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## Legislative report from the NYS Assembly Committee on Environmental Conservation

Dear Friend:

This past spring, Assembly Speaker Carl Heastie named me Chairman of the Assembly Committee on Environmental Conservation. Since taking the helm of this important committee, I have been working to build common ground on environmental issues and policy throughout the diverse regions of our State.

With my scientific background and commitment to protecting and enhancing the quality of our air, land and waters, I've been focused on the many urgent challenges to the environment in our state.

This newsletter summarizes some of the initiatives and accomplishments of the Committee with a focus on the 2015-16 State Budget.

I welcome your ideas and concerns. Please do not hesitate to contact me.

Sincerely,

Steve Englebright

Chair, NYS Assembly Committee on Environmental Conservation

## ENVIRONMENTAL PROTECTION FUND (EPF)

The Environmental Protection Fund (EPF) was funded at \$177 million, an increase of \$15 million over the prior year's Budget. The EPF provides funding for a variety of environmental projects including open space acquisition, water quality improvement projects, municipal recycling, waterfront revitalization and municipal parks. Funding was provided as follows:

EPF Category	EPF Funding \$ (in millions)	Enacted 2015-16
<b>Solid Waste Account (subtotal)</b>		<b>15.300</b>
Municipal Recycling		7.500
Pollution Prevention Institute		3.250
Secondary Markets		1.000
Natural Resource Damages		1.000
Pesticide Database		1.200
Landfill Closure/Gas Management		.250
Environmental Justice Grants		1.100
<b>Parks, Recreation &amp; Historic Preservation Account</b>		<b>61.700</b>
Waterfront Revitalization		12.500
Municipal Parks		15.750
Hudson River Park		2.500
Stewardship		18.500
Zoos, Botanical Gardens, & Aquaria		12.450
<b>Open Space Account</b>		<b>100.000</b>
Land Acquisition		26.550
Smart Growth		.600
Farmland Protection		15.000
Agricultural Waste Management		1.500
Biodiversity		.500
Albany Pine Bush		2.475
Invasive Species		5.850
Long Island Pine Barrens Planning		1.600
Ocean and Great Lakes		6.050
Water Quality Improvement		8.000
Long Island South Shore Estuary Reserve		0.900
Non-point Source Pollution Control		19.000
Soil and Water Conservation Districts		5.275
Finger Lakes - Lake Ontario Watershed		1.750
Hudson River Estuary Management		4.700
Lake Erie Watershed Protection Alliance		.250
<b>EPF Total</b>		<b>177.000</b>



*Assemblyman Englebright was joined (from right to left) by Senator Ken LaValle, Assemblyman Anthony Palumbo, and Assemblyman Fred Thiele at the Committee's hearing on Plum Island to examine options for the preservation of Plum Island as open space in light of the pending sale ordered by the Federal Government.*

## Brownfield Cleanup Program Reforms

The Brownfield Cleanup Program (BCP) was created in 1993 to incentivize the cleanup of contaminated sites by the private sector and encourage the reuse of existing sites, rather than green fields. In the decade since its creation, an estimated 190 sites have completed the BCP.

As part of the 2015-16 Budget, the Legislature enacted a series of reforms intended to preserve public participation while providing incentives better targeted to assist communities most in need. The changes include:

- A requirement that sites in New York City include affordable housing, meet certain property criteria (e.g. underutilized), or be located in an EN-Zone in order to be eligible for tangible property tax credits;
- Establishment of new or increased tangible property tax credits effective on and after July 1, 2015, to include:
  - 5 percent for EN-Zone (based on high poverty and unemployment rates);
  - 5 percent for Brownfield Opportunity Areas (BOAs), which include community-designated, brownfield reuse plans, if the proposed development is in conformance with such plan;
  - 5 percent for affordable housing;
  - 5 percent for manufacturing; and,
  - 5 percent for the cleanest cleanups (Track 1)
- Extension of tax credits and Superfund refinancing until March 31, 2026;
- Authorization of funding for the Environmental Restoration Program (ERP), which provides funding to municipalities for brownfield site investigation and remediation;
- Establishment of a BCP-EZ program to facilitate review for sites not seeking tax credits;
- Protection of existing citizen participation and cleanup standards; and
- Elimination of the existing real property tax credit and the insurance remediation tax credit.

## Superfund

The New York State Department of Environmental Conservation (DEC) describes the State Superfund program as *"... an enforcement program whose goal to identify and characterize suspected inactive hazardous waste disposal sites and to ensure that those sites which pose a significant threat to public health or the environment are properly addressed."* The enforcement and cleanup undertaken by the Superfund program is conditioned on the availability of state financing; however, the authorization to provide new funding for the program lapsed in 2013. This year's Budget extended Superfund financing until March 31, 2026.



*In August, Assemblyman Englebright participated in the Adirondack Park Invasive Species Summit at Brant Lake and met with many representatives of the organizations, associations and local governments that are partnering to protect clean water and combat invasive species.*

## Increased Funding for Drinking Water and Wastewater Infrastructure

According to DEC *“...there are over six hundred wastewater treatment facilities that serve 1,610 municipalities. The facilities range in size from New York City’s vast system that processes 1.3 billion gallons of wastewater a day through 14 facilities, to small village systems that process less than 100,000 gallons a day. These facilities provide wastewater treatment for more than 15,000,000 people across the state.”* DEC’s 2008 assessment of the costs to repair, replace and update New York’s wastewater infrastructure estimated the total funding need to be \$36.2 billion over a 20 year period. A similar assessment for drinking water infrastructure found a need of \$38.7 billion over a 20 year period. These estimates were made prior to the devastation caused by recent extreme weather events. To further compound the problem, the need for investment comes at a time when the federal government has decreased the funding available to states. In a twenty year period federal funding for wastewater facilities decreased by over 70 percent, from \$2.4 billion to \$687 million.

The infrastructure deficiencies have an adverse impact on water quality. DEC indicates that in New York City and Long Island, municipal wastewater sources are cited as the cause of 54 percent of all impaired marine estuary acres. Water quality impairment is the most common cause of shellfish closures.

In order to help municipalities address their water infrastructure needs, and to improve water quality, the State Budget contained \$200 million in new, multi-year funding for **municipal water quality infrastructure grants** including wastewater and drinking water projects. Fifty million will be available in State Fiscal Year 2015-16, and \$75 million for two subsequent fiscal years. The program will be administered by the Environmental Facilities Corporation. The \$200 million is in addition to the monies currently available through New York State’s Drinking Water and Clean Water Revolving Loan Funds.



*Assemblyman Englebright participated in the Long Island Sound Citizens Summit in Bridgeport, CT in April along with Assemblyman Steve Otis and representatives from Connecticut. The panel focused on the role of bi-state government in protecting our nationally significant estuary.*

## Improvements to the New York State Oil Spill Fund

The Environmental Protection and Spill Compensation Fund, commonly referred to as the Oil Spill Fund, was created in 1977 to ensure that spills would be cleaned up even if the responsible party could not be identified. The Fund is only authorized to be used for cleanup-related expenses and is financed with license fees and surcharges on major petroleum storage facilities. A 2014 story in *The New York Times* indicated that the shipment of crude oil by rail increased 83 percent in 2013 alone. The rising number of shipments is accompanied by an increased risk of spills; however, license fees and surcharges had not been increased in over a decade.

The Enacted Budget increased fees associated with the Oil Spill Fund, including a license fee increase from 8 cents to 9.5 cents, and an increase in the license fee surcharge for oil shipped through the

State for use outside the State from 1.5 cents to 13.75 cents. It is estimated that the increased fees will result in an additional \$9 million for the Oil Spill Fund.

Additionally, up to \$2.1 million of the revenue increase would be made available for: the acquisition and maintenance of petroleum spill prevention, response or personal safety equipment and supplies and training for state and local government emergency services; petroleum spill response drills, and analysis of populations, environmentally sensitive areas, and resources at risk from spills of petroleum and related impacts; and the development, implementation, and updating of contingency plans, including geographic response plans, to protect populations, sensitive environments, and resources in the event of a petroleum spill.

# Fisheries Management Hearing

The Draft Ocean Action Plan 2015-2025 prepared by the New York State Department of Environmental Conservation (DEC) and the Department of State indicated *“In 2011, commercial fishing industries landed more than 27 million pounds of finfish and shellfish worth \$37.6 million, generated \$5 billion in sales in local communities, contributed \$1.8 billion to the gross state product, and supported 42,000 jobs. That same year, recreational anglers generated \$369 million in sales, contributed \$212 million to gross state product, and supported 3,000 jobs.”*

The significant economic contribution of the state’s fisheries occurs at a time when those fisheries are under significant stress. The Draft Ocean Action Plan 2015-2025 also indicated *“Winter flounder, river herring, American shad, American lobster and American eel are all species historically abundant in New York waters that are currently experiencing extreme population lows.”*

The fisheries are managed at both the state and federal levels. For example, species quotas for certain species are established by the federal Atlantic States Marine Fisheries

Commission (ASMFC) and others by the state DEC. The DEC’s authority to manage certain species by regulation, including the authority to set seasons, size and possession limits, is set to expire this year. There have been complaints about the quota allocations determined by ASMFC. On May 21st, on Long Island, the Committee held a hearing to examine these and other fishery-management issues.



*At the May hearing on Fisheries, Bill Wise of New York Sea Grant presented testimony grounded in his long experience on how to approach the multitude of issues facing our fisheries.*



## **Legislative report from the** NYS Assembly Committee on Environmental Conservation

### Increased Recreational Access

Revenue from the sale of lifetime fishing and hunting licenses is placed in a trust fund, with the resulting interest deposited into the Conservation Fund. Monies from the Conservation Fund are restricted by law and may only be expended for authorized hunting and fishing related purposes. The 2015-16 Budget authorized up to \$1.5 million to be deposited to the Habitat Conservation and Access Account to support the Department of Environmental Conservation’s fish and wildlife habitat management and public access programs and improve public access to outdoor activities.

