness Programs, Pretrial Services, and TASC and Drug and Alcohol Programs.

TRIAL JURY

The 1985 LWVNYS Convention adopted a study of jury management focusing on selection and exemptions in response to delegate concern over the growing number of occupational exemptions from jury duty, proposals to ban the use of voter registration lists as a source for potential jurors, the great disparities in fees paid to jurors statewide, perceived inequities in the sharing of this civic duty, as well as concerns over efficient utilization of juror time.

TRIAL JURY

Statement of Position

As announced by the State Board, May 14, 1987

The League of Women Voters of New York State supports measures to promote a fair and efficient jury system which:

1. Ensures that county jury pools are large enough to meet the needs of the courts;
2. Represents a cross section of the community;
3. Makes jury service pleasant and productive;
4. Ensures that this civic duty is equitably shared by the eligible population.

We strongly support continued use of voter registration lists in conjunction with lists of state income tax filers and drivers licensees to generate the automated master list compiled by the Office of Court Administration for each county. We advocate a program of public education regarding this composite list to dispel misconceptions concerning links between voter registration and summons to jury duty.

To ensure a sufficient and representative supply of potential jurors, we recognize that other lists may be used in conjunction with the master lists.

We support abolition of all occupational exemptions and disqualifications in favor of a case-by-case review for excusal or postponement.

The criteria for excusal - undue hardship or extreme inconvenience, public safety, and physical and/or mental impairment with report from a doctor - should be applied statewide with some flexibility in local implementation. Postponement policy should remain the responsibility of each Commissioner of Jurors, within guidelines set by the state.

The League supports continued ineligibility of non-English speaking citizens for jury service because of the responsibility a juror bears to understand the nuances of oral argument in a trial.

The primary responsibility for overseeing jury management and coordinating practices lies with the state. We support uniform statewide standards and measures.

Fairness requires the Legislature to address the inequities in jury service fees by instituting a uniform statewide fee.

Efficiency dictates that the "call-in" (where jurors check to see when needed) and "call-out" (where jurors are summoned when required) system should be implemented.

We support measures to reduce the frequency of jury duty in order to distribute this service more equitably among the eligible population. Some possible solutions could include mandating use of the same lists until that list is exhausted or allowing a longer interval between periods of jury service.

1987-1995

Shortly after the 1987 consensus was announced, the Legislature passed a comprehensive trial jury bill that: dropped the requirement that jurors be able to speak the English language (substituting "understand and communicate"); provided a uniform $15 per day juror fee, with a bonus of $6 per day for trials lasting

more than 30 days; provided a maximum five-day term of service unless engaged in a trial; extended the interval between jury service to four years and provided for strict enforcement measures.

Reluctantly, the League opposed the bill because of the extremely strong consensus on continuing the ineligibility of non-English-speaking jurors. The governor vetoed the bill on other grounds: the expense of the uniform juror fee. A trial jury bill including the $15 uniform juror fee as well as the other League supported reforms contained in the 1987 proposal passed the Legislature in July 1988 and was signed by the governor.

The League continued to successfully oppose yearly proposals to ban the use of voter registration lists as a source for potential jurors. League efforts were unsuccessful, however, in efforts to abolish statutory exemptions to jury duty until 1995.

Trial Jury Reform: The Jury Project, 1993-95

Chief Judge Judith Kaye made trial jury reform a priority with the appointment in 1993 of The Jury Project, a panel of 30 judges, attorneys, jury commissioners, educators, journalists and business people, charged with thoroughly reviewing jury service in New York State. The Jury Project brought new life to the reform movement.

League testified before the Project in October 1993, stressing the need to expand the jury pool and achieve greater diversity through elimination of automatic occupational exemptions and increased effort at minority outreach. We also urged retention of voter registration lists as one of the three sources used in compiling the jury master lists as well as better utilization of jury volunteers.

The Jury Project Report was issued March 21, 1994. A multitude of reforms (80) were proposed to attain the objectives of: jury pools that are truly representative of the community; a jury system that operates efficiently and effectively; and jury service that is a positive experience for the citizens who are summoned to serve. The League forwarded positive and enthusiastic comments to the Chief judge regarding the many proposals that fall within League position.

The League successfully supported passage of one of the Project recommendations: to widen and diversify the jury pool by adding Department of Social Services and unemployment recipient lists to supplement the master list of driver licensees, state income tax filers, and voter registrants. The governor signed the legislation in July 1994.

A notable success for League came at the end of the 1995 session with passage of legislation to abolish all statutory exemptions and most disqualifications from jury duty. In May 1995 Senate Judiciary Chairman, James Lack, held public hearings on an Office of Court Administration bill to accomplish this. League testified in support of the proposal and encouraged the Assembly Judiciary Chair to also act on this legislation.

Another victory came with passage of legislation to raise the juror fee from $15 to $27.50 effective February 15, 1996, and $40 effective February 15, 1997.

Many of the project recommendations have already been implemented administratively by the Office of Court Administration, such as shorter terms of service and elimination of the "permanent qualified list," use of which, in effect, circumvented the four-year disqualification upon completion of a jury service.

Unfinished business in the area of jury reform is opposing efforts to ban the use of voter registration lists as a source for potential jurors and educating the public on the role of multiple lists.

Federal District Courts

There are four U. S. District Courts within New York State and three of the four rely solely on voter registration lists as a source of jurors. The use of voter registration lists is mandated by federal and by New York State law. However, neither federal nor state law precludes use of supplementary lists. The decision to rely solely on voter registration lists is a local decision by the boards of judges of the respective federal courts. The LWVUS gave LWVNYS permission to lobby the federal District Courts within New York State and has expressed interest in the results. In March 1992 as a direct result of local League response to our Action Alert, the U. S. Northern District Court approved the use of multiple source lists and merged New York driver's license and voter registration information to fill the jury-qualified wheels for the District.

CAMERAS IN THE COURT

Action is taken under the LWVUS position on Individual Liberties (Impact on Issues 2022-2024, pg 55).

1989-1997

In 1989, the League successfully supported passage of legislation to extend the experiment allowing cameras in the court for a two-year period. The U.S. Constitution guarantees the right to a public trial, and we took action under the National League commitment to individual liberties. Action on this item is also consistent with our continued efforts to enhance public understanding of, and confidence in, the judiciary. In May 1991 the legislation authorizing the experiment expired. The Senate and Assembly could not agree on the issue of non-party witness veto power over audio-visual coverage of themselves while on the stand. The Senate version, supported by the League, mandated that witnesses who are not parties in a case should have this protection. A year later, 1992, the League successfully supported passage of legislation restoring audio visual coverage of court proceedings on an experimental basis through January 1995, with restrictions on the coverage of witnesses in criminal trials. In 1995, the Legislature extended camera access for another 30 months.

In June 1997, the Legislature failed to act on legislation to authorize cameras in the courts on either a permanent or a trial basis. With expiration of the experiment, League has no position on cameras in the courts.

CAPITAL PUNISHMENT IN NEW YORK STATE

Statement of Position

Announced by the State Board, January 2005

The League of Women Voters of New York State opposes the death penalty. We believe that New York State, as part of a civilized society in the 21st century, should not be executing people. Almost all developed countries have abolished the death penalty. The League joins in the call for abolition of the death penalty, with the use of life without parole as the primary alternative.

Should the legislature consider reestablishment of the death penalty, the League urges the creation of a state commission to study factors including, but not limited to, the following before a decision is made:

- Adequate mechanisms for introducing new evidence,
- Powers given to the county District Attorney in seeking the death penalty,
- Racial, ethnic and economic issues of defendants and victims (including data from other states),
- Geographic inequities in the New York law,
- Costs of the death penalty versus life in prison,
- Equitable justice for all defendants,
- Reliability of evidence in New York criminal convictions, and
- Human rights aspects of state killing.

If the New York State Legislature and Governor reestablish the death penalty statute, the League supports the exclusion of the following categories of people:

- Mentally ill,
- Developmentally disabled, and
- Under 18 years of age at the time of the crime.

The League further believes that any death penalty law should require proof of guilt "beyond any doubt," rather than "beyond a reasonable doubt."

Past League Activity

1995-2007

In 1995, the state legislature passed a capital punishment statute after twenty years of not having the death penalty as a sentencing option. Since 1995, seven men have been given the death penalty. In the summer of 2004, the Court of Appeals, New York's highest court, ruled that one aspect of the New York law was unconstitutional, thereby nullifying the law. The Legislature was urged to pass a 'quick fix' to the law, which the Senate did in February of 2005. During this time the Assembly Codes, Judiciary, and Corrections committees held five joint hearings where 170 witnesses testified. Of that number, 148 opposed the death penalty, 9 favored it, and 5 others favored it with specific changes. The people who testified included families who had been directly affected by a murder, judges, professors, people who had been wrongly incarcerated, citizen groups, religious groups, attorneys, and former legislators who had become convinced of the futility of the death penalty. The League testified that New York should

abandon this law, replacing it with life without parole as the primary alternative. Our testimony was based on a two-year study and publication of a booklet, "Death Penalty Study," completed in the fall of 2004. Members came to consensus that fall after discussion meetings and talks by experts in the field.

Committee staff summarized testimony of the hearings in an 85-page report, "The Death Penalty in New York."

Following the hearings, in April of 2005, the Assembly Codes Committee voted NOT to discharge to the floor a Republican Assembly version of the Senate death penalty bill.

Since the State League announced our position against capital punishment in January of 2005, we have been monitoring the state legislature and following the appeals of the cases remaining of the seven men who had been sentenced to death in New York.

Though the Senate passed a 'quick fix' to the law that the Court of Appeals had ruled unconstitutional, the Assembly Codes Committee voted not to discharge a Republican sponsored bill. At that time, Chairman Lentol said, this issue will not go away, so we need to remain alert for future attempts to bring it back. He was so right. In the spring of 2007, the Senate again passed two bills to bring back the death penalty. We again urged Senate members not to pass them, and Assembly members not to take up the issue.

In the fall of 2007, the NYS Court of Appeals affirmed its 2004 decision to halt capital punishment in the state, by a 4-3 vote, in the case of the last defendant on death row. Thus, the law that is now deemed unconstitutional would have to be revised, or a new law passed to bring back the state's death penalty. This eventuality is not anticipated with the current makeup of the state legislature.

Action on Death Penalty Abolition at National Convention

With New York League help, and that of other state Leagues, delegates at the national 2006 League convention adopted the concurrence position, "The League of Women Voters of the United States supports the abolition of the death penalty." Now every state League can speak out on this issue, using materials from the Leagues that have studied it.

CIVIL LEGAL SERVICES

LEGAL SERVICES FOR THE INDIGENT

Statement of position

Adopted by the League in 1975

The rights of the defendant should be protected at every stage of a criminal proceeding. At present, indigent defendants must be provided counsel at full public expense. The quality of defense provided for the indigent should be improved by better training and screening of attorneys. Funding for indigent defense should come from all levels of government.

In 1983, this portion of the position was broadened to include civil as well as criminal proceedings.

Interest on Lawyer Account Fund (IOLA)

An innovative method of providing funding for civil legal services to the poor, the Interest on Lawyer Account Fund (IOLA), was supported by the League and enacted in the 1983 legislative session. The fund became operational in October 1984. This program allows attorneys to invest nominal or short-term

client deposits so that these otherwise idle funds can be pooled in an interest-bearing bank account. The interest income is channeled to the IOLA Fund of the State of New York, which administers the program and makes grants to law-related public interest programs such as legal service agencies.

In the 1988 legislative session, the League successfully supported legislation to make attorney participation in the IOLA program mandatory. Attorney recruitment efforts were not as successful as originally anticipated. Only 15% of the estimated 60,000 eligible attorneys chose to participate in the voluntary program. Under the mandatory program, IOLA is expected to generate at least $6 million annually, compared to the $1.3 million raised in 1987 under the voluntary program.

The League lobbied extensively to get Senate support for this legislation, and the bill was passed and signed into law by the governor. However, since 1997 the constitutionally of this program is being questioned and the future of IOLA appears uncertain.

Disabled Advocacy Program

The League successfully supported creation (1983), continued funding (1985), and increased funding (1987) for the Disabled Advocacy Program (DAP) which provides civil legal services for disabled New Yorkers who have been denied federal disability benefits under standards found to be illegal by the federal courts. By providing legal representation, the Disabled Advocacy Program has allowed disabled citizens of the state to successfully contest wrongful termination or denial of their federal Social Security Disability (SSD) or Supplemental Security Income (SSI) benefits in 85 percent of the cases undertaken.

Funding for Civil Legal Services

In February 1999, League presented testimony at the Public Hearing of the Senate Finance and the Assembly Ways and Means Committees on the Proposed Executive Budget. Our message was: Include $13.6 million in funding for Legal Services in the 1999-2000 budget and craft a permanent solution to funding for Legal Services as outlined in Chief Judge Kaye's Legal Services Project Report.

The proposed executive budget provided no funding for civil legal services. This despite the fact the civil legal services programs across the state continue to suffer from last year's loss of state funding. In an effort to rein in spending, last year the governor vetoed more than $1.5 billion in funding added to the budget by the legislature. Caught in this sweep was almost $7 million in funding for Civil Legal Services. In response, local programs have scaled back on services, imposed hiring and salary freezes, left vacant positions unfilled, and in some instances undertaken lay-offs. Programs have worked tirelessly to raise additional funding but the real need is for a permanent statewide funding stream for these vital services.

At the end of the 1999 legislative session League was notified in August that the state budget included over $7 million for civil legal services program. However, the bill to create a permanent funding source passed the Assembly in June 1999 but the Senate failed to act on any proposal for any permanent funding source. The Assembly and the League will continue efforts to secure this permanent funding source for civil legal services.

When provided, Legal Services is a stabilizing effective force. By working with local social services offices, legal services can ensure that rent payments flow appropriately to landlords, avoiding evictions and costly shelter stays. By representing those who have been inappropriately denied or terminated from federal disability benefits, legal services is able to provide financial stability to low income families while at the same time helping to avoid unnecessary state welfare costs. By helping a young mother secure the child support to which her child is entitled, legal services is able to provide some measure of economic security and again help the family avoid the need for public assistance.

Alternative Dispute Resolution

A portion of the League's pretrial procedures position, diverting certain cases from overcrowded courts to be solved by other means, was broadened to include civil cases. (See pretrial procedures position statement.)

Community Dispute Resolution Centers Program

In 1981, the League supported legislation to create the Community Dispute Resolution Centers Program to facilitate the just and speedy resolution of small disputes by furnishing partial (50%) state support for the creation and operation of such centers for conciliation, mediation, and arbitration as alternatives to pursuing action in civil or criminal court. Since 1981 a series of amendments have enhanced the authority and scope of the centers: in 1984 the program became a permanent part of the Unified Court System, the nation's only permanent state-funded program of its kind; in 1985 the jurisdictional ceiling on monetary awards was increased; and in 1986 referral of selected felonies to these centers for mediation was authorized.

Funding for local programs is based on the 50% principle; the state supplies half of the operating costs and local public and private sources supplies the other half. In 1987, the League successfully supported legislation to provide basic annual grants of up to $20,000 to each county served to benefit a sizable number of smaller counties having trouble in securing sufficient local funding. Operating costs beyond the minimum grant continue to be funded on the 50% principle. Centers have been established in all of the New York State's 62 counties.

As part of our continuing interest in alternatives to court action, the LWVNYS participated in the planning of the 6th New York State Conference on Alternative Dispute Resolution in September 1989.

Small Claims Court

In 1987, the League successfully supported a bill raising the jurisdictional limit in small claims court from $1500 to $2000. This measure provides residents of New York State with continued access to simple, inexpensive, dispute resolution procedures and diverts cases from overcrowded calendars in the higher civil courts.

RAISE THE AGE

In June 2015, LWVNYS convention delegates approved a state board recommended program item to conduct a post-convention concurrence with portions of LWV of Ohio's Juvenile Justice position raising the age of adult criminal responsibility to 18 years-"Raise the Age". At the time, New York State and North Carolina were the only states that prosecuted all youth 16 years of age and older as adults. This practice does not reflect brain development research that has proved the human brain is not fully formed until the age of 26. These developing adolescents are often impulsive and lack the ability to focus on the consequences of their behavior. Adolescents respond well to interventions and are likely to grow out of negative or delinquent behavior.

In January of 2016 the Board approved the position.

JUVENILE JUSTICE

Statement of Position

As announced by the State Board, 2016

The League of Women Voters of New York State supports legislation to raise the age of adult criminal responsibility to 18 years old. Our position is based on the following beliefs:

1. Children under the age of 18 are not adults and their treatment within the juvenile justice and criminal court system should relate to their stage of development.
2. Children should not be held in adult jails.
3. Rehabilitation is the purpose of the juvenile justice system.
4. The legal rights of children should be protected.

Past League Activity

After its approval, the League used the new position to advocate for Raise the Age during the 2016 session. During our annual lobby day, members from LWV Schenectady attended a press conference with the Raise the Age coalition in support of the bill. The League also created a memo of support.

In 2017 the state legislature included Raise the Age in their final budget. The new legislation and regulations would allow the vast majority of cases of 16-17 year olds will ultimately be heard in the Family Court, either originating there or being transferred there from the new Youth Part of the adult criminal court. All felony cases will start in the Youth Part of the adult criminal court. All non-violent felonies will be transferred from the Youth Part to the Family Court unless the District Attorney (DA) files a motion within 30 days showing "extraordinary circumstances" as to why the case should remain in the Youth Part. If a DA files a motion, there can be a hearing and the Judge must decide within 5 days of the hearing or motions whether to prevent the transfer of the case to Family Court. Violent felonies can also be transferred from the Youth Part to the Family Court. If the charges do not include the accused displaying a deadly weapon in furtherance of the offense, causing significant physical injury, or engaging in unlawful sexual conduct, the case will transfer to Family Court unless the DA files a motion within 30 days showing "extraordinary circumstances" as to why the case should remain in the Youth Part.

Additionally, no 16 or 17 year old will be sentenced to or detained in a facility with adults. Raise the age for 16 year olds will begin in October of 2018. Raise the age for 17 year olds will begin in October of 2019.

CRIMINAL JUSTICE

At the 2021 Virtual LWVNYS Convention, a concurrence with the California LWV criminal justice position was proposed. The Saratoga League submitted a proposal for concurrence at Convention with the LWV California position on criminal justice. After consideration of the material submitted by Saratoga and the support of this concurrence by thirteen additional Leagues, the Board recommended that delegates approve the adoption of the LWV California position on criminal justice. As a part of board recommended program, the concurrence only required a majority vote of delegates to be adopted. A majority of the delegates voted in support of this concurrence and it was adopted by LWVNYS.

CRIMINAL JUSTICE

Statement of Position

As adopted at LWVNYS State Convention, June 2021

In June of 2021 at the League's biennial convention, members voted to concur with the League of Women Voters of California's position on Criminal Justice. The League of Women Voters of New York State supports:

- a criminal justice system that is just, effective, equitable, transparent, and that fosters public trust at all stages, including policing practices, pre-trial procedures, sentencing, incarceration, and re-entry;
- the elimination of systemic bias, including the disproportionate policing and incarceration of marginalized communities;
- policing practices that promote safety for both law enforcement officers and the communities they serve;
- collaboration between government and community throughout every stage of the criminal justice system;
- a focus on humane treatment and rehabilitation with the goal of promoting the successful reentry into communities of those who have been incarcerated; and
- reliance on evidence-based research in decision-making about law-enforcement programs and policies (including scheduled, periodic audits of program and policy effectiveness)

Policing Practices - constitutional policies and procedures established by law enforcement with input from the communities they serve

- Ensure that crime prevention and promotion of public safety are the primary roles of state and local law enforcement agencies.
- Build public trust and positive community relationships through police engagement with community members.
- Encourage community participation in the development of policing policy.
- Provide police accountability via independent citizen oversight of law enforcement and publicly available data on officer conduct.
- Disseminate information to the public about policing policies, recruitment, procedures for complaint/commendation, and the rights and responsibilities of citizens and officers in interactions with each other.
- Provide sufficient psychological services and counseling to meet stress-related needs of police personnel.
- Staff police departments to reflect the diversity of the communities they serve, and establish recruitment efforts that reflect this principle.
- Train police to identify individuals with mental health conditions, disabilities, or substance abuse/addiction, so that officers will request support from appropriate medical and mental health professionals, with the goal of diverting those individuals into treatment instead of jail.
- Require all officers to render first aid to people who have been injured as a result of police action.

CRIMINAL JUSTICE

Statement of Position

Continued

- Conduct comprehensive background checks, to include such history as PTSD, domestic violence, sex offenses and affiliations with domestic terrorist groups, for all applicants to law enforcement positions.
- Establish de-escalation (the use of time, distance, communications and available resources whenever it is safe to do so) and anti-bias training, and ensure that all staff are provided with this training.
- Authorize minimal use of force during police encounters with the public, and consider deadly force only when necessary to prevent imminent death or serious bodily injury.

Pre-trial Procedures - actions taken after an individual has been arrested, which embody the constitutional presumption of innocence

- Ensure no person suffers discrimination before the law due to their economic status nor should they be subject to risk assessment tools which can produce biased outcomes.
- Provide adequate numbers of public defenders to defend indigent accused.
- Provide prosecutors, defense attorneys, court counselors and judges with regular training on alternatives to incarceration, including pre-trial diversion and restorative justice practices.
- Recognize that mental health conditions and substance abuse/addictions are public health issues, not crimes.
- Implement the use of specialty courts, e.g. drug treatment courts and restorative justice programs.
- Consider community-based treatment programs and other alternatives to incarceration when appropriate.

Incarceration - policies and procedures that apply to employees of and incarcerated individuals in local jails and state prisons

- Ensure that all correctional systems provide humane, dignified, non-discriminatory treatment of incarcerated people and personnel, including appropriate healthcare and access to community-based rehabilitation programs.
- Eliminate the practice of solitary confinement.
- Ensure that incarcerated people and corrections officers have clear, safe and accessible ways to report abuse.
- Address recidivism by instituting programs that focus on rehabilitation, education, mental health treatment, substance abuse recovery, and transitional programs.
- Adapt case management services to match education, behavior, job training, work, and mental health programs with the needs of incarcerated individuals.
- Provide sufficient psychological services, including training and evaluation, to meet the needs of corrections officers.
- Encourage family and community visitations and ways to maintain contact.
- Eliminate private prisons. Until space in public prisons is available, ensure that private prisons comply with all of the standards for state-run jails and prisons.

CRIMINAL JUSTICE

Statement of Position

Continued

Re-entry - programs in place during and after incarceration to help individuals become successful members of their communities

- Collaborate with community-based organizations to facilitate reintegration of people released from prison.
- Provide pre- and post-release programs, inclusive of probation services, to prepare as well as assess and address the needs of people re-entering the community.
- Remove technical violations of parole as a reason to return an individual to prison.

General - statements which apply to some or all of the above categories

- Standardize data and setting up systems so that information can be easily shared among criminal justice agencies.
- Rely on evidence-based research in decision making about criminal justice programs and policies.

Recent League Activity

2023

The primary effort of the Criminal Justice Committee continues to be initiating proposals and pursuing the advocacy efforts of the State League in this area. In addition, the committee has taken the initiative in creating a statewide data collection project to inform the State League on the subject of voting by those who are incarcerated.

Statewide Data Collection Project

Created and led by a committee member, law students are collecting and analyzing data on the current state of voting while in jail throughout the state. The resulting information will inform the State League with regard to its advocacy on this topic. You can read the full report here: https://lwvny.org/wp-content/uploads/2023/07/Voting-in-Jails-Report_71723.pdf . Below is a brief overview of the study methodology and results.

A precise quantitative analysis of the survey answers is not feasible for several reasons. Some sheriffs' offices stated outright that they have no program in place. Other sheriffs' offices reported that they had a voting program in place. However, follow up questions revealed that the program in place was either solely initiated by detained individuals, limited to signage, voter registration materials were on site but without a systematic way for detained individuals to access them, and/or there was no specific staff person in charge. In other responses, often by email, sheriffs' offices stated that they had programs but failed to answer all of the questions that would have identified more details about how the programs operate. In one instance, a sheriff's office claimed to be working with the local LWV, but the local LWV said there was no current activity with that jail.

What we learned from the survey is that the availability of voting depends on the authority of the sheriff, not on the current law.

Many counties place the burden on detained individuals to take the initiative to request registration materials and an application for an absentee ballot. Sixteen (16) counties admitted that they have no existing programs to facilitate voter registration or voting in jail. Five (5) counties said they had a program but gave few details as to how it works or whether these "programs" were limited to signage

and availability of materials without more. Four (4) counties limit their activity to placing posters about voting in housing units, the law library, or common areas. Six (6) counties put some effort into soliciting voter registration and voting around election times, although it is not clear that primary elections and local elections are included in these efforts. Three (3) counties include information in a handbook, on an electronic tablet, or on electronic kiosks around the jail but do not have any organized activity around voting. Eleven (11) counties and New York City Department of Corrections have affirmative programs that include offering voter registration materials upon arrival, designating an officer or staff person to be responsible for distributing timely information, and sometimes work with outside organizations like the LWV or local community-based or faith-based organizations to offer voter registration services. However, the extent of these efforts varies greatly. Most jails do not record the number of registrations or requests for absentee ballots. One jail relied on the LWV to maintain those records. Two (2) other counties said they maintained records, but that registration and voting were rare. Although these jails provide information on registration and voting in handbooks, electronic tablets, or on electronic kiosks, we do not know whether this information is highlighted or whether and how registration and voting are actively solicited. In smaller county jails, the registration and voting process can be as simple as a quick canvas around the jail to see if anyone is interested in voting. Many counties expressed that voting has never been requested in its facilities, implying a lack of awareness of detained individuals. In the wake of Covid-19 and the isolation of county jails during the pandemic, programs are only now being reopened. Some sheriffs' offices expressed an openness to inviting the LWV to provide voter registration and education services inside. Access to help to determine eligibility and complete the registration and absentee ballot application forms is mostly limited to sheriffs' deputies, social workers, administrative staffing, or law library staff, if one is available. Because these designated or informally assigned staffers have authority over the jail population, detained people might not feel comfortable seeking their help. Access to privacy, too, remains an issue unless the jails have single cells or rooms designated for private use to complete these confidential forms.

With few exceptions, sheriffs' offices maintain relationships with the local Boards of Elections.

In 2021 the New York State legislature returned the right to vote to convicted felons upon their release from prison even while serving parole. In passing this legislation, which was signed by the governor, the legislature understood that successful reentry of formerly incarcerated individuals involves seizing the responsibility of citizenship: participating in civic life and voting. This right to being a full citizen is considered so important that jails and prisons are required to present voter registration materials to people as they are released from their felony sentences. In the 2023 legislative session, this mandate was extended to people released from local correctional facilities.

Voting While in Jail

Several committee members met with individuals from LetNYVote to discuss possible legislation dealing with voting while in jail. Individual members of the committee have joined with local organizations in the ongoing effort to register detainees in local jails.

Clean Slate

The state Board voted to join the Clean Slate NY Coalition at its meeting in March of 2023. The Clean Slate NY campaign is fighting for a law that will automatically clear a New Yorker's conviction record once they become eligible. The Clean Slate bill would prevent discrimination in housing and offer better job opportunities to previously incarcerated individuals. It was included in the Senate's one house budget, after which individual League chapters issued a "call to action" urging that Assembly members be contacted and urged to support this bill. The Criminal Justice Committee wrote a memo of support for Clean Slate that was submitted by LWVNYS to NYS Senate and Assemblymembers on May 8, 2023. In addition, individual committee members joined local Clean Slate organizations for advocacy and rallies. The Clean Slate bill was passed by the Senate and Assembly late in the session. The Governor has yet to sign the bill into law.

Intersection With Healthcare Committee

The Chair of the Healthcare Committee joined our committee and presented a proposal to require Medicaid enrollment of those incarcerated 30 days prior to their release. This was included in the State League's budget testimony. Our committee approved the proposal and will advocate for this initiative. This is the first collaboration between our committee and the healthcare committee.

Elder Parole and Fair and Timely Parole: These bills have been included in the League's 2023 post-budget lobbying efforts.

2022

In 2022, the League actively supported a bill that was enacted making the state's tuition assistance program available to incarcerated individuals.

The League actively advocated in 2022 for two bills dealing with parole. One would have given those incarcerated individuals 55 years or older the opportunity to apply for parole; the other would have set new standards on which the Parole Board would be required to render its decisions. Neither was enacted.

In 2021, the League fought to remove technical violations of parole as a reason to return an individual to prison. A bill making this change was supported by the League and enacted in 2021.