

Committee Meeting

of

SENATE ENVIRONMENT AND ENERGY COMMITTEE

"The Committee will take testimony from invited speakers on the ways in which the insurance industry is adapting to account for increased risks associated with current and anticipated climate change impacts"

LOCATION: Committee Room 6
State House Annex
Trenton, New Jersey

DATE: March 7, 2024
1:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Bob Smith, Chair
Senator Linda R. Greenstein, Vice Chair
Senator John F. McKeon
Senator Latham Tiver



ALSO PRESENT:

Eric Hansen
Office of Legislative Services
Committee Aide

Celia Smits
Senate Majority
Committee Aide

John Gorman
Senate Republican
Committee Aide

Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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Chairman

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Vice-Chairwoman

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NEW JERSEY STATE LEGISLATURE

SENATE ENVIRONMENT AND ENERGY COMMITTEE

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COMMITTEE NOTICE

TO: MEMBERS OF THE SENATE ENVIRONMENT AND ENERGY COMMITTEE
FROM: SENATOR BOB SMITH, CHAIRMAN
SUBJECT: COMMITTEE MEETING - MARCH 7, 2024

The public may address comments and questions to Eric Hansen, Committee Aide, or make bill status and scheduling inquiries to Pamela Cocroft, Secretary, at (609)847-3855, fax (609)292-0561, or e-mail: OLSAideSEN@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.

The Senate Environment and Energy Committee will meet on Thursday, March 7, 2024 at 1:00 PM in Committee Room 6, 1st Floor, State House Annex, Trenton, New Jersey.

The committee will take testimony from invited speakers on the ways in which the insurance industry is adapting to account for increased risks associated with current and anticipated climate change impacts.

FOR DISCUSSION ONLY:

SCR43 Greenstein/Zwicker	Proposes constitutional amendment to make State trustee of public natural resources and guarantee to the people other environmental rights.
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SENATOR BOB SMITH (Chair): So, in case you haven't heard this before, welcome to the most interesting committee in the Legislature.

We have two very powerful and important topics today. First one, which will be about a half an hour in length, is to talk about what New Jersey can anticipate with regard to insurance rates in New Jersey as a result of a global climate change. And, our diabolical purpose in bringing that topic up is to continue the argument -- the persuasion argument with the people of New Jersey -- that this is really serious in terms of impacting their quality of life, and we have to do more than we're doing now.

The second three-quarters of the meeting is about a very controversial topic, the Green Amendment. The Green Amendment is currently adopted in six states of the United States, and there is a significant constituency in New Jersey that would like to see it adopted. We have two fine legislators who have introduced it, and we're going to hear all about that. It is, today, for discussion only.

So, that being said, let's make the meeting official with a roll call.

MR. HANSEN: Senator Tiver.

SENATOR TIVER: Here.

MR. HANSEN: Senator Space is absent.

Senator McKeon is currently absent.

SENATOR SMITH: Currently, yes; we don't know for sure.

MR. HANSEN: Senator Greenstein.

SENATOR LINDA R. GREENSTEIN (Vice Chair): Here.

MR. HANSEN: And, Senator Smith.

SENATOR SMITH: And, I am also present--

MR. HANSEN: You have a quorum--

SENATOR SMITH: --and, looking forward to hearing some of the information we're going to have today.

So, let's start with the insurance part of the meeting first.

I would like to ask Christine O'Brien, the President of the Insurance Council of New Jersey, to come forward.

Christine, if you would. Especially with your background in insurance, and as leader of the Insurance Council of New Jersey, to tell us where we stand at this moment in terms of insurance in the state as we go through global climate change, and what we can anticipate in the future. So, I'm going to ask you to take out your crystal ball.

Christine.

C H R I S T I N E O ' B R I E N: I always travel with a crystal ball.

SENATOR SMITH: Thank you.

MS. O'BRIEN: Good afternoon, Chairman; Vice Chairwoman; Senator Tiver.

Thank you for the opportunity. I also have with me Dave Snyder with the APCIA, who will -- after my opening remarks -- be able to fill you in on a little more detail about what is happening abroad and, specifically, what that impact is here in New Jersey.

The ICNJ, we are the trade association for the property casualty insurance industry and companies doing business here. So, basically, those are four major lines of insurance: Auto, home, commercial, and workers comp. And, as you know in this Committee, talking about insurance -- whether it's home or auto or commercial -- does weave itself into the conversation and the bills that you address here.

We are uniquely positioned as insurance companies to observe and act and react and predict what's happening with climate and its impact on our businesses, as well as us all as policyholders.

So, thanks again for the opportunity.

Just a little Jersey background for you. We have 79 companies writing auto insurance in New Jersey. We have 135 writing homeowners, and, we actually have 16 insurance companies writing private flood. Because, as you know, flood is something that you guys, through the National Flood Insurance Plan, authorized by FEMA.

Quickly, just to reacquaint you with your homeowner's insurance policy: That policy provides for what we call "covered perils." And, those perils can be lightning; hail; vandalism; fire; theft; tornado damage. It *does not* cover flood. Again, you can purchase that through the NFIP, or, now, any of the 16 companies that are selling it privately.

What your flood insurance policy -- purchased separately -- does generally cover is physical damage to your building or your personal property caused by flood. So, for example, if you have damage caused by a sewer backup, that is covered if the backup is directly caused by flood. Your auto insurance policy -- we don't think about this side often -- but it does cover flood if you have comprehensive coverage. We always talk about comprehensive and collision. Comprehensive is the portion that you can purchase separately on your auto insurance policy that covers basically all incidents outside of a collision.

I've provided you, if you open up this packet that I sent -- gave to you -- you'll see, my card is attached to it. It's just a one-pager, and it's titled, "The financial impacts on weather-related events in New Jersey." I am

going to walk you through just two or three key events on that page. But, before I do that, I wanted to bring your attention to it. I think it's a very alarming fact about New Jersey's weather patterns and our level as a state of insurance preparedness.

There is a very cool data visualization map that you can find on the FEMA website that notes data from NOAA. And, what it shows is that New Jersey, we have had 50 -- 50 flooding events, in every county of the state between 1996 and 2019. Fifty. So, keep that in mind. As of July 2022, we have accounted for 2.6 million residential structures in New Jersey. We actually rank sixth-highest in the nation of purchasing flood insurance, which is great. However, we have 2.6 million residential structures, and as of last year in 2023, only 206,000 structures, both commercial and residential combined, had purchased flood insurance policies. So, that is basically 90% of the structures in New Jersey *not* covered by flood.

That also emphasizes to me the need that we have of great opportunity to continue to educate everyone about what it means to protect your greatest assets. And, in this case, it's your business; your home; certainly your car; and your livelihood.

So, let's go to the sheet. "Let's go to the videotape," as some famous sportscaster once said.

We talk about Sandy and Irene and other storms that have hit New Jersey. I wanted to first just point out to you that the sheet that I handed to you breaks down to two categories: Hurricanes and tropical storms, as well as wildfires. Because, even though we talk about millions -- and, at times, *billions* -- of dollars that New Jersey is spending, and insurance companies are paying out to storm-related events, we cannot forget about the

impact of wildfires. And, in 2023, that was the first year we have had more wildfires in the past 20 years ever in the State of New Jersey. So, it is a significant other risk. And, we talk about, "What happens when it rains?" We also now know what it means to happen when it does not rain.

Please look at what I have here for you with regards to Hurricane Sandy -- it's the second bullet. I noted that you have \$36 billion total in damage. We had \$4.5 billion of total insured incurred losses. Of that \$4.5, we had 470,000 total insurance claims; 337,000 of them were for homeowners; and, 56,000 of them were for auto.

And, so, just a footnote to that. We were approached -- the ICNJ -- back in 2017 by the New Jersey Coastal Coalition. And, you may be familiar with them. The Coastal Coalition formed soon thereafter Hurricane Sandy down in Atlantic and Cape May counties, and now it also consists of towns from Monmouth and Ocean. They approached the insurance industry after talking locally, at the granular level, what could be done in terms of mitigation and resiliency the next time such a storm hits. And, then, they also recognized how there were a lot of totaled cars. And, as we know now, to the tune of 56,000.

So, at the ICNJ, we ended up providing the Coastal Coalition with \$10,000 of seed money to develop an app. And, the timely goal of the app was to direct residents, or even non-residents -- free -- to sign up, and you would be able to go on it to see when there was a flooding event and where you can move your car to an elevated location to remove it out of harm's way of flood. Fast forward to this past year, this fiscal year that we're in -- FEMA has granted a \$200,000 grant for the continuation of the development of that app, which not only will tell you when flooding events are happening --

because it could be, as you know in Ocean City, a full moon high tide, Pand the bay meets the ocean (indiscernible) meets the sewers -- to a true flooding event; a weather-related event; where to move your car, what are the evacuation routes that are open and available to you. So, that, to me, is the perfect example of what happens when you've got public officials who are seeing firsthand, residents who are living it firsthand and what is available to actually make people more aware about how to be more resilient -- and, in this case, responsive. So, that's a good thing.

If you hop down to the other bullet for Hurricane Ida. Hurricane Ida, compared to Hurricane Sandy -- which was an enormous coastal event -- I have rang true for us who all live inland. So, we are sandwiched -- as you know -- between the Delaware and the Atlantic. But, what happens when the Boundbrook River or the Raritan River all rise, and they flood into Millville and other towns that would not have typically experienced that type of event? That event alone caused \$2 billion worth of damage.

And, I did highlight for you Somerset and Middlesex counties. In Somerset, we had 13,000 insurance claims that approximated to the tune of \$165 million in losses. And, in Middlesex, we had 14,000 claims to the tune of about \$155 million in losses. These are substantially steep numbers that probably the majority of people with their homeowners had never thought that they would really have to actually use their claims process, talk to their agent, talk to an adjuster, to walk them through such type of an event.

So, I provide some other data here just to give you the picture of what we're looking at in terms of lost causes and what that means in terms of dollars. And, of course, we could have a whole day of conversation of what that means in terms of just your livelihood and your impact on your family.

As Dave is going to point out, understanding and preparing for weather-related events, even common flooding events, takes all of us to be engaged. So, this is a great opportunity. I really encourage everybody from the private sector, the public, local elected officials, etc., to really engage in all the resources that are out there.

Senator Greenstein, you actually had sponsored, and still do, a resolution -- for the record, it's SJR79 -- that would have New Jersey recognize September as "Emergency Preparedness Month." I look forward to working with you to move that. I do think that every effort to raise awareness of what we can be doing to mitigate risk and protect our families, our homes, and our businesses is worth pursuing.

So, Mr. Chairman, with that I would like to actually turn it over to Mr. Snyder, who has also, in the packet that I provided you, there's a PowerPoint that we're going to walk you through. It's a lot of visualization here in terms of the data we're going to present, and really the cause and effect of what we see happening in New Jersey.

SENATOR SMITH: All right, just, before you turn it over, I think two additional comments should be made after your testimony.

The first is that in New Jersey, we have a mechanism to start to deal with our flood-control issues, and that is Stormwater Utilities. Legislation has been in effect for at least five years. We don't have a single town in New Jersey that adopted it. It would allow the municipality to collect a vigorous from impervious coverage -- large, impervious coverage -- and putting it into stormwater improvements. There's more than 1,500 around the country; not a single one in New Jersey. So, that's a shame on all of us

and our local officials for not taking that method to try to mitigate the situation.

The other thing -- and, I'm sure you know it -- last term we passed a Flood Disclosure Law. And, the Flood Disclosure Law requires sellers to reveal the flooding history of their home, but also requires the DEP to set up a website where, if you were either a proposed tenant or a proposed buyer, you can look up the flood history of that area of the state where you're buying, or on your specific property. And, this is a situation where it is buyer beware, but it might also inform you whether you need flood insurance or whether you should think about it. Or, maybe you don't want to live on the first floor of the apartment; maybe the second floor.

So, those are two laws that are out there to help, but we need to do a lot more.

So, I interrupted the flow, but I thought it was the right place to put it.

Would you tell us a little bit about your colleague?

MS. O'BRIEN: Dave Snyder -- I'm going to let him speak for himself.

SENATOR SMITH: OK.

MS. O'BRIEN: Because, we've known each other a very long time, but I know he can still speak.

SENATOR SMITH: OK.

MS. O'BRIEN: (laughter)

SENATOR SMITH: Mr. Snyder.

D A V E S N Y D E R, J.D.: Thank you very much, Mr. Chair, and members of the Committee, for giving us the opportunity to visit with you

today. And, hopefully, this will be an ongoing series of discussions regarding this critically important issue.

Your constituents and our policyholders are the same people. And, so, to the extent that we can be a constructive force here and elsewhere is our primary objective.

So, I am Vice President for the American Property Casualty Insurance Association, that represents about 1,200 insurers. Our insurers write internationally throughout the United States, and are very proud to be based here and write in the State of New Jersey.

I am also an elected city council member in Northern Virginia, and Chair of Washington -- metropolitan Washington Transportation Energy and Air Quality Committee. So, a little bit of that view is going to certainly flavor what I have to say today.

So, I am beginning with a PowerPoint; hopefully you all have it. The first slide clearly demonstrates that the issues that we're dealing with in climate here in New Jersey are a national issue and a worldwide issue. And, you can see the rather alarming trend of the increase in catastrophe losses.

The next chart is one we put together for a part of the country, including New Jersey, that shows the losses from natural catastrophes. And, you can see, again, an unmistakable upward trend in the cost to society in general and to the insurance industry in specific.

The next chart demonstrates something that you all know well, which is the rising cost relating to homeowner's insurance. And, you can see, again, there's a very definite and clear upward trend in losses, and that's clearly impacting New Jersey homeowner's insurance.

Now, what are some of the elements driving the loss in related trends? Well, clearly volatile and extreme weather events are at the base. But, it's also aggravated by other circumstances. Increasing people and resources in harm's way; development in flood plains; and developments where we're learning, regrettably, that nature will take its course regardless of our attempts to engineer it out. There are long-term increases in asset values in many parts of the state, as there are in the country. The cost for replacing or building new houses has gone up dramatically in the last few years.

Then, on top of that, is the sudden and severe inflation. Your constituents have all felt it in one way, but it's been particularly severe in connection with the goods and services paid through insurance claims. And, that includes construction materials, and of course, rising labor costs.

So, there's clearly a need for public and private risk mitigation to reduce these emerging risks, including the need for maintenance, and including green infrastructure. In some states, however, counterproductive regulatory reactions have occurred, and California is an example of that. We very much want to work with the State of New Jersey to prevent--

SENATOR SMITH: So -- what did California do that was not a great idea?

MR. SNYDER: Well, California had the same sort of rising loss trends, but the insurance regulator there was working with a unique regulatory structure, and did not include or permit rate increases for about two and a half years. The effect of that was to create an access issue, so it's climate--

SENATOR SMITH: Meaning fewer insurers would insure?

MR. SNYDER: Pardon?

SENATOR SMITH: By "access issue," you mean that fewer insurers would provide insurance?

MR. SNYDER: Yes. And, those who were there reduced the amount that they were willing to write, because they simply couldn't get the rate sufficient to cover the rising costs.

SENATOR SMITH: Do you see that trend in New Jersey?

MR. SNYDER: I'll ask Christine to comment on that.

MS. O'BRIEN: We see that, yes. We would prefer not to teeter towards what we see in California and in Florida.

So, New Jersey, like most other states across the country -- during COVID we saw, basically, a pause in rate granting -- granting of rates. Because we were all experiencing something so new and taking a different financial hardship personally across the board.

New Jersey is not caught up with, certainly, our neighboring states, in terms of playing catch-up. What that means to have not been granted rate during that time period. And, so, now we are-- There are a number of filings for homeowners and auto insurance before the Department that are being reviewed, hopefully in a more expeditious manner, so that we can't address the deficit of the need for rate.

SENATOR SMITH: Have there been any withdrawals from insurance companies providing insurance in New Jersey so far?

MS. O'BRIEN: No. Overall, Jersey is a very healthy market. But it does come with some warning signals right now that we want to stay that way and certainly not go back and turn back the clock, where any type of insurance that's offered becomes unaffordable or less available.

SENATOR SMITH: The rate increases requested are based on the losses that you've already had? Or, is it guesswork about the future?

MS. O'BRIEN: It's both.

SENATOR SMITH: It's both. And, just to ruin everybody's day, do you have any estimate of the average cost of the increase in homeowner's insurance, or the average increase in flood insurance, or the average increase in auto insurance, that you think may be in front of -- I guess -- who would it be, the Department of Banking?

MS. O'BRIEN: Department of Banking and Insurance.

SENATOR SMITH: Yes.

MS. O'BRIEN: It's hard to predict right now what the average cost will be. Auto is a little different, because as Senator McKeon knows all too well, we have passed several laws over the past few years in New Jersey that are impacting policyholders in auto insurance.

But from a homeowner's point of view--

SENATOR McKEON: Just for the record, they weren't mine, Mr. Chairman.

MS. O'BRIEN: That's right.

SENATOR SMITH: (laughter)

I'm sure.

MS. O'BRIEN: But, from the homeowner's point of view, we have seen an uptick. It could be anywhere from a 5% increase up to a 25% increase upon renewal for certain homeowner insurance policies. And, that is because those particular companies have not been receiving the rate that they were able to prove that they needed. There's a rate indication tied to a rate request, and, so, sometimes those rate requests are not granted in full.

And, so, if they're not, there's still that delta that somehow needs to be made up for over time.

SENATOR SMITH: And, how about on flood insurance?

MS. O'BRIEN: I'm not sure how flood insurance is rising. Dave?

MR. SNYDER: We can provide that information--

SENATOR SMITH: Yes, if you'd send it, send us some more information.

MR. SNYDER: --it's a very relevant question.

SENATOR SMITH: Sorry for the interruption.

MR. SNYDER: Yes, we'll mark that down to get you data on that.

The majority of a typical auto insurance premium does what it's supposed to do -- which it goes out the door to pay claims. But, the fundamental message, I think today, is, "What do we do to reduce those claims in the first place?" Especially those claims that are, in one way or another, relating to weather-related events.

So, that's really the principal-- Frankly, in my view, the principal target of all of this needs to be, how do we prevent the losses in the first place so they don't even end up in the insurance premium dollar, and then everybody wins.

So, let me just continue on with that message. I talked about the importance of mitigation. We call it a shared responsibility. The AIA board, back in December of 2020, gave us guidance. And, this is a board that represents the largest as well as the smallest insurance companies. And, the lead guidance was, "Work to prevent the loss in the first place through mitigation," which obviously has the beneficial effects of loss prevention.

And, we fully believe -- because insurance, really, is like one of the last links in a long chain that ultimately connects the consumers and individuals. We don't decide what's built and where it's built. We don't decide a lot of policies that are determined at the local and state level, but we end up being the ones who deliver the message.

And, so, working with you to prevent the losses in the first place is our Number 1 objective, but it really, literally, will require an all-hands-on-deck: individuals; enterprises; governance; and insurance companies.

Now, what are some of the critical roles of insurance companies? Well, first of all, forward-looking models. What we learned is looking simply at the past in the current environment of the changing climate is insufficient to predict what the losses are going to be. So, our models are increasingly forward-looking, of course, based upon prior losses as well. We have an absolute responsibility for our own solvency, but in the system to provide for accurate assessment and pricing for risk. We also have a critical role, we realize, informing you and individuals about the best practices that will result in the lowest possible losses. And, one particular element of the insurance industry's work is the Insurance Institute for Building and Home Safety. It has provided a lot of information on model codes and how to prevent losses from weather-related circumstances.

Then, the next two slides, really, are two examples of the benefit-to-cost ratio; how much mitigation actually returns in terms of preventing losses and otherwise protecting people. And, those are provided just to substantiate the critical role and value of mitigation.

Finally, what's the way forward? It's something we're all interested in. And, I love the phrase, "It's all that easy, but it's also all that

hard." The first thing is what this Committee is helping to do, which is to recognize the rising costs and their sources. Then, recognize the science that weather-related risks *are* increasing, and that the risks are evolving more rapidly than previously understood. And, beyond just the obvious physical losses that you see with a major storm or a hurricane, what we're seeing is that extreme heat and extreme cold is also undermining building systems that really are pointing back to the importance of maintenance. We need to work together on a society-wide mitigation, and, in the meantime, ensure that insurance regulation permits insurers to adapt to the change and changing circumstances, which is the discussion we just had.

And, finally, going back to the phrase that I used, "It's all that easy and it's all that hard." Easy to say; hard to accomplish. But, our view is that hearings and conversations such as this *will* be a part of the answer for New Jersey.

Thank you, Mr. Chair, and members of the Committee.

SENATOR SMITH: So, on the comment about building from infrastructure, is there any state in the United States -- to your knowledge -- that has a building code that recognizes the need for this additional maintenance and/or investment in infrastructure and/or housing, or commercial buildings? Do we have the right building code -- that's the question.

MR. SNYDER: Well, I'll get you more information on that, Mr. Chair. An excellent question.

We've seen a little bit of progress in that area in a few states, but frankly most of the building codes are way behind times.

SENATOR SMITH: Well, we'd like your assessment of ours, OK?

MR. SNYDER: Yes.

SENATOR SMITH: And, let us know if there's a better code out there that we should be looking at.

MR. SNYDER: For sure, Mr. Chairman. Thank you.

SENATOR SMITH: So, our witnesses are open for questions. Does anybody have a question? (no response)

We want to thank you for coming here today, and we both have the same interest. Let's lower premiums by lowering losses and making us all a lot more sustainable.

So, thank you very much for coming in today.

MR. SNYDER: Thank you for the opportunity. Most appreciated.

MS. O'BRIEN: Thank you very much.

SENATOR SMITH: Thank you.

OK, next topic is SER43. SER43 is commonly known as the "Green Amendment." It is a proposal for an amendment to the Constitution of the State of New Jersey.

And, we have both prime sponsors here today: We have Senator Linda Greenstein, Senator Zwicker -- Andrew Zwicker, who is in the room.

Let me ask Andrew to come on up to the table. And, let me ask the two of you for some opening comments about why you think this legislation is needed.

So, let me turn it to Senator Greenstein first.

SENATOR GREENSTEIN: Thank you.

SENATOR SMITH: Oh, he had to leave?

So, let me warn you, Senator Greenstein, you're it. Senator Zwicker had to leave.

SENATOR GREENSTEIN: Oh, OK.

SENATOR McKEON: No pressure.

SENATOR GREENSTEIN: (laughter)

A "green amendment" is a self-executing provision placed in the Declaration of Rights section of a Constitution that recognizes and protects the unalienable rights of all people, including future generations, to clean air and water, a stable climate, and healthy environments.

Green amendments serve as a check on government authority, and make clear governments' duties to -- I'm sorry -- as trustee to equitably protect the environment with the help of all the people of our state, regardless of race, ethnicity, tribal affiliation, socioeconomic status, or generation.

Our State and Federal Constitutions provide the overarching legal structure, principles, and obligations to which all branches of government must conform. And, I know that our speakers are going to go through all of those things.

Our environment is our greatest asset. It protects our health, our economy, the quality of our lives, and the sanctity of our bodies and homes. We all need clean water, air, healthy environments, to live and thrive. It is just and right that our environmental rights are given the highest constitutional protection, and that's what we're going to learn today from our speakers.

The Green Amendment -- to some people -- sounds like something that they should perhaps fear; wonder what effect it's going to

have; what effect it's had in other states and other places that have it. And, more and more states are beginning to have green amendments. I think it's important for us to look at this as something that will help our state, and we're going to try to explain how it will help us and why we shouldn't fear it.

So, that is what today is about.

Thank you all very much.

SENATOR SMITH: Thank you, Senator.

And, we now have the presence of Senator Andrew Zwicker.

Senator Zwicker, would you like to tell us a little something about why you're sponsoring this amendment?

SENATOR ANDREW ZWICKER: Thank you, Chairman; thank you members of the committee; thank you to Vice Chair and prime sponsor Senator *Green*-stein.

SENATOR GREENSTEIN: (laughter)

SENATOR ZWICKER: Her name is not Senator Blue-stein or Red-stein--

SENATOR SMITH: I see a campaign slogan coming on.
(laughter)

SENATOR ZWICKER: Greenstein for the Green Amendment.

First of all, I want to thank Senator Greenstein--

SENATOR GREENSTEIN: Thank you--

SENATOR ZWICKER: --for her leadership on the Green Amendment, and for the statements -- the facts -- that you just put forth.

I think all of us would agree that the idea that if we asked the people of New Jersey, "Should you have the right to clean air and clean water?" Who would say no to that? Of course. "Should we not just have it

in our statute, but should we amend our Constitution?" of course, is the question that we're starting to discuss right now.

But, the right to clean air and clean water -- and, I use that word, *right* to clean air, not a privilege. It should not be a privilege; it should be a right -- is really about our most vulnerable communities. We talk about environmental justice; we talk about energy justice; we are talking about the fact that our most vulnerable communities are often the ones who bear the brunt of our pollution, whether it's the burning of fossil fuels, diesel buses that are going through cities, and whatever else it might be. And, so, that is the question that's in front of us today.

As you will hear from those who are close to this various different things related to, in the end, "the sky is falling." That New Jersey will cease to exist. Of course I'm being a bit grandiose in what I'm saying right now, but I will point out that there are three states that have already passed green amendments, and you're going to hear from experts from two of those in a few minutes. And, you will hear that there are no frivolous lawsuits; that business is going on as usual. But, it is another tool in the toolkit for protecting the most vulnerable populations.

And, so, what I'd like to do is -- just so that you're aware -- it is, right now, Pennsylvania, Montana, and New York all have green amendments. And, we have with us today people who are much more expert than either of us who are going to talk about this -- the author of the Pennsylvania amendment, Senator Kury; the author of the New York amendment, Assemblyman Englebright -- to share with you their perspectives and their experiences. And, I would challenge anyone who is opposed to this

to really explain to us why New Jersey is an outlier. Why we are any different than what's going on right now in either New York or in Pennsylvania.

And, then, finally, we'll have testimony from a real national expert and an author on the Green Amendment, Maya Van Rossum. All of them will go to tell us, in detail, the reasons why New Jersey must pass a green amendment.

I thank you, Chairman, for putting it up today for discussion and, of course, to Vice Chair Greenstein for your leadership.

Thank you.

SENATOR SMITH: Thank you, Senator.

Are we connected to our legislators -- our out-of-state legislators?

MR. HANSEN: We should be--

SENATOR FRANKLIN LEO KURY: This is Franklin Kury, can you hear me?

SENATOR SMITH: Yes, Senator, we can hear you.

And, what state do you represent again?

SENATOR KURY: I was a Pennsylvania senator for eight years.

SENATOR SMITH: Good. And, Pennsylvania's had the Green Amendment for how many years?

SENATOR KURY: Since 1971, May 21, 1971.

SENATOR SMITH: Wow.

So, you know what's happened in the last -- '71 to -- in the last 60 years?

SENATOR KURY: Well, I was-- I authored this amendment when I was in the House of Representatives in 1969 and it became-- We got it through the Legislature two sessions, and it then came on the ballot May

21, 1971. So, it's been on-- I left the Legislature in '80, but I mean, I was there involved in all this getting through, and I've been following it. So, here we are.

SENATOR SMITH: Sir, how strongly did it pass as a public referendum? Do you remember what the vote was? Not the exact numbers, but what the percentage was.

SENATOR KURY: Yes, it was a million people for it to 250,000 against it.

SENATOR SMITH: Sounds pretty popular.

SENATOR KURY: And, I point out there were four other amendments on the ballot that day, including women's rights and others. Two of them were rejected by the voters. Women's rights -- I say this carefully, to my wife -- only passed by two to one.

SENATOR SMITH: Only.

SENATOR KURY: So, the (indiscernible) environmental protection was very strong in Pennsylvania that day.

SENATOR SMITH: All right, Senator, if you can, tell us about - Obviously, your state has an extensive history with the Green Amendment. How has it worked out with Pennsylvania?

SENATOR KURY: Well, I think pretty well. It took a while to get there. The courts, at first, did not want to interpret it correctly. They adopted a Payne vs. Kassals test, which meant that anybody who complained about environmental rights had to-- The test was, as a defendant, had done all they can to comply with environmental law; have they done everything to mitigate damage; and, do the costs outweigh the benefits -- or the benefits outweigh the cost? That was the law for 50 years in Pennsylvania, until the

Supreme Court in 2013 -- in the famous case of Robinson Township -- and they declared that illegal. They threw it out; they said the test is (indiscernible) the English language.

Justice Castille -- who was Ronald Castille, a Chief Justice -- was very fed up with that, and he said, "The Courts have got to read the English language, and there's no reason that we should go with what the Payne vs. Kassals test." So, since then, the case-- The law under this amendment has been very strong, and the cases brought (indiscernible) succeeded. Not all of them, but I feel very good about it.

SENATOR SMITH: So, could you tell us about some of the cases that have occurred since the Chief Justice did the word-by-word interpretation? What kind of cases have you had? What kind of results?

SENATOR KURY: Well, the biggest one, of course, was Robinson Township case. It settled. That was the case where the state had authorized the fracking companies to do their fracking anywhere in the state without regard to local township ordinances. You could go right up to somebody's house and do it. And, they said that was unconstitutional. The county -- the local zoning ordinances *had* to be observed. And, so, they reversed that portion of the fracking law. And, that was a major step forward.

There's another case I'm familiar with is the Legislature had voted to use money from the oil and gas (indiscernible) specifically directed towards environmental projects. The income from this can only be used for environmental projects. They wanted to put it in the general fund to avoid raising taxes. That was declared unconstitutional. So, that was (indiscernible). The Legislature has to abide by it, too.

And, of course there's a case of the Delaware River Basin Commission outlawed, or used it to outlaw fracking in the portion of Pennsylvania that's in the Delaware River Basin.

So, those are three cases I'm familiar with and involved in (indiscernible).

SENATOR SMITH: Senator, we -- first of all, we want to say thank you very much for giving of your time today and sharing your 60 years experience with the Green Amendment in Pennsylvania.

Are there any questions from members of the--

SENATOR KURY: Before I go, can I just offer one other point?

SENATOR SMITH: Yes, but you do have a question. You do have a question; it's OK.

Senator Greenstein, the prime sponsor, go ahead, ask a question.

SENATOR GREENSTEIN: Did we want -- the gentleman said he wanted to say something?

SENATOR SMITH: You would rather the senator go first?

SENATOR GREENSTEIN: Sure.

SENATOR SMITH: I'm sorry, Senator. Whatever your comments are, but stick around for a question.

Go ahead.

SENATOR KURY: Well, I just wanted to say that the Widener Law School has a complete history of our amendment on the website. And, if you go to the Widener Commonwealth Law School -- Google that, and then go to Article 1 Section 27 resources. You can get a complete history, legislative history, complete chronological history of the amendment. (indiscernible) the amendments. It also shows there's speeches made in the

Florida House, and all that stuff is in that history. So, I urge you to look at that if you want to get more history on Pennsylvania.

SENATOR SMITH: OK, thank you, Senator.

Senator Greenstein has a question for you.

SENATOR GREENSTEIN: Thank you; thank you, Senator, for joining us here today. It was very helpful indeed.

Many years ago, I used to work with Ron Castille, before he became Supreme Court Justice. I worked with him at the Philadelphia DA's office.

SENATOR KURY: Yes.

SENATOR GREENSTEIN: I know he was sort of a conservative kind of guy and very bright and thoughtful guy.

And, I wanted to ask you now, I believe -- didn't he do his case around 2014, about 10 years ago?

SENATOR KURY: Twenty-thirteen.

SENATOR GREENSTEIN: Twenty-thirteen. That was many years after the Green Amendment went into effect in Pennsylvania. You said that was around 1971.

SENATOR KURY: Seventy-one.

SENATOR GREENSTEIN: During those years in between, did much happen with the Green Amendment, or not so much until Mr. Castille?

SENATOR KURY: Not so much, because the courts had used the Payne vs. Kassals test, which, as Castille pointed out, was not based on the constitutional language. So, he threw that out.

SENATOR GREENSTEIN: I see.

SENATOR KURY: Let me just say that I wrote a book about the amendment. I interviewed a lot of people. The best interview I ever had was Ron Castille. He's an amazing guy.

SENATOR GREENSTEIN: He really is.

SENATOR KURY: He was a Vietnam veteran who lost his leg in Vietnam, and lying in his bed in Philadelphia at the Naval Hospital, went, "What am I going to do with myself?" The Chaplain asked him if he'd like to learn to ski. He not only learned to ski, he became a ski instructor, and that led to his recovery psychologically as well as physically. He went onto the DA's office in Philadelphia, as you know, and then he became Chief Justice of the Supreme Court. He was the best interview I've ever had.

SENATOR GREENSTEIN: Yes, he's a very, very interesting person, that's for sure. I enjoyed knowing him.

But, thank you again. Thank you for your input here. It was extremely helpful, thanks.

SENATOR SMITH: Thank you, Senator.

SENATOR KURY: I want to say one last comment, if I may.

SENATOR SMITH: Absolutely.

SENATOR KURY: In my 14 years in the legislature, nothing has given me more pride and (indiscernible) satisfaction than this amendment. So, I'm very proud of it.

SENATOR SMITH: Thank you for your good work--

SENATOR GREENSTEIN: Thank you--

SENATOR SMITH: --and have a great day.

Our next telecommunications witness will be New York Assemblyman Steve Englebright; I think Former Chair of the Assembly Environment Committee in New York.

Assemblyman Englebright, are you there?

A S S E M B L Y M A N S T E V E N C . E N G L E B R I G H T : Yes, I'm right here; thank you.

SENATOR SMITH: All right, we'd love to hear your experience with the Green Amendment in New York. How has it worked out? Where do we stand in the process?

ASSEMBLYMAN ENGLEBRIGHT: Thank you very much.

I'm not in the Assembly anymore; I'm in the Suffolk County Legislature right now. (indiscernible), so to speak. But, the Green Amendment was very important, and-- You're going to ask a question?

SENATOR SMITH: I guess, question Number 1: Is it passed in the state? Has it been adopted by New York?

ASSEMBLYMAN ENGLEBRIGHT: Yes.

SENATOR SMITH: OK. And, so, how many years ago was it adopted?

ASSEMBLYMAN ENGLEBRIGHT: It was adopted by the voters of New York on November 2, 2021. The margin was two-to-one.

SENATOR SMITH: Easily understood.

And, how-- Since that adoption, is it now in your constitution? It sounds like we have a two- to three-year experience with it. What's been your experience with it in New York? What's happening as a result of that amendment?

ASSEMBLYMAN ENGLEBRIGHT: There have been some lawsuits. It has not been an avalanche by any means. That was one of the things that was predicted by (indiscernible) and who opposed passage and who proposed placing this before the voters. None of the decisions have really been finalized yet. Two decisions -- lawsuits relating to a landfill in Central New York, in the Finger Lakes area -- that are still moving their way through the court. There are some other -- maybe in total -- about six lawsuits all total that have come forward in the intervening timeframe.

SENATOR SMITH: Could you give us a sample of the other lawsuits, and even the one with the sanitary landfill. Who is contesting what?

ASSEMBLYMAN ENGLEBRIGHT: Well, in the sanitary landfill issue, it's the second-largest landfill in the state. It still has a good deal of capacity, and some of the plaintiffs are nearby landowners -- property owners -- who believe that there are horrible odors and fugitive emissions and other environmental problems that are unfair.

And, so, they brought action against the State Department of Environmental Conservation for licensing.

SENATOR SMITH: Thank you for that.

Any-- Do you remember any of the details of the other six?

ASSEMBLYMAN ENGLEBRIGHT: They are not as well formulated yet. There's another four -- it's not six plus two -- it's a total of about a half a dozen.

They are-- For example, there's one that is from the neighborhood of Buffalo, New York, in which the lawsuit claims that the city stopped fluoridating its drinking water supply. It claims that fluoridated water is critical for a healthful environment. It's a class-action suit.

There's one in the Seneca Lake area that has challenged the Department of Environmental Conservation for permitting the waste transfer facility. The plaintiffs claim that the facility would generate leachate that will contain PFAS. And, so, that's another lawsuit. Those are two examples.

SENATOR SMITH: Great.

SENATOR GREENSTEIN: I have another--

SENATOR SMITH: We appreciate those comments.

Senator Greenstein has a question.

SENATOR GREENSTEIN: Thank you very much--

ASSEMBLYMAN ENGLEBRIGHT: Sure--

SENATOR GREENSTEIN: --we appreciate your testimony.

What I have begun to hear -- and I've heard in previous hearings -- is that nothing that much to worry about. You don't have an avalanche of lawsuits or anything like that. You have a select few.

But, I'm wondering, if the Green Amendment didn't exist in your state, and these lawsuits -- these different lawsuits -- needed some kind of a tool to depend on, how would they have been done without the Green Amendment? In other words, how useful is the Green Amendment to helping with these lawsuits?

ASSEMBLYMAN ENGLEBRIGHT: We don't know yet, because they haven't come to a conclusion. I think that there are some questions (indiscernible) the Green Amendment has clarified, because now every citizen in the state is guaranteed the right to clean air, clean water, and a healthful environment.

And, sometimes, standing has been an issue, using pre-Green Amendment considerations on how to challenge decisions of state government.

The main thing the amendment does is it assures citizens that they won't be betrayed by their state government, and it gives them the ability to bring action if their basic right to clean and healthful and disease-free circumstances of quality of life is compromised by adverse decisions, primarily at the departments of the state.

SENATOR GREENSTEIN: Thank you, thank you.

SENATOR SMITH: Good.

Any other--

ASSEMBLYMAN ENGLEBRIGHT: (indiscernible) during the debate, mind you, we had to pass this twice for a constitutional amendment, and the debate took place twice on the floor of the assembly is where I led the debate. There was a great deal of concern that was expressed by those who opposed it, that there would be an adverse impact on agriculture, for example. We have not seen anything like that at all. There were concerns that this was going to have an adverse impact on energy production. We have not seen that at all.

In fact, the sky is not falling and all of the possibilities that the sky was going to fall, it was part of the debate. It had basically not been something that had happened. Instead, what we have is reassurance to our general public for the general premise that it is their right to live and build their families in a healthful environment.

SENATOR GREENSTEIN: Thank you.

SENATOR SMITH: Assemblyman, we so much appreciate you giving your time to us today. New Jersey is trying to figure it out, and your comments are very helpful.

I think there's no other questions from the Committee, so, thank you again for participating today. Most appreciated, and good luck in the Suffolk Legislature.

ASSEMBLYMAN ENGLEBRIGHT: Thank you very much, and good luck with this important initiative in New Jersey.

SENATOR SMITH: Thank you so much.

OK, so, next I would like two opposing points of view to come forward.

First we have Maya van Rossum--

SENATOR GREENSTEIN: She's in favor.

UNIDENTIFIED SPEAKER: She's in favor.

SENATOR SMITH: No, I know that. I would like her to come up as a witness.

And, Alex Daniel, are you here?

ALEX R. DANIEL, Esq.: Yes, sir.

SENATOR SMITH: OK, so, let me tell you why I'm putting the two of you up here together. It's OK to sit by each other, but you can't-- No touching--

SENATOR GREENSTEIN: No punching--

SENATOR SMITH: No battery, OK?

(laughter)

MR. DANIEL: Whatever you need from me.

SENATOR SMITH: So, anyway, both of you are -- as far as I can tell, from your background and your resumes and also the materials that you've submitted -- are both very knowledgeable as to the legal implications of the Green Amendment.

So, what I would like you to do is put in your testimony. Put in your testimony, and then respond to each other, because I think the two of you are going to have the greatest legal issues that we need to hear about.

Maya, this is about the Green Amendment. I would like you to go first.

MAYA K. VAN ROSSUM, Esq.: Great.

Thank you so much, Senator Smith, I really appreciate the opportunity to speak and to speak first.

And, thank you to all members of the Committee for this opportunity.

My name is Maya van Rossum; I am an attorney. I am a founder of the National Green Amendments for the Generations movement and organization. I've authored the book, *The Green Amendment: The People's Fight For a Clean, Safe, and Healthy Environment*, and authored numerous published materials about constitutional recognition of environmental rights -- particularly advancing this cause of green amendments.

At this point, as you've heard -- just to reaffirm -- there are three states that have green amendments: Pennsylvania, Montana, and, most recently, the state of New York. There are actually a lot of states that have constitutional amendments that talk about the environment, even talk about environmental rights, but they don't accomplish the same highest-standing for the right to a clean, safe, and healthy environment that we get as a result

of the passage of the Green Amendment, which places environmental rights on par with other fundamental rights like speech, religion, and property rates, for example.

I want to reassure you that when it comes to the New Jersey Green Amendment, the goal of the Green Amendment is to protect the right of the people to a clean, safe, and healthy environment: water; air; soils; ecosystems; the climate. There is no subterfuge here; there is no ulterior motive; there's no industry or project or developer or development that anybody is seeking to go after. This is really about protecting present and future generations, and the values we all get from a clean, safe, and healthy environment.

In terms of the legal impact, by creating a constitutional right to a healthy environment, New Jersey will be putting in place the overarching legal obligation and guidance that will ensure that all New Jersey State government officials and local government officials prioritize environmental rights throughout the decision-making process in the same way you prioritize those other fundamental freedoms like speech and religion. The New Jersey Green Amendment will not set aside existing legislation and regulation that exists in the state; it will help strengthen it. It will guide its interpretation and its application, because now that existing legislation and regulation will be interpreted and applied through the lens of how do we utilize this existing legal authority to ensure we government officials are fulfilling our constitutional obligation to protect the environmental rights of the people.

The amendment will strengthen environmental justice and efforts to address the climate crisis here in the State of New Jersey, because now both will, in fact, be a constitutional mandate. And, it will help

government officials provide needed environmental protections when the laws as written fail to do so, either because there's a loophole that's been intentionally written into a law, or because there's a gap; there's an absence of legislation and regulation that allows harm. For example, is what happened with regards to PFAS for so many years.

And, it will also allow government officials the legal strength and tool they need when the laws as written and implemented simply fail to protect environmental rights and ensure environmental justice for all communities. Sometimes, the law as written, when we actually apply it, just doesn't get it right when it comes to ensuring critical environmental protections. And, when that happens, the Green Amendment language is there for good government officials to turn to to help address the problems that still remain.

The language, as written, is appropriate. It is appropriately broad in its characteristic. The language -- the choice of language used -- it's the same kind of broad terminology that is used for other fundamental rights included in Article I of the New Jersey Constitution. Broad language is essential to ensure that we are able to cover the whole array of environmental issues that we need to cover -- the issues that we know about, and those that we *don't* know about, that we can't even imagine. We need to have this broad language to ensure that in every context, in every community across New Jersey, we are able to ensure that we are protecting environmental rights and environmental justice. Terms like "pure water" and "clean air" are no more unclear, or less understandable or definable, than the right to "unreasonable searches and seizures;" the right to "freely speak," for example; the prohibition on "excessive bails and fines." These are terms that are found in

Article I of the New Jersey Constitution. They, like the terms in the New Jersey Green Amendment, will require -- and *do* require -- additional definition.

The way that definition happens is that good government officials in the Legislative branch and the Executive branch, through legislation through regulation, through interpretation and implementation, seek to define these terms in different contexts. And, when necessary -- when appropriate and when necessary -- the courts will get involved. But, this is how we interpret the language in *all* of the fundamental rights in the New Jersey Constitution. Legislation, regulation, implementation, and, when necessary, the courts. That's all we're asking for when it comes to environment rights.

I do want to highlight that the trustee language that's included in the New Jersey Green Amendment actually brings forth well-defined and understood legal obligations and principles that offers additional legal guidance. So, it's really helpful in the New Jersey Green Amendment, and it's similar to terminology that we actually see in Pennsylvania's amendment.

With regards to lawsuits -- we hear a lot about lawsuits -- first and foremost, the goal of the Green Amendment is to avoid lawsuits. To get better government decision-making in order to avoid environmental harm, and, therefore, avoid the need for litigation. But, yes, when government acts in a way that violates the environmental rights of the people or of a community -- when it violates environmental justice obligations or trustee obligations included in the Green Amendment language -- the people *will* have a constitutional pathway to address the harm in the courts.

The lawsuits that *are* brought will be to address government action. We're not talking about litigation between private parties. In the three states -- Pennsylvania, Montana, and New York -- that have green amendments, *all* of the legal actions that have been brought are to address serious issues of public concern: protecting drinking water; addressing hazardous air pollution; securing cleanup of super saturated long-ignored toxic sites; helping the government fully consider and address the climate crisis; protecting irreplaceable ecosystems before they're damaged, devastated, and lost.

Notably, in the legal actions that have been brought forth, the plaintiffs are not just individuals or organizations -- very often, the plaintiff themselves are municipal officials; are state government officials; legislators; the attorney general; the Environmental Protection Agency officials. It's not just the people. And, these government officials are utilizing the Green Amendment language out of court but also in court, in order to help them do their job to better protect the environment and avoid critical harms to communities.

There has been no flood of litigation, as you've heard from Senator Kury and Assemblyman Englebright -- and, I can assure you, also in the state of Montana -- there has been no flood of litigation since the amendments in those states got legalized. In Pennsylvania, as you heard, that essentially began in 2013 and that was actually as a result of the Robinson Township Delaware Riverkeeper Network case. I'm also the Delaware Riverkeeper, so that was a legal action that I and my organization pursued with seven municipalities. So, we had legal life in Pennsylvania for about 11 years. In Montana, legal life to the amendment came around the year 2000

-- that was when the most significant Montana case came forth. Their amendment was passed in '72, the year after Pennsylvania's. And then, again, in New York we've had a green amendment for just over two years now.

The number of lawsuits that are making it to the courts in all three states, when you look over these timeframes -- three to 10 cases a year. In New York specifically, we've had the amendment for two years -- six cases were filed in court in 2022; four cases were filed in 2023; and, then, in 2024 we've had one case filed so far. So, New York is proving that it's also in line with Pennsylvania and Montana. You've heard about the Pennsylvania and New York cases from the previous testifiers. We also have an attorney here from New York, Ivonne Norman, who is going to give you a little bit more detail about some of those New York cases. If you have some questions about the Montana cases, I can speak to that during Q&A.

I want to highlight that none of the cases -- *none* of the cases -- have been dismissed as frivolous. So, we don't see any frivolous litigation based on these constitutional claims.

One of the things that we *do* hear is we hear that these kind of amendments are a "giveaway" to the courts; they make work projects for lawyers -- which I've just demonstrated they're not -- but it's also a giveaway of power to the courts. And, really, the contrary is true. When it talks about -- when we talk about -- passing a constitutional green amendment protecting the environmental rights of the people, we are embracing our U.S. system of democracy and laws by recognizing the appropriate role of the courts. There is nothing unusual about court interpretation of constitutional law or court intervention when it comes to environmental protection.

Notably, in Pennsylvania and New York and Montana, we have not seen any of the justices in the courts, or the courts themselves, overstep their authority. We have not seen them having any trouble interpreting and applying constitutional green amendment language, and there is no reason to believe that the justices here in New Jersey would behave any differently.

The legal remedies for a green amendment violation are not money damage payouts out of government coffers. It's about equitable remedies that cure the constitutional violation. A regulation on its face is resulting in a constitutional violation. That regulation perhaps has to be rescinded or amended -- or a permit, for example. An existing law is not being enforced, resulting in devastating harm to the environmental right to communities -- well, now that law has to be enforced. That's the kind of thing that we're seeing.

I do want to highlight, very quickly -- just in closing -- the green amendment proposal before you. This was put forth five years ago. We have spoken with our -- what I call our legislative champions -- and with other advocates, and we really would recommend some adjustments that we've identified over the five years since the original proposal in 2017 of the New Jersey Green Amendment. We think that the right to healthy soils and a safe climate should be added as individual rights. The terms "historic" and "aesthetic" should be removed. They could create some problematic conflicts when it comes to environmental protection. The human health qualities of the environment we recommend be added, as well as an explicit environmental justice statement saying that the State shall protect these rights equitably for all people. And, in addition to conserving and maintaining natural resources, we think the term "protect" should be added.

And, just in very closing, I just want to say this is a really powerful opportunity to create an incredible legacy when it comes to environmental protection in New Jersey, but also to be a leader nationwide. New Jersey could be the fourth state in the nation -- the second state in the modern era -- to add constitutional environmental rights to your state constitution, *and* be the *first* state in the nation where the constitutional green amendment speaks directly -- directly -- to ensuring a safe climate for present and future generations.

SENATOR SMITH: So, a couple of comments.

Number 1, I didn't mention -- but, I hope nobody is upset by it -- but, every word you're saying is being recorded. We have a court stenographer here; we're going to provide the record of this hearing to all of the legislators in the Senate and Assembly, so they have this information available to them. So, be careful what you say, because it is being recorded.

Secondly, Maya, have you sent those proposed amendments to Senator Greenstein and Senator Zwicker?

MS. VAN ROSSUM: Yes, we have, through my colleague David Pringle, who works with us in the New Jersey Green (indiscernible)-- I believe we have shared that.

SENATOR SMITH: You might want to re-send, Dave, because I'm not quite sure everybody has them, or maybe they got lost in emails.

But, that's most appreciated.

Don't go away. We're going to have a cage match shortly.

Our next speaker is Alex Daniel, and, as I understand it, Alex, you're from New Jersey Civil Justice Institute?

MR. DANIEL: That is correct, Chairman.

SENATOR SMITH: What is the New Jersey Civil Justice Institute?

MR. DANIEL: We are a nonprofit nonpartisan organization that advocates for fairness, efficiency, and predictability in our civil justice system, the overall goal being to cut down the cost of litigation in the state; improve access to justice; and protect our judges' ability to function as judges.

SENATOR SMTIH: OK, just for the record, Alex and the New Jersey Civil Justice Institute presented us with a memorandum on their views of the Green Amendment. And, by the way, based on that and what I've heard from Maya, I thought you two would be the perfect point-counterpoint.

So, Alex, would you tell everybody your background and then tell us your side of the story.

MR. DANIEL: Well, I just want to start by saying I pity the poor fool who has to go after Maya. So--

MS. VAN ROSSUM: (laughter)

SENATOR SMITH: Say that again?

MR. DANIEL: I pity the poor fool who has to go after Maya.

SENATOR SMITH: Oh. Well, you're not going after Maya. You're talking about concepts.

MR. DANIEL: In all seriousness, SCR43, on the surface, sounds and looks like a wonderful piece to our New Jersey Constitution. Clean air and clean water are things we all expect for children and want for ourselves and want for future generations.

But what NJCJI here, today wants to speak to is the impact it will have on our regulatory system here in the State, and our concern that it can give rise to regulation by litigation.

Our concern is that this amendment, in concert with the New Jersey Civil Rights Act, would upend our current system of regulation whereby the Legislature sets priorities and delegates authority to specialists in our agencies to develop standards for implementing those priorities. But, because this proposal ultimately places a burden on the state not to infringe through either action or inaction on -- quite frankly -- extraordinarily broad and undefined rights to environmental health, it places our courts in a position of acting as super-policymakers. And, in our democracy, the Legislature sets priorities when it comes to environmental rights, environmental justice, and the environment in general. Our Legislature sets forth what it thinks is most important, and it delegates the power to regulate, in that area, to specific agencies -- agencies staffed by absolutely incredible skilled experts and fantastic officials.

However, using the New Jersey Civil Rights Act, our concern is that one litigant in this state -- just one -- with a judge who agrees with them could unmake the priorities set by this Legislature and overturn the standards created by boards of experts here in our agencies.

You don't need me to explain to you today how regulations are made in New Jersey, but for the benefit of the record, I'll give you a very quick summation. The Legislature passes a law, directs an agency, "There's a priority with respect to government," whether it's cleaning up our waters or it's ensuring that there are no more spills -- whatever it is. That agency goes forward, and through a regulatory process, develops their standards. What is

that process? That process is governed by the Administrative Procedures Act here in New Jersey. That act provides notice periods; that act provides comment periods; review periods. It gives stakeholders, it gives citizens, it gives organizations, associations, unions, employees, employers -- anyone you can think of who might be impacted by a regulation -- an opportunity to stand up and say, "Wait a minute, this might hurt me," or, "This is a great idea." The important thing is it brings people together -- people impacted directly by regulations -- to come to a consensus to argue, to debate. And then experts draft a regulation that now governs human action in the State. The flexible controls and expertise offered by that regulatory system have worked very well in New Jersey since the dawn of the administrative state. And, since the dawn of the administrative state, our courts have said -- resoundingly -- "We're going to back off; you're the experts. You set the priorities. This is a democracy. We're going to give deference to when regulators come forward and put forth our new rules. We assume their reason; we assume they're valid."

Courts have created a very narrow and circumscribed process for judging the validity of a regulation. It doesn't question the wisdom of legislators; it doesn't question the intelligence or technical skills of the regulators who put forth those rules. It simply asks, "Is it legal?" Did it comply with the Administrative Procedures Act? Does it comport to the Enabling Act that empowered that agency to work? And, does it comport with constitutional norms like due process or separation of powers?

We have a fine-tuned and well-calibrated system in this state for developing regulations. And, unfortunately, as well-intentioned as SCR43 is -- and, it is extremely well-intentioned -- it is ripe for abuse. Regulation

through litigation. How is it that that can come to be? In New Jersey, we have the New Jersey Civil Rights Act; it allows any individual in the state who has had their constitutional civil rights, their privileges -- any right guaranteed by the laws of this state -- to sue anyone acting under color of law to seek civil penalties, money damages, injunctive relief, and of paying their attorney's fees, and vindicating that right.

So, what does that mean? That means that a litigant in New Jersey can enact government action to some infringement on their environmental rights -- be it through action or inaction -- can now get in between the people and their policymakers, and act as a super-policymaker. If New Jersey decides that there is an environmental priority that it wants to set, now a litigant can throw a spanner in the works in that, and determine they know better than the State of New Jersey -- than the elected representatives of the people. That they know better than the experts that we employ to draft regulations. That they can interfere with a process for developing regulations. That's worked for several generations, and it's produced some of the most effective, potent, and protective environmental regulations that this country has ever seen.

Private litigants have a role to play; the Judiciary has a role to play. There's no question about that. I think Maya and I would agree on that point. But in New Jersey, that role is circumscribed, because we put the importance of our policymakers and their ability to enact the will of the people above simple litigation.

Looking at the terms of SCR43, we have serious questions about how you define them and operate them and turn them into meaningful decisions by either courts or regulators. Simple one: "pure water." What

does that mean? Well, I'd like to think, at a baseline, it means no pollution in your water. I have a well at home; when I pump water out of that well, in my faucet, and I give it to my kids, I expect there to be no pollutants in that water. When you say "pure water," do you mean just H₂O? If you go to the cleanest spring in the cleanest area of this country, and you draw water from that spring, and you put it through a spectrograph, you're not going to find just H₂O. You're going to find minerals; you're going to find trace elements; you're going to find a host of different chemicals in there. When you say "pure water," are we just talking about H₂O, or is there more to it? It's simultaneously over-broad and excessively narrow.

So, what do we do with those terms? Well, as a lawyer, I know what I would do. The Civil Rights Act here in New Jersey affords lawyers the ability to charge their fees to the losing party. We were told that this is all about injunctive relief. We don't live in a world where it's all about injunctive relief. We live in a world where litigants have agenda, or attorneys have agenda. And, quite frankly, as a lawyer, I'm *thrilled* by the possibility that I can get my adversary to pay my bill. There is no better money than the other guy's money. As a taxpayer, as a homeowner, as a father, as someone who has to live in this state, however, I don't want interested litigants and their attorneys setting legislative priorities that the democratic system otherwise would set. And, I don't want to be paying the State's coffers someone else's litigation costs.

So, look at New Jersey's Civil Rights Act. We assume that obtaining injunctive relief on these environmental rights could take multiple different forms. This piece of legislation says that New Jersey cannot infringe,

through action or inaction, on the environmental rights of New Jersey's citizens and residents.

So, what does that mean when New Jersey sets a priority? New Jersey, right now, has prioritized offshore wind as the future of energy in this state. Undoubtedly, that is a noble endeavor. Unquestionably, that is important to a sustainable energy future of the State. But, a litigant using the Green Amendment, who is disturbed by the aesthetic impact it would have on the environment, who can tie that project to any harm to their environmental rights, can gum up the works. They can put a halt on this Legislature, our governors, our government's priorities, and there's not much we can do. We don't get to rely on the regulatory state to correct that issue anymore. Because now this potentially has interposed litigants and judges in that process.

We mentioned -- I'm sorry, not we -- it was mentioned that we haven't seen a wave of litigation that has impacted energy or the environment; that it's been reasonable; that it hasn't caused an overflow of frivolous litigation in our courts or courts around the country. I direct this chamber to *Held v. State of Montana*. Very interesting case. Years ago, Montana decided that one of their priorities was energy production, and in the Montana Environmental Protection Act they specifically said that in issuing permits -- energy-related permits -- regulators were not allowed to consider greenhouse gases. That was a priority that the voters -- the people of Montana -- set through their legislature. Up comes a lawsuit. All of a sudden, a judge is saying, "No, sorry. I've decided that this green amendment trumps the will of Montana voters and their legislature." And, now, when you consider energy permits, you have to consider greenhouse gases.

Now, for environmentalists, I imagine that's a great result. Substitute petroleum energy for offshore wind, and you can see the same result here in New Jersey. Any interested party who can tie back government action to harm to the environment and suddenly disrupt the democratic process can prevent the people from setting their own priorities.

Our goal here today -- NJCJI's goal -- isn't to raise alarm. It's not here to cast aspersions on the environmental movement. It's an important movement. I love having clean air and clean water in this state. I love having the opportunity to take my kids to the park; to enjoy our beautiful environment; our beaches; all of it. But, we have a system in place that already provides for those things. We have a system in place that works well; that doesn't turn our judges into super policymakers; that doesn't let a single litigant overturn the entirety of our government. Imagine you can have every legislator, governor, policymakers, 99.9% of New Jersey residents all in favor of prioritizing -- you name it. But, one litigant and one judge can halt that process, because we have an ill-defined, overly broad amendment to our constitution that seemingly works, seemingly offers us everything you could imagine for environmental health. But, it could be easily weaponized. And, we have procedural tools like the Civil Rights Act -- a wonderful tool for vindicating rights here in New Jersey, indispensable -- that can be quickly abused by attorneys like me.

It's not that hard to think of all the mischievous activities clever lawyers and litigants can get up to, and then have their fees paid *by* the State for that chicanery. That's why NJCJI urges that you oppose this measure going forward.

Our position is simple: If it ain't broke, don't fix it. Our regulatory system does a great job now, and it doesn't stress our courts and turn them into something they're not -- policymakers.

SENATOR SMITH: Have you finished?

MR. DANIEL: I hope so.

SENATOR SMITH: OK, let's do this: Two minutes each, and then I have a whole bunch of questions I want to ask both of you.

So, Maya, would you like to respond to Alex?

MS. VAN ROSSUM: Sure.

So, the problem is, it *is* broken. If you go across New Jersey, there are many, many communities -- particularly frontline environmental justice communities -- that are suffering devastating harm from hazardous contamination in the air; in the water; in their bodies. There are kids who are attending school in Camden whose capacity to learn is being harmed because of the exposure to neurotoxicants that are being allowed to be released into the air by industrial operations all around them under existing New Jersey State law. So, it is broken. For many communities, it is broken. And, it does need to be fixed.

Now, the thing is, this idea that, you know, the Legislators -- it's all up to the Legislators to decide -- in the first instance, it's all about the Legislators and the regulators. Actually, that's not true. In the first instance, it's all about the people. And, that is what the New Jersey State Constitution is. It is "we, the people" telling our government officials, what are the inalienable human -- inalienable, indefeasible, inherent human rights -- that we the people reserve unto ourselves to be protected from government infringement.

And, now, the people of New Jersey are asking you, as their government officials, to give *them* the opportunity to add environmental rights to the Declaration of Rights section of their State Constitution. So, the people of New Jersey can give the Legislators of New Jersey the appropriate guidance on how to address environmental protection, environmental rights, and natural-resources protection for present and future generations.

It's about the people first, and that's what this process is about. It's not about lawyers trying to misappropriate money, or dollars, or the process. And, I think it's so sad to think that to characterize that, we have all these ill-meaning judges and lawyers in New Jersey just wanting to run out and wreak havoc. That's not what we're talking about. We're talking about we, the people, having an opportunity.

And, I would -- I see that my two minutes are probably up--

SENATOR SMITH: Yes--

MS. VAN ROSSUM: --so I would like to talk about Held v. Montana, but I'll hold that--

SENATOR SMITH: I'll ask--

MS. VAN ROSSUM --for questions.

SENATOR SMITH: --in the questions.

But, anyway, I also agree with you. I didn't like the comments about lawyers. Everybody hates lawyers until they need one. Lawyers are people, too.

MS. VAN ROSSUM: (laughter)

SENATOR SMITH: So, in any case--

MR. DANIEL: Clearly, the legal profession needs protection above all else. I say that as a New Jersey attorney.

SENATOR SMITH: Could be.

In any case, you have two minutes to respond. Not just to her response, but anything that you want to.

Let's hear what you have to say -- if you want to say it.

MR. DANIEL: We have a democratic system in place. The people already speak. You go to the voting booth, you put down who we want to be our leader. Sometimes you win; sometimes you lose. That is the nature of the system. We have priorities; we have limited resources; we have to make decisions.

But, what this amendment does is empower a small number of people, potentially, to override the democratic system that we have in place and to prevent our legislators and our agencies from doing the best they can with what they have. In a perfect world, I would say we all have to have everything we've ever wanted under every circumstance. That would be fantastic. That's not the world we live in; we live in a world where our elected leaders have to make, unfortunately, some judgement calls that people may not agree with, people may not like, but it's the best we can do in a human system.

What this amendment threatens is to un-work a system that we have now that, quite frankly, works pretty well. It's not perfect; far from it. Nothing in this life is. And, it would be crazy to expect perfection. But, we have a system that allows our people to speak through their legislators to set priorities, to do what needs to be done -- to do what needs to be done to further the interest of our state. We don't need this amendment to do that.

If you don't like how our politicians are voting; bills they put forth; priorities they set; we kick them out of office. We've done it before, we'll do it again. I don't want to see you go, Mr. Chairman, but that's the nature of the job. People aren't happy; they get rid of you; and that's how we solve the problems.

SENATOR SMITH: OK, so, I have a couple questions, and then I'm going to open up to anybody else who has a couple questions.

At least three enormous environmental issues in the State of New Jersey. One of them is wind. There is a claim that offshore windmills are going to kill whales -- or birds -- and that they will affect the aesthetics of the shore.

If we had passed the Green Amendment last year, and it was part of our Constitution, would they be issues that would be litigate-able (*sic*) under the Green Amendment?

Hopefully, this is speed chess--

MS. VAN ROSSUM: You've got the microphone; go first.

MR. DANIEL: Thank you, I appreciate it.

Under the New Jersey Civil Rights Act, you're allowed to bring a claim against the State for anything that harms your civil rights, your constitutional rights. Sounds like this amendment is a constitutional right and a civil right. And, it enshrines your right to environmental health -- the aesthetics, the qualities, the goodness and pureness of the environment -- absolutely. I can see lawyers--

SENATOR SMITH: It's litigate-able (*sic*).

MR. DANIEL: --bringing this forward.

SENATOR SMITH: So, the short answer is--

MR. DANIEL: Yes--

SENATOR SMITH: --in your opinion, it's litigate-able (*sic*).
Maya.

MS. VAN ROSSUM: Yes, it would be litigate-able (*sic*) to ensure that the environmental implication and the environmental-rights implications of the decisions were, in fact, considered.

But, it doesn't mean that the decision would be -- that was reached to, if it was to approve a project -- would be overridden, for many reasons.

One, there are many obligations in the New Jersey Green Amendment to protect the climate; to protect the environment and the natural resources. We just heard earlier in this committee meeting about the ravages of the climate crisis and how it impacts all aspects of our environment. Because, there is a constitutional obligation with the Green Amendment to protect all the natural resources of the state. There necessarily is an obligation on you to do the balancing.

SENATOR SMITH: Got it.

So, the answer is that a judge could say that the benefit on this side outweighs the efficiencies?

MS. VAN ROSSUM: There's-- No, but there's more to that. And, you have to-- As Senator Kury said, you have to look at the plain language of the amendment itself and its placement.

The placement in the Declaration of Rights section of the State Constitution ensures strict scrutiny consideration. That means if the government can say, "Look, we in fact do--" Let's say you did agree. "The government, we're going to approve a project, and it's going to have very

significant ramifications for aspects of the environment.” But, on balance, we think that it is the appropriate decision.

And, in the court, the government officials would be able to come forth-- First off, deference still applies. This does not override or strip away deference or the usual processes we have, as I said. But, in addition, the attorneys for the government -- I presume, if they are reading the plain language and looking at the placement in the Constitution -- would come forth, and not only would they say, “We have an obligation to address protection of all the natural resources of the state,” which the climate crisis threatens, and which this renewable-energy project will help protect, but addressing the climate is a compelling State interest.

SENATOR SMITH: So, you’re saying a judge could come to the right conclusion?

MS. VAN ROSSUM: Could come to the right conclusion.

SENATOR SMITH: OK.

MS. VAN ROSSUM: And, you have an obligation to protect future generations.

SENATOR SMITH: Absolutely.

MS. VAN ROSSUM: So, there’s so many elements in this amendment. And, to render it to, “We’ve got ill-intentioned lawyers and judges who are just coming and trying to unwind everything” I think just does such a disservice to what we’re talking about here. We really are talking--

SENATOR SMITH: I’m with you on “don’t pick on the lawyers.”

MS. VAN ROSSUM: And, one final thing.

This idea that we're talking about voting people into and out of office. Well, where is the Constitution in all this? Why do we have a lawyer sitting here right now saying that the Constitutional process -- the process to amend the Constitution that we the people of New Jersey put in our state -- we should just toss that out. Isn't that part of the founding and fundamental documents, the underlying part of the law here in New Jersey?

SENATOR SMITH: So--

MS. VAN ROSSUM: It is up to the people to decide.

SENATOR SMITH: Let me combine question two
(indiscernible).

MR. DANIEL: May I have a chance for--

SENATOR SMITH: Make it quick--

MR. DANIEL: --may I have a chance to respond?

SENATOR SMITH: Right, because -- I mean, there is an end to the day.

MS. VAN ROSSUM: You wanted debate.

(laughter)

MR. DANIEL: Unfortunately, this is the nature of
(indiscernible) debate--

SENATOR SMITH: I want a list of what it means and what it doesn't mean; I don't want a debate.

Yes, sir, if you want a nice 30-second, quick answer.

MR. DANIEL: I'd start by saying that the reason a lawyer here is today is because we have a First Amendment that guarantees the right to free speech, so all thoughts can be considered here today.

Second, I heard mention of terms like “strict scrutiny” and “self-executing.” Self-execution here means that there is no implementing statutes that need to be passed for this to end up in a courtroom, which means all of this is going to have to get hashed out by judges trying to interpret profoundly broad language. That sounds like a litigational nightmare. “Strict scrutiny” means that the government has to come forward with the most compelling reason; most narrowly tailored means of achieving that end. And, it has to be more than just rationally based. It’s basically the highest level of scrutiny that you can get. So, this means that even if the government prioritizes something, they have to go above and beyond what any other rational basis review would require in order to achieve it. That sounds like interference in the democratic process to me.

SENATOR SMITH: OK, we have both of your positions on that.

This is the same question -- actually, we’re going to combine Number 2 and Number 3 together, only because we want to know what everything means; where is this all going?

So, the two other big controversies in the State of New Jersey -- and, there’s more than a total of three--

MS. VAN ROSSUM: (laughter)

SENATOR SMITH: --controversies.

But two really big ones: There’s a huge discussion about backup power at the Passaic Valley Sewage Authority, and the impact of a proposed natural gas plant, and the impact on surrounding areas in an EJ community.

Third controversy: The expansion of the Turnpike. We’re talking about -- we’ve talked about -- quite seriously -- about adding

additional lanes. And, you know that when there's more lanes -- I don't know if you know it -- but my view of it is if you add more lanes, you're going to get more traffic, and therefore more air pollution coming from it.

Are they litigate-able (*sic*) controversies under the proposed amendment?

Anybody who wants to take it. And, you can give me a short yes or no if you want.

MR. DANIEL: Do you want to go first, or should I?

MS. VAN ROSSUM: Go ahead.

MR. DANIEL: Oh, thank you.

SENATOR SMITH: A lot of courtesy at that table.

MR. DANIEL: We're friends here.

MS. VAN ROSSUM: (laughter)

MR. DANIEL: We both love the environment.

Absolutely, without question, it would be litigate-able (*sic*). It's government action that touches upon the environment under the broad terms set in this amendment, as well as the New Jersey Civil Rights Act, you can see litigation coming through to challenge it.

MS. VAN ROSSUM: Yes, you could see litigation come through to challenge it, and you could see how the Constitutional Green Amendment and the plain language included in the proposal before you would help guide for -- in the first instance, the decision-making by the various regulatory agencies involved, ensuring that they are considering the environmental ramifications of the decisions; cumulative impacts; generational impacts; as well as environmental-justice considerations and the climate crisis.

And, then, the Green Amendment-- The plain language of the Green Amendment, if there was a legal challenge, would help guide the decision-making in the courts and help guide the judges' outcome.

So, yes, there may be litigation. Litigation doesn't mean bad--

SENATOR SMITH: (indiscernible) litigation now.

MS. VAN ROSSUM: Right.

SENATOR SMITH: But, the difference would be it would be considered under the Green Amendment.

MS. VAN ROSSUM: And, the truth is, for every single one of the issues that you've raised -- and, in truth, in pretty much every single case that's been raised in Pennsylvania, Montana, and New York, save like maybe two -- the legal actions would have been brought -- and *were* brought -- on other grounds, and they would have been brought anyway. The Green Amendment was brought forth either as an additional claim, and/or to help guide the interpretation and the application of the legislation and the regulation that was at play there. So, it played a very helpful role in guiding the government action in the first instance, and then help guiding the final outcome in the courts.

You would have had the litigation anyway. You just now had more informed litigation, more successful and effective litigation, whatever the outcome was.

SENATOR SMITH: Got your point of view; all right.

You guys have been fabulous. Are there any questions from members of the Committee for any of the panel?

Yes, sir; Senator McKeon.

SENATOR McKEON: Yes, thank you, Chairman.

And, I would like to-- And, thank you both for that spirited discussion. I feel like we were watching a debate as opposed to testimony, and you were both passionate--

SENATOR SMITH: Terrific--

SENATOR McKEON: --and well-informed and made great points.

My question -- a little bit of comment, but it's directed at Ms. van Rossum.

The-- It would be fair to say having at least 14 years of experience in Pennsylvania, I guess, since that decision that the Senator told us of and clarified what it meant. This isn't going to set up a neighbor suing the neighbor who took a couple trees down next door on the basis of the constitutional right. I mean, that's a fair statement, right?

MS. VAN ROSSUM: That's a very fair statement.

SENATOR McKEON: And, I'm coming from someone, by the way, who was the prime sponsor of the Green Amendment in the Assembly.

And, so, with the experience a couple years in New York and Pennsylvania, we know that kind of thing, that some fear mongering goes on, it really is just not the experience, and not going to happen. Correct?

MS. VAN ROSSUM: That's correct.

SENATOR McKEON: However -- and this is ultimately my concern, we here every day say a little prayer for wisdom and we're trying to do good things and not do any harm.

You know, in Europe, it takes X number of years for a project to go forward. Whereas, in the United States, it's maybe double that time. And, it's mostly having to do with lawsuits in the courts. And, it doesn't protect

the places that you referenced so eloquently before, environmental justice communities. What it does is it protects places that have people of means, access to lawyers, and the ability to litigate to stop things from happening.

So, I think that's a legitimate concern. It's the experience of this country -- not specific to New Jersey, but the United States versus Europe -- where it's different.

How will this -- if at all -- impact that concern?

MS. VAN ROSSUM: The impact -- the concern about--

SENATOR McKEON: How will the Green Amendment exacerbate that situation when those are the facts?

MS. VAN ROSSUM: So, the Green Amendment is not going to exacerbate any current situation when it comes to litigation or lengthening litigation or the time for final determinations.

First off, as I said, the Green Amendment has come to play as an additional claim, and to offer additional guidance in how to interpret and/or apply the other legislation and regulation that may be at issue in a case. So, we still have those legal actions ongoing, but actually, the amendment comes to bear to provide helpful information.

In addition, the amendment helps ensure that before we even get to litigation, while we're in the decision-making process, we are considering the full array of environmental impacts. We are considering the environmental-justice ramifications and the generational ramifications, so that by the time -- if there were a legal challenge to the government action or decision -- government can actually come forth and say, "Here is how we considered the cumulative impacts; the environmental impacts; the

constitutional obligations." And, they will actually have a more considered and more fulsome ability to explain the rationale behind their decision.

So, it actually, ultimately, strengthens the governmental position. And, I would like to say, of all the cases that have come forth -- again, we've seen dozens of cases at this point over the decade. We have seen -- like I said, three to 10 years, so we've seen a couple dozen in Pennsylvania and in Montana, and now we're seeing about a dozen in New York State. We are not seeing a lengthening of that litigation or that decision-making process.

And, we are avoiding some bad outcomes, too. I can point to several decisions where we actually had a better outcome that avoided the litigation, that was going to happen but for the more informed decision based on the amendment.

SENATOR McKEON: Let me just-- And, final question, Mr. Chairman, just to put more of a fine point, a specific one.

We all agree -- correct -- that light rail is a good thing relative to environmental policy, if not an affordable way to get around, right? Compared to driving in a fossil car or otherwise, right?

MS. VAN ROSSUM: It all depends on context.

(laughter)

SENATOR McKEON: Well, how about the context of -- will this Green Amendment be used as a cudgel when someone who can afford lawyers keep a light rail path from going anywhere near their home, as opposed to the environmental benefits that would come?

MS. VAN ROSSUM: If you have a person of means who's intent on litigating against light rail because it's coming nearby their home, they're

going to bring that litigation regardless of whether or not you have a New Jersey Green Amendment. What the existence of the--

SENATOR McKEON: It's a matter of I don't want them to win it.

MS. VAN ROSSUM: Pardon?

No, but what -- what you're going to be able to do, again, in that instance, as I suggested earlier, is you're going to have-- They're going to ensure that the State did a more fulsome environmental analysis, again, considering things like cumulative impacts, environmental-justice impacts, things that often are overlooked, so when you get into that hypothetical courtroom, the government is actually going to be better positioned to defend the ultimate decision that it rendered including, based on its constitutional obligations; based on the record that it wore, the more fulsome record that it developed; and based on its constitutional obligation to address things like the climate crisis; to ensure equitable protection of environmental justice communities; to ensure generational protection.

So, I would suggest to you that the existence of the Green Amendment -- if you did have a legal challenge against a good project that really was well-considered, well-placed, and well-defended in terms of the environmental ramifications by the State -- the existence of the amendment is going to help the government actually defend against the hypothetical legal challenge that you are putting forward.

SENATOR McKEON: All right, thank you.

Thank you, Mr. Chairman.

SENATOR SMITH: Thank you, Senator.

Let me thank you both once again. I thought you were both magnificent; I thought you put forth your points of view very, very eloquently, and we appreciate your comments.

If you have additional comments, send them in; send us an email. We read everything, honestly.

We have a whole bunch of people who signed up to testify; let's make sure they get a chance.

For the record, Curt Rowell -- in favor, no need to testify. Donna Merino -- in favor, no need to testify. Mimansa Kumar -- in favor, no need to testify. Ida Vassallo -- in favor, no need to testify. Donna Morgan -- in favor, no need to testify. Charles -- I think it's Shapiro -- in favor, no need to testify. Katie Perrone, New Jersey League of Conservation Voters -- in favor, no need to testify. Alex Daniel -- already testified, he's on the panel. And, Maya van Rossum -- just in favor; she's already testified.

So, people who haven't testified and who want to testify, I'd ask you that if you have a new point, please focus on that, and that brevity is the soul of wit.

It is now 1:45 p.m. Does that sound about right? No, it's 2:45 p.m. It just goes so fast.

Elif Cann, Environmental Education Fund -- in favor. Do I have that right? It looks like C-A-N-N. (no response)

All right, Denise Sanders -- in favor. Denise, are you here? (no response)

Janine Bauer, attorney -- Janine in favor. Janine, are you here?

J A N I N E G. B A U E R, Esq.: I'm here.

SENATOR SMITH: Would you like to say something?

MS. BAUER: Sure.

In *Henry VI*, Shakespeare -- well, the actor was quoted as saying, "First kill all the lawyers, because lawyers are very effective at maintaining civil and social order." And, that's what the actor was trying to do, was trying to undermine the civil and social order in the play, and that's why he said first kill all the lawyers.

SENATOR SMITH: Right. And Mao repeated that comment many times.

MS. BAUER: I didn't realize I would be defending my profession here, but unfortunately -- or, fortunately -- I've been at it for 40 years.

And, so-- But, I'm going to take your suggestion, Senator, and, by the way, thank you all for listening to all these comments and for all of your public service -- and *longstanding* public service. I know many of you personally.

I think that this amendment will have a very positive effect on the protection of the environment and the preservation of our natural resources. I think we've done a very good job at that in New Jersey. I don't think we've done a good job at some other things, but we have done a very good job. But, a lot of it has been through institutional, sometimes personal, agenda. I think if we didn't have John McPhee and Governor Byrne maybe the Pinelands wouldn't be saved; Governor Florio. And, I could go down a list, both sides of the aisle, as well.

But, not only the preservation of our environment and natural resources, but also the built environment that is already served by transportation -- water, sewer, infrastructure. I was very happy to hear Senator McKeon talk about light rail and for you to talk about the Turnpike

widening, because that's one of the things that we really need to do in New Jersey. And, I think that that's actually one of the aspects of the Green Amendment that would really be assisted, because there really is no law, there's not even a state plan that has teeth that will help direct our resources and our investment to places where it's not only most efficient and, for the most part, most resilient but that's best for the environment.

I think the positive effect will first be felt in planning. I'm a little surprised that I don't think the word "planning" even came up today, because we're so focused on litigation. I think it will help with forward planning by the state, the counties -- even though they have a more limited role in New Jersey -- and, hopefully, by municipalities.

When I was an active lobbyist here, I had several bills sponsored by folks that you would know -- none of which passed, I must say -- to bolster the elements of municipal plans like the circulation element, which is really the transportation element; community facilities; and so on and so forth. It's very interesting that none of those passed, when they're really harmless and they're all decided by citizens who create the master plan anyway.

So, I think the Green Amendment will help with forward planning from the State level all the way down. I think it will help tremendously with corporate planning -- private corporate planning I'll address first. With respect to location, capital investment, industrial processes, job creation -- whatever they want to focus on to try to make money. I read a very interesting article just a couple days ago in the *Wall Street Journal* that actually focused on all the businesses that were making money and were targeted to be very good investments because of the PFAS

crisis and a lot of the other things that, unfortunately, we've gotten ourselves into in the last couple decades or the last couple centuries.

New Jersey has always been a home to innovation, and I think that this will be perfect together -- if I could use a phase from the '80s -- the Green Amendment as well as innovation, invention, and creativity. I think that the Green Amendment will help with environmental justice and especially the focus-- And, I have seen some of it so far happen voluntarily with the Dodge Foundation and Fund for New Jersey, but I think it will help the nonprofit sector, the charitable sector, private foundations in their distribution of aid and their focus.

There is a tremendous amount of philanthropy that happens in New Jersey, not only on the corporate level, but we have a lot of very affluent individuals who, when they pay us, they create a foundation. And, those foundations drive policy a lot of times. They even drive legislation. So, I think the Green Amendment will help focus those kind of endeavors.

And, I especially think that public utilities, including investor-owned utilities, as well as regional, county, and local public authorities -- whether they be sewage, water, whatever they are, even municipal electric, which is mostly passed through now -- I think they really need to take a step back and figure out what they're going to do about climate change. And, I think this is the kind of thing that will help them say to themselves, "Hmm, people in New Jersey have a right to clean air." We need to think about that now in our corporate planning, and how we're going to not violate that right, but in fact advance that right.

So, I think there's so many things-- And, then you get to the darker side, which is remediation of pollution. Which is progressing; that's

mostly where I spend my days. But it's progressing very slowly. It's awkward, the idea of (indiscernible) writing tickets and going to municipal court. Like, I have a case now that's four years in municipal court, which maybe wasn't such a hot idea. But, nevertheless, I think what really is going to happen in addition to what Maya van Rossum said, which is at least in the first decade, I see litigation happening as it happens anyway, and lawyers will just add this as an additional count to the complaint. So, not only will there be no flood of litigation, but it's going to take a while to come into its own. Cases not only take a while to get to the Supreme Court anyway; I don't think the appellate division is going to get out very far in front on the Green Amendment. We're going to -- it's going to take an appropriate, worthy case for the justices to weigh in. I have a lot of confidence in the Supreme Court. I was a Supreme Court law clerk, and I think they take things in a very, very considered fashion, so, I'm not worried about them being policy advocates and all that kind of thing.

And, finally, it's going to function a gap-filling role. And, I think that is the principal legal comment that I want to make today. I really must say, I completely disagree with Alex that we have this administrative state that's efficient and effective. We do not. We have a lot of very well-considered people who work very hard to do what they have to do, but they are constrained by the fact that they only have what they have in front of them. And, therefore, there are gaps, and that's why there's litigation. Most litigation is because two lawyers get together -- two clients -- and then they hire lawyers, get together, and they have a different interpretation usually of the same exact fact; the same exact litigation -- the same exact law, rather, and so on and so forth. Which does not answer the question. If it answered

the question, there wouldn't be litigation, it would be more clear and therefore somebody has to decide it, and if there's not an arbitration clause it's going to be a judge or it's going to be a private meeting or whatever. And, that's why we needed that branch. I mean, it's just a necessity to have a judicial branch.

But I just want to-- Especially because of the remediation I do, and I'm involved in a case, for instance, right now with Solvay, I'm not going to pick on Solvay, but I only bring it up because since it already has a settlement with DEP, the facts are well-known. Solvay was putting hundreds of thousands of pounds of PFAS emitting into the air and water for decades, poisoning the wells of people and poisoning the Delaware River and so on and so forth. And, DEP kept criticizing their models, criticizing their air dispersion model, so on and so on and so forth. But, essentially, there was no way to stop it, or get them to back off or do all of the things that they've done now, like substitute a different surfactant.

So, we need help. This is a help. It's not the be-all and end-all, but it's going to be a huge, huge difference to say that people have this right. It's really a -- just a complete turnaround from what we have now, which is the statutes that you all passed, which are very good, and then the administrative state. This -- to turn around and put it in the Constitution and say *people* have this right, and it's an enforceable, self-executing right, it's just a gamechanger.

SENATOR SMITH: I appreciate your comments.

MS. BAUER: Thank you.

SENATOR SMITH: So, I have four names on the same form -- I guess that means they would like to come up together.

Ed Waters Mike Egenton, Tony Russo, and Ray Cantor -- Representatives of CCNJ, NJSCC, NJCIA, and NJBIA. All in opposition.

R A Y M O N D C A N T O R, Esq.: We will not be debating each other.

SENATOR SMITH: Who would like to take the lead?

Go ahead, Ray.

MR. CANTOR: I'll start.

So, thank you, members of the Committee, Mr. Chairman, Senator Greenstein, the sponsor.

My name is Ray Cantor, I am with the New Jersey Business and Industry Association. And, we are here today to oppose this resolution, this constitutional amendment.

I already sent in written testimony, so I am going to try and summarize and probably bring up some new points. There are three things I just want to mention from my testimony.

One: Environmental policy is complicated. It requires compromise, it requires trade-offs. It cannot and should not be left to simplistic statements that are contained in a green amendment.

This amendment, if passed as well, would be an abdication of your role as policymakers -- giving up your responsibility to set those parameters; to make those compromises; and giving it over to a judge to decide.

And, thirdly, this amendment is going to have unintended -- or, perhaps, *intended* -- consequences that we all can't foresee at this point. And, anyone who sits here and tells you to look at Montana or Pennsylvania or New York and their limited experience and tell you how a court is going to

act or what those consequences will be is simply either naïve or being disingenuous. We really don't know.

Let me talk a little bit about the history of environmental policy and why this Legislature is the appropriate branch to be dealing with these policy issues and not a court sitting in chambers.

Environmental policy, as I said, is complicated. There is no doubt we have suffered through horrible environmental harms in this nation as a result of industrialization. It wasn't until the late '60s, early '70s, that we finally took note of all the harm -- the Ohio River catching fire; people dying in California through smog; New Jersey having more Superfund sites than ever before. We had a horrible environmental past as we grew as a society and industrialized. But, we took action. We passed the clean air act; we passed the clean water act; we passed a series of laws to protect our lands and waters and public health.

But, when we did those things, we also realized we couldn't just say, "We want pure water." The clean water act that was passed, for instance, has an aspirational goal of no more discharges into our water. We realize that's not realistic. We must discharge into our water, given existing technologies and the fact that humans exist; humans are the cause of all the pollution that we do. Our goal is to limit that pollution.

So, what the Clean Water Act did was it says our goal is no more discharges. But, we realize we need to have discharges, so we're going to set limits. Those limits were based on ecological needs; they'll be based on human health needs; they'll be based on technological limitations. And, over time, those limits have gotten better and better, stricter and stricter, as technology -- as other advancements have been made. And, we have done

tremendous jobs in this state in cleaning up our water and cleaning our air.

Laws that Senator Smith was actively involved with in the (indiscernible) side has led to the cleanup of hundreds of sites, about thousands of sites, in the last decade alone. We are making progress.

Are there still legacy pollutants out there, especially in our urban areas? Absolutely. But, through the legislative process, through those abilities to compromise, we've been able to clean up our environment and keep our economy going. That's what it's all about. And, our departments as well through the administration processes -- I won't repeat all of Alex's talk before about process, but the system works. The system does listen to both sides. Sometimes, Senator Smith, you listen to more than both sides, but we have the ability to come here and to make those claims.

I usually don't--

SENATOR SMITH: But generally, you're here to say all that legislative policy is wrong.

(laughter)

MR. CANTOR: But, I would rather be here. I would rather be here in this body arguing or making the case before you than having to hire a lawyer and going to a court, which I may not even be able to afford; which I may not be able to get to; and having to deal with an unelected judge who is going to be making those decisions for us.

If we don't like the policies that are coming from the Legislature, we have the ability to engage in the political process and build a new Legislature who we hope will do that. If the public keeps putting back in legislators who I don't like, it's the public's choice. That is how democracy works; that's how our constitutional system does work.

On the issue of unintended consequences-- And, Senator Smith, your questions, I think Senator McKeon's questions as well, were right on point. There is not a single project, a single development -- at least on a major sense -- that is not going to be challenged, and the more likely outcome, it's going to be denied. When I heard that the sponsor of the Green Amendment in Pennsylvania talked about the one law where they -- the court then overturned the legislative enactment because that was going to allow fracking companies to ignore local ordinances and be able to frack. It just reminded me of a similar law passed in this body about a year ago, where, because we wanted wind to be developed, you allowed the wind companies to ignore local ordinances and be able to put in their windmills. I can see similar things happening here. We're not going to see windmills; we're not going to see food-processing facilities; we're not going to see major developments come. Who is going to even invest money in a system where it will be dragged out by more litigation?

And, I totally disagree that this is not going to result in longer delays in the process. And, to your point, Senator McKeon, you're more likely to lose. You don't know if you're going to win or not. Who is going to put their money up? Who is going to invest in New Jersey when you know there is a vague constitutional amendment given to the courts that could override every statute, every regulatory requirement?

That provision that Maya talked about, the loophole in the legislation -- that's not a loophole, that's a policy choice by our legislators who looked at all sides and made a compromise to balance interest and to come to the right conclusion.

So, again, I could go on and on. We don't know what this is going to do, but we do know it's going to impact probably every major development that we want or don't want, depending on what side you are. But it takes power away from the Legislature inappropriately and gives it to judges who cannot -- who are not qualified to make these policy choices and these balances. There's no saying what a judge is going to do on any particular case, and New Jersey is not Pennsylvania; New Jersey is not Montana. We don't know what's going to happen.

As flawed as our democratic system is, I trust our democratic system to make the right choices rather than judges who are not prepared to deal with these types of very complicated issues.

Thank you very much.

SENATOR SMITH: Tony.

A N T H O N Y R U S S O: OK, well, good afternoon Mr. Chairman and members of the Committee.

Again, Tony Russo, with the Commerce Industry Association of New Jersey. We represent about 900 companies from large to small and from every sector.

And, I'm not an attorney, Mr. Chairman, but I'll give you the business reasons why this amendment could really cause some harm.

Businesses don't like uncertainty, and businesses don't like lawsuits, because lawsuits are costly and they're timely. And, what we've learned in the last two hours is there's still a lot of uncertainty. New York had those court cases, some of them unresolved. Pennsylvania, who knows? Maybe they got lucky that nobody sued. But, here in New Jersey, if you're a business owner and you're thinking about whether to invest and now you

have this amendment -- what's "clean?" We've had that debate for decades. Who defines what's clean on a soil site; water site; air site? Our members want to do the right thing -- give me the permit, we'll put in the technology we need to operate our businesses. And, I'll stop, because brevity is the key.

A lot of our companies say the speed at which business occurs today is really unbelievable. I mean, I talk to big companies and small companies and decisions happen *fast*: where to invest; where to go; because of market pressures; because of technology changes.

So, proceed with caution on this one, but this one is not going to be good for business if it goes through, because it creates that uncertainty, and lawsuits are costly.

Thank you.

SENATOR SMITH: Mike.

M I C H A E L E G E N T O N: Chairman, thank you; and members of the Committee.

Mike Egerton, New Jersey State Chamber of Commerce.

I agree. I am a strong believer in the process. My 30 years here, you know, there's a give and take.

I look at you, Chairman, and I know just on site remediation alone, back in (indiscernible), your predecessor (indiscernible), Senator McNamara, the Brownfields Bill, the LSRP Bill that my association recognized you for, and many others when Senator McKeon was in the Assembly Chair in that committee.

It's a process that works. There's a give and take. You're probably one of the only legislators in the Senate -- probably in the Legislature -- that has the stakeholder process. You know you put me in

charge of the public access along with Sara Bluhm when she was at NJBIA and we had two fine representatives from the environmental community. We had a lot of give and take; we took it in; we came to you, and said, "This is what will work, this is what won't work." It's a process that does work.

And, I guess it was said here today, "Why are we fixing something that is not necessarily broken?" And, you've had agency representatives come in when we felt it went over and above legislative intent. My colleagues are right. We don't want to put that in the Judicial process and have-- This tends to be a litigious state. We don't want to open up frivolous lawsuits. We'd rather have the Legislature work with us.

And, stakeholders is everyone. Everyone in this room. It's not just representatives of the business community.

And, I will say this, and I'll -- I know brevity, at this late in the day, is appreciated. I get nervous our founding fathers with our Constitution. It is-- It's a special document. I don't like opening it up; I always feel that you start tampering with that, everybody is going to come out of the woodwork and want to put their thing in the constitution.

The only time I believe my association allowed a change and supported was, as you all grapple with the budget and the finances of the State, and trying to do the right thing, we had supported two constitutional amendments because it's a diversion of money. And, that was the Transportation Trust Fund, which I was upstairs talking in the Assembly earlier today, because that money never made it to the end; it got diverted. And, then, our employers pay payroll taxes -- the Unemployment Insurance Fund. And, then, we saw what happened in the pandemic, how that got depleted. Same thing -- it got diverted. It's kind of a sad state that we had

to pass a constitutional amendment to say, “No, no, no, no, Trenton, do not take the money.”

Back when Governor McGreevey was in office, they diverted the unemployment insurance money to pay for charity care, which damaged the Unemployment Insurance Fund, and we had to erase the payroll tax to supplement that.

One last thought: I remember one time being at a social event and Jeff Tittel, when he was at the Sierra Club, was complaining about the Clean Energy Fund and how that got raided and diverted. I said, “Why don’t you do what we do: Ask that the money be protected, pass a constitutional amendment, and protect that money; make sure it goes to its intended purposes.” That is the only time that my association said, “Yes, that’s the right thing to do.” Because if we’re going to go back to our members and say, “We’re raising your payroll tax” or, “We’re raising this fee” or whatever, it’s less painful for me to sell that if I said that that money is going to go towards its intended purpose.

So, I believe in the process, I think it works. You win some, you lose some. But it’s the process that we have, and it’s the best that we have here in the United States. And, I would really respectfully ask you to really reconsider this.

Thank you, Chairman.

E D W A T E R S: Good afternoon, Mr. Chairman, members of the Committee.

Ed Waters, Senior Director of Government Affairs for the Chemistry Council of New Jersey.

And, I think-- I don't want to speak for everyone up here, but I know our members tell us that there is not a lack of environmental protection law or regulation in the State of New Jersey. It's something that you folks have done a great job with protecting and making sure that you're covering all aspects of the environment here in New Jersey.

I wanted to ask -- talk about a couple things I heard in previous testimony. One thing that really concerned me was that if an industrial facility is properly permitted for discharges -- whether they be air or water discharges -- I believe in previous testimony that that company could be sued under this thing, and even though they're compliant with the law of the State of New Jersey. Was that correct. ? Did I hear that correct?

SENATOR SMITH: I don't remember that one. We talked about hypotheticals in the future, like the Turnpike, Passaic Valley, and wind.

I don't remember the other stuff that you're saying.

MR. WATERS: OK, but that's a-- That would be a concern for us.

SENATOR SMITH: No, that would be dependent on how the amendment is written.

MR. WATERS: Yes.

And, then the other piece of it is what happens many times if the department is understaffed, there's a delay in getting those permits in that time period, like when your permit expires and you're working on an existing permit while they're still approving your permit. Could you then be open to a lawsuit because you're not in compliance with the law, but it's to no fault of the company's own that they're non-compliant? That the department is

understaffed and not able to get those permits done in a timely fashion? That would be another concern that we would have under this amendment, under, you know, being able to sue.

So, just two things I wanted to point out that could be concerning from an industry standpoint.

Another thing is, it's my understanding -- and correct me if I'm wrong -- that the three states that were mentioned -- New York, Montana, and PA -- all have initiated a referendum in their law which gives people the ability to supersede the Legislature, unlike New Jersey, which has been against that for many years because we trust the Legislative process. You folks are always out there doing the right thing. That would be something that maybe would differentiate New Jersey from these states that already have the Green Amendment, is that we don't have initiative and referendum and that you folks do a great job out here.

That's it; that's all I have.

MR. CANTOR: Senator, can I just add one thing--

SENATOR SMITH: One thing--

MR. CANTOR: --in response to what Ed just said?

About permitting. In any major facility or most facilities that have air or water discharge permits, those permits are up every five years, and that is governmental action.

So, when they come back up for renewal or this amendment would allow anyone to be able to sue and challenge that permit based on the fact that it may not lead to pure water or to clean air or to whatever other statement that is in here. So, every permitted facility right now, it's renewal is going to be up in jeopardy.

And, I can think of any number of facilities where I know folks don't like and I'm sure when their permits come up they would be challenged if this amendment were in effect.

Right now, you can argue we've met our regulatory and statutory burdens; under this, there's a whole new set of unknown standards that a judge may apply.

SENATOR SMITH: Any other comments, gentlemen? (no response)

Thank you for coming.

Ms. Mura. S-V-A-N-T-R-I-D-U-R? (indiscernible)

There's a lady who signed up -- I think it's a lady. New Jersey Student Sustainability Coalition?

I apologize, I couldn't tell how to say your first name.

S V A N F R I D U R M U R A: Totally fine. I'll say my name.

SENATOR SMITH: Go ahead.

In favor.

MS. MURA: Good afternoon, my name is Svanfridur Mura, and I am a high school senior at Newark Academy, and I live in West Orange. I am also the high school Co-Chair of the New Jersey Student Sustainability Coalition.

I have been campaigning for a New Jersey Green Amendment since my freshman year, because I think enshrinement of our environmental rights in the Constitution is a vital part of tackling our current environmental crisis.

A few months before I learned about the Green Amendment, my dad also got COVID. Now, four years later, he is still sick. Previously a

totally healthy, middle-aged person, COVID gave him COPD and seems to age him a few years in just a few months. Suddenly, his lungs were so much more vulnerable. And, so, in the years since, as I've learned more working on the Green Amendment, I've also learned more about how intimately our environments can impact the people we love.

This past summer, like many of you, I watched with fascination and horror as the sky turned orange with smoke traveling all the way from Canada from wildfires that are a symptom of a climate crisis we've all contributed to. At school, it was just a mild inconvenience. I wore a mask; some parts of the building with poor ventilation were closed off. But, in his apartment, my dad struggled to breathe. He couldn't go to work; he couldn't go about his life; and we were lucky that we had an air purifier, but that did very little when we put that in his apartment.

As it stands, individual people can't really do anything when the air isn't breathable. Protecting our air and also our water; our planet; these parts of our environment that are so impactful to our health; needs to be a collective responsibility that we all safeguard in order for our individual right to a healthy environment to exist, and for the protection of that right for the most vulnerable.

I am here to represent the youth, because the Green Amendment protects future generations. In Montana, you have already seen young people use the Green Amendment to defend our collective futures. Growing up under the shadow of climate change, I can't begin to explain the kind of hope that brings us students.

But, as my dad likes to say, as a child I'm not responsible for (indiscernible). The climate crisis is already hurting people today; other kinds

of pollution are hurting people today; and those of us you referred to as “future generations” can’t solve that. These abstract concepts of a stable climate, pure air, and clean water have *real* meaning and *real* peoples’ abilities to live their lives and work in New Jersey, and it’s the responsibility of those in power to take action now and give voters the opportunity to choose a Green Amendment -- a tool to protect the rights we deserve.

Many of us are fortunate enough not to have to think about environmental health, and so we take it for granted. We think of pollution as impacting *them*, not *us*; that climate change is far away. But all of us need to breathe, and you never know when an infringement on our health or our environment will suddenly be impacting *you* or the ones you love. That’s why a Green Amendment-- That’s why we need a Green Amendment, to recognize that we all need and deserve clean air; pure water; a stable climate; and healthy environments all of the time.

In the decades I hope to have left of my life, it’s the Green Amendment that I think will make the long-term changes to our laws, our policies, and our culture that we need for a healthy future.

Thank you.

SENATOR SMITH: Thank you for your comments.

Eric DeGesero, Fuel Merchants Association of New Jersey -- in opposition.

E R I C D e G E S E R O: I know it’s late in the day, but I have a lot of questions, and I know that you recently have been interested in having people who are opposed to things come and tell you about why they’re opposed. So, while the hour is late, I will abbreviate some of my testimony. I had a whole

section, for example, on the Civil Rights Act that Mr. Daniel has taken care of, so we don't need to discuss that.

I would like-- When you look at how -- look at how statutes are construed-- I will, for the record, as long as we all agree that statutes have their plain meaning and the court has interpreted that, and the court has also extended that to constitutional provisions; language in the Constitution. So, if you would, there's an opinion from Justice Stein in here, in case State v. Trump Resorts, that extends the NJSA 1:1-1, understanding the litany of cases of the Supreme Court, that words have their plain meaning, that they have their plain meaning in the Constitution as well as statutorily.

When we look at the words "pure," another thing that the court does is look at the word. If a word is not defined in a statute, then they look to other things, like either Black's Law Dictionary or Webster's Dictionary. So, in Webster's Dictionary, the definition of "pure" says, "unmixed with any other matter; free from dust, dirt or taint; free from harshness or roughness; free from what vitiates, weakens, or pollutes." So, "pure" means "no pollution." Let's see what "clean" means. Clean means, "Free from dirt or pollution."

So, we are entitled to pure and clean air and water. And, as it relates-- It came up early, I just want to put a finer point. I think Senator Greenstein did a good job in defining "self-executing." This is from Justice Sotomayor's concurring opinion Monday of this week in the case Trump v. Anderson. I am going to especially talk about the 14th Amendment.

Similarly, nothing else in the rest of the 14th Amendment supports the majority view. Section five gives Congress the power to enforce, by appropriate legislation -- pardon me. Section five gives Congress, "The

power to enforce the amendments by appropriate legislation." Remedial legislation of any kind is not required. All the reconstruction amendments are self-executing, meaning you do not depend on legislation; the Legislature is out of this business in terms of determining what is clean and what is pure.

I would then like to go to-- I'm just going to read the title. This is NJSA 58:10A-1 -- the Water Pollution Control Act. Since 1977, industries had the right to discharge into the water, as long as it is done so within the parameters of the permits that are issued pursuant to the statute. I'd like to know how, if I'm entitled -- legislation trumps regulation; constitution trumps legislation -- and I'll say the same thing parenthetically for the Air Pollution Control Act -- the Air Pollution Control Act of 1954. So how, then, are the permits issued under those statutes if I am entitled an Article I right to clean air and pure water? How then am I allowed to pollute? You're out of business.

And, it isn't just industry-- It isn't just *good* industry that's out of business. I have here a list of the NJPDES permits for both Paulsboro and Lower Alloway Township, of which the monopile facility and the wind port are both polluters within the definition of NJPDES, of industrial discharges, because they have permits to put pollutants into the water. So, it isn't just *bad* industry that is -- I'm sorry, I lost my train of thought -- it isn't just bad industry, it's all industry.

There is one thing that has yet to come up that I would like to discuss, and that is a comment was made earlier that this is not going to be neighbors suing neighbor. And, I don't know how that's possible. We've already shown-- I mean, this is a list under the Air Pollution Control Act of all the facilities known. In Middlesex County, there's 673 facilities that have

permits to pollute the air. That's industry; that's government; that's, you name it. It's a whole host of individuals who are now going to be out of business.

I'm reading-- This is NJSA 2A35A: The Environmental Rights Act, public law, 1974, Chapter 169, legislative findings and declarations. The Legislature finds and determines that the integrity of the State's environment is continually threatened by pollution, impairment, and destruction. That every person has a substantial interest in minimizing this condition, and that it is therefore the public's interest to enable ready access to the courts for the remedy of such abuses. Then it goes on to define person-to-person means *everybody* -- you, me, State, labor union association -- everybody in the world. Every entity you can think of, human being or artificially created human is a person under the Environmental Rights Act. "Pollution, impairment, or destruction of the environment" means any actual pollution, impairment, or destruction of any of the natural resources in the state or parts thereof. It shall include but not be limited to air pollution; water pollution and proper sewage disposal; pesticide; excessive noise; and proper disposal of refuse; impairment or neutralification of river, streams, flood plains, lakes, ponds, other water resources; destruction of seashore; dunes; wetlands; open spaces; natural areas; parks and or historic areas.

I only deal primarily with water-pollution control and air-pollution control. I don't do land use, for example. Stream encroachment; NJPDES; stream encroachment; fresh-water wetlands; tidal wetlands; CAFRA; everything -- pesticide application -- everything in the universe is now subject to this.

Here is what this, in terms of neighbor suing neighbor, if you will -- this is 2A35A-4: Any person may commence a civil action in a court of competent jurisdiction against any other person alleged to be in violation of any statute, regulation, or ordinance which is designed to prevent or minimize pollution, impairment, or destruction of the environment. The action may be for injunctive or other equitable relief to compel compliance with the statute regulation, and it goes on and on.

So, I would like to know how, if enacted, not only are businesses that are permitted under the Air Pollution Control Act subject to suit -- there's lots of businesses that have boilers, for example, that are below the threshold of requiring a permit. They are eligible to be sued, but under the Environmental Rights Act, how is it not that if I don't like my neighbor and I'm entitled as an Article 1 right to clean air, and they have a furnace, why can't I bring a cause of action against them based on this statute?

This is a terrible idea. This is anarchy masquerading as an amendment, and that if we're going to put this on the ballot, then I respectfully suggest we need to put a provision on the ballot to elect the Judiciary. If the Legislature is going to abdicate regulating the environment and energy policy in the State of New Jersey, we the people need a recourse, and that would be election of those who are making the policy decisions (indiscernible) Judiciary.

Thank you, Chairman.

SENATOR SMITH: Thank you for your comments.

For the record, Rachel Dunn -- Rachel Dawn -- I can't read the handwriting, from Watersport, wanted to be recorded in favor, no need to testify.

Bridget Brady, Green Amendment for the Generation and Delaware Riverkeeper Network -- in favor, no need to testify. Lindsey Kayman, New Jersey Environmental Lobby -- in favor.

Ms. Kayman -- or Mr. Kayman, I can't tell. Lindsey. Gone, or is she here?

UNIDENTIFIED SPEAKER: No, she had to leave.

SENATOR SMITH: She had to leave.

She's recorded as in favor.

Robin G-U-R-I-N? Does that sound right? Environmental Education Fund?

UNIDENTIFIED SPEAKER: Also had to leave.

SENATOR SMITH: Gone?

UNIDENTIFIED SPEAKER: Gone.

SENATOR SMITH: All right, noted as in favor.

Terrance Bankston, Newark resident, member New Jersey Environmental Justice Advisory Council -- in favor.

Terrance, are you here?

UNIDENTIFIED SPEAKER: Stuck on a train.

SENATOR SMITH: Anjuli Ramos -- in favor, from New Jersey Sierra Club.

A N J U L I R A M O S - B U S O T: I'm here.

SENATOR SMITH: Anjuli is here.

MS. RAMOS-BUSOT: Good afternoon, everybody.

SENATOR SMITH: Good afternoon.

MS. RAMOS-BUSOT: Chairman Smith, Vice Chair Greenstein, I am Anjuli Ramos, New Jersey Sierra Club Director, here in support of the resolution and constitutional amendment.

With the vivid impacts of climate change already giving us rising sea levels, severe weather, and disproportionate pollution on over-burdened communities, it is more important than ever that New Jersey acts. This constitutional amendment would recognize our right to clean air, clean water, and a healthy planet, and would require that all citizens have equal protection from government or private activities that are harmful to the environment. Everyone should have the right to a clean and healthy environment, and no community should bear disproportionate risks of harm because of their demographic characteristics or economic condition.

This amendment would not only provide a major tool to preserve and provide equal access to clean air, water, and soil, it will also help us in our work to meet the looming climate-change crisis. Government and industry decision-makers will need to consider our rights and become proactive in making environmentally beneficial decisions. That's really what this is about; it's the proactive measures for environmental decision-making. Establishing an enforceable environmental right will drive better government decision-making at all levels, and prevent ecological degradation.

And, the Green Amendment is actually quite conservative, because it limits government action on infringing on New Jerseyans' rights within the Green Amendment -- air, soil, water.

I would like to touch upon Janine Bauer's point on Solvay and PFAS, and also a little bit of, like, the commotion that I heard before about people suing permanent facilities. I don't think it's that. I think it's that the

clean air act, the clean water act, and then, consequently, State environmental regulations, are reactive in a manner of, like, we permit pollution. How do we control it? What's an adequate level? This would provide better decision-making in a proactive way. So, to go back to Janine's point about Solvay and PFAS, Senator -- well both of you -- and Senator Greenstein, you know better than anybody the issues that we're having with PFAS in the entire state. And, we're always trying to chase the pollution, because they always continuously change their chemicals. And, it's because our environmental regulations are designed to only capture certain chemicals in a reactive way. This would provide a better mechanism to proactively regulate all types of pollution without having to write an entire rule about one specific chemical -- which is the PFAS problem.

This constitutional amendment would not only empower New Jerseyans to fight for their rights, it would actually provide them with a legal mechanism to do so. There isn't more of a fundamental right than the right to live. But how can we if our air, water, and soil are continuously poisoned and the ability for a future generation to survive diminishes?

The worst part of all of this is that we're all aware that we're poisoning our environment. We fight it, but it keeps happening. The reason - It's how our systems are designed. New Jersey can never outright prohibit pollution and loss of environmentally sensitive areas, we can only slow it down through permanent processes. We *have* been permitting environmental degradation for decades, and we sure have a lot of exemptions to make it happen.

Oftentimes, environmental protection is sacrificed because of property rights. The Green Amendment will level the field -- equal weight to

property and environment. As a human, I have the right -- my property, you know, I have (indiscernible) property, I have my right to live. I should also have a right to live in a healthy way, which is clean air, clean soil, clean water.

New Jersey Sierra Club supports this constitutional amendment, as our proud, fundamental mission is to explore, enjoy, and protect the wild places of Earth; to practice and promote the responsible use of the Earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives.

As you've heard before from previous testimony, there are other states that already have something similar or the Green Amendment. It's time for New Jersey to do the same.

Thank you.

SENATOR SMITH: Thank you for your comments.

Molly Cleary, Clean Water Action -- in favor.

Molly, are you here?

M O L L Y C L E A R Y: Hi; yes, I am.

SENATOR SMITH: Come on up.

MS. CLEARY: Hi, I hope you all are having a great day.

My name is Molly Cleary. I am the Environmental Advocate for Clean Water Action New Jersey.

Often in this Committee, we hear the phrase, "The world is ending." It is said often because it is true. The people of New Jersey know it, and by the sheer amount of co-sponsors and sponsors on this bill, the legislators know it. The effects of pollution are evident, seen most by those in overburdened communities. Rates of respiratory and cardiovascular

illnesses are skyrocketing in these communities and will continue to if legislation is not passed and if changes are not made.

Preserving the public natural resources of New Jersey is crucial and a value of those in the state. The Green Amendment ensures the name “The Garden State” rings true, and creates hope for a cleaner future for all New Jerseyans as a partner and compliment to the environmental justice law.

Since 1972, it has been the mission of Clean Water Action to ensure a cleaner tomorrow. We believe this amendment is both a sign of environmental progress and a beacon of hope for the people of New Jersey, no matter your ZIP code or the color of your skin.

We thank the sponsors of this bill and truly do support this bill. And, thank you all for your time.

SENATOR SMITH: Thank you for your comments.

Joan Divor, League of Women Voters of New Jersey -- in favor.

J O A N D I V O R: Good afternoon, Chairman Smith and members of the Committee.

My name is Joan Divor, and I am testifying in support of SCR43 on behalf of the League of Women Voters of New Jersey.

SCR43 is designed to give New Jersey residents a legal basis against further harm to their health and the health of our environment. We are seeing negative impacts in our state like asthma; water contamination; and increased flooding -- particularly in overburdened communities that are closest to the pollution sources. These are caused by fossil fuel production; incinerators; truck transportation; and climate change.

The residents who are living with these realities -- some of whom are here today -- speak up against new pollutant sources and new harms to

their environment, but that has not been enough. New Jersey needs a Green Amendment. We need a line in the sand that guarantees the public basic protections to our health and legal recourse to defend those rights.

A bill for New Jersey Green Amendment was first introduced to the Legislature over six years ago. Since then, it has received large public support from constituents across the state, and dozens of sponsors in both the Senate and the Assembly. We thank you for holding this hearing today to allow for some public voices to be heard, and we urge you to quickly schedule a committee hearing with a vote on this critical issue that has stalled for far too long.

As this bill directly impacts New Jersey residents, it is time to let them decide. Our state and our democracy is at its strongest when New Jersey voters are more active and empowered. By putting the Green Amendment on the ballot, voters have the opportunity to codify their right to public health and a clean environment for generations to come.

Just as League of Women Voters believes that everyone has a fundamental right to vote, we believe that everyone has a fundamental right to clean air, clean water, and a healthy environment. That is why we support this bill for a Green Amendment. We urge the members of this Committee to vote yes in the near future.

Thank you for your time.

SENATOR SMITH: Thank you for your comments.

Ivonne Norman, New Jersey resident and New Jersey licensed attorney -- in favor.

Is Ivonne Norman here?

Go right ahead.

IVONNE NORMAN, Esq.: Good afternoon.

Chairman Smith, Vice Chair Greenstein, members of the Committee, thank you for the opportunity to testify here today.

My name is Ivonne Norman; I am an attorney and an environmental justice advocate licensed in New York, and I am a resident in Bergen County, New Jersey.

I am here to talk to you about the great New York's Green Amendment, and briefly highlight three important points: The significance of placing the Green Amendment in the Bill of Rights of the Constitution; the power of the Green Amendment to filling the gaps in existing environmental laws and regulations; and third, the Green Amendment did not open floodgates of litigation in our courts.

What is most significant about New York's Green Amendment is the fact that it's placed in the Bill of Rights of the Constitution, which means that it recognizes environmental rights as fundamental, and at the same level as other inherent rights like freedom of speech and freedom of religion.

Also, just as significant -- because it's in the Bill of Rights, the Green Amendment is self-executing, meaning it does not require additional legislation to be made effective or legally binding.

Another important quality of the Green Amendment is that it carries force and permanency, whereas legislation is more restrictive in what it can accomplish. As a result, this leads to blind spots in environmental protection that can result in significant harm that the legislation did not anticipate. And, we heard from prior testimony about these legal gaps or blind spots. And, I can offer two specific, clear examples in New York in

environmental justice communities in which these blind spots were present, which means that the system was broken.

One is the village of Hoosik Falls in Rensselaer County. For many years, the residents had been unknowingly drinking water that was contaminated with PFAS, which it's common knowledge are highly toxic chemicals. But, because the population was roughly 6,900, the village was not required to test the water system under the regulations as they existed in 2013. Those regulations would trigger for water systems serving more than 10,000 people. So, the contaminated water went undetected -- unmonitored -- to the health detriment of these residents, and they suffer from severe illnesses including kidney cancer, testicular cancer, and colitis because the right to clean water was not protected. And, I represent here today that the right to clean water should not be triggered by a numerical threshold in population -- every single person has the right to have clean water.

Another example of this legal loophole is the South Bronx -- specifically areas like Hunts Point and Mott Haven, which are sadly referred to as "asthma alley." Because these communities have been saturated with toxic emissions from peaker plants and other polluting industry infrastructure that emit carbon dioxide and nitrogen oxide in increased amounts. The existing environmental laws were not sufficient to protect the residents' right to clean air. And, it is common knowledge that the South Bronx has one of the highest death and disease rates from asthma in the country. And, this is precisely the type of situations in which a Green Amendment has the power to bridge those legal gaps and offer protections to address the unanticipated and unaddressed consequences to ensure that all people have the right to clean air, clean water, and a healthy environment.

Lastly, as I mentioned earlier, the enactment of the Green Amendment in New York has not led to vast amounts of litigation in the past year or so -- two years -- that it has been enacted; only a handful of cases have been filed. And, only those with (indiscernible) claims alleging significant harms of serious community concern have advanced.

Two quick examples: The “fresh air for the Eastside” was the first case that was filed in New York on behalf of residents of Monroe County, leaving the (indiscernible) a large solid-waste landfill. The fugitive greenhouse gases and pollutants from the landfill, including methane and sulfur compounds, have been severely harming the community since 2017. Another case in point is an action on behalf of the residents in Albany County against the Norlite Waste Incineration Facility, because the emissions have caused severe air pollution by releasing crystalline silica and dangerous levels of particulate matter. In both these cases, the long-term exposure to the dangerous air pollution has caused severe adverse health consequences including lung damage, cardiac disorders, aggravating asthma, and increased rate of mortality. And, this is the reason why these cases have advanced.

I can represent to you that a case where -- because someone doesn’t like the sound of the windmill, that case will not be -- will not stand; simply will not pass muster. The objective is for the Green Amendment to protect environmental rights and to inform how the other laws that add (indiscernible) should be interpreted and applied. So, this precedent should deter litigation if the laws and regulations foster a clean and healthy environment. And, those considerations lead to protecting the constitutional rights.

And, I will end with this principle: A healthy government and a healthy economy are directly dependent on the health and well-being of all (indiscernible) people.

Thank you.

SENATOR GREENSTEIN: Thank you very much.

SENATOR SMITH: OK, for the record, while this has been fabulously informative, at 3:55 p.m. we're going to stop.

For the record, Altoria Frazier, Parents Engaging Parents -- in favor, no need to testify. Carolyn McGrath, Climate Psychology Alliance -- North America -- in favor. Carolyn, are you here?

C A R O L Y N M c G R A T H: Hi, good afternoon.

I will try and be brief, because I'm sure you're all tired at this point.

But, thank you for listening.

So, my name is Carolyn McGrath. I'm a high school teacher at the Hopewell Valley Central High School. I work with the Youth Environmental Society, and I am also here as a member of the Climate Psychology Alliance of North America.

As part of the Climate Psychology Alliance, we recently released a report which outlines the significant mental health impacts that students are facing in the face of ongoing ecological breakdown.

I'm not sure if you're aware of these statistics, so I just wanted to make the Committee aware of these. And, these are also impacts I am seeing in my experiences working with students as a teacher.

So, in 2021, there was a ground-breaking global study of 10,000 youth which was published in the *Lancet Journal*. And, this study found 75%

of young people found the future to be frightening. Fifty-six percent believe that humanity is doomed, and more than 50% experience feeling sad, anxious, angry, powerless, helpless, and guilty. Nearly half of respondents said their feelings of climate change negatively affected their day-to-day function. And, higher levels of distress were associated with feelings of betrayal from government inaction.

So, I want to highlight this last sentence that was taken directly from what we wrote in our report. The last sentence: “The profound impact that you people in power in our government have on the lives of young people today.”

So, we’re here to discuss the passage of the Green Amendment, which would secure the constitutional right to clean air, water, and a stable climate. And, that would show that you take young people, their concerns, as well as their futures seriously; and that you are working to ensure that they and future generations have a safe and healthy future.

Thank you.

SENATOR SMITH: Thank you for your comments.

Anneke van Rossum, Delaware Riverkeeper Network -- in favor.

A N N E K E V A N R O S S U M: Hi, I am Anneke van Rossum, and I am with the Delaware Riverkeeper Network. I am an Advocacy and Policy Coordinator, and I am here today to speak about the power of the New Jersey Green Amendment.

Delaware Riverkeeper Network is very active in New Jersey, as it is one of the four watershed states, and its environment and health is key to the health of the whole watershed and the 17 million people across it.

I want to begin my testimony today by dispelling a myth right out the gate, and that is that green amendments have negative, unintended consequences. I do have to say that I am very appalled to hear a statement that anybody who says otherwise is naïve or disingenuous, because in no way people who are advocating to not have their bodies poisoned by pollution are naïve or disingenuous.

SENATOR SMITH: So, let me interrupt you for one second.

MS. VAN ROSSUM: Yes.

SENATOR SMITH: We are governed by a Constitution; there is a first amendment. Anybody can pretty much say whatever they want, so don't beat them up too badly.

It's now 3:45 p.m. -- ten minutes left in the hearing. Please tell us something new, and don't read testimony. Do it from the heart.

MS. VAN ROSSUM: Well, my testimony is always from the heart, so I will reference what I have but I will make it quick.

SENATOR SMITH: Please. There's another four -- I'd like to get the four done.

MS. VAN ROSSUM: Well, there can be no negative unintended consequences when it comes to the protection of our environment. How can there be negative unintended consequences when we are preventing our air from being filled with carbon -- our lungs from being filled with air of carbon monoxide, particulate matter, and even more, that have all been linked to increased risks of heart disease, Alzheimer's, and asthma?

It should be noted that there is no evidence of these negative, unintended consequences. It has been an industry talking point without a spine, and there is no evidence to the contrary.

And, I just want to say, for real importance -- as I am sure you are all aware and has been heard -- New York and Pennsylvania, your neighbors upstream, both have green amendments. And, your neighbor to the south, Delaware, is also considering a green amendment. New Jersey has an amazing opportunity right now as a leader in the Delaware River watershed and for the over 17 million people across it to add itself as a Green Amendment champion. And, while Pennsylvania may be known as the "Keystone State," you, as the Garden State, now have an opportunity to become a keystone state and a keystone leader in giving people in the Delaware River watershed and beyond constitutional protection of their environmental rights.

It is so important to drive home and for you to understand that, yet again, you are not creating any new rights. Just as when everybody was born, we believe that people across this nation *did* have their right to have their voices be heard loud and free; we enshrined it in our State Constitution and in our Federal Constitution because it was so important. And, so, as we were born on this Earth with a right to clean air, pure water, a healthy environment, and a stable climate, it is imperative that this also be backed by New Jersey State Constitution and the people of New Jersey receive that constitutional empowerment.

Thank you.

SENATOR SMITH: Thank you for your comments.

Elif Cam, Environmental Education Fund -- I assume in favor, but it wasn't marked.

E L I F C A M: Oh, yes, it is in favor, I'm sorry.

SENATOR SMITH: Brevity, brevity.

MS. CAM: I think I was called earlier, but I didn't hear it.

I'm going to keep this really brief.

So, I am a high school student. I am from Princeton High School, and I am a sophomore right now. And, the reason I am here today is to testify simply to defend my own future.

So, you are living in a world that your predecessors created for you, right? And, we are going to be living in the world that *you* create with your actions today for *us*. And, so, this is why the opinions and the concerns of the youth must really be heard, as we are the ones who are going to be inheriting the world that's created today towards -- through this legal action.

So, we are the kids in this state; we are your kids. And, we need a livable environment in our future like the ones that were provided for you by the people who made those decisions for you.

I am an environmental leader at my school, and I have started an environmental club. And, I just know how much the youth are passionate about these sort of issues and how much they care. And, just seeing that, I'd just like to say -- representing youth today -- that we support this and we want a sustainable world. And, that's what I'd like to leave you with today.

Thank you so much.

SENATOR SMITH: Thank you for making that point.

Dave Pringle, who is not the last speaker, because the last speaker is going to be Doug O'Malley, who requested that first.

Dave.

And, you're down to two minutes, is what you promised.

D A V I D P R I N G L E: All right.

(indiscernible) he had to leave.

SENATOR SMITH: Oh, did he really?

UNIDENTIFIED SPEAKER: Yes.

SENATOR SMITH: All right, that doesn't give any more time.

(laughter)

MR. PRINGLE: Understood; I'd have it no other way.

Thank you, Mr. Chairman, for all your leadership on everything, but especially on the Green Amendment, and our prime sponsors past and present.

I would like to say it was worth the wait of six years -- it wasn't -- but I am really excited we are here today, so thank you.

I am going to make five very quick new points.

I am scratching my head. A civil justice lawyer saying the Green Amendment is not -- the process is not democratic or representative? What's more representative or democratic than the Legislature having a pass on a resolution either twice or with 60% of the vote, and then putting it before all the people?

Two: The New York referendum that passed in 2021. It had to pass the Legislature twice. I forget the exact percentage, but it was well over 60% -- I think it was close to 70%--

UNIDENTIFIED SPEAKER: Seventy.

MR. PRINGLE: There were other questions on the ballot; none of them did as well. And, I will double check and get back to you, but I believe at least one of them failed. So, that means there was a lot of discernment of what's on the ballot and how people voted. So, people knew what they were doing when voting, they weren't just lying, balloting, or bullet voting, etc.

Three: I heard a previous gentleman say that the Green Amendment is too simple, and everything is more complicated. Article I of our State Constitution: Number 1, rights and privileges -- there's a lot of them. You all should read them, especially if you haven't read them before. Most of them are pretty simple, and they implement very complicated things. So, Green Amendment is the same thing. Right to free speech; property rights; civil rights; etc., etc., etc.

And, I think my final comment, New Jersey being over litigious? I think Donald Trump might disagree with that; I think he might think that New York is overly litigious, and we see how the Green Amendment is being applied in New York.

So, thank you. We know this isn't going to be fast-tracked. We do hope it's passed out of committee very soon. We will follow up with the appropriate language we've been talking about and additional information on case studies. And, this is just the very beginning of the process; a long way to go, so I hope we can see it out of committee and we know it's not going to be fast-tracked after that.

SENATOR SMITH: And, you did make your two minutes. Congratulations.

UNIDENTIFIED SPEAKER: Correct the record.

MR. PRINGLE: I'm sorry, it did pass in New York--

SENATOR SMITH: This is beyond two minutes.

I'm sorry, go ahead. I'm joking. Go ahead.

MR. PRINGLE: It did pass in New York with over 70% of the vote in 2020.

SENATOR SMITH: Thank you, Dave.

Thanks everybody for coming down today.

This *is* the record. We had a court stenographer; this will be circulated to everybody on both sides of the -- both houses.

Everybody did a magnificent job getting their point of view out, and now it's in the hands of this Committee first and then the Legislature after that.

Thank you for your time and energy today, and we are now closing this episode of the most interesting committee in the Legislature.

Thank you for coming down.

Meeting is adjourned.

(MEETING CONCLUDED)