Testimony of James Kenney,
Cabinet Secretary, New Mexico Environment Department
and President, Environmental Council of the States,
to the U.S. Senate Committee on Appropriations,
Subcommittee on Interior, Environment, & Related Agencies
Addressing the FY26 Budget Request for the U.S. Environmental Protection Agency

FY26 Funding to States. The Environmental Council of the States (ECOS) – the national nonprofit, nonpartisan association of state, territorial, and District of Columbia environmental agency leaders (hereinafter referred to as "states") – appreciates the opportunity to submit written testimony on the Fiscal Year 2026 (FY26) U.S. Environmental Protection Agency (EPA) budget. For FY26, states, as co-regulators with U.S. EPA, request robust funding for state-led implementation of the nation's environmental programs, including not less than $683.097M for four specific Categorical Grant programs using FY24 enacted levels as the minimum funding amount – **State and local air quality management (Sec. 103, 105, and 106) at $235.922M, Resource Recovery and Hazardous Waste Grants at $105.5M (FY20 levels for hazardous waste and FY24 levels for coal combustion residuals or CCR and recycling), Water Pollution Control (Sec. 106) at $225.685M, and Public Water System Supervision (PWSS) at $115.99M.**

These funds directly implement our nation's environmental programs at the state-level of government.

States support funding above the FY24 minimum levels for the four Categorical Grants – essentially state implementation grants – to reflect increased business, municipal, and community needs. For example, ensuring safe drinking water from emerging contaminants like per- and polyfluoroalkyl substances (PFAS) while hardening our drinking water infrastructure from cybersecurity threats demands a PWSS grant investment of a greater amount, such as **$200M**. In addition, states request appropriations at the fully authorized amount of **$3.25B each for the Clean Water (CW) and Drinking Water (DW) State Revolving Funds (SRFs)**. With such funding, states can increase investment in municipal infrastructure and leverage private sector investments to address the pressing issues impacting their economies and environment.

Congress has noted its preference for state implementation of federal programs in the Clean Water Act (CWA), the Clean Air Act (CAA), and for hazardous waste programs. The 1996 reauthorization of the Safe Drinking Water Act notes, "the Federal Government commits to maintaining and improving its partnership with the States in the administration and implementation of the Safe Drinking Water Act; (4) States play a central role in the implementation of safe drinking water programs, and States need increased financial resources and appropriate flexibility to ensure the prompt and effective development and implementation of drinking water programs..." States reiterate congressional support for federal partnership and the need for federal funding for these core programs.

Critical Funding Juncture. States carry out more than 90% of the nation's federal environmental programs in communities around the United States, and states, state legislatures, municipalities, and the business community depend on Congress to fund our efforts through grants and partnerships with EPA, including with its science labs and research and development functions. Dramatic budget cuts to EPA that are passed along to states will incapacitate state environmental programs while creating massive uncertainty for state legislatures and regulated entities across the United States. State primacy, delegation, or authorizations were approved by EPA and published in the Federal Register following public notice and comment. Such primacy, delegation, or authorization agreements are predicated on resource demonstrations that include a federal ***and*** state cost share. A reduction or elimination of the federal cost share will create implementation issues resulting in legal liabilities that may contribute to a state's decision, in coordination with their legislatures, to evaluate the fiscal impacts of passing these program implementation costs to their industry or taxpayers, limit or delay certain activities, or even to return a program to EPA to implement within a state. Increased permit backlogs, slower response time to spills, reduced ability to meet and maintain air attainment status, increased deferred water infrastructure maintenance, and decreased inspections increase the risk of releases to the environment and increases the potential to exceed pollution limits.

Cooperative Federalism Model. Our nation's environmental laws establish a process whereby Congress establishes the law, EPA sets national minimum standards for the designated pollutant or technology, and states implement these regulations through primacy, delegation, or authorization of federal programs to achieve the standards. As envisioned by Congress through a cooperative federalism model, states may establish more stringent requirements than federal regulations to ensure public health and environmental protections, while meeting their economic needs.

Congress established a required state match of federal funding, for instance requiring a 25% match of total project costs for the PWSS /drinking water and hazardous waste management programs, as well as a 40% or maintenance of effort match for Section 105 air pollution control programs. However, states already invest funds far beyond the statutory requirements to meet the needs of businesses and our communities through state general fund support, permit fees, and other funding.

EPA's 19 categorical grants, funded by Congress through EPA to states support regulatory and competitive grant programs, have been stagnant or declined over the past 20 years. Categorical grants were funded at $1.143B in FY2003 and $1.106B in 2025 - $37M less in real dollars before inflation. Without sufficient federal funding, states may risk losing their primacy, delegation, or authorization agreements and be subject to increasing risks from third-party claims and petitions.

One of the most important things Congress can do for state constituencies is to provide increased federal funding directly to states. Through funding partnerships, states spend federal funding to deliver legally defensible permits that further invest in our communities, assure permits are being followed, conduct modeling to safeguard air and water quality, timely respond to natural disasters that impact our residents, and provide many other necessary services to boost local and national economies. States and permitted facilities also rely on EPA's Exchange Network and Central Data Exchange to share data with the agency and comply with federal law. Given we are at the dawn of quantum computing, artificial intelligence, real-time and remote monitoring technologies – this is the time to invest in modernizing EPA's Exchange Network and Central Data Exchange – not zero out this funding. If Congress adopts the recommendation to zero out this funding, we will forgo investments in data centers and technology that will ultimately improve public health and environmental protections. States and industry will need an effective means to share data and improve efficiencies with the federal government.

Meeting State Capacity Needs. As ECOS President, I issued a January 3, 2025 letter detailing top ECOS priorities. At a March 24, 2025 National Governors Association-ECOS Congressional Briefing on Environmental Protection, Idaho Department of Environmental Quality Director Jess Byrne noted, "Our state is working hard to support economic development but is having a hard time keeping up. A lack of funding to competitively compensate permit writers has resulted in significant turnover. It used to take an average of 89 days for an air quality permit to construct. Now, it takes 165 days for the same permit. We are working with our Governor, stakeholders, and legislature on additional funding, but our efforts will be undone if federal categorical grant funding is reduced."

In New Mexico, we have seen a 2,234% increase in air quality permit applications over the last decade with no new increases in funding. This surge in workload, driven by New Mexico's robust economy and the oil and gas industry, has strained our ability to efficiently process applications and maintain compliance. In New Mexico, any disinvestment of federal funds to the state will immediately be passed to the oil and gas industry and other extractive industries through protracted state rulemakings. Simply stated: there is no energy dominance agenda in the United States without sufficient funding for state environmental agencies.

The air is cleaner due to reductions in air emissions from regulated facilities, but this may also mean a reduction in fees collected based on tons emitted – essentially cutting funding to state environmental agency programs as a result of their success. Core, ongoing program management does not end. States incur costs to implement new regulations or repeal existing ones and to communicate the implications with community members, businesses and their trade associations, and elected officials. States continue to implement permit streamlining and other business process improvements, consider adoption of self-audit laws, target inspections and other activities to become more efficient. The federal government must remain committed to implementing the laws Congress has passed so our communities and economies can grow, and environmental and human health protections continue.

Federal Programs. Currently, my state of New Mexico is pursuing becoming the 48th state to receive National Pollutant Discharge Elimination System (NPDES) authorization. My state fully understands the importance of federal funds when taking on a new federal program. Congress continues to signal its interest in state implementation of federal programs.

In FY21, Congress provided funding for CCR state program implementation. Congress passed the Save Our Seas 2.0 Act in December 2020 and the Infrastructure Investment and Jobs Act (IIJA) in November 2021, providing recycling infrastructure support through the Solid Waste Infrastructure for Recycling grant program. In FY24, Congress provided recycling infrastructure support through annual appropriations. IIJA and annual appropriations have provided funding support for Underground Injection Control Class VI permitting for Carbon Capture, Utilization, and Storage and the potential for a new state authorized program. States appreciate and rely on new funding to implement new programs.

In FY24, the now-renamed Resource Recovery and Hazardous Waste Categorical Grant provided funding for CCR at $4M, Recycling at $5M, and Hazardous Waste program implementation at $92.5M – a drop to core state hazardous waste programs from $96.5M in FY20. If multiple programs are combined in a single Categorical Grant, states request that Congress provide adequate funding for each program and not at the expense of other grants. States request that Congress provide in FY26 not less than $96.5M – FY20 enacted funding level - for hazardous waste programs in addition to funding for CCR at $4M and recycling programs at $5M which are FY24 enacted levels.

Advancing Water and Energy Infrastructure. According to the Council of Infrastructure Financing Authorities, the subsidized loans offered by the CWSRF and DWSRF nationwide to build clean water and drinking water infrastructure can save communities up to 75% in interest payments. In 2022, the average interest rate was 1.25%, compared to market rates that exceeded 3% and are among the highest interest rates in decades. Lower interest rates achieved through SRFs result in more affordable water rates, a more favorable platform for business development, and cleaner water.

IIJA SRF funding substantially increased federal investments for communities and for clean, affordable water for five years, ending in FY26. IIJA supplemental appropriations helped cover the across-the-board state capitalization grant cuts for most states due to Community Project Funding/ Congressionally Directed Spending (CPF/CDS). In FY24, CPF/CDS made up approximately half of the SRF appropriation, and a funding cliff looms after FY26 – or sooner – if Congress adjusts IIJA investments. States encourage Congress to support reauthorization of the CWSRF and DWSRF, which expire in 2026, and to support appropriations at authorized levels for FY26 of $3.25B each.

ECOS also continues to advocate that funding for CPF/CDS projects and project administration be kept separate from SRF funding. CPF/CDS funding should be additive, not decrease SRF funding, and allow for voluntary participation by states in its management.