

1 NEW YORK STATE SENATE

2
3 THE STENOGRAPHIC RECORD
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8 ALBANY, NEW YORK

9 February 22, 2010

10 3:35 p.m.
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13 REGULAR SESSION
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17 SENATOR DAVID J. VALESKY, Acting President

18 ANGELO J. APONTE, Secretary
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1 P R O C E E D I N G S

2 ACTING PRESIDENT VALESKY: The
3 Senate will please come to order.

4 I ask everyone present to please
5 rise and recite with me the Pledge of
6 Allegiance.

7 (Whereupon, the assemblage recited
8 the Pledge of Allegiance to the Flag.)

9 ACTING PRESIDENT VALESKY: Father
10 Peter G. Young, of Mother Teresa Community
11 here in Albany, is with us this afternoon to
12 offer an invocation.

13 REVEREND YOUNG: Thank you,
14 Senator. Let us pray.

15 God has given us many different
16 gifts, but it is always Your spirit, O God, as
17 we return after this brief recess, to guide us
18 in the many things and the many ways of
19 serving our Senators. But it is always
20 important that You, O God, have given and
21 granted them to be used for the good of our
22 New York State citizens.

23 God has gifted each of these
24 members of the Senate chamber with a special
25 potential to help their constituents. Let us

1 take a moment to thank God for their talents
2 and for their skills.

3 God, we thank You for these gifts
4 unique to each Senator. Let us rejoice in who
5 You are that have made these gifts to them and
6 dedicate our gifts then to the good of our
7 New York State people, O God.

8 Amen.

9 ACTING PRESIDENT VALESKY: The
10 reading of the Journal.

11 The Secretary will read.

12 THE SECRETARY: In Senate,
13 Friday, February 19, the Senate met pursuant
14 to adjournment. The Journal of Thursday,
15 February 18, was read and approved. On
16 motion, Senate adjourned.

17 ACTING PRESIDENT VALESKY:
18 Without objection, the Journal stands approved
19 as read.

20 Presentation of petitions.

21 Messages from the Assembly.

22 Messages from the Governor.

23 Reports of standing committees.

24 Reports of select committees.

25 Communications and reports from

1 state officers.

2 Motions and resolutions.

3 Senator Klein.

4 SENATOR KLEIN: Mr. President, I
5 have several motions. First, on behalf of
6 Senator Johnson, on page number 12 I offer the
7 following amendments to Calendar Number 64,
8 Senate Print Number 2753, and ask that said
9 bill retain its place on Third Reading
10 Calendar.

11 ACTING PRESIDENT VALESKY: So
12 ordered.

13 SENATOR KLEIN: Second,
14 Mr. President, on behalf of Senator Parker, I
15 move that the following bills be discharged
16 from their respective committees and be
17 recommitted with instructions to strike the
18 enacting clause: Senate Numbers 1699, 2452,
19 and 5616.

20 ACTING PRESIDENT VALESKY: So
21 ordered.

22 SENATOR KLEIN: Third,
23 Mr. President, on behalf of Senator Squadron,
24 I move that the following bills be discharged
25 from their respective committees and be

1 recommitted with instructions to strike the
2 enacting clause: Senate Number 5829.

3 ACTING PRESIDENT VALESKY: So
4 ordered.

5 SENATOR KLEIN: And last,
6 Mr. President, on behalf of Senator Krueger,
7 on page number 10 I offer the following
8 amendments to Calendar Number 33, Senate Print
9 Number 4960A, and ask that said bill retain
10 its place on Third Reading Calendar.

11 ACTING PRESIDENT VALESKY: So
12 ordered.

13 Senator Klein.

14 SENATOR KLEIN: Mr. President,
15 are there any substitutions at the desk?

16 ACTING PRESIDENT VALESKY: Yes,
17 there are substitutions at the desk,
18 Senator Klein.

19 The Secretary will read.

20 THE SECRETARY: On page 11,
21 Senator Klein moves to discharge, from the
22 Committee on Judiciary, Assembly Bill Number
23 1239A and substitute it for the identical
24 Senate Bill Number 2614A, Third Reading
25 Calendar 53.

1 ACTING PRESIDENT VALESKY:

2 Substitution ordered.

3 THE SECRETARY: On page 11,
4 Senator Klein moves to discharge, from the
5 Committee on Elections, Assembly Bill Number
6 1308 and substitute it for the identical
7 Senate Bill Number 1836A, Third Reading
8 Calendar 63.

9 ACTING PRESIDENT VALESKY:
10 Substitution ordered.

11 THE SECRETARY: On page 12,
12 Senator Addabbo moves to discharge, from the
13 Committee on Elections, Assembly Bill Number
14 5276B and substitute it for the identical
15 Senate Bill Number 2868B, Third Reading
16 Calendar 65.

17 ACTING PRESIDENT VALESKY:
18 Substitution ordered.

19 THE SECRETARY: On page 12,
20 Senator Montgomery moves to discharge, from
21 the Committee on Finance, Assembly Bill Number
22 5462A and substitute it for the identical
23 Senate Bill Number 2233A, Third Reading
24 Calendar 71.

25 ACTING PRESIDENT VALESKY:

1 Substitution ordered.

2 THE SECRETARY: On page 13,
3 Senator Duane moves to discharge, from the
4 Committee on Social Services, Assembly Bill
5 Number 2565 and substitute it for the
6 identical Senate Bill Number 2664, Third
7 Reading Calendar 78.

8 ACTING PRESIDENT VALESKY:
9 Substitution ordered.

10 THE SECRETARY: On page 14,
11 Senator Maziarz moves to discharge, from the
12 Committee on Energy and Telecommunications,
13 Assembly Bill Number 7557A and substitute it
14 for the identical Senate Bill Number 6700,
15 Third Reading Calendar 89.

16 ACTING PRESIDENT VALESKY:
17 Substitution ordered.

18 THE SECRETARY: And on page 14,
19 Senator Valesky moves to discharge, from the
20 Committee on Local Government, Assembly Bill
21 Number 1808 and substitute it for the
22 identical Senate Bill Number 3087, Third
23 Reading Calendar 92.

24 ACTING PRESIDENT VALESKY:
25 Substitution ordered.

1 Senator Klein.

2 SENATOR KLEIN: Mr. President, at
3 this time can we please move to a reading of
4 the calendar.

5 ACTING PRESIDENT VALESKY: The
6 Secretary will proceed with the reading of the
7 active bills on today's calendar.

8 THE SECRETARY: Calendar Number
9 28, by Senator Perkins, Senate Print 1145A, an
10 act to amend --

11 SENATOR KLEIN: Lay the bill
12 aside for the day.

13 ACTING PRESIDENT VALESKY: The
14 bill is laid aside for the day.

15 THE SECRETARY: Calendar Number
16 30, by Senator Schneiderman, Senate Print
17 4407, an act to amend the Environmental
18 Conservation --

19 SENATOR LIBOUS: Lay it aside.

20 ACTING PRESIDENT VALESKY: The
21 bill is laid aside.

22 THE SECRETARY: Calendar Number
23 39, by Senator Young, Senate Print 2420, an
24 act to amend the Agriculture and Markets Law,
25 in relation to confidentiality.

1 ACTING PRESIDENT VALESKY: Read
2 the last section.

3 THE SECRETARY: Section 2. This
4 act shall take effect immediately.

5 ACTING PRESIDENT VALESKY: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 56.

9 ACTING PRESIDENT VALESKY: The
10 bill is passed.

11 THE SECRETARY: Calendar Number
12 59, by Senator Klein, Senate Print 5981, an
13 act to amend the Education Law, in relation to
14 granting.

15 ACTING PRESIDENT VALESKY: Read
16 the last section.

17 THE SECRETARY: Section 4. This
18 act shall take effect on the first of July.

19 ACTING PRESIDENT VALESKY: Call
20 the roll.

21 (The Secretary called the roll.)

22 THE SECRETARY: In relation to
23 Calendar Number 59: Ayes, 55. Nays, 1.
24 Senator LaValle recorded in the negative.

25 ACTING PRESIDENT VALESKY: The

1 bill is passed.

2 THE SECRETARY: Calendar Number
3 67, by Senator LaValle, Senate Print 1447A, an
4 act to amend the Education Law, in relation to
5 authorizing.

6 ACTING PRESIDENT VALESKY: Read
7 the last section.

8 THE SECRETARY: Section 2. This
9 act shall take effect immediately.

10 ACTING PRESIDENT VALESKY: Call
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 56.

14 ACTING PRESIDENT VALESKY: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 68, by Senator LaValle, Senate Print 3292, an
18 act to amend the Education Law, in relation to
19 authorizing pharmacists.

20 ACTING PRESIDENT VALESKY: Read
21 the last section.

22 THE SECRETARY: Section 5. This
23 act shall take effect on the 120th day.

24 ACTING PRESIDENT VALESKY: Call
25 the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 57.

3 ACTING PRESIDENT VALESKY: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 77, by Senator Nozzolio, Senate Print 4893, an
7 act to amend the Executive Law, in relation to
8 prohibiting.

9 ACTING PRESIDENT VALESKY: Read
10 the last section.

11 THE SECRETARY: Section 2. This
12 act shall take effect immediately.

13 ACTING PRESIDENT VALESKY: Call
14 the roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT VALESKY:
17 Senator DeFrancisco, to explain his vote.

18 SENATOR DeFRANCISCO: Yes, I'm
19 going to vote no. Not because we in any way
20 want to further add to the aggravation and
21 heartache of a crime victim, but the problem
22 here is the procedure for protecting the
23 state's rights in trying to collect whatever
24 they've paid by the Crime Victims Board
25 against the potential settlement or verdict

1 against the person responsible for the
2 injuries to the victim.

3 And there's a simple, better way to
4 do it. And that would be rather than filing
5 these documents, these liens in the county
6 clerk's office, a better way is to make it a
7 lien against recovery, just like we have liens
8 against all kinds of recoveries for personal
9 injuries and do that through the CPLR.

10 By simply providing the relief in
11 this bill, it's going to cause a nightmare for
12 title companies and people doing real estate
13 work to determine the effect of these
14 so-called liens that are filed in the county
15 clerk's office.

16 So there's a better way to do what
17 the sponsor intends. For that reason, I vote
18 no.

19 ACTING PRESIDENT VALESKY:
20 Senator DeFrancisco to be recorded in the
21 negative.

22 Announce the results.

23 THE SECRETARY: Ayes, 57. Nays,
24 1. Senator DeFrancisco recorded in the
25 negative.

1 ACTING PRESIDENT VALESKY: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 79, by Senator Valesky, Senate Print 5440B, an
5 act to amend the Alcoholic Beverage Control
6 Law, in relation to allowing.

7 ACTING PRESIDENT VALESKY: Read
8 the last section.

9 THE SECRETARY: Section 2. This
10 act shall take effect immediately.

11 ACTING PRESIDENT VALESKY: Call
12 the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 58.

15 ACTING PRESIDENT VALESKY: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 81, by Senator Duane, Senate Print 4998A, an
19 act to amend the Public Health Law, in
20 relation to --

21 SENATOR LIBOUS: Lay the bill
22 aside, please.

23 ACTING PRESIDENT VALESKY: The
24 bill is laid aside.

25 THE SECRETARY: Calendar Number

1 88, by Senator Parker, Senate Print 3712, an
2 act to amend the Public Service Law, in
3 relation to gas corporations.

4 ACTING PRESIDENT VALESKY: Read
5 the last section.

6 THE SECRETARY: Section 2. This
7 act shall take effect immediately.

8 ACTING PRESIDENT VALESKY: Call
9 the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 58.

12 ACTING PRESIDENT VALESKY: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 89, substituted earlier today by Member of the
16 Assembly Cahill, Assembly Print Number 7557A,
17 an act to amend the Public Service Law.

18 ACTING PRESIDENT VALESKY: Read
19 the last section.

20 THE SECRETARY: Section 2. This
21 act shall take effect immediately.

22 ACTING PRESIDENT VALESKY: Call
23 the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT VALESKY:

1 Senator Maziarz, to explain his vote.

2 SENATOR MAZIARZ: Thank you very
3 much, Mr. President. To explain my vote.

4 Mr. President, this legislation
5 eliminates the peak load limitation on the
6 size of nonresidential solar and wind
7 electric-generating equipment eligible for net
8 metering.

9 This legislation was originally
10 passed in 2008 with some very hard work by my
11 colleague Senator Owen Johnson and Senator
12 Kevin Parker. We worked very diligently in
13 2008 to get a good net metering bill passed.
14 It wasn't a perfect bill. This legislation
15 that we are passing today will improve greatly
16 upon that net metering legislation that we
17 passed in 2008.

18 And this legislation is going to
19 allow commercial and residential users to
20 benefit immensely from investing in net
21 metering in both their businesses and in their
22 residences.

23 And another I think very important
24 point is there is actually, believe it or not,
25 Mr. President, there is actually three-way

1 agreement on this legislation. This piece of
2 legislation is going to become law. I know
3 that's sort of unusual around here. But
4 three-way agreement on this bill which is
5 going to help consumers, businesses, residents
6 throughout our great state.

7 So I passionately vote yes for this
8 legislation. Thank you, Mr. President.

9 ACTING PRESIDENT VALESKY:
10 Senator Maziarz to be recorded in the
11 affirmative.

12 Senator Saland.

13 SENATOR SALAND: Thank you,
14 Mr. President. I would merely like to
15 piggyback on Senator Maziarz's comments.

16 I do have a business in my district
17 that is very much into renewable energy and
18 has long sought some of the corrections that
19 this bill will now provide. It will probably
20 have an immediate benefit in my district,
21 particularly for this particular company, in
22 that it will open the door to a number of
23 projects that will not only benefit the
24 Hudson Valley but benefit our state, in that
25 it's a commitment to renewable energy,

1 creation of jobs that we've all been talking
2 about, and a firsthand example of it right in
3 my own back yard.

4 So thank you, Mr. President, and I
5 vote in support.

6 ACTING PRESIDENT VALESKY:
7 Senator Saland to be recorded in the
8 affirmative.

9 Senator Parker, to explain his
10 vote.

11 SENATOR PARKER: Mr. President,
12 to explain my vote.

13 I'm voting aye to this bill.
14 Again, that's enthusiastically. We've
15 actually gotten to that point in this bill
16 where, as David Dinkins says, everything has
17 been said but everybody hasn't said it. But I
18 want to congratulate my colleagues for working
19 both in a bipartisan way but also across
20 houses to make sure that we pass this
21 important legislation.

22 Net metering was one of the first
23 steps that we really took in really making
24 sure that New York is in the vanguard of a
25 green-collar economy. This is in fact to make

1 sure that ordinary citizens and small
2 businesses can produce their own power and
3 then sell that energy back to the grid.

4 We have now made some adjustments
5 with this bill that in fact brings us closer
6 to perfection. We're not quite there, and I
7 think there may be some other tweaks as we go
8 down the line. But this is another big step
9 to make sure that New York State is in the
10 lead in energy independence.

11 I vote aye.

12 ACTING PRESIDENT VALESKY:
13 Senator Parker to be recorded in the
14 affirmative.

15 Announce the results.

16 THE SECRETARY: Ayes, 59. Nays,
17 0.

18 ACTING PRESIDENT VALESKY: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 90, by Senator Farley, Senate Print 1172, an
22 act to authorize the Union Graduate College to
23 file an application.

24 ACTING PRESIDENT VALESKY: Read
25 the last section.

1 THE SECRETARY: Section 2. This
2 act shall take effect immediately.

3 ACTING PRESIDENT VALESKY: Call
4 the roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Those recorded in
7 the negative on Calendar Number 90 are
8 Senators Bonacic and Larkin.

9 Ayes, 57. Nays, 2.

10 ACTING PRESIDENT VALESKY: The
11 bill is passed.

12 THE SECRETARY: Calendar Number
13 92, substituted earlier today by Member of the
14 Assembly Morelle, Assembly Print Number 1808,
15 an act --

16 SENATOR LIBOUS: Lay it aside.

17 ACTING PRESIDENT VALESKY: The
18 bill is laid aside.

19 THE SECRETARY: Calendar Number
20 93, by Senator Thompson, Senate Print 4921, an
21 act to amend Chapter 616 of the Laws of 1992,
22 relating to authorizing.

23 ACTING PRESIDENT VALESKY: Read
24 the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT VALESKY: Call
3 the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes, 59.

6 ACTING PRESIDENT VALESKY: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 95, by Senator Morahan, Senate Print 5906, an
10 act to authorize the Town of Ramapo to file an
11 application.

12 ACTING PRESIDENT VALESKY: Read
13 the last section.

14 THE SECRETARY: Section 2. This
15 act shall take effect immediately.

16 ACTING PRESIDENT VALESKY: Call
17 the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Those recorded in
20 the negative on Calendar Number 95 are
21 Senators Bonacic and Larkin.

22 Ayes, 57. Nays, 2.

23 ACTING PRESIDENT VALESKY: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 97, by Senator Squadron, Senate Print 37 --

2 SENATOR KLEIN: Lay it aside for
3 the day, please.

4 ACTING PRESIDENT VALESKY: The
5 bill is laid aside for the day.

6 Senator Klein, that completes the
7 reading of the noncontroversial calendar.

8 SENATOR KLEIN: Mr. President, at
9 this time can we please have a reading of the
10 controversial calendar.

11 ACTING PRESIDENT STEWART-COUSINS:
12 The Secretary will read.

13 THE SECRETARY: Calendar Number
14 30, by Senator Schneiderman, Senate Print
15 4407, an act to amend the Environmental
16 Conservation Law.

17 SENATOR LIBOUS: Explanation.

18 ACTING PRESIDENT STEWART-COUSINS:
19 Senator Schneiderman, an explanation has been
20 requested.

21 SENATOR SCHNEIDERMAN: Thank you,
22 Mr. President.

23 This bill corrects an error, I
24 believe, it fills in a gap in the declaration
25 of the policy of the State of New York when it

1 comes to our Environmental Conservation Law.
2 The State of New York, unlike the federal
3 government, does not have as a part of our
4 declaration of policy regarding environmental
5 law any statement that one of the purposes of
6 such law is environmental justice.

7 Unlike the federal Environmental
8 Protection Agency, which has language very
9 similar to the language in my proposed bill,
10 we do not as a state stake out a position that
11 one of the goals of our environmental policy,
12 in addition to health and safety of all of our
13 citizens, is to ensure that no community is
14 discriminated against in terms of the placing
15 of toxic facilities or power plants, that no
16 community suffers an inequitable burden.

17 This language that is proposed in
18 my bill would simply remedy this problem. And
19 it states, Madam President, that no population
20 should be forced to bear a disproportionate
21 share of exposure to the negative effects of
22 pollution or be deprived of locally accessible
23 open space due to a lack of political or
24 economic strength.

25 What this bill would do is

1 recognize the fact that in the United States
2 of America, while 58 percent of our white
3 citizens live in counties that do not meet the
4 federal requirements for air pollution,
5 71 percent of Africans live in such counties;
6 that 80 percent of all the Latinos in the
7 United States live in counties which fail to
8 meet federal air quality standards.

9 Environmental injustice,
10 environmental racism is a part of life that we
11 have to recognize. Unfortunately, in the
12 State of New York, unlike the federal
13 government, we have never been able to insert
14 the language in my proposed bill into our
15 statement of policy to ensure that all of the
16 people who work on environmental policy in the
17 Department of Environmental Conservation and
18 elsewhere, anyone whose job it is to enforce
19 the environmental laws of this state,
20 understands that remedying environmental
21 injustice is part of their work.

22 This bill harms no one, this bill
23 does not delete any of our commitments
24 elsewhere in the statement of policy, this
25 bill simply puts us all on the record as

1 supporting the movement to remedy
2 environmental injustice. This is a serious
3 problem in our state. This is a serious
4 problem in our country.

5 African-Americans in New York State
6 are four times more likely than whites to die
7 from asthma. A significant contributing
8 factor, as every study has shown, is
9 environmental injustice. A 2008 report
10 entitled "A Climate of Change" documented in
11 excruciating detail all of these problems. I
12 commend this report to everyone here in this
13 house.

14 And I would urge that all of my
15 colleagues vote in support of this bill. Let
16 us ensure that in the policy of the State of
17 New York, environmental justice is part of our
18 guidelines, part of our standards, part of the
19 mandate that we give to everyone who works in
20 the area of environmental conservation in our
21 state.

22 I hope everyone will vote yes in
23 support of this bill, Madam President.

24 ACTING PRESIDENT STEWART-COUSINS:
25 Thank you, Senator.

1 Senator Bonacic.

2 SENATOR BONACIC: Thank you,
3 Madam President. Will the sponsor yield for a
4 couple of questions?

5 ACTING PRESIDENT STEWART-COUSINS:
6 Senator Schneiderman, do you yield?

7 SENATOR SCHNEIDERMAN: I'd be
8 happy to yield.

9 SENATOR BONACIC: Senator
10 Schneiderman, welcome back.

11 My first question is, doesn't some
12 of the state agencies, as part of a
13 consideration of an application to build a
14 power plant or whether grants are issued, or
15 programs, have this environmental justice as a
16 consideration?

17 SENATOR SCHNEIDERMAN: Through
18 you, Madam President, there certainly are some
19 programs in which that is specifically a part
20 of our public policy that it's in application
21 forms. But there is no overall requirement
22 that that be the case.

23 We do have -- and I think that
24 there are some environmental justice issues
25 that are covered under our civil rights laws.

1 All this legislation would do is it would
2 ensure that we don't have piecemeal
3 enforcement or spotty attention to this issue
4 and that we add to the declaration of overall
5 policy of the Department of Environmental
6 Conservation the commitment to environmental
7 justice.

8 So I would say the Senator is
9 correct. In some cases, it is considered; in
10 some cases, it is not considered. But the
11 overall result is really not what we need and
12 not what the people of the State of New York
13 deserve.

14 When it comes to fairness, when it
15 comes to equity, when it comes to the health
16 of our children, we should not allow any
17 discrimination based on race or class. And
18 this would make it clear that every policy of
19 enforcement of the Environmental Conservation
20 Law would have to take into account the issue
21 of environmental justice.

22 SENATOR BONACIC: Will the
23 sponsor yield for a couple of other questions?

24 ACTING PRESIDENT STEWART-COUSINS:
25 Senator Schneiderman, do you continue to

1 yield.

2 SENATOR SCHNEIDERMAN: Yes, I
3 will continue to yield.

4 SENATOR BONACIC: What I'm
5 struggling with with this legislation is that
6 it becomes a tool that anyone can cite that
7 there is environmental injustice.

8 So I guess my first question is,
9 can an individual stop a project on the
10 grounds that taxpayer does not meet a standard
11 of environmental justice? Is there a private
12 right of action?

13 SENATOR SCHNEIDERMAN: Through
14 you, Madam President, no.

15 This law, this statement of policy
16 that is declared in this bill, this particular
17 piece of legislation does not create any new
18 private right of action. It does not actually
19 change the laws regarding torts or liability
20 in any way.

21 But it does provide that in the
22 setting of policy going forward, whoever the
23 governor is, whoever is in charge of the
24 Department of Environmental Conservation -- as
25 we have a great commissioner of environmental

1 conservation now, but who knows who will be
2 there in the future -- that no matter who that
3 is, that they must take into account the issue
4 of environmental justice in setting
5 regulations and enforcing these laws.

6 It does not affect the tort system
7 or any private right of action.

8 SENATOR BONACIC: Okay. Will the
9 Senator yield to another question?

10 ACTING PRESIDENT STEWART-COUSINS:
11 Senator Schneiderman, do you continue to
12 yield.

13 SENATOR SCHNEIDERMAN: Yes, Madam
14 President, I'd be happy to yield.

15 SENATOR BONACIC: In promoting
16 this legislation do you have benchmarks of
17 what would constitute environmental injustice?

18 SENATOR SCHNEIDERMAN: Well,
19 certainly, Madam President, I don't think
20 there is any legitimate dispute that in the
21 State of New York and in the United States of
22 America as of today, in spite of the best
23 intentions of many people over many decades,
24 our environmental laws have not produced
25 environmental justice.

1 And I would again cite to the
2 Senator the report "A Climate of Change" that
3 was produced by the Environmental Justice and
4 Climate Change Initiative in 2008. This is
5 up-to-date data showing that in spite of, you
6 know, many people of good conscience working
7 over the years, we still have uneven
8 distribution of power plants, of toxic waste
9 sites, of other environmental hazards, and
10 that can be clearly tracked by race.

11 So my benchmark is when all of our
12 children are free from living with exposure to
13 these plants. But certainly it should be
14 unacceptable to anyone, and I trust it's
15 unacceptable to the Senator, that
16 African-Americans in New York State are four
17 times more likely than whites to die from
18 asthma. My benchmark is equality, and I think
19 that should be all of our benchmark. And if
20 you support this bill, we'll be making a
21 declaration that that is our benchmark.

22 SENATOR BONACIC: Will the
23 sponsor yield for one more question?

24 ACTING PRESIDENT STEWART-COUSINS:
25 Senator Schneiderman, do you continue to

1 yield?

2 SENATOR SCHNEIDERMAN: I'll be
3 happy to yield.

4 SENATOR BONACIC: So if we wanted
5 to locate, meaning the state wants to locate
6 an Article X power plant, fast-track it, for
7 electricity in New York City -- and assuming
8 we want to locate the plant close to where the
9 demand is needed, because the argument is
10 that's where plants should be located, closer
11 to where it's needed -- are you saying that in
12 the name of environmental justice, if it's a
13 poverty area, that plant could not be located
14 there? Or if it's an African-American
15 community, that plant can't be located there,
16 assuming your facts are right that
17 African-Americans are more susceptible to
18 asthma with four times, you know, the
19 incidence of, say, a Caucasian or a Hispanic?
20 Would you say that if your law was adopted,
21 those areas are out of bounds?

22 SENATOR SCHNEIDERMAN: Through
23 you, Madam President, no, the law does not say
24 that.

25 It simply adds the broad

1 declaration to the overall statement of policy
2 in our Environmental Conservation Law that it
3 is the policy of the State of New York that
4 all races, cultures, religions, incomes,
5 education levels, and sexual preferences be
6 treated equally with respect to the
7 development and enforcement of environmental
8 laws and regulations.

9 So it would not automatically
10 exclude any community. It requires us to take
11 issues of environmental justice into account.

12 And I assure the Senator that we do
13 not have a problem of power plants and other
14 facilities being excluded from poor
15 communities of color. I do think you will
16 find very few rich white communities that have
17 such facilities in them, and this simply
18 requires us to take these issues into account.
19 But it does not exclude any particular
20 geographical area or community from any
21 specific project.

22 SENATOR BONACIC: I thank the
23 sponsor.

24 On the bill.

25 ACTING PRESIDENT STEWART-COUSINS:

1 Senator Bonacic on the bill.

2 SENATOR BONACIC: I believe the
3 bill is not necessary, number one. I think in
4 the ongoing practice of our state agencies,
5 particularly the DEC, when it comes to
6 programs, when it comes to grants, when it
7 comes to siting of facilities, they take into
8 consideration the concerns as raised by the
9 sponsor.

10 One of the things I am concerned
11 about is that what I have seen over the years
12 in the name of environmentalism, things have
13 been blocked for economic progress, to keep up
14 with commerce, to keep up with the needs of
15 utilities mainly to the metropolitan area.
16 And this language, if implemented, is another
17 obstacle that an applicant or an agency has
18 got to jump through hoops in order to move a
19 project forward.

20 I don't think it's necessary. And
21 as a result, if this becomes law, the spirit
22 of what we would have adopted will give more
23 ammunition to stop all commerce in the State
24 of New York. So I think it's not necessary.
25 I think there are enough protections now, both

1 constitutionally and agency protections, that
2 does not warrant this legislation.

3 I'm going to vote in the negative.
4 Thank you, Madam President.

5 ACTING PRESIDENT STEWART-COUSINS:
6 Thank you, Senator.

7 Senator Diaz.

8 SENATOR DIAZ: Thank you, Madam
9 President. Would the sponsor yield for a
10 question or two, please.

11 ACTING PRESIDENT STEWART-COUSINS:
12 Senator Schneiderman, do you yield for a
13 question?

14 SENATOR SCHNEIDERMAN: Yes, I
15 will yield, Madam President.

16 SENATOR DIAZ: Senator
17 Schneiderman, I heard you saying, a few times
18 mention that you're doing this for the
19 African-Americans and the Hispanics. And you
20 mentioned a few times about how concerned are
21 you about African-Americans and Hispanics.
22 And also you mentioned there had to be, when
23 it comes to fairness and when it comes to
24 protecting our children, we have to be fair.

25 Why, when Mayor Bloomberg used

1 those same words, knowing that the South
2 Bronx, Hunts Point and the South Bronx, the
3 area that I am, is infested with those kind of
4 transfer station plants and all those kinds of
5 polluters, and when Mayor Bloomberg wanted to
6 build one in Manhattan because he wanted to be
7 fair, you opposed that?

8 SENATOR SCHNEIDERMAN: Through
9 you, Madam President. Build one what?

10 SENATOR DIAZ: Build a marine
11 transfer station plant in Manhattan last year.

12 SENATOR SCHNEIDERMAN: Through
13 you, Madam President, I think the proposal was
14 for alternative sites all in Manhattan for
15 marine transfer stations. But I certainly am
16 not opposed to any marine transfer station in
17 Manhattan.

18 SENATOR DIAZ: Yes, you did,
19 Senator --

20 ACTING PRESIDENT STEWART-COUSINS:
21 Senator --

22 SENATOR DIAZ: Through you, Madam
23 President.

24 ACTING PRESIDENT STEWART-COUSINS:
25 Yes, Senator Diaz.

1 SENATOR DIAZ: Would the sponsor
2 yield?

3 ACTING PRESIDENT STEWART-COUSINS:
4 I will ask the sponsor to yield, but it should
5 be germane to the bill, Senator Diaz.

6 SENATOR DIAZ: I'm on the bill.
7 I'm on the bill. Don't tell me that I'm not
8 on the bill.

9 ACTING PRESIDENT STEWART-COUSINS:
10 I didn't tell you, I just suggested --

11 SENATOR DIAZ: I want to speak
12 about the bill.

13 ACTING PRESIDENT STEWART-COUSINS:
14 Thank you.

15 SENATOR DIAZ: And also, Madam
16 President, about the intention of the sponsor
17 to protect blacks and Hispanics.

18 ACTING PRESIDENT STEWART-COUSINS:
19 Senator Schneiderman, do you continue to
20 yield?

21 SENATOR SCHNEIDERMAN: I am yield
22 for another question, Madam President.

23 SENATOR DIAZ: So when, Senator,
24 when did you suddenly became aware of us
25 blacks and Hispanics being discriminated when

1 it comes to this kind of plant? Because for
2 so many years, they've been building these in
3 the Bronx, South Bronx, and you never came out
4 so strong to defend us. So when did you
5 become aware that we need help?

6 SENATOR SCHNEIDERMAN: Well,
7 through you, Madam President, I actually I
8 guess first got engaged in issues related to
9 civil rights and environmental justice
10 probably going back to when I was in high
11 school, where I was a part of an organization
12 that did work on that.

13 I've worked with many
14 organizations, including West Harlem
15 Environmental Action, which I brought lawsuits
16 with as a public interest lawyer and as a
17 volunteer lawyer over the years. When I went
18 through a period of time representing
19 Congressman Jose Serrano, who represents the
20 South Bronx, there were quite a few issues, as
21 you correctly point out. It's an area that is
22 tremendously burdened by toxic environmental
23 facilities. It's an area with a tremendously
24 high asthma rate. I was involved in trying to
25 shut down a plant that was processing waste in

1 a way that was particularly harmful.

2 So it's an issue that I've been
3 engaged in for quite some time. My district,
4 in Washington Heights and the Northwest Bronx,
5 is very close, and Washington Heights shares
6 some of the same issues; in particular, the
7 problem of transportation facilities, of the
8 truck traffic and things that affect our
9 children. So it's something that I've been
10 engaged with for a long time.

11 But I would like to point out that
12 this is an issue that is not specifically
13 about my district or your district. This is a
14 bill that's about the statewide policy of
15 New York, that we have for years lagged behind
16 the federal government in terms of our
17 recognition of and acknowledgment of the
18 problem of environmental injustice.

19 I've carried this particular bill
20 since 1998, but it was never able to come to
21 the floor until we were in the majority. I'm
22 happy it's coming to the floor now. And I
23 hope that all of my colleagues will vote yes
24 so we can have this declaration of policy
25 relating to environmental justice in the law,

1 in the declaration of policy of the
2 Environmental Conservation Law where it
3 belongs.

4 SENATOR DIAZ: Thank you. On the
5 bill.

6 ACTING PRESIDENT STEWART-COUSINS:
7 Senator Diaz, on the bill.

8 SENATOR DIAZ: I am kind of tired
9 of people using the blacks and Hispanics, the
10 Hispanic community when it's convenient to
11 them. We are in power since last year. This
12 bill didn't come to the floor last year. So
13 it comes today, very convenient, when there
14 might be an opening for statewide office.

15 And this is a bill -- and I
16 remember last year when Mayor Bloomberg wanted
17 that transfer station plant in Manhattan
18 because Mayor Bloomberg said that we have to
19 be fair with everyone and that the minority
20 community already have too many of them.
21 Well, I remember Senator Schneiderman and many
22 others strongly opposed that.

23 But now, today, we're talking about
24 fairness and we're talking about how we have
25 to protect blacks and Hispanics. When they

1 have been building and infesting my community
2 in the South Bronx for many -- I didn't see
3 that kind of strong opposition. And this is
4 too little, too late, and I'm voting no.

5 ACTING PRESIDENT STEWART-COUSINS:

6 Thank you, Senator.

7 Senator Saland.

8 SENATOR SALAND: Thank you, Madam
9 President. Madam President, would Senator
10 Schneiderman yield, please?

11 ACTING PRESIDENT STEWART-COUSINS:

12 Senator Schneiderman, will you yield for a
13 question?

14 SENATOR SCHNEIDERMAN: Yes, Madam
15 President.

16 SENATOR SALAND: Senator, you
17 mentioned somewhere during the course of your
18 comments that this language was similar to
19 language that the EPA currently has. Are you
20 familiar with that language, and do you have
21 it before you?

22 SENATOR SCHNEIDERMAN: Through
23 you, Madam President, I do not actually have
24 the EPA language in front of me. But it is in
25 the agency's definition of environmental

1 justice. And I know that when we were
2 drafting this, that was one of the sources.

3 SENATOR SALAND: Well, permit me
4 to tell you and the rest of the body what the
5 EPA uses for its definition. And you'll find
6 it on their website in several places.

7 For example, the United States
8 Environmental Protection Agency Office of
9 Environmental Justice defines environmental
10 justice as follows: "Environmental justice is
11 the fair treatment and meaningful involvement
12 of all people regardless of race, color,
13 national origin or income, with respect to the
14 development, implementation, and enforcement
15 of environmental laws, regulations, and
16 policies. EPA has this goal for all
17 communities and persons across the nation. It
18 will be achieved when everyone enjoys the same
19 degree of protection from environmental and
20 health hazards and equal access to the
21 decision-making process to have a healthy
22 environment in which to live, learn and work."

23 That is repeated several times on
24 their website. It's repeated under basic
25 information. In response to what they term

1 "Frequently Asked Questions," "How does EPA
2 define environmental justice," "Environmental
3 justice is the fair treatment and meaningful
4 involvement of all people regardless of race,
5 color, national origin, culture, education or
6 with respect to the development,
7 implementation and enforcement of
8 environmental laws, regulations, and policies.
9 Fair treatment means that no group of people,
10 including racial, ethnic, or socioeconomic
11 groups, should bear a disproportionate share
12 of the negative environmental consequences
13 resulting from industrial, municipal, and
14 commercial operations or the execution of
15 federal, state, local and tribal environmental
16 programs and policies. Meaningful involvement
17 means that potentially affected community
18 residents have an appropriate opportunity to
19 participate in decisions about a proposed
20 activity that will affect their environment
21 and/or health, the public's contribution, and
22 can influence the regulatory agency's
23 decision, the concerns of all participants
24 involved will be considered in the
25 decision-making process, and fourth and last,

1 the decision-makers seek out and facilitate
2 the involvement of those potentially
3 affected."

4 I would respectfully submit that
5 the policy that you cite or define as being
6 the state's policy is well above and well
7 beyond anything that approximates what the EPA
8 is requiring. You are requiring a standard in
9 terms that can only invite litigation.

10 I'm not quite sure what you mean by
11 being treated equally, in the sense that if in
12 fact it's equal, is it demographically equal,
13 it is regionally equal, it is statewide equal?
14 If there's a facility in Buffalo that's
15 contemplated being built, do we have to weigh
16 27 different facilities in 27 different
17 locations throughout the state and determine
18 in fact if there's some kind of balance of
19 equality in terms of the impacts on the
20 environment?

21 And let me ask you to yield to a
22 question, if I might. One of the things that
23 was not discussed by anybody, nor did you
24 approach during the course of your
25 explanation, is on lines 7 through 9: "It is

1 a basic right of all New Yorkers to live and
2 work in safe, healthful, productive and
3 aesthetically and culturally pleasing
4 surroundings."

5 If, for example, I worship in a
6 particular faith and that faith calls upon me
7 to pray several times a day, am I required as
8 an employer to ensure that that person can
9 pray several times a day? If I work in a
10 garage where there's a multitude of, let's
11 say, tools, toolboxes, jacks, lifts -- there's
12 nothing aesthetically pleasing about that, but
13 it is a common practice and it is one which
14 certainly would fail the test of whatever
15 aesthetic standard you may use.

16 What constitutes the degree to
17 which something is either aesthetically or
18 culturally pleasing? And is it in the eyes of
19 the beholder, or are we going to have to rely
20 on a court to determine a reasonable person
21 standard?

22 SENATOR SCHNEIDERMAN: Through
23 you, Madam President, this is a broad
24 statement of policy. It doesn't address any
25 of the detailed issues in the hypotheticals

1 that the Senator has presented.

2 But I would note that the other
3 provisions of the statement of policy in the
4 Environmental Conservation Law are equally
5 broad. There is a statement that follows the
6 language that I would like us to all support
7 inserting in the law to declare our commitment
8 to equality and justice that states that it's
9 the policy of the State of New York to foster,
10 promote, create, and maintain conditions under
11 which people and nature can thrive in harmony
12 with each other and achieve social, economic,
13 technological progress for present and future
14 generations. That's already in the law.

15 There are broad statements of
16 policy that, as the Senator knows, declare our
17 intentions and provide guidance to an agency
18 administering the law.

19 I think it a bad mistake, and I
20 think it does us an injustice here in this
21 house, to suggest that a broad statement of
22 policy that in addition to all the other
23 salutary purposes of the Environmental
24 Conservation Law requests -- no, not requests,
25 but insists that we also take into account the

1 issue of environmental justice, somehow
2 creates burdens or imposes challenges that the
3 other broad statements of policy do not.

4 This is simply a recognition of the
5 fact that in spite of all the other statements
6 of policy and the laws and regulations that
7 have been enacted in response to those
8 statements of policy, we in the State of
9 New York have a situation in which there is
10 significant discrimination in terms of
11 exposure to environmental hazards based on
12 race and ethnicity.

13 And I hope that there's no one in
14 this house that would object to adding to our
15 broad statements of the policy that have
16 salutary goals and broad aspirations, not just
17 in this statute but in many other areas of the
18 law, a commitment to justice. This simply
19 states, Madam President, that this policy is
20 based on the concept of fundamental fairness,
21 which implies that no population should be
22 forced to bear a disproportionate share of
23 exposure to the negative effects of pollution.

24 I hope there's no one here who
25 would object to that. I don't think that it

1 is fair to say this would create all sorts of
2 hypothetical situations, because this is a
3 broad statement of policy. It does not
4 establish a new cause of action. It does not
5 create liability for anyone.

6 But I hope that in response to this
7 the laws that we enact and the regulations
8 that are passed in the future would address
9 more effectively the significant problem of
10 environmental injustice and disparity in the
11 State of New York.

12 SENATOR SALAND: Thank you.

13 On the bill, Madam President.

14 ACTING PRESIDENT STEWART-COUSINS:
15 Senator Saland on the bill.

16 SENATOR SALAND: Madam President
17 and my colleagues, the enormous disparity
18 between the tenets described by the EPA as
19 constituting their policy and the policy that
20 Senator Schneiderman would have us adopt here
21 today are really not merely broad but
22 startling.

23 The current policy which Senator
24 Schneiderman referred to talks about creating
25 conditions under which people and nature can

1 thrive in harmony with each other. I don't
2 think anybody can be troubled by the idea of
3 there being environmental justice. It's the
4 draftsmanship of this that just opens
5 virtually anybody and everything up to
6 lawsuits.

7 Being treated equally, I'm not
8 exactly sure how we define treated equally.
9 Again, as I said earlier in my remarks, are we
10 talking about demographically? Are we talking
11 about geographically? If we're talking
12 geographically, what are the parameters of
13 that geography? Are we talking a 50-mile
14 radius, a 100-mile radius? Are we talking
15 Long Island has to be offset by Buffalo, that
16 it has to be offset by Plattsburgh, that it
17 has to be offset by Syracuse? What is equal?
18 There's no effort in here to tell us what
19 equal is.

20 There are certainly included in
21 here conditions that well exceed anything that
22 the feds have proposed. And as left
23 undiscussed both in the description of the
24 bill and in the dialogue that preceded my
25 engaging with Senator Schneiderman, this idea

1 that somehow or other there's a basic right
2 to -- and I'm not even sure what the words
3 mean, "productive and aesthetically and
4 culturally pleasing surroundings." You're
5 opening up a guaranteed lawsuit haven.

6 Now, I guess if I were an attorney
7 general and I aspired to be busy, this could
8 keep me busy for a very long time.

9 I just would suggest that this come
10 back, perhaps in another form, one which is
11 far tighter than what's being proposed here,
12 where I for one might be willing to seriously
13 consider supporting it.

14 But I just view this as a statement
15 that's so overreaching and overly broad and
16 totally lacking in definition as to ensure
17 this as being an absolute treasure trove or
18 marketplace of lawsuits that will certainly
19 keep lawyers busy and will certainly drive
20 employers to despair. And that's not as if
21 they don't have enough to contend with now.

22 So I will be voting in opposition
23 to this bill. And I would urge my colleagues
24 very similarly to do so and would hope that
25 Senator Schneiderman would reconsider -- in

1 fact, attempt to come back with a bill that
2 does what he wants it to do but in a fashion
3 that's capable of standing up to more
4 scrutiny.

5 Thank you, Madam President.

6 ACTING PRESIDENT STEWART-COUSINS:

7 Thank you, Senator.

8 Senator Montgomery.

9 SENATOR MONTGOMERY: Yes, thank
10 you, Madam President.

11 I rise to speak in favor of this
12 legislation. And I want to thank my
13 colleagues Senator Schneiderman and Senator
14 Thompson for introducing it.

15 And all due respect to my
16 colleagues on the other side who complain
17 about what's going to happen and the lawsuits
18 and all of that, I would invite them to take a
19 boat on the Hudson and when you get to the
20 point where you have the beginning of the
21 smokestacks from the treatment center in
22 Farragut and all of the waste transfer
23 stations in Red Hook, in my district, and all
24 of the cement plants in Red Hook, in my
25 district, and all of the power plants along

1 the part of my district that is Sunset Park, a
2 little further out, you will know -- and when
3 you get to Gowanus Canal, which my
4 constituents call the Open Sewer Canal, which
5 we've been trying to clean up for the last 30
6 years at least, and when you get to Buttermilk
7 Basin and you see all of those polluting,
8 polluting businesses in an area where there
9 are 10,000 families in the Red Hook East and
10 West Houses, and along Sunset Park, and in
11 Farragut, in my district, you will
12 understand -- it doesn't require a rocket
13 scientist to know -- that that's a cluster of
14 polluting facilities.

15 Now, the Environmental Advocates of
16 New York give us an interesting source of
17 information. They say 78 percent of
18 African-Americans live within 30 miles of a
19 coal-fired power plant, as compared to
20 56 percent of non-Hispanic whites.

21 So there is no secret that there is
22 environmental injustice in this nation. And
23 the proof is right there in the 18th Senate
24 District, which I represent. So we have been
25 fighting year in and year out. Every so often

1 there's a huge organizing effort to avoid
2 having one more waste transfer business sited
3 in that district, in the same area where there
4 are already several.

5 And so I'm happy to support this.
6 It is about time that we have a policy which
7 says equal distribution under the law for
8 those facilities that pollute the
9 environment -- air, water and/or land -- so
10 that none of us bear an unequal burden of
11 having everything sited in one place.

12 So I support this legislation. We
13 should be voting for it. It is way overdue.
14 And there are a large number of people,
15 especially in my district but all over the
16 state, who are going to be very happy when we
17 have a policy that protects all New Yorkers
18 equally.

19 Thank you, Madam President. I vote
20 aye.

21 ACTING PRESIDENT STEWART-COUSINS:
22 Thank you, Senator.

23 Senator Winner.

24 SENATOR WINNER: Thank you, Madam
25 President. Will Senator Schneiderman yield

1 for a few questions?

2 ACTING PRESIDENT STEWART-COUSINS:

3 Senator Schneiderman, do you yield?

4 SENATOR SCHNEIDERMAN: Yes, Madam
5 President.

6 SENATOR WINNER: Senator, it's my
7 understanding that in the current DEC there's
8 a commissioner's policy designated as
9 Commissioner's Policy Number 29 that
10 specifically requires under SEQR process that
11 all projects have to be dealt with as far as
12 environment and comply with the principles of
13 environmental justice as you are outlining in
14 this statement of policy yourself.

15 Is that your understanding as well,
16 that since 2003 that commissioner's policy has
17 been in place with respect to the SEQR process
18 to require environmental justice
19 considerations?

20 SENATOR SCHNEIDERMAN: Through
21 you, Madam President, as I indicated in
22 response to an earlier question by Senator
23 Bonacic, there are areas of law and regulation
24 that do make reference to environmental
25 justice, and SEQR is one of those.

1 What this legislation does -- and
2 I'm assuming that the Senator is not
3 criticizing the fact that in the SEQRA
4 regulations, environmental justice is an issue
5 that is mentioned. What this bill would do is
6 simply take broad language reflecting our
7 commitment to environmental justice and place
8 it in the statement of policy that governs all
9 of the Environmental Conservation Law, so that
10 this would be noted as a factor to be taken
11 into account for all legislation and all
12 regulations.

13 SENATOR WINNER: Will the Senator
14 yield?

15 ACTING PRESIDENT STEWART-COUSINS:
16 Senator Schneiderman, will you continue to
17 yield?

18 SENATOR SCHNEIDERMAN: Yes, Madam
19 President, I'll continue to yield.

20 SENATOR WINNER: Well, Senator,
21 I'm a little bit confused, and perhaps you can
22 help me, tell me under what circumstances the
23 current policy, as set down by Commissioner
24 Grannis and the commissioner since 2003,
25 operates as it relates to the requirement that

1 environmental justice considerations be
2 undertaken.

3 What does this policy, in your
4 mind, in your intent, intend to do to change
5 the existing process under which these
6 projects are determined to be sited or
7 approved as it relates to the Commissioner's
8 Policy Number 29, and how that would then
9 differ, your policy being in place would
10 differ from the current operation of siting a
11 plant or a project or approving a site plan
12 for a business or whatever under SEQ?R?

13 SENATOR SCHNEIDERMAN: Through
14 you, Madam President, there are hundreds and
15 hundreds of policies that have been enacted
16 since the Environmental Conservation Law was
17 passed. There are regulations in all areas of
18 environmental policy that relate to this
19 principle.

20 So I don't know that I can cite a
21 specific example of a regulation that exists
22 now that might be altered, but I think that
23 there are quite a few of them.

24 What I would suggest to the Senator
25 is that perhaps he is looking at this the

1 wrong way. The issue is not really to say,
2 okay, we're going to go back and criticize
3 regulations and laws that were enacted prior
4 to us making this declaration that
5 environmental justice is a fundamental
6 commitment that we're making in our
7 Environmental Conservation Law, the question
8 is how much better can we do.

9 And I would respectfully submit,
10 without singling out any particular individual
11 for criticism or any particular policy enacted
12 by any of those individuals for criticism,
13 that the net result speaks for itself.

14 The reason we need to insert into
15 the statement of purpose of our Environmental
16 Conservation Law a commitment to environmental
17 justice is that the results aren't what they
18 should be. And as Senator Montgomery just
19 pointed out and as I pointed out and as every
20 study has documented, we have substantial
21 inequities in our state. People in poor
22 communities of color are exposed to
23 environmental hazards at a rate far in excess
24 of that in white communities.

25 I think that the right way to

1 approach this is to start with a broad
2 declaration of policy, which is all that this
3 is, and then let us move forward together to
4 try and see where our laws and policies can be
5 improved.

6 But the point of this legislation
7 is not to single anyone out. I mean, a lot of
8 the policies that have produced the results
9 that we're living with today came under prior
10 administrations. And I'm not trying to go
11 back and cast blame, I'm trying to say let's
12 now go forward with a clearer vision, let's go
13 forward with a statement of policy that in
14 addition to talking about health and aesthetic
15 issues and other things that are already in
16 the statement of purpose, that we make it
17 clear that environmental justice is a goal and
18 an objective of New York State's Environmental
19 Conservation Law.

20 And I would challenge the Senator
21 in response and say what area of law would be
22 harmed, what area of law would be made less
23 just, what area of law would be made less
24 effective if we affirm our commitment to
25 environment policy as a state?

1 SENATOR WINNER: Will the sponsor
2 yield for another question?

3 ACTING PRESIDENT STEWART-COUSINS:
4 Senator Schneiderman, do you continue to
5 yield.

6 SENATOR SCHNEIDERMAN: Yes, Madam
7 President.

8 SENATOR WINNER: Senator, I don't
9 want to be difficult, I'm just asking you to
10 be specific with respect to the response to my
11 concerns.

12 My concerns are since 2003 there
13 has been a commissioner's policy in the
14 Department of Environmental Conservation that
15 requires environmental justice to be a
16 consideration in the siting of the power
17 plants, in the siting of solid waste
18 facilities, in the siting of business plans --
19 roads, highways, you name it, it is there. It
20 is policy. Since 2003, that is the policy of
21 the Department of Environmental Conservation.

22 You have indicated, and I quote
23 you, that there continues to be significant
24 discrimination in environmental policy,
25 unquote. Those are your words. This is your

1 proposal. This isn't my proposal.

2 I'm asking you very specifically
3 how will this proposal change the procedures
4 that currently are required in the Department
5 of Environmental Conservation since 2003? I
6 don't think it's a very difficult question.

7 SENATOR SCHNEIDERMAN: And
8 through you, Madam President, I appreciate the
9 fact that the Senator does not want to be
10 difficult.

11 (Laughter.)

12 SENATOR SCHNEIDERMAN: But I
13 would respond very similarly to the way I just
14 responded. This is a broad statement of
15 policy. This is almost -- this is like our
16 environmental constitution. This sets the
17 framework through which all other policies and
18 regulations should be examined.

19 Now, it is true that there are, as
20 I've repeatedly said, several areas of
21 environmental policy where environmental
22 justice is already included as a factor in
23 those policies. He's referring specifically
24 to SEQRA. Absolutely correct.

25 My purpose in changing the broad

1 statement of policy and making it clear that
2 before you get into the details, everyone
3 should be focused, when you get to the
4 statutes that define the law for which the
5 regulations are issued, you are focusing, in
6 addition to everything else that are already
7 in broad statements of policy in this law, on
8 environmental justice.

9 I think that over the next couple
10 of decades my hope would be that this would
11 provide guidance to us and to the people in
12 the various departments -- not just the
13 Department of Environmental Conservation, but
14 other offices that deal with environmental
15 issues and deal with environmental justice
16 issues -- that this would provide guidance
17 that would lead us in a better direction.

18 Again, I'm not trying to pick on
19 anyone, I'm not trying to cast blame. I think
20 that there are a broad variety of issues that
21 this would help us do better on.

22 Again, I think it's missing the
23 point of this legislation to focus on the
24 language in SEQRA. This is something that
25 amends extremely broad statements of policy

1 that set the framework for our environmental
2 conservation laws, to add one more broad
3 statement of policy that is a glaring
4 omission, in my view, from the Environmental
5 Conservation Law of the State of New York,
6 which is to say that no population should be
7 forced to bear a disproportionate share of
8 exposure to the negative effects of pollution.

9 And I don't see how this can do any
10 harm with regard to our revision of any
11 statutes, our revision of any regulations
12 going forward. This is a prospective bill.
13 We are looking forward to things that we can
14 do better.

15 Is it possible we may be able to
16 change the SEQRA rules to do even better?
17 Absolutely. Would I be willing to talk to the
18 Senator about that? Sure.

19 But it's missing the point to say
20 that a broad statement of policy looking
21 prospectively can be judged by past conduct.
22 I mean, it's really a shame that we didn't
23 have this enshrined in our law before. I
24 think we could have done better. But I'm not
25 trying to get into a blame game. The point is

1 that going forward we can all do better
2 together, Madam President.

3 SENATOR WINNER: Madam President,
4 will the Senator yield for another question?

5 ACTING PRESIDENT STEWART-COUSINS:
6 Senator Schneiderman, do you continue to
7 yield?

8 SENATOR SCHNEIDERMAN: I will
9 continue to yield for another question.

10 ACTING PRESIDENT STEWART-COUSINS:
11 Senator Winner.

12 SENATOR WINNER: Senator
13 Schneiderman, since 2003 when the
14 commissioner's policy requiring environmental
15 justice to be considered with respect to the
16 projects that are covered by the Department of
17 Environmental Conservation law is required to
18 be made, can you cite me some specific
19 examples of discriminatory projects that have
20 been improved by the Department of
21 Environmental Conservation that would be
22 otherwise covered under your policy statement?

23 SENATOR SCHNEIDERMAN: Through
24 you, Madam President, I don't have a list
25 right now, but I would be glad to provide the

1 Senator -- it's not a matter of discriminatory
2 projects, it's a matter of a pattern of siting
3 projects in areas that creates the problem of
4 environmental injustice.

5 This is again -- and maybe there's
6 some misunderstanding here. This is not to
7 say that a particular power plant in and of
8 itself is discriminatory. It's saying the
9 overall pattern of how we spread out the
10 burdens has the cumulative effect of affecting
11 some communities badly and unfairly. It's not
12 an issue that is a project-by-project matter.

13 And that's why I am suggesting that
14 it belongs in the broad statement of policy.
15 Because while you may follow the SEQRA
16 proceedings and you may follow them to the T
17 and you may do exactly what you're supposed to
18 do under the regulations as they exist now,
19 the cumulative effect of the application of
20 those regulations and many other regulations
21 may have this sort of discriminatory impact.

22 And that's the reason this belongs
23 in a broad statement of policy. And quite
24 frankly, Madam President, that's why a
25 discussion of which specific projects might

1 have had a worse impact, you know, is really
2 missing the point.

3 SENATOR WINNER: Will Senator
4 Schneiderman yield to a question?

5 ACTING PRESIDENT STEWART-COUSINS:
6 Senator Schneiderman, do you continue to
7 yield?

8 SENATOR SCHNEIDERMAN: I will
9 yield for another question.

10 SENATOR WINNER: Thank you,
11 Senator.

12 Your memorandum in support of the
13 legislation which we put in there,
14 specifically in your justification section
15 says that "As the City of New York embarks on
16 finding new locations for solid waste transfer
17 operations, the prospect looms that minority
18 communities will be exposed to even more
19 pollution."

20 Is that one of the primary
21 motivations of the introduction of this
22 measure? It seems to be the only specific
23 area of projects that you are identifying as
24 being concerned with in your justification
25 section.

1 SENATOR SCHNEIDERMAN: Through
2 you, Madam President, no, it certainly is not.

3 I think that the reason that we
4 want to, again, add to a broad statement of
5 policy entitled "Declaration of Policy" that
6 frames the Environmental Conservation Law and
7 the State of New York's policies with regards
8 to the environment, the reason that I want to
9 add the language in this bill is that in
10 addiction to the broad statements of policy to
11 conserve, improve, and protect the natural
12 resources of our environment, to prevent,
13 abate, and control water, land, and air
14 pollution -- the broad statements that already
15 exist -- I think that it is incumbent on us to
16 add a provision that a broad commitment to
17 environmental justice, to ending the historic
18 discrimination -- not since 2003, but for
19 hundreds of years -- by which poor communities
20 of color find themselves overburdened with
21 hazardous and polluting sites, projects and
22 frankly, also -- as there's a positive side to
23 this -- lacking the facilities such as parks
24 and recreational facilities that they really
25 deserve. There's a positive as well as a

1 negative aspect to this.

2 I think we need a broad statement
3 of policy because we haven't -- over hundreds
4 of years, we haven't gotten the job done. I'm
5 not saying it's not gone better in recent
6 years. I'm not saying there aren't policies
7 that have attempted to address this. I'm
8 saying this should be a part of our overall
9 broad statement of purpose. That's what this
10 does.

11 And I don't, frankly, see any
12 reason why anyone who's concerned about
13 justice or fairness should vote against this
14 bill.

15 SENATOR WINNER: Thank you,
16 Senator Schneiderman.

17 On the bill.

18 ACTING PRESIDENT STEWART-COUSINS:
19 Senator Winner, on the bill.

20 SENATOR WINNER: Thank you, Madam
21 President.

22 You know, I'm not trying to be
23 difficult as far as trying to elicit some
24 responses as to the Senator's complaints over
25 the administration of the Department of

1 Environmental Conservation as it relates to
2 the enforcement of their own policy on
3 environmental justice.

4 You know, in my colloquy with
5 Senator Schneiderman, it's sort of like trying
6 nail a custard pie to the wall. I really
7 can't quite get much of an answer as far as
8 what the specific complaints are as to how the
9 DEC has in fact administered its regulatory
10 agency as it relates to the projects that are
11 somewhat controversial as it determined on the
12 siting particularly of power plants and solid
13 waste facilities and the like.

14 I just am trying to find out how
15 we're going to be changing the way we do
16 business in New York. Because, you know,
17 believe it or not, ladies and gentlemen, we
18 have an uncompetitive state as it relates to
19 doing business. And trying to change the way
20 we permit and operate and approve the SEQ
21 process as it relates to every single site
22 plan and every single town planning board from
23 one end of the state to the other, just adding
24 certain statutory requirements and/or policy
25 directives, as you want to say it, has

1 implications as far as our ability to move
2 forward on an economic prosperous basis.

3 And so I don't take these statutes
4 very, very lightly as it relates to the
5 already existing unfair and oppressive
6 regulatory burden in New York State.

7 So I am going to oppose this bill,
8 because I don't know what the implications of
9 it will be as it relates to economic
10 development in New York. I don't think the
11 sponsor understands what the ramifications
12 will be. He hasn't cited one specific project
13 since 2003 to allege the existence of
14 environmental injustice as it relates to the
15 operations of the Department of Environmental
16 Conservation. I don't think that that was an
17 unreasonable burden to ask.

18 And as such, if we don't know what
19 the implications of that which we're going to
20 do and what that will impact on the way with
21 we do business in New York, I don't think that
22 we can afford to place into the law statutes
23 that are of this vagueness and lack of
24 understanding.

25 And certainly in an area such as I

1 represent in upstate New York that needs
2 economic development, I don't think we need
3 any more burdens placed upon them other than
4 encouragements to go forward to create jobs in
5 this state.

6 This would appear to me to be an
7 anti-jobs proposal. And as such, I think that
8 we should be very, very wary as we go forward
9 with this. We already have adequate
10 protections -- which have not been refuted by
11 the sponsor -- to the provisions of the
12 environment justice in this state. So to add
13 further regulatory burden on us and on our
14 business community at this time, in this
15 precarious economic condition of this state, I
16 think would be extraordinarily unwise.

17 And for those reasons, for jobs in
18 New York, I'm going to vote no.

19 ACTING PRESIDENT STEWART-COUSINS:
20 Senator DeFrancisco.

21 SENATOR DeFRANCISCO: I think I
22 forgot what I was going to ask, quite frankly.

23 But much has been already asked
24 that I would have, but I just had a couple of
25 questions of the sponsor if he would be

1 willing to answer them.

2 ACTING PRESIDENT STEWART-COUSINS:

3 Senator Schneiderman, will you yield for
4 questions?

5 SENATOR SCHNEIDERMAN: Yes, Madam
6 President, I will yield for -- and I
7 appreciate the Senator's concern with not
8 asking questions that have been asked before.

9 SENATOR DeFRANCISCO: Senator,
10 you had mentioned the empirical data that you
11 had to justify the need for this particular
12 bill, and you talked about asthma rates in
13 minority communities, how they exceed the
14 rates in nonminority communities.

15 Did that -- I didn't see that
16 study, but did that study relate back to
17 decisions made by the DEC or governmental
18 bodies that sited various unhealthy facilities
19 in those areas with higher asthma rates? Or
20 is it just documentation that -- data that
21 says that certain members of certain races
22 have a higher incident rate without any
23 relationship to those sites?

24 SENATOR SCHNEIDERMAN: Well,
25 Madam President, through you, I have to say

1 that I feel as though there are things that
2 are right in front of us sometimes that we
3 choose not to see. And in this case, this
4 debate appears to demonstrate that some of my
5 colleagues are willfully blind to something
6 that I think is fairly obvious. I cited the
7 study "A Climate Of Change." There's also an
8 older study that was done by the Commission
9 for Racial Justice of the United Church of
10 Christ, which I cite. There are studies that
11 have been done by a variety of environmental
12 groups that I will be happy to cite for my
13 colleagues.

14 There can be no dispute that poor
15 communities of color are overly burdened with
16 environmentally harmful projects and do not
17 have their fair share of environmentally
18 beneficial projects, such as parks. And I
19 think that this whole dialogue, which really
20 is a dialogue of people who appear to be --
21 and maybe I'm misreading how they intend to
22 vote -- but appear to be prepared to vote
23 against a broad statement of purpose that the
24 State of New York believes in equality and
25 justice when what it comes to environment law,

1 are missing the point.

2 We know this is true. There's no
3 study that finds otherwise. The fact of the
4 matter is that when you have -- you know, a
5 four-to-one disparity in asthma rates, that's
6 not a margin of error issue. And if you just
7 will come and walk, as Senator Montgomery
8 cited numerous facilities in and around her
9 district, if you would just come and look at
10 the poor communities that are unduly burdened
11 by these facilities and these projects, I
12 think the answer will be pretty clear.

13 But there is no question that this
14 issue, the issue of health, the issue of
15 asthma and other health concerns are
16 environmentally related. This is not a
17 finding that there are some groups with a
18 genetic predisposition to asthma. This is a
19 problem of environmental injustice. This is a
20 problem that the Commission for Racial Justice
21 of the United Church of Christ called
22 environmental racism.

23 This is not something that hasn't
24 been documented and discussed over and over
25 again. All we're doing with this legislation

1 is getting into the broad statements of
2 purpose that frame the Environmental
3 Conservation Law of the State of New York a
4 statement that we are opposed to such
5 injustice.

6 SENATOR DeFRANCISCO: Too bad
7 there's not a judge here that could answer the
8 objection that the answer was not responsive.
9 Because I'd like to ask it again and see if it
10 could be responsive this time, if he would
11 please yield to another question.

12 ACTING PRESIDENT STEWART-COUSINS:
13 Senator Schneiderman, do's you continue to
14 yield.

15 SENATOR SCHNEIDERMAN: I will
16 yield for another question, Madam President.
17 But if the question continues to miss the
18 point of my legislation, I will provide an
19 answer that returns us to the point of my
20 legislation.

21 SENATOR DeFRANCISCO: The
22 question is simply this. Do any of the
23 studies that you have cited -- not your
24 feelings and your desire to do justice -- any
25 of the studies that you cited link the asthma

1 rates to bad projects that are in the various
2 communities that you're concerned about? Do
3 the studies say that? I'm not asking what you
4 think or what we should all know by osmosis or
5 just common sense. Do the studies say that?

6 SENATOR SCHNEIDERMAN: Through
7 you, Madam President. Yes, the studies say
8 that. Studies for decades have demonstrated
9 the harmful effects on poor people of --

10 SENATOR DeFRANCISCO: Thank you.
11 He's answered -- he's answered the question.

12 SENATOR SCHNEIDERMAN: I'm sorry,
13 Madam President, if the questioner would allow
14 me the courtesy that I've extended to him and
15 his colleagues.

16 ACTING PRESIDENT STEWART-COUSINS:
17 Senator Schneiderman, please continue.

18 SENATOR SCHNEIDERMAN: Thank you.
19 Every study has documented this for
20 decades. If you want to hide and you want to
21 pretend we don't know this, if you want to
22 pretend that we don't know there's
23 environmental injustice in our state, that
24 poor communities of color have a higher
25 proportion of harmful environmental projects

1 in them, go ahead. But you're not fooling
2 everyone. You're not fooling the people of
3 this state. You're not fooling your
4 constituents. We know this is a problem.
5 Dozens of studies have shown this.

6 I will be happy to send to Senator
7 DeFrancisco's office a copy of a list of some
8 of those studies. But to suggest that there
9 is somehow or other -- because this is a broad
10 statement of policy and not a list of specific
11 projects, that somehow it's something we
12 shouldn't do, I think is frankly a little bit
13 offensive. It's almost suggesting that the
14 problem that we all know exists of
15 environmental injustice in this state doesn't
16 exist, that we're making it up, that we're
17 asking you to believe in it by osmosis or
18 common sense.

19 This is a problem. We know it's a
20 problem. Let's put in our Environmental
21 Conservation Law a statement of our commitment
22 to justice and equality and the enforcement of
23 the environmental laws and the enforcement of
24 the rules regarding siting of projects, both
25 good and bad projects -- parks and power

1 plants -- let's put that in our statement of
2 policy. That's what this bill does.

3 And to suggest that there's
4 anything else going on here, Madam President,
5 I think is really unfair and dishonest. This
6 is a simple bill. And I am surprised that our
7 discussion has gone on this long, because I
8 would think you'd be able to decide if you
9 want to vote in support of the broad statement
10 of policy in this short paragraph pretty
11 easily. It is the policy of the State of
12 New York, according to this language, which
13 I'm asking you to support, that people of all
14 races, cultures, religions, incomes, education
15 levels and sexual -- it should be sexual
16 orientation -- be treated equally with respect
17 to the development and enforcement of
18 environmental laws, regulations and policies.
19 Not complicated, Madam President.

20 And I really would challenge anyone
21 who would suggest that this is making up a
22 problem, that we are creating the notion that
23 there is environmental injustice, that you are
24 badly out of touch with reality.

25 SENATOR DeFRANCISCO: Now that

1 he's answered the question, would he please
2 answer another question, hopefully more
3 succinctly.

4 ACTING PRESIDENT STEWART-COUSINS:
5 Senator Schneiderman, do you continue to
6 yield?

7 SENATOR SCHNEIDERMAN: I will
8 yield for one more question.

9 SENATOR DeFRANCISCO: Senator,
10 since you've obviously done your homework and
11 you've got all of this empirical data to
12 protect minority communities by this
13 particular legislation, my question is what
14 empirical data that you have that shows that
15 religions have to be protected.

16 How do you provide equal treatment
17 to religions? Or better yet, how do you
18 provide equal treatment to sexual orientation?
19 Are there communities where we can identify
20 people of the various sexual orientations that
21 we've got to provide equal treatment for?
22 Could you tell me what empirical data you have
23 to require protection, equal protection for
24 these groups, environmental protection?

25 SENATOR SCHNEIDERMAN: Through

1 you, Madam President, statements of policy
2 include very broad language. And the first
3 sentence of this proposed legislation does
4 identify cultures, races, religions. But the
5 point of that language is really to frame up
6 our commitment to equality that's set forth
7 later in the paragraph.

8 The point is that no one should be
9 discriminated against on any basis and that in
10 the application of our environmental laws, we
11 should not accept injustice on any basis.

12 And I would urge the Senator that
13 it was because of the opposition to including
14 certain groups in other civil rights laws that
15 we now are careful to include broad language
16 whenever we refer to the issue of justice and
17 equality in New York. I recall being here for
18 years when the Hate Crimes Law was failing
19 because my colleagues on the other side of the
20 aisle refused to include sexual orientation
21 along with race and religion.

22 I don't think we should be passing
23 laws with broad declarations of our civil
24 rights commitment and our commitment to
25 justice and equality that exclude any

1 particular group.

2 Having said that, you know, I'm not
3 sure I can answer the question specifically if
4 there is a particular community that is
5 suffering environmental injustice because of
6 sexual orientation. I can tell you that there
7 certainly are communities where groups of
8 people who follow a particular religious
9 teaching are clustered, where there are
10 sometimes very crowded communities, in fact,
11 where people who are of a particular religious
12 belief, belong to a particular sect, are
13 concentrated. And it's very possible that
14 some such group could be faced with an
15 environmental justice issue at some point in
16 time.

17 So I think if the complaint is that
18 we're providing for too much justice and
19 equality, then I plead guilty to that
20 complaint. The point is that no one -- and
21 the statement here, after we talk about all
22 the various populations of the state, the
23 statement here that really is the heart of
24 this bill that you will vote against if you
25 vote against this bill, is no population,

1 however you define population, should be
2 forced to bear a disproportionate share of
3 exposure to the negative effects of pollution
4 or be deprived of locally accessible open
5 space due to a lack of political or economic
6 strength.

7 That is a statement that should
8 apply to everyone. And frankly, I think it's
9 kind of offensive to suggest that we don't
10 support equality because we may have included
11 categories of people who may have suffered
12 inequitable treatment but we can't necessarily
13 document it. I'm sure the Senator is not
14 suggesting that he would support a policy of
15 environment injustice towards people of a
16 particular religion, but that's what it sounds
17 like from the way he framed the question.

18 SENATOR DeFRANCISCO: I have one
19 last question if the Senator would be kind
20 enough to answer it.

21 ACTING PRESIDENT STEWART-COUSINS:
22 Senator Schneiderman, do you continue to
23 yield?

24 SENATOR SCHNEIDERMAN: I will
25 yield for one last question.

1 ACTING PRESIDENT STEWART-COUSINS:

2 Senator DeFrancisco, one last question.

3 SENATOR SCHNEIDERMAN: And I
4 trust everyone has empowered you to ask that
5 last question, Senator.

6 SENATOR DeFRANCISCO: Who has
7 empowered me? It's my own question. I'm not
8 quite sure what you mean by that remark.

9 But whatever you mean, the question
10 is simply this. Senator Montgomery made a
11 compelling case, and apparently it was
12 compelling to you because it's part of your
13 memo, concerning some areas that are
14 disproportionately treated unfairly.

15 If this becomes law, could an
16 attorney general of the State of New York, no
17 matter who that person be, bring a lawsuit to
18 stop the siting of a plant in Senator
19 Montgomery's district because she would not be
20 being treated -- those people would not be
21 treated equally, according to your
22 legislation, because they're already
23 overpopulated with these sites that are not
24 good for health?

25 SENATOR SCHNEIDERMAN: Thank you,

1 Madam President. A great last question.

2 SENATOR DeFRANCISCO: Well, I'd
3 love a great answer too.

4 SENATOR SCHNEIDERMAN: Certainly
5 the attorney general of the State of New York
6 has broad powers in the area of environmental
7 protection and can choose to exercise those
8 powers and has a fair amount of flexibility as
9 to how those powers are exercised.

10 This statute does not change the
11 laws that the attorney general enforces and,
12 as I think I've made clear repeatedly, does
13 not create any new rights of action. This
14 statute in and of itself would not change the
15 actions an attorney general could bring, but
16 this statute that puts into our broad
17 statement of purpose in our environmental
18 conservation laws the principle of equality
19 and justice for all New Yorkers I think could
20 lead a future attorney general to propose
21 program bills that could make such
22 modifications, that could build on the work
23 that's been done in other states to ensure
24 that projects are located on an equitable
25 basis, and in fact to ensure that in

1 communities that overly burdened by
2 preexisting projects that we take additional
3 steps to provide open space, to provide
4 mitigation for the harmful effects of
5 pollution that is the result of decisions
6 made, in some cases, many decades ago.

7 So I would suggest that while this
8 doesn't change the body of law that the
9 attorney general can enforce, this would be
10 something that I think might inspire an
11 attorney general to have a broader array of
12 program bills dealing with issues of
13 environmental justice and to work together
14 with the Legislature to try and improve our
15 laws in that area. I do think that this would
16 be something that would be welcomed by anyone
17 who wants to enforce the Constitution of the
18 State of New York, be the top law enforcement
19 officer of the State of New York and provide
20 justice and equality to the best of their
21 ability for the people of the State of
22 New York.

23 SENATOR DeFRANCISCO: On the
24 bill, please.

25 ACTING PRESIDENT STEWART-COUSINS:

1 Senator DeFrancisco, on the bill.

2 SENATOR DeFRANCISCO: You know,
3 it's very difficult to ask questions and get a
4 filibuster about things that have nothing to
5 do with the nature of the question nor the
6 intent of the question.

7 And to somehow imply bad motives or
8 that someone does not want to be just or fair
9 or wants to discriminate or not discriminate,
10 I mean, that kind of rhetoric's going on for
11 years, and quite frankly it's annoying, let
12 alone not accurate.

13 The fact of the matter is I think
14 when you propose a bill, you ought to have
15 some kind of empirical data or something
16 behind the bill and some reasons you want to
17 have the bill passed. And it seems to me that
18 a question concerning whether or not the
19 studies that are being cited actually connect
20 the health hazards to some type of facility
21 that is unequally distributed in a district, I
22 think that's a relevant question. And I think
23 it's pretty important to determine whether or
24 not those studies that are being relied upon
25 are accurate or not.

1 I don't think there's anything
2 wrong with that, especially since Senator
3 Saland made the excellent point that Senator
4 Schneiderman cited the EPA and the broad
5 language of the EPA that was almost identical
6 to his language and how could we not want the
7 same language in our state, the great State of
8 New York. Well, the language was
9 substantially different once you read it.

10 There's a big difference between
11 saying that all of these groups have to be
12 treated equally, as this legislation says --
13 that sounds like a head count, or the number
14 of plants in a certain area, a count of those
15 plants depending upon the type of population.
16 As opposed to the EPA language that says
17 "shall have meaningful involvement in the
18 process." There's a huge difference. And I
19 think that was a relevant point made by
20 Senator Saland.

21 And Senator Bonacic mentioned about
22 is there a private right of action. And
23 Senator Schneiderman said there is no private
24 right of action. But the way I understood his
25 answer, and I think I understood it, is that

1 the attorney general has broad enforcement
2 authority over the laws of the State of
3 New York and could bring suits along the
4 spirit of this bill.

5 For example, the suit that I posed
6 about Senator Montgomery's district. Clearly,
7 if the attorney general felt that her district
8 was being or her population was being treated
9 unequally, because it's got to be equal
10 treatment -- count some numbers of plants and
11 the like -- well, that violates the policy of
12 the State of New York if this bill in fact
13 becomes law.

14 So I don't think any of the
15 questions or responses or argument made by
16 anybody on this side of the aisle showed
17 anything close to discrimination or possibly a
18 desire to discriminate against people. It's a
19 question of whether the legislation makes any
20 sense and whether it's going to create more
21 problems than it's going to correct.

22 And I know everyone wants to
23 include every imaginable group in every piece
24 of civil rights legislation. But how does
25 anybody in the DEC ever administer this

1 problem of whether or not there's unequal
2 treatment of religious groups? How do you
3 determine that? I mean, what a burden that's
4 got to be. What religion has more steam
5 plants? The religions are mostly all over the
6 state in different locations. And what a
7 great tool for a religious group that wouldn't
8 want something in their neighborhood to say
9 we're being treated unequally because we have
10 one down the block, even though their religion
11 is spread out throughout the state.

12 And sexual orientation is really
13 the more interesting one. How do you
14 determine where the communities of different
15 sexual orientations are? And how do you
16 determine whether they're being treated
17 equally or not?

18 Now, it's nice to have a broad,
19 general piece of legislation, but generally I
20 think you want to try to enforce these things
21 and have some standards that you can enforce.
22 And if you can't enforce the standards or
23 they're so overly broad that it's going to
24 create more problems than it's going to solve,
25 then under those circumstances you've got to

1 think twice about the bill.

2 So those are my concerns about the
3 bill, and that's why I'm going to vote no.

4 Thank you, Madam President.

5 ACTING PRESIDENT STEWART-COUSINS:
6 Senator Parker.

7 SENATOR PARKER: Thank you, Madam
8 President. On the bill.

9 ACTING PRESIDENT STEWART-COUSINS:
10 Senator Parker, on the bill.

11 SENATOR PARKER: Colleagues,
12 racism exists. Point-blank, period. And I
13 know people here are looking for clarity, so
14 let me be clear. Racism exists.

15 Let me explain to you what racism
16 is. Racism is the ability for one to use
17 racial discrimination and turn it into public
18 policy. Let me be clearer. The only kind of
19 functional racism that exists in the State of
20 New York or the country is white supremacy.
21 When you in fact see racial discrimination
22 being turned into public policy based on
23 discrimination, it is places where white
24 people have in fact discriminated and turned
25 the discrimination of blacks, Latinos, Asians

1 and others into public policy. Clear.

2 This piece of legislation, which I
3 really commend both Senator Schneiderman and
4 Senator Thompson for bringing forth, helps to
5 start the conversation about how we in fact
6 deal with that ugly problem that we have in
7 America, here in the state around the issue of
8 environmental protection.

9 We are in fact used to somebody
10 being called an ugly name, Madam President,
11 and that being the only kind of racism that we
12 understand. But the reality is that there's
13 institutional racism, there's structural
14 racism, there is labor market discrimination,
15 and there's environmental racism.

16 What this bill simply does is
17 create a policy statement that is strong
18 enough to protect everyone, not just around
19 racism, where this is in fact the most obvious
20 problem, but around other categories.

21 Senator DeFrancisco, you are quite
22 wrong when you in fact say that groups of
23 people live in other places. If you look at
24 four years ago, the Harvard School of
25 Education did a study based on Brown vs. Board

1 of Education and looked at concentrations of
2 people and demographics. And what you saw in
3 the study is that actually New York City has
4 one of the most segregated cities in the
5 entire country, because you can actually look
6 at communities where in fact people live.

7 If you tell me -- when you live in
8 New York City and you tell me your race or
9 your religion or your ethnicity, I can put you
10 within blocks of your house, for the most
11 part. And we all know that.

12 I represent Borough Park, the
13 largest concentration of Orthodox Jews in the
14 entire country. We all know that. Ask Dov
15 Hikind, my colleague who represents them in
16 the Assembly. Right? So when you look at --
17 if you want to ask the question of where in
18 fact people of religions live, they live in
19 many cases in very tight concentrations.
20 Senator Montgomery and Senator Squadron
21 represent parts of Boerum Hill, which has a
22 large Muslim population, actually one of the
23 largest concentrations of Muslims, again, in
24 the entire country live in Boerum Hill in
25 Brooklyn. Right?

1 These are not things that we're
2 unaware of. There are in fact many, many
3 instances where based on race, religion, or
4 even sexual orientation we know there are in
5 fact concentrations of people. And we
6 understand that we need to protect people
7 regardless of their race, their religion,
8 their sexual orientation, their ethnicity,
9 their handicaps, whatever. We want people to
10 be protected. I know you all want people to
11 be protected.

12 This is a simple bill. And I'm
13 really -- frankly, I'm appalled that we're
14 having this much discussion about it, frankly,
15 because I don't think that it in fact does
16 many of the things that people are fantasizing
17 about.

18 The extrapolations about this being
19 an anti-jobs bill or an anti-business bill
20 frankly are ridiculous. I mean, the reality
21 is we have to do business in a way in this
22 state that does not disenfranchise other
23 people and does not cause harm to them. That
24 has been a theory and public policy practice
25 in this country going back to Teddy Roosevelt,

1 when you first started having, you know, state
2 parks being created. Right?

3 I mean, Senator Little, you
4 represent the Adirondacks. How do you in
5 fact, you know, protect the Adirondacks and
6 say that this needs to be a protected area and
7 then don't protect the South Bronx and don't
8 protect Sunset Park and don't protect Staten
9 Island?

10 I mean, the reality is there are
11 places all over this state, both upstate and
12 downstate, that ought to be protected, and
13 where people live in conditions that they
14 frankly ought not to.

15 I'm very surprised that, frankly,
16 the mayor has not come out stronger in terms
17 of support of this bill, inasmuch as he talked
18 about congestion pricing, that he wanted to in
19 fact see, you know, asthma rates go down, and
20 cases in which cancer and other things are
21 affected by environmental problems in our
22 communities. This is the kind of bill that we
23 really need to begin with in terms of making a
24 broad policy statement.

25 And just so you understand, the

1 difference between what Senator Schneiderman
2 and Senator Thompson are proposing here and
3 what the EPA has is that that was something,
4 that broad statement was actually created
5 under a Republican administration where
6 Christy Todd Whitman, the former governor of
7 the New Jersey, the toxic shock state -- and I
8 know I'll get some letters behind that. But,
9 you know, that is where the EPA statement
10 comes from. And it's a much weaker statement
11 and frankly does not do the job, which is part
12 of why states are being called on. That's
13 part of why the leadership of this body is
14 being called on to in fact protect our
15 communities. We need to do the right thing
16 here, and we need to pass this simple bill
17 that makes a simple statement, that we as
18 members of the New York State Senate are not
19 going to be allow people to be discriminated
20 upon by companies that want to create waste
21 and create environmental hazards in our
22 communities.

23 Let me get the record straight
24 around SEQRA, Senator Winner. SEQRA does not
25 provide for environmental justice language.

1 It does not. I'm being as clear as I can.
2 SEQRA does not provide for environmental
3 justice language. This language in this bill
4 is necessary because SEQRA does not in fact
5 protect black and Latino communities that are
6 put upon by coal-burning plants, they're put
7 upon by garbage stations, that are put upon by
8 chemical plants, that are put upon by other
9 kinds of plants that put toxins into the air
10 and into the water.

11 There are organizations like
12 Sustainable South Bronx that have done
13 numerous studies and numerous actions -- you
14 can call my good friend Majora Carter there,
15 and she can give you a whole dissertation on
16 it if you need to be.

17 I'm surprised that I hear that
18 Senator Diaz is voting against this, because
19 this is in fact the kind of bill that will
20 begin to protect his community. He has the
21 most put-upon community in the entire State of
22 New York as relates to these kind of plants,
23 you know. I think second only to George
24 Onorato, maybe. And actually between
25 George -- if you look at their districts,

1 between George's district in Queens and
2 Senator Diaz's district in the South Bronx,
3 right, just separated by less than a mile of
4 water between them, they have, you know, more
5 plants and more carbon and environmentally
6 hazardous plants than almost any other
7 communities in the entire country -- not just
8 the entire state, the entire country.

9 It is for no other reason than for
10 that community, and those are those
11 communities, that we ought to be passing this
12 language. Because SEQRA does not provide it.
13 In fact, part of the argument around creating
14 an Article X, which is a fast-track power
15 plant siting bill that I've worked on and
16 Senator Maziarz has worked on, that Senator
17 Wright before us worked on -- part of the idea
18 of in fact doing that type of bill was in fact
19 to get environment justice language into the
20 debate around the siting of power plants. So
21 it is not just power plants, it is lots of
22 different kinds of plants now.

23 We're in a jobs crisis. Everybody
24 here, when you talk about the idea of creating
25 jobs, it's job one for this body. And I

1 certainly would not be voting for this bill if
2 I thought it was something that hurt job
3 creation. But let me say this. Job creation
4 is not more important than the sustainability
5 of life. We cannot create jobs in this state
6 at the expense of the health of our children.
7 We can't create jobs at the expense of another
8 case of asthma, another case of cancer,
9 another case of lymphoma. We can't do it.

10 That being said, is that that's a
11 false dichotomy. It is not a matter of
12 polluting the earth and the environment or
13 creating jobs -- in fact, just the opposite.
14 And this body proved that a few months ago
15 when we passed the green-collar jobs bill.

16 We in fact have an opportunity here
17 to do the good work of this country, and that
18 is to create jobs that in fact are good and
19 sustainable for this nation and for this
20 country. The kind of jobs that are good for
21 me, that are good for your community, that are
22 good for everybody's community in this great
23 state.

24 So we don't have to create these
25 dichotomies between jobs and the environment.

1 They in fact have created a beautiful nexus
2 for us where companies can create profits,
3 people can have jobs, people can lower their
4 energy bills and at the same time have the
5 kind of environment and be the kind of
6 stewards of this environment that we ought to
7 be not just for our children but for our
8 grandchildren and our great-grandchildren.

9 Ladies and gentlemen, I hope that
10 we can resolve some of people's concerns both
11 around litigation that's probably likely not
12 to come, because the reality is we're not
13 looking to grandfather existing plants into
14 this, we're really just looking prospectively
15 and in fact saying, as we go forward, let's in
16 fact be sensitive to the makeup of
17 communities, let's make sure that the
18 communities that people are living in are
19 sustainable for their lives.

20 It's not much to ask that all of
21 our children be able to breathe clean air.
22 It's not much to ask to say that every drop of
23 water that our children and our grandchildren
24 drink and that our mothers and our
25 grandmothers and our grandfathers drink is

1 clean water. It's not much to ask. Those
2 should be basic things that all of us want for
3 everybody in the state.

4 And I'm saying up until this point,
5 I get that many people -- that we didn't know
6 at one point, you know, what DDT did to our
7 communities. We didn't know what CO2 was, let
8 alone what it did to our lungs and to the
9 atmosphere. We didn't know. But my
10 grandfather always told me, Senator Espada,
11 when you know better, you do better. And now
12 we know better. And what I'm simply asking
13 you is to vote on this bill yes so that we as
14 a state can do better because we now know
15 better.

16 There is a significant amount of
17 distrust between communities of color in
18 particular and corporations. And that extends
19 to government exactly because we have failed
20 to police our communities in the right way.
21 And this is a great opportunity for us as we
22 go forward, as we go forward to make sure that
23 all of our communities have the same kind of
24 environmental protection that every other
25 community has.

1 All of us are not, you know, lucky
2 enough to live in, you know, the great, you
3 know, rural communities that some others
4 represent in this state. And so finding a
5 tree in Brooklyn, although easier than it was,
6 you know, a couple of years ago, is not as
7 easy as it is in other places.

8 So that's why particularly in urban
9 areas, this kind of legislation is necessary.
10 And let's be clear. New York City is not the
11 only urban area in the state. If you live in
12 Syracuse, you ought to be concerned about
13 this. If you live in Rochester, you ought to
14 be concerned about this. If you live in
15 Buffalo or Niagara Falls or Albany, you ought
16 to be concerned about this. If you live in
17 Utica or Binghamton, you ought to be concerned
18 about this. Anyplace that we are doing, you
19 know, significant manufacturing or if you
20 have, you know, Senator Aubertine, a power
21 plant in your district, you ought to be
22 concerned about this, because those particular
23 matters are falling on everybody, on the just
24 and the unjust alike.

25 And so, again, I'm pleading with my

1 colleagues to do the right thing, to protect
2 all of our communities, to make sure that the
3 ugly history of our past doesn't continue to
4 dictate the policies of the future. We know
5 better, and we can do better.

6 I'm voting aye.

7 ACTING PRESIDENT STEWART-COUSINS:
8 Senator Lanza.

9 SENATOR LANZA: Thank you, Madam
10 President. It isn't often enough that I'm
11 able to agree with my good friend Senator
12 Parker, so let me begin by saying that I agree
13 with him.

14 Sadly, of course we know that
15 racism exists and discrimination exists. But
16 I think it is probably a racist notion to
17 suggest that only one race is capable of
18 harboring those type of ignorant and hateful
19 thoughts.

20 And of course let me say that we
21 agree with the justification for this
22 legislation, that there ought to be equality
23 and justice in our community when it comes to
24 everything, including how we treat the
25 environment and how we place facilities that

1 may have a negative impact on the environment.

2 I think more than anyone in this
3 room I can speak to the ills that occur when
4 it comes to discriminatorily placing
5 facilities that affect the environment.
6 Senator DeFrancisco was looking for a study.
7 Senator Schneiderman said it was right in
8 front of us. Senator Parker said that clearly
9 you can't ignore what has occurred in this
10 state. And so let me point out to all of you
11 that the greatest environmental crime
12 committed by the people of the City of
13 New York was perpetrated against the people of
14 Staten Island, in a community that is
15 predominantly white.

16 And of course I speak of the Fresh
17 Kills Landfill, an unpermitted, unlined,
18 environmental disaster, more than 2000 acres,
19 which eventually, because of the stroke of
20 many pens that were put down on pieces of
21 paper -- by, it just so happens, Democrat
22 elected officials, mostly in Manhattan, but
23 throughout the rest of the city -- had all of
24 the garbage of the City of New York come to
25 Staten Island.

1 Now, Fresh Kills Landfill was
2 probably the worst place in the world to even
3 site a landfill. Tribal estuaries, brackish
4 waters, streams, wetlands -- really a unique
5 environmental area that has been decimated and
6 destroyed over 50 years by the people outside
7 of Staten Island who were elected in the City
8 of New York.

9 One of the last things that I was
10 part of when I left the City Council was the
11 solid waste management plan that had --
12 mindful of that environmental discrimination
13 that was perpetrated against the people of
14 Staten Island -- that had as one of its
15 principles borough-based sufficiency requiring
16 each borough to handle its share of its waste.

17 Part of that plan requires the
18 placement of waste transfer stations. The
19 first, of course, to be established happened
20 and was established on Staten Island. We're
21 still waiting in Manhattan.

22 And I find it ironic that the
23 people and elected officials in Staten Island
24 are trying to prevent marine stations from
25 being placed in Manhattan so that Manhattan

1 can deal with its fair share of garbage.

2 I am all for accomplishing what
3 that legislation sets out to do. But as I
4 listened to Senator Winner try to elicit how
5 this legislation would play out, what rules
6 would be changed, I didn't really get a
7 satisfactory explanation. And so one of my
8 concerns is that this legislation might do the
9 opposite, or allow it. I know that is not the
10 intent of the sponsor. I know that. But my
11 concern is that this might create a cause of
12 action for everyone but the kind of community
13 that I have in Staten Island that's suffered
14 for 50 years the environmental discrimination
15 perpetrated upon it.

16 And that is my concern here, is
17 that this will allow the people of Manhattan,
18 for instance, to prevent a transfer station
19 from being established in Manhattan to deal
20 with their fair share of their own garbage,
21 which would result in this being put back on
22 the people of Staten Island.

23 So that's my concern. Not what
24 that sets out to do -- because I support it --
25 but what this might actually, in practice,

1 allow to happen, and that is the further
2 perpetration of environmental injustice in the
3 City of New York and elsewhere by the creation
4 of a cause of action for some groups and not
5 others.

6 And so, Madam President,
7 unfortunately I will be voting in the negative
8 on this legislation.

9 ACTING PRESIDENT STEWART-COUSINS:
10 Senator L. Krueger.

11 SENATOR LIZ KRUEGER: Thank you,
12 Madam President. Very briefly on the bill.

13 So everybody is imagining
14 everything, and including imagining that
15 there's not a problem of environmental racism
16 or environmental injustice.

17 So it's not that complex a bill.
18 It says we should factor in discrimination in
19 the context of building, in the future, any
20 kind of project that might in fact be
21 environmentally damaging. It is the concept
22 of fair share. It says government should
23 factor this in. I don't see it as that
24 complicated, that high-risk. And even many of
25 my colleagues who have said we don't need it

1 have pointed out they think they read
2 government policy as already doing this.

3 Well, there's lots of times we have
4 voluntary governmental policy where we as a
5 Legislature say, you know, this one is
6 important enough to turn it into statute, to
7 make it the law of the land, to not just count
8 on some commissioner at some point in history
9 to write regulations in such a way, but to
10 actually say it's the law of the land, when
11 planning for projects that can be
12 environmentally harmful, not to discriminate.

13 I don't know why it's so
14 complicated that it's taken us so many hours
15 to get here. I have no problem supporting
16 this bill. It should be the law of the land
17 in New York State. I vote yes.

18 Thank you, Madam President.

19 ACTING PRESIDENT STEWART-COUSINS:
20 Are there any other Senators wishing to be
21 heard on the bill?

22 Hearing none, debate is closed.
23 The Secretary will please ring the bell.

24 Read the last section.

25 THE SECRETARY: Section 3. This

1 act shall take effect immediately.

2 ACTING PRESIDENT STEWART-COUSINS:

3 Call the roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT STEWART-COUSINS:

6 Senator Montgomery, to explain her vote.

7 SENATOR MONTGOMERY: Yes, Madam
8 President, to explain my vote.

9 I'm supporting this legislation.

10 As I said before, it is about time that we
11 have this kind of protection against siting of
12 environmentally harmful facilities, that the
13 decision be made fairly across the state and
14 not be clustered in districts like mine, in
15 areas where the people who are primarily
16 impacted by this cluster of environmentally
17 harmful facilities are African-American and
18 Latino New Yorkers.

19 And there is no question that these
20 facilities are related specifically to the
21 fact that I have the highest asthma rate in
22 parts of my district in the whole state. So
23 yes, there is a relationship between the
24 environment. And it was not because they were
25 born African-American and they have asthma,

1 it's because they were born into an
2 environment that is toxic and polluted and
3 because we have a cluster, oversaturation of
4 these environmentally harmful facilities.

5 So it is time for us to have a
6 policy that says New York State will not do
7 that. So I vote aye.

8 ACTING PRESIDENT STEWART-COUSINS:
9 Senator Montgomery to be recorded in the
10 affirmative.

11 Senator Oppenheimer, to explain her
12 vote.

13 SENATOR OPPENHEIMER: Yes. I
14 want to point out that the bill is not that
15 dissimilar to the United States EPA law. So
16 it isn't like we're creating something wildly
17 different from what does exist at the federal
18 level.

19 And also, I can't see that there's
20 any harm in putting this in. I've listened to
21 the other side of the aisle. But I think that
22 all people, regardless of their color,
23 ethnicity, their background, their race, I
24 think everybody is entitled to the same equal
25 protection when it comes to the water we drink

1 and the air we breathe.

2 And I don't see that there could
3 possibly be any harm in putting this into law,
4 because it sounds rather basic, sort of
5 primary. I don't see one could possibly -- in
6 other words, how can it hurt you? It cannot
7 hurt you. So let's see if it can help us.
8 And I think it can help us.

9 I vote aye.

10 ACTING PRESIDENT STEWART-COUSINS:
11 Senator Oppenheimer to be recorded in the
12 affirmative.

13 Senator Onorato, to explain his
14 vote.

15 SENATOR ONORATO: Yes, Madam
16 President, I rise to support this legislation.
17 I'm sorry it didn't come sooner than now.

18 As Senator Parker indicated
19 earlier, I probably have the largest
20 concentration of power plants in the entire
21 country, where we supply the City of New York
22 with over 70 percent of the electricity. And
23 right now National Grid is contemplating
24 building another plant in Astoria -- and not
25 for the consumption of my community, but to

1 sell it outside of the state. Now we're
2 producing electricity in my community to
3 transport it out of the State of New York.
4 Where is the justice in that?

5 And I support this bill
6 wholeheartedly, and I ask my colleagues to
7 reconsider. Someday they'll be trying the
8 same thing in your community. Don't let it
9 happen. I vote aye.

10 ACTING PRESIDENT STEWART-COUSINS:
11 Senator Onorato to be recorded in the
12 affirmative.

13 Any other Senator wishing to
14 explain his or her vote?

15 Hearing none, announce the results.

16 THE SECRETARY: Those recorded in
17 the negative on Calendar Number 30 are
18 Senators Bonacic, DeFrancisco, Diaz, Flanagan,
19 O. Johnson, Lanza, Larkin, Leibell, Little,
20 Nozzolio, Ranzenhofer, Saland, Volker, Winner
21 and Young.

22 Ayes, 44. Nays, 15.

23 ACTING PRESIDENT STEWART-COUSINS:
24 The bill is passed.

25 The Secretary will continue to

1 read.

2 THE SECRETARY: Calendar Number
3 81, by Senator Duane, Senate Print 4998A, an
4 act to amend the Public Health Law.

5 SENATOR LIBOUS: Read the last
6 section.

7 ACTING PRESIDENT STEWART-COUSINS:
8 Read the last section.

9 THE SECRETARY: Section 2. This
10 act shall take effect immediately.

11 ACTING PRESIDENT STEWART-COUSINS:
12 Call the roll.

13 (The Secretary called the roll.)

14 ACTING PRESIDENT STEWART-COUSINS:
15 Announce the results.

16 THE SECRETARY: Ayes, 59. Nays,
17 0.

18 ACTING PRESIDENT STEWART-COUSINS:
19 The bill is passed.

20 The Secretary will continue to
21 read.

22 THE SECRETARY: Calendar Number
23 92, substituted earlier today by Member of the
24 Assembly Morelle, Assembly Print Number 1808,
25 an act to amend the Real Property Tax Law.

1 SENATOR DeFRANCISCO:

2 Explanation.

3 ACTING PRESIDENT STEWART-COUSINS:

4 Senator Valesky, an explanation is requested.

5 SENATOR VALESKY: Yes, Madam
6 President. This bill would require that any
7 taxpayer who is filing their STAR property tax
8 application be provided with a receipt upon
9 request, if in person. If it's made by mail,
10 that it be provided in a self-addressed,
11 postage-paid envelope.

12 SENATOR DeFRANCISCO: Will the
13 Senator yield to a question?

14 ACTING PRESIDENT STEWART-COUSINS:
15 Senator Valesky, do you yield?

16 SENATOR VALESKY: Certainly.
17 Certainly.

18 SENATOR DeFRANCISCO: What is the
19 purpose of the legislation?

20 SENATOR VALESKY: Madam
21 President, through you, the purpose of the
22 legislation actually arose several years ago
23 from a situation where an assessor indicated
24 that an application for a STAR property tax
25 exemption was denied and the property taxpayer

1 had no written record -- or the assessor had
2 no written record of that application being
3 received.

4 So this is simply meant to provide
5 a taxpayer with additional information that
6 their application was in fact received and
7 processed.

8 SENATOR DeFRANCISCO: Would the
9 Senator yield to another question?

10 ACTING PRESIDENT STEWART-COUSINS:
11 Senator Valesky, do you continue to yield?

12 SENATOR VELELLA: Certainly.

13 SENATOR DeFRANCISCO: Is there
14 any evidence in that example that you gave
15 that the assessor refused to give a receipt
16 upon request?

17 SENATOR VALESKY: There is not.

18 SENATOR DeFRANCISCO: So -- on
19 the bill, please.

20 ACTING PRESIDENT STEWART-COUSINS:
21 Senator DeFrancisco on the bill.

22 SENATOR DeFRANCISCO: We have a
23 bill here that seems to me to be totally
24 unnecessary. The avowed purpose of the bill
25 is to make sure that people who are denied an

1 exemption are allowed to get evidence of it.
2 And the case cited as to why this is necessary
3 is that a denial was given in the past and the
4 taxpayer didn't have a receipt. But there was
5 no evidence that the taxpayer asked for a
6 receipt.

7 So this bill says taxpayers are
8 entitled to a receipt if they ask for one.
9 Now, doesn't that seem a little bit
10 ridiculous? I can't imagine there's any
11 instance where an assessor has denied anybody
12 who asked for a receipt a receipt for
13 anything. And if there's no known case where
14 that ever happened, why do we have to have a
15 statute requiring assessors to give receipts
16 upon request?

17 Now, I think we have a lot more
18 important things to do than bills like this,
19 creating laws that have absolutely no purpose
20 or no basis for it, no justification why it's
21 necessary.

22 So I'm going to vote no, because I
23 have a great respect for assessors and I think
24 that there's no assessor in this state or in
25 this country that would say to a taxpayer "You

1 cannot have a receipt" once it's requested.
2 And we don't need a law to tell them their
3 responsibility. So I'm voting no on this
4 legislation.

5 ACTING PRESIDENT STEWART-COUSINS:
6 Senator Johnson.

7 SENATOR CRAIG JOHNSON: Thank
8 you, Madam President.

9 I rise in support of this piece of
10 legislation. Because it's not just simply
11 about the assessor, it's about the assessor's
12 staff. And not always is the staff in tune
13 with having to provide a receipt.

14 And I think what Senator Valesky is
15 doing is creating a fail-safe protocol for all
16 taxpayers in New York State. If they want a
17 receipt and ask for it, you've got to provide
18 them a receipt.

19 I don't know why my good friend
20 from up north has a problem with that, but I
21 certainly don't. I don't think our taxpayers
22 will. So I'll be voting yes on this great
23 piece of legislation.

24 Thank you very much, Madam
25 President.

1 ACTING PRESIDENT STEWART-COUSINS:

2 Senator Fuschillo.

3 SENATOR FUSCHILLO: Madam
4 President, will the sponsor yield for a quick
5 question?

6 ACTING PRESIDENT STEWART-COUSINS:

7 Senator Valesky, do you yield?

8 SENATOR VALESKY: Absolutely.

9 SENATOR FUSCHILLO: Senator, just
10 a quick question. What happens if the
11 assessor does not give a receipt? Is there a
12 penalty?

13 SENATOR VALESKY: There is not.

14 SENATOR FUSCHILLO: So there's no
15 enforcement provision at all.

16 SENATOR VALESKY: That's correct.

17 SENATOR FUSCHILLO: Thank you
18 very much.

19 ACTING PRESIDENT STEWART-COUSINS:

20 Are there any other Senators wishing to be
21 heard on the bill?

22 Hearing none, the debate is closed.

23 Secretary, please ring the bell.

24 Read the last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT STEWART-COUSINS:

3 Call the roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT STEWART-COUSINS:

6 Announce the results.

7 THE SECRETARY: Those recorded in
8 the negative on Calendar Number 92 are
9 Senators DeFrancisco, O. Johnson, Libous,
10 Winner and Young.

11 Ayes, 54. Nays, 5.

12 ACTING PRESIDENT STEWART-COUSINS:

13 The bill is passed.

14 Senator Klein, that completes the
15 controversial reading of the calendar.

16 SENATOR KLEIN: Madam President,
17 can we just briefly return to motions and
18 resolutions. I have one motion.

19 ACTING PRESIDENT STEWART-COUSINS:

20 Returning to the order of motions and
21 resolutions.

22 Senator Klein.

23 SENATOR KLEIN: Madam President,
24 on behalf of Senator Perkins, on page number
25 10 I offer the following amendments to

1 Calendar Number 28, Senate Print Number 1145A,
2 and ask that said bill retain its place on
3 Third Reading Calendar.

4 ACTING PRESIDENT STEWART-COUSINS:
5 So ordered.

6 Senator Klein.

7 SENATOR KLEIN: Madam President,
8 is there any further business at the desk?

9 ACTING PRESIDENT STEWART-COUSINS:
10 Senator Klein, the desk is clear.

11 SENATOR KLEIN: There being none,
12 Madam President, I move that we adjourn until
13 Tuesday, February 23rd, at 3:00 p.m.

14 ACTING PRESIDENT STEWART-COUSINS:
15 There being no further business to come before
16 the Senate, on motion, the Senate stands
17 adjourned until Tuesday, February 23rd, at
18 3:00 p.m.

19 (Whereupon, at 5:51 p.m., the
20 Senate adjourned.)