

The Delaware Chapter

Environmental REPORT CARD



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on The State's
140th General Assembly

This Environmental Report Card was made possible through the hard work of many Sierra Club volunteers and staff.

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Introduction

While living both downstate and in New Castle County, I consistently heard state lawmakers speak glowingly of protecting the environment. Because of that, I found myself constantly surprised by just how bad some of the legislation coming out of the General Assembly has proven to be. Various people suggested that this is the two-faced nature of politicians, but I choose to hold a more charitable view.

It is very easy to speak sincerely in favor of the environment using very general terms while you're talking to constituents in your home district. In contrast, it can be very difficult to vote pro-environment on specific pieces of legislation by standing up to powerful special interest groups. This document seeks to eliminate the cognitive dissonance between what elected officials sincerely believe and how they represent their districts. It also seeks to demonstrate the Sierra Club's increasing commitment on environmental labor issues.

A bill to provide Hazardous Material (Hazmat) employees protection under the workers' compensation system begins the list of environmentally critical bills. Another, more broad bill expands protection for Department of Natural Resources & Environmental Control (DNREC) law enforcement officers, the author of which is therefore given extra credit. We respect the fine work performed by front-line environmental cleanup and protection personnel and wish to reward elected officials who feel likewise.

Cheers,

S. Shamba Donovan,
Delaware Chapter Political Coordinator
The Sierra Club

Report Card Overview

Purpose

The Report Card serves as an independent report on environmental actions by General Assembly members. It is designed to both educate voters and promote discussions of environmental issues as they relate to the State of Delaware.

Reading the Report Card

In order to track a specific piece of legislation, read the Report Card vertically. To examine a legislator's voting record, read it horizontally. Please note that there are two State Representatives with the last name "Ennis."

Scoring

The "Voting Score" represents the percentage of pro-environmental votes out of all key votes cast. Pro-environmental votes may be either "Yes" or "No," depending upon the legislation. The "Voting Score" is rounded to the nearest whole percent. Legislators are neither rewarded nor penalized for being absent or present without voting during a roll call. The "Total Score" is the sum of the percentage of "Voting Score" and "Extra Credit" points. The 1999-2000 "Grade" is based on the "Total Score" as follows: "A" for 90 or above, "B" 80-89, "C" 70-79, "D" 60-69, and "F" 59 or below. Any legislator voting on all the key bills can still receive an "A," even if they disagree on a single issue.

Extra Credit

We feel it necessary to recognize those in the General Assembly who not only voted for but also authored environmental legislation (see table on p. 2). Primary sponsors of pro-environmental bills used as a key issue received 20 extra points. Primary sponsors of other pro-environmental bills received 10 extra points per bill. Co-sponsors did not receive extra credit. No deductions occurred for sponsoring anti-environmental legislation.

Grades

- A** Champion for the Environment
- B** Defender of the Environment
- C** Fair on Environmental Issues
- D** Needs Improvement on Environmental Issues
- F** Failing the Environment

Endorsements

No Sierra Club election endorsements are included within the Report Card.

General Assembly Votes

Each bill summary addresses only the environmental aspects of a piece of legislation. The bill titles are unofficial and the descriptions include both facts and opinions. We encourage all constituents to research the bills discussed here in detail and to research other legislative issues of concern at the state web site: <http://Aosta.State.de.us/LIS/LIS140.nsf>.

Correspondence

We encourage feedback for consideration when creating future Report Cards.

Thanks

A number of people deserve special thanks for helping with the Report Card. The dedicated staff at the State House, State Senate, Legislative Information System, and the Office of the Secretary of State provided valuable factual information courteously and promptly. Joan Willey provided examples and advice on creating a legislative scorecard. Sallie Callanen provided insight into legislative priorities of southern Delaware. John Flaherty shared background on General Assembly issues. The Chapter ExComm provided advice and encouragement. A Sierra Club state grant administered by Paula Carrell made this document possible.

Extra Credit for Primary Sponsors

Sponsor	Legislation as Amended	Extra Credit
Rep. Boulden	HB318-Hazardous Waste	10
Rep. Capano	HB248-Open Spaces, HB413-Open Spaces	20
Rep. Carey	HB80-Issue 3	20
Rep. Cathcart	HB160-Land Use, HB383-Issue 8, HB571-Farm Loans	40
Rep. D. Ennis	HB220-Issue 4	20
Rep. DiPinto	HB574-Redeveloping DMV	10
Rep. Keeley	HB315-Issue 7	20
Rep. Lee	HB59-Issue 1, HB546-DNREC Law Enforcement	30
Rep. Oberle	HB569-Limiting Incinerators	10
Rep. Plant	HB205-Wilmington Annexation	10
Rep. Price	HB75-Issue 2, HB267-Energy, HB268 Bluefish, HB500 Clean Water	50
Rep. Quillen	HB282-Removing Junk	10
Sen. Blevins	SB337-Disabled Park Access	10
Sen. Bunting	SB126-Protecting Forests	10
Sen. Henry	SB248-Redeveloping Communities	10
Sen. McBride	SB144-Tires, SB207-Clean Air, SB225-Incinerators, SB280-Issue 10, SB309-Eels, SB356-Hazardous Cleanup, SB403-Clean Water	80
Sen. McDowell	SB373-Green Energy	10
Sen. Sokola	SB124-Redevelopment, SB185-Removing Debris	20

Delaware House of Representatives Report Card

Representative	Party	Representative District	Overall Grade	Representative District											Voting Score	Extra Credit	Total Score
				Helping Hazmat Workers	Preserving Open Spaces	Monitoring Eel Fishing	Outlawing Eco-Fraud	Increasing Foul Water	Subsidizing Sprawl	Recycling Buildings	Managing Growth	Destroying Farms	Restricting Incinerators	A Favor for Tony			
Boulden, Timothy U.	R	23	B	+	+	+	+	-	-	+	-	+	+	a	70%	10	80
Brady, David D.	D	8	C	+	+	+	+	-	-	+	+	-	+	n	70%		70
Buckworth, Gerald A.	R	34	D	+	+	+	+	-	-	+	+	-	+	-	64%		64
Capano, Deborah H.	R	12	B	+	+	+	+	-	-	+	+	-	+	-	64%	20	84
Carey, V. George	R	36	A	+	+	(+)	+	-	-	+	+	-	+	+	73%	20	93
Cathcart, Richard C.	R	9	A	+	a	+	+	-	-	+	(+)	+	+	(-)	70%	40	110
Caulk, G. Wallace, Jr.	R	33	F	+	+	+	a	(-)	-	+	-	-	+	a	56%		56
Cloutier, Catherine A.	R	11	C	+	+	+	+	-	-	+	+	+	+	-	73%		73
DiLiberto, Richard C.	D	14	D	+	+	+	+	-	-	+	-	-	+	+	64%		64
DiPinto, Josph G.	R	4	D	a	a	+	+	-	-	+	+	-	+	-	56%	10	66
Ennis, Bruce C.	D	28	F	+	a	+	+	-	-	+	-	-	n	-	44%		44
Ennis, David H.	R	6	A	+	+	+	(+)	-	n	+	+	n	+	-	78%	20	98
Ewing, J. Benjamin, Jr.	R	35	D	+	a	+	+	-	-	+	+	-	+	-	60%		60
Fallon, Tina	R	39	F	+	a	a	a	-	a	+	+	-	a	-	50%		50
Gilligan, Robert F.	D	19	C	a	a	a	+	-	-	+	+	a	+	+	71%		71
Houghton, William I.	D	16	C	+	+	+	+	-	-	+	+	-	+	+	73%		73
Keeley, Helene M.	D	5	A	+	+	+	+	-	+	(+)	+	+	+	+	91%	20	111
Lee, Clifford G. "Biff"	R	40	A	(+)	+	+	+	-	-	+	-	-	+	+	64%	30	94
Lofink, Vincent A.	R	27	D	+	+	+	+	-	-	+	+	-	+	-	64%		64
Maier, Pamela S.	R	21	C	+	+	+	+	-	-	+	+	+	+	-	73%		73

+ = pro-environmental vote
 - = anti-environmental vote

n = present but not voting
 () = primary sponsor of bill

a = absent

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Delaware House of Representatives Report Card

continued

Representative	Party	Representative District	Overall Grade	Helping Hazmat Workers Preserving Open Spaces Monitoring Eel Fishing Outlawing Eco-Fraud Increasing Foul Water Subsidizing Sprawl Recycling Buildings Managing Growth Destroying Farms Restricting Incinerators A Favor for Tony											Voting Score	Extra Credit	Total Score
				1	2	3	4	5	6	7	8	9	10	11			
Miro, Joseph E.	R	22	C	+	+	+	+	a	-	a	+	+	+	-	78%		78
Mulrooney, Michael P.	D	17	C	+	+	+	+	-	-	+	+	-	+	+	73%		73
Oberle, William A., Jr.	R	24	A	+	+	+	+	-	-	+	+	+	+	+	82%	10	92
Plant, Al O., Sr.	D	2	C	+	+	a	+	-	-	+	+	-	+	n	67%	10	77
Price, Shirley A.	D	38	A	+	(+)	+	+	-	-	+	-	-	+	+	64%	50	114
Quillen, George Robert	R	30	B	+	a	+	+	-	-	+	+	-	+	+	70%	10	80
Reynolds, Bruce C.	R	15	D	+	+	+	+	-	-	+	+	-	+	-	64%		64
Roy, Roger P.	R	20	D	+	a	+	+	-	-	+	+	a	+	-	67%		67
Schroeder, John R.	D	37	C	+	+	+	+	-	-	+	n	-	+	+	70%		70
Scott, Arthur L.	D	3	B	+	+	+	+	-	+	+	+	-	+	+	82%		82
Smith, Wayne A.	R	7	C	+	+	+	+	-	(-)	+	+	a	+	-	70%		70
Spence, Terry R.	R	18	C	+	+	+	+	-	-	+	+	-	+	+	73%		73
Stone, Donna D.	R	32	D	+	+	+	+	-	-	a	-	+	+	-	60%		60
Ulbrich, Stephanie A.	R	25	D	+	+	+	+	-	-	+	-	+	+	-	64%		64
Valihura, Robert J.	R	10	C	+	+	+	+	-	-	+	+	+	a	-	70%		70
VanSant, John F.	D	13	B	+	+	+	+	-	-	+	+	a	+	+	80%		80
Viola, John	D	26	C	a	+	+	+	-	-	+	+	-	+	+	70%		70
Wagner, Nancy H.	R	31	C	+	+	+	+	-	-	+	+	-	+	n	70%		70
Welch, Charles W.	R	29	D	+	+	+	+	-	-	+	+	-	+	-	64%		64
West, Charles P.	D	41	F	a	+	a	a	-	-	+	-	-	+	+	50%		50
Williams, Dennis P.	D	1	B	+	a	+	+	-	+	+	+	-	+	+	80%		80

+ = pro-environmental vote
 - = anti-environmental vote

n = present but not voting
 () = primary sponsor of bill

a = absent

Delaware Senate Report Card

Senator	Party	Senate District	Overall Grade	Environmental Issues										Voting Score	Extra Credit	Total Score
				1	2	3	4	5	6	7	8	9	10			
Adams, Thurman, Jr.	D	19	D	+	+	+	+	-	-	+	+	-	-	60%		60
Amick, Steven H.	R	10	D	+	+	+	+	-	-	+	+	-	-	60%		60
Bair, Myrna L.	R	5	C	+	+	+	a	-	+	+	+	-	+	78%		78
Blevins, Patricia M.	D	7	B	+	+	+	+	-	-	+	+	-	+	70%	10	80
Bonini, Colin R.J.	R	17	D	+	+	+	-	-	-	+	+	-	+	60%		60
Bunting, George H., Jr.	D	20	C	+	+	+	n	-	-	+	n	-	+	63%	10	73
Connor, Dori	R	12	C	+	+	+	+	-	-	+	+	-	+	70%		70
Cook, Nancy W.	D	15	C	+	+	+	+	-	-	+	+	-	+	70%		70
DeLuca, Anthony J.	D	11	C	+	+	+	+	-	-	+	+	-	+	70%		70
Henry, Margaret Rose	D	2	B	+	+	+	+	-	-	+	+	-	+	70%	10	80
Marshall, Robert I.	D	3	C	+	+	+	+	-	-	+	+	-	+	70%		70
McBride, David B.	D	13	A	+	+	+	+	-	-	+	+	-	(+)	70%	80	150
McDowell, Harris B., III	D	1	C	+	+	+	+	-	-	+	+	-	-	60%	10	70
Sharp, Thomas B.	D	9	B	+	+	+	+	-	n	+	+	a	+	88%		88
Simpson, F. Gary	R	18	F	+	+	+	-	-	-	+	-	-	-	40%		40
Sokola, David P.	D	8	A	+	+	+	+	-	-	+	+	-	+	70%	20	90
Sorenson, Liane M.	R	6	D	+	+	+	+	-	-	a	+	-	+	67%		67
Still, John C., III	R	17	F	+	+	+	-	-	-	+	n	-	-	44%		44
Vaughn, James T.	D	14	C	+	+	+	+	-	-	+	+	(-)	+	70%		70
Venables, Robert L., Sr.	D	21	F	+	+	+	-	-	-	+	-	-	-	40%		40
Winslow, Dallas	R	4	B	+	+	+	+	-	+	+	+	-	+	80%		80

+ = pro-environmental vote
 - = anti-environmental vote

n = present but not voting
 () = primary sponsor of bill

a = absent

140th General Assembly Votes

1. **Helping Hazmat Workers**

House Bill 59 with House Amendment 1

Hazardous material (Hazmat) workers provide invaluable services for the environment. They are the frontline people who do the actual work of cleaning up environmental accidents and other incidents. The State Fire School and the Department of Natural Resources & Environmental Control (DNREC) designate Hazmat personnel employed both internally and by private industry. This bill provides all Hazmat team members with the coverage they deserve under the state workers' compensation policy, even if they are not state employees.

The pro-environmental vote is Yes. Rep. Lee sponsored the legislation. The House passed the bill (37 Yes, 4 Absent), the Senate backed it unanimously (21 Yes), and the Governor signed it.

2. **Preserving Open Spaces**

House Bill 75 with House Amendment 1

The state owns a significant amount of open spaces as parklands and recreational areas. Such areas serve as vital community resources for the people of Delaware. This commonsense bill prohibits those lands from being sold or rezoned by any state agency without prior notification of the appropriate General Assembly members.

The pro-environmental vote is Yes. Rep. Price sponsored the legislation voted on as House Bill 75 with House Amendment 1. The House passed the bill (32 Yes, 9 Absent), the Senate backed it unanimously (21 Yes), and it received the Governor's signature.

3. **Monitoring Eel Fishing**

House Bill 80

Under existing law, those with commercial fishing licenses must turn in monthly reports of the sizes and locations of their catches. This law extends the same requirement to commercially licensed eelers in order to better manage future eel harvests.

The pro-environmental vote is Yes. Rep. Carey sponsored the legislation voted on as House Bill 80. The House passed the bill (37 Yes, 4 Absent), the Senate backed it unanimously (21 Yes), and it received the Governor's signature.

4. **Outlawing Eco-Fraud**

House Bill 220

The Extremely Hazardous Risk Management Act occasionally needs to be updated in order to allow DNREC to continue to undertake delegation of some Environmental Protection Agency (EPA) authority. Specifically, this measure increases the fines for environmental violations in order to make state enforcement as stringent as the federal statutes. Perhaps most importantly, this bill extends criminal sanctions to cover making false statements and certifications on environmental documents.

The pro-environmental vote is Yes. Rep. D. Ennis sponsored the legislation voted on as House Bill 220. The House passed the bill (38 Yes, 3 Absent), the Senate backed it (15 Yes, 4 No, 1 Not Voting, 1 Absent), and it received the Governor's signature.

5. **Increasing Foul Water** *House Substitute 1 to House Bill 250 with House Amendment 1*

The poultry industry produces massive quantities of chicken waste in Delaware, much of which ends up over-applied to farms so that it washes into nearby waterways. This bill creates a much-needed state nutrient management program. Unfortunately, the composition of the

Delaware Nutrient Management Commission completely excludes major stakeholders. Representatives from the nearby tourism, well drilling, and fishing industries are lacking despite their clear interest in cleaner waters. Bizarrely, the Commission also under-represents poultry interests. Of the farmers, only a minority comes from the industry and the Commission lacks formal representatives from a contract poultry growers' association, a chicken processing labor union, and a poultry farm workers' community service organization.

Despite hard work by members of the Commission, poor structure and lack of financial resources may substantially lessen their ability to successfully reduce polluted waters. Evaluating program performance may be impossible: the House amendment specifically exempted nutrient management plans from the public's right to know under the state Freedom of Information Act.

The pro-environmental vote is No. Rep. Caulk submitted the bill voted on as House Substitute 1 to HB 250 with House Amendment 1. The House passed the bill (40 Yes, 1 Absent), the Senate backed it unanimously (21 Yes), and the Governor signed it.

6. *Subsidizing Sprawl* House Substitute 1 to House Bill 300 with Senate Amendment 9

Debates on this bill centered on issues of neighborhood schools and racial resegregation. However, the bill has significant sprawl implications. It requires the four major New Castle County districts to replace federally mandated bussing for racial balance with state mandated bussing for proximity to schools. Subsidies are promised to accommodate this that will likely lead to new school construction in far-flung areas more than renovation of existing schools in Wilmington and older suburbs. The legislation also creates the possibility of separating the urban and suburban school tax bases, a situation that promotes sprawl over urban redevelopment. Finally, the legislation includes a state taxpayer bailout for school overcrowding caused by runaway sprawl in Middletown, an area not part of any federal bussing order.

The pro-environmental vote is No. Rep. Smith sponsored the legislation voted on as House Substitute to House Bill 80 with Senate Amendment 9. The House passed the bill (36 Yes, 3 No, 1 Not Voting, 1 Absent), the Senate backed it (18 Yes, 2 No, 1 Not Voting), and it received the Governor's signature.

7. *Recycling Buildings* House Bill 315 with House Amendment 1

Abandoned buildings are a problem in many areas of Delaware. Establishing the rightful owner of such property often proves impossible under existing law, leaving abandoned properties in legal limbo and as blights to the community. This bill sets up a process that allows people in physical possession of abandoned property to assume ownership after a legally defined search for the original owner fails.

The pro-environmental vote is Yes. Rep. Keeley sponsored the legislation voted on as House Bill 315 with House Amendment 1. The House passed the bill (39 Yes, 2 Absent), the Senate backed it (20 Yes, 1 Absent), and it received the Governor's signature.

8. *Managing Growth* House Substitute 1 to House Bill 383 with House Amendments 2&3

School overcrowding continually proves to be a major issue in some parts of the state. Much of this problem stems from municipalities annexing land that could not otherwise be developed under County unified development codes. This bill requires that local school districts certify that adequate capacity is available for the increased enrollment. If the development would lead to overcrowding, a voluntary assessment will be levied for each unit and can be used only for school construction and renovation by the local district. Low income and senior housing are exempted from the requirement. This bill reduces the burden placed on all taxpayers in a school district when suburban sprawl is a problem.

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The pro-environmental vote is Yes. Rep. Cathcart sponsored the legislation voted on as House Substitute 1 to House Bill 383 with House Amendments 2 and 3. The House passed the bill (31 Yes, 9 No, 1 Not Voting), the Senate backed it (16 Yes, 3 No, 2 Not Voting), and it received the Governor's signature.

9. Destroying Farms

Senate Bill 34 with Senate Amendment 1

Under current law, as soon as plans are submitted to develop a farm, that land is treated and taxed as a residential area. Such a change in status ensures that no frivolous subdivision plans are turned in for agricultural areas. This bill would take away the incentive to be honest by taxing land as agricultural even after filing development plans. This bill will provide a short-term tax loophole to major developers when they are about to turn farms into housing developments. However, the main result of this legislation will likely be that subdivision plans will be filed with no immediate intent to develop the land in order to evade increasingly strict County unified development codes.

The pro-environmental vote is No. Sen. Vaughn sponsored the legislation voted on as Senate Bill 34 with Senate Amendment 1. The Senate passed the bill (20 Yes, 1 Not Voting), the House backed it (26 Yes, 10 No, 1 Not Voting, 4 Absent), and it received the Governor's signature.

10. Restricting Incinerators

Senate Bill 280 as amended

Increasingly, out-of-state companies look at Delaware as a potential site to build incinerators. This bill clarifies that incinerators may only be placed on land zoned for heavy industry. It also establishes strict setback requirements so that no incinerator could be within three miles of a residence, church, school, park, or hospital. Local governments are empowered to apply their own additional environmental and public health requirements on any incinerator proposal.

The pro-environmental vote is Yes. Sen. McBride sponsored the legislation voted on as Senate Bill 280 with Senate Amendments 2, 1, and 10 plus House Amendments 7, 8, and 11. The Senate passed the bill (16 Yes, 5 No) and the House backed it (38 Yes, 2 Not Voting, 1 Absent). The governor allowed the legislation to become law without a signature.

11. A Favor for Tony

House Bill 378

The state constitution does not prohibit singling out specific people within laws. The General Assembly generally exercises this power to make exceptions to state marriage laws for specific couples. Alternatively, HB 378 would override state fisheries management laws and force the state to issue a commercial gill netting license to Anthony W. Constango, Sr. Giving all disabled veterans a free recreational license for fishing as a hobby might be a worthwhile social program but giving one politically connected person a commercial license for fishing as employment would set a dangerous precedent. Such a concern is not hypothetical: SB 33, "A Favor for Sammy," would have once again issued another extra commercial license to an ineligible person.

The pro-environmental vote is No. Rep. Cathcart sponsored the legislation voted on as House Bill 378. The House defeated the measure (19 Yes, 17 No, 3 Not Voting, 2 Absent). The Senate and Governor never encountered the bill.

Who Represents You in The General Assembly?

To find out for sure in which state Senate and House districts you live, please have your complete address information ready and call the Department of Elections of the county in which you reside. The League of Women Voters provides information about voting issues.

Kent County Elections	(302) 739-4498
New Castle County Elections	(302) 577-3464
Sussex County Elections	(302) 856-5367
League of Women Voters	(302) 571-8948

Contacting Your State Senator and Representative

The best lobbyists are individual voters who care about an issue. Please contact your elected officials about environmental or other issues you care about.

BY MAIL <name of Senator/Representative>
P.O. Box 1401
Legislative Hall
Dover, DE 19903

BY E-MAIL
The standard format is first initial, last name, followed by *@legis.state.de.us*. For instance, John Doe would be *jdoe@legis.state.de.us*. Note: Not all legislators have an e-mail address. Additionally, some have non-standard naming formats.

BY PHONE OR FAX	Telephone:	Fax:
Senators		
Republicans:	(302) 739-4582 (<i>receptionist</i>)	(302) 739-2773
Democrats:	(302) 739-5086 (<i>receptionist</i>)	(302) 739-2313
Representatives		
Republicans:	(302) 739-4171 (<i>receptionist</i>)	(302) 739-2773
Democrats:	(302) 739-4077 (<i>receptionist</i>)	(302) 739-2313

IN PERSON
Please contact your legislative office beforehand to find out if you can make an appointment to see your legislators or their staff person in Dover. Sometimes, meetings can be arranged closer to your home. General tours of Legislative Hall can be made by telephone at (800) 282-8545 and (302) 739-4114.

TIP
Always try to be polite to your legislators. Especially if there is disagreement, a respectful point on an issue is much more likely to sway opinion.