

PUBLIC HEARING

before

SENATE ENERGY AND ENVIRONMENT COMMITTEE

on

SENATE BILL 3187

(Designated the New Jersey Environmental Trust Act)

SENATE BILL 3188

(The Clean New Jersey Bond Act of 1985)

SENATE BILL 3189

(The Natural Resources Fund Transfer Act of 1985)

SENATE BILL 3190

(The Environmental Project Revenue Act of 1985)

SENATE BILL 3191

(Appropriates \$25,000,000 to the New Jersey Environmental Trust
to make a loan to Essex County for financing costs
of that County's resource recovery facility)

August 27, 1985
Room 438
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Daniel J. Dalton, Chairman
Senator Catherine A. Costa, Vice Chairwoman
Senator Paul Contillo
Senator Lee B. Laskin

ALSO PRESENT:

Mark T. Connelly
Office of Legislative Services
Aide, Senate Energy and Environment Committee

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SENATE, No. 3187

STATE OF NEW JERSEY

INTRODUCED JUNE 27, 1985

By Senators GORMLEY, GARIBALDI, CONNORS and DORSEY

Referred to Committee on Energy and Environment

AN ACT establishing the New Jersey Environmental Trust; defining the functions, duties and powers thereof, including the authorization to issue bonds, notes and other obligations; and providing an appropriation therefor.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "New Jersey
2 Environmental Trust Act."

1 2. The Legislature finds that:

2 a. There is an urgent need to rehabilitate and repair the aging,
3 outmoded, inadequate and deteriorating elements of the environ-
4 mental infrastructure projects of governmental units and to facili-
5 tate the construction of new, technologically-advanced projects
6 to keep pace with and promote the revitalization and growth of
7 the State consistent with changing economic, demographic and
8 social conditions;

9 b. The collective needs of governmental units for capital financ-
10 ing of resource recovery facilities, environmentally-sound sanitary
11 landfill systems and wastewater treatment facilities far exceed the
12 sums of money presently available through revenue initiatives and
13 State and federal aid programs;

14 c. The public health, safety and welfare of the inhabitants of the
15 State require that sanitary landfill facilities which have reached
16 their operational capacities be closed in an environmentally-sound
17 manner, and it is an important public purpose for the State to pro-
18 vide necessary assistance to assure that the owners or operators of,

19 and the cost of the services provided by these facilities are payable
20 of meeting the increasing costs of landfill closures;

21 d. It is an important public purpose for the State to encourage
22 governmental units to undertake environmental infrastructure
23 projects and for the State to assist owners or operators of sanitary
24 landfill facilities in the closure of these facilities through the
25 establishment of a State agency to provide or promote adequate
26 financial support through a variety of fiscal endeavors, including,
27 where authorized by law, grants and revolving loans of State bond
28 proceeds and other funds.

1 3. As used in this act:

2 a. "Bonds" means bonds issued by the trust pursuant to this act;

3 b. "Closure cost" means all costs associated with the design, pur-
4 chase, construction or maintenance of all measures required by the
5 Department of Environmental Protection, pursuant to law, in order
6 to prevent, minimize or monitor pollution or health hazards result-
7 ing from sanitary landfill facilities subsequent to the termination
8 of operations of any portion thereof, including, but not necessarily
9 limited to, the costs of the placement of earthen or vegetative cover,
10 and the installation of methane gas vents or monitors and leachate
11 monitoring wells or collection systems at the site of any sanitary
12 landfill facility, and such other additional costs which are analogous
13 to those listed in the definition of "cost" below and not otherwise
14 specified herein;

15 c. "Cost" means the cost of all labor, materials, machinery and
16 equipment, lands, property, rights and easements, financing
17 charges, interest on bonds, notes or other obligations, plans and
18 specifications, surveys or estimates of costs and revenues, engineer-
19 ing and legal services, and all other expenses necessary or incident
20 to all or part of an environmental project;

21 d. "Environmental project" mean the acquisition, construction,
22 improvement, expansion, repair or reconstruction of all or part of
23 any structure, facility or equipment, or real or personal property
24 necessary for or ancillary to any wastewater treatment facility,
25 resource recovery facility, including recycling and composting
26 projects, or an environmentally-sound sanitary landfill system
27 which meets the requirements set forth in section 23 of this act;

28 e. "Environmentally-sound sanitary landfill system" means a
29 landfill which is in compliance with applicable State laws and which
30 shall be utilized for the following purposes:

31 (1) Disposing of those solid wastes which cannot be processed
32 by a resource recovery facility or which result from the operation
33 of a resource recovery facility,

34 (2) Disposal of solid waste, on an interim basis, until operation
35 of a resource recovery facility commences or is continued, and

36 (3) Disposal of solid waste, on a long-term basis, in those dis-
37 tricts which demonstrate to the satisfaction of the Department of
38 Environment Protection that utilization of a resource recovery
39 facility is not feasible for disposal of the solid waste generated in
40 that district;

41 f. "Governmental unit" means any county or municipality, or
42 any agency, instrumentality, authority or corporation of any
43 county or municipality, including but not limited to sewerage,
44 utility and improvement authorities, or any public body having
45 local, regional or Statewide jurisdiction or power, including but
46 not limited to, solid waste management districts, or any bi-state
47 or multi-state authority or agency which includes the State;

48 g. "Landfill closure project" means all activities associated with
49 the design, purchase, construction or maintenance of all measures
50 required in order to prevent, minimize or monitor pollution or
51 health hazards resulting from sanitary landfill facilities subsequent
52 to the termination of operation of any portion thereof, including,
53 but not necessarily limited to, the placement of earthen or vegeta-
54 tive cover, and the installation of methane gas vents or monitors
55 and leachate monitoring wells or collection systems at the site of
56 any sanitary landfill facility;

57 h. "Notes" means notes issued by the trust pursuant to this act;

58 i. "Owner or operator" means and includes, in addition to the
59 usual meanings thereof, every owner of record of any interest in
60 land whereon a sanitary landfill facility is or has been located, any
61 operator of a sanitary landfill facility, and any person or corpora-
62 tion which owns a majority interest in any other corporation which
63 is the owner or operator of any sanitary landfill facility. This also
64 includes any governmental unit which is the owner or operator of
65 any sanitary landfill facility or which by utilization of any facility
66 is required to pay any portion of closure costs through the pay-
67 ment of rates or charges for the disposal of solid waste at any
68 sanitary landfill facility;

69 j. "Resource recovery facility" means the plants, structures,
70 machinery, equipment, real and personal property acquired, con-
71 structed or operated or to be acquired, constructed or operated in
72 whole or in part by or on behalf of a governmental unit and other
73 personal property, and appurtenances necessary or useful and
74 convenient for the collection, separation, removal and reuse of
75 materials in the stream of wastes presently going to landfills, in-
76 cluding those materials which are capable of recycling and direct

77 delivery to manufacturers for use as raw materials as well as the
78 the conversion of waste for energy production;

79 k. "Sanitary landfill facility" means a solid waste facility at
80 which solid waste is deposited on or in the land as fill for the
81 purpose of permanent disposal or storage for a period exceeding
82 six months, except that it shall not include any waste facility
83 approved for disposal of hazardous waste;

84 l. "Solid waste disposal facility" means either an environment-
85 ally-sound sanitary landfill system or a resource recovery facility;

86 m. "State" means the State of New Jersey;

87 n. "State agency" means the executive, legislative or judicial
88 branch of the State government or any officer, department, board,
89 commission, bureau, or division of the State;

90 o. "Trust" means the New Jersey Environmental Trust created
91 pursuant to section 4 of this act;

92 p. "Wastewater treatment facility" means the plants, structures,
93 real and personal property acquired, constructed or operated or
94 to be acquired, constructed or operated in whole or in part by or
95 on behalf of a governmental unit including pumping and ventilating
96 stations, wastewater treatment systems, plants and works, con-
97 nections, outfalls, interceptors, trunk lines, and other personal
98 property, and appurtenances necessary or useful and convenient
99 for the treatment, purification, disposal or recycling and recovery
100 in a sanitary manner of any wastewater, liquid or solid wastes,
101 night solid, or industrial wastes to preserve and protect natural
102 water resources and facilities.

1 4. a. There is established in, but not of, the Department of
2 Environmental Protection a body corporate and politic, with
3 corporate succession, to be known as the "New Jersey Environ-
4 mental Trust." The trust is constituted an instrumentality exer-
5 cising public and essential governmental functions, and the exercise
6 by the trust of the powers conferred by this act is deemed to be
7 an essential governmental function of the State.

8 b. The trust shall consist of a seven-member board of directors
9 composed of the State Treasurer, the Commissioner of the Depart-
10 ment of Community Affairs, and the Commissioner of the Depart-
11 ment of Environmental Protection, who shall be members ex officio;
12 one person appointed by the Governor upon the recommendation
13 of the President of the Senate and one person appointed by the
14 Governor upon the recommendation of the Speaker of the General
15 Assembly, who shall serve during the two-year legislative term
16 in which they are appointed; and two residents of the State
17 appointed by the Governor with the advice and consent of the

18 Senate, who shall serve for terms of four years, except that the
19 first two appointed shall serve terms of two and three years re-
20 spectively. Each appointed director shall serve until his successor
21 has been appointed and qualified. A director is eligible for re-
22 appointment. Any vacancy shall be filled in the same manner as
23 the original appointment, but for the unexpired term only.

24 With respect to those public members first appointed by the
25 Governor; the appointment of each of the two members upon the
26 advice and consent of the Senate shall become effective 30 days
27 after their nomination by the Governor if the Senate has not given
28 advice and consent on those nominations within that time period;
29 the President of the Senate and the Speaker of the General Assem-
30 bly each shall recommend to the Governor a public member for
31 appointment within 20 days following the effective date of this act,
32 and a recommendation made in this manner shall become effective
33 if the Governor makes the appointment in accordance with the
34 recommendation, in writing, within 10 days of the Governor's
35 receipt thereof. In each instance where the Governor fails to make
36 the appointment, the President of the Senate and the Speaker of
37 the General Assembly shall make new recommendations subject
38 to appointment by the Governor as determined in this section.

39 c. Each appointed director may be removed from office by the
40 Governor for cause, upon the Governor's consideration of the
41 findings and recommendations of an administrative law judge
42 after a public hearing before the judge, and may be suspended by
43 the Governor pending the completion of the hearing. Each director,
44 before entering upon his duties, shall take and subscribe an oath
45 to perform the duties of his office faithfully, impartially and justly
46 to the best of his ability. A record of oaths shall be filed in the
47 Office of the Secretary of State.

48 d. The Governor shall designate one of the appointed members
49 to be the chairman and chief executive officer of the trust and the
50 directors shall biannually elect a vice-chairman from among the
51 appointed directors. The chairman shall serve as such for a term
52 of one year and until a successor has been designated. A chairman
53 shall not be eligible to succeed himself. The directors shall elect
54 a secretary and treasurer who need not be directors, and the same
55 person may be elected to serve as both secretary and treasurer.
56 The powers of the trust are vested in the directors in office from
57 time to time and four directors shall constitute a quorum at any
58 meeting. Action may be taken and motions and resolutions adopted
59 by the trust by the affirmative majority vote of those directors
60 present, but in no event shall any action be taken or motions or

61 resolutions adopted without the affirmative vote of at least four
62 members. No vacancy on the board of directors of the trust shall
63 impair the right of a quorum of the directors to exercise the powers
64 and perform the duties of the trust.

65 e. Each director and the treasurer of the trust shall execute a
66 bond to be conditioned upon the faithful performance of the duties
67 of the director or treasurer in a form and amount as may be pre-
68 scribed by the State Treasurer. Bonds shall be filed in the Office
69 of the Secretary of State. At all times thereafter, the directors
70 and treasurer shall maintain these bonds in full effect. All costs
71 of the bonds shall be borne by the trust.

72 f. The directors of the trust shall serve without compensation,
73 but the trust shall reimburse the directors for actual and necessary
74 expenses incurred in the performance of their duties. Notwith-
75 standing the provisions of any other law to the contrary, no officer
76 or employee of the State shall be deemed to have forfeited or shall
77 forfeit his office or employment or any benefits or emoluments
78 thereof by reason of his acceptance of the office of ex officio director
79 of the trust or his services thereon.

80 g. Each ex officio director may designate an officer of his depart-
81 ment to represent him at meetings of the trust. Each designee may
82 lawfully vote and otherwise act on behalf of the director for whom
83 he constitutes the designee. The designation shall be delivered in
84 writing to the trust and shall continue in effect until revoked or
85 amended in writing and delivered to the trust.

86 h. The trust may be dissolved by law provided the trust has no
87 debts or obligations outstanding or that provision has been made
88 for the payment or retirement of these debts or obligations. The
89 trust shall continue in existence until dissolved by act of the Legis-
90 lature, except that the trust shall not continue in existence beyond
91 20 years unless the Legislature shall by law prescribe otherwise.
92 Upon any dissolution of the trust all property, funds and assets
93 of the trust shall be vested in the State.

94 i. A true copy of the minutes of every meeting of the trust shall
95 be forthwith delivered by and under the certification of the secre-
96 tary therefor to the Governor and at the same time to the Senate
97 and General Assembly. The time and act of this delivery shall be
98 duly recorded on a delivery receipt. No action taken or motion
99 or resolution adopted at a meeting by the trust shall have effect
100 until 10 days, exclusive of Saturdays, Sundays and public holidays,
101 after a copy of the minutes has been delivered to the Governor
102 unless during the 10-day period the Governor shall approve all
103 or part of the actions taken or motions or resolutions adopted,

104 in which case the action or motion or resolution shall become
105 effective upon the approval. If, in the 10-day period, the Governor
106 returns the copy of the minutes with a veto of any action taken by
107 the trust or any member thereof at that meeting, the action shall
108 shall be of no effect. The Senate or General Assembly shall have
109 the right to provide written comments concerning the minutes to
110 the Governor within the 10-day period, which comments shall be
111 returned to the trust by the Governor with his approval or veto
112 of the minutes. The powers conferred in this subsection upon the
113 Governor shall be exercised with due regard for the rights of the
114 holders of bonds, notes and other obligations of the trust at any
115 time outstanding, and nothing in, or done pursuant to, this sub-
116 section shall in any way limit, restrict or alter the obligation or
117 powers of the trust or any representative or officer of the trust
118 to carry out and perform each covenant, agreement or contract
119 made or entered into by or on behalf of the trust with respect
120 to its bonds, notes or other obligations or for the benefit, pro-
121 tection or security of the holders thereof.

122 j. No resolution or other action of the trust providing for the
123 issuance of bonds, refunding bonds, notes or other obligations
124 shall be adopted or otherwise made effective by the trust without
125 the prior approval in writing of the Governor and the State Trea-
126 surer. The trust shall provide the Senate and General Assembly
127 with written notice of any request for approval of the Governor
128 and State Treasurer at the time the request is made, and shall
129 also provide the Senate and General Assembly written notice of
130 the response of the Governor and State Treasurer at the time that
131 the response is received by the trust.

1 5. Except as otherwise limited by this act, the trust may:

2 a. Make and alter bylaws for its organization and internal man-
3 agement and, subject to agreements with holders of its bonds, notes
4 or other obligations, make rules and regulations with respect to
5 its operations, properties and facilities;

6 b. Adopt an official seal and alter it;

7 c. Sue and be sued;

8 d. Make and enter into all contracts, leases and agreements neces-
9 sary or incidental to the performance of its duties and the exercise
10 of its powers under this act, and subject to any agreement with
11 the holders of the trust's bonds, notes or other obligations, consent
12 to any modification, amendment or revision of any contract, lease
13 or agreement to which the trust is a party;

14 e. Enter into agreements or other transactions with and accept,
15 subject to the provisions of section 22 of this act, grants, appro-

16 priations and the cooperation of the United States, or any agency
17 thereof, or the State, or any State agency, in furtherance of the
18 purposes of this act, and do anything necessary in order to avail
19 itself of that aid and cooperation;

20 f. Receive and accept aid or contributions from any source of
21 money, property, labor or other things of value, to be held, used
22 and applied to carry out the purposes of this act subject to the
23 conditions upon which that aid and those contributions may be
24 made, including but not limited to, gifts or grants from any depart-
25 ment or agency of the United States, or from the State, or any
26 State agency, for any purpose consistent with this act, subject to
27 the provisions of section 22 of this act;

28 g. Acquire, own, hold, construct, improve, rehabilitate, renovate,
29 operate, maintain, sell, assign, exchange, lease, mortgage or other-
30 wise dispose of real and personal property, or any interest therein,
31 in the exercise of its powers and the performance of its duties
32 under this act;

33 h. Appoint and employ an executive director and any other
34 officers or employees as it may require for the performance of its
35 duties, at an annual expense not to exceed \$250,000.00, without
36 regard to the provisions of Title 11 of the Revised Statutes;

37 i. Borrow money and issue bonds, notes and other obligations,
38 and secure the same, and provide for the rights of the holders
39 thereof as provided in this act;

40 j. Subject to any agreement with holders of its bonds, notes or
41 other obligations, invest moneys of the trust not required for
42 immediate use, including proceeds from the sale of any bonds,
43 notes or other obligations, in any obligations, securities and other
44 investments in accordance with the rules and regulations of the
45 State Investment Council;

46 k. Procure insurance to secure the payment of its bonds, notes
47 or other obligations or the payment of any guarantees or loans
48 made by it in accordance with the act, or against any loss in con-
49 nection with its property and other assets and operations, in any
50 amounts and from any insurers as it deems desirable;

51 l. Engage the services of attorneys, engineers, accountants, and
52 financial experts and any other advisors, consultants, experts and
53 agents as may be necessary in its judgment and fix their com-
54 pensation;

55 m. Make and contract to make loans and grants to governmental
56 units to finance the cost of environmental projects and acquire
57 and contract to acquire notes, bonds or other obligations issued
58 or to be issued by governmental units to evidence the loans, all in

59 accordance with the terms and conditions of this act;

60 n. Make and contract to make loans to owners or operators of
61 sanitary landfill facilities, and in the case of governmental units
62 to also make grants, to finance the closure cost of sanitary landfill
63 facilities and acquire and contract or acquire notes, bonds or other
64 obligations issued or to be issued by owners or operators to evi-
65 dence the loans, all in accordance with the terms and conditions
66 of this act;

67 o. Subject to any agreement with holders of its bonds, notes or
68 other obligations, purchase bonds, notes and other obligations of
69 the trust and hold the same for resale or provide for the cancella-
70 tion thereof;

71 p. Charge to and collect from governmental units and owners or
72 operators any fees and charges in connection with the trust's loans,
73 guarantees or other services, including but not limited to fees, and
74 charges sufficient to reimburse the trust for all costs incurred by
75 it in connection with its financings and the establishment and
76 maintenance of reserve or other funds, as the trust may determine
77 to be reasonable. The fees and charges shall be in accordance with
78 a uniform schedule published by the trust for the purpose of pro-
79 viding actual cost reimbursement for the service rendered;

80 q. Subject to any agreement with holders of its bonds, notes or
81 other obligations, obtain as security or to provide liquidity for
82 payment of all or any part of the principal of and interest and
83 premium on the bonds, notes and other obligations of the trust
84 or for the purchase upon tender or otherwise of the bonds, notes
85 or other obligations, lines of credit, letters of credit and other
86 security agreements or instruments in any amounts and upon any
87 terms as the trust may determine, and pay any fees and expenses
88 required in connection therewith;

89 r. Provide to governmental units any financial and credit advice
90 as these governmental units may request;

91 s. Make payments to the State from any moneys of the trust
92 available therefor as may be required pursuant to any agreement
93 with the State or act appropriating moneys to the trust; and

94 t. Take any action necessary or convenient to the exercise of the
95 foregoing powers or reasonably implied therefrom.

1 6. a. The trust may from time to time issue its bonds, notes or
2 other obligations in any principal amounts as in the judgment of
3 the trust shall be necessary to provide sufficient funds for any of
4 its corporate purposes, including the payment, funding or refund-
5 ing of the principal of, or interest or redemption premiums on,
6 any bonds, notes or other obligations issued by it whether the bonds,

7 notes or other obligations or the interest or redemption premiums
8 thereon to be funded or refunded have or have not become due,
9 the establishment or increase of reserves or other funds to secure
10 or to pay the bonds, notes or other obligations or interest thereon
11 and all other costs or expenses of the trust incident to and neces-
12 sary to carry out its corporate purposes and powers.

13 b. Whether or not the bonds, notes or other obligations of the
14 trust are of a form and character as to be negotiable instruments
15 under the terms of Title 12A of the New Jersey Statutes, the bonds,
16 notes and other obligations are made negotiable instruments within
17 the meaning of and for the purposes of Title 12A, subject only to
18 the provisions of the bonds, notes and other obligations for regis-
19-21 tration.

22 c. Bonds, notes or other obligations of the trust shall be autho-
23 rized by a resolution or resolutions of the trust and may be issued
24 in one or more series and shall bear any date or dates, mature at
25 any time or times, bear interest at any rate or rates of interest
26 per annum, be in any denomination or denominations, be in any
27 form, either coupon, registered or book entry, carry any conver-
28 sion or registration privileges, have any rank or priority, be exe-
29 cuted in any manner, be payable in any coin or currency of the
30 United States which at the time of payment is legal tender for the
31 payment of public and private debts at any place or places within
32 or without the State, and be subject to any terms of redemption
33 by the trust or the holders thereof, with or without premium, as
34 the resolution or resolutions may provide. A resolution of the
35 trust authorizing the issuance of bonds, notes or other obligations
36 may provide that the bonds, notes or other obligations be secured
37 by a trust indenture between the trust and a trustee, vesting in
38 the trustee any property, rights, powers and duties in trust con-
39 sistent with the provisions of this act as the trust may determine.

40 d. Bonds, notes or other obligations of the trust may be sold at
41 public or private sale at any price or prices and in any manner as
42 the trust may determine. Each bond, note or other obligation shall
43 mature and be paid not later than 20 years from the effective date
44 thereof, or the certified useful life of the project or projects to be
45 financed by the bonds, whichever is less, nor shall any refunding
46 of such obligations mature or be paid later than that date.

47 Notes, the initial series of bonds and bonds issued for refunding
48 purposes of the trust may be sold at public or private sale at a
49 price or prices and in a manner as the trust shall determine.

50 Except as noted above, all bonds of the trust shall be sold at
51 such price or prices and in such manner as the trust shall deter-

52 mine, after notice of sale, published at least three times in at least
53 three newspapers published in the State of New Jersey, and at
54 least once in a publication carrying municipal bond notices and
55 devoted primarily to financial news, published in New Jersey or
56 the city of New York, the first notice to be at least five days prior
57 to the day of bidding. The notice of sale may contain a provision
58 to the effect that any or all bids made in pursuance thereof may be
59 rejected. In the event of such rejection or of failure to receive
60 any acceptable bid, the trust, at any time within 60 days from the
61 date of such advertised sale, may sell such bonds at private sale
62 upon terms not less favorable to the State than the terms offered
63 by any rejected bid. The trust may sell all or part of the bonds
64 of any series as issued to any State fund or to the federal govern-
65 ment or any agency thereof, at private sale, without advertisement.

66 e. Bonds, notes or other obligations of the trust may be issued
67 under the provisions of this act without obtaining the consent of
68 any department, division, board, bureau or agency of the State,
69 and without any other proceedings or the happening of any other
70 conditions or things, other than those consents, proceedings, con-
71 ditions or things which are specifically required by this act; except
72 that the trust shall notify the State Auditor no later than 30 days
73 prior to any issuance in order that the State Auditor shall review
74 the proposed issuance, including any covenants therein, and report
75 the findings to the Legislature.

76 f. Bonds, notes or other obligations of the trust issued under
77 the provisions of this act shall not be a debt or liability of the
78 State or of any political subdivision thereof other than the trust
79 and shall not create or constitute any indebtedness, liability or
80 obligation of the State or any political subdivision, but all these
81 bonds, notes and other obligations, unless funded or refunded by
82 bonds, notes or other obligations, shall be payable solely from
83 revenues or funds pledged or available for their payment as au-
84 thorized in this act. Each bond, note and other obligation shall
85 contain on its face a statement to the effect that the trust is obli-
86 gated to pay the principal thereof or the interest thereon only
87 from its revenues, receipts or funds pledged or available for their
88 payment as authorized in this act and that neither the State, nor
89 any political subdivision thereof, is obligated to pay the principal
90 or interest and that neither the faith and credit nor the taxing power
91 of the State, or any political subdivision thereof, is pledged to the
92 payment of the principal of or the interest on the bonds, notes or
93 other obligations.

94 g. Each issue of bonds, notes or other obligations of the trust
95 may, if it is determined by the trust, be general obligations thereof
96 payable out of any revenues, receipts or funds of the trust, or
97 special obligations thereof payable out of particular revenues, re-
98 cepts or funds, subject only to any agreements with the holders
99 of bonds, notes or other obligations, and may be secured by one
100 or more of the following:

101 (1) Pledge of revenues and other receipts to be derived from
102 the payment of the interest on and principal of notes, bonds or
103 other obligations issued to the trust by one or more governmental
104 units or owners or operators, and any other payment made to the
105 trust pursuant to agreements with any governmental units or
106 owners or operators, or a pledge or assignment of any notes, bonds
107 or other obligations of any governmental units or owners or opera-
108 tors and the rights and interest of the trust therein:

109 (2) Pledge of rentals, receipts and other revenues to be derived
110 from leases or other contractual arrangements with any person
111 or entity, public or private, including one or more governmental
112 units or owners or operators, or a pledge or assignment of those
113 leases or other contractual arrangements and the rights and in-
114 terest of the trust therein:

115 (3) Pledge of grants, subsidies, contributions, appropriations
116 or other payments to be received from the United States or any
117 instrumentality thereof or from any State or State agency:

118 (4) Pledge of all moneys, funds, accounts, securities and other
119 funds, including the proceeds of the bonds, notes or other obliga-
120 tions;

121 (5) Pledge of the receipts to be derived first from the payments
122 of public utility franchise and gross receipts tax revenues and
123 then from State aid, payable to the trust pursuant to section 12 of
124 this act;

125 (6) A mortgage on all or any part of the property, real or per-
126 sonal, of the trust then owned or thereafter to be acquired, or a
127 pledge or assignment of mortgages made to the trust by any per-
128 son or entity, public or private, including one or more governmen-
129 tal units or owners or operators and the rights and interest of
130 the trust therein.

1 7. In any resolution of the trust authorizing or relating to the
2 issuance of any of its bonds, notes or other obligations, the trust,
3 in order to secure the payment of the bonds, notes or other obliga-
4 tions and in addition to its other powers, may by provisions therein
5 which shall constitute covenants by the trust and contracts with
6 the holders of the bonds, notes or other obligations:

- 7 a. Secure the bonds, notes or other obligations as provided in
8 section 6 of this act;
- 9 b. Covenant against pledging all or part of its revenues or re-
10 ceipts;
- 11 c. Covenant with respect to limitations on any right to sell,
12 mortgage, lease or otherwise dispose of any notes, bonds or other
13 obligations of governmental units or owners or operators, or any
14 part thereof, or any property of any kind;
- 15 d. Covenant as to any bonds, notes or other obligations to be
16 issued by the trust, and the limitations thereon, and the terms and
17 conditions thereof, and as to the custody, application, investment
18 and disposition of the proceeds thereof;
- 19 e. Covenant as to the issuance of additional bonds, notes or other
20 obligations of the trust or as to limitations on the issuance of ad-
21 ditional bonds, notes or other obligations and on the incurring of
22 other debts by it;
- 23 f. Covenant as to the payment of the principal of or interest on
24 bonds, notes or other obligations of the trust, as to the sources and
25 methods of payment, as to the rank or priority of the bonds, notes
26 or other obligations with respect to any lien or security or as to
27 the acceleration of the maturity of the bonds, notes or other obli-
28 gations;
- 29 g. Provide for the replacement of lost, stolen, destroyed or
30 mutilated bonds, notes or other obligations of the trust;
- 31 h. Covenant against extending the time for the payment of bonds,
32 notes or other obligations of the trust or interest thereon;
- 33 i. Covenant as to the redemption of bonds, notes and other obli-
34 gations by the trust or the holders thereof and privileges of ex-
35 change thereof for other bonds, notes or other obligations of the
36 trust;
- 37 j. Covenant to create or authorize the creation of special funds
38 or accounts to be held in trust or otherwise for the benefit of holders
39 of bonds, notes and other obligations of the trust, or of reserves for
40 other purposes and as to the use, investment, and disposition of
41 moneys held in those funds, accounts or reserves;
- 42 k. Provide for the rights and liabilities, powers and duties aris-
43 ing upon the breach of any covenant, condition or obligation and
44 prescribe the events of default and terms and conditions upon
45 which any or all of the bonds, notes or other obligations of the
46 trust shall become or may be declared due and payable before
47 maturity and the terms and conditions upon which the declaration
48 and its consequences may be waived;

49 l. Vest in a trustee or trustees within or without the State any
50 property, rights, powers and duties in trust as the trust may de-
51 termine which may include any or all of the rights, powers and
52 duties of any trustee appointed by the holders of any bonds, notes
53 or other obligations of the trust pursuant to section 18 of this act,
54 including rights with respect to the sale or other disposition of
55 notes, bonds or other obligations of governmental units or owners
56 or operators pledged pursuant to a resolution or trust indenture
57 for the benefit of the holders of bonds, notes or other obligations
58 of the trust and the right by suit or action to foreclose any mortgage
59 pledged pursuant to the resolution or trust indenture for the bene-
60 fit of the holders of the bonds, notes or other obligations, and to
61 limit or abrogate the right of the holders of any bonds, notes or
62 other obligations of the trust to appoint a trustee under this act,
63 and to limit the rights, duties and powers of the trustee;

64 m. Pay the costs or expenses incident to the enforcement of the
65 bonds, notes or other obligations of the trust or of the provisions
66 of the resolution authorizing the issuance of those bonds, notes or
67 other obligations or of any covenant or agreement of the trust
68 with the holders of the bonds, notes or other obligations;

69 n. Limit the rights of the holders of any bonds, notes or other
70 obligations of the trust to enforce any pledge or covenant securing
71 the bonds, notes or other obligations; and

72 o. Make covenants other than or in addition to the covenants
73 authorized by this act of like or different character, and make
74 covenants to do or refrain from doing any acts and things as may
75 be necessary, or convenient and desirable, in order to better secure
76 the bonds, notes or other obligations of the trust, or which, in the
77 absolute discretion of the trust, would make the bonds, notes or
78 other obligations more marketable, notwithstanding that the cov-
79 enants, acts or things may not be enumerated herein.

1 8. Any pledge of revenues, receipts, moneys, funds, or other
2 property or instruments made by the trust shall be valid and bind-
3 ing from the time when the pledge is made. The revenues, receipts,
4 moneys, funds or other property so pledged and thereafter re-
5 ceived by the trust shall immediately be subject to the lien of the
6 pledge without any physical delivery thereof or further act, and
7 the lien of any pledge shall be valid and binding as against all
8 parties having claims of any kind in tort, contract or otherwise
9 against the trust irrespective of whether the parties have notice
10 thereof. Neither the resolution nor any other instrument by which
11 a pledge under this section is created need be filed or recorded,
12 except in the records of the trust.

1 9. a. The trust may make and contract to make loans to govern-
2 mental units or owners or operators in accordance with and sub-
3 ject to the terms and conditions of this act to finance the cost of
4 environmental projects or the closure costs of landfill closure proj-
5 ects which the governmental unit or owner or operator may law-
6 fully undertake or acquire and for which the governmental unit or
7 owner or operator is authorized by law to borrow money. The loans
8 may be made subject to those terms and conditions as the trust
9 shall determine to be consistent with the purposes thereof. Each
10 loan by the trust and the terms and conditions thereof shall be
11 subject to approval by the State Treasurer, and the trust shall
12 make available to the State Treasurer all information, statistical
13 data and reports of independent consultants or experts as the State
14 Treasurer shall deem necessary in order to evaluate the loan. Each
15 loan to a governmental unit or owner or operator shall be evidenced
16 by notes, bonds or other obligations thereof issued to the trust.
17 In the case of each governmental unit, notes and bonds to be issued
18 to the trust by the governmental unit (1) shall be authorized and
19 issued as provided by law for the issuance of notes and bonds by
20 the governmental unit, (2) shall be approved by the Local Finance
21 Board in the Division of Local Government Services in the De-
22 partment of Community Affairs, and (3) notwithstanding the pro-
23 visions of N. J. S. 40A:2-27, N. J. S. 40A:2-28 and N. J. S. 40A:2-29
24 or any other provision of law to the contrary, may be sold at pri-
25 vate sale to the trust at any price, whether or not less than par
26 value, and shall be subject to redemption prior to maturity at any
27 times and at any prices as the trust and governmental units may
28 agree. Each loan to a governmental unit or owner or operator and
29 the notes, bonds or other obligations thereby issued shall bear in-
30 terest at a rate or rates per annum as the trust and the governmen-
31 tal unit or owner or operator may agree.

32 b. The trust may make and agree to make grants to governmental
33 units to finance the cost of environmental projects and closure costs
34 of landfill closure projects which the governmental unit may law-
35 fully undertake or acquire. The grant may be made subject to those
36 terms and conditions as the trust shall determine to be consistent
37 with the purposes thereof.

38 c. The trust is authorized to guarantee or contract to guarantee
39 the payment of all or any portion of the principal and interest on
40 bonds, notes or other obligations issued by a governmental unit to
41 finance the cost of any environmental project or the closure cost
42 of any landfill closure project which the governmental unit may
43 lawfully undertake or acquire and for which the governmental unit

44 is authorized by law to borrow money, and the guarantee shall
45 constitute an obligation of the trust for purposes of this act, except
46 that no guarantee shall be payable from the proceeds of State gen-
47 eral obligation bonds. Each guarantee by the trust and the terms
48 and conditions thereof shall be subject to approval by the State
49 Treasurer, and the trust shall make available to the State Trea-
50 surer all information, statistical data and reports of independent
51 consultants or experts as the State Treasurer shall deem necessary
52 in order to evaluate the guarantee.

1 10. The trust shall create and establish special funds to be known
2 as "general equity funds."

3 Subject to the provisions of the legislation appropriating moneys
4 to the trust, subject to any other provision of this act providing
5 otherwise and subject to agreements with the holders of bonds,
6 notes and other obligations of the trust, the trust shall deposit into
7 the general equity funds all revenues and receipts of the trust,
8 including moneys received by the trust as payment of the principal
9 of and the interest or premium on loans made from moneys in any
10 fund or account held by the trust under the act and the earnings
11 on the moneys in any fund or account of the trust, and all grants,
12 appropriations, other than those referred to in section 11 of this
13 act, contributions, or other moneys from any source, including the
14 United States, available for the making of loans, grants or guaran-
15 tees to governmental units, and loans to owners or operators. The
16 amounts in the general equity funds shall be available for appli-
17 cation by the trust for loans, grants or guarantees to governmental
18 units for the cost of environmental projects or closure costs of
19 landfill closure projects, for loans to owners or operators for closure
20 costs of landfill closure projects and to other corporate purposes
21 of the trust, subject to agreements with the holders of bonds, notes
22 or other obligations of the trust.

1 11. a. In addition to the general equity funds or any other funds
2 or accounts which the trust may establish, the trust shall establish
3 a separate account for each State bond authorization act pursuant
4 to which the State has issued bonds and appropriated the proceeds
5 thereof to the trust, and shall deposit those proceeds to the account
6 established therefor. The trust shall make loans or grants of the
7 moneys in that account to governmental units for environmental
8 projects or landfill closure projects, or make loans to owners or
9 operators for landfill closure projects, within the purposes and
10 subject to any limitations specified in the legislation appropriating
11 the moneys to the trust. Unless required to be otherwise applied
12 pursuant to law, the moneys received by the trust as payment of

13 the principal of and interest or premium on a loan made from
14 moneys in an account under this section and the earnings on the
15 moneys in the account shall be deposited in the general equity
16 funds and applied to the purposes thereof subject to and in ac-
17 cordance with the provisions of section 10 of this act.

18 b. The trust may establish any reserves, funds or accounts as
19 it may determine necessary or desirable to further the accomplish-
20 ment of the purposes of the trust or to comply with the provisions
21 of any agreement made by or authorized in any resolution of the
22 trust.

1 12. a. To assure the continued operation and solvency of the
2 trust, the trust may require that if a governmental unit fails or is
3 unable to pay to the trust in full when due any obligations of the
4 governmental unit to the trust, an amount sufficient to satisfy the
5 deficiency shall be paid by the State Treasurer to the trust first
6 from public utility franchise and gross receipts tax revenues ap-
7 portioned to the governmental unit pursuant to P. L. 1940, c. 4
8 (C. 54:30A-16 et seq.) and P. L. 1940, c. 5 (C. 54:30A-49 et seq.)
9 and then from State aid payable to the governmental unit. As
10 used in this section, obligations of the governmental unit include
11 the principal of or interest on bonds, notes or other obligations
12 of a governmental unit issued to or guaranteed by the trust, in-
13 cluding the subrogation of the trust to the right of the holders of
14 those obligations, any fees or charges payable to the trust, and any
15 amounts payable by a governmental unit under any service con-
16 tract or other contractual arrangement the payments under which
17 are pledged to secure any bonds or notes issued to the trust by
18 another governmental unit. State aid includes business personal
19 property tax replacement revenues, State urban aid and State
20 revenue sharing, as these terms are defined in section 2 of P. L.
21 1976, c. 38 (C. 40A:3-3), or other similar forms of State aid pay-
22 able to the governmental unit and to the extent permitted by fed-
23 eral law, federal moneys appropriated or apportioned to the gov-
24 ernmental unit by the State.

25 (1) If the trust requires, and there has been a failure or in-
26 ability by a governmental unit to pay its obligations to the trust
27 remaining uncured for a period of 30 days, the chairman of the
28 trust shall certify to the State Treasurer, with written notice to
29 the fiscal officer of the governmental unit and to the Legislature,
30 the amount remaining unpaid, and the State Treasurer shall pay
31 that amount to the trust, or if the right to receive those payments
32 has been pledged or assigned to a trustee for benefit of the holders
33 of bonds, notes or other obligations of the trust, to that trustee.

34 first out of the public utility franchise and gross receipts tax
35 revenues next available or apportioned to the governmental unit
36 and then out of the State aid payable to the governmental unit,
37 until the amount so certified is paid.

38 (2) The amount paid over to the trust shall be deducted from
39 the corresponding appropriation or apportionment of public utility
40 franchise and gross receipts taxes apportioned pursuant to P. L.
41 1940, c. 4 (C. 54:30A-16 et seq.) and P. L. 1940, c. 5 (C. 54:30A-49
42 et seq.) and then from State aid payable to the governmental unit
43 and shall not obligate the State to make, nor entitle the govern-
44 mental unit to receive, any additional appropriation or apportion-
45 ment. The obligation of the State Treasurer to make payments to
46 the trust or trustee and the right of the trust or trustee to receive
47 those payments shall be subject and subordinate to the rights of
48 holders of qualified bonds issued or to be issued pursuant to P. L.
49 1976, c. 38 (C. 40A:3-1 et seq.).

50 (3) In those instances where the governmental units are solid
51 waste management districts created pursuant to P. L. 1970, c. 39
52 (C. 13:1E-1 et seq.), or municipal or county sewerage, utility or
53 improvement authorities created pursuant to P. L. 1946, c. 138
54 (C. 40:14A-1 et seq.) or P. L. 1957, c. 183 (C. 40:14B-1 et seq.),
55 the trust may require the municipalities or counties which receive
56 service or other benefits from the districts or authorities to enter
57 into service contracts or other contractual arrangements under
58 which they would be required to make payments which would
59 satisfy any deficiencies in the revenues of the districts or authori-
60 ties to repay the loans made by the trust, which contracts would
61 be pledged to secure the payment of the loans of the trust.

62 b. Whenever a governmental unit covenants or pledges to or
63 secures the payment of its obligations to the trust by, in whole or
64 in part, certain revenues of the governmental unit derived by the
65 governmental unit from the imposition of rates, fees and charges,
66 and the governmental unit, and if payments by another govern-
67 mental unit under a service contract or other contractual arrange-
68 ment are pledged to the payment of the obligations, the other gov-
69 ernmental unit, fails or is unable to pay in full when due any of
70 the obligations and the public utility franchise and gross receipts
71 tax and State aid revenues for any reason have not been made
72 available for the payment of the obligations or have not been made
73 available in sufficient amounts to pay the obligations in full, the
74 trust is authorized during the period of such failure to cause the
75 governmental unit, in accordance with the covenants or pledges
76 established in any loan or other agreement relating thereto, to

77 establish and collect rates, fees and charges in the amounts required
78 to pay the obligations in accordance with the covenants or pledges
79 established in the loan or other agreement relating thereto.

1 13. Neither the directors of the trust nor any person executing
2 bonds, notes or other obligations of the trust issued pursuant to
3 this act shall be liable personally on the bonds, notes or other
4 obligations by reason of the issuance thereof.

1 14. The State does pledge to and covenant and agree with the
2 holders of any bonds, notes or other obligations of the trust issued
3 pursuant to authorization of this act that the State shall not limit
4 or alter the rights or powers vested in the trust to perform and
5 fulfill the terms of any agreement made with the holders of the
6 bonds, notes or other obligations or to fix, establish, charge and
7 collect any rents, fees, rates, payments or other charges as may
8 be convenient or necessary to produce sufficient revenues to meet
9 all expenses of the trust and to fulfill the terms of any agreement
10 made with the holders of bonds, notes or other obligations includ-
11 ing the obligations to pay the principal of and interest and pre-
12 mium on those bonds, notes or other obligations, with interest on
13 any unpaid installments of interest, and all costs and expenses in
14 connection with any action or proceedings by or on behalf of the
15 holders, and shall not limit or alter the rights and powers of any
16 governmental unit or owner or operator to pay and perform its
17 obligations owed to the trust in connection with loans received from
18 the trust, until the bonds, notes and other obligations of the trust,
19 together with interest thereon, are fully met and discharged or
20 provided for.

1 15. The State and all public officers, governmental units and
2 agencies thereof, all banks, trust companies, savings banks and
3 institutions, building and loan associations, savings and loan asso-
4 ciations, investment companies, and other persons carrying on a
5 banking business, all insurance companies, insurance associations
6 and other persons carrying on an insurance business, and all
7 executors, administrators, guardians, trustees and other fiduciaries,
8 may legally invest any sinking funds, moneys or other funds
9 belonging to them or within their control in any bonds, notes or
10 other obligations issued pursuant to this act, and those bonds,
11 notes or other obligations shall be authorized security for any and
12 all public deposits.

1 16. All State agencies and governmental units, notwithstanding
2 any contrary provision of law, may lease, lend, grant or convey
3 to the trust at its request upon any terms and conditions as the
4 governing body or other proper authorities of the State agencies

5 or governmental units may deem reasonable and fair and without
6 the necessity for any advertisement, order of court or other actions
7 or formality, other than the authorizing ordinance of the governing
8 body concerned, any real property or interest which may be neces-
9 sary or convenient to the effectuation of the purposes of the trust.

1 17. All property of the trust is declared to be public property
2 devoted to an essential public and governmental function and
3 purpose and the revenues, income and other moneys received or
4 to be received by the trust shall be exempt from all taxes of the
5 State or any political subdivision thereof. All bonds, notes and
6 other obligations of the trust issued pursuant to this act are
7 declared to be issued by a body corporate and politic of the State
8 and for an essential public and governmental purpose and those
9 bonds, notes and other obligations, and interest thereon and the
10 income therefrom and from the sale, exchange or other transfer
11 thereof shall at all times be exempt from taxation, except for
12 transfer, inheritance and estate taxes.

1 18. a. If the trust defaults in the payment of principal of, or
2 interest on, any issue of its bonds, notes or other obligations after
3 these are due, whether at maturity or upon call for redemption,
4 and the default continues for a period of 30 days or if the trust
5 defaults in any agreement made with the holders of any issue of
6 bonds, notes or other obligations, the holders of 25% in aggregate
7 principal amount of the bonds, notes or other obligations of the
8 issue then outstanding, by instrument or instruments filed in the
9 office of the clerk of any county in which the trust operates and
10 has an office and proved or acknowledged in the same manner as
11 required for a deed to be recorded, may direct a trustee to repre-
12 sent the holders of the bonds, notes or other obligations of the
13 issuers for the purposes herein provided.

14 b. Upon default, the trustee may, and upon written request of
15 the holders of 25% in principal amount of the bonds, notes or other
16 obligations of the trust of a particular issue then outstanding shall,
17 in his or its own name :

18 (1) By suit, action or proceeding enforce all rights of the holders
19 of bonds, notes or other obligations of the issue, to require the
20 trust to carry out any other agreements with the holders of the
21 bonds, notes or other obligations of the issue and to perform its
22 duties under this act ;

23 (2) Bring suit upon the bonds, notes or other obligations of the
24 issue ;

25 (3) By action or suit, require the trust to account as if it were
26 the trustee of an express trust for the holders of the bonds, notes
27 or other obligations of the issue ;

28 (4) By action or suit, enjoin any acts or things which may be
 29 unlawful or in violation of the rights of the holders of the bonds,
 30 notes or other obligations of the issue;

31 (5) Sell or otherwise dispose of bonds and notes of governmental
 32 units pledged pursuant to resolution or trust indenture for benefit
 33 of holders of bonds, notes, or other obligations of the issue on any
 34 terms as a resolution or trust indenture may provide;

35 (6) By action or suit, foreclose any mortgage pledged pur-
 36 suant to the resolution or trust indenture for the benefit of the
 37 holders of the bonds, notes or other obligations of the issue;

38 (7) Declare all bonds, notes or other obligations of the issue due
 39 and payable, and if all defaults are made good, then with the
 40 consent of the holders of 50% of the principal amount of the bonds,
 41 notes or other obligations of the issue then outstanding, to annul
 42 the declaration and its consequences.

43 c. The trustee shall, in addition to the foregoing, have those
 44 powers necessary or appropriate for the exercise of any function
 45 specifically set forth herein or incident to the general representation
 46 of holders of bonds, notes or other obligations of the trust in the
 47 enforcement and protection of their rights.

48 d. The Superior Court shall have jurisdiction over any suit,
 49 action or proceeding by the trustees on behalf of the holders of
 50 bonds, notes or other obligations of the trust. The venue of any
 51 suit, action or proceeding shall be in the county in which the prin-
 52 cipal office of the trust is located.

53 e. Before declaring the principal of bonds, notes or other obliga-
 54 tions of the trust due and payable as a result of a trust default
 55 on any of its bonds, notes or other obligations, the trustee shall
 56 first give 30 days notice in writing to the trust and to the Governor,
 57 State Treasurer, President of the Senate and Speaker of the
 58 General Assembly.

1 19. Sums of money received pursuant to the authority of this
 2 act, whether as proceeds from the sale of particular bonds, notes
 3 or other obligations of the trust or as particular revenues or re-
 4 ceipts of the trust, are deemed to be trust funds, to be held and
 5 applied solely as provided in the resolution or trust indenture
 6 under which the bonds, notes or obligations are authorized or
 7 secured. Any officer with whom or any bank or trust company
 8 with which those sums of money are deposited as trustee thereof
 9 shall hold and apply the same for the purposes thereof, subject to
 10 any provision as this act and the resolution or trust indenture
 11 authorizing or securing the bonds, notes or other obligations of
 12 the trust may provide.

1 20. a. On or before September 1 in each year the trust shall make
2 an annual report of its activities for the preceding fiscal year to
3 the Governor and to the Legislature. The report shall set forth a
4 complete operating and financial statement covering its operations
5 during the year, including amounts of income from all sources, and
6 shall summarize the status of each environmental project and land-
7 fill closure project for which loans, grants or guarantees have been
8 made by the trust, and shall describe major impediments to the
9 accomplishment of the planned environmental projects and landfill
10 closure projects.

11 The trust shall cause an audit of its books and accounts to be
12 made at least once in each year by certified public accountants
13 selected by the State Treasurer and the cost thereof shall be
14 considered as an expense of the trust and a copy thereof shall be
15 filed with the Governor, State Treasurer, Senate and General
16 Assembly. Notwithstanding the provision of any law to the
17 contrary, the State Auditor or his legally authorized representative
18 may examine the accounts of books of the trust.

19 b. In cooperation with appropriate State agencies and other
20 governmental bodies, the trust shall prepare, adopt and publish
21 and revise at least every two years an environmental project and
22 landfill closure project inventory. The initial inventory, which shall
23 be published no later than January 1, 1986, shall include, but need
24 not be limited to:

25 (1) A list and description of the existing environmental projects
26 of each governmental unit for which loans, grants or guarantees
27 have been made by the trust, setting forth for each project its
28 location, type, capacity, current utilization, estimated utilization
29 five, 10 and 20 years, life expectancy, physical condition, efficiency
30 and effectiveness;

31 (2) An assessment of the need for and the cost of the improve-
32 ment, repair, rehabilitation and expansion of existing environ-
33 mental projects included in the project priority lists approved by
34 the Legislature pursuant to section 23 of this act, and the con-
35 struction of new environmental projects during the next 10 years;

36 (3) A list and description of the existing landfill closure projects
37 of owners or operators for which loans have been made by the
38 trust, and in the case of governmental units also for which grants
39 have been made, setting forth for each project its location, current
40 status and planned completion date, and describing any major
41 impediments to the accomplishment of the project; and

42 (4) An assessment of the need for and cost of the expansion of
43 existing landfill closure projects, and the closure of existing sani-

44 tary landfill facilities during the next 10 years.

1 21. All officers, departments, boards, units, divisions and com-
2 missions of the State are authorized to render any services to the
3 trust as may be within the area of their respective governmental
4 functions as fixed or established by law, and as may be requested
5 by the trust. The cost and expense of those services shall be met
6 and provided for by the State governmental units rendering the
7 services.

1 22. No funds from State or federal sources or State bond issues
2 used to capitalize the trust shall be available for use by the trust
3 unless appropriated by law to the trust. Unless required to be
4 otherwise applied pursuant to law, funds generated by the opera-
5 tion of the trust, including, but not limited to: proceeds from the
6 sale of the trust's bonds, notes or other obligations; revenues and
7 other receipts derived from the trust's interests in any real or
8 personal property; revenues derived from investments by the
9 trust; loan repayments from governmental units or owners or
10 operators; and fees and charges levied by the trust, may there-
11 after be applied in accordance with the provisions of this act for
12 any corporate purpose of the trust without appropriation. The
13 trust shall not apply for, receive, accept or utilize any federal
14 funds which are authorized pursuant to the "Clean Water Act of
15 1977," Pub. L. 95-217 (33 U. S. C. § 1281a et al.), and any amenda-
16 tory or supplementary acts thereto, for the federal fiscal years
17 beginning on or before October 1, 1984 for the planning, design,
18 construction, reconstruction or rehabilitation of projects for waste-
19 water treatment facilities or water pollution control, including any
20 structures for the collection, treatment, purification or disposal of
21 any sewage, liquid or solid waste.

1 23. a. The Commissioner of Environmental Protection shall for
2 each fiscal year develop a priority system for wastewater treat-
3 ment facilities and shall establish the ranking criteria and funding
4 policies for the projects therefor. The commissioner shall set forth
5 a project priority list for funding by the trust for each fiscal year
6 and shall include the aggregate amount of funds of the trust to
7 be authorized for these purposes. The project priority list, which
8 shall include for each wastewater treatment facility the date each
9 project is scheduled to be certified as ready for funding, shall be in
10 conformance with applicable provisions of the "Clean Water Act
11 of 1977," Pub. L. 95-217 (33 U. S. C. § 1281a et al.), and State law.
12 The list shall include a description of each project and its purpose,
13 impact, cost and construction schedule, and an explanation of the
14 manner in which priorities were established. The priority system

15 and project priority list for the ensuing fiscal year shall be sub-
16 mitted to the Senate and General Assembly on a day that the
17 respective House is in session on or before March 1. Within 60
18 days of the receipt thereof, the President of the Senate and the
19 Speaker of the General Assembly may object in writing to the
20 commissioner in regard to any wastewater treatment facility or
21 facilities included in the project priority list or omitted from the
22 list, and they may make recommendations to the commissioner
23 concerning modification of the list. The commissioner shall consider
24 the objections and recommendations of the President of the Senate
25 and the Speaker of the General Assembly and shall resubmit
26 thereto the project priority list within 20 days, together with any
27 modifications based upon his consideration of the objections or
28 recommendations. The commissioner shall provide the same type
29 of information for any modifications as was provided on the
30 original list. The President of the Senate and the Speaker of the
31 General Assembly shall report to the Joint Appropriations Com-
32 mittee their findings, objections and recommendations concerning
33 the project priority list for consideration by the committee in
34 reviewing the list as part of the Governor's recommended appro-
35 priations for the ensuing fiscal year. Prior to July 1 of each year,
36 the Joint Appropriations Committee shall include in the appropri-
37 ations act for each fiscal year, or a supplemental appropriations act
38 or other act, the project priority list, including the authorization
39 of an aggregate amount of funds of the trust to be expended for
40 loans, grants and guarantees for the projects on the list, as modi-
41 fied by the Joint Appropriations Committee. The trust shall not
42 expend any money for a loan, grant or guarantee during a fiscal
43 year for any wastewater treatment facility unless the expenditure
44 is authorized by the project priority list included in the annual
45 appropriations law for the fiscal year or in a supplemental appro-
46 priations law or unless the expenditure otherwise is specifically
47 authorized by another law. Notwithstanding any law to the con-
48 trary, in order to be eligible for any loan, grant or guarantee for a
49 wastewater treatment facility a governmental unit shall, as a condi-
50 tion of obtaining the loan, grant or guarantee waive its entitlement
51 to federal grants for its wastewater treatment facility to be funded
52 with the loan, grant or guarantee, except that this waiver require-
53 ment shall not prohibit a loan or grant for a State matching share
54 for wastewater treatment facilities eligible for federal grant funds
55 which are authorized pursuant to the "Clean Water Act of 1977,"
56 Pub. L. 95-217 (33 U. S. C. § 1281a et al.), for fiscal years beginning
57 on or after October 1, 1983.

58 The Commissioner of Environmental Protection shall for each
59 fiscal year develop a priority system for solid waste disposal facili-
60 ties and shall establish ranking criteria and funding policies for the
61 projects therefor. The commissioner shall set forth a project
62 priority list for funding by the trust for each fiscal year and shall
63 include the aggregate amount of funds of the trust to be authorized
64 for these purposes. A project shall not be eligible for inclusion
65 on the project priority list unless the commissioner first determines
66 that it is consistent with the applicable solid waste management
67 plans approved for the relevant solid waste management district
68 or districts for the project pursuant to the "Solid Waste Manage-
69 ment Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.). The project
70 priority list, which shall include for each solid waste disposal
71 facility the date each project is scheduled to be certified as ready
72 for funding, shall be in conformance with applicable provisions of
73 State law. The lists shall include a description of each project and
74 its purpose, impact, cost and construction schedule, and an explana-
75 tion of the manner in which priorities were established. The priority
76 system and project priority list for the ensuing fiscal year shall
77 be submitted to the Senate and General Assembly on a day that
78 the respective house is in session on or before March 1. Within 60
79 days of the receipt thereof, the President of the Senate and the
80 Speaker of the General Assembly may object in writing to the
81 commissioner with regard to any solid waste disposal facility or
82 facilities included in the project priority list or omitted from the
83 list, and they may make recommendations to the commissioner
84 concerning modification of the list. The commissioner shall consider
85 the objections and recommendations of the President of the Senate
86 and the Speaker of the General Assembly and shall resubmit thereto
87 the priority list within 20 days, together with any modifications
88 based upon his consideration of the objections or recommendations.
89 The commissioner shall provide the same type of information for
90 any modifications as was provided on the original list. The Presi-
91 dent of the Senate and the Speaker of the General Assembly shall
92 report to the Joint Appropriations Committee their findings, ob-
93 jections and recommendations concerning the project priority list
94 for consideration by the committee in reviewing the list as part of
95 the Governor's recommended appropriations for the ensuing fiscal
96 year. Prior to July 1 of each year, the Joint Appropriations Com-
97 mittee shall include in the appropriations act for each fiscal year,
98 or a supplemental appropriations act or other act, the project
99 priority list, including the authorization of an aggregate amount
100 of funds of the trust to be expended for loans, grants and guaran-

tees for the projects on the list, as modified by the Joint Appropriations Committee. The trust shall not expend any money for a loan, grant or guarantee during a fiscal year for any solid waste disposal facility unless the expenditure is authorized by the project priority list included in the annual appropriations law for the fiscal year or in a supplemental appropriations law or unless the expenditure otherwise is specifically authorized by another law.

c. The Commissioner of Environmental Protection for each fiscal year shall develop a priority system for landfill closure projects which shall establish ranking criteria and funding policies for the projects. With respect to the ranking criteria for these projects, priority shall be given to the owners and operators of sanitary landfill facilities in the following order: those owners or operators of sanitary landfill facilities who have received, for a period of at least six months, solid waste from sources out-of-State; those owners or operators of sanitary landfill facilities who are governmental units; and any other owners or operators of sanitary landfill facilities. The commissioner shall set forth a project priority list for funding by the trust for each fiscal year and shall include the aggregate amount of funds of the trust to be authorized for these purposes. Eligibility of an owner or operator of a sanitary landfill facility for a grant or a loan for a project to be included on the project priority list shall be determined in accordance with the provisions of section 24 of this act. The project priority list shall include for each landfill closure project the date each project is scheduled to be certified as ready for funding and shall be in conformance with applicable provisions of State law. The priority system and project priority list for the ensuing fiscal year shall be submitted to the Senate and General Assembly on a day that the respective house is in session on or before March 1. Within 60 days of the receipt thereof, the President of the Senate and the Speaker of the General Assembly may object in writing to the commissioner with regard to any landfill closure project or projects included in the project priority list or omitted from the list, and they may make recommendations to the commissioner concerning modification of the list. The commissioner shall consider the objections and recommendations of the President of the Senate and the Speaker of the General Assembly and shall resubmit thereto the project priority list within 20 days, together with any modifications based upon his consideration of the objections or recommendations. The commissioner shall provide the same type of information for any modifications as was provided on the original list. The President of the Senate and the Speaker of the

144 General Assembly shall report to the Joint Appropriations Committee
145 their findings, objections and recommendations concerning
146 the project priority list for consideration by the committee in re-
147 viewing the list as part of the Governor's recommended appropri-
148 ations for the ensuing fiscal year. Prior to July 1 of each year, the
149 Joint Appropriations Committee shall include in the appropri-
150 ations act for each fiscal year, or a supplemental appropriations
151 act or other act, the project priority list, including the authorization
152 of an aggregate amount of funds of the trust to be expended for
153 loans or grants for the projects on the list, as modified by the Joint
154 Appropriations Committee. The trust shall not expend any money
155 for a loan or grant during the fiscal year for any landfill closure
156 facility unless the expenditure is authorized by the project priority
157 list included in the annual appropriations law for the fiscal year or
158 in a supplemental appropriations law or unless the expenditure
159 otherwise is specifically authorized by another law.

1 24. a. The trust shall apply the criteria set forth in this section
2 determining the eligibility of owners or operators of sanitary land-
3 fill facilities for loans or grants to pay the closure costs of landfill
4 closure projects.

5 b. Where the Board of Public Utilities has issued an order in-
6 creasing the rates and charges for solid waste disposal on the
7 relevant tariff filed with and approved by the board for the solid
8 waste disposal operations of a sanitary landfill facility and where
9 this increase, or a portion thereof, is allocated specifically in the
10 tariff for the closure costs of the sanitary landfill facility, and
11 where the facility has accepted for final disposal out-of-State solid
12 waste prior to October 1, 1984, any governmental unit which is
13 required to pay a portion of the closure costs through payment of
14 rates or charges for disposal of solid waste at the facility shall
15 be eligible to apply for a grant for the payment of a portion of the
16 closure costs, to the extent that the closure costs would have been
17 borne by the out-of-State solid waste generators who had pre-
18 viously, but no longer, utilized the facility.

19 c. Where the Board of Public Utilities has issued an order in-
20 creasing the rates and charges for solid waste disposal on the rele-
21 vant tariff filed with and approved by the board for the solid waste
22 disposal operations of a sanitary landfill facility and where this
23 increase, or a portion thereof, is specifically allocated in the tariff
24 for the closure costs of the facility, any governmental unit which
25 is required to pay any portion of the closure costs through the
26 payment of rates or charges for disposal of solid waste at the
27 facility shall be eligible to apply for a loan for the payment of a

28 parties of the trust to the trust. The grant made by the trust
29 is not eligible for a grant therefor, as set forth in this section.

30 d. Upon the final approval by the Board of Public Utilities of
31 increases in the solid waste disposal tariff with respect to a sani-
32 tary landfill facility, as set forth in this section, the board shall file
33 with the trust a copy of the order increasing the solid waste tariff,
34 including the projected amounts thereof specifically allocated for
35 closure costs to be generated from governmental units required
36 to pay a portion of the closure costs through the payments of rates
37 or charges for the disposal of solid waste at the sanitary landfill
38 facility and the proportionate amounts thereof specifically allocated
39 for closure costs which would have been generated from the out-
40 of-State solid waste generators who had previously, but no longer
41 utilized the facility.

42 e. Where the Board of Public Utilities has not issued an order
43 increasing the rates or charges for solid waste disposal on the
44 relative tariff with respect to solid waste disposal operations of
45 a sanitary landfill facility, any owner or operator thereof shall be
46 eligible to apply for a loan or grant to pay closure costs of the
47 sanitary landfill facility if the trust determines that funds cur-
48 rently available in the escrow account established for the facility
49 pursuant to P. L. 1981, c. 306 (C. 13:1E-100 et seq.), or otherwise
50 legally available from the owner or operator thereof, are inade-
51 quate to cover the required closure costs for the sanitary landfill
52 facility. However, these grants shall be available only to those
53 owners or operators that are governmental units required to pay
54 closure costs of a sanitary landfill facility which had accepted for
55 final disposal out-of-State solid waste prior to October 1, 1984
56 and shall be available only to the extent that the trust determines
57 that the closure costs would have been borne by the out-of-State
58 solid waste generators who had previously, but no longer utilized
59 the facility.

1 25. The trust shall establish the rules and regulations governing
2 the making and use of loans, grants or guarantees, including, but
3 not limited to, procedures for the submission of loan, grant or
4 guarantee requests, standards for the evaluation of requests, pro-
5 visions implementing priority systems for projects, reporting re-
6 quirements of the recipient of any loan, grant or guarantee con-
7 cerning the progress and the expenditure of funds, and limitations,
8 restrictions or requirements concerning the use of loan funds as
9 the trust shall prescribe; provided that the rules and regulations
10 shall be in compliance with the terms and provisions of this act
11 relating to the making of or eligibility for loans, grants or guaran-

12 tees for projects generally or for any particular type or class of
13 projects.

1 26. a. The trust shall adopt the rules and regulations requiring
2 a governmental unit which receives a loan, grant or guarantee
3 for a project to establish an affirmative action program for the
4 hiring of minority workers in the performance of any construction
5 contract for that project and to establish a program to provide
6 opportunities for socially and economically disadvantaged contrac-
7 tors and vendors to supply materials and services for the contract,
8 consistent with the provisions of the "Law Against Discrimination,"
9 P. L. 1945, c. 169 (C. 10:5-1 et seq.). Not less than 10% of the
10 amount of any contract for construction, materials or services for
11 a project shall be awarded to small business concerns owned and
12 controlled by socially and economically disadvantaged individuals
13 as defined in section 8(a) and 8(d) of the "Small Business Act,"
14 Pub. L. 75-536 (15 U. S. C. § 637(a) and (d)), and any regulations
15 promulgated pursuant thereto.

16 b. The trust shall adopt the rules and regulations requiring a
17 governmental unit which receives a loan, grant or guarantee for
18 a project to pay not less than the prevailing wage rate to workers
19 employed in the performance of any construction contract for that
20 project, in accordance with the rate determined by the Commis-
21 sioner of Labor pursuant to P. L. 1963, c. 150 (C. 34:11-56.25 et
22 seq.).

1 27. The trust shall adopt such rules and regulations as it deems
2 necessary to effectuate the purposes of this act, including those
3 required pursuant to sections 25 and 26 of this act, in accordance
4 with the "Administrative Procedure Act," P. L. 1968, c. 410 (C.
5 52:14B-1 et seq.).

1 28. It is the intent of the Legislature that if there is any con-
2 flict or inconsistency between the provisions of this act and the
3 provisions of any other laws pertaining to matters herein estab-
4 lished or provided for, or between any rules and regulations adopted
5 under this act and the rules and regulations adopted under any
6 other law, to the extent of the conflict or inconsistency, the pro-
7 visions of this act and the rules and regulations adopted hereunder,
8 shall be enforced and the provisions of the other laws, and the
9 rules and regulations adopted thereunder, shall be of no effect.

1 29. There is appropriated from the General Fund to the New
2 Jersey Environmental Trust, the sum of \$250,000.00 to effectuate
3 the purposes of this act.

1 30. This act shall take effect immediately and shall expire 20
2 years thereafter.

STATEMENT

This bill creates the New Jersey Environmental Trust, a streamlined State financing authority empowered to maximize the use of available State and federal funds for paying the design and construction costs of wastewater treatment systems and resource recovery facilities, and the closure costs of sanitary landfill facilities. The trust—which would be capitalized with federal and State appropriations, proceeds of State general obligation bond issues and related revenues—would provide low-interest loans or grants to local governmental units from both its equity capital and additional revenues (bond proceeds) generated through the issuance of trust revenue bonds backed by partial use of its equity capital and pledge of its loan repayments.

SENATE, No. 3188

STATE OF NEW JERSEY

INTRODUCED JUNE 27, 1985

By Senators GAGLIANO, HURLEY, CARDINALE,
and DiFRANCESCO

Referred to Committee on Energy and Environment

AN ACT to authorize the creation of a debt of the State of New Jersey by the issuance of general obligation bonds of the State in the aggregate principal amount of \$275,000,000.00 for the purpose of financing the construction costs of solid waste disposal facilities and wastewater treatment systems, and the closure costs of sanitary landfill facilities; authorizing the issuance of refunding bonds; providing the ways and means to pay the interest on the bonds and refunding bonds and also to pay and discharge the principal thereof; providing for the submission of this act to the people at a general election; and providing an appropriation therefor.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Clean New
2 Jersey Bond Act of 1985."

1 2. The Legislature finds and determines that:

2 a. The health, safety, welfare, recreation, commerce and pros-
3 perity of the people of the State depend upon the conservation,
4 development and maintenance of our natural resources and environ-
5 mental infrastructure.

6 b. The land disposal of solid waste is wasteful of materials which
7 have been shown to be susceptible to resource reclamation and
8 recovery and which, when disposed on the land, pose known en-
9 vironmental threats to New Jersey's ground and surface water,
10 now and for years to come.

11 c. The disposal of solid waste on the land makes land unusable
12 which would otherwise be capable of development, were it not used
13 for landfilling purposes.

14 d. If the State is to have a meaningful and responsible role in
15 the development of an environmentally sound system of solid
16 waste disposal consistent with the goals of the Statewide solid
17 waste management plan, the State must be ready and able to lend
18 all needed assistance through issuance of grants or loans and any
19 technical assistance necessary for the actual development of needed
20 resource recovery facilities and environmentally sound sanitary
21 landfill systems.

22 e. In developing an environmentally sound system of solid waste
23 disposal, it will be necessary to close existing sanitary landfill
24 facilities which pose a significant threat to the public health, safety
25 and welfare, and the State must also be ready and able to lend
26 needed assistance for such closures through the issuance of loans
27 and grants to the owners or operators of these facilities where all
28 legally available funds required to be used for such purpose have
29 been exhausted.

30 f. The rehabilitation and construction of wastewater treatment
31 systems will help improve existing water quality throughout the
32 State and will promote proper land use planning procedures, and
33 priority should be given to investment in developed areas for
34 improving existing water quality.

1 3. As used in this act, unless the context indicates a different
2 meaning or intent:

3 a. "Bonds" means the bonds authorized to be issued, or issued,
4 under this act;

5 b. "Closure cost" means all costs associated with the design,
6 purchase, construction or maintenance of all measures required
7 by the department, pursuant to law, in order to prevent, minimize
8 or monitor pollution or health hazards resulting from sanitary
9 landfill facilities subsequent to the termination of operations of
10 any portion thereof, including, but not necessarily limited to, the
11 costs of the placement of earthen or vegetative cover, and the
12 installation of methane gas vents or monitors and leachate monitor-
13 ing wells or collection systems at the site of any sanitary landfill
14 facility, and such other additional expenses which are analogous
15 to those listed in the definition of "cost" below and not otherwise
16 specified herein;

17 c. "Commissioner" means the Commissioner of Environmental
18 Protection;

19 d. "Construct" and "construction" means, in addition to the usual
20 meanings thereof, acts of construction, reconstruction, rehabilita-
21 tion, relocation, demolition, renewal, repair, replacement, extension,
22 improvement and betterment;

23 e. "Cost" means all and any of the expenses incurred in con-
24 nection with the undertaking, development, acquisition, by pur-
25 chase, lease or otherwise, and construction of all or any part of
26 any environmental project authorized by this act and of all or any
27 real or personal property, including any rights or interest therein,
28 agreements and franchises necessary or useful and convenient in
29 connection with any environmental project, including, without
30 limiting the generality of the foregoing, any and all expenses re-
31 lating to: the procurement of feasibility studies, engineering,
32 inspection, planning, legal, financial or other professional services,
33 including without limitation the services of a bond registrar or an
34 authenticating agent; the issuance of bonds, or any interest or
35 discount thereon; the administrative, organizational, operating or
36 other expenses incident to the financing, completing and placing
37 into service of environmental projects authorized by this act; the
38 establishment of a reserve fund or funds for working capital,
39 operating, maintenance or replacement expenses and for the pay-
40 ment or security of principal or interest on bonds, as the Director
41 of the Division of Budget and Accounting in the Department of
42 the Treasury may determine; and reimbursement to any fund of
43 the State of moneys which may have been transferred or advanced
44 therefrom to any fund created by this act, or of any moneys which
45 may have been expended therefrom or in connection with any
46 project authorized by this act;

47 f. "Department" means the Department of Environmental Pro-
48 tection;

49 g. "Environmental project" means any work relating to resource
50 recovery facilities, environmentally-sound sanitary landfill systems
51 or wastewater treatment systems;

52 h. "Environmentally-sound sanitary landfill system" means a
53 landfill which is in compliance with State laws and which shall be
54 utilized for the following purposes:

55 (1) Disposing of those solid wastes which cannot be processed
56 by a resource recovery facility or which result from the operation
57 of a resource recovery facility,

58 (2) Disposal of solid waste, on an interim basis, until a resource
59 recovery facility becomes operational, and

60 (3) Disposal of solid waste, on a long term basis, in those dis-
61 tricts which demonstrate to the satisfaction of the Department of

62 Environmental Protection that utilization of a resource recovery
63 facility is not feasible for disposal of the solid waste generated
64 in that district;

65 i. "Government securities" means any bonds or other obligations
66 which as to principal and interest constitute direct obligations of,
67 or are unconditionally guaranteed by, the United States, including
68 obligations of any federal agency to the extent those obligations are
69 unconditionally guaranteed by the United States of America and
70 any certificates or any other evidences of an ownership interest in
71 those obligations of, or unconditionally guaranteed by, the United
72 States or in specified portions of those obligations, which may
73 consist of the principal of, or the interest on, those obligations;

74 j. "Governmental unit" means any county, municipality, or any
75 agency, instrumentality, authority or corporation thereof, including
76 but not limited to improvement, sewerage or utilities authorities,
77 or any public body having local or regional jurisdiction or power,
78 including but not limited to, solid waste management districts or
79 any bi-state or multi-state agency or authority which includes the
80 State;

81 k. "Owner or operator" means and includes, in addition to the
82 usual meanings thereof, (1) every owner of record of any interest
83 in land whereon a sanitary landfill facility is or has been located,
84 (2) any operator of a sanitary landfill, and (3) any person or
85 corporation which owns a majority interest in any other corpora-
86 tion which is the owner or operator of any sanitary landfill facility.
87 The foregoing also includes any governmental unit which is the
88 owner or operator of any sanitary landfill facility or which is
89 required in the utilization of any facility to pay any portion of
90 closure costs through the payment of rates or charges for the
91 disposal of solid waste at any sanitary landfill facility;

92 l. "Project revenue" means any income whatsoever attributed to
93 loans made by the trust pursuant to this act, including repayment
94 of principal and interest on loans, proceeds of collateral, assign-
95 ments of user fees and administrative fees.

96 m. "Real property" means land, within or without the State,
97 and improvements thereof or thereon, any rights-of-way, water,
98 riparian and other rights, and any easements, and privileges in
99 real property, and any right or interest of any kind or description
100 in, relating to or connected with real property;

101 n. "Resource recovery facility" means the plants, structures,
102 machinery, equipment, real and personal property acquired, con-
103 structed or operated or to be acquired, constructed or operated
104 in whole or in part by or on behalf of a governmental unit and

105 other personal property, and appurtenances necessary or useful
106 and convenient for the collection, separation, removal and reuse
107 of materials in the stream of wastes presently going to landfills,
108 including those materials which are capable of recycling and direct
109 delivery to manufacturers for use as raw materials as well as the
110 conversion of waste for energy production;

111 o. "Sanitary landfill facility" means a solid waste facility at
112 which solid waste is deposited on or in the land as fill for the
113 purpose of permanent disposal or storage for a period exceeding
114 six months, except that it shall not include any waste facility
115 approved for disposal of hazardous waste;

116 p. "Solid waste disposal facility" means either an environment-
117 ally-sound sanitary landfill system or a resource recovery facility;

118 q. "State" means the State of New Jersey;

119 r. "Trust" means the New Jersey Environmental Trust created
120 pursuant to the "New Jersey Environmental Trust Act," P. L.,

121 c. (C.) (now pending before the Legislature
122 as Senate Bill No. 3187 of 1985);

123 s. "Wastewater treatment facility" means the plants, structures,
124 real and personal property acquired, constructed or operated or to
125 be acquired, constructed or operated in whole or in part by or on
126 behalf of a governmental unit including pumping and ventilating
127 stations, wastewater treatment systems, plants and works, con-
128 nections, outfalls, interceptors, trunk lines, and other personal
129 property, and appurtenances necessary or useful and convenient
130 for the treatment, purification, disposal or recycling and recovery
131 in a sanitary manner of any wastewater, liquid or solid wastes,
132 night soil, or industrial wastes to preserve and protect natural
133 water resources and facilities;

1 4. Bonds of the State of New Jersey are authorized to be issued
2 in the aggregate principal amount of \$275,000,000.00 for the pur-
3 pose of financing the design and construction costs of solid waste
4 disposal facilities and wastewater treatment facilities, and the
5 closure costs of sanitary landfill facilities. In the case of each
6 series of bonds, the issuing officials shall provide for the allocation
7 of the proceeds of bonds, exclusive of accrued interest and net of
8 issuance expenses, for the purposes and subject to the limitation
9 set forth below.

10 a. Of the total moneys available under this act, not more than
11 \$75,000,000.00 thereof are allocated for the purpose of making and
12 securing loans, and any reasonable reserves therefor, to govern-
13 mental units for the purpose of financing the design and construc-
14 tion cost of solid waste disposal facilities which shall be consistent

15 with the plans of the department and of the respective solid waste
 16 management districts prepared pursuant to the "Solid Waste Man-
 17 agement Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.) and with the
 18 priority system and project priority lists approved by the Legis-
 19 lature in accordance with the provisions of the "New Jersey En-
 20 vironmental Trust Act," P. L., c. . . . (C.) (now
 21 pending before the Legislature as Senate Bill No. 3187 or 1985).

22 b. Of the total moneys available under this act, not more than
 23 \$150,000,000.00 are allocated for the purpose of making and secur-
 24 ing loans, and any reasonable reserves therefor, to governmental
 25 units for the purpose of financing the design and construction of
 26 wastewater treatment systems which shall be consistent with the
 27 plans of the department and shall be in conformance with the
 28 priority system and project priority lists prepared by the depart-
 29 ment pursuant to the "Federal Water Pollution Control Act
 30 Amendments of 1972," Pub. L. 92-500 (33 U.S.C. § 1251 et al.) and
 31 approved by the Legislature in accordance with the provisions of
 32 the "New Jersey Environmental Trust Act," P. L., c. . . .
 33 (C.) (now pending before the Legislature as Senate
 34 Bill No. 3187 of 1985).

35 c. Of the total moneys available under this act, not more than
 36 \$50,000,000.00 are allocated for making and securing loans, in-
 37 cluding any reasonable reserves therefor, to owners or operators
 38 of sanitary landfill facilities, and in the case of governmental units
 39 for also making grants, for the purpose of financing the closure
 40 cost of these facilities which shall be in conformance with the
 41 priority system and project priority lists authorized by the Legisla-
 42 ture in accordance with the provisions of the "New Jersey Environ-
 43 mental Trust Act," P. L., c. . . . (C.) (now pend-
 44 ing before the Legislature as Senate Bill No. 3187 of 1985).

1 5. The bonds authorized under this act shall be serial bonds,
 2 term bonds or a combination thereof, and shall be known as "Clean
 3 New Jersey Bonds." These bonds shall be issued from time to time
 4 as the issuing officials herein named shall determine, and may be
 5 issued in coupon form, fully registered form or book-entry form.

1 6. The Governor, the State Treasurer and the Director of the
 2 Division of Budget and Accounting in the Department of the
 3 Treasury, or any two of these officials, herein referred to as "the
 4 issuing officials," are authorized to carry out the provisions of this
 5 act relating to the issuance of bonds, and shall determine all
 6 matters in connection therewith subject to the provisions of this
 7 act. If an issuing official is absent from the State or incapable of
 8 acting for any reason, his powers and duties shall be exercised

9 and performed by the person authorized by law to act in his place
10 as a State official.

1 7. Bonds issued in accordance with the provisions of this act
2 shall be direct obligations of the State of New Jersey, and the
3 faith and credit of the State are pledged for the payment of the
4 interest thereon as it becomes due and for the payment of the
5 principal at maturity. The principal of and interest on the bonds
6 shall be exempt from taxation by the State or by any county,
7 municipality or other taxing district of the State.

1 8. The bonds shall be signed in the name of the State by the
2 Governor or by his facsimile signature, under the Great Seal of
3 the State, which seal may be by facsimile or by way of any other
4 form or reproduction on the bonds, and attested by the manual
5 or facsimile signature of the Secretary of State, or an Assistant
6 Secretary of State, and shall be countersigned by the facsimile
7 signature of the State Treasurer and may be authenticated by an
8 authenticating agent or bond registrar, as the issuing officials shall
9 determine. Interest coupons, if any, attached to the bonds shall
10 be signed by the facsimile signature of the Director of the Division
11 of Budget and Accounting in the Department of Treasury. The
12 bonds may be issued notwithstanding that an issuing official signing
13 them or whose manual or facsimile signature appears thereon has
14 ceased to hold office at a time of issuance or at the time of the
15 delivery of the bonds to the purchaser.

1 9. a. The bonds shall recite that they are issued for the purposes
2 set forth in section 4 of this act and that they are issued pursuant
3 to this act and that this act was submitted to the people of the
4 State at the general election held in the month of November, 1985
5 and that this act was approved by a majority of the legally quali-
6 fied voters of the State voting thereon at the election. This recital
7 shall be conclusive evidence of the validity of the bonds and of the
8 authority of the State to issue them. Any bonds containing this
9 recital shall in any suit, action or proceeding involving their
10 validity be conclusively deemed to be fully authorized by this act
11 and to have been issued, sold, executed and delivered in conformity
12 herewith and with all other provisions of laws applicable hereto,
13 and shall be incontestable for any cause.

14 b. The bonds shall be issued in denominations and in such form
15 or forms, whether coupon, fully registered or book-entry, and with
16 or without provisions for interchangeability thereof, as may be
17 determined by the issuing officials.

1 10. When the bonds are issued from time to time, the bonds of
2 each issue shall constitute a separate series to be designated by

3 the issuing officials. Each series of bonds shall bear the rate or
4 rates of interest as may be payable semiannually; except that the
5 first and last interest periods may be longer or shorter, in order
6 that intervening semiannual payments may be at convenient dates.

1 11. The bonds shall be issued and sold at such price or prices
2 and under such terms, conditions and regulations, as the issuing
3 officials may prescribe, after notice of the sale, published at least
4 once in at least three newspapers published in New Jersey, and at
5 least once in a publication carrying municipal bond notices and
6 devoted primarily to financial news, published in New Jersey or
7 in the city of New York, the first notice to appear at least five days
8 prior to the day of bidding. The notice of sale may contain a
9 provision to the effect that any or all bids in pursuance thereof
10 may be rejected. In the event of rejection or of failure to receive
11 any acceptable bid, the issuing officials, at any time within 60 days
12 from the date of the advertised sale, may sell the bonds at a private
13 sale at such price or prices and under such terms and conditions
14 as the issuing officials may prescribe. The issuing officials may
15 sell all or part of the bonds of any series to any State fund or to
16 the federal government or any agency thereof, at a private sale,
17 without advertisement.

1 12. Until permanent bonds are prepared, the issuing officials may
2 issue temporary bonds in such form and with such privileges as to
3 their registration and exchange for permanent bonds as may be
4 determined by the issuing officials.

1 13. The proceeds from the sale of bonds shall be paid to the
2 State Treasurer to be held by him in a separate fund, which shall
3 be known as the "Clean New Jersey Bond Fund." The proceeds
4 of this fund shall be deposited in such depositories as may be
5 selected by the State Treasurer to the credit of the fund. Promptly
6 after receipt of the proceeds, the State Treasurer, after setting
7 aside in the fund the amounts determined by the State Treasurer
8 to be sufficient to meet the payments to be made by the State
9 Treasurer as set forth in section 16 of this act, shall pay the re-
10 maining balance of the proceeds to the trust and commissioner,
11 respectively, for the purposes provided by the issuing officials in
12 accordance with section 4 of this act for application in accordance
13 with section 14 of this act as may be appropriate, and these moneys
14 are appropriated for such purposes. Pending their application,
15 the amounts set aside in the Clean New Jersey Bond Fund may
16 be invested and reinvested as are the trust funds in the custody
17 of the State Treasurer, in the manner provided by law. Net earn-
18 ings received from the investment or deposit of the fund shall be

19 paid into the General Fund.

1 14. Of the total of \$275,000,000.00 in proceeds from the sale of
2 bonds which shall be paid to the trust, not more than \$75,000,000.00
3 thereof shall be held by it in a separate fund or account to be
4 known as the "Solid Waste Disposal Facilities Account," not more
5 than \$150,000,000.00 thereof shall be held by it in a separate fund
6 or account to be known as the "Wastewater Treatment Facilities
7 Account," and not more than \$50,000,000.00 thereof shall be held
8 by it in a separate fund or account to be known as the "Sanitary
9 Landfill Facilities Closure Account."

10 a. The moneys in the "Solid Waste Disposal Facilities Account"
11 are specifically dedicated to, and shall be applied by the trust for,
12 the purposes of making and securing loans, and any reasonable
13 reserves therefor, to governmental units for financing the design
14 and construction costs of solid waste disposal facilities as provided
15 in subsection a. of section 4 of this act, as shall be determined by
16 the trust, and all such moneys are appropriated for those purposes.
17 No moneys shall be applied to make a grant for any solid waste
18 disposal facility unless the expenditure therefor shall be in con-
19 formance with the project priority list and authorization of ex-
20 penditures annually approved by the Legislature in accordance
21 with the provisions of the "New Jersey Environmental Trust Act."

22 b. The moneys in the "Wastewater Treatment Facilities Ac-
23 count" are specifically dedicated to, and shall be applied by the
24 trust for, the purposes of making and securing loans, and any
25 reasonable reserves therefor, to governmental units for financing
26 the design and construction costs of wastewater treatment facil-
27 ities as provided in subsection b. of section 4 of this act, as shall
28 be determined by the trust, and all such moneys are appropriated
29 for those purposes. No moneys shall be applied to make a loan for
30 any wastewater treatment facility unless the expenditure therefor
31 shall be in conformance with the project priority list and authori-
32 zation of expenditures annually approved by the Legislature in
33 accordance with the provisions of the "New Jersey Environmental
34 Trust Act."

35 c. The moneys in the "Sanitary Landfill Facilities Closure Ac-
36 count" are specifically dedicated to, and shall be applied by the
37 trust for, the purposes of making and securing loans, and any
38 reasonable reserves therefor, to owners or operators of sanitary
39 landfill facilities, and in the case of governmental units for also
40 making grants, for financing the closure costs of these facilities as
41 provided in subsection c. of section 4 of this act, and all such
42 moneys are appropriated for those purposes. No moneys shall be

43 applied to make a loan or a grant for closure costs of any sanitary
44 landfill facility unless the expenditure therefor shall be in con-
45 formance with the project priority list and authorization of ex-
46 penditures annually approved by the Legislature in accordance
47 with the provisions of the "New Jersey Environmental Trust Act."

48 d. Pending their application to the purposes provided in this act,
49 moneys in the "Solid Waste Disposal Facilities Account," "Waste-
50 water Treatment Facilities Account" and "Sanitary Landfill Facil-
51 ities Closure Account" may be invested and reinvested as other
52 funds in the custody of the trust. Any earnings received from
53 such investments may be used for any lawful purpose of the trust.
54 All project revenues shall be paid to the trust and are specifically
55 dedicated for the lawful uses and purposes of the trust.

1 15. If any coupon bond, coupon or registered bond is lost, mu-
2 tilated or destroyed, a new bond or coupon shall be executed and
3 delivered of like tenor, in substitution for the lost, mutilated or
4 destroyed bond or coupon, upon the owner furnishing to the issuing
5 officials such evidence satisfactory to them of the loss, mutilation
6 or destruction of the bond or coupon; evidence of the ownership
7 thereof; and evidence of the security, indemnity and reimburse-
8 ment for expenses connected therewith, as the issuing officials may
9 require.

1 16. The accrued interest received upon the sale of the bonds
2 shall be applied to the discharge of a like amount of interest upon
3 the bonds when due. Any expense incurred by the issuing officials
4 for advertising, engraving, printing, clerical, authenticating, reg-
5 istering, legal or other services necessary to carry out the duties
6 imposed upon them by the provisions of this act shall be paid
7 from the proceeds of the sale of the bonds by the State Treasurer,
8 upon the warrant of the Director of the Division of Budget and
9 Accounting in the Department of the Treasury, in the same manner
10 as other obligations of the State are paid.

1 17. Bonds of each series issued hereunder shall mature, including
2 any sinking fund redemptions, not later than the 35th year from
3 the date of issue of such series, and in such amounts as shall be
4 determined by the issuing officials. The issuing officials may reserve
5 to the State by appropriate provision in the bonds of any series
6 the power to redeem any of the bonds prior to maturity at the
7 price or prices and upon the terms and conditions as may be pro-
8 vided in the bonds.

1 18. The issuing officials may issue refunding bonds at any time
2 and from time to time for the purpose of paying any of the bonds
3 issued under this act at or prior to maturity or upon redemption.

4 subject to the following provisions:

5 a. Refunding bonds may be issued at such time prior to the
6 maturity or redemption of the bonds to be refunded thereby as
7 the issuing officials shall determine;

8 b. Each series of refunding bonds may be issued in a sufficient
9 amount to pay or to provide for the payment of the principal of
10 the bonds to be refunded thereby, together with any redemption
11 premium thereon, any interest accrued or to accrue on such bonds
12 to be refunded to the date of payment of such bonds, the expenses
13 of issuing such refunding bonds and the expenses, if any, of paying
14 such bonds to be refunded;

15 c. Each series of refunding bonds shall mature, including any
16 sinking fund redemptions, at those times not later than five years
17 following the latest scheduled maturity date, determined without
18 regard to any redemptions prior thereto, of any of the outstanding
19 bonds to be refunded thereby, but in no event later than 35 years
20 following the date of issuance of the refunding bonds, and in those
21 amounts as the issuing officials shall determine in accordance with
22 the provisions of this act. The issuing officials may reserve to the
23 State by appropriate provision in the refunding bonds of any
24 series the power to redeem all or any of those bonds prior to
25 maturity at prices and upon such terms and conditions as may be
26 provided in those bonds;

27 d. No refunding bonds shall be issued unless the issuing officials
28 shall first determine that the present value of the aggregate prin-
29 cipal of and interest on such refunding bonds is less than the
30 present value of the aggregate principal of and interest on the
31 bonds to be refunded thereby. For the purposes of this subsection,
32 present value shall be computed using a discount rate equal to
33 the yield of such refunding bonds, and the yield shall be computed
34 using an actuarial method based upon a 360-day year with semi-
35 annual compounding and upon the price or prices paid to the State
36 by the initial purchasers of such refunding bonds;

37 e. Any refinancing authorized hereunder may be effected by the
38 sale of the refunding bonds and the application of the proceeds
39 thereof to the immediate payment of: the principal of the bonds
40 to be refinanced thereby, together with any redemption premium
41 thereon; any interest accrued or to accrue on the bonds to be
42 refinanced to the date of payment of the bonds; the expenses of
43 issuing the refunding bonds and the expenses, if any, of paying
44 the bonds to be refinanced. If the proceeds are not required for
45 these immediate payments, the proceeds shall be deposited, to-
46 gether with any other moneys legally available therefor, in trust

47 with the State Treasurer to be held separate and apart from all
48 other funds of the State or with one or more trustees within or
49 without the State to be held in trust and applied solely to the
50 payment when due of the principal of, redemption premium, if
51 any, and interest due and to become due on the bonds to be re-
52 financed on or prior to the redemption date or maturity date
53 thereof, as the case may be. These proceeds or moneys may be
54 invested in government securities, including government securities
55 issued or held in book-entry form on the books of the Department
56 of Treasury of the United States; provided, these government
57 securities shall not be subject to redemption prior to their maturity
58 other than at the option of the holder thereof. Except as otherwise
59 provided in this subsection, neither government securities nor
60 moneys so deposited with the State Treasurer or trustee shall be
61 withdrawn or used for any purpose other than, and shall be held
62 in trust for, the payment of the principal of, redemption premium,
63 if any, and interest on the bonds to be refinanced thereby. Any cash
64 received from the principal or interest payments on the govern-
65 ment securities deposited with the State Treasurer or the trustee
66 which is not required at any time for these purposes, shall be paid
67 over to the State as received by the State Treasurer or trustee.
68 Cash which is required for these purposes at a later date, shall, to
69 the extent practicable and legally permissible, be reinvested in
70 government securities maturing at times and in amounts sufficient
71 to pay when due the principal of, redemption premium, if any and
72 interest to become due on the bonds to be refinanced on and prior
73 to the redemption date or maturity date thereof, as the case may
74 be. Interest earned from these reinvestments to the extent not
75 required for the payment of bonds shall be paid over to the State,
76 as received by the State Treasurer or the trustee. Notwithstanding
77 anything to the contrary contained herein: the State Treasurer
78 or trustee shall, if so directed by the issuing officials, apply moneys
79 on deposit with the State Treasurer or trustee pursuant to the
80 provisions of this subsection and redeem or sell government secur-
81 ities so deposited with the State Treasurer or trustee; and apply
82 the proceeds thereof to the purchase of the bonds which were
83 refinanced by the deposit with the State Treasurer or trustee of
84 these moneys and government securities and immediately there-
85 after cancel the bonds so purchased; or apply the proceeds thereof
86 to the purchase of different government securities. The moneys
87 and government securities on deposit with the State Treasurer or
88 trustee after the purchase and cancellation of these outstanding
89 bonds or the purchase of different government securities shall be

90 sufficient to pay when due the principal of, redemption premium,
91 if any, and interest on all other bonds in respect of which these
92 moneys and government securities were deposited with the State
93 Treasurer or trustee on or prior to the redemption date or maturity
94 date thereof, as the case may be. In the event that on any date, as a
95 result of any purchases and cancellations of the bonds or any
96 purchases of different government securities as provided in this
97 subsection, the total amount of moneys and government securities
98 remaining on deposit with the State Treasurer or trustee is in
99 excess of the total amount which would have been required to be
100 deposited with the State Treasurer or trustee on such date in
101 respect of the remaining bonds for which such deposit was made
102 in order to pay when the principal of, redemption premium, if any,
103 and interest on the remaining bonds, the State Treasurer or trustee
104 shall if so directed by the issuing officials, pay the amount of the
105 excess to the State; and

106 f. Notwithstanding the provisions of section 11 of this act, any
107 refunding bonds issued pursuant to this section may be sold at
108 public or private sale at such prices and under such terms, condi-
109 tions and regulations as the issuing officials may prescribe. Re-
110 funding bonds shall be entitled to all the benefits of this act and
111 subject to all its limitations except as to maturities and sale pro-
112 visions and to the extent herein otherwise expressly provided.

1 19. Any bond or bonds whose issuance is authorized by section 4
2 of this act or any series or portions thereof, shall no longer be
3 deemed to be outstanding, shall no longer constitute a direct obli-
4 gation of the State of New Jersey and the faith and credit of the
5 State shall no longer be pledged to the payment of the principal
6 of and interest on such bonds, and such bonds shall be secured
7 solely by and payable solely from moneys and government secur-
8 ities deposited in trust with the State Treasurer or the trustee as
9 provided herein, whenever there shall be deposited in trust with
10 the State Treasurer or the trustee as provided herein either moneys
11 or government securities, including government securities issued
12 or held in book-entry form on the books of the Department of
13 Treasury of the United States, the principal of and interest on
14 which when due will provide money which, together with the
15 moneys, if any, deposited with the State Treasurer or the trustee
16 at the same time, shall be sufficient to pay when due the principal
17 of, redemption premium, if any, and interest due and to become
18 due on such bonds on or prior to the redemption date or maturity
19 date thereof, as the case may be; provided, such government
20 securities shall not be subject to redemption prior to their maturity
21 other than at the option of the holder thereof. The State of New

22 Jersey covenants with the holders of any bonds for which govern-
23 ment securities or moneys have been deposited in trust with the
24 State Treasurer or the trustee, as provided in this section, that,
25 except as otherwise provided in this section, neither the govern-
26 ment securities nor moneys so deposited with the State Treasurer
27 or the trustee shall be withdrawn or used for any purpose other
28 than, and shall be held in trust for, the payment of the principal
29 of, redemption premium, if any, and interest to become due on
30 such bonds. Any cash received from the principal or interest pay-
31 ments on the government securities deposited with the State Trea-
32 surer or the trustee which is not required at any time for these
33 purposes, shall be paid over to the State as received by the State
34 Treasurer or the trustee, free and clear of any trust, lien, pledge or
35 assignment securing such bonds. Cash which is required for these
36 purposes at a later date, shall, to the extent practicable and legally
37 permissible, be reinvested in government securities maturing at
38 times and in amounts sufficient to pay when due the principal of,
39 redemption premium, if any, and interest to become due on such
40 bonds on and prior to such redemption date or maturity date
41 thereof, as the case may be. Interest earned from these reinvest-
42 ments shall be paid over to the State, as received by the State
43 Treasurer or the trustee, free and clear of any trust, lien or pledge
44 securing the bonds.

45 Notwithstanding anything to the contrary contained herein: the
46 State Treasurer or the trustee shall, if so directed by the issuing
47 officials, apply moneys on deposit with the State Treasurer or the
48 trustee pursuant to the provisions of this section and redeem or
49 sell government securities so deposited with the State Treasurer
50 or the trustee and: apply the proceeds thereof to the purchase of
51 the bonds which were defeased by the deposit with the State
52 Treasurer or the trustee of such moneys and government securities
53 and immediately thereafter cancel all bonds so purchased: or apply
54 the proceeds thereof to the purchase of different government
55 securities. The moneys and government securities on deposit with
56 the State Treasurer or the trustee after such purchase and can-
57 cellation of such bonds or such purchase of different government
58 securities shall be sufficient to pay when due the principal of,
59 redemption premium, if any, and interest on all other bonds in
60 respect of which such moneys and government securities were
61 deposited with the State Treasurer or the trustee on or prior to
62 the redemption date or maturity date thereof, as the case may be.
63 In the event that on any date, as a result of any purchases and
64 cancellations of bonds or any purchases of different government
65 securities as provided in this section, the total amount of moneys

66 and government securities remaining on deposit with the State
67 Treasurer or the trustee is in excess of the total amount which would
68 have been required to be deposited with the State Treasurer or the
69 trustee on such date in respect of the remaining bonds for which
70 such deposit was made in order to pay when due the principal of,
71 redemption premium, if any, and interest on such remaining bonds,
72 the State Treasurer or the trustee shall, if so directed by the issuing
73 officials, pay the amount of such excess to the State free and clear
74 of any trust, lien, pledge or assignment securing such remaining
75 bonds.

1 20. Refunding bonds issued pursuant to section 18 of this act
2 may be consolidated with bonds issued pursuant to section 4 of this
3 act or with bonds issued pursuant to any other act for purposes
4 of sale.

1 21. To provide funds to meet the interest and principal payment
2 requirements for the bonds and refunding bonds issued under this
3 act and outstanding, there is appropriated in the order following:

4 a. Revenue derived from the collection of taxes under the "Sales
5 and Use Tax Act," P. L. 1966, c. 30 (C. 54:32B-1 et seq.), or so
6 much thereof as may be required;

7 b. Revenue derived from the collection of taxes levied on the
8 generation, transfer, transportation, handling, treatment, or dis-
9 posal of hazardous substances pursuant to any law enacted subse-
10 quent to the effective date of this act, except as provided by the
11 "Spill Compensation and Control Act," P. L. 1976, c. 141 (C.
12 58:10-23.11 et seq.), which is allocated for that purpose; and

13 c. If, at any time, funds necessary to meet the interest and
14 principal payments on outstanding bonds or refunding bonds issued
15 under this act, are insufficient or not available, there shall be
16 assessed, levied and collected annually in each of the municipalities
17 of the counties of this State, a tax on the real and personal property
18 upon which municipal taxes are or shall be assessed, levied and
19 collected, sufficient to meet the interest on all outstanding bonds
20 or refunding bonds issued hereunder and on the bonds or refunding
21 bonds proposed to be issued under this act in the calendar year in
22 which the tax is to be raised and for the payment of bonds or
23 refunding bonds falling due in the year following the year for
24 which the tax is levied. The tax shall be assessed, levied and col-
25 lected in the same manner and at the same time as other taxes
26 upon real and personal property. The governing body of each
27 municipality shall pay to the treasurer of the county in which the
28 municipality is located, on or before December 15 in each year, the
29 amount of tax herein directed to be assessed and levied, and the

30 county treasurer shall pay the amount of the tax to the State
31 Treasurer on or before December 20 in each year.

32 If on or before December 31 in any year, the issuing officials, by
33 resolution, determine that there are moneys in the General Fund
34 beyond the needs of the State, sufficient to meet the principal of
35 bonds or refunding bonds falling due and all interest payable in
36 the ensuing calendar year, the issuing officials shall file the resolu-
37 tion in the office of the State Treasurer, whereupon the State Trea-
38 surer shall transfer the moneys to a separate fund to be designated
39 by him, and shall pay the principal and interest out of that fund
40 as the same shall become due and payable, and the other sources
41 of payment of the principal and interest provided for in this section
42 shall not then be available and the receipts for the year from the
43 tax specified in subsections a. and b. of this section shall be con-
44 sidered part of the General Fund, available for general purposes.

1 22. Should the State Treasurer, by December 31 of any year,
2 deem it necessary, because of the insufficiency of funds collected
3 from the sources of revenues as hereinabove provided, to meet the
4 interest and principal payments for the year after the ensuing
5 year, then the State Treasurer shall certify to the Director of the
6 Division of Budget and Accounting in the Department of the
7 Treasury the amount necessary to be raised by taxation for those
8 purposes, which is to be assessed, levied and collected for and in
9 the ensuing calendar year. The director shall, on or before March 1
10 following, calculate the amount in dollars to be assessed, levied and
11 collected as herein set forth in each county. This calculation shall
12 be based upon the corrected assessed valuation of each county for
13 the year preceding the year in which the tax is to be assessed, but
14 the tax shall be assessed, levied and collected upon the assessed
15 valuation of the year in which the tax is assessed and levied. The
16 director shall certify the amount to the county board of taxation
17 and the treasurer of each county. The county board of taxation
18 shall include the proper amount in the current tax levy of the
19 several taxing districts of the county in proportion to the ratables
20 as ascertained for the current year.

1 23. For the purpose of complying with the provisions of the State
2 Constitution, this act shall be submitted to the people at the general
3 election to be held in the month of November, 1985. To inform the
4 people of the contents of this act it shall be the duty of the Secre-
5 tary of State, after this section takes effect, and at least 15 days
6 prior to the election, to cause this act to be published in at least
7 10 newspapers published in the State and to notify the clerk of
8 each county of this State of the passage of this act and the clerks

9 respectively, in accordance with the instructions of the Secretary
 10 of State, shall cause to be printed on each of the ballots, the
 11 following:

12 If you approve the act entitled below, make a cross (X), plus
 13 (+), or check (✓) mark in the square opposite the word "Yes."

14 If you disapprove the act entitled below, make a cross (X), plus
 15 (+), or check (✓) mark in the square opposite the word "No."

16 If voting machines are used, a vote of "Yes" or "No" shall be
 17 equivalent to these markings respectively.

	Yes.	<p style="text-align: center;">CLEAN NEW JERSEY BOND ISSUE</p> <p>Should the "Clean New Jersey Bond Act of 1985," which authorizes the State to issue general obligation bonds in the amount of \$275,000,000.00 for the purpose of financing the construction costs of solid waste disposal facilities and wastewater treatment systems, and the closure costs of sanitary landfill facilities; authorizing the issuance of refunding bonds; providing the ways and means to pay the interest on the bonds and refunding bonds and also to pay and discharge the principal thereof, be approved?</p>
	No.	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>Approval of this act would authorize the sale of \$275,000,000.00 in State general obligation bonds and the deposit of the proceeds of this bond sale in a public corporation entitled the New Jersey Environmental Trust. The trust would be empowered to use the bond proceeds for making loans and grants to governmental units for financing the construction costs of solid waste disposal facilities and wastewater treatment systems, and to owners or operators of sanitary landfill facilities for closure costs of those facilities. This act would also enable the trust to maximize the use of the bond proceeds by authorizing it to retain and use interest income and loan repayments from the proceeds to pay debt service on revenue bonds issued by the trust, the proceeds of which will be used to further address the State's construction needs for wastewater treatment systems (approximately \$5 billion), resource recovery facilities (approximately \$3 billion) and sanitary landfill closures (approximately \$1 billion).</p>

18 The fact and date of the approval or passage of this act, as the
 19 case may be, may be inserted in the appropriate place after the
 20 title in the ballot. No other requirements of law as to notice or
 21 procedure, except as here provided, need be adhered to.

22 The votes cast for and against the approval of this act, by
 23 ballot or voting machine, shall be counted and the result thereof
 24 returned by the election officer, and a canvass of the election had
 25 in the same manner as is provided for by law in the case of the
 26 election of a Governor, and the approval or disapproval of this
 27 act so determined shall be declared in the same manner as the
 28 result of an election for a Governor, and if there is a majority of
 29 all votes cast for and against it at the election in favor of the
 30 approval of this act, then all the provisions of this act not made
 31 effective theretofore shall take effect forthwith.

1 24. There is appropriated the sum of \$5,000.00 to the Department
 2 of State for expenses in connection with the publication of notice
 3 pursuant to section 23 of this act.

1 25. This section and sections 23 and 24 of this act shall take effect
 2 immediately; and the remainder of the act shall take effect as
 3 provided in section 23, except that the remainder of the act shall
 4 remain inoperative until the enactment into law of the "New
 5 Jersey Environmental Trust Act," P. L. . . . , c. . . . (C.)
 6 (now pending before the Legislature as Senate Bill No. 3187 of
 7 1985).

STATEMENT

This act, known as the "Clean New Jersey Bond Act of 1985," authorizes the sale upon voter approval of \$275 million in State general obligation bonds for use in preserving and expanding the State's environmental infrastructure. Of the \$275 million in bond proceeds which will be appropriated to capitalize the New Jersey Environmental Trust, the trust will be empowered to issue: a. \$75 million in low-interest revolving loans to local governmental units for financing construction costs of solid waste disposal facilities, b. \$150 million in low-interest revolving loans to local governmental units for financing construction costs of wastewater treatment facilities, and c. \$50 million in low-interest revolving loans to owners or operators of sanitary landfill facilities, and in the case of governmental units also for grants, for the environmentally-sound closure of those facilities.

The latest Statewide construction cost estimates for the environmental capital projects addressed in this bond act are as follows: wastewater treatment systems (\$5 billion); resource recovery

facilities (\$3 billion); sanitary landfill closure (\$1 billion). The trust's financing capacities will maximize the use of the "Clean New Jersey" bond proceeds by addressing these increasing capital needs on a much faster and correspondingly more cost-efficient basis (construction costs have historically doubled every seven years). Through the issuance of revenue bonds backed by the investment income and loan repayments resulting from the use of the bond proceeds, the trust will be able to finance a larger number of those capital construction projects over a shorter period of time than could be financed with the use of the bond proceeds alone.

SENATE, No. 3189

STATE OF NEW JERSEY

INTRODUCED JUNE 27, 1985

By Senators CARDINALE and HAGEDORN

Referred to Committee on Energy and Environment

AN ACT authorizing the deposit of a portion of the proceeds of sale of bonds heretofore authorized under the "Natural Resources Bond Act of 1980" in the New Jersey Environmental Trust and authorizing the trust to apply those proceeds through loans to counties or the Hackensack Meadowlands Development Commission for resource recovery facilities; and making an appropriation to the trust.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Natural
2 Resources Fund Transfer Act of 1985."

1 2. There is appropriated to the New Jersey Environmental Trust,
2 established pursuant to the "New Jersey Environmental Trust Act,
3 P. L. . . . , c. . . . (C. . . .) (now pending before the Legisla-
4 ture as Senate Bill No. 3187 of 1985), from the Natural Resources
5 Fund, established pursuant to the "Natural Resources Bond Act
6 of 1980," (P. L. 1980, c. 70), for use by the trust consistent with
7 the provisions of the bond act, the proceeds of the sale of bonds
8 in the amount of \$50,000,000.00 allocated for loans or grants to
9 county governments or the Hackensack Headowlands Development
10 Commission for resource recovery facilities.

1 3. Of the moneys hereinabove appropriated:

2 a. \$12,500,000.00 are specifically dedicated and shall be applied
3 by the trust to make loans to county governments or the Hackensack
4 Meadowlands Development Commission for paying the costs of the
5 designing, acquiring and constructing of rsource recovery facilities

6 in accordance with the project priority list and attached authoriza-
7 tion of expenditures annually approved by the Legislature as
8 required by the provisions of the "New Jersey Environmental
9 Trust Act."

10 b. \$37,500,000.00 are specifically dedicated and shall be applied
11 by the trust as soon as may be practicable and feasible, to make
12 interest-free loans to the following county governments for the
13 designing, acquiring and constructing of resource recovery facili-
14 ties as follows:

15	Bergen County	\$15,000,000
16	Essex County	\$15,000,000
17	Camden County	\$ 7,500,000

18 Any loans made by the trust pursuant to this act shall be made
19 in accordance with the provisions of subsection a. of section 9 of
20 the "New Jersey Environmental Trust Act," and shall be repay-
21 able into the Natural Resources Fund; except that upon the voters'
22 approval of P. L., c. (now pending before the Legisla-
23 ture as Senate Bill No. 3190 of 1985), the loans shall be repayable
24 to the trust in accordance with the terms and provisions of the
25 loan agreement.

1 4. This act shall take effect immediately upon the enactment into
2 law of the "New Jersey Environmental Trust Act," P. L.,
3 c. (C.) (now pending before the Legislature as
4 Senate Bill No. 3187 of 1985).

STATEMENT

This bill authorizes the deposit into the New Jersey Environ-
mental Trust, established pursuant to the "New Jersey Environ-
mental Trust Act," P. L., c. (C.) (now pending
before the Legislature as Senate Bill No. 3187 of 1985) of proceeds
from the sale of Natural Resources Bonds previously authorized
by the voters. The trust would apply those proceeds consistent with
the purposes of the "Natural Resources Bond Act of 1980" (P. L.
1980, c. 70) for making loans to counties and the Hackensack
Meadowlands Development Commission for financing the cost of
planning and construction of resource recovery facilities.

SENATE, No. 3190

STATE OF NEW JERSEY

INTRODUCED JUNE 27, 1985

By Senator GARIBALDI

Referred to Committee on Energy and Environment

AN ACT authorizing the New Jersey Environmental Trust to receive repayments of loans made from a portion of the proceeds of bonds previously authorized under the "Natural Resources Bond Act of 1980" for the cost of resource recovery facilities; authorizing the trust to apply the loan repayments, interest earnings on certain bond proceeds and other transaction revenue for its corporate purposes; amending and supplementing P. L. 1980, c. 70; providing for the submission thereof to the people at a general election; and making an appropriation.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. (New section) The Legislature finds and declares that:

2 a. The New Jersey Environmental Trust, established pursuant
3 to the "New Jersey Environmental Trust Act," P. L., c. . . .
4 (C.) (now pending before the Legislature as Senate
5 Bill No. 3187 of 1985), will serve as a State authority to provide
6 financial support for the acquisition and construction of environ-
7 mental projects by governmental units, including but not limited
8 to counties and the Hackensack Meadowlands Development Com-
9 mission.

10 b. The New Jersey Environmental Trust should be authorized
11 to use the repayments of loans made from and interest earning on
12 certain bond proceeds allocated for the cost of resource recovery
13 facilities, to aid in its financing of environmental projects by gov-
14 ernmental units which shall be deemed essential to the welfare of
15 the people of this State.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.
Matter printed in italics *thus* is new matter.

- 1 2. Section 3 of P. L. 1980, c. 70 is amended to read as follows:
- 2 3. As used in this act:
- 3 a. "Bonds" means the bonds authorized to be issued, or issued
4 under this act;
- 5 b. "Commission" means the New Jersey Commission on Capital
6 Budgeting and Planning;
- 7 c. "Commissioner" means the Commissioner of Environmental
8 Protection;
- 9 d. "Construct" and "construction" mean, in addition to the
10 usual meaning thereof, acts of construction, reconstruction, re-
11 placement, extension, improvement and betterment;
- 12 e. "Cost" means the cost of acquisition or construction of all or
13 any part of a project and of all or any real or personal property,
14 agreements and franchises deemed by the department to be neces-
15 sary or useful and convenient therefor or in connection therewith,
16 including interest or discount on bonds, cost of issuance of bonds,
17 cost of geological and hydrological services, administrative costs,
18 interconnection testing, engineering and inspection costs and legal
19 expenses, costs of financial, professional and other estimates and
20 advice, organization, operating and other expenses prior to and
21 during such acquisition or construction, and all such other expenses
22 as may be necessary or incident to the financing, acquisition, con-
23 struction and completion of such project or part thereof and the
24 placing of the same in operation, and also such provision for a
25 reserve fund, or reserves for working capital, operating, mainte-
26 nance or replacement expenses and for payment or security of
27 principal of or interest on bonds during or after such acquisition
28 or construction as the State Comptroller may determine;
- 29 f. "Dam restoration" means the demolition, reconstruction, re-
30 habilitation, or restoration of structures that impound water for
31 supply purposes, flood control or recreation;
- 32 g. "Department" means the Department of Environmental
33 Protection;
- 34 h. "Harbor clean up" means the removal of piers, bulkheads,
35 sunken vessels and other derelict structures adjacent to the water-
36 front that contribute to the source of drift;
- 37 i. "Project" means any work relating to resource recovery facili-
38 ties, sewage treatment facilities, water supply facilities, dam resto-
39 ration projects and harbor clean up projects;
- 40 j. "Real property" means lands, within or without the State,
41 and improvements thereof or thereon, any and all rights-of-way,

42 water, riparian and other rights, and any and all easements, and
43 privileges in real property, and any right or interest of any kind
44 or description in, relating to or connected with real property;

45 k. "Resource recovery facilities" means the plants, structures,
45A machinery, equipment, real and personal property acquired, con-
46 structed or operated or to be acquired, constructed or operated in
47 whole or in part by or on behalf of a political subdivision or sub-
48 divisions of the State or any agency thereof or the Hackensack
49 Meadowlands Development Commission and other personal prop-
50 erty, and appurtenances necessary or useful and convenient for
51 the collection, separation, removal and reuse of materials in the
52 stream of wastes presently going to landfills, including those ma-
53 terials which are capable of recycling and direct delivery to manu-
54 facturers for use as raw materials as well as the conversion of
55 waste for energy production;

56 l. "Water supply facilities" means and refers to the real prop-
57 erty and the plants, structures, interconnections between existing
58 water supply facilities, machinery and equipment and other prop-
59 erty, real, personal and mixed, acquired, constructed or operated,
60 or to be acquired, constructed or operated in whole or in part by
61 or on behalf of the State, or of a political subdivision of the State
62 or any agency thereof, for the purpose of augmenting the natural
63 water resources of the State and making available an increased
64 supply of water for all uses, and any and all appurtenances neces-
65 sary, useful or convenient for the collecting, storing, improving,
66 treating, filtering or transmitting of water, and for the preservation
67 and protection of these resources and facilities and providing for
68 the conservation and development of future water supply resources,
69 and facilitating incidental recreational uses thereof;

70 m. "Sewage treatment facilities" means the plants, structures,
71 real and personal property acquired, constructed or operated or to
72 be acquired, constructed or operated in whole or in part by or on
73 behalf of a political subdivision of the State or any agency thereof
74 including pumping and ventilating stations, sewage treatment sys-
75 tems, plants and works, connections, outfalls, interceptors, trunk
76 lines, and other personal property, and appurtenances necessary
77 or useful and convenient for the treatment, purification, disposal
78 or recycling and recovery in a sanitary manner of any sewage,
79 liquid or solid wastes, night soil, or industrial wastes to preserve
80 and protect natural water resources and facilities[.];

81 n. "Trust means the New Jersey Environmental Trust created
82 pursuant to the "New Jersey Environmental Trust Act," P. L.

83 (C.) (now pending before the Legislature as
84 Senate Bill No. 3187 of 1985);

85 o. "Transaction revenue" means any income whatsoever attri-
86 buted to the repayment of loans made pursuant to paragraph a. of
87 section 4 of the "Natural Resources Bond Act of 1980" (P. L. 1980,
88 c. 70), including repayment of principal and interest on loans, pro-
89 ceeds, of collateral, assignments of user fees and administrative
90 fees.

1 3. (New section) Any provisions of the "Natural Resources Bond
2 Act of 1980" (P. L. 1980, c. 70) notwithstanding, all transaction
3 revenue, including the repayment of loans made pursuant to that
4 act and the "Natural Resources Fund Transfer Act of 1985"
5 (P. L., c.) (now pending before the Legislature as Senate
6 Bill No. 3189 of 1985) shall be paid to the New Jersey Environ-
7 mental Trust, and all such transaction revenues are specifically
8 dedicated for the lawful uses and purposes of the trust. Any
9 earnings received from the investment of bond proceeds transferred
10 to the trust pursuant to the "Natural Resources Fund Transfer
11 Act of 1985" also shall be retained and used by the trust for its
12 lawful uses and purposes.

1 4. For the purpose of complying with the provisions of the State
2 Constitution, this act shall, at the general election to be held in the
3 month of November, 1985 be submitted to the people. In order to
4 inform the people of the contents of this act, it shall be the duty
5 of the Secretary of State, after this section shall take effect, and
6 at least 15 days prior to the election, to cause this act to be pub-
7 lished in at least 10 newspapers published in the State and to notify
8 the clerk of each county of this State of the passage of this act,
9 and the clerks respectively, in accordance with the instructions of
10 the Secretary of State, shall cause to be printed on each of the
11 ballots, the following:

12 If you approve the act entitled below, make a cross (X), plus
 13 (+), or check (V) mark in the square opposite the word "Yes."
 14 If you disapprove the act entitled below, make a cross (X), plus
 15 (+), or check (V) mark in the square opposite the word "No."
 16 If voting machines are used, a vote of "Yes" or "No" shall be
 17 equivalent to such markings respectively.

	Yes.	<p style="text-align: center;">TRANSACTION REVENUE TO ENVIRONMENTAL TRUST</p> <p>Shall the following act be approved: "An act authorizing the New Jersey Environmental Trust to receive repayments of loans made from a portion of the proceeds of bonds previously authorized under the 'Natural Resources Bond Act of 1980' for the cost of resource recovery facilities; authorizing the trust to apply the loan repayments, interest earnings on certain bond proceeds and other transaction revenue for its corporate purposes; amending and supplementing P. L. 1980, c. 70; providing for the submission thereof to the people at a general election; and making an appropriation"?</p>
	No.	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>This act would amend and supplement the "Natural Resources Bond Act of 1980" (P. L. 1980, c. 70) by authorizing the Legislature to designate a public corporation, the New Jersey Environmental Trust, to (1) receive funds representing the repayment of loans made for the cost of resource recovery facilities, and (2) retain and use the loan repayments, interest income from the investment of certain bond proceeds, and other transaction revenues for the trust's general purposes of financing the cost of environmental infrastructure projects.</p>

18 The fact and date of the approval or passage of this act, as the
 19 case may be, may be inserted in the appropriate place after the
 20 title in the ballot. No other requirements of law of any kind or
 21 character as to notice or procedure, except as herein provided,
 22 need be adhered to.

23 The votes so cast for and against the approval of this act, by
 24 ballot or voting machine, shall be counted and the result thereof
 25 returned by the election officer, and a canvass of the election had
 26 in the same manner as is provided for by law in the case of the
 27 election of a Governor, and the approval or disapproval of this act
 28 so determined shall be declared in the same manner as the result of

29 an election for a Governor, and if there shall be a majority of all the
 30 votes cast for and against it at such election in favor of the approval
 31 of this act, then all the provisions of this act not made effective
 32 theretofore shall take effect forthwith.

1 5. There is appropriated the sum of \$5,000.00 to the Department
 2 of State for expenses in connection with the publication of notice
 3 pursuant to section 4 of this act.

1 6. This section and section 4 and 5 shall take effect immediately
 2 upon the enactment into law of the "New Jersey Environmental
 3 Trust Act," P. L. . . . , c. . . . (C.) (now pending before
 4 the Legislature as Senate Bill No. 3187 of 1985) and the "Natural
 5 Resources Fund Transfer Act of 1985," P. L. . . . , c. . . . (C.
 6) (now pending before the Legislature as Senate Bill
 7 No. 3189 of 1985) and the remainder of the act shall take effect
 8 as provided in section 4.

STATEMENT

This bill would authorize the New Jersey Environmental Trust to receive funds representing the repayment of loans made from those proceeds of the "Natural Resources Bond Act of 1980" (P. L. 1980, c. 70) which were allocated for financing the design and construction costs of resource recovery facilities. The trust would apply the loan repayments and other transaction revenue, together with interest earnings from the investment of certain bond proceeds, for the trust's corporate purposes. This act would be submitted to the people at the November, 1985 general election, assuming prior enactment into law of the "New Jersey Environmental Trust Act," P. L. . . . , c. . . . (C.) (now pending before the Legislature as Senate Bill No. 3187 of 1985) and the "Natural Resources Fund Transfer Act of 1985," P. L. . . . , c. . . . (C.) (now pending before the Legislature as Senate Bill No. 3189 of 1985).

SENATE, No. 3191

STATE OF NEW JERSEY

INTRODUCED JUNE 27, 1985

By Senators DiFRANCESCO, GAGLIANO and DORSEY

Referred to Committee on Energy and Environment

AN ACT concerning loans for resource recovery facilities, and making an appropriation to the New Jersey Environmental Trust.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. a. There is appropriated from the General Fund to the New
2 Jersey Environmental Trust, established pursuant to section 4 of
3 the "New Jersey Environmental Trust Act," P. L. . . . , c. . . .
4 (C.) (now pending before the Legislature as Senate
5 Bill No. 3187 of 1985), the sum of \$25,000,000.00, which sum shall
6 be applied by the trust as soon as may be practicable and feasible,
7 to make a loan to Essex county for the design and construction
8 costs of that county's resource recovery facility.

9 b. Any loan made by the trust pursuant to this act shall be made
10 in accordance with the provisions of subsection a. of section 9 of
11 the "New Jersey Environmental Trust Act," and shall be repay-
12 able to the trust in accordance with terms and provisions of the
13 loan agreement.

1 2. This act shall take effect immediately upon the enactment
2 into law of the "New Jersey Environmental Trust Act," P. L. . . . ,
3 c. . . . (C.) (now pending before the Legislature as
4 Senate Bill No. 3187 of 1985).

STATEMENT

This bill would appropriate \$25 million in General Fund revenues to the New Jersey Environmental Trust for the purpose of making

a \$25 million loan to Essex county for financing the design and construction costs of that county's resource recovery facility, which is to be located in the Blanchard street area in the city of Newark. The loan would be made in accordance with the trust's loan procedures and would be repayable to the trust pursuant to the terms and conditions of the loan agreement.

SENATOR DANIEL J. DALTON, CHAIRMAN: Today this Committee will begin hearings on the Administration's proposal to establish a new State Sewer and Garbage Authority. Before us is the largest capital projects program ever proposed in the history of the State of New Jersey. This new Sewer and Garbage Authority would be allowed to incur a staggering \$9 billion in debt. That is almost as much debt as the 13 other operating authorities in this State have, combined.

It would be irresponsible to act hastily on a program of this magnitude without a thorough review of its ramifications, especially on our over-burdened property taxpayers. We all know there is no such thing as a free lunch, and somewhere down the line that \$9 billion in debt must be paid.

We have heard the rhetoric from the Administration that this proposed Sewer and Garbage Authority can do more, faster, and better. It sounds great, but to do this, we must first examine this Authority's scope. In other words, what is the Authority going to build? How much is it going to cost? Where are we going to get the money? And, who would pay it back, at what cost?

The Administration has ignored our request for more detailed information about how specifically this new Sewer and Garbage Authority would work. We are still waiting for the answers.

The bills before us were introduced in the Legislature on June 17th, and represent the latest version of the Governor's plan. These bills differ significantly from previous plans advanced by the Administration, but still raise just as many questions.

I sent a letter to Governor Kean's Chief Counsel, Mr. Edwards, on July 24th, asking for some of these answers so that the Committee could prepare a public hearing on the bills. I asked for a response by August 12th. No answer. I sent another letter to Mr. Edwards and asked for information again. I told him the Committee needed the documents by last Thursday at 5:00 p.m. if we were to be able to review that information at our Committee hearing today. Our staff waited until 7:30 p.m. Thursday night. No information came.

Frankly, I am puzzled by all this. If the Governor's proposed Sewer and Garbage Authority is as wonderful as it is cracked

up to be, why can't the Administration provide us with the information we need to thoroughly evaluate the program?

Additionally, if we are, indeed, a co-equal branch of government, why can't we get answers to fundamental questions that we have been asking about the largest capital projects program in this State's history?

This Committee is trying to do its job, but we need a little cooperation. Instead of giving us answers, the Governor is trying to manipulate the media and the public with his baseless accusations that the Legislature is dragging its feet on this issue. His latest political ploy was to recall the Legislature for a special session tomorrow to consider his proposal.

If the Governor wants to grandstand, that is his prerogative, but it might have been more constructive to answer the questions this Committee has been asking about the program for months, instead of trying to subvert the legislative process.

Before a vote can be taken on this program, we need to know who is going to pay for this and how much it will ultimately cost. We want to know what projects will be built, and when. Are there actually \$9 billion worth of projects out there that need to be addressed?

The State Department of Environmental Protection's priority list that had been given to us showed that we do not know where the \$9 billion will come from.

Although this Committee did not know the answers to these and many other questions about the Governor's program by last week's deadline, I am still interested in hearing the answers if you have them today.

I am going to ask the witnesses to submit their opening statements for the record, but not take time to read them. We have listened to statements about how this program will generally work many times already. What we really need today are answers to the specific questions we have been asking for months.

I hope someone here today can answer these questions, even if the Administration failed to provide the Committee with the information in advance, so that the members could prepare for today's hearing.

First of all, what we would like to do is to introduce the members of the Committee. On my far right is Senator Paul Contillo, from Bergen County, and Senator Cathy Costa, from Burlington County. And, on my immediate left is Dr. Herman Leonard. Dr. Leonard is an Associate Professor of Public Policy from the John F. Kennedy School of Government, Harvard University. Senator Orechio has engaged Dr. Leonard's services to assist us in analyzing the proposed legislation before us, and to serve as general consultant during the Committee's deliberations.

Dr. Leonard is a member of the U.S. Senate Committee's Advisory Council on Infrastructure Financing, and the Senior Advisory to the Council of State Planning Agencies. He also serves on many other distinguished committees.

Dr. Leonard is the author of many articles and books which deal with public policy and environmental finance, including his most recent book, entitled: "Checks On Balance: The Quiet Side of Public Spending."

We will consider the bills as a package. The first thing we want to do is to hear, as a courtesy, from the Senate President and the Senate Majority Leader. We will then take a statement from the sponsors of the bill. The Committee will then start off by obtaining answers to the questions posed to the Governor on July 24th.

The questioning will go along the same format as the components of the trust. We will dwell on the \$9 billion cap. We will deal with the landfill closure component, the resource recovery component, and the waste water component. We will end the Committee hearing with general questions relative to governments. After that, we will close. We intend, however, to hold another hearing on September 4th.

Senator Orechio?

SENATE PRESIDENT CARMEN ORECHIO: Mr. Chairman and members of the Committee, I am grateful for the opportunity to make a few remarks. I want you to know that you have my full support in your efforts to fulfill your responsibility to the people of the State of New Jersey. Certainly, I commend you for being deliberative in your actions.

I also want you to know that I am a strong proponent of the committee process, and certainly no bills of this magnitude will be placed before the members of the Senate, unless they are reviewed by this Committee, and released by this Committee.

I also resent the Administration's attempt to introduce similar measures through the conditional veto process. That is not the way government is supposed to work. Certainly, we do not make it work in the Legislature that way. The committee process, we feel, is a very important review process, one which reviews the pros and cons of every facet concerning an issue. Anything else is certainly not the way to make that kind of an evaluation.

I also want to say we should not be stampeded when voting on a \$9 billion program, which compares with the magnitude of our State budget, a process which takes months, and months, and months to resolve. I am really somewhat disenchanted with the call for the special session, the drama, and crisis that has been generated. Basically, we would be the laughing stock of the nation by just taking the legislation you are going to be reviewing this morning and just passing it in a willy-nilly fashion.

This certainly calls for deliberation because of its importance, and because of its magnitude. In the final analysis, inevitably this spending is going to lead to higher property taxes.

Now, I don't necessarily conclude that cheaper and faster is better. There will be a lot more said as this hearing progresses. This Committee has done a lot of heavy lifting in the Legislature. I am sure we are all aware of the right-to-know legislation, and of the deliberation, the many months of review, compromise, and eventual resolution of that thorny problem by this Committee. It did a commendable job in solving it, for the most part, although they have had amendments to the law which were required because of court action.

I also want to make a final statement, and that is that this is really not the time for political posturing. In terms of time being of the essence, we are coming back on September 9th and 12th. That is ample time to place any required legislation before the Senate and the Assembly. The next hearing, scheduled for September 4th, provides for

the deliberative and review process that is so essential to good government.

So, I want to tell you, Mr. Chairman and members of the Committee, that you have my full support. You do your job and I know you will do that job correctly. Thank you.

SENATOR DALTON: Thank you, Mr. President. Mr. Majority Leader?

SENATOR JOHN RUSSO: Thank you, Mr. Chairman. First of all, I want to echo the comments of Senator Orechio by agreeing with the content of the statement you presented to open this hearing. I think it is accurate, it is on point, it is a bit blunt and direct, but that is what we need because there is a lot of confusion about the issue before us. So, I too support your position, and the Committee process in handling this matter through deliberation.

Unfortunately, we have established -- or the Governor has -- a new calendar. According to him, the world ends with the Gubernatorial and Assembly elections in November. The fact is, the world doesn't end then; we have a major project here, a major proposal, and if it takes a couple of months rather than a couple of weeks to do it right for the people of this State, then we will have fulfilled our responsibilities.

I have some serious doubts that, in fact, the Administration wants this particular program passed before that date anyway, for other reasons.

There are many out there who misunderstand, so I think it is also important to make clear that there is no part of this package, at least insofar as my review indicates, which deals with the toxic waste problem in the State. There are many of our citizens who feel there is a critical toxic waste problem that should be cleaned up not only swiftly, but with haste. This package does not solve that problem, nor does it deal with it at all. I think that is important to note.

I think the second thing that is important to recognize is, the Governor, in his letter to those of us who are in leadership, said that we have an emergency in the environmental area. The fact of the matter is, the problem has been resolved. We passed a package

sponsored by Senator Orechio and me. It is on the Governor's desk. What the Governor is saying is, "I want it my way or no way at all." If the Governor was willing to go along with the solution to the problem proposed by the Legislature, there is no emergency; the problem is resolved.

The Governor has indicated he won't sign that package, and, therefore, by his own act he has created the emergency that he says exists.

Unfortunately, we have a critical problem facing the people of this State that is becoming terribly politicized. Maybe a little bit of blame goes to both sides, but I think, really, in my judgment the critical blame goes to the Governor.

You know, this issue hasn't been presented to the Legislature yet because this Committee has this package before it -- that is, the Governor's alternative. Nevertheless, the Administration -- or whoever the parties might be -- has chosen to send out political flyers in the critical Assembly districts, where they accuse the individual Assembly Democrats in these districts of blocking this Administration proposal.

Interesting, if you put them all side by side, they are all identical. They have just changed the names in each district. This is cruel to those Assembly people involved because they haven't had a chance yet to vote on this package because it is before a legislative committee and hasn't been presented for a vote.

This makes me inclined to think that the Administration would rather not have anything done, veto our proposal, not have its own passed before November, and attempt to blame the Democrats in the Assembly for its non-passage in an effort to take control of the Assembly. That is good politics, perhaps, but it is lousy, lousy government. It seems to happen so often this time of the year when there is an election, but it is just unfortunate for the people of this State.

So, in summary, there is a proposal on the Governor's desk. He can sign it. The problem will be resolved; but, he wants it his way or no way at all. In view of that, Mr. Chairman, I completely agree

with your opening comments. I think the fault of this crisis is strictly on the Governor's desk -- not on the Senate Republicans or Democrats, or the Assembly Republicans or Democrats: It is strictly on the desk of the Administration.

SENATOR DALTON: What we would like to do now is to have staff give a brief explanation of the bills, and then we will hear from the sponsors of the bills.

MR. CONNELLY: This is a five-bill package which, first, would establish the New Jersey Environmental Trust, an independent authority in, but not of, the Department of Environmental Protection, which would be authorized to provide various forms of financial assistance to local governments for waste water treatment facilities, solid waste facilities, and landfill closure.

Second, the four bills after 3187 would provide an initial capitalization of that trust with approximately \$350 million through bond issues, appropriations, transfers from previous bond acts, and so forth.

Just to go through several -- the trust is a complex piece of legislation -- of the highlights of the trust, it would have a 20-year life span that would dissolve at 20 years, providing all the other obligations it had were taken care of prior to its being dissolved. The minutes of the trust would be submitted to the Governor. The Governor would have veto power over those minutes. The minutes would also, at the time they are submitted to the Governor, be submitted to the President of the Senate and the Speaker of the General Assembly.

During the 10-day review period, the Speaker of the General Assembly and the President of the Senate would have the right to provide the Governor with written comments on the minutes of the trust.

The environmental jurisdiction of the trust is waste water treatment facilities, resource recovery facilities, which would include composting facilities, incinerators, recycling facilities, state-of-the-art sanitary landfills for both interim and long-term use, and landfill closure.

The authority would be authorized to issue debt in the form of bonds, refunding bonds, or other notes of financial obligation. It

could only do so -- that is, it could only issue debt upon approval by the Governor. Any request of the Governor for authorization to issue the debt would also have to be given to the Legislature: The President of the Senate and the Speaker of the General Assembly.

Other financial authorities of the trust would make loans to local governments for waste water treatment, resource recovery facilities, and state-of-the-art landfills. It could make grants to certain municipalities for landfill closure costs, to the extent those costs would have been borne by out-of-state generators of waste. It can provide local units of governments with loan guarantees and bond guarantees. Lastly, it can use funds deposited in the trust. It can invest them in short-term notes and use the interest if they are not immediately needed.

There is a local government loan default contingency provided in the trust which basically says that if the local government, which has borrowed money from the trust, is unable to pay back that loan, the trust may ask the State Treasurer at that point to pay to the trust the amount of aid which would otherwise be payable to that municipality from State aid, and gross receipts and taxes. That would ensure the solvency of the trust and make sure those loans were paid.

If the loan was made to a municipal or county utilities authority, or a solid waste authority, the trust could ask the authority to provide that the counties and municipalities being serviced by that authority sign contracts, coming up with the amount of the loan default.

There is a public accountability provision in the bill which provides that the trust has to issue an annual report. It also must have its books audited. Those audits must be open to public inspection.

The trust would not be eligible to use clean water funds prior to Fiscal Year 1984. The trust would be authorized to receive Federal clean water money after Fiscal Year 1984/85, but it could only expend those funds as provided in the Clean Water Act. The grants would remain grants. Later on, if the clean water program changes to loans, which it might in 1990, the trust could be the State vehicle for getting those loans out to local government.

The Department of Environmental Protection plays a role in the operation of the trust in that it must prepare an annual projects priority list for waste water treatment, resource recovery, and landfill closure. Those are the projects the trust can expend money on, or provide loans to provide the financing for.

There is a provision in a section of the trust which provides for some legislative participation in the operation of the trust, to wit, that the annual project priorities list must be submitted to the Joint Appropriations Committee. It must be submitted to the Speaker and the President. They would have the opportunity to offer comments on them, and the individual projects must be included by the JAC in the annual appropriations bill; the trust would be prohibited from spending any money on projects not included in the JAC bill.

The remaining four bills, 3188 through 3191, provide various forms of capitalization moneys for the trust to start out with. The first is 3188, the Clean New Jersey Bond Act of 1985, which would authorize the State to issue \$275 million in general obligations bonds. Those funds would be transmitted, upon voters' approval, to the trust. One hundred and fifty million dollars would be allocated for waste water treatment, \$50 million for landfill closure, and \$75 million for resource recovery.

S-3189, which is called the Natural Resources Fund Transfer Act of 1985, would basically appropriate \$50 million in State bonds previously approved in 1980 and \$50 million of the 1981 Natural Resources Bond Act to the trust to be used to provide assistance to local governments for resource recovery facilities. That act further provides that of that \$50 million transferred from the 1980 bond act to the trust, automatic loans to three counties would immediately be made -- \$15 million in interest-free loans: \$15 million to Essex County, \$15 million to Bergen County, and \$7.5 million to Camden County.

S-3190, which is called the Environmental Project Revenue Act of 1985, would basically provide that the 1980 Natural Resources Bond Act would be amended -- and it would therefore require approval by the voters in referendum -- to provide that the loan repayments from the 1980 Natural Resources Bond Act -- the \$15 million allocated for

resource recovery, which is transferred to the trust in the previous bill -- would be made to the trust, not to the General Fund, as the bond act now requires.

Finally, 3191, with amendments by the sponsor, would appropriate \$33 million from the General Fund to the trust for the making of a zero interest loan to Essex County for their resource recovery facility.

SENATOR DALTON: Thank you very much.

We would now like to hear from Senator Gagliano and Senator Gormley, the sponsors of this legislation.

Tom, you said five minutes, right?

SENATOR S. THOMAS GAGLIANO: Thank you very much, Mr. Chairman and members of the Committee. I appreciate comments that the Chairman and others made with respect to this package of bills. I feel that it is unfortunate that we seem to meet here in a situation where we are more adversarial than we should be. I just want to give you a brief outline of the bills, and I would then like to suggest that the Committee hear from representatives of the Department, as well as from Senator Gormley, who is one of the sponsors.

I thank you for giving me the opportunity to speak on the five bills which I feel are of vital importance to all New Jersey residents. I am here today as Minority Leader to urge this Committee to consider the five-bill environmental package so that it can be considered during tomorrow's special session of the legislature.

These bills, together with the amendments we will propose today, embody the Governor's conditional veto of S-3094, S-3093, A-457, and A-3112.

Numerous surveys have shown that there is no other issue of greater importance to the citizens of this State than a clean environment. It is time we took action to address the enormous environmental problems facing our State. We need \$5 billion in new sewerage treatment plants, \$3 billion for resource recovery facilities, and \$1 billion to make sure that the landfills we have are safely closed.

The waste water treatment problems we faced recently hit home when raw sewage spilled into the Atlantic Ocean and onto the streets of Wildwood, and I am sure there are more crises just around the corner. Some 280 municipalities throughout our State could face building bans if they do not build new waste water treatment facilities by 1988 to meet Federal Clean Water standards. Without new facilities to dispose of garbage, within two years we will have no place to dump garbage.

Finally, if we fail to provide funding for the environmentally sound closure of landfills, our environment and our State residents will pay a staggering price.

The bills before you today will enable the State to make the most out of all available funding to meet these critical environmental concerns. It will make more money available, more quickly, to fund more projects than the bills Governor Kean recently conditionally vetoed.

The trust will provide 35% more money for waste water treatment plants than the plan presented to the Governor previously. That means by the year 2001, 286 waste water treatment facilities would be financed under the trust, compared with only 121 projects under the conditionally vetoed proposal.

When it comes to financing resource recovery facilities, the trust would provide 25% more money. The reason the environmental trust would do so much more is simple. It gives the State greater flexibility in borrowing money. Under the plan, the State could set aside a portion of the money in the initial fund, using the reserve fund as a basis for multiplying the total amount it can borrow by issuing revenue bonds. The rest of the initial fund would go directly to fund-approved projects. As the loans are repaid, the cycle repeats itself.

The bills presented to the Governor did not provide this leveraging, and so initial loans would have to be paid back first, which could take several years -- probably 20 years -- before new loans could be made.

Considering the magnitude of the environmental problems facing our State, it is imperative that projects get started as quickly

as possible. The public health and safety is at stake. Also, the quicker projects get under way, the less expensive they are. Historically -- and I think we all know this -- capital construction costs have doubled about every seven years.

The environmental trust is modeled after the Transportation Trust Fund, which I think all of you will agree has been an enormous success, and will be an even greater success in the future. The trust fund concept may be new to State government, but it is not new to bankers who have been using it successfully for generations. Since it has a proven track record, there is no reason why we in the public sector should not apply the principles of banking to our environmental problems and let our state trust act as a banker for the local projects and keep the local unit from being a prisoner of Wall Street.

A trust could obtain more favorable bond terms than most municipalities or authorities, and it would provide a more equitable means of sharing the loss of Federal grants for such projects. We are convinced that the environmental trust is the only responsible approach to tackle the challenging environmental problems before us. It will provide a permanent source of financial assistance to meet the most critical capital needs of the decade. Without this assistance, local governments would have no choice but to raise local property taxes, or user fees, to cover construction costs, and this would be too big a burden to pass onto homeowners.

Since the major issue before the Committee actually is the establishment of the trust itself, I would respectfully request that the Chairman and the members of the Committee consider S-3187 first. We have people here who can answer your questions. Senator Gormley, as the sponsor of that bill, will lead off, as you desire.

Thank you very much, Mr. Chairman.

SENATOR DALTON: First of all, Senator, I appreciate the remarks you made. I don't think there is any disagreement by this Committee on the need to address our capital project needs with regard to waste water treatment, resource recovery, and landfill closure.

The problem is, we will not release bills today. This is a public hearing, and during a public hearing process, we cannot release

bills. We do, however, have a number of questions that we gave to the Administration, in the form of a letter, on July 24th. We would like the answers to those questions. This hearing will focus in on those questions so that we can have the answers before we deliberate.

So, at this point, I would like to ask both of you to stay where you are at the table, and I would ask any member of the Executive Department--

SENATOR GAGLIANO: Mr. Chairman, I would like to call--

SENATOR WILLIAM L. GORMLEY: Excuse me, may I just make a brief comment?

SENATOR DALTON: If Mr. Hughey and Mr. Edwards are here and they would like to come down to the table, they are certainly more than welcome -- as well as any other member of the Executive branch.

SENATOR CONTILLO: Mr. Chairman, did I understand you correctly, that there are some legal bounds under which we cannot release these bills today?

SENATOR DALTON: That is my understanding. It is given to me by counsel. This is a public hearing.

SENATOR CONTILLO: Because we have held hearings before and released bills before.

SENATOR DALTON: Not at public hearings.

SENATOR CONTILLO: Well, all our Committee meetings are hearings.

SENATOR DALTON: They are not public hearings; they are Committee meetings.

SENATOR GARIBALDI: What distinguishes this? The notice I received--

SENATOR DALTON: It is a public hearing to discuss the five or six bills, as proposed by the Administration, that make up the environmental trust. Before we move on that trust, I thought it was important to obtain some basic information about this proposed \$9 billion program before this Committee takes action and either recommends, alters, or whatever it does in order for this issue to move on to the full Senate and to the Assembly.

Before we do that, I believe firmly that we have to get answers to these questions, Senator.

I would like to start out, if I may, dealing with the whole issue of the cap, and the cap on revenue bonds. If I can--

SENATOR GORMLEY: (interrupting) Excuse me, Dan, can I make a brief statement?

SENATOR GAGLIANO: Mr. Chairman, Senator Gormley would like to make a brief statement, as the sponsor of the main bill.

SENATOR DALTON: Excuse me, Senator.

SENATOR GORMLEY: That's quite all right.

I have just a couple of points, for the purpose of procedure. Number one, I assume the bill could be released tomorrow because we will be in session. A Committee meeting could be called tomorrow in order to release it. So, that would answer that particular question.

One other point; I listened to the initial procedure, and I see that we have a dialogue. I appreciate the fact that this hearing is not being held for the purpose of posturing. I really picked up the olive branch from the first 45 minutes.

I would be curious to know if after every question we could, in turn, be given a response as to the Democratic program's effect -- economic effect. I think you must have the numbers wrong on that because you passed the bill, and we would like to have those effects so we can have a dialogue, back and forth -- because that is what this is. This is not an adversarial proceeding; it is a dialogue: One program balanced with another. As you ask a question, we could then ask a question in return and be given an answer as to your existing program.

SENATOR DALTON: This hearing is being held on Senate Bills 3187 through 3191. The purpose of this hearing is to discuss the Governor's proposed environmental trust program. As I understand it, the bills that we passed and that are on the Governor's desk are to be vetoed. As a result, they are no longer under consideration by this Committee, nor by the Legislature.

However, the bills the Governor proposed are under consideration, and they are the bills we intend to get answers on. On July 24th, this Committee--

SENATOR GORMLEY: The basis of the tenor of this hearing is of such a nature that you don't really intend to give them a fair chance, but we will give you the answers today.

The point is, if you have a program, why aren't you willing to show your numbers and compare them today?

SENATOR DALTON: Senator, it is the Governor's program that is on the table at this point. By his action, it is his program. As a result--

SENATOR GORMLEY: That's right, because yours doesn't get a hearing. You don't want yours to get a hearing.

SENATOR DALTON: We had Mr. Edwards here, and we had you here when we considered those bills. Now, we are considering the Governor's bills at this point. As Chairman of this Committee, I am going to conduct the hearing--

SENATOR GORMLEY: The way you want to.

SENATOR DALTON: (continuing) --and we are going to get answers we have asked over the last several months on the Governor's proposed environmental trust program.

The first question I would like to ask is about the cap on the revenue bonds. What is the total amount of revenue bonds the trust can issue? Anyone?

W. CAREY EDWARDS, JR.: Mr. Chairman, if I may, I would like to make a statement.

SENATOR DALTON: Carey, I sent you a letter on July 24th. In that letter I asked for answers to questions that I posed on this program. I asked for those answers by August 12th. I didn't get them. I then advised you that we wanted the answers by last Thursday so we could have the answers before this Committee in order to have a discussion of this program. However, I did not receive the answers.

I want to dwell on the questions I posed to you in that letter, and, hopefully, get some answers that we are proposing to do today.

SENATOR GARIBALDI: Mr. Chairman, I am going to take issue with the conduct of this hearing today. I came here to listen to the facts, and to hear all the facts about the problems and the crises we

are facing here in New Jersey. It seems as though the Chair is posturing. I, as one member of this Committee, will not concur with this conduct today.

Now, we are having a public hearing. Permit the individuals to conduct their hearing as they want to. Whether you decide to agree with that or not, that is your prerogative; but I would like to hear everything in connection with this public hearing.

SENATOR DALTON: Senator Garibaldi, on July 24th, as a member of this Legislature and Chairman of this Committee, I sent to the Chief Counsel of the Governor a list of questions on the Governor's proposed environmental trust program. Because of the fact that I--

SENATOR GARIBALDI: That's your own decision, Mr. Chairman--

SENATOR DALTON: (continuing) --represent people in the 4th Legislative District, and--

SENATOR GARIBALDI: No. You don't represent the people in my district.

SENATOR DALTON: (continuing) --also that this Legislature deserves the answers to these questions before we move forward on a \$9 billion program.

SENATOR GARIBALDI: And, I would like to hear all the answers, not just the ones you want to hear.

SENATOR DALTON: This is the way this Committee hearing is going to be conducted today in order to get the answers to these questions.

SENATOR LASKIN: Excuse me, may I make a suggestion?

SENATOR DALTON: Senator?

SENATOR LASKIN: For us to sit here all day and do this politicking on either side is somewhat silly. If there are questions, may I make the suggestion that the questions be answered? The witnesses may amplify based on their own statements, because I understand there is a problem now between answers and questions. Perhaps we could have the questions answered, and then the witnesses can make their presentation. I think that might satisfy everybody, and it would eliminate all this intra-committee bickering, which really doesn't serve any good purpose.

SENATOR DALTON: Senator, I respect your request. The real problem here is that the Legislature, as a co-equal branch of government, and myself, as chairman of this Committee, asked questions of the Governor's office -- specifically Mr. Edwards -- as of July 24th. I asked--

SENATOR LASKIN: That is why I suggested that--

SENATOR DALTON: (continuing) --that these questions be answered by the 12th. I then asked, when we did not get them by the 12th, that they be answered by last Thursday. I did not get any answers.

The Governor has suggested that we are in an emergency situation, which I find ironic when I did not get the answers to these questions.

Now, if, in fact, it is an emergency situation, in order for this Committee to proceed in a responsible and thoughtful manner, we have to get the answers to these questions.

SENATOR LASKIN: Dan, I am not disagreeing with you. I am just trying to get us off dead center.

SENATOR DALTON: If part of their presentation deals with the questions, that's fine. Okay? But they are going to have to answer the questions.

SENATOR LASKIN: I think if we can get the questions answered, and I agree they should be because we are here as legislators, not necessarily Democrat or Republican legislators, and we are here to receive certain information; I agree with that.

SENATOR GARIBALDI: How naive.

SENATOR LASKIN: Well, I am not naive, but that is the way I try to operate all the time.

SENATOR GARIBALDI: We started to when I came in.

SENATOR LASKIN: I am only suggesting that we get the questions because you asked them on our behalf, and that the witnesses be allowed to give statements in addition. That way, we will have both sides give their presentations.

SENATOR DALTON: Senator, again, we have a number of questions here that need to be answered. We will accept any statements

as part of the public record. I am not going to dwell on those statements today, nor am I going to spend my time reading through those statements.

We asked specific questions well over a month ago, specific questions relative to this proposal. I want to get those answers.

We would be happy to take any written testimony and make it part of the record, as we do at all public hearings.

SENATOR COSTA: Mr. Chairman?

SENATOR DALTON: Senator Costa?

SENATOR COSTA: I would appreciate it if we would stop the inferences here. I may be just a little country girl from South Jersey, but \$9 billion sounds like a hell of a lot of money to me. I would like to hear the answers to these questions.

SENATOR DALTON: What is the total amount of revenue bonds the trust can issue?

MR. EDWARDS: Mr. Chairman, if I may, just so I can get the ground rules of this straight, if you would, I would like to raise a couple of issues so I know how to respond.

It was my understanding when I came here today that this was a public hearing on four sets of bills, bills the Administration has been working on and supporting. This Legislature, in one shape and form or another, has had them before them for three and one-half years.

I would like to make a statement with reference to the letter you sent to me on the 24th, and to respond to each and every question contained in that particular letter.

I noted at the beginning of this public hearing that there were statements made about people's intent. I heard the Majority Leader when I came in. I missed your opening statement, Mr. Chairman, but I understand you--

SENATOR DALTON: I will give you a copy of that.

MR. EDWARDS: I would be happy to get that.

I would like to elucidate a little bit on your letter of the 24th regarding the issues at hand. If this is a public hearing on these bills, and if it is acknowledged that these are the Administration's proposals, I would also like you to allow us the

opportunity to explain, from our perspective, how the trust works, and some of the mechanical provisions that are in that trust.

SENATOR DALTON: We have a list of questions that deal with the mechanics of the trust.

MR. EDWARDS: Mr. Chairman, I am asking you whether or not, a) I am going to be permitted to respond to the questionnaire in the broad sense right now; and, b) whether or not I am going to be permitted to have the Commissioner, his staff, and my staff go through the environmental process, as we perceive its benefits and detriments.

SENATOR DALTON: Again, we will have answers to these questions that I submitted to you on July 24th first and foremost, now. That is why we want to go through it. If those questions include determining the mechanics of the trust, we will be glad to listen to you, and to listen to your responses relative to the mechanics — and we do have questions on the mechanics of this trust.

Again, if I may, what is the cap? What is the total amount of bonds the trust can issue?

SENATOR GARIBALDI: Mr. Chairman, I am going to take issue with this. Now, as a member of this Committee, I received a notice to be present today for a public hearing: "The Senate Energy and Environment Committee will hold a public hearing on Tuesday, August 27th, for the purpose of hearing the following bills..." which are the subjects of this public hearing.

Now, I don't know what prerogative you are working under. You are going to deviate from our past practice of getting to specific questions. Let's take each bill, as we always do in our public hearing procedures, and address all the questions in connection with each bill. We have five bills before us today. Now, how do we know the question you are asking will not be answered under the normal process?

SENATOR DALTON: Mr. Garibaldi, the questions that I have are relative to these five bills. I asked them before. We have asked them repeatedly. We want answers today.

SENATOR GARIBALDI: You are going to get your answers today.

SENATOR DALTON: I hope so. I would like to have the opportunity to get my answers.

SENATOR GARIBALDI: Well, what bill are you working under? What bill are you addressing?

SENATOR DALTON: We are working under the--

SENATOR GARIBALDI: What bill are you addressing right now on this agenda?

SENATOR DALTON: The bill that establishes the cap for this trust.

SENATOR GARIBALDI: What bill? I want you to tell me, Mr. Chairman. What bill are we addressing? You don't even know.

SENATOR DALTON: S-3187.

SENATOR GARIBALDI: Why didn't you say that? Then let's get to the bill.

SENATOR DALTON: S-3187 -- under that bill, what is the total amount of revenue bonds the trust can issue?

MR. EDWARDS: Mr. Chairman, you delivered a questionnaire to me on July 24th. Since July 24th, we have been putting forth every effort we can to try to compile the data and information that will answer those questions, both in a substantive and technical manner, and in a broad manner.

I will be supplying to this Committee, in writing, the answers to every single one of those questions.

SENATOR DALTON: Today?

MR. EDWARDS: No, not today.

SENATOR DALTON: Then how are we supposed to pass the bill tomorrow if we can't get the answers today?

MR. EDWARDS: Mr. Chairman, if you want me to answer your question now, I will answer that question, if I may be permitted to do so. How are you supposed to do it? Three and one-half years ago, the Administration proposed an environmental infrastructure bank. It dealt with exactly the same concept of leverage financing that we are talking about here today.

I have the answers for this Committee and this Legislature. I have a stack of documents and papers that would fill this room on this particular issue, dealing with these particular questions, conceptually and otherwise. I have delivered, since January 18th of

this year, at least seven or eight drafts of proposed pieces of legislation to deal with this subject matter.

I delivered to the Legislature, in March -- to the Majority Leader of both Houses, at their request -- proposed bills to be introduced, dealing with this subject matter. Those bills were not, in fact, introduced; they were put on the proposed list. I have been trying to get a public hearing like this since January of 1985.

In June of '85, at least 14 days before two major bond issue bills were voted on by this Legislature, bills were, in fact, introduced and passed within 10 days with no public hearing, with not one shred of information being given to the Administration as to what they do and how they go about doing things.

You have before you, and this Legislature has had delivered to them, answers to every single one of these questions in one form or another over the last three and one-half years. I resent--

SENATOR DALTON: I have not been--

MR. EDWARDS: (continuing) --Mr. Chairman--

SENATOR DALTON: They have not been available to me.

MR. EDWARDS: (continuing) I resent your innuendo and everyone else's innuendo that this Administration has not dealt with this issue fairly, up front, and candidly. It has delivered answers to every question that has been posed.

SENATOR DALTON: (displaying pamphlet) Is this fair? This is going out to every district in the State, where you have toxic waste drums leaking and you are talking about the environmental trust, and it has nothing to do with the hazardous waste cleanup? Is that fair, Carey?

MR. EDWARDS: Mr. Chairman, you have asked me a question and I am answering a question. You have before you, on the substance of these bills, information that can answer all of those questions. I started delivering copies to you and 50 members of the Legislature of drafted bills.

You saw fit to call a public hearing on these particular bills today, 12, 14, or 15 days before the deadline on bond issues to discuss this issue publicly, eight months after the issue was first brought to you.

If you were serious about hearing this issue, you would have had a public hearing in January, February, March, April, May, June, or July. The bills were introduced in June. You could have had a public hearing when I appeared before this Committee.

SENATOR DALTON: Does the bill that was introduced in January have anything to do with the bills we are considering here today?

MR. EDWARDS: Yes, they do.

SENATOR DALTON: They are vastly different, Mr. Edwards.

MR. EDWARDS: They are vastly different as a result of input—

SENATOR DALTON: Does the bill that was introduced in June have anything to do with the conditional veto of the Governor?

MR. EDWARDS: (continuing) --from the majority of this Legislature.

SENATOR DALTON: They are vastly different, Mr. Edwards. All these bills are vastly different.

MR. EDWARDS: If you had been paying attention, Mr. Chairman, and if you had been having public hearings on this, each one of the amendments to those bills have been at the suggestion of Democratic members of this Legislature -- maybe not the Senate, but Democratic members of this Legislature.

Closure, as an addition to the original set of bills, was suggested by yourself and Mr. Herman. There was a bill that was, in fact, passed as part of that 10-bill package that assisted your particular district and the Kinsley Landfill people, that I drafted after a meeting with you in my office on this issue. Closure was added to the package as a result of your request and Marty Herman's request.

SENATOR DALTON: And, as a result, the Governor vetoed the closure money within the State budget.

MR. EDWARDS: Frankly, Mr. Chairman, any Legislature that passes, within a 10-day period, a \$250 million bond issue with no public hearing and no information delivered to any of the members of the Legislature, the public, or this Administration, is irresponsible. The bond issue that you passed--

SENATOR DALTON: We are not going to be irresponsible today because we are going to move forward with questions--

MR. EDWARDS: Fine. You were irresponsible before.

SENATOR DALTON: (continuing) --about the Governor's proposal. What is the cap on the revenue bonds?

MR. EDWARDS: Mr. Chairman, if you want to be responsible--

SENATOR DALTON: We are being responsible, and we are going to get answers to these questions.

MR. EDWARDS: We will sit here and answer, today, tomorrow, for the next 10 days or two months -- every day if you want to sit here -- and answer every question.

SENATOR DALTON: That's fine with me, Mr. Edwards. We will be ready. Let us start asking the questions.

MR. EDWARDS: For the record, if you want to deal with the substance of solving the environmental problems of the State, you would deal with it in a different way. We have a proposal before this Legislature.

SENATOR DALTON: What? The way you want it?

MR. EDWARDS: No.

SENATOR DALTON: I am the Chairman of this Committee. You are a member of the Executive branch. As the Chairman of this Committee, I will conduct this hearing the way I am predisposed to. Additionally, the way I am predisposed is to get answers to the questions that I wrote to you on July 24th.

MR. EDWARDS: Any way you would like, Mr. Chairman. That is your responsibility.

SENATOR DALTON: As a result, what is the total amount of revenue bonds the trust can issue?

MR. EDWARDS: I would like to have Mr. Pannella and Lee Pereira, from the DEP come up and assist in responding, if I may. If we could get a couple of additional chairs, I would appreciate it, Mr. Chairman.

SENATOR GAGLIANO: Mr. Chairman, now that we have declared a truce -- (laughter) -- I would like to suggest that we go ahead with the substance of the bills.

SENATOR DALTON: Do we have any written material that we can get from you right now?

MR. EDWARDS: Mr. Chairman, as I said, we have been working very hard. I took your questions very seriously. I have some drafts of responses. We don't have all the data I need to respond in writing and for the record, the way I would like to. I may have it in a day or two, but we have not been dilly-dallying and sitting around. I find your questions a little—

SENATOR DALTON: So, are we supposed to proceed without answers?

MR. EDWARDS: Pardon?

SENATOR DALTON: Are we to proceed without answers?

MR. EDWARDS: No, I said if you want to ask questions on this list, you can ask the questions; we will make every effort to respond to those questions for this record and for this public hearing.

Notwithstanding that, you will be receiving from us detailed responses, with a lot of back-up data that I am sure will be very helpful to the Committee in its honest, sincere deliberation on this issue.

SENATOR DALTON: When are we going to get that, Carey?

MR. EDWARDS: Within days, I think, Mr. Chairman.

SENATOR DALTON: Within days? What is that? Five days? Three days? Two days?

MR. EDWARDS: I have a draft here, and I have all kinds of back-up material right here, but I don't have all the answers to all the questions, nor the details that I would like to present. If you are going to ask me—

SENATOR DALTON: If, in fact, Mr. Edwards, we had these answers last Thursday, I am sure we could have avoided much of this. We didn't have the answers. Okay?

MR. EDWARDS: That's right.

SENATOR DALTON: When are we going to get the answers to these questions?

MR. EDWARDS: You could have asked the questions last February too.

SENATOR DALTON: Well, I am not clairvoyant; I didn't know you were going to change the program 15 times. When can we get the answers to these questions?

MR. EDWARDS: When I finish the response, Mr. Chairman. When I finish preparing it.

SENATOR DALTON: When is that going to be?

MR. EDWARDS: I can't tell you that right this minute.

SENATOR DALTON: Okay. Can we talk about the cap on revenue bonds?

MR. EDWARDS: Yes, there are three categories.

SENATOR COSTA: Mr. Chairman, may I ask a question?

SENATOR DALTON: Yes.

SENATOR COSTA: From what I am hearing, Carey, we are expected to vote tomorrow on this package of bills; yet, we haven't gotten the answers, and you don't even have them.

MR. EDWARDS: You don't even have the bills yet.

SENATOR COSTA: Well, I think you answered my question. How can we vote on it tomorrow?

MR. EDWARDS: You are having a public hearing on bills that are, in fact, not identical — if you want to get down to it — to the conditional vetoes we will, in fact, be filing.

SENATOR DALTON: Which is my point. You know, you accuse us of not doing anything in January, February, March, and April. The thing is, Senator Gormley introduced bills in January. There were new bills introduced on June 27th, the day before this Legislature left for summer recess. And now, we have new bills as part of a conditional veto. We are called back into special session to react to a crisis, when we don't, number one, know what bills we are dealing with; and, number two, we have some basic questions and we do not have answers to them.

MR. EDWARDS: Mr. Chairman, if you want to grandstand and you want to politicize this, you can do that. If you want to deal with it on its substance, I will be happy to deal with its substance. I have given you seven copies.

SENATOR DALTON: Carey, did you put this out? Do you disown this?

MR. EDWARDS: I didn't put that out. I didn't see it. I still haven't seen it.

SENATOR DALTON: About politicizing -- don't talk to me about politicizing.

SENATOR GAGLIANO: Mr. Chairman, you are obviously distressed.

SENATOR DALTON: Can we get the written answers by Thursday, Carey?

MR. EDWARDS: I will do the best I can to get you answers as quickly as I can, Mr. Chairman. I'm working on them.

SENATOR DALTON: This is not the first set of answers you are going to do.

MR. EDWARDS: Okay. We have given you answers, Mr. Chairman. I want the record to be clear that we have given you a technical paper on this issue.

SENATOR DALTON: Only for the treatment.

MR. EDWARDS: Only for the treatment.

SENATOR DALTON: There are two other components to this trust.

MR. EDWARDS: And we have given you at least seven different drafts of the bills. I am sure--

SENATOR DALTON: That's right.

MR. EDWARDS: I know; I am not denying that. That is absolutely obvious. This bill has gone through a maturation process, notwithstanding the inactivities of this particular Committee on this issue.

SENATOR DALTON: Let's proceed with the questioning, okay?

SENATOR CONTILLO: Mr. Chairman, may I ask a question? What bills are we conducting this hearing on, S-3187, S-3188, S-3189, and S-3190, or do we have a different set of bills now.

MR. EDWARDS: Bingo.

SENATOR CONTILLO: How can you expect us to proceed if we do not have copies of the bills you wish to speak about?

MR. EDWARDS: I didn't call this particular public hearing, the Chairman did. The Legislature has not been in session to receive the conditional vetoes we announced we were going to be sending. We have those particular bills here before you. However, you have had

them delivered to you, to every member of the Legislature, in anticipation that the Committee might want to take them up. But, technically they will be filed with the Legislature, if the Legislature is in session to receive them.

SENATOR CONTILLO: Is there any assurance that the suggested conditional veto will be the actual one?

MR. EDWARDS: Yes, I think you can be relatively sure. Tomorrow I have to—

SENATOR DALTON: Carey, do you have any written materials that you can submit to us today?

MR. EDWARDS: No, there are no written materials to be submitted.

SENATOR DALTON: On capital and revenue bonds, okay, what is the total amount of revenue bonds that can be put in trust and issued?

MR. EDWARDS: Mr. Chairman, at the request of—

SENATOR DALTON: I don't care who answers me. Lee, do you want to answer, or Bob?

MR. EDWARDS: Mr. Chairman, at the request of and from our discussion with Assemblyman Herman and various public statements by members of the Legislature — the Senate, including the majority leader — we inserted caps into the proposed bills and they will be reflected in the conditional vetoes, in the total amount of \$9 billion, \$5 billion for waste water treatment, \$3 billion for resource recovery, and \$1 billion for sanitary landfill closure.

SENATOR DALTON: So, there is a definitive \$9 billion cap; that is what we are talking about.

MR. EDWARDS: It is a total amount that the trust will be able to float bonds for, borrow, or make loans for within the confines of those particular categories of projects.

SENATOR DALTON: How does this \$9 billion compare to the cap in the Transportation Trust Fund?

MR. EDWARDS: I think the cap in the Transportation Trust Fund is different in some respects, but it has the same impact. It puts parameters on, and it puts notice out to the public in a broad sense as to what the parameters of this particular independent

authority or trust fund are. A trust fund is a financing vehicle; it is not a policy-making vehicle. It does not make decisions on priority lists and those kinds of things, so there was a need for some kind of a parameter.

Regarding the waste water treatment facilities of the State, a priority list has been established. That priority list has been priced out.

SENATOR DALTON: What is the cost of that priority list?

MR. EDWARDS: The priority list has been priced out at somewhere between \$3 and \$5 billion. So, we took the top number--

SENATOR DALTON: May I interrupt, Carey?

MR. EDWARDS: Sure.

SENATOR DALTON: Commissioner, you said \$3 to \$5 billion. Are we talking about \$3 billion, are we talking about \$4 billion, are we talking about \$5 billion? What are we talking about?

COMMISSIONER ROBERT E. HUGHEY: Well, we are talking about a list, Dan, that does not get filled in one year. So we have a to-date cost of \$3 billion.

SENATOR DALTON: We have a to-date cost of \$3 billion.

COMMISSIONER HUGHEY: Right.

SENATOR DALTON: Okay, thank you.

MR. EDWARDS: The resource recovery facilities at \$3 billion were done in the same manner. There are a number of resource recovery facilities on the drawing board -- 10 or 11 -- that have been established as projects that are out there.

SENATOR DALTON: What are the costs of those 10 or 11 projects?

MR. EDWARDS: They vary in amounts.

SENATOR DALTON: Can you give us the names of those 10 or 11 projects?

COMMISSIONER HUGHEY: The projects, Dan, that have gone to funding or are about to go to funding because of an attempt to get in front of tax legislation for next year are probably in the \$2 billion range. Right off the top you have a project in your district, which is the Pennsauken project.

SENATOR DALTON: That is in Senator Costa's district; I only have landfills.

COMMISSIONER HUGHEY: Okay, I'm sorry. You have Warren County, you have Bergen County, and you have Essex County.

SENATOR DALTON: Pennsauken, Warren County, Bergen County, and Essex County.

COMMISSIONER HUGHEY: You have three other counties at a stage now where they are talking about their bonding before the end of the year. They are Hudson, Gloucester -- and I think there is one other -- probably Camden, if they can get it together fast enough to address the financing this year.

SENATOR DALTON: Now, Commissioner, do you have, or does Lee have available, the costs of each of those projects?

COMMISSIONER HUGHEY: We have projected costs available for all of those projects. We can have that information to the Committee by this afternoon. The projects on the board that I have just listed for you are probably in the \$2 billion range. We would probably take the projects which are being planned to \$3 billion.

SENATOR DALTON: Okay. Right now you have \$2 billion in projects, or you anticipate \$2 billion in projects by the end of the year on resource recovery, and you have \$3 billion in waste water treatment.

COMMISSIONER HUGHEY: That's right.

SENATOR DALTON: Carey, to get back to the cap, if I may, the bills say approximately \$5 billion for waste water treatment. I think they also say approximately \$3 billion and approximately \$1 billion. Is it an approximate \$9 billion lid, or is it a \$9 billion cap? Tony?

ANTHONY J. PANNELLA: Well, maybe what we should first talk about is waste water treatment and I can give you an idea of how we came to the \$5 billion figure. The Federal needs survey estimated New Jersey's overall waste water treatment needs at about \$4.6 billion. DEP can correct me if I am wrong, but their analysis of that needs survey established that the combined sewer drainage systems were underestimated by about \$500 million.

SENATOR DALTON: Can we get a copy of that needs survey?

MR. PANNELLA: Yes, you can.

SENATOR DALTON: Can you provide us with that?

MR. PANNELLA: Yes. That totaled about \$5 million. When you add up the project priority list that DEP establishes annually pursuant to the Federal Clean Water Act, it adds up, I think, to around \$3 billion in present value needs. The reason why it doesn't show \$5 billion is because if the local government that has a waste water treatment need does not apply for Federal funds, it does not end up on the list. So, that \$3 billion figure is grossly underestimated. Our actual needs, based upon the Federal government's review, are up over \$5 billion.

SENATOR DALTON: So, DEP say \$3 billion and the Federal government says \$5 billion.

MR. PANNELLA: DEP does not say \$3 billion.

COMMISSIONER HUGHEY: We say real today costs, three.

SENATOR DALTON: He's saying "real today costs, three; you're saying the Federal government says five."

COMMISSIONER HUGHEY: Dan, that makes sense. You have watched sewerage construction. You know what has happened over a decade. If we don't build all of these projects today, three won't last very long, and we are not going to build all these projects today under any proposal we've heard.

SENATOR DALTON: I agree. So, the cap itself is a firm and fixed cap at \$9 billion?

MR. EDWARDS: Well, it's five on waste water treatment, three on resource recovery—

SENATOR DALTON: You said, approximately it's five. Is it definitely five?

MR. EDWARDS: It's five, three, and one firm.

SENATOR DALTON: We should not concern ourselves with any references to approximates in the legislation.

MR. EDWARDS: We should change them if they are approximates, Mr. Chairman, in that regard.

SENATOR DALTON: Okay.

MR. PANNELLA: Although the text of the veto message refers to approximately, the actual language of the bills themselves does not say approximately.

SENATOR COSTA: The interpretative statement does.

SENATOR DALTON: The interpretative statement that will be on the ballot says "approximately."

MR. PANNELLA: It says New Jersey's needs are approximate. It does not say that the bond cap is approximate.

SENATOR DALTON: Okay, so the bond cap is not approximately; the bond cap is definitively.

MR. EDWARDS: Definitively five, three, and one.

SENATOR DALTON: Okay.

COMMISSIONER HUGHEY: The technical change that should be made, Mr. Chairman, is-- Everyone has a desire to have a cap. Let me make a point about the capping question which relates to cost. Your point as an opening statement was in terms of costs. We are talking here about real projects that will be dealt with in this State if communities are going to move forward, with or without State assistance in the form of any kind of an account. So, the \$9 billion is going to be spent. The question is how. How will we spend it? How intelligently will we spend it? And, how much can we help?

SENATOR DALTON: I agree.

COMMISSIONER HUGHEY: All right. So we are going to spend the money capping anyway. The technical change that I would make, Dan, is to agree to a cap, but allow all three of the components to meet that. You know, at some point we may need less for waste water. If we can do some things with this trust to get more money in quicker, as you and I both know, we may need more money for closure. Eventually, we may need more money on the resource recovery side. So, while I think it is a good idea to have a cap, and I think everyone who worked on this project agrees, I would allow some flexibility within the three program areas.

MR. EDWARDS: Particularly, Mr. Chairman, I would like to point out that the landfill closure issue is still one that the Department is trying to define and work on the cost of. So, that cap has a degree of arbitrariness to it. I think it was the best we could do with the data that is presently available. I would recommend that the Legislature--

SENATOR DALTON: Carey, can we get the data that is presently available on landfill closure?

MR. EDWARDS: Absolutely.

SENATOR DALTON: Commissioner, can you get that to us? He's your boss, right, I can talk to him.

COMMISSIONER HUGHEY: I wasn't aware of that, but, you know, you certainly can. Since about four years ago, I have had a lot of bosses.

As you know, we have been sharing information on landfill closure with you for a number of months. We have some draft data that is available.

SENATOR DALTON: Carey, you have been around here in various capacities for a while, has the Legislature or the public, in fact, ever before given away the authority to borrow this much money?

SENATOR GORMLEY: If I may answer, we are not giving it away because we have legislative review on it.

MR. EDWARDS: Mr. Chairman, I suggested back when you had your Committee hearing on Senator Orechio's and Senator Russo's bills that I was perfectly willing to deal with whatever controls the Legislature thought were appropriate to be assured that those loans were not being misused or abused. I even went as far as to say then, and I will repeat it now, that I would be perfectly happy to submit to the Legislature an entire loan list, for the Legislature to approve the same way it approves a project list now.

SENATOR DALTON: Is there any guarantee in the present bill to give the Legislature that oversight?

MR. EDWARDS: Not that degree of oversight, no. The oversight we have now contained in this bill is by far the most extensive legislative oversight that has ever been put forth.

SENATOR DALTON: Can you describe that to us?

MR. EDWARDS: I'll let Tony go through the details with you, but that was part of the discussions I had with the Assembly Democrats, Marty Herman in particular.

SENATOR DALTON: And, also, what bill are we talking about? We want to know the mechanism of the legislative oversight and what bill we are talking about.

MR. PANNELLA: Senate Bill 3187 with the amendments that are before you today.

SENATOR DALTON: Senate Bill 3187 with the amendments.

MR. PANNELLA: The amendments essentially make the five-bill package conform substantively with the veto messages as will be submitted by the Governor. I would say that every change is technical in nature.

SENATOR DALTON: I'm talking about the legislative oversight mechanism.

MR. PANNELLA: That's all right; that's in there. It was outlined--

SENATOR DALTON: Will you please get into the technical changes?

MR. PANNELLA: Well, the technical changes within the conditional veto messages and Senate Bill 3187 are not relative with respect to legislative oversight. The oversight we are proposing, which, in my judgment, is the strongest I have ever seen since I have been here, is the same in S-3187 as it was when it was introduced. I can discuss legislative oversight on that basis.

SENATOR DALTON: Okay. So, the bottom line, as far as the \$9 billion, is concerned--

MR. PANNELLA: I'm sorry. If you would like, I will explain to you in as brief a manner as possible, the actual oversight of the Legislature over the projects within the trust.

SENATOR DALTON: Sure.

SENATOR GARIBALDI: I think that was the question, and I am waiting for that answer too.

SENATOR COSTA: Yes.

SENATOR GARIBALDI: What is the mechanism for the legislative oversight?

MR. PANNELLA: The mechanism that I am going to describe is essentially the same for all three components. I would just add at the outset that regarding landfill closure, there are certain priorities actually established within the bill. Regarding waste water and resource recovery, on March 1 of every year, the Department of

Environmental Protection would submit to the Legislature a project priority list, one for waste water treatment, and one for resource recovery. That list would entail the Department of Environmental Protection's recommended projects which should be funded by the trust in order of priority based upon DEP's review.

The Legislature, in turn, would have "X" number of days -- forgive me, I forget the period -- I think it is 60 days, to review that list and determine whether or not, in the Legislature's opinion, that list represents the best possible list we could put together for funding that particular project area.

SENATOR GARIBALDI: Stop. What happens if the Legislature determines that it agrees with some and does not agree with others? Tell me the mechanism.

MR. PANNELLA: Okay. If the Legislature determines it wants to modify the additions or deletions, it makes those recommendations to the Department of Environmental Protection. The Department then has approximately a 20-day period to review the recommendations. Specifically, all recommendations would be channeled through the Senate President and the Assembly Speaker to the Department of Environmental Protection. The Commissioner of Environmental Protection would have approximately 20 days to review the Legislature's recommendations for change, if any.

We would then submit a project priority list again to the Legislature based upon the Department's review of the Legislature's recommended revisions. At that point, the Legislature will again look at the list to see if it is a list that is acceptable, and it will turn that list over to the Legislative Joint Appropriations Committee. The Legislative Joint Appropriations Committee will make--

SENATOR GARIBALDI: Stop. Suppose the Legislature reviews it the second time, as you indicated, and still does not agree?

MR. PANNELLA: They have full power to recommend to the Joint Appropriations Committee any changes which they see fit.

SENATOR GARIBALDI: Okay.

MR. PANNELLA: At that point in time, the Joint Appropriations Committee will review the list and make the final

changes or modifications, whether they be additions or deletions of projects, and include that project priority list for each of the three components of the program in the Annual Appropriations Act.

SENATOR GARIBALDI: So, the bottom line -- I'm speaking as a legislator now -- is, if there is a serious disagreement, a legitimate disagreement on projects, and the Legislature determines that Projects A, B, and C are not what we consider to be priorities, but X, Y, and Z are-- Is the bottom line that the joint appropriations process will not appropriate moneys for A, B, and C, but they will for X, Y, and Z? Is that it?

MR. PANNELLA: The bottom line is this: The trust will not be able to issue a loan or a grant for any project anywhere in the State unless that project is included in the budget they have already included in the Annual Appropriations Act, period.

SENATOR GARIBALDI: So the bottom line is, by our legislative appropriations process we really have the final say on the specifics of the projects.

SENATOR DALTON: Let me follow up on that question, Senator. Is that a line by line project list or a category by category project list?

MR. PANNELLA: It is line by line, project by project.

SENATOR DALTON: And, individual sums?

MR. PANNELLA: And an aggregate appropriation by the Legislature.

SENATOR DALTON: Not an aggregate, individual sums. Project by project, individual sums.

MR. EDWARDS: No, aggregate.

SENATOR DALTON: Aggregate, okay. So, in effect, we are not talking about line by line for a project; we are talking about category by category.

MR. EDWARDS: No. Mr. Chairman, if I may. I know there was a major disagreement dealing with the Transportation Trust Fund and the Joint Appropriations Committee. What we are saying in this bill, which is different than the Transportation Trust Fund, is that we can not grant a loan out of the trust if it is not specifically listed in the

Joint Appropriations Act. The Governor would still have the power to delete projects that the Legislature added because oversight goes two ways. If you are going to decide the list, then we have to also have the right to reject during that particular project. We can't do projects that are not on that particular list.

So, it is not category by category; it is project by project. It provides for an aggregate appropriation, and that deals with the issue that came up in the Transportation Trust Fund Act, which is that if you apply a specific amount of dollars to a project, those dollars may vary afterward. If you have a \$2.5 million project and it turns out to be \$2.6 million, what do you do? You're stuck until the next Joint Appropriation Committee meets? What do you do?

So, we do it by aggregate and you approve the project, and you approve enough total dollars to do that project. Now, the Transportation Trust Fund Authority does not have those specific provisions. It deals with the appropriation of Federal moneys and various others. Since we were not able, and the Joint Appropriations Committee insisted in listing, not only project by project, but a dollar aggregate amount next to each project, we objected. I think we objected properly so, but that is a subject for another debate and really not with this Committee. But I think the concept is. The concept of the Legislature having approval over every single loan transaction, in point of fact, and project that the trust fund decides to fund, is a major expansion of what presently exists in the Legislature's hands on waste water treatment, resource recovery, or others that the Federal government funds. It is an expansion of the powers that are granted under the Transportation Trust Fund Authority that does limit us to project by project. We are not so limited in the Transportation Trust Fund Authority.

As I said, if you deem it appropriate, if the Committee does, I don't think the Governor or this Committee would have any difficulty in arriving at language that would provide for an appropriation of every single loan, the same way you do right now. When we do an 8% grant on waste water projects, we do the grants very specifically in dollars. I see no difference in us doing the same kind of a list in a

separate piece of legislation, if you prefer that particular method. We thought the joint appropriations process was better.

We would have some problems dealing with changing our internal prioritization structure within the confines of an annual basis. We feel that has to be the Federal Clean Water Act standards, and we would have some significant problems dealing with that.

SENATOR DALTON: Yes, I think that whole issue is important to this Committee. I don't suspect you want to do it in another piece of legislation. We would like to do it in this context. Just one more question. One of the things I-- The \$9 billion cap, okay, does that only refer to the bonds generated by the \$275 million general obligation bond issue?

MR. EDWARDS: No.

SENATOR DALTON: Tony, what does that \$9 billion cap refer to? Does that refer to the amount--

MR. EDWARDS: The caps are individual, so you cannot take them as an aggregate because they have different components. The \$5 billion is an aggregate amount of revenue bonds that can be issued by the Transportation Trust Fund Authority dealing with waste water. Actually, its total borrowing capacity -- it can use Federal funds, or any money from any source that came in to support that level of borrowing. It would then have the authority to go out and borrow up to that amount. So, if you leverage finance \$500 million into \$5 billion, it would have the capacity to go that far.

SENATOR DALTON: Does that include interest on the lending as well?

MR. EDWARDS: No, it is just principal.

SENATOR DALTON: What we are talking about is--

MR. EDWARDS: Just principal.

SENATOR DALTON: Okay. It is a \$5 billion cap on the principal.

MR. EDWARDS: Mr. Chairman, if I may elucidate a little. We dealt with principal only because we are dealing with projects that have to be funded to deal with principal also. If we are dealing with \$4.2 million in estimated needs in waste water treatment, we are

dealing with principal, not interest. That would have to be dealt with differently.

SENATOR DALTON: So, given the fact that it doesn't take into consideration interest, what cap are we talking about? Are we talking about \$18 billion?

MR. EDWARDS: No, we are talking about a \$5 billion cap.

SENATOR DALTON: You're talking about \$5 billion in principal; I'm talking about-- What is the total cost?

COMMISSIONER HUGHEY: Dan, because the cap applies for the bond proceeds, you are never going to talk about a \$9 billion cap. I mean, some of the money in this trust -- the Federal dollars -- is not going to be in a position to drive revenues, so you are really talking about a cap that is never going to be reached, in all three of the categories.

But, we were asked by the Legislature, by whoever we were negotiating with at that point, to agree upon a cap. We agreed on a cap based on what we thought the principal list would generate over time. You could actually have a cap that was less. It would never be higher.

SENATOR DALTON: In other words, we're talking about -- Bob, just to stay on what you were talking about -- \$9 billion, but we are not talking about that just being a cap on principal. We are also talking about that being a cap on principal and, also, any interest payback that may occur.

COMMISSIONER HUGHEY: On the bonds?

SENATOR DALTON: Yes.

COMMISSIONER HUGHEY: Yes, I think it applies to the whole bond aggregate.

SENATOR DALTON: Is that right, Tony?

MR. PANNELLA: If you will hold on just a moment, Mr. Chairman, let me see if I can explain it. The \$5 billion cap for waste water, the \$3 billion cap for resource recovery, and the \$1 billion cap on landfill closure are aggregate bonded caps. In other words, the trust could never issue more than \$5 billion in revenue bonds with a landfill closure component. The \$5 billion represents the total amount

of bonds that could be issued. The reference interest versus principal, I am not sure I understand. The aggregate issuance of bonds by the trust would have to--

MR. EDWARDS: It is principal, not interest. You cannot calculate the interest on it. I might add that the revolving loan fund of Senator Orechio's and Senator Russo's bills also have no cap on them at all. They have no calculation as to what the interest would, in fact, be. I don't think any of us -- and that is one of the problems I was having in answering your bigger question -- is arriving at how much those interest costs are going to be.

SENATOR DALTON: It might be a lot more than \$9 billion, given the interest.

MR. EDWARDS: So might the bonds issued by the Environmental Trust Fund set up in DEP on the Senators' bills have an unknown ceiling to them. We do not know what their-- They do not have a cap at all. So, we think we are going a long way in dealing with the principal problem and saying that they will never be able to exceed what we are able to measure.

SENATOR DALTON: See, Carey, what I am trying to get at is, we're talking about \$9 billion as far as a bonding capacity is concerned, but we are not talking about \$9 billion as far as the debt that the property taxpayers might incur, okay, because of the payback. What I am getting at is, "What are we talking about?"

MR. EDWARDS: A payback of loans is different than borrowing ability. Payback of loans given to a local government where they pay back is different than the bonding capacity or borrowing capacity of this trust.

SENATOR DALTON: These loans have to be paid back. There is a \$9 billion program that has to be repaid by the taxpayers of the State. It is a \$9 billion plus interest program that has to be paid back by the taxpayers of the State.

MR. EDWARDS: No, it's a cap, all right, on the total amount of authority which the public of the State is authorizing this particular trust fund to go, after the Legislature acts on the approval of those particular projects. So, the cap has two controls on

spending, if that is what you are talking about, and I think that is what you were getting at. The one control is written right into the bill, as we said, at the request of various members of the Legislature. The second control is the approval to the joint appropriations process of the amount of loan to go out -- and projects to go out. So, the Legislature will, in fact, on an annual basis, be approving what the real operating cap is on a day-to-day basis, or a year-to-year basis.

So, there are two cap controls. One is a total maximum so that the public is comfortable that we are dealing with some finite number, and the Legislature is assured that that is the case for future legislation. The Legislature then, through the joint appropriations process, will be dealing with the second cap, whatever they authorize that particular year to expend. Obviously, they will have all of the data that goes with accumulative amounts, so they will be controlling that process and how much is, in fact, borrowed in total.

SENATOR DALTON: Give me the projects you have, okay, under waste water treatment, under resource recovery, and under landfill closure. What is the ultimate cost to the people of New Jersey?

MR. EDWARDS: Whatever the Legislature decides it will be.

SENATOR DALTON: What do you project will be the ultimate cost?

MR. EDWARDS: I don't know that I can project that.

SENATOR DALTON: So, we don't know.

MR. EDWARDS: No. I don't think anyone can tell you what the ultimate cost will be. It will depend on what this Legislature and future Legislatures approve on an annualized basis.

SENATOR COSTA: By the way, Carey, on the Orechio/Russo bills, there is a cap, that \$250 million bond issue. So, that is the cap right there.

MR. EDWARDS: No, it's not. It is no different than this one. There is a bond that is issued here. The real amount of dollars and the dollars we are talking about is the interest paid by the taxpayers of the State.

SENATOR COSTA: Yes, but there is no more money that can be borrowed in it, Carey.

MR. EDWARDS: The interest paid by the taxpayers of the State will be decided through appropriations, bond issues, or repayment of loans. The repayment of loans is the same as in the revolving fund put into the Department of Environmental Protection. There is no cap within the confines of that bill as to how many loans can be accepted, to the extent that that bond issue can be loaned and reloaned over a period of time. How much interest are they going to charge on that? How much is that total cost? I don't know if I can say.

SENATOR COSTA: Carey, in that bill we can only borrow \$250 million.

MR. EDWARDS: I know, but you know loan money—

SENATOR COSTA: That is a cap as far as I am concerned.

MR. EDWARDS: (continuing) —that has to be repaid with interest. The interest is—

SENATOR COSTA: How much can you only borrow?

COMMISSIONER HUGHEY: Carey, that is a good point. Wait. That is a good point because it applies in both cases. You are limited in either case by that which you start out with. We are talking about the cap of \$9 billion like it is going to be spent tomorrow. It can't be spent or it can't be borrowed against to any greater extent than you fund the trust with or the account with. So, your practical limitation is \$275 million in either case, Cathy.

Now, in order to change that, in order to get anywhere near the cap provided for in this legislation, you would have to have another revenue source, a series of revenue sources, or another bond issue to charge to the trust.

SENATOR COSTA: How much of the revenue bonds can you—

COMMISSIONER HUGHEY: The leveraging factor here is really the only thing of concern. The leveraging factor works out to about one-third more than we were talking about in the other case. You know, that is what--

SENATOR COSTA: How much of the revenue bonds can you issue?

COMMISSIONER HUGHEY: About five.

MR. EDWARDS: Five or six hundred million.

COMMISSIONER HUGHEY: Perhaps.

SENATOR DALTON: If you issue \$500 or \$600 million, what is the ultimate cost to the taxpayers as far as payback, if you did that today?

SENATOR GORMLEY: It depends on the individual deal as per—

MR. EDWARDS: I want to expand on one component. How much the taxpayers pay is going to depend on what projects are actually built. How much the taxpayers pay is going to depend on what this Legislature approves on the project list and the deals that go with them. I said I offered. If the Legislature wants to, they can approve the specific loans in addition to that. I find that a little cumbersome, and maybe time consuming. You also have to recognize that the local governments— We're saying this \$5 billion maximum that we can calculate out there are projects that have to be built by local governments. They are going to be spending that money to build those projects. They are going to go out in the bond markets and borrow to do that. So, they are going to be paying interest charges on that.

I'm saying that we can provide that a little bit cheaper. Your particular loan fund program that you passed also provides it a little bit cheaper. I'm saying they both do that. So, we are ultimately-- Both programs are going to ultimately cost the taxpayers to pay less than they would otherwise. Remember, local government involvement in this program is voluntary. They are going to have the right to come either to your program or this program.

SENATOR DALTON: They don't have any right to come to our program; we have no program. It has been vetoed.

MR. EDWARDS: I understand that. We don't have a program either.

SENATOR DALTON: What we are trying to do is look at your program. There is only one program.

COMMISSIONER HUGHEY: No, there are two programs, Dan. One is to do it on your own hook.

MR. EDWARDS: One you voted for and one we are voting for.

SENATOR COSTA: Please, let me get back to this, Carey. This is the reason I was asking about the revenue bonds. We are speaking here-- You said the Legislature has oversight through the Joint

Appropriations Committee by an appropriation of the projects. Okay. According to this in S-3187, as I interpret it, the initial general obligation bond and Federal funds are what we are speaking of.

MR. EDWARDS: Right.

SENATOR COSTA: But not the revenue bonds. When it concerns revenue bonds or interest that you have in the accounts, in this trust, then the Joint Appropriations Committee does not have anything over it, according to—

COMMISSIONER HUGHEY: No, that's not true, Cathy. First of all, let me talk about oversight. There is too much oversight in this bill. As a Department Chairman, I can tell you, (a) you don't have this kind of oversight on any other department, any other project list in the State currently—

SENATOR COSTA: We're not talking about \$9 billion either.

COMMISSIONER HUGHEY: Now, wait a second. Right now, all of the projects we are talking about, Cathy, are not going to go away if you don't have oversight. Right now, this Legislature has no oversight on any of these projects. The community decides it has to go ahead to get out of a sewer ban, and they go ahead. There is no oversight from the Legislature. There is no involvement from the Legislature.

SENATOR COSTA: You didn't answer my question about revenue bonds.

COMMISSIONER HUGHEY: I am going to answer it. The oversight applies to everything we do. We can't do anything with a project list unless it has the oversight of the Legislature. The project list is constructed of bond proceeds and interest on those bond proceeds, but every project list has to come from the Legislature -- twice -- once as I submitted to you for any program area and, secondly, to the Joint Appropriations process.

SENATOR DALTON: Commissioner, there is no oversight presently because we are not lending them any money.

COMMISSIONER HUGHEY: Well, that is not the—

SENATOR DALTON: Now that we are proposing to lend them money, we are talking about oversight.

COMMISSIONER HUGHEY: Dan, if you compare the oversight— Let me tell you the parts of your bills that I like. The oversight was nowhere near the oversight in the bills that Carey has negotiated.

SENATOR COSTA: I'll come back to that. Go ahead.

SENATOR DALTON: You are saying that the initial capitalization will not be enough to leverage \$9 billion.

MR. EDWARDS: That is absolutely true.

SENATOR DALTON: Okay. Will you come back to this Legislature and ask for more in the way of capital, and how much capital will be enough to leverage that \$9 billion?

COMMISSIONER HUGHEY: Dan, I think the only way anyone can get more capital into this account is through the legislative process, whether that is a bond issue, or whether it is a constant source of funding.

MR. EDWARDS: A stable source.

COMMISSIONER HUGHEY: A stable source of funding. Either way, it involves legislative action to effect the money that is in the base of the trust.

SENATOR DALTON: Senator, I'm sorry.

MR. EDWARDS: We are limited. The bottom line, Senator, is, we are limited by the amount of money that is appropriated by this Legislature as to what, in fact, can be leveraged and how much borrowing can, in fact, take place. We have indicated somewhere between \$500 million and \$600 million in various scenarios that could be leveraged under these circumstances.

SENATOR DALTON: I would like, if we could, if there are no further questions on the cap component— Okay? Are there any further questions on the cap component?

SENATOR CONTILLO: Just so I understand it—

SENATOR DALTON: Lee? By the way, you came in late. What we are trying to do is, there are several components to the trust fund. We are trying to take our questions component by component.

SENATOR CONTILLO: I have one question on the cap, and one question on the oversight. On the cap, when they talk about the \$9

billion cap, that is the amount of bonding you can go for, exclusive of the interest that is paid on those bonds?

MR. EDWARDS: That is a limitation on the amount of ultimate borrowing that this authority, this trust, can ever do, without going back to the public, because it was put on the bond issues themselves. So, it is a final sealing. The real cap is based on the appropriations that this Legislature makes, which are different.

SENATOR CONTILLO: Okay, you said that before. When you say a \$9 billion cap, does that include-- If you add interest or something like that, even though you can't calculate the percentage of it, the interest may make it \$18 billion or \$15 billion.

MR. EDWARDS: Yes. What we are saying is, there are \$9 billion worth of projects out there in these categories. If they are going to be built, we are going to give them the option to come if we think we can do it a little cheaper for them. If they don't, they don't, but they are going to go out and borrow it themselves. If the projects are ever built, and they are not built with direct appropriation of Federal money -- I feel that they will obviously take that -- then they will be borrowing themselves.

SENATOR CONTILLO: Okay, but the average interest rate over 20 years or so is going to double itself. If you are saying \$9 billion, it might be a potential of \$18 billion.

MR. EDWARDS: No.

SENATOR CONTILLO: Okay. The other question--

SENATOR DALTON: Senator, do you have another question?

MR. EDWARDS: I might add that if the Committee would like to reduce that cap, they should feel free to do so.

SENATOR CONTILLO: Is the cap specified? Where does the \$9 billion cap appear? Is it in a specific section of one of the bills?

MR. EDWARDS: It is in the trust fund, and it is also contained as part of the public question on the ballot for the public to vote on in order to establish that particular limit.

SENATOR CONTILLO: Is it in the trust fund of the--

MR. EDWARDS: Is it in the bond issue?

MR. PANNELLA: It is the Bond Act of 1985.

SENATOR DALTON: One of the areas that is most important to the people in South Jersey is the whole issue of landfill closure. If I may, I would like to direct my questioning to that at this point.

SENATOR CONTILLO: I would like to finish, Senator.

SENATOR DALTON: Okay.

SENATOR CONTILLO: There is a part here that I underscored, which is on Bill 3187. It seems that there is no oversight on the revenues from the original bond. The money that recycles has no oversight.

COMMISSIONER HUGHEY: Yes, there is.

MR. EDWARDS: Yes, there is. They are the same provisions for second generation. It is not in the bill itself; it is in the amendments, as we said -- the proposed amendments. You have copies of those; they were delivered to you, which is in--

SENATOR CONTILLO: In the bill I have, there is no oversight.

COMMISSIONER HUGHEY: Paul, as a practical matter, it is, because the list provision provides it, no matter whether it is first-generation funds or second-generation funds. We still have to go through the process that was outlined with the Legislature. I have to prepare the priority list every year. It doesn't distinguish.

SENATOR DALTON: Where is that? Do you want to know where it is in the bill?

SENATOR CONTILLO: I am on Page 26, Section 22 of S-3187. It is clear. It says, "The revenue derived from the investments shall go through the trust without appropriations." So, where is the oversight?

MR. EDWARDS: That is only revenue derived from the investment. That is a repayment, which will go back into the fund.

SENATOR CONTILLO: I understand that. My point then is, that section does not have legislative oversight.

MR. EDWARDS: No, but the money can't get back out of the fund until the Legislature approves it. That is only money going in.

SENATOR DALTON: As part of what you are supplying to us, will you give that to us, Tony?

MR. PANNELLA: If I could explain the difference-- The two sections you are looking at are Sections 22 and 23 of the trust act.

Section 23 of the trust act establishes the priority mechanism for three components of the trust. If you read those three components, there is absolutely no way that the trust could ever issue a grant or a loan for any project ever -- first generation, second generation, third generation, and so on -- that is not on the priority list. That is number one.

Number two, when you look at Section 22, the language is technical. I would like to explain it in English. What it says is this: The trust is allowed to use the proceeds of its revenue bonds without the Legislature appropriating those revenue bonds to it. That is all it says. It doesn't say that the trust can loan those moneys, grant those moneys, or use those moneys to guarantee local debt. The trust essentially can't do anything with those moneys, except leave them in accounts -- the perspective accounts established earlier in the bill. That section merely says that the trust can keep the proceeds of its revenue bonds without the Legislature appropriating them. That is all that section means.

SENATOR CONTILLO: You mean that revenue goes back to the fund. It is not how it is going out of the fund.

MR. PANNELLA: Exactly. It stays in the fund.

SENATOR GARIBALDI: Stop right there. Stop right there. Wait a minute. I like to oversimplify things because I am not as smart as all of you. I'm just going to refer to one sentence, and you'll explain that to me.

In Section 22 of the bill, "revenues derived from investments, etc." -- that is what we are talking about, the money coming back -- "may thereafter be applied in accordance with the provisions of this act." That means anything?

MR. PANNELLA: That is Section 23 of the legislative oversight--

SENATOR GARIBALDI: Okay. "For any corporate purpose of the trust." I don't understand that. Now, maybe if you explain that, it would help us all. "For any corporate purpose of the trust," what does that mean?

MR. EDWARDS: The corporate purpose for the trust is the purpose for which the trust exists -- the money in the waste water--

SENATOR GARIBALDI: To loan money out.

MR. EDWARDS: To loan money out. And, that language has to be stated for bond counsel, for all the underwriters, and for all the people who get involved in the process.

SENATOR GARIBALDI: That is what I don't think we understand. What does that mean?

MR. EDWARDS: It is very simple. The investment moneys that come into the trust have to go back to the trust, and they can only be used for the purposes of the trust -- waste water appropriation. Those purposes are very clearly laid out.

SENATOR DALTON: Investment moneys and loan repayments.

MR. EDWARDS: Exactly.

SENATOR GARIBALDI: But, then it says, "without appropriation." What does that mean?

SENATOR CONTILLO: Will that appropriation go to the "in" or the "out?"

SENATOR GARIBALDI: That is my question. It is not clear.

MR. PANNELLA: I apologize, but when you read these bills so many times, you forget what amendments you made. This particular statute, Section 22, when we drafted the conditional veto messages, we read that section and we came to the same conclusion. It was possible, although it was not our intention that that section could be misconstrued. We added a clause that says, "Except that the funds shall only be used to make loans, grants, or guarantees approved by the Legislature in accordance with the provisions of Sections 23 and 24 of that act." We expressly spelled it out to try to seal the issue.

SENATOR DALTON: You have no problem with that being added to this bill?

MR. EDWARDS: No. It said that anyway, but in order to clarify it, we wanted to be absolutely--

SENATOR CONTILLO: I don't think it said it, and he didn't think it said it. That is why I wanted you to clarify it.

MR. EDWARDS: Bond counsel brought it up. They had a question.

SENATOR CONTILLO: But, bond counsel is a subject for another day.

SENATOR GARIBALDI: We are beyond that now. It is now clarified. That language does answer the question. I think everyone understands that.

SENATOR DALTON: Landfill closure. Okay. The funds for landfill closure are derived from tipping fees by those who dump in the landfill. Correct?

MR. EDWARDS: Correct.

SENATOR DALTON: Okay. There are some landfills that are closed, and others about to be closed, which do not have sufficient funds set aside for the purpose of closure.

MR. EDWARDS: Correct.

SENATOR DALTON: Okay. How many landfills across the State have that problem?

MR. EDWARDS: I'll refer that to the Commissioner.

COMMISSIONER HUGHEY: I don't think we can really say precisely how many have the problem. We do know that we have closed down over 300 during the last six or seven years. We always find something when we look. I think we are probably talking about something in the aggregate neighborhood of maybe 200 that are going to need real attention as we go forward.

SENATOR DALTON: Commissioner, do you have a figure as far as the closure money that is available as opposed to the estimated closure costs for the State is concerned?

COMMISSIONER HUGHEY: Well, we have that figure, and we can provide it to you, but that really doesn't give you the picture you are looking for, Dan. The closure figure that is available traditionally applies to those landfills that are still operational, and were operational when we had the law in 1981. The closure figure that is going to have an impact is really going to be those landfills that were closed without collecting any closure moneys, and principally those that were closed without collecting any closure moneys that had municipal ownership or municipal investment.

SENATOR DALTON: Okay. So, what we have of your bond issue is— \$50 million of your \$275 million bond issue will help with these costs. Other than the State bonds funds and, admittedly, insufficient

moneys available from the closure fund, is there any other money available?

MR. EDWARDS: No.

SENATOR DALTON: What would happen is, you would have the State donate \$50 million in closure costs. We don't know where the rest of the money is coming from.

MR. EDWARDS: Correct.

COMMISSIONER HUGHEY: The first run, Dan, is \$50 million by which we calculate, having developed this by Marty Herman and yourself, that approximately \$30 million is going to go to those communities that face a burden from having taken, in the past, out-of-State waste. You have \$20 million left for what we consider an aggregate problem that, I think, the \$1 billion, which we have the cap on, is not understating the problem.

SENATOR DALTON: How will the \$50 million in State bonds be distributed? Is it going to be distributed in loans, grants, or both?

COMMISSIONER HUGHEY: The \$30 million is going to be issued in a combination of grants and loans. The out-of-state component was designed as a grant component because there was no chance to recapture it.

SENATOR DALTON: Okay. So, the out-of-state component was a grant component, and in-state is a loan.

MR. EDWARDS: A loan component.

SENATOR DALTON: Okay. What source of revenues are going to be used for loan payback?

MR. EDWARDS: The people who dump in a particular landfill will have to be assessed one way or the other. That varies around the State. It could be local governments; it could be private companies. There are also priorities set up in the bill to do that.

Mr. Chairman, I think it is important, at this particular point, to add that there is a missing component that has been recommended on numerous occasions, which I am sure this Committee is aware of -- that is, the issue of stable funding. The landfill closure component is a \$50 million drop in a very big bucket. The bucket is a minimum of 20 times larger than that. There have been discussions

about stable funding over a period of time, because this has some finite lid to it, and we believe -- I think various members of the Legislature also believe -- that the issue of stable funding, as it addresses additional dollars for the other two areas, is probably more significant and more important in this particular component, or account in the trust.

Please remember that the trust is only set up as a financing vehicle and a way of getting dollars in and out as cheaply as we can possibly do it, not a way of determining and solving the priority problems.

SENATOR DALTON: The bottom line is that the loans are going to be repaid through property taxes.

MR. EDWARDS: Or, through--

SENATOR DALTON: If you are a homeowner.

MR. EDWARDS: Or, through individual-- Whoever the owner of the landfill is and from wherever he collects his money.

COMMISSIONER HUGHEY: Essentially, Dan, they are being collected the same way now, and people have to bond themselves at whatever the prevailing rate is to close landfills that were improper to close.

MR. EDWARDS: Sure. The problem in Kinsley was a prime example. The legislation that we referred to earlier was a right of local government to go out and borrow, over a five-year period, using its own borrowing capacity to pay what was an onerous assessment made by the Kinsley Landfill on those local governments. The interest rate that those local governments will be paying will exceed the kind of interest rate we are talking about here. Again, it is only a financing vehicle to provide a cheaper lunch, not a free lunch. What the legislation--

SENATOR DALTON: It is going to be cheaper to use this vehicle than if they went out and issued bonds on their own?

MR. EDWARDS: Yes, we hope it will.

COMMISSIONER HUGHEY: No, we know it will. It depends on the interest rate.

MR. EDWARDS: If it is not, they will obviously go out on their own. I mean, since it is a voluntary act of the local government to come, we are only trying to set up a vehicle by which they can have a cheaper option than the other options that are presently available to them.

SENATOR DALTON: And, the difference is because of the subsidy from the State, right? That is why the State is cheaper.

MR. EDWARDS: That is correct.

SENATOR CONTILLO: Yes, but they are paying that as taxpayers of the State.

MR. EDWARDS: That is correct.

SENATOR CONTILLO: Also, in effect, they will be compelled to use this system because they are paying into it anyhow.

MR. PANNELLA: That is under any program.

MR. EDWARDS: That is under any program. I haven't seen anything free yet, Senator. I have only found things cheaper.

SENATOR CONTILLO: The point here is, they are paying double taxation. Once it is set, once it passes the Legislature, as taxpayers of the State, they will pay into that. Once they are paying off those bonds as general taxpayers of the State, then it is almost incumbent upon them to follow through with the system. If they didn't have to in the first—

MR. EDWARDS: No.

SENATOR CONTILLO: No?

MR. EDWARDS: No, no, no. If they can do it cheaper--

SENATOR GAGLIANO: Mr. Chairman, it is also important to note that some municipalities don't have a very fine rating, and some of the authorities we are dealing with don't have an excellent bond rating. As a result, they will pay higher prices automatically.

SENATOR DALTON: Senator, I don't understand the difference between what you are proposing here and what we proposed in the bills that were vetoed. What is the distinction?

SENATOR GORMLEY: If I may, you would have to cross-reference another section. Obviously, no one disagrees that the closure component is under-funded. I think the concept we have to look to is

the fact that when you have a large enough amount of funds, as we would with the waste water component, you have the capacity to set up a reserve fund. That reserve fund gives you the capacity, or the backup, in certain districts that don't have, shall we say, as good a bond rating as others, to offer the ability to bond those districts at a lower interest rate. That is because there would be a reserve fund present. There would be greater collateral.

SENATOR DALTON: Are you saying you are going to use waste water money for this -- for closing landfills?

SENATOR GORMLEY: No, I didn't. I didn't say that at all. I was just giving it as an example.

SENATOR DALTON: Then, Bill, my point is--

SENATOR GORMLEY: I was just giving it as an example.

SENATOR DALTON: Let's focus on the question I asked. What is the distinction between what you are doing and the bill that was CV'd? That was the question.

COMMISSIONER HUGHEY: There is a difference. Dan, there are a number of differences.

SENATOR DALTON: Thank you. I want to hear them.

COMMISSIONER HUGHEY: There are a number of differences. First the bill that was CV'd didn't have a program attached to it. There was no interest established. It was a program that was going to be developed.

The program that has been outlined in this legislation was worked on with Marty Herman to handle a specific set of problems which provides for an out-of-State component. The key component of both--

SENATOR DALTON: Do we have that, Commissioner? Do we have that here today?

COMMISSIONER HUGHEY: It is my information that Tony has it, but I don't know where Tony is. What are you looking for, Dan?

SENATOR DALTON: The landfill closure component of the trust.

COMMISSIONER HUGHEY: You should have that bill.

MR. EDWARDS: Mr. Chairman, you asked for the difference between-- The bill that was passed has an urban aid component in it that required the money to go to urban aid districts for landfill

closure as a priority. Most of the areas in the State that are affected by this are not urban and municipalities that have landfill closure cost problems being assessed against them. That is one.

SENATOR DALTON: Where is—

MR. EDWARDS: Secondly, it has the leveraging capacity. There is a difference between the two.

SENATOR DALTON: And, I am asking where the program is. I mean, tell me, is it in the bills?

MR. PANNELLA: The landfill closure is contained in S-3187.

SENATOR DALTON: S-3187?

MR. PANNELLA: Yes.

SENATOR DALTON: Okay. Do you have any flow charts or anything you can give us on landfill closure?

COMMISSIONER HUGHEY: The key is the trust, the ability—

SENATOR DALTON: Are you going to issue revenue bonds for landfill closure?

MR. EDWARDS: No, not without a source of revenue.

SENATOR DALTON: Then why do we need an authority?

COMMISSIONER HUGHEY: First of all, it is not an authority, Dan. It is a trust. Secondly, it has the ability to do two things that yours didn't. It can merge communities and do some bonding for them collectively. It can keep a reserve account and take their rates lower than they would be under ordinary circumstances.

What you do is, you get into the question of what a trust can do that a loan account can't. Effectively, a trust can make a 30% difference in your investment opportunities, and it can act as a guarantee for authorities in bonding that does not exist in a simple loan account.

MR. EDWARDS: Not in revenue bonding, Mr. Chairman. It requires a revenue source as opposed to leverage financing. You should not strictly lock in leverage financing and say it is revenue bonding. It is not. Revenue bonding requires a direct source of revenue.

The Transportation Trust Fund works off of revenue bonds. Our particular proposal before you does not have a source of revenue, so we are not dealing with revenue bonds.

If the Legislature were to see fit to deal with the concepts that were proposed by Marty Herman -- the Governor's endorsement of a constant revenue source -- then, as an option, we could flip from leverage financing that did not include revenue bonding to leverage financing that did. Right now, we don't have the option of revenue bonding in any of the components.

SENATOR DALTON: So, what you are saying is, you only have the opportunity of GO bonding. Okay?

MR. EDWARDS: No, no. Leverage financing, as the Commissioner pointed out, still gives you the capacity for the leverage repayment provisions to set up reserve accounts, and to set up insurance programs for which you can borrow the money cheaper and re-loan it to local governments or other entities at an amount less than they can do it due to the general structure and financial stability of that trust.

Your loan program can't do that kind of leveraging if you can't re-borrow again from various other sources. The whole concept of leveraging is the only difference between your program and our program.

SENATOR DALTON: Is the bond rating of the State going to be less than the bond rating of the trust?

MR. EDWARDS: No, the bond rating of the trust will be less than the bond rating of the State?

SENATOR DALTON: The bond rating of the trust will be less than the bond rating of the State.

MR. EDWARDS: Lower, yes, that is correct.

SENATOR DALTON: Okay. So, our approach was to utilize the bond rating of the State.

MR. EDWARDS: No, we are utilizing the Triple A bond rating of the State to do the original borrowing to put into the trust fund. We put it into a trust fund. That trust fund can then borrow. If you put it into a loan program, then that loan program can't borrow. That is the difference in the program.

The terms and conditions of how you go about borrowing are what we are really talking about, instead of talking about the conceptual difference of an expansion of power and an expansion of

options that are available for quick response to a very, very profound set of problems — landfill closure, resource recovery, and waste water. Simply, that is the difference.

SENATOR DALTON: Okay. If, in fact, as we did appropriate \$50 million within the budget to address that closure problem — the immediate problem in South Jersey — and if, in fact, you established a trust, tell me the distinctions.

COMMISSIONER HUGHEY: The distinction is that the trust can utilize its reserve capacity to help communities get a better rate on a collective basis than you can under a loan account. It also has the advantage of leveraging.

If you take a dollar in a trust, and you take a dollar in an account, the leveraging alone is going to add money to the account.

SENATOR DALTON: You are saying you are going to borrow that.

MR. EDWARDS: The trust will borrow. That is correct.

SENATOR DALTON: What is your revenue source?

SENATOR CONTILLO: The repayment of the loans.

SENATOR DALTON: What is your revenue source?

MR. EDWARDS: The original appropriation, whether it is a bond proceed or a cash appropriation, plus the repayment of the loans.

SENATOR COSTA: How long will that take?

MR. EDWARDS: The same period of time your repayment loans take. You can structure it any way you want.

Mr. Chairman, this really gets to something that I think is very important and causes what I think is a lot more acrimony on the issue than the issue deserves. The only difference between anything the Legislature might propose that doesn't go into a trust as opposed to what goes into a trust is the ability of that trust to choose other financing vehicles to assist local governments or projects in being completed. It is the option of using creative financing that exists today, which all businesses use to expand the options that are available.

Businesses have found out, and we have found out ourselves in the Transportation Trust Fund, that we can get money and expand either the total dollars more quickly and/or provide those dollars a little

cheaper than they can be from other sources, as long as both require borrowing. All right?

The only difference between your program, in the broad sense, and our program is that ours goes one step further than yours. We can do exactly, and we can be limited to do exactly what your program says, and no more. Or, if the Legislature so desires and approves it, it can expand that capacity to say, "No, we are going to do some leverage financing here. We are going to do this project or that project." But, this can happen only after the Legislature approves it. If the Legislature says no, you could even lock the trust into exactly what your bills say they intend to do.

COMMISSIONER HUGHEY: Dan, let me put a caveat on this. Because of the way we constructed landfill closure, which is sort of after we had the components of the trust together, the advantages of the trust concept were least likely to show in this component.

First of all, we have constructed a component that is going to give 60% of it away right from the beginning. Secondly, our capacity is going to be somewhat limited to helping communities merge at a lower rate than they can get ordinarily with a reserve account.

In every other component, or if new money comes into landfill closure, you can use the flexibility that the trust gives you progressively.

Right now, we know and you know that this is an under-funded part where we are going to put most of it out in grants anyway, and these are the two pieces of the program that look most similar to your legislation and the Governor's proposal.

SENATOR DALTON: What I would like to do, if I may, is, I would like to take an hour for lunch and then come back afterwards. Thank you very much.

(LUNCH BREAK)

AFTER LUNCH

SENATOR DALTON: I would like to call the public hearing back to session. Carey, are you ready? (affirmative response) Literally or figuratively? (laughter)

I would like to start with some questions that Senator Contillo wants to pose regarding the resource recovery component of the trust. Senator?

SENATOR CONTILLO: Okay. I didn't interrupt this morning's hearing because there was enough heat, but there are a couple of questions I have, if you don't mind. I would just like to touch on them.

Senator Gagliano-- Oh, he is not here. At any rate, he suggested that one of the reasons why we needed the trust was because of the situation in Wildwood where the raw sewage is covering the beaches right now.

It seems to me that the bill that was vetoed took care of that quite clearly, quite easily, and the money was granted to them, according to the priority list from the DEP, not as a loan, but as a grant. I just thought that statement was incorrect.

COMMISSIONER HUGHEY: Actually, I think the statement is correct. The program that you, at one point, approved is a good program. It was the same allocation of money, and I don't want to belittle that program in any way. But, it did not have a leveraging-in factor, so therefore, it had a finite number of projects that it could get to.

All of you have received, or can receive, the sewerage construction priority list. There are 256 real projects on that list and a number called INAS -- innovative projects.

As I run the numbers of the bill you passed -- I have never seen any numbers other than the ones I've run for comparative purposes -- you could conceivably get to project #91 on that list because there is no multiplier and no leverage.

SENATOR CONTILLO: Okay. That is exactly my point. Wildwood is project #5.

COMMISSIONER HUGHEY: No, there are a number of projects in Wildwood. The project that would have to be done before the Wildwood

problem is corrected is in the 130s or the 120s and, therefore, would not be reached under your program. No project over 91 on the real priority list would be reached. All the projects on the priority list would be reached under our program.

SENATOR CONTILLO: On the first page-- I guess I am reading the wrong--

COMMISSIONER HUGHEY: No, you are not reading it wrong, but you have to read--

MR. EDWARDS: There is more than one project, Senator, to do the whole program.

SENATOR CONTILLO: Okay. The entire program?

MR. EDWARDS: Right. To solve the problem, there is more than one project. If you go through that list--

COMMISSIONER HUGHEY: Paul, go from #5 to #199, which is Wildwood Crest -- if you have a copy of the priority list. Or, go to #195, which is--

SENATOR GARIBALDI: Which book are you looking at?

SENATOR CONTILLO: Are we going to go through this again?

SENATOR GARIBALDI: Well, you have a green one and I have a yellow one. I don't know. So that we know what we are talking about--

COMMISSIONER HUGHEY: It is the proposed priority--

SENATOR GARIBALDI: I have the 1985 bulletin.

COMMISSIONER HUGHEY: It is the proposed-- I don't think it would differ that much. It is the proposed priority list for 1985, and there is a Wildwood project within the top five. But, you also have to go to #195, which is Wildwood City, which has the major part of the problem. Number 199, which is Wildwood Crest, has a major part of the program problem. So, there are three towns involved in the current problem in the Wildwoods.

SENATOR DALTON: When will you get to them?

COMMISSIONER HUGHEY: We will get to them-- It depends. I can't predict the year, but we would get to them through leveraging.

SENATOR COSTA: Commissioner?

SENATOR GARIBALDI: Did I hear you correctly? You said that under your proposal, there is a total of 286 projects?

COMMISSIONER HUGHEY: There are 256 projects, plus 30 INAs, so there is a total of 286 projects.

SENATOR COSTA: Commissioner, who rated that?

COMMISSIONER HUGHEY: Cathy, the list is made according to the priority list established by the Federal Clean Water Act standards.

SENATOR COSTA: How could they put that so low when it is so urgent?

COMMISSIONER HUGHEY: Because there are 286 urgent projects in the State of New Jersey. That is why we are here today. You have a number of those projects in your community, or in your district, which also would not be funded under your proposal -- the proposal that was voted on.

The question really is, how do we get to all of them? I think that is what we are all here for. We are both willing to make an initial commitment, which I would like the Committee to know that I still consider inadequate in terms of overall commitment. But, the question is, can we leverage the commitment? That is really the basic question, and under our program, you can. Under your program-- Under a program -- I don't think it was anyone's program -- you can't.

As I made the run -- and, you may have a run that is different -- your program stops at 91. I could run any district in this State, show where you are on the priority list, and show whether you are hit or not. You are not hit; a major part of Dan's project isn't hit; and, Paul's projects aren't hit because of where they are on the priority list.

The question is, can you work out a strategy that gets to all of them in some way? The answer is, under the trust we could.

SENATOR DALTON: Well, under the straight GO bond route, you could too.

COMMISSIONER HUGHEY: No, you can't, Dan, unless you want to make continual commitments. Under the proposal you saw that the Governor had, you can't. The commitment is not there.

SENATOR DALTON: You make further commitments. That is correct.

COMMISSIONER HUGHEY: Well, if you make further commitments, then you ought to use a multiplier and make them earlier. I mean, if you want to say to me, "We need more money," I would say, "Yes." If you want to say, "We need more money in a simple loan account," I would say, "No." What we need is more money in the trust account.

I am not questioning the fact that we could use more resources. I am saying that we ought to leverage those resources.

SENATOR GARIBALDI: Dan, may I ask a question? I would like to get in on this, please.

SENATOR DALTON: Sure. You want to get in on this?

SENATOR GARIBALDI: Yes.

SENATOR CONTILLO: But, you've got the latest book.
(laughter)

SENATOR GARIBALDI: I brought the most recent one I had.

COMMISSIONER HUGHEY: By the way, it has stayed the same for three years. We made a commitment to keep the list—

SENATOR GARIBALDI: Well, I just compared, and the numbers and the priority listing are identical. Maybe the dollar amounts have changed.

COMMISSIONER HUGHEY: There has been one exception between last year's list and this year's list, which happened to raise, by accident, part of the Camden County project. But, it was legitimate, and it fit under the Clean Water Act standards. That is the only change since I took this job.

We said we were going to freeze the list; we were going to do it under the standards one time; and, we were going to start to work our way down that list.

SENATOR GARIBALDI: I would like to take a practical example. I have a small town in my district — the Borough of Helmetta. It is having a crisis in that it has a sewer problem that it has to upgrade. It has been ordered that it has to upgrade it at great expense to the taxpayers. This is a small community. There is no way that it has the fiscal capability to subsidize that project on its own.

As I look at the proposed priority system and the priority project list for Fiscal Year 1986, I note that the Borough of Helmetta

is listed in rank at #113. Now, you are saying that the first 91 projects would be included in whatever we have at this time.

COMMISSIONER HUGHEY: No, under whatever we have at this time, we are probably going to get through 15.

SENATOR GARIBALDI: Oh, at this time. With the bond issue— Whatever you were comparing the two with, you said 91 projects.

COMMISSIONER HUGHEY: Yes, I was being asked, and only for comparison's sake is there a difference between what was initially proposed and what we proposed. The answer is that, yes, there is a practical difference on how many projects we can get to.

SENATOR GARIBALDI: Let me rephrase that. How would Helmetta—

SENATOR DALTON: I think the premise of your answer, though, is giving the amount that was bonded under the GO bond route. If there was more money initially via the GO bond route, we could get much further than 91.

COMMISSIONER HUGHEY: No matter how much money you put in, if you leverage, Dan, there is an additional factor that accrues to your benefit.

Let me tell you how I look at the two lists in an aggregate sense. You have experts who can look at our numbers. As I look at the two numbers, you can do \$1.6 billion with the initial commitment. We can eventually do \$2.6 billion, and that is the leveraging factor. All right? The leveraging factor accrues to your benefit.

Now, if you put more money in, under both of our programs, you can do better, but I would say to you, there is no reason not to leverage it because we have the need. Back to your question; I'm sorry.

SENATOR GARIBALDI: Mr. Chairman, let me get to the practicalities, so that I can go back to my constituents and my towns and tell them what is happening here.

Here I have the Borough of Helmetta. Assuming that we accepted the leveraging process, how would the Borough of Helmetta— Where would it fall within this priority list since it is outside of the priority now? How would it become applicable under this new funding procedure?

COMMISSIONER HUGHEY: Let me tell you-- I am going to have Tony give you the concept of the trust. Now, how do you apply? Right now, that community would have two choices until we do something collectively. It can go on its own, or it can wait for a grant, which would take it for the rest of all of our time, because there isn't going to be a grant program.

SENATOR GARIBALDI: They don't have time.

COMMISSIONER HUGHEY: The Clean Water Act against which we play this whole thing -- I think we all understand that -- goes into effect in 1988. These people have to meet a standard or stop movement all together.

With that caveat, under the trust, they would apply to the trust. Tony, do you want to explain that and take it through the trust process?

SENATOR GARIBALDI: Assume the project was a \$10 million project. How would they apply?

MR. PANNELLA: You are saying that they have a need, and they are going to apply for funding. What number are they on this priority list?

SENATOR GARIBALDI: According to the list I have, they are listed in rank as #113.

COMMISSIONER HUGHEY: Let me explain it because Tony is obviously going to be a little bit hesitant on this.

For any community that is on the list comes into the trust and says, "We want to move forward--"

SENATOR GARIBALDI: Any one on this list?

COMMISSIONER HUGHEY: Yes. Any one on the list.

SENATOR GARIBALDI: How about a community that isn't on this list, yet it has problem?

COMMISSIONER HUGHEY: If they are not on this list, then they have a real problem because we can't even get to the ones on this list. I am being honest.

SENATOR GARIBALDI: How come? I am trying to be realistic.

COMMISSIONER HUGHEY: They are in big trouble. They come to the trust, and they say, "We are not reachable in a grant program at

this point; we would like to opt for a loan program." At that point, they can be given one of two things, depending upon their standing on the list and the funding of the trust at that point. They can either be given a loan right away -- depending upon where they are on the list -- or, they can be given a firm take-out date based on the proceeds of the trust. In other words, knowing when the loans are turning over, they can be given a take-out date.

One of the keys to the revolving account is that. We focus a lot on leveraging, and I think that is very important. But, the second key to a revolving account is the takeout -- being told that maybe three years down the road, you will be taken out in long-term financing with a loan. That is critical to the communities.

All of you represent communities where takeout has been more important than where you were on the grant list. The short-term debt has become a bigger problem than the facility itself. We have a number of examples in this State where short-term debt has become bigger than the project cost. Knowing when you can get taken out of trust is almost just as important as getting the initial loan. They could then go forward on their own with it, and take out three years down the road. That is the concept. That is how it works. Or four years down the road, or five years down the road, depending on how--

SENATOR GARIBALDI: (interrupting) But, they can apply immediately rather than having to wait for some angel to come out of the sky to provide them with--

COMMISSIONER HUGHEY: There are no angels in this process.

SENATOR GARIBALDI: What would be the debt service we would be talking about? I know if a community now goes on the public bond market, you are talking 8% or higher. Now, what would be a relative interest rate that that community can anticipate?

MR. PANNELLA: Even in the absence of a stable funding source, all of our projections established that in financing through the trust, local government can draw down its overall project costs over the life of the project by about 40%.

COMMISSIONER HUGHEY: But, I think the answer to you is--

SENATOR DALTON: What analysis are you referring to, Tony?

MR. PANNELLA: Well, I believe that even the document we release last June on waste water established that.

SENATOR DALTON: Where does it establish it? Is that part of the technical papers here?

MR. PANNELLA: Yes.

SENATOR DALTON: This is what we got on waste water. We got your spread sheet. Is this it?

MR. PANNELLA: We delivered a comprehensive document back in June -- about 40 or 50 pages long -- that specifically related to waste water treatment.

MR. EDWARDS: The question that I think the Senator asked with reference to his township, under the bills that are on the Governor's desk right now, there would be no application you could make to the loan fund that would be paid because there would be no capacity to reach them in that particular process. If the trust were in place, there would be the capacity: (A) to reach them, and (B) to make the loan application. The difference--

SENATOR DALTON: When would you reach them? When would you reach 113?

MR. EDWARDS: I don't know. That would depend on how much each project was, and the trust would have to evaluate that. I would probably say that that would take about six or seven years to get to. If you were to ever get to stable funding, you could accelerate that particular process.

SENATOR DALTON: When would you reach Wildwood -- at 109?

MR. EDWARDS: I don't know. Maybe it would be in four or five years.

COMMISSIONER HUGHEY: Dan, it could be the second year. This is an optional program. People may decide that they are going to stay on grant lists for four years. Number 195 may decide that they want a loan, and they are going to take the best deal they can get.

Peter, I think the real question you asked is, what is the interest rate? The numbers we ran were based, I think, on 5%. When I started out with this program, I was hoping to provide no or very low interest loans -- 2% loans. But, the question is, how much do you

charge the fund with? It changes the interest rate you have to charge. But, the runs that were done were done at 5%, and I think the runs you did -- or, as I understand you did -- were done at 6% when the other proposal was being discussed.

SENATOR GARIBALDI: So, it is a significantly lower interest rate to the communities that would participate in this program.

MR. EDWARDS: It emphasizes two things about the trust and even about the revolving loan fund because the same would apply if you were in the first 91. Suppose you were 85 on the list? At some point in time, you would, in fact, be reachable under the revolving loan fund, and the same process could take place.

The question is, those over 91 on that list could not, in fact, be reached with the existing appropriation of dollars. With the same appropriation of dollars, the entire list can be reached. I think that gets to the crux of the difference.

The interest rate you would probably pay would be the same under the revolving loan fund, or pretty close -- within miniscule dollars -- both of which would provide a cheaper program. Maybe it would be a program this town could afford, or maybe one they couldn't, even if it is cheaper. That is a decision that each local government is going to make.

The last item I would like to point out about that would be--

SENATOR CONTILLO: But, you said it is cheaper.

MR. EDWARDS: The person who would approve it as to what goes on the list the way we have the priorities set up would be the Legislature. You and the Legislature would be involved.

SENATOR GARIBALDI: Each specific project?

MR. EDWARDS: Yes, as the applications come up, there will be a list every year that will be presented -- the projects that are ready. The Legislature will have to approve that particular list. You would ultimately decide where they went, what the terms and details of it are, particularly as compared to all the rest. The Legislature will have to make that particular judgment, just as we in the Administration will make the recommendations.

SENATOR CONTILLO: Can I ask him about the word "cheaper?" He used the word "cheaper."

SENATOR DALTON: Sure.

SENATOR CONTILLO: You say it is cheaper in maybe the overall costs, but certainly to the municipalities, the difference between paying an accelerated loan over 12 years, even at a low interest rate, is going to be very costly to the municipality while it is happening.

MR. EDWARDS: Excuse me. Wait a minute. You are getting to probably the crux of a lot of the confusion out there. There is no fixed amount of years. You could do 12 years, 15 years, 20 years, or 25 years.

SENATOR CONTILLO: Is there a town father who wouldn't take the longest time of prepayment at such a low interest rate?

MR. EDWARDS: Yes, they would take a longer period of time, but--

SENATOR CONTILLO: Only if they want to be reelected.

MR. EDWARDS: Paul, the program would depend on how many projects you have to do and how low an interest rate you can give to reach all of the projects. The more you spread it out, the less the total savings are sometimes. Maybe you pay less on an annual basis. Some towns say, "We want to pay it off in 10 years. I would rather take the hit now if I am going to save money over the long run." But, the option is there for local government to come back to the trust fund and say, "This is one I think I can afford, and my users think they can afford, both of which are cheaper than if I did it myself."

SENATOR CONTILLO: But, the interest rate then is somewhat flexible.

MR. EDWARDS: Absolutely.

MR. PANNELLA: Not so much the interest. What is flexible are the terms of the loan and the terms of the repayment schedule.

SENATOR CONTILLO: One element of the terms of the loan is the interest rate. You say 5% very quickly, but it could also be 9%.

MR. EDWARDS: Well, for instance, we did a run on 5% using the same dollars, and you did one on 6%. The interest rate is a component of the total issue. What I have been trying to communicate all along is, if we get mired down, are the loans going to be 6%? Are they going to be 5%? Are they going to be 12, 15, 16-1/2, or 18

years? Those are all decisions that the trust and the revolving loan fund will have to make within whatever parameters the Legislature and the Governor agree to set for them.

SENATOR DALTON: But, your premise is that you are working on a 12-year loan. What I am saying is, if you extend the terms of the loan, do you reach all of the folks on your list?

MR. EDWARDS: Yes, if we get 20-year loans, we could do all of them.

COMMISSIONER HUGHEY: The answer is, Dan, yes, we do. We don't get there as fast. We ran three scenarios on the Administration proposal and three scenarios on your proposal. We ran them over 12 years, 15 years, and 20 years. What it really boils down to is, the length of years has an impact on the number of communities you reach and at what stage.

In all those cases -- and, this is the scenario -- under whatever year you want to run them under-- If you run them at 20 years, you hit fewer projects in total dollars funded.

SENATOR DALTON: Can we get that, Commissioner?

COMMISSIONER HUGHEY: Absolutely.

SENATOR DALTON: Do you have that broken down?

COMMISSIONER HUGHEY: Oh, yes.

SENATOR DALTON: Well, the original.

COMMISSIONER HUGHEY: I have a small marked list, yes.

SENATOR DALTON: If we could get that for the record--

MR. EDWARDS: We are going to give you that, but what we don't have are some of the runs to back it up. They are still being worked on.

COMMISSIONER HUGHEY: These runs are based on what your consultant is now looking at, which was provided to you in June. We had to guess a little on some of the components of your proposal. We ran the same kind of base. Everything is equal. The dollars are equal; the commitment is equal. In 20 years, you can get to 1.3 billion as compared to 1.07 billion. In 15 years, you start to increase the number of projects you can get to under both scenarios. Under our scenario, you can get to more. In 20 years, you just go up proportionately.

We have run it holding everything the same -- all the costs the same, and what the paybacks are. Both programs would benefit from more funding. Holding everything the same, there is no question about the number of projects you can get to. We will provide this to each member of the Committee.

SENATOR GARIBALDI: Commissioner, you start out with the equity loan, and it appears to be a two-thirds equity loan circumstance, leaving one-third of whatever the total funding is that goes into an allowance for reserve or some bank reserve account. Is that the way I understand it?

COMMISSIONER HUGHEY: No.

SENATOR GARIBALDI: That third is reinvested, and that is what develops your leverage? Is that your leverage?

LENO PEREIRA: Dan, let me answer that. In the paper that was given to the Committee in June, it happened to use, as a basis, a system--

SENATOR GARIBALDI: A five-to-one ratio.

MR. PEREIRA: (continuing) --where two-thirds of the money was simply taken as it was received from the appropriations -- the bond issue -- and loaned as equity loans. There is no difference in the two proposals as far as that is concerned.

The other one-third comes from the leveraging the Commissioner has been talking about. In that case, some money is set aside in a reserve. The trust is able to borrow five times as much, and it uses the reserve as a guarantee. It is able to take the money it gets -- the five times as much -- and offer a below-market interest rate, roughly 80% of the market rate.

COMMISSIONER HUGHEY: For the other third.

MR. PEREIRA: For the other one-third of the project cost. Every project will get a two-thirds, heavily subsidized with State money, low-interest loan at one-third below the market -- 80% of the market rate. That results in, if you look at this chart, a difference in annual repayments--

SENATOR COSTA: We can't see it.

MR. PEREIRA: I'm sorry.

SENATOR COSTA: My eye sight is not that good.

COMMISSIONER HUGHEY: Just talk about it.

MR. PEREIRA: Let me tell you what it does. On a 20-year basis, it results in a town, for \$1 million, having to pay back \$105,000 every year in payments. Without the leveraging, they would have to pay \$102,000. The difference is that by leveraging the money, the trust could get to roughly \$1.4 billion in projects as opposed to roughly \$1.07 billion in projects.

SENATOR DALTON: So, what you are doing is establishing a State guarantee.

MR. PEREIRA: You are taking some of the money that is appropriated and using it in order to get a better interest rate. It is set aside in a reserve account to get a better interest on the State guarantee.

MR. EDWARDS: It is not a State guarantee, Senator. It is a reserve fund. You put up \$10 million to guarantee the repayment of the debt. Based on the collateral, they will lend you five times that much. You can borrow five times that much.

SENATOR DALTON: It is a State fund guarantee.

COMMISSIONER HUGHEY: It is a trust fund guarantee.

MR. EDWARDS: They call it a reserve fund.

SENATOR GARIBALDI: I would like to pursue that to try to simplify it. The only reason why is because I am an accountant, and this is my bailiwick. You start out with \$1 — whether it is \$10 million or whatever — all right? Now, if you take two-thirds of that, it is 67 cents. That goes into equity loans. Am I right?

MR. PANNELLA: Yes.

SENATOR GARIBALDI: The balance of 33 cents goes into the reserve, which is what we are leveraging at an advanced or accelerated interest investment.

MR. PANNELLA: Based upon investing that 33 cents in a reserve account, you can reduce your debt at roughly five times--

SENATOR GARIBALDI: Five times. There is a ratio of five to one, which now gives us five times 33 — \$1.65, or \$1.67 — whatever. Now you have your original — if I understand it, the amount you have in equity loans -- 67 cents, plus the \$1.65, which gives you \$2.32. All right?

Now, take that same dollar under whatever proposal we have -- the one the Governor vetoed, or whatever -- what would that dollar be? It would only be a dollar; it could never be anything more than a dollar. Am I right? That is the principle of accelerated leveraging.

SENATOR DALTON: Why couldn't it be anything more than a dollar.

SENATOR GARIBALDI: Because you start out--

MR. EDWARDS: Because you can't loan it out again.

SENATOR DALTON: But, if you establish some sort of a guarantee, why do you need a trust?

MR. EDWARDS: The Constitution does not allow the establishment of a reserve fund in the Treasury and the borrowing against that without going back on the ballot.

SENATOR DALTON: Why can't you establish a reserve fund for local government?

MR. EDWARDS: That is what the trust does.

SENATOR DALTON: Why do you need a trust?

COMMISSIONER HUGHEY: You can call it a reserve fund for local governments or a trust, but it is not a simple loan account, Dan. It has to be called something different than what you have to work within the present structure.

SENATOR DALTON: I agree with that. What I am trying to get at is the trust authority, or whatever you want to call it, necessary to get your leveraging.

MR. EDWARDS: If it weren't, and if anyone can give us another way of doing it, we would gladly embrace that. It is the only vehicle that we have been able to come up with that would allow us to do that particular leveraging, whether it be by a reserve fund, a stable source of funding, or an insurance program. All of those kinds of guarantees that help, along with the repayment contracts that you have, allow you to go out and leverage that money and get more money immediately. That is how we reach more projects on the list than you do without the reserve.

COMMISSIONER HUGHEY: Dan, you have a consultant that I have had the opportunity to work with before. I don't care what you call it, but you need a mechanism for financing these projects that does not currently exist. We call it a trust. Some of the things you don't like about the trust package currently, primarily that it looks big, all happened through negotiations.

SENATOR DALTON: Don't be presumptuous, Commissioner. I was raising questions this morning.

COMMISSIONER HUGHEY: Well, then let's presume for a minute that we both like it. (laughter)

SENATOR DALTON: Don't be presumptuous.

COMMISSIONER HUGHEY: Let's presume for a moment that I like it. The reason that I like it is because we have had to deal with all of these issues. How do you do it within the existing State constrictions -- the constitutional constrictions? The way you do it is, you set up a financing mechanism that has the ability to leverage funds.

The current situation we have in the State doesn't permit it unless you do it some way like this. I think it could be called something else.

MR. PANNELLA: I think it is important to point out that the Federal government, in fact--

SENATOR GARIBALDI: Has accepted leveraging.

MR. PANNELLA: (continuing) --has accepted leveraging.

SENATOR GARIBALDI: Leveraging is a sophisticated approach to capital financing.

MR. PANNELLA: The two pending bills in Congress right now, S-1128 and House Bill No. 8, both expressly permit the States to utilize their Federal capitalization grant funds for leveraging.

SENATOR COSTA: Could you clarify something for me? Regarding the interest that is charged to each municipality, who comes up with that? Why does it differ?

MR. EDWARDS: Each municipality has a different project and there are different costs involved. Some of the costs are eligible; some of them aren't. Some of them are things they want to build

themselves that aren't mandated by the program. So, it is virtually impossible to compare municipalities. You can, but we haven't been able to run a model for all 286 projects at this particular point because they are all subject to very local judgments by local MUAs, county MUAs, and local municipalities. They are going to have to pay back that particular loan. No one is saying they have to take that particular loan. We are only trying to make it available if they are going ahead with a project to make it cheaper. That is exactly what the proposal does that you have already passed. It is to try to make it available to them for less money.

They have to repay it, and they have to repay it at 5%, 6%, or whatever interest amount is ultimately established through the process that the Legislature is going to have to agree on.

SENATOR COSTA: From five to nine, is that the percentage you are speaking of?

COMMISSIONER HUGHEY: Cathy, let me clarify the five to nine. We made the run based on the subsidized part being 5% loans that could be changed, and you could say it couldn't go over 4%.

SENATOR COSTA: Who makes that decision, the legislators or the Governor's office?

MR. EDWARDS: Well, I expect it is going to be the local municipality.

COMMISSIONER HUGHEY: No, it isn't the local municipality; it will be the trust and I imagine it will be uniform. The only thing that changes beyond that, whatever that is, is 5%. It is 5%. The only thing that changes is the one-third guarantee which is established at 80% of the market. Now you can actually have a piece of legislation--

SENATOR COSTA: Is that in the bill, Commissioner?

COMMISSIONER HUGHEY: Pardon me?

SENATOR COSTA: Is that in the bill?

COMMISSIONER HUGHEY: Is that in the bill?

SENATOR COSTA: Yes.

COMMISSIONER HUGHEY: No, I think we have left some of the responsibility for money management to the trust.

SENATOR COSTA: What you are saying could be thrown out the window if the trust decides--

COMMISSIONER HUGHEY: Well, the Legislature is represented on the trust, as is the Administration. It is not a trust that operates independently of either of us.

MR. EDWARDS: That is the one responsibility that the trust has to make -- to put the best financial package together that it can so the market will absorb a leveraging transaction.

SENATOR COSTA: So, one-third of that loan would be 8% of the market?

COMMISSIONER HUGHEY: Eight percent of the market and the rest would be considerably-- No, actually it would be below that, I'm sure, under anyone's option.

MR. EDWARDS: Under your proposal, Senator, the Treasurer and the Governor would sign off on a loan proceeds' account, which would establish interest rates and terms that would be exactly the same.

SENATOR GARIBALDI: Mr. Chairman?

SENATOR DALTON: This is all Senator Contillo's time.

SENATOR COSTA: General obligation loans would be competitive. Wouldn't that be different?

MR. EDWARDS: No, the general obligation bonds would be met with the financing. They put it into a revolving loan fund set up with the State, the Treasurer, and the Governor. My understanding of your bills is, you have to sign off on the loan program that is ultimately established -- the loan program that goes to local governments.

Remember, the general obligation bonds are a way we can take cash and appropriate it, and do the same thing if we had the cash. It is a way of getting money into a revolving loan program. There is more money coming in.

The Federal government has to put money into that revolving loan program based on what their-- Two bills are in Congress now, so that pot of dollars will go into either your revolving loan fund that you have already passed or into the trust. Both of those groups will establish what the loan terms are: 10 years, 15 years, 20 years; 6%, 5%. They are based on whatever parameters are approved by the elected area of government, the Legislature, and what the Governor put in the actual bills.

SENATOR COSTA: Carey, the Orechio-Russo bill states 50% of the quorum; it is listed there.

MR. EDWARDS: Yes, I understand that.

SENATOR GORMLEY: And once you make a commitment like that—

MR. EDWARDS: You are locked into it.

SENATOR GORMLEY: You are locked into it, obviously, and you cannot judge things based upon the market or whatever. That is the type of flexibility you want and need.

SENATOR COSTA: It says 50% of the prime or less.

SENATOR GORMLEY: Yes, that is right.

SENATOR GARIBALDI: The reason why you have to have these protective devices in any kind of revolving account is because if you are in a high-interest climate, there are communities— I know if I were the mayor of a community, and I could borrow money at 5% and then reinvest it at 10%, I would do it. But, municipalities are prohibited by State statute under the bonding provision securities of the State from doing that. That is what you call arbitrage -- is that the term, arbitrage? -- and that is prohibited.

So, we have to have these protective devices in here that if the financial climate should change, we could still— I think your rates will change with that. I think that is part of your amendment that you proposed in here. As the prime rate changes, so will your rate.

MR. EDWARDS: I have been told--

SENATOR GARIBALDI: But, it will always be lower.

MR. EDWARDS: I have been told, Senator, that over 60% of the municipalities or MUAs on this particular list do not have any bond rating or financial rating under which they could presently sell their own notes.

SENATOR COSTA: According to the reports we have, over 33% of all the municipalities in the State have Triple A ratings.

MR. EDWARDS: No.

SENATOR COSTA: This was given to us by the Division of Local Government Services.

SENATOR DALTON: The Division of Local Government Services has provided us with that information.

SENATOR COSTA: I have it right here, Carey.

SENATOR GARIBALDI: I do not think 33% of the towns are even on the bond market.

SENATOR COSTA: Because some of them have not even been asked--

SENATOR DALTON: That is something you have done to us a couple of times. Can we have a copy of that list, because I can go to the Governor and ask him to have the Division of Local Government--

COMMISSIONER HUGHEY: Well, that does not happen to match with our list. They are trying to take a bond rating and apply it to products, which does not typically work even when I do it. Those projects do not happen to match up, and they are GO bonds as opposed to project bonds. So, you know, I think we have to be consistent here, and I doubt that 33% of these people are in a Triple A rating basis to move forward with their projects.

SENATOR DALTON: Commissioner, you can have that by this afternoon. I will get it to you, and I will make sure it is there. (laughter) We are going to show you how cooperative we are, Commissioner.

SENATOR CONTILLO: May I ask my second question? I forget what it was.

The other question that concerned me was: What are we using for collateral on these loans, not so much the revenue bonds, but the general obligation bonds? I know we left the landfills behind us. For instance, if a municipality is fortunate enough to get a general obligation bond to help cover its need--

MR. EDWARDS: (interrupting) The loan--

SENATOR CONTILLO: The loan. They would have problems paying it back so, they would default on that loan. What is the collateral for that loan?

MR. EDWARDS: There is an intercept of most of the State aid that goes to that local government, if it is a local government. For instance, if they get gross receipts' money, gross receipts' money would be intercepted.

As with any other borrowing, they have to post sufficient collateral to guarantee them payment. We spell it out in the bill as to what the collateral would be that the trust could write into those loan agreements. They do not have to write them all in, but they could write on the intercept that most of their State aid dollars would go to that local government.

That is assuming it is a local government that borrows. If an MUA borrows, they do not have any State aid. They would then become the creditor. In that case, you can rely on their contract the way the regular bond markets rely on their contracts with the local government to pay.

SENATOR CONTILLO: Let's take the town first.

MR. EDWARDS: Okay.

SENATOR CONTILLO: I was a member of the local Finance Board-- I can remember the State having to go in and take over some towns.

MR. EDWARDS: Yes.

SENATOR CONTILLO: Of course, they were mismanaged and simply had no dollars. So, in this case, if the town has a little bit of trouble and cannot pay its loan obligation, it gets a little sick, so to speak. The State would come and kill it by holding back its State aid?

MR. EDWARDS: The trust has the right to do that as collector of a debt, the same way a bondholder does. Suppose local government went out into the bond market and sold bonds to build that project, which is their only other option. If they defaulted on bond payments, then the bondholders went back and forced that local government to pay. Either the local government increases taxes, or the bondholders accept or take their assets, or take their bank accounts. They have the right to do that under their bonds. Local government does, and you know that, Paul, from sitting there and what the Legislature has done--

Whenever a town gets into this kind of problem, ultimately they kind of get bailed out. Part of the plan works in order to satisfy those debt obligations, and it would be no different under the trust than it would be if it borrowed on its own. The bottom line is that the assets

that could, in fact, be attached would be exactly the same as they would be under the trust.

COMMISSIONER HUGHEY: Now, I think there is a difference, Paul, having been in State government now for four years. If they went down on a loan from the trust, they would appeal to people like you to pass a piece of legislation that gave them a way out. If they went down on bonds, they would declare bankruptcy and the State would step in and try to make them hold. But, as a practical matter, there is no difference. They are going to finance these projects one way or the other; they are going to have an obligation to carry those projects.

The only thing that is a little bit different is that it is a public sector loan, and it has been my experience with the loans I have given to local communities on water projects, that somebody tries to pass a bill every year forgiving the loan repayment. But, as long as the Legislature steps in and provides the money, that could be a way out.

SENATOR CONTILLO: Okay. When I first asked the question, the question was not on the revenue source for sewage authorities and the like, but on where there is no revenue source, where you cannot crank up the user fees. The landfill clause, as I said this morning, is the weakest part of both of our programs at this point. We all know we are starting a process that is going to be a long process and where there are no fees typically associated with closure.

Now, let's compare that which is imperfect, by my own admission, under both of our programs, with the current situation. I have a number of towns in my county that are now going through closure. They do not have an option on closure. There are environmental standards they have to meet. They are bonding closure. They are paying the prevailing rate for closing landfills, and they do not have a choice. What we are trying to do is provide the choice of a lower cost way to do the same thing that they are doing today. I do not think that anybody thinks we have the whole answer.

MR. EDWARDS: In answer to your collateral question, Paul, and to expand it just a little, there is absolutely no difference in the collateral pledged to the trust or to the public bond market.

SENATOR CONTILLO: It might be a little easier for a municipality to obtain the loan from the trust though.

MR. EDWARDS: I think it would be easier, and I also think the Commissioner pointed out very properly that I do not believe a State authority would ever throw a local government into a bankruptcy situation.

SENATOR CONTILLO: In effect, the State will be--

MR. EDWARDS: A much more sympathetic creditor.

SENATOR CONTILLO: But, there will be no credit; the State, in effect, is banking up all these loans.

COMMISSIONER HUGHEY: No, not without action by the Legislature. What I was doing was drawing an analogy with water supply bond act loans where, if we make a loan and someone three years down the road does not want to pay, he can go to the Legislature and ask for a piece of legislation that forgives the loans by providing the money out of the General Fund. That option exists under either set of circumstances.

SENATOR GARIBALDI: No, no, no, no. Under your insured loan segment, if you have any loans coming from your insured loan, that is--

COMMISSIONER HUGHEY: There is actually a bigger safety factor.

SENATOR GARIBALDI: And, that is at a high interest rate, so you do not make any--

MR. PEREIRA: I think it is important to understand that before we even get to the State aid intercept issue, it is clearly defined in the trust act as a last-resort remedy. The trust act itself establishes a meaningful role on behalf of the Division of Local Government Services in the Department of Community Affairs for reviewing loan applications.

The procedure we establish in the trust is: (1) the State Treasury, in its capacity, is the chief fiscal officer, and we have to sign off on every loan; and, (2) the Division of Local Government Services, which has review power over the fiscal affairs of all local governments -- municipalities, counties, or any of their local agencies -- has review over the trust loans. Even more important, it

has review over the annual budgets of those same local governments and agencies that are going to be coming to the trust for loans.

So, throughout their annual budgetary process, the Division of Local Government Services would ensure that the local governments establish budgetary procedures that would enable them, to the safest degree possible, to repay those loans. The safeguards are there before you even get to a default situation. We built that into the trust. That is why the State intercept provision is clearly a last-resort procedure.

SENATOR COSTA: Trust is another word for authority, correct?

SENATOR GARIBALDI: Fiduciary, that is all it is. Call it whatever you want.

SENATOR COSTA: It is an authority, and most people do not like authority because they do not like their final savings taken away from them. This is what happens with a trust, and legislators do not like that either.

SENATOR GORMLEY: It is not an authority in terms of a county authority that could directly put assessments, for example, on the sewage construction or whatever they would have to go ahead and bond.

In order for this authority to have control, there would have to be an application from the local unit making a mandate that a project actually could go forward so that the prerogative of local authorities is much stronger than the prerogative of this authority. Theirs is only permissive; that is all it is. A local authority versus your MUA, your county, your county utilities authority, or whatever, would have much greater control because it cannot pass it directly on to the taxpayer. In this case, it is an application from the county or the authority, and it is permissible.

MR. EDWARDS: The general objection to authorities is a lack of accountability. You have a runaway independent group which is not accountable to taxpayers and, in reality, is not accountable to anyone. That is the general complaint, whether is it an MUA, or whether it is a State authority. The amount of controls we have on authority today and the proliferation of them have caused a great deal of problems because of their lack of accountability, and no one agrees with that more than this particular Governor does.

We are not looking to put together an authority in the sense that it has all of these independent powers to do what it wants. We only want the authority to be the vehicle to allow us to do leverage financing. That is why I have had objections to the oversight provisions that are in there, so that the elected officials — in fact, the Legislature and the Governor -- have the kinds of controls through the oversight mechanism that prevent anyone from legitimately making the argument that this is an authority in the traditional sense. Responsible people continue to be the elected officials in that process and are—

SENATOR DALTON: Is today your first day in transportation trust too?

SENATOR CONTILLO: The authority, or trust, or whatever you wish to call it — the composition of the members of this authority — is really not responsible to the elected legislators. The Governor obviously is the one person who appoints, I think, five out of the seven members or part of his cabinet.

In other words, you have five members from the Administrative Branch, and you have two members appointed by the Legislative Branch. Well, you see, that is sort of an imbalance.

MR. EDWARDS: That was not what I was referring to. The veto power of the Governor is watched.

SENATOR CONTILLO: I understand what you are saying, but there is no direct line of responsibility from the taxpayer and the citizen to that authority.

MR. EDWARDS: That is what I am willing to do. That is the point I have been trying to make for a significant period of time. The Governor has veto power over amendments, and he is an elected official, so he can prevent anything from happening. We have a lot of authorities that have that.

I am offering the Legislature the opportunity to take this a couple of steps further — approve every loan and exercise that authority. We are only looking and recommending that the Legislature put together a vehicle that allows the State of New Jersey to do more to solve these problems. Put in place what you think is necessary in

order to guarantee that you do not have a runaway authority. We tried to give you that.

SENATOR COSTA: How about a priority list?

MR. EDWARDS: That is why we went through the process of the responsibilities of the authority, which is the financing. Approve the loan; put it in. We have no objection.

SENATOR COSTA: How about the priority list?

MR. EDWARDS: The priority list is-- First of all, it already goes to you based on regulations that we have to adopt publicly.

SENATOR COSTA: Are you going by the list itself? The trust would have to go by the list itself?

MR. EDWARDS: Yes, it has to. It has no control over the subsidy programs.

COMMISSIONER HUGHEY: This trust does not create a priority list; it is created as prescribed in the legislation by us working with the Legislature. It does not do the loan list; you do. What it does is, it provides a financing vehicle for leveraging.

SENATOR COSTA: If you are just using this as a vehicle for leveraging, why do they have the ability to buy, sell, or lease property?

MR. EDWARDS: Take it out.

SENATOR COSTA: Take it out?

SENATOR GARIBALDI: I would like to put it in. (laughter)

MR. EDWARDS: Senator, I will even go one step further. There are specific loans that the authority, the trust, or whatever you want to call it, has to go out and borrow in the general marketplace on this leveraging. I would be perfectly willing to set up a mechanism by which the Legislature would have an approval of that, or some vehicle by which the Legislature could have oversight to prevent that from happening if you think that the procedures, the amounts, or the interest rates are improper.

The only thing I would ask for, in putting that particular component together, is a time line. That has not been accomplished yet because in the marketplace, it is very important to go out when the

market is right. The only problem with Legislature involvement is, we have two months that we do not meet as we have in these past two months. When we break for appropriations, the Legislature does not meet. So, I need a vehicle. We adjusted this with the refunding proposal with the Joint Appropriations Committee. We set up a mechanism, a bond refunding proposal, that was acceptable to us, which allowed them to approve, or appear to have approval, of the mechanics of that refunding, which is a borrowing from the public. I would be perfectly happy to duplicate that again so the Legislature would be more comfortable. We are not trying to create an authority that has any semblance of control which is not responsible to elected officials or to the general electorate.

MR. PANNELLA: Specifically, Senator, the General Obligation Refunding Bond Act provides that the Joint Appropriations Subcommittee on Transfers has to sign off on any refund of State debt. We could establish a similar procedure for trust revenue bonds. The trust could not issue one single revenue bond without the sign-off of the Subcommittee on Transfers of the Joint Appropriations Committee. I can't think of a more meaningful legislative oversight over trust revenue bond issuances than that.

SENATOR GARIBALDI: Senator Costa and Mr. Chairman, what the Administration is attempting to do here, and what it did do with the Transportation Trust Fund Act, was something that had to be done in keeping with the special legislation to be adopted by the Federal Congress. Here is the bill that permits what we are talking about. It cannot be an authority. It is strictly a fiduciary that is charged with the responsibility of looking after and overseeing the application of the funds in the revolving account, which creates the business of leveraging.

SENATOR COSTA: It is an authority.

SENATOR GARIBALDI: No, it is not an authority. Who cares? Well, I would like to read this into the record. This is from Senate Bill 1128 of the Federal Legislature: "Forms of revolving fund assistance, in addition to the extent provided by State law, the State may extend, may issue revenue or general obligation bonds to finance

projects for construction of treatment works described in Subsection A.1, and on the State's priority list under Section 216 using the amounts in such fund as a source of revenue or security for the payment of interest and principal on such bonds. If the proceeds of the sale of such bonds are deposited--"

SENATOR COSTA: That is--

SENATOR GARIBALDI: No, it is "only." I can read from the other sections which talk of the mandatory restrictions as to how it is-- It is clear, and I suggest that you look at the record to show how it should be done.

SENATOR DALTON: We have, and we want to move on if we can.

SENATOR GARIBALDI: Are we going to vote on S-3189?

SENATOR DALTON: No, we are not, Senator.

SENATOR GARIBALDI: We are not going to vote on these things?

SENATOR DALTON: No, we are not. This is a public hearing, and we do not vote on bills during a public hearing.

SENATOR GARIBALDI: Mr. Chairman, I have to leave. I have another commitment at 3 o'clock.

SENATOR CONTILLO: I understand. I listened to you all afternoon. (laughter)

SENATOR GARIBALDI: I would just like to know, if we are not going to vote on these-- We are all aware of the time constraints that we are faced with here in connection with "whatever" proposal. What is the Chairman's posture now in connection with--

SENATOR CONTILLO: I thought his posture was to take testimony on all the bills that we haven't done yet.

SENATOR DALTON: That is important. We have not begun to touch the resource recovery component yet. We have not begun to touch the waste water treatment component yet. We have not begun to discuss issues relative to governance of the trust.

SENATOR GARIBALDI: One of these bills is mine, as you are aware. Will we be meeting?

SENATOR DALTON: We are going to discuss your bill. Additionally, we-- We have a hearing, okay? After we get these answers today, we have a hearing scheduled for September 4. During

that interim period of time, I hope the Chief Counsel gives us written material relative to the questions we have. So, that is the bottom line.

SENATOR GARIBALDI: What is the deadline?

SENATOR DALTON: I would like to have the written material by Thursday.

SENATOR GARIBALDI: What is the deadline, Carey?

MR. EDWARDS: Well, the general bond issue has come about. Tomorrow we will file the conditional vetoes. I sent the letter to leadership indicating that our calculation, using your normal Monday and Thursday meeting days, was for September 12 for the bond issue on the ballot. The real date, I think, is probably the 16th or the 17th of September.

SENATOR GARIBALDI: That is the final.

MR. EDWARDS: But, that Monday, which happens to be Yom Kippur, is a Jewish holiday, and I know the Legislature was not planning to meet. So, the last scheduled date I am aware of is the 12th.

SENATOR DALTON: Division of Legal Services gave us a deadline of September 23.

SENATOR GARIBALDI: That is what I want to find out.

MR. EDWARDS: There is a mechanical problem, if I might just add, and I'm not trying to argue with Al Porrone on that. There are five days on each one of those bond issues that have to be translated into Spanish and have to be printed in 21 different counties. There are five or six days; that is why I said the 16th or the 17th. We have five or six days lead time in order to do that printing. And, there is no way— There is no special printer you can hire when you push that right to the absolute limit, which is how I arrived at the 12th.

I am not trying to shorten that period. I would love to lengthen it. If you can come up and talk with 21 county clerks and their printers, and tell me how that can be done, I will be happy to extend that date.

SENATOR CONTILLO: I am going to talk a little bit about 3189, Senator. I guess I have a special affinity for the resource recovery units.

I am trying to figure out how you will get the leveraging on resource recovery, which may or may not be a little different than the waste water treatment plants. But, we talked about the amount of money you would bond, which would be at \$75 million, and you would pick up \$50 million from the other natural resource bond issue.

We talked about putting them both together. I am not sure whether you intend to use that entire \$125 million in leverage. Do you intend to take from that \$125 million to give \$15 million to Bergen, \$15 million to Essex, and— How much will you have to spend?

MR. EDWARDS: Let Tony interrupt if I miss it, Senator. What I think you are saying is, we plan to make the commitment for direct appropriations to the various counties in question for the items specified in that particular bill of interest-free loans.

Now, in addition to that, there is another component in this bill, or one of the others, that provides \$33 million to Essex County, which is S-3191. It has to do with resource recovery projects. The balance of the dollars would then be available to go into the trust fund, as would these dollars when they are repaid, which they will be at some point, even as low-interest loans. Then we can leverage.

SENATOR CONTILLO: Okay. What are we left with, \$82 million?

MR. PEREIRA: Eighty-two million dollars uncommitted through the legislation.

SENATOR CONTILLO: From which you will then start you leverage?

SENATOR GARIBALDI: Big business.

COMMISSIONER HUGHEY: This works a little differently.

MR. PEREIRA: The analysis we have done does not use leveraging as it would in the waste work component. In other words, it would not be a reserve account against which the trust would borrow. Rather, these projects have to come on line. There is no question about it. We are looking at what level and at what percentage of their capital costs the trust can provide assistance.

SENATOR DALTON: Where is that analysis?

MR. PEREIRA: We can provide you with it.

SENATOR DALTON: When? You provided it to Carey. He is putting together the information you requested.

SENATOR COSTA: You should have had that today.

SENATOR GORMLEY: Wasn't this done at an Appropriations meeting that lasted all night?

SENATOR DALTON: Could we have it?

SENATOR GORMLEY: You should have gone there two years ago; you missed it.

SENATOR DALTON: No, you should have gone there two years ago.

SENATOR CONTILLO: Let's do what we have today. Two years ago, some of us were doing different things than we are doing today.

MR. PEREIRA: The answer is that the trust, because it can borrow, can take care of-- We are looking at all the projects having to come on line in the next 10 years. If we provide 8% loans, 8% of the capital cost, the trust never has to borrow. But, if we provide 10% of the capital costs, there are three years where the trust has to borrow against the loan repayments that are still going to come in afterwards. So, because of that little three-year window, we can make the difference between giving them 8% of their capital costs and 10% of their capital costs. The ability to borrow for those three years -- the shortfall, which is not very much -- allows us to give them a higher percentage of their capital costs.

COMMISSIONER HUGHEY: So, it is still-- There is still leveraging that is done.

SENATOR COSTA: I am sorry; I do not follow that. Could you explain that?

MR. PEREIRA: Maybe I should do it.

SENATOR CONTILLO: First off-- You say the time period from inception to collecting fees is only three years?

MR. PEREIRA: For the life of the trust, if the trust issues -- as we have negotiated in the Bergen County case and the Essex County case -- 15-year interest-free loans for a percentage of the capital cost -- some piece of the capital costs of those projects. If we run the numbers without the trust's ability to borrow--

MR. EDWARDS: Which is anybody's program.

MR. PEREIRA: We can do 80% of the capital costs of all the projects the State needs and never have to borrow a dime because there will always be enough money revolving in there to do it. But, if we do 10% of the capital costs, in 1989 or 1990, there comes a time when the loan repayments are not coming in as quickly as we are giving the money out, and we will have to borrow a little bit. So, we can do 10% of the capital costs if you give us the power to borrow for three years against the future loan payments.

SENATOR CONTILLO: How much can you borrow from the \$82 million?

MR. PEREIRA: The total cumulative--

SENATOR CONTILLO: Well, up front right now. Right now you have three projects on line, and you want to give them 8% of their total projects--

COMMISSIONER HUGHEY: You do not have to borrow anything now. What happens is, a number of projects increase. You hit a three-year period where you are in a deficit situation at which point you use leveraging in a minimum way to cover that deficit.

SENATOR CONTILLO: You are at a deficit because there is no money coming in as user fees.

MR. PEREIRA: There is less coming in than is going out.

SENATOR CONTILLO: No, what is coming in?

MR. PEREIRA: The loan repayment.

SENATOR CONTILLO: And, what proceeds do you use to repay those loans?

MR. PEREIRA: If we were to loan, for example, before you take it to 1982-- We loaned Bergen County money interest-free for 15 years. They have to pay back a piece of that principal every year. Those payments are coming back into the trust and then are reused.

The analysis shows that if we give out the money as we expect these projects to come on line, there comes a point where the money is not coming in quite as quickly as we are giving it out. There is a three-year period where in the aggregate, if you add it all up for those three years, the trust has to borrow \$17 million, short-term, to cover that deficit. Out of \$150 million in loans on the--

SENATOR CONTILLO: I find it tough to understand how you are going to take \$82 million and generate \$3 billion.

MR. EDWARDS: Paul, we can provide 10% of their capital cost, based on the numbers we have in resource recovery projects in the State, with the existing dollars that are being appropriated for those projects other than the ones listed here. If it is a \$300 million project, that is \$30 million we can give them interest-free. If we don't have the capacity to borrow, we can only give them 8% of the capital cost, which means we can give them \$24 million. We can give them \$6 million more towards their capital cost at no interest rate if we have it in the trust. If we don't have this in the trust, we can only give them \$24 million.

MR. PANNELLA: Over a 15-year period, based on the \$82 million, it is roughly a \$50 million difference.

MR. EDWARDS: The reason we need the right to borrow is, if the loan payments come in, as he said, over let's say, 20 years or 25 years, there is a period of time when we have a deficiency. We have to borrow \$17 million in order to make that representation and put that program in place.

COMMISSIONER HUGHEY: But, Paul, we are not selling this as a \$3 billion project. The project list is \$3 billion. We have no intention of trying to fund \$3 billion. We are pulling off pieces of projects, \$15 million in the--

SENATOR CONTILLO: Three billion dollars worth of projects, but you are taking pieces of that.

COMMISSIONER HUGHEY: Yes, pieces of it. The Essex County case is \$15 million; Bergen is \$15 million, you know--

SENATOR CONTILLO: In the case of Bergen, they have already floated their bonds, haven't they?

MR. EDWARDS: But, they still need the \$15 million.

COMMISSIONER HUGHEY: But they need the \$15 million.

MR. EDWARDS: They are counting on it. That was part of their whole calculation.

SENATOR CONTILLO: Which, by the way, they don't have now.

MR. EDWARDS: That's right. I might add, and I think it may or may not be appropriate at this particular time, we are limited in doing 10% loans. The closure component of the trust has very, very great limitations. We are not dealing with the bulk of the issues. We need more money. There needs to be a larger commitment on an ongoing basis to deal with waste water, landfill closure, and resource recovery in the State, from the State government both the Legislature and the Executive Branch, not to pay all of it, but to pay more. That case was sold to me by Marty Herman, the stable funding component. If you add a stable funding component to landfill closure, resource recovery, and waste water, you materially change how much you are able to do and how much you are able to reduce -- I'm saying through the trust -- the cost to the ratepayer and to the taxpayer.

SENATOR CONTILLO: Doesn't the effect of the trust and the leverage and the borrowing, as opposed to the way I thought we were doing it originally-- Will that not increase-- We will be able to do more projects, but the effect of it has to be more costly to the ratepayer.

MR. EDWARDS: Less costly than their own, yes.

SENATOR CONTILLO: No, more costly. Grant money has to cost you less than money you have to--

MR. EDWARDS: If you are going out to build a project by yourself, if you are going to build a sewer plant by yourself, you are going to go out and pay 10% or 11% interest, and it is going to cost you \$300 million. If you go into the trust, whether it is a 12, 15, or 20-year, whichever you do, you are going to pay less than if you went out yourself. The more projects you try to do, the further you spread that money out, and the less the savings are to the local government. But it is less of a savings, not more cost.

MR. PANNELLA: But, the lesser the savings is negligible, even without a stable funding source, just based upon our waste water treatment component of the trust as it stands now based upon a one-time State contribution and the loan scenarios we described earlier. With a 20-year loan repayment schedule under our program versus a 20-year loan repayment schedule under the legislative proposal, per million dollars

borrowed by a local government, the annual repayment is only \$2,200 difference. On a million dollars borrowed, that is virtually an equal user fee, in fact -- \$2,200 per million dollars.

MR. EDWARDS: He is not talking about that; he is talking about how much it would cost if they borrowed it themselves. There is a savings involved. The more projects you try to do, the less the savings. The savings is not that much difference.

MR. PANNELLA: The point I am making is that the difference between the savings under your program and ours is negligible, but the output of our program is so much bigger.

SENATOR DALTON: But the thing is, you clearly have an analysis available, Carey, on landfill closure; you clearly have an analysis available on resource recovery. When are you going to share those with us?

MR. EDWARDS: As I told you at the beginning of the hearing, as soon as I get all of the data together and get it finished.

SENATOR DALTON: Obviously, you have it together. I mean the Commissioner and the Assistant Commissioner are reciting from it.

MR. EDWARDS: Not only did they recite from it, but I held the draft proposal up for you to see. I have to finish it; I do not have all of the components I want. We have been working very hard to do it. As soon as we have it, you'll get it; as soon as it is finished to my satisfaction. Notwithstanding the fact, Senator--

SENATOR DALTON: Will that be finished to give us enough time to study this proposal before the next public hearing. If you are fronting something and you're saying that this is the way to go, why can't we have that information before the next time we meet?

MR. EDWARDS: As soon as I can get it all together so that it is in a form and it is complete--

SENATOR DALTON: So, you are not making a commitment?

MR. EDWARDS: No, I am not making a commitment because-- Senator, if you want to go back and argue about that-- Do you see that stack of papers over there? Every one of those documents in those files I delivered to you over the last six months.

SENATOR DALTON: And not one of them, except for the waste water treatment component, provided us with an analysis.

MR. EDWARDS: Read the bill. You can read.

SENATOR DALTON: Read the bill? The bill doesn't say anything about interest rates. The bill doesn't say anything about leveraging.

MR. EDWARDS: You are just as capable with your staff as we are. You did not give me one document, one piece of paper, one analysis with reference to your bill. I had to read it. We had to sit down and try to figure it out. We don't know if we are right. We may even have a different scenario than you have in mind and how you would project it. Not one piece of information—

SENATOR DALTON: We are considering your bills now — the Governor's Environmental Trust proposal.

MR. EDWARDS: I'm saying that you are perfectly capable whether I give you the information or not.

SENATOR DALTON: Can we have the analysis so that we will have enough time to study it before the next public hearing?

MR. EDWARDS: As soon as I have it finished.

SENATOR GORMLEY: Can we have an analysis of your bill so we can put them together. This would be wonderful for the next public hearing.

SENATOR DALTON: Our bills, as of tomorrow, are a moot point.

SENATOR GORMLEY: Isn't it the environment and not the agenda that is the most important thing?

SENATOR DALTON: Our bills, as of tomorrow, are a moot point. That is according to the Governor's press secretary.

SENATOR GORMLEY: But if you are right, they should be prepared publicly to show you are right. Maybe you could show us we're wrong if we had your data on it. I know the media would like to have it. The public would like to have it.

SENATOR DALTON: We would like to have an analysis of the bills that are--

SENATOR GORMLEY: Well, give us yours. I asked for yours last week, Senator Dalton.

SENATOR DALTON: (continuing) — still being reviewed by the Legislature.

SENATOR GORMLEY: Oh, okay. Then you don't have to give us yours. Okay, that's it. Thank you.

SENATOR COSTA: Senator, it's general obligation bonds we're speaking of. You don't need a thorough analysis. That is extremely simple.

SENATOR GORMLEY: Oh, is it extremely simple? Well then, why don't you show how many projects you can do? How many projects can you do, if it is so simple?

SENATOR DALTON: You have already told us how many we can do, Senator. Okay?

SENATOR GORMLEY: It's not very many. You are conceding that point. You're conceding that point, thank you.

SENATOR DALTON: What we are trying to do is obtain information with regard to what your analysis suggests.

SENATOR GORMLEY: You have conceded our analysis that you can't do many projects, thank you.

MR. EDWARDS: We gave you an analysis that explains everything you just said. You've already got that.

SENATOR CONTILLO: Senator Dalton, I have never seen a sponsor of a bill refuse to answer questions before. I'm shocked.

MR. EDWARDS: No one is refusing. We're not refusing.

SENATOR GORMLEY: We have been answering questions all day.

SENATOR CONTILLO: Your answer to his request for information is, "Give me information on another subject." You are sponsoring a bill, Senator. I think it is incumbent upon you to answer the questions.

SENATOR GORMLEY: We're answering questions. Ask your questions. He didn't send me the letter; he sent it to Carey. Carey said he is going to give him a letter.

SENATOR CONTILLO: Senator, you have the right not to respond if you choose, but I think you are here to convince this Committee why we should vote for your bill.

SENATOR GORMLEY: Oh, this is a partisan setup. Let's not be ridiculous. It started with 30 minutes of breast feeding, holding up campaign literature, and whatever. That is how it started. Now, you

wanted to start the thing about the letter from Carey. If you want to start again, we'll start again.

SENATOR DALTON: That's fine.

SENATOR COSTA: I take issue with that, Senator.

SENATOR GORMLEY: But, if you want to ask questions, we're here— They have been answering questions, and they will continue to do so. Ask some questions. Go ahead.

SENATOR DALTON: We asked a question about when are we going to be provided with an analysis.

SENATOR GORMLEY: We asked the question when we are going to get our letter back. Why don't you ask questions about facts in the program right now with Bob and Carey here? You don't want to do it.

SENATOR DALTON: They are not facts. Your analysis is not factual.

SENATOR GORMLEY: It isn't factual?

SENATOR DALTON: No, is it? If it is, we would like to have it.

SENATOR GORMLEY: Have either of them lied to you today? Are you saying they are lying about the numbers they are giving you?

SENATOR COSTA: Well, we can't see—

SENATOR DALTON: We would like to substantiate it.

SENATOR GORMLEY: Well, ask them. You have all these questions, you have everyone here, ask them. Ask them.

SENATOR DALTON: We would like to substantiate it.

SENATOR GORMLEY: Ask them. I don't think you want to because you are going to look foolish if you ask specific questions.

SENATOR DALTON: We would like to see it in black and white.

SENATOR COSTA: What do you think we have been doing?

SENATOR DALTON: Why would we look foolish if this program is so good?

SENATOR GORMLEY: Well, go ahead and ask your questions.

SENATOR DALTON: We want the analysis. We want the spread sheets.

SENATOR GORMLEY: Is that the last question? You said you had questions, aren't you going to ask them?

SENATOR DALTON: We have more questions. You keep referring to spread sheets that are not available to us.

SENATOR GORMLEY: Senator, ask your questions.

MR. EDWARDS: Senator, you voted on a piece of legislation to set up a revolving loan fund that has the complexity as this, 10 days after it was introduced. I was at the hearing.

SENATOR DALTON: The same complexity? You already told us that there is no leveraging component to the legislation.

MR. EDWARDS: I asked questions and you couldn't answer them.

SENATOR DALTON: There is a leveraging component to your legislation. What we are asking for is the spread sheet to see how far that will go.

MR. EDWARDS: I have given you a spread sheet as to how it works; you have it.

SENATOR GORMLEY: There is a spread sheet. He has it in front of him.

MR. EDWARDS: I delivered it to you.

SENATOR DALTON: That is on waste water treatment. There are also two other components to this trust fund. The Commissioner referred to it and the Assistant Commissioner referred to it. Why can't this Committee have it?

COMMISSIONER HUGHEY: As far as I am concerned, you can have it, Dan. I did spread sheets on my program; I did spread sheets on your program. The only information I have is what I generated. All right?

SENATOR DALTON: That's fine, Commissioner. If it was up to you, I would have it, but it is the General Counsel I am dealing with, and he can't tell me when I can have it.

COMMISSIONER HUGHEY: I am sure what he is saying, Dan-- Let's put this back in context. Over the course of the last three years, we have given you a lot of information. Most of the answers to the questions you have asked have been provided in one form or another through that information. All it takes is some looking.

Over the course of your discussions on your program, I have this much information. I am holding it up (demonstrates). You know, that is all we have.

SENATOR DALTON: Governor -- I mean Commissioner-- That is how much respect I have for you, Commissioner. The bottom line is, our program is now moot. What we are attempting to do is--

COMMISSIONER HUGHEY: (interrupting) Thank God. With all of this information, it should be.

SENATOR DALTON: (continuing) --understand your program.

COMMISSIONER HUGHEY: All right. I think, Dan, that that is fair. I think we should be asked the same questions that they were asked. I think to get that on an equal basis, we provided incredible amounts of information. The information you requested today you will have.

SENATOR DALTON: When?

COMMISSIONER HUGHEY: I am promising you that you will have it. You will have it as soon--

SENATOR DALTON: (interrupting) Will we have it in enough time to look at it before the next public hearing?

COMMISSIONER HUGHEY: You will have it-- Actually, if you will tell me you will vote on this complex problem tomorrow, I will get it to you by tomorrow.

SENATOR DALTON: How can we vote on the complex problem tomorrow when we don't have the spread sheets today?

COMMISSIONER HUGHEY: All you have to do is say, "We are going to vote on a program that has a leveraging component that will allow us to do more than the program that we voted on without any information in 10 days."

SENATOR DALTON: Ultimately, what we are going to do is subject to the determination of this Committee. Okay? Both Democrats and Republicans. And that was subject to the determination of this Committee. Okay?

COMMISSIONER HUGHEY: All right. I'm saying let's be--

SENATOR DALTON: What we're saying is, if you have spread sheets on landfill closure and if you have spread sheets on resource recovery, we would like them to be shared with us in enough time to permit us to review them prior to the next Committee meeting. So, when we come back and, hopefully, have the opportunity to have you back here

again, Commissioner, maybe we can ask a little more in the way of pointed questions and, hopefully, intelligent questions, to better understand your program.

COMMISSIONER HUGHEY: Dan, I understand that, but what I don't understand -- and I am the one that is saying it now; this is not a part of an exchange between you and Carey -- is, factually, we are the only ones who have to come up with information. If I can show you, or if I can show your consultant, that a trust works because of leveraging better than a program that you voted on in 10 days without any information, will you approve it tomorrow?

SENATOR DALTON: If we have the spread sheets, if we have the answers to the questions we wrote to Mr. Edwards, back to us so that we can review them, then we will vote on a proposal. Okay? But, what I am suggesting is, we are not going to vote on a proposal until we have all the information that the Legislature needs in order to make a thoughtful determination.

COMMISSIONER HUGHEY: Okay, I think that is fair.

SENATOR CONTILLO: Will there be another set of amendments?

COMMISSIONER HUGHEY: Am I going to need it?

SENATOR CONTILLO: No. Will there be another set of amendments? We have the bills; we have one set of amendments. Is that final, or will there be an additional set of amendments?

COMMISSIONER HUGHEY: Paul, I think very honestly, the only amendments I know of are the ones that were negotiated between Carey and members of the Democratic party. So, as far as I am concerned, the trust package is ready to go the way it is now.

SENATOR CONTILLO: Okay. Then maybe I can ask--

SENATOR COSTA: (interrupting) I just heard some here today at this hearing.

MR. EDWARDS: We spent time talking about landfill closure and why there is not more information on it. Landfill closure was not our concept. That was Senator Dalton's and Assemblyman Herman's. I should be asking them, "What is the proposal for dealing with landfill closure and where is your information," to convince me to include it in the bill. We went through the drafting process to include it at their

particular request. So, I don't know what all this-- To me, this letter and the delivery of this letter is nothing more than a political posturing to determine--

SENATOR CONTILLO: I didn't ask you-- I asked you a single question.

MR. EDWARDS: Wait a minute. It is a political posturing and a way of slowing down the process until you guys can make up your minds, because the data is all there. You can read as well as I can. It is a difficult process.

SENATOR CONTILLO: Mr. Edwards, I asked you a single question. Will there be any additional amendments to these three, or four, or five bills we have here?

MR. EDWARDS: I don't think so unless you propose them. I suggested amendments today. Suppose I go out and draft an amendment to give you legislative oversight so that you approve every loan program that comes out. Are you going to say that is an amendment?

SENATOR CONTILLO: I would say it was a very favorable amendment.

MR. EDWARDS: If I gave it to you, would you say, "Oh, wait, we have to have data on that. We have to start this all over again." No, have no fear. You can draft all of Dan's amendments.

SENATOR DALTON: Commissioner, first of all, let me indicate to you that I appreciate the fact that you have been so forthcoming with the information. What we need, as I indicated to you, is the analysis, to be able to review your program and to understand it better. It is potentially a \$9 billion program. Okay? I appreciate the fact that you have been forthcoming with that information. I only hope that we get the opportunity to receive it in time, as I said, prior to the next public hearing. After that public hearing, this Committee will make a determination as to what route it wants to take.

However, what I am basically asking for are that analysis and those spread sheets that you referred to.

COMMISSIONER HUGHEY: Dan, let me make an offer. First of all, on closure, Carey is right. We added closure on, and you know how it got added on. There is not much of a spread sheet on closure. It

is very forthcoming. Thirty million dollars of it is going to go into grants, primarily to a landfill in your district because we need an out-of-State cover. The only way I can make that better on a closure spread sheet is to take away a grant component. Sixty percent of what You and I are committing is going to grants. There is not much of a spread sheet; I mean, there is no spread sheet. Resource recovery—

SENATOR COSTA: (interrupting) Commissioner, did you say Burlington?

COMMISSIONER HUGHEY: Pardon me?

SENATOR COSTA: Did you say in Burlington?

COMMISSIONER HUGHEY: No, in Dan's district, Camden -- the Kinsley Landfill.

SENATOR COSTA: Oh.

SENATOR DALTON: It is south. It is the largest landfill in the southern part of the State.

COMMISSIONER HUGHEY: It is a South Jersey situation. There are two, by the way, Cathy. Everyone here has a closure landfill, but we have an out-of-State component which makes the spread sheets on that next to nothing. I think everyone understands that.

The spread sheet on resource recovery shows when we have to borrow money to cut the deficit, and I will make that available. As a matter of fact, what I would like to recommend is that everything you have asked for you can have right now. I will take your consultant back, sit him down with the people in my Department, and make that information available. He can bring it back to you while you are still at the hearing, and you can consider it today. As far as I am concerned, the information is yours.

SENATOR DALTON: We would be glad to consider that today. We would love to have it; love to consider it tomorrow, and the next day. We are going to have these public hearings; we are going to get through our questions; we are going to give members of the public an opportunity to be heard on September 4; and, then we are going to make a determination. Okay?

COMMISSIONER HUGHEY: Okay. Carey?

MR. EDWARDS: That's fair.

SENATOR DALTON: So, are we going to have the information today?

MR. EDWARDS: As the Commissioner said, you can not only have that information, but any other information your consultants or other members of your staff want. I have made that offer dozens of times; Tony has made that offer, he has been available to meet; and, we have made members of DEP available. We will do that again. I'm not kidding.

SENATOR DALTON: You know, we have asked for this information before. Come on. We all remember the day before we left.

MR. EDWARDS: When you posed a letter like that to me, after the public statements and a vote on a bill, then I am going to be very careful about how I sit down and formulate an answer to those questions. If you want to go over to the Department and get real data so that you can make a judgment, we will be happy to open up the Department's information to you

There is a major difference between me answering those kinds of questions, the way you posed them, and giving you data that is in the Department.

SENATOR DALTON: We will take both.

MR. EDWARDS: Fine, and I will answer this as quickly as I can. I will answer it. I never indicated I would not supply you with that information.

SENATOR DALTON: Senator, do you want to continue on resource recovery?

SENATOR CONTILLO: I think not.

SENATOR DALTON: Senator Costa, do you have some questions?

SENATOR COSTA: Regarding the trust itself, can the trust hire a director or staff?

MR. PANNELLA: We have built into the trust act a staff limitation. In any given fiscal year, the trust could never expend more than \$250,000 for staff expenses, which I think is evident and is a minimal amount of money. Never more than \$250,000 for staff per year. That is everything, all staff expenses.

SENATOR COSTA: In the trust bill, it says that the trust can provide financial and credit advice. Will they have sufficient staff to do this?

MR. PANNELLA: Well, with the \$250,000 limitation, which we inserted at the request of the Assembly majority, frankly, they are going to provide a limited amount of advice because they are not going to be able to hire that many people. We didn't want that \$250,000 staff cap. We put it in, to be honest with you, at the request of Assemblyman Herman.

SENATOR COSTA: Will they hire consultants then?

MR. PANNELLA: Consultants are outside the scope of staff.

SENATOR COSTA: But they can?

MR. EDWARDS: They can, obviously, if they do borrowing, Senator, bond counsel, underwriters, those kinds of costs.

MR. PANNELLA: The normal costs associated with public finance, whether it is done through the trust or done in open public markets. If a local government wants to finance in the open public market, it will still need a financial advisor or a bond counsel, it will still need someone to print the documents for it, it will still need all of those things. With the trust, by issuing on behalf of local governments, we can, in fact, reduce those costs.

SENATOR COSTA: Would you pass them on to local governments?

MR. EDWARDS: Oh, yes. One of the other advantages -- a very small advantage, a collateral one -- is, if you are local governments and two or three of you want to go out and do a project, and you don't want to borrow any money from the trust, the trust has the ability, technically, to lump you all together and do one bonding.

MR. PANNELLA: That will substantially reduce the issuance costs.

SENATOR COSTA: Can they use the revenue bonds to finance their operating costs? Can they use their revenue bonds?

MR. PANNELLA: No, they can not. They have \$250,000 annually, no more.

SENATOR COSTA: They can't. What does it mean then when the trust bill says, "Land proceeds can be issued for corporate purposes"?

MR. PANNELLA: The amendment which I recited earlier, which I think you have before you for Senate Bill 3187, says that those moneys can only be expended pursuant to Sections 23 and 24 of the trust act. Those sections specifically are the sections that say, in short, that the trust can't issue a loan or a grant except as approved by the Legislature, period. You can't buy property; you can't hire consultants; you can't do anything. You can issue loans and grants, that's it. And, you can only issue loans and grants for projects which the Legislature approves on a project-specific basis.

SENATOR COSTA: I believe you said they can hire consultants.

MR. PANNELLA: Senator, if you think there is some ambiguity regarding staff, and there is clearer language that could be used to establish that the trust can only expend \$250,000 a year for staff, write it in.

SENATOR COSTA: Really, what I am getting at is whether that operating budget could exceed that \$250,000, say, for hiring consultants rather than salaried people.

MR. PANNELLA: Never. It was never our intention when drafting the language that it could. If we were in error, we stand corrected and will accept any amendment to clarify it.

SENATOR COSTA: So, you stand on that \$250,000 cap?

MR. PANNELLA: As recommended to us by the Assembly majority.

SENATOR DALTON: Would you have any objections to the oversight of the budget of the trust -- the operating budget of the trust?

MR. EDWARDS: I think we have provided for--

MR. PANNELLA: (interrupting) The trust has extensive reporting requirements imposed upon it.

MR. EDWARDS: Auditing is already written in. I don't remember what they are, but we did go through that again with Assemblyman Herman at the time. It dealt with delivering copies of budgets and financial statements, and all kinds of documents on oversight. If you want some more, we will be happy to include them.

COMMISSIONER HUGHEY: Cathy, let me put a caveat on what Tony and Carey said because I don't happen to agree so readily. I think the

cap is intended as a staffing cap because we want it to be a small trust. I don't think you want that limit to apply, in addition to that, to consultants. Let's look at the job this group is going to do. I mean, you are talking about a cap just on staff that a number of the authorities on this list exceed by a factor of five. They are going to be doing financing mechanisms for a number of very serious projects, and they are going to need consultant help on staff. I think that an attempt to keep the staff down is a great idea, but I wouldn't make that cap apply to consultants as well, and I don't think it is intended to apply.

MR. PANNELLA: It applies to full-time staff. For instance, you need an executive director and he would need some assistants, full-time employees.

SENATOR COSTA: I got a different picture just before in your response.

COMMISSIONER HUGHEY: That is why I was clarifying it.

SENATOR COSTA: I got a completely different picture from both of you when I asked the question.

SENATOR DALTON: Commissioner, why wouldn't you have that expertise readily available right there on staff?

COMMISSIONER HUGHEY: In my Department, or no, on staff?

SENATOR DALTON: No.

SENATOR COSTA: No, in the trust.

COMMISSIONER HUGHEY: Because I think, Dan, the way I look at this it is an opportunity to-- Classically, let me tell you where I might do some consulting on a multiple bond issue which was going to be used against a reserve for a number of communities. I would bring someone in to do that issue, or to help with that issue. I don't think you need that person on a day-to-day basis.

SENATOR DALTON: Do you mean bond consultants, the people who put together the deals?

COMMISSIONER HUGHEY: Yes, bond consultants. Not having that person on a day-to-day basis, if you were going to do an issue for a number of communities, makes a lot of sense, but not having that person when you are going to do a major issue, that makes no sense at all.

Every one of those communities, if not being serviced by the trust, would be doing that individually.

SENATOR COSTA: Speaking of bonding consulting is a different story. That comes when you have to go out for your bonds. But any other consultants -- that would scare me, leaving that wide open.

COMMISSIONER HUGHEY: It doesn't scare me. Let's assume, for example-- None of us are without consultants in this process.

SENATOR COSTA: This is the one thing I think is so wrong, especially with the counties. You know, I come from a County Board of Freeholders, where we had to hire consultant after consultant. Money was poured down the drain, and we never got anywhere. That is why I get scared. I have had experience in that arena.

COMMISSIONER HUGHEY: Well, I guess the question -- you go right to my point -- is, are you going to let counties continue to do that or are you going to try to provide some overview and an ability to do that within the trust, and save them all money, Cathy. Now, let me give you an example.

SENATOR COSTA: If the State does that, do you mean that the counties will no longer need consultants?

COMMISSIONER HUGHEY: I think you are going to find that if the trust works properly on financing, it is going to save a number -- I am not talking about counties -- of municipalities that may be involved in issues individually that could be serviced in one package.

SENATOR DALTON: Your point about consultants is well taken. This trust is going to need consultants. My question is, why don't you make it part of the operating budget?

COMMISSIONER HUGHEY: Let me tell you how the cap came into play. There was no reference to a cap as this bill was discussed in terms of how we were going to staff up, but there was repeated reference to the attempt to keep it as a lean financing mechanism. Through negotiations, again that Carey had with the majority in the other house, there was a desire to have a cap on it.

SENATOR DALTON: With Assemblyman Herman.

COMMISSIONER HUGHEY: So, someone put a cap on it. I would not have had the cap, Dan. I think there is oversight provided for,

there is auditing provided for in the legislation. I think the Legislature can deal with that on a yearly basis, as it does with my Department and any other department. So, I thought that was the proper way to judge the budget of this group.

MR. EDWARDS: Obviously, we would prefer, Senator, to have it the other way, with no cap, but there is the fear, as Senator Costa explained before, of creating some monstrous bureaucracy out there. It is a real fear among legislators. Based on that, that is not what we are trying to do. We are trying to provide whatever minimal amount of services are there. We are obviously going to draw on Treasury and DEP expertise that already exists. So, using the cap was a way to guarantee to the Legislature and to the public that this is not some runaway bureaucracy. You have to turn around and say, "We always intended to be able to choose between staff and consultants. If you want to put a limit on the staff, you necessarily have to put pressure on the consultant side when you do that. That is the trade-off that happens. We still stand ready to discuss how that balance should be there, but the expertise has to be obtained one way or another." That's all.

SENATOR DALTON: The bottom line is, the expertise has to be available. I am not going to argue with that; I agree with you.

MR. EDWARDS: So, any mechanism that accomplishes that -- or if this one accomplishes it -- will obviously put pressure on the consultant side, which minimizes the creation of a long-term bureaucracy. If that is the policy judgment the Legislature wants to make, we can live with that, and we kind of like it. I mean, I am not really objecting to it.

SENATOR COSTA: I want that clarified in my mind once again because first we had different opinions. In this, you have a cap of \$250,000 for staff payments.

MR. EDWARDS: Yes, that is full-time staff, payroll, straight employees, etc.

SENATOR COSTA: Bond counselors would be outside of that?

MR. EDWARDS: Correct.

SENATOR COSTA: Okay. Other consultants -- is that outside of that also?

MR. EDWARDS: Financial advisors, say, for a group of three or four municipalities who want to get together to use the trust as a bonding vehicle. They need someone to advise them on how to do that, to put it together, and you might want to bring in an outside consultant to assist them, yes.

SENATOR COSTA: From what you said, Commissioner, speaking of consultants and whether the towns or the counties would bear the burden, are you speaking of engineering consultants, hydrological consultants, environmental consultants?

MR. EDWARDS: No.

SENATOR COSTA: Then you are just speaking about bonding consultants and financial consultants.

MR. PANNELLA: The trust would have no purpose for hiring design engineers—

MR. EDWARDS: None of that.

MR. PANNELLA: The sole purpose of the trust is not to use State dollars; it is a financing agency. The entire purview of design and construction of projects is accomplished outside the realm of the trust. It would have no reason to hire a design engineer.

SENATOR COSTA: There are no other expenses above the ones we are speaking about now that you can foresee?

MR. PANNELLA: Any expenses that would be incurred in the issuance of trust bonds would be the same as those incurred by any local government that issued in the open public marketplace, except for one thing. Since the trust would be issuing on behalf of local governments, the overall costs for the professional consultants necessary would, in fact, be less than if the local governments did it on their own. There is an economy of scale if the trust issued \$10 million worth of bonds versus 10 municipalities going out and issuing \$1 million each, if you added up your bond counseling costs.

SENATOR COSTA: I can accept that. Regarding the waste water treatment, one of your proposals is to take the current 8% State grant and turn that into a loan rather than a grant. Is that correct?

COMMISSIONER HUGHEY: That has already been done.

SENATOR COSTA: How many municipalities will be affected by that?

COMMISSIONER HUGHEY: Everybody on the list who eventually will get a grant will be affected by that.

SENATOR COSTA: Do you have a total dollar figure in the grant funding that will be denied to these municipalities?

MR. PANNELLA: Under the present four-year allocation of Federal grant moneys, no more than 10 municipalities can be affected because no more than 10 municipalities are going to be eligible for the few remaining Federal dollars that are available for grants for the present four-year reauthorization of the Clean Water Acts Construction Grants Program.

SENATOR COSTA: I am speaking about the State 8%, when we give the grants.

COMMISSIONER HUGHEY: Well, the State 8%, Cathy, only comes into play with those people who get funding.

MR. PANNELLA: Exactly.

COMMISSIONER HUGHEY: So, the only people who are affected by that are the people who are getting grants. I think if you did a poll in this State, the other people who are not getting grants would say, "That is not a bad price to pay for getting a Federal grant."

MR. PANNELLA: That's a bargain.

SENATOR COSTA: Do you have a list of those municipalities?

COMMISSIONER HUGHEY: Yes. As a matter of fact, it is on the priority list.

MR. PANNELLA: It is in the green-backed 1985 waste water priority listing that Senator Contillo held up. If you look at the beginning of that list, you'll see a section where it says, "Federal Grants." It takes you through seven to ten projects. The first 10 projects would receive 55% of the funding pursuant to the few remaining Federal dollars. Those few projects would also get an 8% State matching loan.

SENATOR COSTA: So, for those municipalities who happen to be paying that 8% and are expecting to get that as a grant, they are going to have to raise property taxes in order to pay for it, won't they?

COMMISSIONER HUGHEY: Well, I guess they would have to raise user fees to pay for it. Everyone beyond the 10 that Tony referred to

are going to have to raise 100% of their funding locally. We didn't think that people who were getting grants should object to getting their 8% match money in loans. That was a proposal we first took in front of the Capital Planning Commission three years ago, so it has been something we have been working on for a period years.

Is there a basic unfairness to it? I think anyone who is #120 on the list would agree that #1 has a pretty good deal. I guess #1 would like to have a better deal. When they all started out, if you will recall, they were going to get 75% funding. That was under the old program. They now get 55% funding under the Federal proposal. I guess there is an unfairness there too.

What we are trying to do is to make resources move as far as they can wherever we have resources to apply to this program.

MR. EDWARDS: It would be cheaper if we took all of the money and gave them grants.

MR. PANNELLA: It would only help a select few.

SENATOR COSTA: I saw a figure that said there is \$5 billion worth of waste water treatment projects. Will you have to borrow to generate that much capital funding as well?

MR. EDWARDS: No. When you talk about borrowing, as you said about \$500 million or \$600 million, the rest of it comes from the existing appropriation -- Federal money that is coming in. Somehow we are not talking about borrowing \$5 billion.

MR. PANNELLA: The \$5 billion figure represents our estimate of need.

MR. EDWARDS: Again, I would like to indicate that that was the cap put on at the request of the Legislature. If you want to take it off, take it off.

COMMISSIONER HUGHEY: Cut it in half. You are never going to hit the limit anyway.

SENATOR COSTA: Excuse me. I am trying to get my information sorted out. I want to ask you a question about the Federal grant program of, I think, \$400 million that is supposed to come through some of the revolving funds.

MR. PANNELLA: It is \$460 million in grants. It is about \$404.5 million dollars in what are called special capitalization grants which, in essence, is a new program from the Federal government where they grant the money to the State and the State turns the money into loans.

MR. EDWARDS: It is a \$404 million loan program.

SENATOR COSTA: I beg your pardon?

MR. EDWARDS: It is a \$404 million loan program, Senator, and a \$460 million grant program from the Federal government.

SENATOR COSTA: Who will get that grant money?

COMMISSIONER HUGHEY: Whoever stays on the list.

MR. PANNELLA: There is no charge whatsoever.

SENATOR COSTA: Will that be matched with an 8% loan?

MR. PANNELLA: Yes, it will.

SENATOR COSTA: Is that more than 10 projects?

COMMISSIONER HUGHEY: I think it is about 15, but we have some INA projects too.

MR. PANNELLA: We are not receiving that money all at once; we are receiving it over a four-year period.

SENATOR COSTA: Four hundred million dollars for only 10 projects?

MR. PANNELLA: What you need to understand is, for instance, the Camden County waste water treatment facility is a \$200 million facility. It just happened that that facility was #2 or #3 on the list. That is going to take up 55% of \$200 million, roughly \$110 million right off the top for that one facility.

I don't want to use the term loosely, but it is the luck of the draw. If the project is high on the priority, the Federal moneys can be used up faster.

SENATOR COSTA: I am looking at the 1985 project priority list. Some are \$5 million, \$2 million, \$4 million. Hudson County has one for \$18 million.

MR. PANNELLA: In essence, what would happen is--

SENATOR COSTA: Are we reading it wrong?

MR. PANNELLA: Each one of those projects you are citing will be funded at 55% of the estimated project level. I think we can take the \$460 million and run it down the list, you are going to find out that it doesn't go too far, especially in light of the fact that the Federal government requires 10% of that \$460 million to be set aside.

SENATOR COSTA: Those figures right now are the total amounts of the projects I am giving you. It is \$5 million for Perth Amboy, \$2 million for Woodbridge. The most is \$31 million for Cape May County.

COMMISSIONER HUGHEY: What you are reading are the Federal shares. There is a column just to the right of that which is the total eligible project costs. The Federal government picks up 55% of that cost.

MR. EDWARDS: It is over a four-year period.

COMMISSIONER HUGHEY: Cathy, you run the priority list exactly the way we have been doing it over a four-year period at roughly \$100 million a year. Okay? That is what you have in fundable projects.

In 1989, under both the House and the Senate versions of the new Clean Water Act, there is a shift from what is now a grant program to a loan program -- progressively more money going into State revolving loan accounts. It is really sort of modeled after what we have proposed.

No one can change the list, Cathy. It stays the same. What you can get to for \$100 million, over the course of a given year, is what we are going to be able to get to over the next three years.

MR. PANNELLA: I think it is important to recognize that any local government that would have received a grant without the trust will still receive a grant if the trust is created. There will be no local government that would have otherwise received a grant that won't receive one.

MR. EDWARDS: The trust will be able to take the balance of their local share and loan them the money cheaper than they are able to do it now.

SENATOR COSTA: But, they weren't going to pay 8%, so--

MR. EDWARDS: The balance will be cheaper. The balance of the combined local share will be cheaper, even with the loan at 8%. If they got an 8% grant and did the rest of the local share on their own-- Actually, it would be 55% and 80%. It would be roughly 63%. You would have 37% that the local government would have to do themselves at full rates.

If they have to do some 40-odd percent and then come back to the trust to borrow, because we are giving loans out and not grants, then we are able to help them specifically to their local share.

SENATOR COSTA: Twelve-year loans are not really that cheap. Five percent at 12 years is more than 10% at 20 years. Right?

COMMISSIONER HUGHEY: That is not true. Cathy, I think everything has to be compared to something. You are right; 12-year loans aren't cheap. They are a lot cheaper than borrowing money at the prevailing rate. I would be happier with 20-year loans. I think every member of this Committee would. We can do that with the existing plot we have prescribed. It doesn't get us to as many communities as fast as we would like. We could do it much better if we had a little more money or a stable source of funding.

But, nothing is free. Under any of the proposals we have discussed here during the last year, nothing is free. But, you have to keep comparing it to what exists, not to what the ideal is. The ideal would be a 75% grant program from the Federal government forever. It hasn't existed for the last five years, and it is never going to exist again.

The reality is, you borrow it yourself at the prevailing rates, or you face a sewer ban, or you face polluted waters, or you start to find some way that we can all begin to work together.

SENATOR COSTA: Commissioner, I keep hearing stable funding. What are you referring to?

COMMISSIONER HUGHEY: What we have talked about for the last six months is that every program, whether it is resource recovery or closure or sewerage construction, gets better if you get more money into it. So, if you found a way, or you and the Administration found a way, to put a constant supply of money into this fund, it gets better and better and better.

SENATOR COSTA: Right now, we don't have it.

COMMISSIONER HUGHEY: We don't have it because—

MR. EDWARDS: Senator, there would have to be a commitment of an appropriation. The Transportation Trust Fund Authority did that.

SENATOR COSTA: Like moneys from the highway—

MR. EDWARDS: No, no. There is an appropriation on an annual basis -- a guaranteed appropriation -- in the Transportation Trust Fund Authority of \$88 million a year for 10 years. As a result of that guaranteed appropriation from State government, which becomes a moral pledge, into the Transportation Trust Fund Authority, they are able to leverage those dollars and put the full value -- the full \$3.4 billion -- out in four years.

If the Legislature and the Governor could agree on a stable source of funding, you could do the same thing. You could turn around and take, let's say \$100 million -- that is the number that is talked about-- You could take \$20 million and give it to closure, \$20 million to resource recovery, and \$60 million to waste water.

You would take those dollars. You would make a commitment to do it for 15 years, for the sake of discussion, and you could then leverage that commitment that the Legislature and the Governor make-- You would put that money into the trust and borrow the money to do the projects.

The Commissioner is saying that if you get a stable source of funding, you can accelerate each one of those components. You can deal with cleaner water, cleaner air, and cleaning up our landfills faster, which means we have a better environment and a better quality of life.

That is the bottom line. That is what we are talking about. That is, if you have the vehicle of the trust. If you don't have the vehicle of the trust, you can't do that. You can't leverage the money and say, "I'm going to get money in for 15 years at \$100 million a year. I can only spend it as it is appropriated each year." Then it is up to the vagaries of the Legislature to do that.

SENATOR COSTA: Carey, I know what is meant by stable funding, except I didn't know if there was something we didn't know about that you already had in mind.

COMMISSIONER HUGHEY: I keep saying that someone ought to decide if there is a stable funding source.

MR. PANNELLA: Even without stable funding, we think the program, as it stands now without stable funding, is the faster, cheaper scenario. We think we can do more projects on a faster and an overall cheaper basis for local governments.

If the Legislature saw fit to act in a stable funding source, those benefits of the trust would be further highlighted. You would have a reverse effect.

The output of the trust would flow even more, and the user impact of the trust would become less. The stable funding component--

SENATOR COSTA: Speaking about stability and funding, you know, the appropriations in Washington and even here in Trenton, are not exactly predictable. What is the status of the Federal bill?

COMMISSIONER HUGHEY: The status of the Federal bill is that no matter what happens, it gets worse. We have a funding program that decreased a number of years ago. I'm just going to put this in the context of the last couple of years. We have a program that when we talk about it, we all think it is popular because there are 286 communities that need help. But, when Congress talks about it, they talk about a program that they started in the early 1970s that was going to be done in a decade.

The priority lists in every state now are longer than when they started in 1972, so they have been trying to find a way to phase out of this program.

The first shot was, they didn't get as much. The second shot was that the percentages decreased. The third shot is that there are two mark-ups that are going on now, which would revert gradually to revolving loans.

Whatever happens, we are going to see the program on a decrease. But, we are going to see a program. There are too many projects left that haven't been completed.

SENATOR COSTA: What happens if the anticipated Federal funding is not forthcoming? What is your hedge against this loss?

COMMISSIONER HUGHEY: Well, I have no hedge against any loss right now, Cathy. Right now, I have 286 projects on the priority list, and this year, I was able to partially fund three of them. That is not a real big hedge.

I don't offer anything to the communities that aren't in the top three partials.

MR. EDWARDS: One of the hedges has been in the trust and the establishment of the trust as a vehicle that can supplement the Federal grants. When we first recommended the infrastructure bank, which had the same thing, one of the complaints was that we were taking grant money as a hedge at that point, and we were going to convert to loan money right away.

What the Federal government is doing now, we were prepared to do in advance to try to get more projects going as a hedge. The Legislature objected to that, and there were certain people that commitments were made to, so it wouldn't pass the infrastructure bank.

We are saying that we are going to leave alone whatever grants come in from the Federal government -- whatever they are. Even if it is \$460 million if they increase or decrease it, we are going to take our loan funds and whatever other loan funds we can get and put them into the trust, and then match the moneys. That is what we are saying.

SENATOR CONTILLO: You know, you talked about doing the projects faster. I think you have agreed that that will have no effect on the landfills if you do them any faster.

COMMISSIONER HUGHEY: It will have a lot of effect.

SENATOR CONTILLO: To do the landfill closure faster?

MR. PANNELLA: We could do them a lot faster through a stable funding source.

SENATOR CONTILLO: You haven't won the first fight. Don't try to get into the second one. (laughter)

COMMISSIONER HUGHEY: Paul, if I understand your question, are you saying, will this help us to do it faster?

SENATOR CONTILLO: Yes.

COMMISSIONER HUGHEY: Yes. Whether it is 60% grant money for a specific case of out-of-state waste and \$20 million for the rest, that is \$50 million. You know, a lot of what we do in this State reminds me of looking at a mountain and saying, "We can't climb the mountain." As soon as you take a step, we say, "We are not going to get there fast enough."

We don't have any statewide commitment for closure in this State right now.

SENATOR CONTILLO: Let me make resource recovery a little clearer. The problems with resource recovery are not going to be where they are throwing a few more dollars at a project, because the projects are so huge that \$300 million -- the problems, the siting-- There are many other environmental problems; there are political problems. I don't see how this trust or authority -- whatever you choose to call it -- is going to make one single resource recovery unit come on line one minute faster.

COMMISSIONER HUGHEY: I think you are wrong. If you talk to Essex County or Bergen County, and you say, "Is this going to make a difference?" Not in terms of speed, Paul, you are right. But, if you gotta go, you gotta go.

Is it going to make a difference in the tipping fees of people who live here? The answer is yes.

SENATOR CONTILLO: There will be a miniscule difference in the tipping fees. I agree, yes.

MR. EDWARDS: In the Essex case--

SENATOR CONTILLO: In Bergen, you are talking about \$15 million in either program. How does Bergen save one penny on their tipping fees as opposed to what was vetoed?

MR. PEREIRA: There is a difference. With the trust, we would be able to provide 10% of the \$360 million Bergen County project. In other words, it would be \$36 million.

SENATOR CONTILLO: I think they are already committed though.

MR. PEREIRA: What they have done is in anticipation of this and is in connection with finalizing their project. They sold bonds based on a letter of credit that have to be finalized very soon for

this project to go forward. They are committed, but they can get out of it. They can be thrown out of it if they don't get what they need.

SENATOR CONTILLO: Move it.

MR. PEREIRA: That is right. So, we can give them 10% of their \$360 million. Without the ability to borrow that the trust has, the loan repayment anticipations notes — that is what it is called — for those three years, the best we can give them is 8%. That makes a significant difference because resource recovery facilities get money from selling energy and from charging people to bring their waste there. The big piece is the retirement of the capital.

If you can subsidize retiring the capital, you can make a big difference in the little piece of what they have paid to dump there. So, for every dollar you put into capital subsidies, you can make a significant change in the tipping fee.

MR. PANNELLA: In the case of Essex County, for example, they have a \$48 million gap in their funding program. They have no other way to raise the money except through increased property taxes.

In the Essex County example, for \$5 million of costs that Essex County—

SENATOR CONTILLO: Tipping fees end up as increased property tax anyhow.

MR. PANNELLA: Exactly. Tipping fees remain tipping fees. In the Essex County example, for every \$5 million of additional costs that the County would have to come up with, they are telling us that they have to raise their tipping fee \$1.00. So, if they had to come up with the \$48 million on their own, they are going to have to come up with another \$10.00 added on to their \$17.50 or \$22.00 tipping fee, or whatever it is.

With resource recovery facilities -- most of them being measured in the hundreds of millions of dollars — past experience has indicated that whatever additional funds you can provide from the top does have a substantial user fee attached to it.

Common sense tells you that \$40 million on a \$300 million project has no impact, but experience proves otherwise. It has a substantial impact.

MR. EDWARDS: That is because the financing department makes up the rest of that \$360 million. Privatization is taxed right off. There is a lot of other subsidized money that goes into that which helps keep the rest of the tipping fee. It does matter.

You are talking maybe a 50% or a 60% difference in tipping fees in Essex County.

COMMISSIONER HUGHEY: Paul, you are partially right. Your first question was, is it going to make a difference in terms of speed? Some of these financing arrangements, one of which you are aware of, are fragile enough to make a difference between a project and not a project. Most of the speed in the last two years has been determined by changing Federal tax laws. That is why we had four projects go to funding last year. It was so that they could be the arbitrage constraints. It made a big difference when the IDB cap went on this year.

Whatever projects are coming on line this year have two problems that they didn't have last year. Those problems are the IDB cap and the 10% difference in arbitrage. That all goes to the tipping fee.

Next year we are talking about changes in Federal tax laws that would change public/private partnerships. So, we are going to see a stampede by now and the end of the year to get projects funded.

This is a very critical piece. I didn't think it was as critical as it is, because you can put this \$15 million or \$20 million wherever you want to on the ledger sheet, and it can make a much bigger difference than just \$15 million or \$20 million.

MR. EDWARDS: So, you see, it is effective, Paul, based on—

SENATOR CONTILLO: You know, that is tough to swallow. Fifteen or twenty million can have a greater effect than \$15 million or \$20 million.

COMMISSIONER HUGHEY: It can though because it depends upon whether you put it on the capital side or you put it on your soft-cost side. It has a big difference when you are allowed to put money on the ledger as you start to cost out a resource recovery facility.

SENATOR CONTILLO: Do you mean as it relates to depreciation and the part that private industry can use?

COMMISSIONER HUGHEY: Exactly.

SENATOR COSTA: I have just one thing more. I wanted to know if we clarified the interest rates and who determines them for a municipality. Earlier we were discussing the various ratables as far as interest rates for each project were concerned.

I have always been taught that it is not what you pay for something; it is the terms you are coming under to pay for that money. This distresses me because there is no set figure for municipalities to go project-by-project. It is determined, as I understand it, by the trust directors. Is that correct?

MR. EDWARDS: Say that again.

COMMISSIONER HUGHEY: Is it determined by the trust directors? Yes, and it is going to be equal for all of the communities that are in the loan process.

SENATOR COSTA: It is not equal. You are going into different percentage rates.

MR. EDWARDS: The percentage rates vary depending upon the package of bonding you are doing at any given point in time. When you get "X" amount of dollars--

SENATOR COSTA: Let's say my municipality wants to borrow some money from this trust, and his municipality wants to borrow some money from this trust. If he gets it at 5%, and my municipality has to pay 7%, what determines that?

MR. EDWARDS: There will be a package. When the trust goes out to do some borrowing on its own and it gets a chunk of dollars, the trustees of the trust fund authority will sit down and put together a package that it can offer to all municipalities out of that borrowed chunk. That is what they get this year, assuming this bill were to pass and the bond proceeds were to go into it.

They would work out a program dealing with these bonds proceeds. Suppose next year the Legislature decides to give them another \$100 million? They will then put together another chunk, and the interest rate may, in fact, be different for that loan. If that is higher or lower, it will depend on the market conditions at that particular point in time.

SENATOR DALTON: Is that expressed anywhere in the bills, Carey?

MR. EDWARDS: No, it isn't.

MR. PANNELLA: You lose flexibility when you start statutorily dictating the terms and conditions of the loans. We made a policy judgment to stay away so we could maximize the use of the moneys for the local governments.

SENATOR COSTA: Then local governments with Triple A ratings might be better off going out on their own.

MR. PANNELLA: Right. The program is voluntary. If they don't want to come to us, they don't have to.

MR. EDWARDS: If they can do it better outside, God bless them.

SENATOR DALTON: I don't think I was asking you to dictate the terms of the loan. I was asking you for a general frame work within the context of the bill that is presently not in there.

SENATOR COSTA: It is not in there.

SENATOR DALTON: I told the members of the Committee that we would break at 4:00 p.m. We will pick up again on September 4. We only have another section of questions for you. I'm sure though that after receiving information, we may have more generated from that. At that time, we will also allow members of the public to testify.

MR. EDWARDS: Would you like us to be here for the opening part of that session so we can testify first?

SENATOR DALTON: Sure.

COMMISSIONER HUGHEY: Is anyone going back for the spread sheets with me?

SENATOR DALTON: We can get someone to go back with you.

(HEARING CONCLUDED)



