NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:35 p.m.

REGULAR SESSION

SENATOR DAVID J. VALESKY, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

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

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

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

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

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

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

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

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

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

Amen.

ACTING PRESIDENT VALESKY: The reading of the Journal.

The Secretary will read.

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

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from

state officers.

Motions and resolutions.

Senator Klein.

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

ACTING PRESIDENT VALESKY: So ordered.

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

ACTING PRESIDENT VALESKY: So ordered.

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

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

ACTING PRESIDENT VALESKY: So ordered.

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

ACTING PRESIDENT VALESKY: So ordered.

Senator Klein.

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

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

The Secretary will read.

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

ACTING PRESIDENT VALESKY:

Substitution ordered.

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

ACTING PRESIDENT VALESKY:

Substitution ordered.

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

ACTING PRESIDENT VALESKY:

Substitution ordered.

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

ACTING PRESIDENT VALESKY:

Substitution ordered.

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

ACTING PRESIDENT VALESKY: Substitution ordered.

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

ACTING PRESIDENT VALESKY: Substitution ordered.

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

ACTING PRESIDENT VALESKY: Substitution ordered.

Senator Klein.

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

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

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

SENATOR KLEIN: Lay the bill aside for the day.

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

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

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

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

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT VALESKY: The bill is passed.

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

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT VALESKY: The

bill is passed.

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

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT VALESKY: The bill is passed.

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

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT VALESKY: The bill is passed.

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

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

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

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

against the person responsible for the injuries to the victim.

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

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

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

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

Announce the results.

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

ACTING PRESIDENT VALESKY: The bill is passed.

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

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT VALESKY: The bill is passed.

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

SENATOR LIBOUS: Lay the bill aside, please.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT VALESKY: The bill is passed.

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

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY:

Senator Maziarz, to explain his vote.

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

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

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

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

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

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

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

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

Senator Saland.

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

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

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

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

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

Senator Parker, to explain his vote.

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

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

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

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

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

I vote aye.

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

Announce the results.

THE SECRETARY: Ayes, 59. Nays, 0.

ACTING PRESIDENT VALESKY: The bill is passed.

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

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

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

Ayes, 57. Nays, 2.

ACTING PRESIDENT VALESKY: The bill is passed.

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

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

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

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT VALESKY: The bill is passed.

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

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

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

Ayes, 57. Nays, 2.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number

97, by Senator Squadron, Senate Print 37 --

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

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

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

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

ACTING PRESIDENT STEWART-COUSINS: The Secretary will read.

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

SENATOR LIBOUS: Explanation.

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

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

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

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

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

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

What this bill would do is

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

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

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

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

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

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

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

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator Bonacic.

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

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

SENATOR SCHNEIDERMAN: I'd be happy to yield.

SENATOR BONACIC: Senator Schneiderman, welcome back.

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

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

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

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

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

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

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

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

yield.

SENATOR SCHNEIDERMAN: Yes, I will continue to yield.

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

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

SENATOR SCHNEIDERMAN: Through you, Madam President, no.

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

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

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

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

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

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

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

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

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

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

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

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

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

yield?

SENATOR SCHNEIDERMAN: I'll be happy to yield.

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

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

It simply adds the broad

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

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

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

SENATOR BONACIC: I thank the sponsor.

On the bill.

ACTING PRESIDENT STEWART-COUSINS:

Senator Bonacic on the bill.

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

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

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

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

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

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator Diaz.

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

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

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

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

Why, when Mayor Bloomberg used

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

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

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

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

SENATOR DIAZ: Yes, you did, Senator --

ACTING PRESIDENT STEWART-COUSINS: Senator --

SENATOR DIAZ: Through you, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Yes, Senator Diaz.

SENATOR DIAZ: Would the sponsor yield?

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

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

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

SENATOR DIAZ: I want to speak about the bill.

ACTING PRESIDENT STEWART-COUSINS: Thank you.

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

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

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

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

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

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

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

a way that was particularly harmful.

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

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

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

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

SENATOR DIAZ: Thank you. On the bill.

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

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

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

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

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

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator Saland.

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

ACTING PRESIDENT STEWART-COUSINS: Senator Schneiderman, will you yield for a question?

SENATOR SCHNEIDERMAN: Yes, Madam President.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

that the Senator has presented.

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

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

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

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

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

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

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

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

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

SENATOR SALAND: Thank you.

On the bill, Madam President.

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

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

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

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

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

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

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

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

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

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

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

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

Thank you, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, thank you, Madam President.

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

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

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

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

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

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

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

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

Thank you, Madam President. I vote aye.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator.

Senator Winner.

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

for a few questions?

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

SENATOR SCHNEIDERMAN: Yes, Madam President.

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

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

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

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

SENATOR WINNER: Will the Senator yield?

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

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

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

environmental justice considerations be undertaken.

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

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

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

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

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

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

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

I think that the right way to

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

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

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

SENATOR WINNER: Will the sponsor yield for another question?

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

SENATOR SCHNEIDERMAN: Yes, Madam President.

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

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

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

proposal. This isn't my proposal.

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

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

(Laughter.)

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

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

My purpose in changing the broad

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT STEWART-COUSINS: Senator Winner.

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

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

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

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

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

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

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

SENATOR WINNER: Will Senator Schneiderman yield to a question?

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

SENATOR SCHNEIDERMAN: I will yield for another question.

SENATOR WINNER: Thank you, Senator.

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

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

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

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

negative aspect to this.

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

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

SENATOR WINNER: Thank you, Senator Schneiderman.

On the bill.

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

SENATOR WINNER: Thank you, Madam President.

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

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

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

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

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

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

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

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

And certainly in an area such as I

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

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

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

ACTING PRESIDENT STEWART-COUSINS: Senator DeFrancisco.

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

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

willing to answer them.

ACTING PRESIDENT STEWART-COUSINS: Senator Schneiderman, will you yield for questions?

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

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

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

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

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

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

are missing the point.

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

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

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

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

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

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

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

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

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

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

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

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

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

SENATOR SCHNEIDERMAN: Thank you.

Every study has documented this for decades. If you want to hide and you want to pretend we don't know this, if you want to pretend that we don't know there's environmental injustice in our state, that poor communities of color have a higher proportion of harmful environmental projects

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

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

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

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

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

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

SENATOR DeFRANCISCO: Now that

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

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

SENATOR SCHNEIDERMAN: I will yield for one more question.

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

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

SENATOR SCHNEIDERMAN: Through

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

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

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

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

particular group.

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

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

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

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

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

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

SENATOR SCHNEIDERMAN: I will yield for one last question.

ACTING PRESIDENT STEWART-COUSINS: Senator DeFrancisco, one last question.

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

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

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

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

SENATOR SCHNEIDERMAN: Thank you,

Madam President. A great last question.

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

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

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

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

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

SENATOR DeFRANCISCO: On the bill, please.

ACTING PRESIDENT STEWART-COUSINS:

Senator DeFrancisco, on the bill.

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

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

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

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

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

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

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

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

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

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

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

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

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

think twice about the bill.

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

Thank you, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Senator Parker.

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

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

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

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

and others into public policy. Clear.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

And just so you understand, the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

And so, again, I'm pleading with my

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

I'm voting aye.

ACTING PRESIDENT STEWART-COUSINS: Senator Lanza.

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

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

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

may have a negative impact on the environment.

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

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

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

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

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

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

can deal with its fair share of garbage.

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

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

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

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

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

ACTING PRESIDENT STEWART-COUSINS: Senator L. Krueger.

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

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

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

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

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

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

Thank you, Madam President.

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

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

Read the last section.

THE SECRETARY: Section 3. This

act shall take effect immediately.

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Senator Montgomery, to explain her vote.

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

I'm supporting this legislation. As I said before, it is about time that we have this kind of protection against siting of environmentally harmful facilities, that the decision be made fairly across the state and not be clustered in districts like mine, in areas where the people who are primarily impacted by this cluster of environmentally harmful facilities are African-American and Latino New Yorkers.

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

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

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

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

Senator Oppenheimer, to explain her vote.

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

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

and the air we breathe.

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

I vote aye.

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

Senator Onorato, to explain his vote.

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

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

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

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

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

Any other Senator wishing to explain his or her vote?

Hearing none, announce the results.

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

Ayes, 44. Nays, 15.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

The Secretary will continue to

read.

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

SENATOR LIBOUS: Read the last section.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

THE SECRETARY: Ayes, 59. Nays, 0.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

The Secretary will continue to read.

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

SENATOR DeFRANCISCO:

Explanation.

ACTING PRESIDENT STEWART-COUSINS:

Senator Valesky, an explanation is requested.

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

SENATOR DeFRANCISCO: Will the Senator yield to a question?

ACTING PRESIDENT STEWART-COUSINS:

Senator Valesky, do you yield?

SENATOR VALESKY: Certainly. Certainly.

SENATOR DeFRANCISCO: What is the purpose of the legislation?

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

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

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

SENATOR DeFRANCISCO: Would the Senator yield to another question?

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

SENATOR VELELLA: Certainly.

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

SENATOR VALESKY: There is not.

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

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

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

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

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

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

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

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

ACTING PRESIDENT STEWART-COUSINS: Senator Johnson.

SENATOR CRAIG JOHNSON: Thank you, Madam President.

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

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

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

Thank you very much, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Senator Fuschillo.

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

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

SENATOR VALESKY: Absolutely.

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

SENATOR VALESKY: There is not.

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

SENATOR VALESKY: That's correct.

SENATOR FUSCHILLO: Thank you very much.

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

Hearing none, the debate is closed.

Secretary, please ring the bell.

Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Announce the results.

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

Ayes, 54. Nays, 5.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

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

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

ACTING PRESIDENT STEWART-COUSINS: Returning to the order of motions and resolutions.

Senator Klein.

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

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

ACTING PRESIDENT STEWART-COUSINS: So ordered.

Senator Klein.

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

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

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

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

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