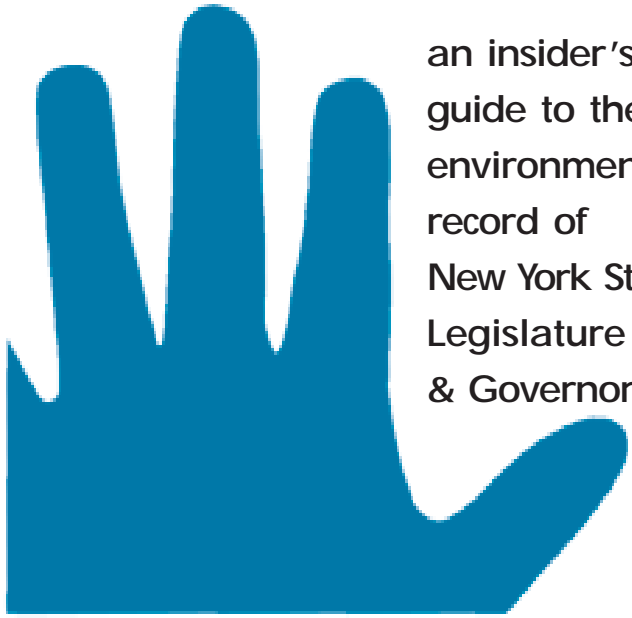


VOTERS' GUIDE



an insider's
guide to the
environmental
record of
New York State's
Legislature
& Governor



EPL • ENVIRONMENTAL ADVOCATES

Assembly Scores!

But the Senate strikes out in opening season for Super Bills

The Assembly and Senate closed the 2005 legislative session with very different records on the top environmental bills. Early in the session, five Super Bills were identified as environmental priorities by the Green Panel, a select group of representatives from New York's leading environmental and conservation organizations. The Assembly passed all five of the Super Bills while the Senate went 0-5, failing to even allow floor debate on any of these important initiatives.

The 2005 Super Bills were:

- **Community Preservation Act** (A.6450A, DiNapoli/S.3153 Marcellino): Empowers local communities to establish a small real estate transfer fee with revenues earmarked for the protection of natural areas, farmland and historic landmarks;
- **Wetland Protection** (A.2048, DiNapoli/S.2081, Marcellino): Fills a gaping hole in New York's wetlands laws that allows developers to destroy wetlands under 12.4 acres in size;
- **Carbon Cap for New York's Power Plants** (A.4459, DiNapoli/S.2730, Marcellino): Cuts emissions of carbon dioxide, the primary pollutant causing global warming, from the state's fossil fuel power plants, the largest individual sources of global warming pollution;
- **Bigger Better Bottle Bill** (A.2517B, DiNapoli/S.1290B, LaValle): Expands the state's existing bottle deposit law to apply to the vast number of

Albany Legislators

BOX SCORE	R	H	E
NYS Senate	0	0	5
vs			
NYS Assembly	5	5	0

The Senate committed five costly errors for the environment by not allowing votes on the five Super Bills. The Assembly passed all five.

bottled waters, juices and other non-carbonated beverages that are not currently redeemable;

- **Burn Barrel Ban** (A.3073, Koon/S.2961, Maziarz): Bans the backyard burning of garbage, the largest source of dioxin and other potentially toxic and cancer-causing chemicals in rural parts of the state.

The Super Bills all gained ground this year, a testament to the value of the environmental community setting a clear and focused agenda. Each gained broad bi-partisan support in both houses. Three had enough support to pass in the Senate, but weren't allowed a vote. As a group, sponsorship of the Super Bills jumped by an average of 52 percent over the previous year, a result of their elevated profile and legislators' desire to be on the record supporting these measures. The Assembly passed all five, and 70 members voted for all five, including six Republicans. Two of the bills, the Bigger Better Bottle Bill and the Community Preservation Act, passed the Assembly for the very first time. In the Senate, 18 members requested to co-sponsor all five. Senator Vincent Leibell was the only Republican whose name appeared on all five and, not coincidentally, he earned the highest score of any Senator.

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Formed in 1969 as the Environmental
Planning Lobby to protect New York's
community of people, land & wildlife.

continued from page 1

Despite these gains, none of the Super Bills made it to Governor Pataki's desk, thanks to a state Senate where you apparently need more than the majority of votes. Instead of allowing the Super Bills a fair debate and vote on the floor a small number of Senate leaders killed the bills behind closed doors.

The Super Bills are the centerpiece of this year's *Voters' Guide* scoring system and will continue to be a prominent feature in EPL/Environmental Advocates' annual legislative scorecard.

In previous years, the *Voters' Guide* only scored those bills that received floor votes. The result was that legislators' scores could be based on a small number of relatively non-controversial bills. This made past editions of the *Voters' Guide* an accurate record of legislators' voting records, but did not capture their performance on the tougher issues. The Super Bills allow individual legislators to voice their position on these tougher issues that may not get a vote on the floor.

The Super Bills are scored regardless of a floor vote. So the Super Bills affect legislators' scores even if they don't get voted on. This creates an additional incentive for legislators to deliver on the environmental community's highest priorities. If a bill doesn't make it to the floor legislators can still show their support and earn points in the *Voters' Guide* in other ways, such as requesting to sponsor the bill (see www.eany.org for full details on how the Super Bills are scored).

EPL/Environmental Advocates notes that some good environmental legislation was sent to the Governor's desk — in fact, more than in many previous years. Legislation passed both houses that creates electric power efficiency standards for consumer and commercial appliances, enhances incentives for solar power, addresses mercury in consumer products and children's vaccines, and requires schools to use non-toxic cleaning products. The Super Bills may have helped get these bills passed by giving a higher profile to environmental issues in general.

But on the high priority issues addressed by the Super Bills, the final score for the environment was Assembly 5, Senate 0. ■

Super Bills

The Community Preservation Act was passed by the Assembly for the first time, thanks to the tireless efforts of Legislator of the Year, Assemblyman Tom DiNapoli (see page 4). It also enjoyed the support of the Governor. It passed the Senate Environmental Conservation Committee in early May but was then sent into limbo for 7 weeks. Debate was not allowed because several Nassau County Senators, responding to pressure from real estate and pro-sprawl special interests, asked that it be squashed. Ten Republicans and 22 Democrats asked to sponsor the bill, giving it the 32 votes needed to pass.

Wetland Protection cleared the Assembly early in the session and was ready for a Senate vote in April, but Senate leadership refused to schedule debate. Eleven Republicans and 20 Democrats asked to be sponsors. The majority of Senators wanted to close the gaping hole in New York's wetlands protections, but that was not enough. Senate Majority Leader Joseph Bruno is personally opposed to the bill and, in statements made to the press, claimed that federal regulations are sufficient to protect New York's wetlands. But the Bush administration stopped regulating small isolated wetlands a few years earlier. Governor Pataki proposed wetlands legislation earlier in the year and was expected to sign this bill into law, if only the Senate had allowed a vote.

The Bigger Better Bottle Bill passed the Assembly with bi-partisan support in the session's closing days, for the first time in its 5-year history, thanks again to the leadership of Assemblyman Tom DiNapoli. Not surprisingly, the bill didn't get a vote in the Senate. It was ridiculed by Senate Majority Leader Joseph Bruno who called it, "[o]ne of the dumbest things that has happened this year..." The legislation would increase recycling, prevent litter and generate revenue for the Environmental Protection Fund. Twenty-seven Republicans and Democrats in the Senate requested to be sponsors of the bill.

The Carbon Cap Bill would limit the amount of climate-altering pollution that dirty fossil fuel-fired power plants release in New York. The Assembly passed the bill on Earth Day Lobby Day. Thirty-four Senators requested to be listed as sponsors of the legislation — two more than necessary to pass in the Senate. But the bill's lead sponsor, Senator Carl Marcellino did not bring his own bill to the Senate Environmental Conservation Committee, which he chairs.

The Burn Barrel Ban would have extended the prohibition on backyard garbage burning to towns with a population of less than 20,000. This bill passed the Assembly on Earth Day Lobby Day. It was supported by more than 30 Senators from both parties. Burning household garbage, which includes many types of plastics, releases high levels of dioxins and cancer-causing chemicals.

Five for Five: This Year's Environmental Leaders

EPL/Environmental Advocates would like to acknowledge the lawmakers in both houses who voted for or supported all five of the Super Bills. In the Assembly, all of the Super Bills were voted on so this list reflects actual votes. Six Republicans and 64 Democrats voted for each of the five Super Bills. In the Senate, the list includes Republicans who co-sponsored all five bills and Democrats who officially requested to be listed as co-sponsors. One Republican Senator, Vincent Leibell, sponsored all five Super Bills, and 17 Senate Democrats were credited with supporting all five. We applaud these legislators' commitment to protecting New York's environment and thank them for their support.

New York State Senate

Neil Breslin, D
Martin Connor, D
Martin Malave Dilan, D
Thomas Duane, D
Elizabeth Krueger, D
Vincent Leibell, R
Velmanette Montgomery, D
George Onorato, D
Suzi Oppenheimer, D
Kevin Parker, D
David Paterson, D
John Sabini, D
John Sampson, D
Eric Schneiderman, D
Jose Serrano, D
Ada Smith, D
William Stachowski, D
Toby Ann Stavisky, D

New York State Assembly

Thomas Alfano, R
Jeffrion Aubry, D
Michael Benedetto, D
Jonathan Bing, D
William Boyland, D
Adam Bradley, D
James Brennan, D
Kevin Cahill, D
Ronald Canestrari, D
Adele Cohen, D
William Colton, D
James Conte, R
Vivian Cook, D
Steven Cymbrowitz, D
Francine DelMonte, D
RoAnn Destito, D
Luis Diaz, D
Ruben Diaz, D

Jeffrey Dinowitz, D
Thomas DiNapoli, D
Patricia Eddington, D
Steven Englebright, D
Adriano Espaillat, D
Ginny Fields, D
Sandra Galef, D
Michael Gianaris, D
Deborah Glick, D
Diane Gordon, D
Richard Gottfried, D
Alexander Grannis, D
Roger Green, D
Carl Heastie, D
Earlene Hooper, D
Sam Hoyt, D
Rhoda Jacobs, D
George Latimer, D
Charles Lavine, D

Joseph Lentol, D
Barbara Lifton, D
Vito Lopez, D
Donna Lupardo, D
William Magnarelli, D
Patrick Manning, R
Margaret Markey, D
John McEneny, D
Jimmy Meng, D
Joan Millman, D
Matthew Mirones, R
Daniel O'Donnell, D
Felix Ortiz, D
Amy Paulin, D
Crystal Peoples, D
Jose Peralta, D
Nick Perry, D
Audrey Pheffer, D
James Pretlow, D

Philip Ramos, D
Robert Reilly, D
Naomi Rivera, D
Peter Rivera, D
Mark Schroeder, D
Sheldon Silver, D
Willis Stephens, R
Scott Stringer, D
Robert Sweeney, D
Fred Thiele, R
Michele Titus, D
Paul Tonko, D
Helene Weinstein, D
Mark Weprin, D

A Concrete Victory for a Grassroots Effort

Photo by: Joe Putrock

This year the honor of Environmentalist of the Year goes to three groups whose individual and collective efforts won a major victory for the environment and public health in 2005. Friends of Hudson, the Olana Partnership and Scenic Hudson rose to the occasion when Holcim, a Swiss-owned company, proposed a cement manufacturing behemoth in the City of Hudson and Town of Greenport, New York.

The St. Lawrence Cement (SLC) proposal called for an 1,800-acre parcel comprised of 40 acres of buildings and a 1,200-acre open pit mine. The crown jewel of the proposed plant was a stack that would rise above the landscape to a height of more than 40 stories. At more than 400 feet tall, the plant's stack would have been visible for miles and its toxic emissions would have reached New England.

The fact that this year's honor is going to more than one group or individual is an important reminder to all of us about the power of working cooperatively, and in coalitions – taking advantage of the unique strengths of each organization. Each of the three groups honored this year played a key role in the ultimate success in defeating the SLC proposal.

Friends of Hudson (FOH) – Founded by Sam Pratt and Peter Jung, FOH began with a handful of people researching the cement manufacturing process and St. Lawrence's track record. Through the use of the Internet and related communications technologies, FOH's membership grew from a few dozen to more than 4,000. In the words of FOH Executive Director Susan Falzon, "The opposition to SLC required a multi-pronged effort...FOH provided the unique, committed and unrelenting voice of the public speaking forcefully and eloquently on its own behalf."

The Olana Partnership – The Olana Partnership's mission, in part, is to advocate for and support the preservation and enhancement of Olana and its integral viewshed. The view from Olana is of particular importance in the challenge to SLC. In fact, the NYS

Department of State (DOS) based its objection, in part, on the visual impact of the plant. Partnership President Sara Johns Griffen commented on the DOS decision by saying, "The fact that the protection of historic sites and their viewshed figured so prominently in the DOS's ruling against the plant

sets a precedent for the rest of the country – that these cultural treasures are critical to the fabric of our community – on historic, aesthetic and economic grounds."

Scenic Hudson – Scenic Hudson played a vital role in the opposition to SLC by coordinating the efforts of a 21-member coalition – the Hudson Valley Preservation Coalition. According to Executive Director Ned Sullivan, it was economics that dealt the knockout blow to SLC. "Scenic Hudson worked with our partners to hold out a vision of a positive alternative to the massive coal-burning industrial facility – that builds on, rather than degrades, our region's world-class natural, cultural and historic assets," said Sullivan. "Now that the cement plant proposal is behind us, we are excited to be working with Friends of Hudson, local land and business owners and public officials to create an exciting alternative for the Hudson waterfront."

We are pleased to give this year's Environmentalist of the Year award to all those whose outstanding efforts led to the defeat of the proposed SLC plant. ■



View from Olana, a state historic site and former residence of Hudson River School artist Frederic Church.

GREEN COURAGE

Rep. Sherwood Boehlert

Fighting for sensible energy policy

New York Congressman Sherwood Boehlert (R-New Hartford), a long-time environmental stalwart in the Republican Party, and current chair of the House Science Committee, showed his mettle this summer by breaking with his Republican colleagues to vote against the Energy Bill.

The new energy law is a bad deal for the nation. The package fails to advance the nation toward a cleaner, safer, more sustainable energy future and is full of give-aways to oil, gas and coal companies. Signed into law by President Bush in August, it provides more than \$6 billion in new incentives to burn coal for electricity and federal loan guarantees to build at least 16 new coal-fired power plants.

Rep. Boehlert tried to inject much-needed reason and logic into the debate. He offered amendments that would raise automobile fuel efficiency standards and supported provisions that would prohibit oil drilling in the Arctic National Wildlife Refuge.

In a speech made in August Boehlert said, "The public should be up in arms about what's in and what's not in the Energy Bill — particularly, the House version, which I've voted against for three Congresses now."

The final bill left out important provisions the Senate endorsed, such as a standard to guarantee that renewable energy makes up 10 percent of the nation's energy use. Another part of the bill repealed an existing law that protected consumers from market manipulation, fraud and abuse in the electricity sector. Oil and gas industries gained exemptions from parts of the Clean Water Act, and states lost authority over the siting and construction of liquefied natural gas facilities.

According to Boehlert, "The [Energy] Bill will do little if anything to reduce our

dependence on foreign oil, and it will do nothing to reduce energy prices. But it will increase the deficit, weaken our economy, compromise our national security and endanger our environment."



Representative Boehlert

Amidst the final days of the debate on the energy legislation, Rep. Boehlert sharply rebuffed fellow Republican Joe Barton, of the Energy and Commerce Committee, for playing politics with climate science. Barton (R-Texas) questioned the work of three leading climate scientists, demanding they submit records to the House Energy Committee and the Oversight and Investigations Committee.

Congressman Boehlert countered, in a letter to Rep. Barton, that the Energy Committee did not have jurisdiction over the matter, and that Barton's "purpose seems to be to intimidate scientists rather than to learn from them, and to substitute Congressional political review for scientific peer review."

The Bush administration pressured members of its party to vote for the federal Energy Bill, much of which was originally written by Vice President Cheney's Energy Task Force. The bill passed, but Rep. Boehlert voted against it, along with most of New York's delegation who rejected it nearly 2 to 1. From a position of leadership in the final energy debate, having served on the House-Senate conference committee that finalized the bill that eventually passed, Congressman Boehlert did not hesitate to vote against the final product.

We applaud all the members of the congressional delegation who voted against this ill-conceived energy bill, and we recognize Representative Boehlert with this year's Green Courage Award for consistently standing up for national energy policies that protect the environment, strengthen our economy and address the problem of climate change. ■

Assemblyman Tom DiNapoli

Winning for a second time, he sets the standard on the environment

Integrity, conviction, and a long dedication to public service define the character of Assemblyman Tom DiNapoli. In the inaugural year of the environmental community's Super Bills, Assemblyman DiNapoli worked to pass all five and was the lead sponsor on four of them. His actions this year once again have distinguished him as a champion for clean water, clean air and conservation. The Assemblyman is someone who cares about the issues, and truly believes that an elected official's duty is to do what's best for all New Yorkers.

"I'm honored to once again receive the Legislator of the Year Award from EPL/Environmental Advocates," said DiNapoli. "The Native American proverb that, 'we do not inherit the earth from our ancestors, we merely borrow it from our children,' eloquently captures the noble sense of responsible stewardship that should guide our decisions as they affect the environment."

This session DiNapoli was the primary sponsor on 23 bills that were supported by watchdog organizations like Environmental Advocates of New York and EPL/Environmental Advocates. Among these were four of the five Super Bills: Wetland Protection, Carbon Cap for New York's Power Plants Act, the Bigger Better Bottle Bill and the Community Preservation Act. All four of these bills passed the Assembly, with the last two passing for the very first time, in large part due to DiNapoli's strong leadership.

On the Bigger Better Bottle Bill, DiNapoli met personally with Assembly members from both parties, hearing their concerns and addressing them in the final bill. DiNapoli

also sat down one-on-one with his colleagues to explain how the Community Preservation Act would benefit legislators' communities. It is this type of personal involvement and commitment that sets him apart.



Assemblyman Tom DiNapoli

In addition, DiNapoli was a leading proponent for a permanent 20 percent increase in the Environmental Protection Fund, successfully raising it to \$150 million. His efforts were also instrumental in passing legislation that makes it easier for consumers to purchase and install solar energy equipment, that phases out the use of mercury in consumer products, and that requires the use of non-toxic cleaning products in New York's schools (see page 6).

Tom DiNapoli was elected to the state Assembly in 1986 and has ably represented his northwestern Nassau County district over the past 19 years. He serves as a member of the Assembly's standing committees on Education, Ways and Means, and Veterans Affairs and is the Chair of the Environmental Conservation Committee.

During his tenure as the Chair of the Environmental Conservation Committee he has been instrumental in passing laws that protect New York's air, water and land resources and the health of our families. In 2003 DiNapoli was a leader in passing New York's groundbreaking law for cleaning up brownfields and Superfund sites. He is a repeat winner of EPL/Environmental Advocates' Legislator of the Year Award, having received it in 2000. We look forward to working with the Assemblyman in the future and thank him for his many years of service and leadership. ■

Tom Golisano

Not Letting the Facts Get in the Way

Tom Golisano, three time gubernatorial candidate for New York's Independence Party, has begun a movement against wind power, speaking against proposals at public hearings and funding a new group (Save Upstate New York) to foment opposition. Thus far in his campaign, he hasn't let the facts about wind power influence his opinions.

A Rochester native and the founder of Paychex, Inc., Golisano is drumming up opposition to proposals to install wind turbines around New York by spreading myths.

While wind power is a good choice for New York in general, community residents have the right to question companies about their proposals and learn about the possible impacts, just as they should for any new business coming to town. But Golisano's hyperbole does not help community members make informed decisions about wind power.

For example, his PR materials refer to the "grinding noise of a wind tower" and state, "wind turbines generate up to 102db [decibels] of noise," a misleading statement designed to instill dread in community members. In fact, modern turbines generate about 35-45dB of noise at 350 meters, a distance less than the typical setback from structures or roads. To put this in perspective, rural nighttime background noise is approximately 30 dB, while a car traveling at 40 mph 100 yards away registers at 50 dB. In short, the whooshing sound of a wind turbine is far less noisy than many land uses, and will be masked by the wind itself. Since noise is very hard to describe in words, the best option is for local officials to visit existing turbines and listen for themselves. While

there is some sound created by turbines, community members deserve accurate information, not exaggeration.

Golisano's website also contends that "wind power is nearly twice as expensive as fossil fuel generation." In reality, all energy sources are subsidized by the public at varying levels. With current incentives for wind, the cost per kilowatt hour (KWhr) is comparable to the electricity from coal or gas plants. Under New York's current green marketing options, the premium for wind power is 2.5 cents per KWhr.



Although Golisano's materials state that wind power "will not free us from pollution and greenhouse gases," the truth is that wind power is a critical part of the solution to pollution and global warming. New Yorkers need both clean air and electricity. To have both, we must make electricity without pollution and use this electricity more efficiently. Wind power is pollution-free. And while it won't meet all our electricity needs – or our need for cleaner air – alone, it is an integral part of the solution.

Golisano's knee-jerk reaction against a modern, clean technology is a mystery. Had he done his homework, we assume he wouldn't have begun this misleading campaign. For propagating these myths, besmirching the reputation of the clean, green power technologies that New York so desperately needs, and for taking advantage of residents who may have legitimate concerns, EPL/Environmental Advocates awards Golisano the 2005 Oil Slick award, presented to an individual who single-handedly sets back the pursuit of a clean, healthy environment in New York. ■



ENVIRONMENTAL
ADVOCATES OF NY

Your government watchdog

We are a powerful voice for the environment with over three and a half decades of experience in the state capital.

Inside the Capitol

We review every piece of environmental legislation and hold our elected officials accountable for their votes.

Global Warming

We are pushing New York to lead the nation in addressing this global problem, calling attention to the consequences close to home.

Clean Air & Energy

We are promoting renewable energy, like wind and solar power, while demanding stricter pollution controls on automobiles and coal-fired power plants.

Land Use & Open Space

We are fighting to stop sprawl and empowering communities to protect natural areas, wildlife habitat and working farms.

Water Resources

We are actively addressing problems ranging from the depletion of the Great Lakes to the loss of wetlands statewide.

Regulatory Watch

We are making sure that the state's agencies are protecting our air, water, land and wildlife and that they have the staff and resources to do so.

www.eany.org

2005 Advocate Awards

Each year Environmental Advocates' board of directors honors conservation heroes whose contributions and leadership have made our state's environmental community such a strong and effective force. This year's honorees are:

Oakes Ames ~ We are indebted to Oakes Ames for his decade of service as Environmental Advocates' president and his continuing role as a director, mentor and friend. His selfless commitment to the spirit of collaboration has been the hallmark of his nonprofit activities, including service on the boards of the National Audubon Society, Audubon New York and New York City Audubon.

Wendy Gordon ~ With her incomparable leadership and steadfast advocacy as board chair and then executive director of Mothers and Others, Wendy Gordon put a spotlight on the dangers associated with pesticides in children's diets and was instrumental in bringing about much needed reform. She continues to educate and mobilize the public as publisher of the highly-regarded *The Green Guide*.

Steve Stanne ~ No one has done more to engender a love for the Hudson River and its history than Steve Stanne. His 19 years as education director at Hudson River Sloop Clearwater and his current position as the interpretive specialist for DEC's Hudson River Estuary Program have earned him the respect of colleagues throughout the environmental community.



Monday, November 14th, 2005

2005 Advocate Awards Gala
The Yale Club
50 Vanderbilt Avenue
(across from Grand Central Station)
New York City

For more information, contact
Patti Kelly at 518-462-5526 ext. 224.

Perfect Scores

EPL/Environmental Advocates commends the following members of the New York State Assembly for achieving a grade of 100 percent in this year's *Voters' Guide*. No members of the Senate earned a perfect score.

Peter Abbate Jr., D
 Carmen Arroyo, D
 Michael Benedetto, D
 Jonathan Bing, D
 William Boyland Jr., D
 Adam Bradley, D
 Richard Brodsky, D
 Kevin Cahill, D
 Ronald Canestrari, D
 William Colton, D
 Vivian Cook, D
 Steven Cymbrowitz, D
 Luis Diaz, D
 Ruben Diaz Jr., D
 Thomas DiNapoli, D
 Jeffrey Dinowitz, D
 Patricia Eddington, D
 Steven Englebright, D
 Adriano Espaillat, D
 Herman Farrell, Jr., D
 Sandra Galef, D
 David Gantt, D
 Deborah Glick, D
 Diane Gordon, D
 Richard Gottfried, D
 Roger Green, D
 Aurelia Greene, D
 Carl Heastie, D
 Andrew Hevesi, D
 Rhoda Jacobs, D
 Susan John, D
 George Latimer, D
 Joseph Lentol, D
 Barbara Lifton, D
 Donna Lupardo, D
 William Magnarelli, D
 Nettie Mayersohn, D
 Joan Millman, D
 Catherine Nolan, D
 Daniel O'Donnell, D
 Felix Ortiz, D
 Crystal Peoples, D
 Nick Perry, D
 J. Gary Pretlow, D
 Phillip Ramos, D
 Naomi Rivera, D
 Peter Rivera, D
 Annette Robinson, D
 Steven Sanders, D
 William Scarborough, D
 Anthony Seminerio, D
 Sheldon Silver, D
 Scott Stringer, D
 Michele Titus, D
 Paul Tonko, D
 Helene Weinstein, D
 Mark Weprin, D
 Keith Wright, D

What About the Leaders?

Sen. Majority Leader Joseph Bruno: 56
 Assembly Speaker Shelly Silver: 100

Senate and Assembly Averages

Senate:	65
Senate Democrats:	69
Senate Republicans:	61
Assembly:	92
Assembly Democrats:	97
Assembly Republicans:	81

Governor George Pataki

One more year to define his legacy

In July, Governor George Pataki announced he would not seek a fourth term in office, renewing speculation that he may seek his party's Presidential nomination in 2008. While a full accounting of Governor Pataki's environmental record will have to wait for next year, a look at 2005 illuminates that he has successes, challenges and unfinished business. In the remaining 14 months as Governor, two critical issues stand out for Pataki to attend to before he can close the record on his environmental legacy: the looming problem of global warming and an environmental agency weakened by years of staff cuts.

Governor Pataki continued to build upon his land conservation record. In his 2005 State of the State address he announced that 104,000 acres of land in the Adirondacks would be protected through the purchase of easements on property owned by forest products company Domtar Industries. The announcement raised the total land conserved by the Governor to over 900,000 acres since 1995, moving him within striking distance of his ultimate goal of 1,000,000 acres, although many of the announced transactions have yet to be completed.

And, at the urging of the Friends of New York's Environment coalition, co-chaired by Environmental Advocates of New York and The Nature Conservancy, the Governor proposed a 20 percent increase in the state's Environmental Protection Fund, elevating it to \$150 million.

But the Governor was unable to convince Republican Senators to follow his lead on other pressing environmental concerns in 2005. His support for the Community Preservation Act could not overcome the influence of a handful of powerful Senate Republicans who successfully stalled it in the Senate. He supported strengthening the state's inadequate wetlands laws in his executive budget, but this didn't tip the balance away from Senate leaders opposed to better wetlands protections.

As for global warming, two major tasks remain for the Governor. In 2003, at Governor Pataki's invitation, New York and eight other northeastern states began developing a cap-and-trade program to cut emissions of carbon dioxide from power plants. The states are just now closing in on a model rule. Governor Pataki must finalize a program that cuts emissions swiftly and significantly below current levels, invests more in energy efficiency and benefits consumers. The state is also in the process of adopting California's automobile emissions standards for carbon dioxide, a promise the Governor

also made in 2003. In July the Department of Environmental Conservation (DEC) held hearings which showed widespread support for the clean car regulations. The Governor should ensure these rules are finalized on his watch.

Over the last 11 years, DEC has lost more than 700 staff members, including enforcement officials and engineers who were part of the state's pollution control programs. This year Governor Pataki finally began to reverse the staffing shortages which have plagued the DEC since he took office. Reversing an 11-year trend, the Governor's 2005 budget did not further cut staff, and DEC was allowed to fill some vacant positions. The Governor also proposed increasing fees for pollution permits to raise funds for additional staff at DEC, although the Legislature did not support this measure. Now that the Governor has stemmed the tide of staff reductions, next year he needs to begin to restore DEC to its former strength.

During his last year in office the Governor could round out his environmental credentials, not just by meeting his land preservation commitments, but by creating a strong national model for global warming action and leaving New York with a strong, capable DEC. It remains to be seen whether national aspirations will inspire him to cement this legacy or to pull back from his commitments. ■

New Laws On the Books

While the main environmental story of the 2005 legislative session involved the five Super Bills, 15 bills supported by Environmental Advocates of New York were sent to the Governor's desk for his signature. As of the printing of the *Voters' Guide*, nine have been signed into law. All of these are discussed on pages 8-12. Some of the more significant bills that became law this year are discussed below.

Appliance efficiency improvements on the way in New York
New legislation - A.8757B (Tonko)/S.5614A (Wright) - will help slow the growth in electricity consumption in New York. The bill sets energy efficiency standards for products that use natural gas or electricity, helping consumers save energy and money on their utility bills. The bill covers products — including DVD players, light bulbs in ceiling fans and commercial refrigeration units — that are not covered by federal efficiency standards. Because energy efficiency is the cheapest, fastest and most sustainable way to provide reliable electricity while cutting pollution, this new law is a win-win for consumers and the environment. Environmental Advocates of New York, the Natural Resources Defense Council and the New York Public Interest Research Group (NYPIRG) worked together to push this bill through in the waning days of the legislative session.

Incremental Mercury Progress Continues With Thermostat Phase-out
Mercury remains a serious threat to human health and the environment in New York. A.6850a (DiNapoli, et al.)/S.4469a (Marcellino, et al.) will require the use of mercury to be phased out in thermostats, switches and relays and a wide range of medical and scientific instruments. New York is now one of the first states in the nation to pass legislation

that removes this enormous potential source of mercury contamination. This bill was the latest in a series of bills that Environmental Advocates of New York, NYPIRG and others helped pass over the last 3 years aimed at eliminating mercury from consumer products.

Green Cleaning Products in New York's Schools
Children are particularly vulnerable to harm from exposure to chemicals, hazardous wastes and other environmental hazards. Thanks to passage of A.8742 (DiNapoli)/S.5435 (Saland) children will no longer risk exposure to toxic cleaning products while they're at school. Now New York is not only asking its students to reach higher standards of educational performance, it's making sure its schools reach a higher standard of environmental performance. Environmental Advocates of New York, Healthy Schools Network, Citizen's Environmental Coalition and others worked with legislators to advance this much-needed bill. ■

Environment comes out ahead in the budget

First on-time budget in over 20 years

For the environment, the biggest news in this year's state budget was a 20 percent increase in the Environmental Protection Fund (EPF). A broad coalition of organizations – Friends of New York's Environment, co-chaired by Environmental Advocates of New York and The Nature Conservancy – pushed successfully for this increase, bringing the EPF up \$150 million. The EPF is a vital funding mechanism for land acquisition, farmland protection, parks, waterfront revitalization, landfill closure and recycling programs. The Friends of New York's Environment coalition also called on the Governor and Legislature to give 2 cents to the environment, by dedicating 2 cents of every state tax dollar to environmental spending. This recommendation, however, was not included in the budget.

At the same time the budget was being hammered out, more good news came when a two-year stalemate over funding for brownfield cleanups was resolved. The Assembly, Senate and Governor finally reached agreement on how to spend \$30 million in funding earmarked for communities and organizations who are involved with planning for the redevelopment of contaminated brownfield sites. The 2005-2006 budget provides an additional \$15 million for this program, subject to a Memorandum of Understanding, indicating a continued commitment on the part of the Governor and Legislature to supporting community efforts to remediate and redevelop the state's brownfields.

In his budget, the Governor also reaffirmed his commitment to renewable energy and energy efficiency technology by protecting the state's system benefits charge (SBC) from an attempted grab by the Legislature. The SBC is a fee included with electric bills that funds the development of renewable energy and energy efficiency technologies. The state receives about \$150 million annually through the SBC. The Legislature had added language to the budget bill that would have required yearly appropriations of SBC money. In a bold move, Governor Pataki thwarted the Legislature's attempt to take control of the SBC money by removing the language from the budget, thereby preserving the integrity of the programs and jobs that depend on funds from the SBC.

On the downside, the final iteration of the budget left out important proposals that Environmental Advocates of New York made during testimony before a joint legislative committee budget hearing. They recommended an increase in fees charged for air pollution permits, and called on the Governor to create a wetlands program and other permit programs for activities undertaken in or around New York's waters. To his credit, in his proposed budget Gov. Pataki included an increase in air pollution permit fees from \$45.00 to \$58.00 per ton of pollution, and a minimum fee of \$1,250 per facility – estimated to

raise an additional \$3.6 million in revenue. The Governor was moving in the right direction with his proposal, which would have enabled state environmental agencies to add much-needed staff to monitor and control air pollution, including in the 30 New York counties that fail to meet minimum clean air standards. Gov. Pataki also proposed the establishment of a wetlands program and the addition of seven staff positions at the state Department of Environmental Conservation (DEC) to oversee the program. Sadly, the Legislature did not see fit to follow the Governor's lead and rejected the proposed fee increases for air pollution permits and wetlands permits, and the seven additional wetlands staff positions.

While we appreciate the gains made in 2005, New York's environment still gets short-changed. A vibrant economy depends on a healthy environment. As environmental spending has stagnated, state spending on the whole has climbed dramatically. Just a few years ago, New York was investing 1.6 cents of every dollar to protect our environment. Today that has fallen to 1.2 cents. New York needs to dedicate at least 2 percent of the state budget – the average in the U.S. – to our clean air, water and land. For 2006, we urge the Governor and Legislature to adopt a polluter-pays approach for establishing fees for permits that authorize the release of air and water pollution and the destruction of wetlands. We also continue to push for an increase in the funding of the EPF and to advocate for additional staff and funding for the DEC. ■

Leibell Leads Senate

For over two decades Senator Vincent Leibell has been a strong leader in the fight to protect the interests of the Hudson Valley.



Senator Leibell

Senator Leibell has distinguished himself as the Chair of the New York State Senate Committee on Corporations, Authorities and Commissions, and as a member of the Senate Environmental Conservation Committee. This year the Senator has once again shown his environmental leadership by achieving the highest Senate score in the EPL/Environmental Advocates' Voters' Guide. Further demonstrating his dedication, Senator Leibell was the only Republican Senator to sponsor all five of the environmental community's Super Bills.

Although he is perhaps best known for his accomplishments in the areas of budget reform, education and libraries, in his tenure Leibell has been an active proponent for the environment, working with community groups and national organizations to preserve and protect the Hudson Valley region.

In recent years Senator Leibell has had great success working with The Nature Conservancy and local chapters of the National Audubon Society to secure state funding for conservation easements in Westchester and Putnam Counties. This year also marked the passage of his bill allowing the town of Yorktown to establish an open space and conservation district. The success of this bill helps build the case for passing a statewide Community Preservation Act, giving all towns the authority to create Community Preservation Funds.

When asked about his achievements Senator Leibell stated, "It is an honor to be recognized by EPL/Environmental Advocates for the small part I have played in preserving the unique environment of the Hudson Valley, but there is still much work to be done. I am committed to supporting legislation that will continue to advance protections that will keep our air and water clean, save precious open space and secure the pristine beauty of this region for future generations." ■

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How They Stack Up

EPL—Environmental Advocates tabulates legislators' scores based on their votes on important environmental legislation. The rating system weighs bills according to their potential impact, either beneficial or detrimental, on New York's environment. Each bill that Environmental Advocates of New York took a position on in 2005 received one of six ratings: **THREE TREES** — significant assistance and benefit to New York's environment; **TWO TREES** — substantial benefit to New York's environment; **ONE TREE** — beneficial to New York's environment; **ONE STACK** — detrimental to the cause of environmental protection in New York; **TWO STACKS** — substantial harm to New York's environment; and **THREE STACKS** — major or lasting harm to New York's environment. In addition, the scoring system was changed this year, with the addition of a new classification of **Super Bills**. These were selected by the Green Panel, consisting of representatives from various environmental groups. This year, for the first time, lawmakers were held accountable for the fate of the Super Bills in their annual scores, even if those bills did not reach the Senate or Assembly floor for a vote. More information about the new scoring system is available on the Web at www.eany.org. Look under Capital Watch.

SUPER BILLS

Wetland Protection

1 Provides the Department of Environmental Conservation (DEC) with regulatory authority over the state's freshwater wetlands of an acre or more, regardless of whether that wetland has previously been mapped by the agency. A.2048 (DiNapoli)/S.2081 (Marcellino) passed the Assembly; died on the Senate Calendar.*

Bottle Bill Expander

2 Expands the definition of "beverage" in the state returnable container act (the bottle bill) to include non-carbonated drinks other than milk and liquor, and to direct the unclaimed deposit money derived from that program to the Environmental Protection Fund. A.2517-b (DiNapoli)/S.1290-b (LaValle) passed the Assembly; died in the Senate Environmental Conservation Committee.

Burn Barrel Ban

3 Extends the prohibition of the open burning of solid waste, excluding organic material such as yard debris, landscaping waste and some agricultural wastes, to towns with a population of less than 20,000. A.3073 (Koon) passed the Assembly. A similar bill, S.2961-a (Maziarz), died in the Senate Environmental Conservation Committee.

Carbon Cap

4 Caps global warming pollution from power plants at 25 percent below 1990 levels, effective January 1, 2009. A.4459 (DiNapoli)/S.2730 (Marcellino) passed the Assembly; died in the Senate Environmental Conservation Committee.

Community Preservation Act

5 Gives New York towns the authority to create Community Preservation Funds using a local real estate transfer fee of 2 percent or less, if approved by a local law and voter referendum. A.6450-a (DiNapoli) passed the Assembly. A similar bill, S.3153 (Marcellino), died in the Senate Rules Committee.



THREE TREES

SEORA Standing

6 Allows plaintiffs access to courts to challenge a State Environmental Quality Review Act decision if demonstrated injury results from the environmental impact of a project. A.114 (Bradley)/S.2380 (Morahan) passed the Assembly; died in the Senate Environmental Conservation Committee.

Pesticide Phase-out

7 Requires the phase-out of pesticide use by state agencies, departments and public benefit corporations, with exceptions for certain specified uses. A.1802-a (Brodsky) passed the Assembly; not introduced in the Senate.

Recyclables in Landfills

8 Prohibits the disposal of recyclable materials in landfills and incinerators and identifies certain materials for mandatory recycling, such as newsprint, glass containers, metal containers and certain plastics. A.4793 (Colton) passed the Assembly; not introduced in the Senate.

Outdoor Lighting

9 Develops efficiency standards for new and replacement outdoor lighting used by state agencies and public corporations, and provides guidance to local governments for roadway and other nighttime lighting through model ordinances. A.7404 (Grannis)/S.4474 (Marcellino) passed the Assembly; died in the Senate Rules Committee.



TWO TREES

Ballast Water

10 Regulates the discharge and management of ballast water from shipping vessels into New York waterways to prevent introduction of non-indigenous species. A.929 (Tokasz) passed the Assembly; not introduced in the Senate.

E-Waste Recycling Act

11 Creates an electronic waste (e-waste) program within DEC, aids local governments in creating e-waste programs, and provides loans and grants for e-waste recycling. A.1454 (Colton)/S.1287 (Marcellino) passed the Assembly; died in the Senate Environmental Conservation Committee.

School Water Lead Testing

12 Requires school districts to test drinking water for lead. If lead levels are too high, the school district would be required to provide a safe water supply for drinking and to notify parents of the contamination. A.1467 (McEneny) passed the Assembly; not introduced in the Senate.

Cancer Mapping

13 Requires DEC and the state Health Department to conduct studies using computer mapping to examine cancer incidence in relation to a variety of environmental risk factors. A.1884 (Brodsky)/S.3781 (Oppenheimer) passed the Assembly; died in the Senate Environmental Conservation Committee.



Alternative Fuels on the Thruway

14 Provides alternative fuel stations along the New York State Thruway every 120 miles for several types of alternative fuels, which could include ethanol, methanol, natural gas, propane, electricity or hydrogen. A.2717 (Tonko) passed Assembly; not introduced in the Senate.

Oil Spill Prevention Act

15 Fully implements the Oil Spill Prevention and Contingency Act of 1990, regulates petroleum bearing vessels in state waterways and the liquid petroleum pipeline's safety, and requires major facilities involved in petroleum transfer within the state to file habitat protection plans. A.3140 (DiNapoli) passed the Assembly; not introduced in the Senate.



Cell Phone Recycling

16 Requires vendors to take back all mobile phones that they sell or lease for recycling or reuse. A.3390 (Colton)/S.636 (Marcellino) passed the Assembly; died in the Senate Consumer Protection Committee.

Smart Growth Infrastructure

17 Requires that state agency projects to construct, expand or reconstruct public infrastructures comply with certain criteria for smart growth and maximize the use of existing infrastructure to minimize associated costs to taxpayers. A.3574 (DiNapoli)/S.2070 (LaValle) passed the Assembly; died in the Senate Environmental Conservation Committee.

Mercury in Vaccines

18 Prohibits the administration of any vaccine containing more than a trace (0.5 micrograms per 0.5 milliliter dose) of mercury to children under the age of three or to pregnant women. A.5543-c (Weisenberg)/S.2707-c (Skelos) passed the Assembly and the Senate. Signed into law by the Governor on August 30, 2005.

Environmental Justice Report

19 Requires DEC to issue a biennial report listing areas of the state most adversely affected by existing environmental hazards. A.5982 (Diaz, R.) passed the Assembly; not introduced in the Senate.

Urban Pesticide Board

20 Creates an urban pesticide board to examine and make recommendations regarding pesticide use in urban areas. A.6448 (Wright)/S.635 (Marcellino) passed the Assembly; died in the Senate Environmental Conservation Committee.

Mercury Emissions Reductions

21 Cuts mercury emissions from power plants, solid waste incinerators and medical waste incinerators 90 percent by 2012. Requires DEC to inventory mercury emissions, establish emissions standards and release reports on reduction methods as well as the health and environmental effects of mercury. A.6484 (Grannis) passed the Assembly; not introduced in the Senate.



*Bills on Senate Calendar passed through committee, but were never called to the floor for a vote.

LNG Moratorium Extension

34 Extends a moratorium on the siting of liquid natural gas (LNG) storage facilities and the certification of transportation routes for liquid natural gas in New York City until April 1, 2007. A.5475 (Lavelle)/S.2918 (Marchi) passed the Assembly and the Senate. Signed into law by the Governor on May 24, 2005.

Fuel Cell Credits for Business

35 Provides tax credits (against the personal income, corporate, and franchise tax) to companies that install fuel cells for on-site power generation. A.5881-b (Tonko)/S.2994-b (Winner) passed in the Assembly and the Senate. Awaits Governor's signature.

Warwick CPF

36 Authorizes the establishment of a community preservation fund in the town of Warwick in Orange County and enables the town to impose a real estate transfer tax of up to 2 percent with the revenues to finance the fund. A.5932 (Rabbit)/S.5221 (Morahan) passed the Assembly and the Senate. Signed into law by the Governor on July 19, 2005.



Green Power Purchasing

37 Allows municipalities to spend up to 15 percent more to purchase electricity produced from wind, solar and selected other clean, renewable sources. A.6571 (Galef)/S.4472-a (Marcellino) passed the Assembly; died in the Senate Local Government Committee.

Fish Advisories

38 Requires DEC and the Health Department to issue and publicize fish and wildlife consumption advisories. A.6862 (DiNapoli)/S.3964 (Marcellino) passed the Assembly; died in the Senate Environmental Conservation Committee.

Trawl Weight Prohibition

39 Adds a new subsection to the Environmental Conservation Law to protect ocean bottom habitat by prohibiting the use of trawls with attached weights, commonly known as "rollers" or "cookies." A.6893 (Sweeney) passed the Assembly; not introduced in the Senate.

Fertilizer Analysis

40 Requires that a pollutant analysis be performed on all agricultural liming materials and commercial fertilizers sold in New York State. A.7078 (Koon)/S.3996 (Marcellino) passed the Assembly and the Senate. Vetoed by the Governor on July 12, 2005.

Water Reuse

41 Establishes rules for the reuse of wastewater, including levels of treatment, permitted uses and monitoring requirements. A.7280-b (DiNapoli)/S.4471-b (Marcellino) passed the Assembly and the Senate. Signed into law by the Governor on August 30, 2005.

EIS on the Internet

42 Amends the Environmental Conservation Law to require the posting of draft environmental impact statements and environmental impact statements on publicly available internet websites. A.7603-a (Green)/S.5786 (Marcellino) passed in the Assembly and the Senate. Signed into law by the Governor on August 30, 2005.

Solar Energy Sales Tax

43 Exempts the sale and installation of residential solar electric and hot water systems from state sales and compensating use taxes and allows municipalities the option of also granting such exemption. A.8262 (DiNapoli)/S.4962-a (Johnson) passed the Assembly and the Senate. Signed into law by the Governor on July 26, 2005.

Solar Energy Tax Incentive

44 Expands the existing residential solar electric generating personal income tax credit to include solar hot water, heating or cooling systems starting in 2006. The bill also increases the maximum amount of the credit that can be claimed from \$3,750 to \$5,000. A.8263 (DiNapoli)/S.5252 (Johnson) passed the Assembly and the Senate. Signed into law by the Governor on August 2, 2005.

Creosote Phase-out

45 Phases out the sale, manufacture and use of creosote in New York State, prohibits its incineration, and regulates its disposal. The bill exempts the two largest consumers of creosote-treated material — railroads and utilities. A.8478-a (Brodsky)/S.5419-a (Spano) passed the Assembly and the Senate. Awaits Governor's signature.

Ag Energy Cooperatives

46 Allows for the organization of general cooperative corporations for the purpose of capturing methane and other gases from agricultural wastes for the production or sale of electricity. A.8837 (Tonko)/S.4746 (Leibell) passed the Assembly and the Senate. Signed into law by the Governor August 23, 2005.

Landfill Siting

47 Pertains to the siting of solid waste management facilities and phases out land disposal of hazardous wastes, except when technology to detoxify or destroy the waste does not exist. A.339 (Gunther)/S.435 (Larkin) passed the Senate; died in the Assembly Environmental Conservation Committee.

Citizen Involvement in Off-Shore Leases

48 Requires state officials to review proposed underwater leases for consistency with coastal zone and environmental policies, and requires an environmental impact statement and public comment period. Gives the commissioner in the Office of General Services the authority to deny leases that do not adhere to the policies. A.8866 (DiNapoli)/S.3658-a (LaValle) passed the Senate; died in the Assembly Environmental Conservation Committee.



ONE STACK

Building Moratorium Criteria

49 Authorizes cities, towns and villages to enact temporary land use planning and zoning moratoriums. A.7994 (Latimer)/S.722 (Little) passed the Senate; died in the Assembly Local Government Committee.

Islip Incinerator Expansion

50 Allows the Islip Resource Recovery Agency to increase its debt limit in order to expand the county's waste incinerator capacity by a factor of two. The measure also makes possible a separate billing line that would allegedly supply consumers with a representation of the cost of the incinerator's compliance with the federal Clean Air Act. A.5268-a (Ramos)/S.5808 (Trunzo) passed the Senate; died in the Assembly Rules Committee.

EPL/Environmental Advocates thanks Mohawk Paper for its generous gift of paper for the *2005 Voters' Guide*. This year, the *Guide* is printed on Mohawk Options 100% PC White, which contains 100 percent post-consumer fiber and is manufactured with windpower.

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Fighting For You



EPL • Environmental Advocates was formed in 1969 as one of the first organizations in the nation to advocate for the future of a state's environment and the health of its citizens. Through lobbying, advocacy, coalition building, citizen education and policy development, EPL • Environmental Advocates has been New York's environmental conscience — assuring that environmental laws are being enforced; that tough new measures are enacted when necessary; and that the public is informed of, and participates in, important environmental policy debates.

For 36 years, EPL • Environmental Advocates has been the most prominent and effective environmental lobbying organization in New York. With your generous support, we will remain the unfailing voice on environmental issues in the State Capitol.

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Staff Members~

Pam Babb
• Receptionist/Office Support

Laura DiBetta
• Communications Associate

Erica Gulseth
• Event & Development Assistant

David Higby
• Program Director

Patti Kelly
• Assistant Director

Anne Reynolds
• Special Projects Director

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Layout ~ Laura DiBetta
Charts & Scores ~
Larisa Washburn

Deb Sgambelluri
• Membership Director

Pat Sterling
• Finance Director

Tim Sweeney
• Program Director

Christine Vanderlan
• Program Director

Larisa Washburn
• Legislative Affairs Associate