

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)

September 4, 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

ALSO PRESENT:

Senator William L. Gormley
District 2

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

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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 States 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 b. 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-

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

108 c. The Commissioner of Environmental Protection for each
109 fiscal year shall develop a priority system for landfill closure
110 projects which shall establish ranking criteria and funding policies
111 for the projects. With respect to the ranking criteria for these
112 projects, priority shall be given to the owners and operators of
113 sanitary landfill facilities in the following order: those owners or
114 operators of sanitary landfill facilities who have received, for a
115 period of at least six months, solid waste from sources out-of-State;
116 those owners or operators of sanitary landfill facilities who are
117 governmental units; and any other owners or operators of sani-
118 tary landfill facilities. The commissioner shall set forth a project
119 priority list for funding by the trust for each fiscal year and shall
120 include the aggregate amount of funds of the trust to be authorized
121 for these purposes. Eligibility of an owner or operator of a sani-
122 tary landfill facility for a grant or a loan for a project to be in-
123 cluded on the project priority list shall be determined in accordance
124 with the provisions of section 24 of this act. The project priority
125 list shall include for each landfill closure project the date each
126 project is scheduled to be certified as ready for funding and shall
127 be in conformance with applicable provisions of State law. The
128 priority system and project priority list for the ensuing fiscal year
129 shall be submitted to the Senate and General Assembly on a day
130 that the respective house is in session on or before March 1.
131 Within 60 days of the receipt thereof, the President of the Senate
132 and the Speaker of the General Assembly may object in writing to
133 the commissioner with regard to any landfill closure project or
134 projects included in the project priority list or omitted from the
135 list, and they may make recommendations to the commissioner
136 concerning modification of the list. The commissioner shall consider
137 the objections and recommendations of the President of the Senate
138 and the Speaker of the General Assembly and shall resubmit
139 thereto the project priority list within 20 days, together with any
140 modifications based upon his consideration of the objections or
141 recommendations. The commissioner shall provide the same type
142 of information for any modifications as was provided on the
143 original list. The President of the Senate and the Speaker of the

144 General Assembly shall report to the Joint Appropriations Com-
145 mittee 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 portion of the closure costs, to the extent the governmental unit
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 of 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 Meadowlands 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 resource 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. (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 (✓) 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 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): We would like to get started if we could. Yesterday afternoon, at about three o'clock, this package of information was delivered to my office. This package contains the latest information on the Administration's environmental leveraging proposal.

I have not had the time to do anything, other than to glance through these papers. However, I did note in the material that most of the technical papers referred to a stable funding source, which is basically a new tax. If that is the case, then this proposal is beyond the scope of the Committee, and it will have to undergo further review by the Revenue and Finance Committee.

I would like to thank the Administration for finally responding to my questions. This 18-page response was included in the package. However, I again want to state that there seems to be no reason why we could not have had this information earlier. Because of the last-minute nature of this latest collection of documents, I had staff notify Commissioner Hughey and Carey Edwards that we would be unable to proceed with questions of them this morning. The Committee needs time to analyze these documents. I have also asked the Committee to reserve the morning of September 9 for additional Committee time, at which point we want to hear again from Commissioner Hughey and Carey Edwards.

I want to express my deep disappointment in the manner in which this Committee has been dealt with with regard to obtaining this information. But, at the same time, I want to reemphasize that this Committee and its staff will review and hopefully digest this material, so that we will be able to make a thoughtful and meaningful recommendation to the Legislature with regard to this program.

The purpose then of this hearing will be to obtain testimony from members of the public who are present who wish to make statements with regard to this program. The first person I would like to call upon is Dr. Herman Leonard. Dr. Leonard was hired by the Senate to review the initial package of material which we were given by the Administration. Doctor?

DR. HERMAN B. LEONARD: Mr. Chairman and members of the Committee, I appreciate the opportunity to come before you today to discuss these issues with you.

I have two written documents I would like to hand to you. One is a written statement for the Committee and for the record, which I will offer you, but will not go through in detail. The second document is a copy of a letter to Senator Carmen Orechio outlining the findings here. What I would like to do is briefly summarize these findings.

I am Professor Herman Leonard of the John F. Kennedy School of Government, and Associate Professor of Public Policy. I mainly teach issues about public finance. I was asked to prepare a review of Governor Kean's proposal of the New Jersey Environmental Trust to provide an independent examination and explanation of some of its features to this Committee and to outline alternatives that the State Legislature might wish to consider to some of the features of that trust.

I was pleased to have an opportunity to do that because much of my professional work has centered upon infrastructure issues, and I have been looking at infrastructure proposals in a number of other states. I have had a chance to look at the proposed legislation here, the original technical papers which were submitted to this Committee earlier, which included a single spread sheet on waste water treatment, and some additional materials which were submitted after last week's hearing. I also attended that hearing. I have seen -- I would say I have passed my eyes over, but have not digested -- the material which was submitted to the Committee yesterday. It was delivered to my hotel last night at 11 o'clock after I had gone to sleep.

In the kinds of issues you are facing today on infrastructure, particularly on environmental spending on infrastructure, two kinds of issues are intertwined. They are issues, on the one hand, of financing, the borrowing of money, arrangements for how you can make more spending now than you are prepared to pay for directly yourself, and on the other hand, governance of who will control the spending, who will oversee it, who will supervise it, and

how the voice of the people of New Jersey will be heard in making decisions about what projects to do, how much they will cost, and when they will be treated.

Now, in my professional work I have studied both of these issues in some detail. I teach public finance, as I indicated, and I have done a good deal of research on issues of governance. I just completed a book on unappropriated forms of spending, of which public authorities might be an example. That book is called "Checks Unbalanced," and that material relates to the kinds of issues we are talking about today.

I will not go through the detailed written statement I have provided you for the record, but we may get to some of those issues in questions. I would simply like to review a few highlights in my statement before you today.

First of all, let me comment about the national context in which infrastructure spending is taking place and in which people are trying to decide about the creation of infrastructure banks. Around the nation, proposals of the form that is before you today -- and has been before you in various different forms over the last few months -- create some form of bank, trust, or authority and are stalled on pretty similar issues. The issues tend to relate to the question of who is going to control what spending actually takes place through these mechanisms. Our system of government is founded, and for good reasons, on the separation of control of spending from the execution of spending. Those kinds of governance issues are deep and important. Public authorities which combine the ability to raise money with the power to execute the spending of money are a substantial challenge to that normal separation of powers. In general, legislatures around the nation have refused to give up control over spending, and for that reason, these kinds of programs have been stalled.

New Jersey still has the opportunity to be the first State to work out how a combination of appropriate forms of legislative oversight and governance can be combined with efficient forms of financing. It still has an opportunity to lead the way for the rest of the nation.

What I would like to do is cover three major points about the proposal before you. First, to look at the governance issues I see raised there and to make some suggestions about how some of those might be resolved; second, to look at the actual spending program that seems to be implicit in the legislation and in the technical papers which I previously received; and, finally, to look at what sorts of alternatives there might be to the features of the trust that are special.

As initially proposed, the legislation to create the New Jersey Environmental Trust would have transferred a very substantial form of legislative authority to an executive agency, that is, the authority to raise funds through revenue bonding, in this case, and to disburse them without detailed legislative control. Now, at the hearing last week, and in other discussions, the Governor's representatives have made it clear that they understand legislative sensitivity on this issue and that they are ready to accept appropriate forms of legislative oversight. What form of oversight would be required in order to put a trust or some other form of public authority of this type under an appropriate kind of legislative oversight?

I think there are three major features of the trust that would need to be controlled. The first is the capital expenditures of the trust, its grants, and its loans. A project-by-project review of the terms on which money was being advanced to fund environmental projects through the trust would be an important form of control by the Legislature over the operations of the trust fund. So I would say capital expenditures of all forms going out of the trust to various uses, and I would suggest that the right form of legislative oversight in that case would be project-by-project and loan-by-loan, both terms and amounts for which projects are going out.

Now, there is a problem when you set up that kind of oversight. The problem is that the fluctuating cost estimates for a particular project may lead a project which you have approved not to have enough financing available in order to be able to proceed. I think the right solution to that is to both entertain suggestions about how expensive you expect projects to be, and then, in addition to that,

to suggest a cap which is somewhat in excess of what you actually expect the project to cost, so that you won't accidentally bump up against that sort of ceiling. There is no reason why the Legislature cannot exercise control over this kind of spending as it does over any other form of capital spending carried out by the State.

The second form of important control over the trust would be control of its operating expenditures, and direct control and review of its operating budget. Again, this is like the control the Legislature exercises over any other sort of executive function carried out by the State.

The third feature would be to control the borrowing carried out by this enterprise, if the Legislature decided to establish it. That would involve setting caps on the amount of bonds that could be issued, and setting a schedule through which those bonds could be issued -- so much by 1990, so much by 1995, and so on. Those caps could be raised as necessary, as additional projects which needed additional funds came to your attention. But, if this were carried out correctly, if you established legislative oversight that included these three features, I think the Legislature could effectively control the appropriated characteristics of the fund. The key feature here is to realize that these are the three forms of major exercise of authority by the trust. It's disbursements for capital, it's disbursements for operating expenditures, and it's borrowing. Those are the three critical exercises of authority by the trust, and for that reason those are the three things the Legislature would need to control. Done correctly, that should provide oversight without interference, and the Governor's representatives, at the last hearing -- at least this was my understanding -- said they were ready to accept that kind of legislative oversight.

The second issue I would like to turn to is the question of what is in the Governor's spending program. There has been a lot of confusion about this issue, part of it fostered by the legislation itself. The legislation speaks about a \$9 billion cap on bonding. It would authorize bonding by the trust up to \$9 billion in three different parts -- \$5 billion for waste water treatment, \$3 billion for

resource recovery, and \$1 billion for landfills. There is actually much less spending contemplated by this enterprise than that \$9 billion cap would seem to suggest. For that reason, I would propose that the Legislature could exercise authority to set a much lower limit on trust borrowing than that actually suggests.

There are three parts to the Governor's program. I would like to go through each of them briefly and suggest what the actual scale of State spending is as contemplated in the program. The confusion seems to have arisen because in the legislation itself reference is made to needs and to capping the bonding authority of the trust at the level of estimated total need; that is, total spending on all projects. But the actual thought that underlaid that was the notion that the State might have some involvement in individual features of those projects, not that the State would be funding all of them. So, much less actual spending is contemplated for the State.

Let's look briefly at each of the three components of the Governor's program. The first component is landfill. My understanding from the hearing, and from what Commissioner Hughey said, was that the Administration proposal about landfill is essentially a grant and loan program very similar to that proposed by the Legislature. As I remember it, they said that the legislative program is the same as the Administration's program. So, regarding landfill, there does not seem to be any particular difference with respect to creating the trust.

Under resource recovery, an analysis of projects that the Administration is considering was presented after the hearing last week, some of them named, and some of them unnamed. Now, that analysis, of which I have a copy if people are interested in seeing it, shows approximately \$250 million worth of State spending. Here again, the bonding authority that was to be issued to the trust was for \$3 billion. Why \$3 billion? Because the proposed total amount of projects that had to be done -- not the part the State was going to finance, but the total amount of the projects proposed -- was about \$3 billion. But, the actual State portion of that which would run either through the State directly or through the trust, as proposed by the Administration, would really be about \$250 million.

To do that, the Administration's spread sheet analysis proposes to use \$150 million of bond appropriations, and then to establish a revolving fund. Much of the spending would actually take place through a simple revolving fund. In the Administration's figures, there is no trust borrowing up until the year 1992. It is simply a revolving loan account up until that time. At that time there are a few years before loan repayments catch up with disbursements, and the trust, according to the figures that the Administration proposed, would need to do about \$17 million worth of borrowing. So here we come from a cap of \$3 billion which was initially proposed -- I think simply in error -- to actual borrowing proposed to be carried out through the trust for resource recovery of under \$20 million.

Now, I looked at those figures, and it appeared to me that the Administration had not included in its estimates of the revolving fund it is proposing for resource recovery, receiving interest earnings on the cash balance it had for the available cash it had in that revolving account. Now, one of the major advantages of establishing a revolving fund, or a trust, or another mechanism of this form, is to be able to receive interest earnings on the funds you have available.

The analysis that the Administration presented presumed no interest earnings on the cash balance, at least as best I have been able to determine. They either anticipated they would be receiving disbursements on a pay-as-you-go basis, so they would always have a zero cash balance, or they were presuming that they would not receive interest earnings. Now, a major advantage of establishing a revolving fund, or a trust, or some other mechanism of this form, is that it would enable you to earn interest on money you had already borrowed but had not yet disbursed for spending purposes. When you include those interest earnings in the revolving fund for resource recovery, all of the projects that the Administration had proposed to spend on in its resource recovery spread sheet analysis would be able to be funded without any borrowing from the trust at all. Under their figures, there is no borrowing until 1992, and in that case only \$20 million. But I think if you include the interest earnings on that fund, no borrowing at all would be required.

Finally, let me turn briefly to the waste water component of the Governor's program because here is where I think there is actually some difference between the Governor's program and the legislative program. There are really three pieces of the waste water proposal, only two of which have anything to do with the trust. The first is roughly \$800 million worth of spending which would be conducted through Federal grants, State matching money, and local borrowing. That \$800 million would be available no matter whether the legislative program was adopted or the trust was adopted. It really has nothing to do with the trust. The trust would consist of two major features: First, a revolving loan account, which would fund roughly \$1,200,000,000 worth of projects over its lifetime, and secondly, a reserve fund which would be used to back borrowing by the trust and loans issued to localities and local authorities. That would cover roughly \$600 million worth of projects.

Now, a point which I think is important to emphasize about the Governor's trust proposal for waste water is that the revolving fund component, which is very similar to what the Legislature proposed, is separable from the reserve account, which they are proposing to establish to use in order to back the borrowing of the trust and its lending to local authorities. That is simply a credit enhancement operation that would enhance the credit of local authorities. There are various ways by which that could be conducted. That could be capitalized directly or you could offer other forms of guarantees, to which I will turn in just a minute.

The actual amount of contemplated lending to be done by the trust from borrowing -- the part that is really special about the creation of the trust -- would be roughly \$150 million by 1990, \$250 million more by 1995, and the remainder by 2000. So, what is really contemplated here is borrowing on the order of \$600 million by the year 2000, rather than the \$5 billion number which was originally included in the legislation. Again, I think that was simply a misunderstanding as to what the role of that \$5 billion number was. I think the actual cap that is being contemplated here, or should be contemplated for waste water, looks as if it is on the order of a magnitude of \$600 million, if the Legislature decides to go ahead with the trust.

Let me turn briefly to alternative ways in which the Legislature might consider the same kind of revenue enhancement that it might get through establishing a trust fund. I was asked to look particularly at those kinds of alternatives, not as an advocate for any position, but just to inform you as to what kinds of issues you might be thinking about. As I emphasized, there are really two components here: the revolving fund, which is entirely separate and which is very similar to yours, and secondly, an insurance reserve for trust borrowing. This is where the information in the packets is coming from about what is referred to as leverage. Leverage just means borrowing; it means the ability to raise money now in order to be able to spend more now. You should recognize that when you do that, you are enabled to spend more money sooner, but it costs you more to do it because you have to pay back the interest, as well as the principal, on those loans.

The insurance reserve that the trust proposes to establish would simply facilitate local unit borrowing. There are many other ways the State could choose to do that. For example, it could set up a separate insurance fund, it would not have to be done through a trust; it could offer State loan guarantees for local borrowing or borrowing by local authorities; it could extend the Qualified Bond Act, at least for the lending to municipalities; it could subsidize interest; or, it could help local authorities or local governments to purchase municipal bond insurance for their lendings. There are a variety of alternative ways of doing revenue enhancement. You may wish to consider the trust as one possible way to do that, but if you do, it should be under the appropriate forms of legislative oversight and control which I outlined earlier.

I think there is an implicit challenge for the State of New Jersey and for the Legislative and Executive Branches combined here, to be able to find a way to resolve these governance questions and to construct some form of appropriate spending mechanism and decision mechanism. Those things should be distinguished. The way in which the Legislature chooses to oversee spending decisions is, I think, a critically important issue, and one that runs through many spending questions of this type.

Second, once you have established the appropriate kinds of governance and control, and decided upon what kind of a mechanism to use, you should get on with the business of doing the needed environmental spending, which I don't think anyone disagrees the State should be involved in and doing.

That completes my brief review of these issues. I would be happy to answer any questions the Committee might have.

SENATOR DALTON: Thank you very much, Professor Leonard. Before we start with our questioning, I would like to ask Bill Gormley if he would like to join us at the Committee table. That is a courtesy to one of the sponsors of the bill.

Professor, let me start by asking you this; it is just a general question. In your opinion, is there any prototype in the United States, or is there any other state that has done such a trust?

DR. LEONARD: There isn't any prototype, at least in the environmental area. Some states are considering establishing -- what I understand New Jersey has also considered -- some form of infrastructure bank concept. As I mentioned, these proposals seem to have been stalled around the country. Now, various administrations have pointed to municipal bond banks which have been created as examples of what they are trying to do. Municipal bond banks are really quite different. Municipal bond banks simply act to pull together bonding or borrowing done by local government units, so they can issue one consolidated obligation to the market. They in no way rely on state subsidies and, in general, are completely separate from any form of state action. They are really a different kind of mechanism, although the trust could also operate in that way.

Georgia and Massachusetts have had major proposals of the form you are considering today even more broadly in the infrastructure areas, including waste water treatment, as well as transportation and other forms of infrastructure spending. Georgia wound up not adopting a trust fund of any sort, but rather just a different line item in its capital budget. In Massachusetts a proposal of this variety is still pending. It is in the process of trying to resolve various issues of the same form you are dealing with here.

SENATOR DALTON: Cathy?

SENATOR COSTA: Professor Leonard, the Administration said that we should not rely on general obligation bonds. If we went out on general obligation bonds, would that hurt our Triple A rating?

DR. LEONARD: New Jersey has a very strong credit rating because it has been very careful in the past about how much capital spending it did and how it bonded it. It is possible that if you did a major program of capital spending simply through general obligation bonds that you might eventually lower your credit rating below what it is now. I have not looked recently at the figures comparing New Jersey's fiscal standing to other states, but it is my understanding that you currently have a very solid Triple A rating. I don't think that is in serious doubt, at least within the realm of proposals I have seen here.

SENATOR COSTA: Would it cost us more or less in the long run if we used our general obligation bonds?

DR. LEONARD: I think that is an important issue to raise here. It is often stated that by using general obligation bonds you may drive down the State's credit rating, and thus drive up its cost of debt. While it may be true that if you borrow more you may have to pay more in interest, issuing revenue bonds instead, in general, does not solve that problem. You may protect your Triple A bond rating, but you will pay more in additional interest on revenue bonds, which always go at a higher interest rate than general obligation bonds. You will pay more in additional interest on the revenue bonds than you will save by keeping your Triple A rating.

So, if the trade-off is between general obligation and revenue bonds, it is almost always cheaper to issue general obligation bonds in the long run.

SENATOR COSTA: That is a very interesting point, Professor. Is there a way we can establish a trust that will serve solely as a conduit for selling revenue bonds?

DR. LEONARD: I think if you impose on a mechanism of this sort the kinds of legislative oversight I was talking about before, oversight over the three critical forms of authority it uses, the authority to disburse capital funds, loans, and grants, the projects

you are financing that way, and the terms on which the loans or grants are given, and if you control the operating spending of the trust and the borrowing by the trust, those are the three critical exercises of State authority. If you control those, depending on what you authorize the trust to do given your control of it, those are appropriately overseen legislatively. Then the trust could operate as simply a mechanism for issuing revenue bonds outside the aegis of the State government, because that is prohibited by your Constitution.

SENATOR COSTA: So, you're saying we can have a trust that can just be used as a conduit, and yet we can have legislative oversight.

DR. LEONARD: With appropriate oversight that is what you would get here, yes.

SENATOR COSTA: Could you explain leveraging to us again? I believe you said it is just another word for borrowing, is that correct?

DR. LEONARD: Yes. There has been a lot of discussion about leveraging as a concept. What leveraging means is simply borrowing money. As any homeowner or any person who has ever bought a car on credit knows, when you borrow money, you pay for the privilege. So, leveraging makes more money available earlier, but it makes you pay for that process. When you compare one form of leveraging to another, you may discover that one form of borrowing might be cheaper than another, but borrowing always costs money. This does not mean that borrowing is bad. You may have more projects you want to do than you are prepared to be able to pay for directly, just as when you go out to buy a car, you might want a bigger car than you can pay for out of the cash you have available. But you should recognize that when you borrow, you are going to be spending more money in total.

In the written statement I gave you, there is a copy of this paper, but let me illustrate it briefly. (Dr. Leonard uses slide projector to demonstrate.) There are some numbers you can only almost see because it is so light in the room.

SENATOR DALTON: Would someone please hit the light over there? (Member of audience complies with Senator Dalton's request.)

DR. LEONARD: I will just read through these figures to show you what the general issue is. What leveraging means is the process of borrowing. The top part of this table was presented to the Committee after the hearing last week. This was a discussion entitled, "How Leveraging Works." It talks about the fact that with leveraging you can spend more. That is certainly true. The top part of this table, which is labeled "Spending," shows that through leverage you would be able to spend more than you could if you just used a dollar of capital for capital alone. The way that works is: If the Administration proposes to take an initial funding of a dollar and reserve 33 cents of that to back an additional \$1.67 worth of borrowing, the total amount of spending it would then be able to do would be the 67 cents from the initial dollar, plus the \$1.67, for a total of \$2.34 worth of spending. That is what leverage means. It means turning a dollar into the ability to spend more than a dollar today. If you do this without leverage, you spend a dollar, and that is simply all you have spent. So, a dollar is only a dollar in that sense.

That is true on the spending side, but it is also important to look at the cost side. The cost side is that the initial funding of a dollar, and additional spending from the loan of \$1.67, are both costs to you. That is money that you do not get back. Now, there is interest you have to pay on the borrowing over the terms of the kinds of loans the Administration was talking about, of \$1.62, although there are also interest earnings on the 33-cent reserve of \$1.05 to offset that. So, the net cost of interest in the borrowing is 57 cents. The total cost for your \$2.34 worth of spending is thus \$2.91. For each dollar of spending you do through leveraging, you actually pay, eventually, \$1.24. You are able to do more spending, but you pay for that privilege. Rather than spending a dollar and having that cost a dollar, for each dollar you spend it costs you, under the terms the Administration was discussing, \$1.24.

There is no secret to that, and no magic to that. The point is that when you borrow, you pay for the privilege. If you pay out of your own direct funds, you do not have to pay interest on the borrowing.

SENATOR COSTA: What would the costs be under general obligation bonds, as compared to that?

DR. LEONARD: Under general obligation bonds, you would also have the cost of interest if you were borrowing the funds with which you did the spending. That is actually implicit in both of these proposals because with and without leverage scenarios, the original dollar was borrowed, as well. I'm talking about the additional cost that comes from the additional leverage which is built into the way the trust proposal works.

SENATOR COSTA: I was just trying to get that clear in my mind regarding the comparison between the general obligation bonds and the revenue bonds. Even though our Triple A rating might go down, say, to a Double A rating, it might behoove us to go the route of general obligation bonds. It might cost us less in the long run. Am I correct?

DR. LEONARD: That is correct. Let me make two points. The first is that in this scenario what I am discussing is the additional cost that comes from the leverage that the trust fund is considering. That is the additional \$1.67 worth of borrowing, which is revenue borrowing, which by itself, just because you are borrowing additional money, has an additional interest cost associated with it. It is also true that if you wanted to do this much spending solely through general obligation borrowing, that would, in general, cost you less. There is no limit that says you can only borrow a dollar. You could borrow the entire amount of spending you wanted to do. If you wanted to do \$2.34 worth of spending, you could do that through borrowing. That, in general, will cost you less through the issuance of general obligation bonds, its effect on your credit rating notwithstanding, than it will to do that through a combination of general obligation and revenue bonds.

SENATOR COSTA: Is the trust the only mechanism to leverage funds?

DR. LEONARD: No, there are a variety of alternatives. What the leveraging here means is simply being able to back borrowing done by municipalities. The whole purpose of this enterprise is to be able

to pass more capital spending money to local authorities and local governments. The trust does that; it achieves that credit enhancement, together with a small subsidy for their borrowing, through the process of setting up an insurance reserve fund. But, there are a variety of other ways in which the State might do the same kind of credit enhancement, or achieve the same credit enhancement for local authorities. For example, it could issue guarantees of local debt for projects; it could extend the State's Qualified Bond Act to include environmental projects; or, it could provide other forms of backing, for instance, it could pay the insurance fee on municipal bond insurance for qualified projects. So, there are a variety of ways in which credit enhancements can be purchased. Credit enhancements always cost you money, but there are a variety of different ways in which you can do it.

SENATOR COSTA: I just have one more question, Professor. How does this program handle hazardous waste?

DR. LEONARD: I am quite puzzled by the recurrence of the hazardous waste question in the context of discussions about the trust. First of all, there is no reference in any legislation I have seen, or any technical analysis I have seen, to any program of hazardous waste being included in the trust. That is with good reason. The primary special feature of a trust is the ability to issue revenue bonds to do the kind of leveraging we're talking about here. That is never going to work with hazardous waste. Hazardous waste does not provide a revenue stream that you can leverage or against which you can borrow. Hazardous waste is simply a cost, which has to be financed through some form of a tax or some form of borrowing to be eventually paid for by a tax, either at the State or the local level. So, I do not see a role for revenue bonding. I don't see how that could be effectively combined with the trust idea, or how you could run that kind of spending through the trust since it wouldn't be using any of the special features of leveraging which have been regarded as major advantages of using the trust.

SENATOR COSTA: Thank you, Professor.

SENATOR DALTON: Senator Contillo?

SENATOR CONTILLO: I had the same question, but I was calling it toxic waste. I didn't see any mention at all about how this program was going to deal with toxic waste cleanup in the State, although I consistently read in the press that this program was designed to take care of those problems. I assume the answer is the same for toxic waste as for hazardous waste.

DR. LEONARD: I see no reference to it in any of the legislation here.

SENATOR CONTILLO: Senator Costa was discussing the cost of borrowing the money. I heard recently from Bear-Stearns-- Joe Giglio said specifically that we would have a dramatic increase in user fees with the trust. Is that consistent with what you are testifying to today?

DR. LEONARD: Yes. I don't think anyone has made a secret of the fact that the primary vehicle for spending here is that the State might help localities to borrow, but that the localities themselves are going to have to pay off those loans. That means user fees or local taxes, one way or another. I don't think that is any great secret, although it is the kind of a thing that could be lost in the shuffle. No matter what program is used here for local revenue borrowing or any other form of borrowing, it is going to cost money. That has to come from somewhere. To the extent to which environmental projects can be financed out of user fees, and are, that will mean that the user fees will go up.

SENATOR CONTILLO: User fees may be more onerous than a property tax, at least temporarily. At the present time, the property tax is tax deductible at the Federal level. If a user fee is paid directly, it may not even be tax deductible as it exists right now.

DR. LEONARD: People sometimes refer to user fees as revenue sharing in reverse. When you shift from property taxes to user fees, you send money back to the Federal treasury. California discovered this after Proposition 13 passed. They sent roughly \$2.5 billion a year of additional Federal tax money to the Federal treasury as a result of that legislation.

SENATOR CONTILLO: Yes. We have to be careful as we enter into these new projects.

DR. LEONARD: I think that is important in any case because State legislative control over spending and tax sources is an important feature of how the whole program is being conducted.

SENATOR CONTILLO: Now, maybe you can help me with this. Late yesterday afternoon, I also received the package of information from the Administration. I arrived home from New York at about five o'clock, and I sat up this morning until my eyes got red trying to read through the package. Unfortunately, I seem to be better with diagrams than I am with words. As a result, there is a diagram in this packet which seems to sum up everything the Administration wants to do. It is Chart 1, "Projected Total Funding by Source." It seems to sum up the entire 12-pound package we received. In fact, I had a quick transparency made. May I put this on the projector, Mr. Chairman?

SENATOR DALTON: Sure.

SENATOR GORMLEY: Did you do that in the lab last night?

SENATOR CONTILLO: Did you read all of this stuff, Senator? Maybe you can help me.

SENATOR GORMLEY: Sure. We have people; we will be able to give you answers all day long. You know that.

SENATOR CONTILLO: Look at how red my eyes are.

Dr. Leonard, you testified earlier about the three separate elements in the trust fund, and this chart seems to bear out what you said. There is a tremendous amount of disagreement over how we should proceed with cleaning up the waste water, resource recovery, and landfill closure. I don't think anyone is disagreeing about what we have to do. I think we all agree on what has to be done. The question now becomes, how do we do it?

As I see these bar charts here, if two out of the three are identical, it would seem to me that we are doing nothing different -- even by Commissioner Hughey's comments themselves -- in landfill, we seem to be doing nothing different in resource recovery, and there is a small difference in waste water treatment. Would you comment on that from your professional perspective, Professor?

DR. LEONARD: Senator, I would be happy to comment on it. I have had very little time to look at these figures, as you know, so I

cannot speak for the analysis which underlies this chart. However, I can try to give you my understanding of what is presented here.

First of all, there are two columns in each of these three stacks that are, as I understand it, not under consideration today. Those are the two marked, "State Stable Funding Program" and "Trust Stable Funding Program." As I understand it from my brief reading of this analysis, the proposal here-- These were designed as an illustration of what kinds of things could be done through a trust if stable funding were provided for it. So, I think it is an illustration of the Administration's view of the utility of creating a trust mechanism, that it provides the opportunity that if you wanted to provide stable funding, you could fund more projects through this kind of a mechanism.

SENATOR CONTILLO: Professor, did you see any reference in this package to a specific tax the Administration is recommending?

DR. LEONARD: I have not had a chance to read the package in sufficient detail to be able to tell you whether there is a reference or not. But, none of the legislation I have seen that is currently before the Committee has any reference to a stable funding source or any tax that the Administration is proposing to use to establish this kind of stable funding.

SENATOR CONTILLO: But, a stable funding source, in effect, would be a yearly appropriation, a new tax, or a conversion of an existing tax.

DR. LEONARD: I can't think of other sources you could use. If you look at the stable funding parts of this diagram that show you how much spending you could do that way, you first have to consider what the source of stable funding is going to be, whether it is going to be a new tax, conversion of an old tax, or some other proposal. I am unaware -- at least in the legislation being proposed which you are looking at today -- of any proposal that anyone has made regarding what the Administration's tax would be.

That means what we are looking at in each of these three stacks are the two righthand columns, the one on the far right marked "Legislative Proposal," and the other marked "Administration Proposal."

As you see under "Landfill Closure," the legislative proposal and the Administration proposal are the same. Under "Resource Recovery," they appear to be different by a small amount, which I have not found the figures for. However, I think that difference is covered by the interest earnings I was speaking about before. If you add the interest earnings to the revolving fund in resource recovery under the legislative proposal, it would be able to finance the same projects as the trust fund. I am unaware of any major difference between the two proposals in that respect.

SENATOR CONTILLO: That's the \$17 to \$20 million you spoke about earlier.

DR. LEONARD: Yes, I think that is the difference. Then on waste water, there is a difference. As I mentioned before, there are three components to spending. In the analysis that is presented here, the \$800 million worth of spending through the 55% Federal Grant Program, plus the State match, plus the 37% local financing-- That \$800 million is in each of these. So, the component that is special to the trust is the revolving fund, which is quite similar to the Legislature's. The difference between the Administration's proposal and the legislative proposal, as I read the Administration's spread sheet analysis, is the leveraged financing carried out through the trust, which is accomplished by establishing a reserve fund.

So, that is the credit enhancement part, and that is a difference of-- On this chart, it looks as if it is on the order of \$300 million. I have not had a chance to look at why those figures have changed since the last round. That difference used to be on the order of \$400 to \$600 million. The main difference I see -- at least as illustrated in these figures from the Administration's packet -- is on the waste water treatment program, and it seems to be the difference in using the leverage financing within that component.

SENATOR CONTILLO: Thank you.

SENATOR DALTON: Senator Gormley?

SENATOR GORMLEY: Thank you very much, Dan. I appreciate the opportunity to ask questions. That is very gracious of you.

Dr. Leonard, a few points. You talked about landfill closure and resource recovery. Obviously, if we reallocate resources from the Bond Act of 1980 and provide for reallocation of those funds to go into a leverage fund, or a reserve fund, we could up the leverage of that particular fund. We could take the numbers of the other two. It's very simple; I mean, this is what you have been outlining. We could take the money that is allotted for grants. For example, from landfill closure, we could take the \$30 million from a specific landfill and up the leverage, and we could, shall we say, make the latter two graphs more in line with the first, as far as the impact of the program is concerned. We could increase the leverage. I think we acknowledged that at the prior hearing. But, you could increase the leverage or impact on a per-dollar basis by taking grant funds in the other two categories and transferring that to reserve funds. Is that correct?

DR. LEONARD: Yes. To the extent to which you fund a reserve fund and use that to back other borrowing, you can certainly borrow more money. I just want to emphasize that when you borrow more money it costs you more to do that. As I understood it, the Administration did not propose projects that needed to be done in excess of what the Legislature was already willing to fund.

Now, to the extent to which you have other projects which are immediate needs, where you do not have available sources of funding to do them and you need to do more borrowing, the trust fund would be one form by which you could carry them out.

SENATOR GORMLEY: Yes, but just to get back to a point, and Paul rightfully brought this up, there was not that much of a difference in the bars. I understand that. I believe at the last hearing, despite some of the disagreements, we indicated they were closer to being the same in those two than in waste water treatment. The point is, the mechanism to increase the leverage to show, or shall we say to take it closer to the waste water level of leverage, would be to change our proposal on the 1980 bond issue, don't allot it to any one specific set of projects and, shall we say, make it available for leverage financing. That would be a mechanism that would accomplish the increased leverage for more projects.

DR. LEONARD: Yes, that's right.

SENATOR GORMLEY: Okay. I'm curious; I am assuming, because of the institution where you are teaching-- Can you tell us what is before the Massachusetts Legislature?

DR. LEONARD: Yes. I am actually a member of the Governor's Advisory Committee on Infrastructure in Massachusetts. A whole variety of different proposals have been raised. The decisional proposal at this time is to divert a stream of revenues from the state general fund to a revenue authority called "The Massachusetts Development Bank" or "Mass Bank," and to use that to borrow roughly \$3 billion -- well, there are different proposals, \$1 billion to \$3 billion -- mainly for transportation projects and other necessary capital financing projects.

SENATOR GORMLEY: Does it include environmental projects such as waste water?

DR. LEONARD: I believe it has some waste water in it, yes.

SENATOR GORMLEY: It does have some waste water, okay. Out of curiosity, did that particular proposal come after New Jersey's infrastructure bank proposal?

DR. LEONARD: Yes, it did. In fact, I think the words "infrastructure bank" were really coined in this State. I think there really is an opportunity for this State to take the lead in working out the complicated and difficult governance issues which exist whenever you try to use this kind of a financing mechanism and to carry that out with appropriate legislative oversight. If a model can be worked out, it would be the first time it has been done.

SENATOR GORMLEY: I am assuming you were, if not a drafter, a participant in the discussions formulating the Governor's policy of that particular proposed authority.

DR. LEONARD: No, I was not involved in drafting the legislation. I was simply a member, along with about 30 other people, of a council that was asked to comment on proposals that the administration was fronting, about both local bonding and some of the other features. In particular, I was asked to help them think about the financing aspects of the revenue bond nature of it.

SENATOR GORMLEY: There are some premises we brought out, and I think it would be good to cross reference certain of them. With

regard to the projection of Federal moneys coming in, do you see our projections as being-- No one knows what the Federal legislators will do, and no one can predict what they will do, but there are some basic assumptions which have been made with regard to grants coming in.

Do you think that will be the flow of funds over the next eight to nine years, or do you predict that it will not be of a similar nature? As we look at it now, we are looking at grants through 1989, and then the revolving loan program. Do you think -- obviously, you can't say you guarantee it; no one can say that -- that is a legitimate amount to speculate on? Obviously, you must monitor this very closely.

DR. LEONARD: I have a couple of responses to that. I think the general trend in financing is already obvious. The Federal government is under a lot of pressure because of the structural deficit it has managed to create, mainly through tax cuts, to cut all kinds of spending and to push responsibilities toward the states. I think that is true whether it is a Democratic regime or a Republican regime that is carrying it out. I think the general trend is still down.

Environmental projects are very popular. I do not expect the Congress to abandon them altogether. However, I think my main comment about the use of grant money in your projections here-- I think the presentation you made on that last week was in the right spirit, which is, no one can guess exactly what those levels are going to be. What you tried to illustrate here was how it would be used. I think what we are talking about is the mechanism, rather than the specific figures. I think the structure that was worked out is one way to use those funds to be able to borrow additional money in order to do projects that you need to do right away.

SENATOR GORMLEY: Not to pass the ultimate onus on to you of naming the tax, but would you recommend a dedicated income source?

DR. LEONARD: I am not here to advocate a particular position about either the trust or the alternatives to it. I guess what I would observe is that the problem in Massachusetts about establishing the trust has really combined the issue of governance with the issue of how revenues are going to be diverted for it. There has been a great battle over what tax source should be used and what diversion of that

tax from the general fund is going to do to the rest of the state's fiscal position. I think that is a very important question. It is true from the analysis you presented, and from what I have seen elsewhere, that if you provide stable funding, what that really means is a long-term legislative commitment to spend on a particular project area. That raises very deep issues about the degree to which you are willing to constrain future legislation on the basis of choices you make today. I think those are very complicated questions. I would only observe that if you proceed in that direction, more spending becomes possible, but only because you are providing more revenue for it. That is a very complicated question about how to do it.

SENATOR GORMLEY: Do you feel that the leverage level, the ability to do projects faster, is increased at a significant rate, not just the borrowing, but at such a significant rate that it would be worthwhile to consider, that it is not just additional money, but such an additional leverage factor -- which is basically what this is all about -- that it deserves scrutiny?

DR. LEONARD: No, I think you said it right. If you have more projects than you are prepared to issue direct spending or direct bonding for today, then the Legislature needs to consider ways in which you can raise additional funds. One possibility is a trust fund. I don't see anything in the mechanism that would cause me, on principle, to rule it out as a mechanism to use for that. There are many alternatives that you should also consider.

SENATOR GORMLEY: In the proposals dealing with infrastructure banks, environmental trusts, or whatever we want to call them, I think everyone concedes you are either borrowing it now or borrowing it later. When you factor in that it would cost a dollar under one program as opposed to a \$1.24 under another program, you also concede that, obviously, this gives us the ability to do more projects with that same dollar in a shorter period of time.

DR. LEONARD: That's right. You pay for the privilege. All I am observing is, you get more money to spend today. It is just like buying a car. You may be able to drive a bigger car, but you are still going to have to pay for the bigger car, and for the interest on the bigger car.

SENATOR GORMLEY: Now, you gave a figure of \$1.24 versus \$1.00. Is that over the life of the obligation?

DR. LEONARD: That is over the life of the obligation, and it is per dollar of spending you do using leverage, as against spending without the additional leverage of the trust.

SENATOR GORMLEY: So, it is an additional 24 cents on the dollar for making use of this mechanism over a strict grant--

DR. LEONARD: A direct spending program.

SENATOR GORMLEY: A direct spending program. I have been given the figure of six years or seven years. What is the number you use in your presentation as to the inflation cycle of these projects? In other words, when do you hit the 100% inflation cycle? If we are talking about an additional 24 cents to borrow now, but the ability to go out three or four years sooner to the market and beat half of the inflation cycle, it is not even close.

DR. LEONARD: No. I think you have to be very careful about how you use those sorts of figures because the analysis ought to be done here in real terms, not in nominal terms. When you talk about being able to do projects cheaper because you are doing them earlier, you are talking about spending expensive current dollars instead of spending admittedly more, but less expensive inflation-reduced dollars in the future. When costs go up, the cost of paying those costs is also reduced by the fact of inflation. So, I think you have to be very careful to keep your analysis in real terms.

The central point is, the advantage of being able to do the projects sooner is if you need to do them sooner. If those needs exist today and you cannot meet them in other ways, now is the time to borrow. But, in general, borrowing costs money. Relative to saving your money and providing the spending as you go along, you are going to spend more to be able to do it earlier. Whether or not you think about capital cost inflation in real terms, capital costs are not rising, at least not very significantly. In nominal terms they are, but so are tax revenues. So we are paying these larger costs out of larger incomes that people have due to inflation, and so on. Don't think that that is the central issue. The central issue is if there are

additional benefits because these projects are needed today, then that would be a reason to go ahead. That is a reason to borrow.

But, I want to emphasize, borrowing is very expensive today. The current interest rates you're paying on even tax exempt debt are four to five points higher than the rate of inflation. So the real interest rate is 4% or 5%. That is an astronomical rate relative to historical standards. You are paying very steep rates for borrowing money today.

SENATOR GORMLEY: You're saying that if a local unit of government has to go forward, this offers a source of borrowing to a broader range of municipalities. It offers a source of borrowing to some who might not be able to put together a source of--

DR. LEONARD: Yes, although I think you have to be careful to look at what part of that is special to the trust. It is really the part of the trust that comes from having this reserve fund and the borrowing against that. It is really about \$600 million worth of spending over the 20-year period. That is the part that is really special here.

SENATOR GORMLEY: That is special because you are setting up the reserve fund, but also you are setting up a mechanism in the long-term so that if other alternatives are looked to, or worked out by the Legislature, there will be a viable mechanism to make use of, if, in fact, a dedicated source is there.

DR. LEONARD: Exactly. With a dedicated source or with additional capitalization from bond issues or from other infusions of funds, that mechanism would exist to do additional spending. That is correct.

SENATOR GORMLEY: Do you have any feeling with regard to the mandate to the Federal Clean Water Act? We are under a gun from the Federal Clean Water Act.

DR. LEONARD: I don't expect them to remove it.

SENATOR GORMLEY: You don't expect them to remove it?

DR. LEONARD: No.

SENATOR GORMLEY: I think that, to a great degree, is making up the decision of a lot of the units of local government.

DR. LEONARD: I would anticipate that if the regulatory reform folks in the Administration, some of whom formerly taught at the Kennedy School, are successful, there may be some relaxation of some of those standards, particularly some of the things that seem to cost a lot of money without generating a lot of benefits. So, that is a possible change. I don't see that the standards for clean water, clean air, or other major environmental programs are going to change very much in shape. I expect the funding will continue to be typed for them at the Federal level.

SENATOR GORMLEY: In other words, you have the mandate, but not the cash.

DR. LEONARD: Everyone has to understand that fiscal federalism means you can do anything you want, but you have to pay for it.

SENATOR GORMLEY: That could be your next book -- "Fiscal Federalism." I would like to get back to the inflation factor. Although we might disagree about its impact, I think it would have to be considered to a certain degree.

DR. LEONARD: Not unless you can show that capital costs are rising in real terms.

SENATOR GORMLEY: Obviously, you look at these capital costs to a great degree. What do you consider the cycle? From discussions, or possibly from a paper you have prepared, or whatever, do you have any idea of what the inflation cycle is? Maybe in your mind it is 11 or 12 years. I hear six or seven. If I'm wrong, I would like to know.

DR. LEONARD: What you are talking about is the doubling time, which is just a different way of talking about the rate of increase of capital costs.

SENATOR GORMLEY: It costs twice as much in six or seven years.

DR. LEONARD: No. You have to spend twice as many nominal dollars. It does not cost twice as much. That is an important distinction.

SENATOR GORMLEY: "What Is a Nominal Dollar Over a Dollar?" That could be the third book.

DR. LEONARD: When five years ago you bought a loaf of bread, you paid considerably less for it than you pay today. So, the price of bread in nominal terms has gone up. The real cost of bread is the cost of bread relative to something like your salary, or something else that is not hooked to the nominal price level. So, in real terms you may be much better able to afford a loaf of bread today than you were before, in spite of the fact that the cost of a loaf of bread is higher.

Let me illustrate by example. My first job was picking blueberries. I earned 29 cents an hour in that job, and I decided to quit because the wages were too low. My father told me that I couldn't quit because when he was a boy in Idaho during the depression, he was only earning 30 cents an hour. I told him he could buy 10 loaves of bread with that 30 cents an hour in Idaho in 1933. I could buy less than half a loaf of bread with my 29 cents an hour. He allowed me to quit. The point is, you can't simply look at prices; you have to look at prices relative to the cost level, the price index. As long as--

SENATOR GORMLEY: I guess we could go back and forth. We're disagreeing, but we-- In other words, all I'm saying is--

DR. LEONARD: It is an important real point, Senator. It is important to observe that if capital costs are going to increase in real terms, then it is less expensive to buy those projects today than it would be to buy them later. I have seen no evidence that says that over a long period, capital costs are rising relative to the price index, relative to the capacity of people to pay. That would not give a reason to accelerate capital construction. The reason would come from the fact that you have needs today that you cannot otherwise meet. If that is the case, then that is a different issue altogether.

Inflation by itself is not a reason, unless you can show that the inflation is in excess, say, of the inflation of people's earnings. Then it would be a reason to proceed.

SENATOR GORMLEY: I imagine we could have a lot of presentations about this.

DR. LEONARD: I spend a long time in my courses talking about this point, so you are getting me on one of my favorite issues.

SENATOR GORMLEY: Okay. I assumed that. If we get into the Federal Clean Water Act, it would be fair to say, however, the leveraging would appear, in whatever form -- let's not get into the bill. The leveraging would appear to give municipalities on the lower end of the priority list a greater opportunity to meet the obligations of the Federal Clean Water Act.

DR. LEONARD: Actually, I am a little puzzled about that. If you look at the Administration's figures on this, the June analysis the Administration presented showed that it would be capable of doing \$2.6 billion worth of projects. It would be involved in \$2.6 billion worth of projects. Needs were estimated at \$3.5 to \$5 billion, and I think that was the reason for the original \$5 billion waste water cap.

Now, what puzzles me is that in the testimony last week, Commissioner Hughey said you would be able to get to all of the projects using the trust. As I understand it, under the legislation that exists here, absent stable funding, absent any other new Administration tax or some other funding source that the Administration might propose, with the existing funds in the analysis that has been presented, you can only get to \$2.5 billion. This chart shows even less than that, to about \$2 billion worth of projects out of the \$3.5 billion worth of projects you need to do.

I do not understand the claim I heard in the Administration's testimony last week, which said you would be able to get to all of the projects using the trust. You could get to all of the projects using the trust--

SENATOR GORMLEY: You go to more of the projects with the leveraging though, don't you?

DR. LEONARD: No, no, this has the leveraging in it. I'm talking about the Administration--

SENATOR GORMLEY: What I'm saying is, let's get down-- Obviously, anyone can take any set of hypotheticals, or bar graphs, or whatever. The reality is that under the Administration's proposal, no matter how high it might take you, it is correct to say you can do more projects. Having the leveraging capacity, you can do more projects.

DR. LEONARD: Relative to what? Relative to not borrowing what? If you borrow more, you can do more. That's true. There are many ways to borrow more. If the comparison is, we are going to borrow this way, and we are not going to borrow some other way, then you can do more, no question. My only observation is, you pay for the privilege; leveraging costs money. No contest about that.

SENATOR GORMLEY: I don't think anyone disagrees with that.

DR. LEONARD: My only observation was that the Administration seemed to indicate it was going to be able to do the entire project list using the trust mechanism as proposed in this legislation. I do not understand that claim. I can see how if you provide a new tax proposed by the Administration, or some other funding source, some additional capitalization, you might be able to do all the projects, but I haven't seen how all the projects are covered without stable funding or some new tax proposal, at least in the figures presented to date.

SENATOR GORMLEY: I'll just repeat it. Leveraging does offer a greater ability to go down the list. Obviously, you're paying somewhat more because you are doing more projects.

DR. LEONARD: That's right. Borrowing more now allows you to go further down the list than not borrowing more now.

SENATOR GORMLEY: But that reserve fund does offer-- Would you recommend a reserve fund? Do you think the reserve fund concept is a good one to help to offset the costs to local municipalities, given the ability to do the project now?

DR. LEONARD: As I observed before, I think the reserve fund is a mechanism for enhancing the credit capabilities, the credit worthiness, of local units, of authorities, or of local governments that are borrowing. There are a variety of ways in which you can enhance the credit. This is one mechanism you may wish to consider, and there are others.

SENATOR GORMLEY: Are you familiar with a 1983 piece of Federal legislation introduced by Senator Bradley? I believe he was the first sponsor or the second sponsor on a \$10 billion appropriation.

DR. LEONARD: For?

SENATOR GORMLEY: It called for the creation of state infrastructure banks. I wonder if you are familiar with that.

DR. LEONARD: There is a whole army of people who have proposed national infrastructure legislation. I sit on an advisory committee of the U.S. Senate Budget Committee. It is a private-sector committee to advise the U.S. Senate Budget Committee on infrastructure financing. It has had before it any number of different proposals for establishing Federal infrastructure banks.

SENATOR GORMLEY: Would you then enter reports or recommendations to the Senate Budget Committee?

DR. LEONARD: Excuse me?

SENATOR GORMLEY: Has the organization of which you are a member issued any recommendations?

DR. LEONARD: No, it has not issued recommendations as such. It has provided some testimony about the Administration's tax reform bill.

SENATOR GORMLEY: Have they had occasion to give testimony about infrastructure banks?

DR. LEONARD: They are having a set of hearings in a variety of states about the possibility of creating a Federal infrastructure bank that would capitalize. What they want to do is capitalize state infrastructure banks.

SENATOR GORMLEY: Same thing -- to pass it along to another level.

DR. LEONARD: That's right.

SENATOR GORMLEY: But they are considering the concept at this time?

DR. LEONARD: Yes.

SENATOR GORMLEY: Well, if they are having hearings, they must be considering it.

DR. LEONARD: Well, that may be more obvious to you, Senator, than it is to me. There are people who are talking about establishing a national infrastructure bank. That has been going on for some time. What worries me about that development is the possibility that the Federal Congress, under tremendous revenue pressure, will take this as

an opportunity to cut the construction grants' programs and substitute a less well-funded infrastructure bank program. I think on the whole that would be another form of fiscal federalism, or new federalism, in the form of allowing you to do whatever you want as long as you use only your own money.

I think the states have a lot to lose if an infrastructure bank proposal at the national level is done wrong, and I am very concerned about the direction it is taking right now.

SENATOR GORMLEY: Have you had occasion, either personally or through some of the organizations of which you are a member, to look at costs with regard to the limited ability of a certain region to maximize its potential? You know, we talk about waste water and the fact that moratoriums could possibly be put into place on certain districts, municipalities, and construction. I know that obviously it is couched in terms of the individual needs of the district, but has there ever been a general review done of the impact on districts which have been limited, or has there been a cost impact on those districts by them not being able to go forward?

DR. LEONARD: I have not seen specific studies on that. I have seen extensive analyses of infrastructure needs, including waste water, done both by the Port Authority of New York and New Jersey and under a Joint Committee of Congress established to study infrastructure needs throughout the nation. In both of those reports, there were indications that communities face moratoriums because they are unable to meet Federal standards. They will clearly grow less than they would if they were able to do it.

SENATOR GORMLEY: Thank you very much.

SENATOR DALTON: Boy, give him an inch and he takes a mile.
(laughter)

SENATOR GORMLEY: I was nice. Wasn't I reserved today?

SENATOR CONTILLO: I was impressed. You stopped when a television camera came in. (laughter) That impressed me.

SENATOR DALTON: Thanks, Bill. Senator Costa?

SENATOR COSTA: Professor Leonard, getting back to alternatives of funding, there would be one where municipalities could

borrow with the backing of the State's credit rating, as well as its assets.

DR. LEONARD: I don't think you would use the State's credit rating directly. You would use a pledge of revenues from the General Fund. You might establish a reserve fund at the State level that would be pledged to back defaults on local borrowing. You would have to be very careful when you did that to make sure you thought the organizations whose credit you were enhancing that way were credit worthy, because otherwise the Legislature would wind up holding the bag, just the way the trust will wind up holding the bag if it authorizes loans to organizations which turn out not to be credit worthy.

I think the point you are making, Senator, is that a lot of people have come at this issue thinking there are plenty of dollars, but not plenty of authorities. I think the opposite might be true. There are plenty of authorities that can do revenue bonding. The question is, where is the money going to come from? I think Senator Contillo got at that question by asking about user fees and other sources of payment. No matter how these projects get done, and more importantly, the faster they get done-- The faster you do them, the more they are going to cost in terms of the interest payments you will have to make. The impact of this spending program on the taxpayer, in one form or another, either a local taxpayer or a State taxpayer, is going to be substantial. I think it is important for the Legislature to take appropriate interest in exactly what program gets fielded.

SENATOR COSTA: In that instance, as to what is important, we feel they are all important. Would you say we could still go under general obligation bonds? We could still save money in the long run because revenue bonds would cost us that much more in interest rates. Am I correct?

DR. LEONARD: That is an alternative. The only question would be on the degree to which you have more projects that you need to do right away, but are unwilling to issue enough general obligation bonds to cover. To the extent to which that is the case, or to pledge that in the future Legislatures will continue to issue additional

general obligation bonds to be able to cover the additional set of projects -- the extent to which you are unwilling or unable to do that, then you might need some other sources of funds now. But, that would be the issue.

SENATOR COSTA: Thank you.

SENATOR CONTILLO: Dr. Leonard, you gave us a list of five or six different ways the Legislature might close that gap, the small gap between the two systems, so I am not going to go over that again. You said something-- You gave us a little quote before. The Federal government is saying, "Do what you want, or what you need to do, as long as you are willing to pay for it." That almost seems like a fair appraisal of the difference between these two programs. If you are willing to pay the extra amount, to take it as loans, you can do it immediately, as opposed to possibly a little slower system where we would be involved in initial grants. Does this trust program fit into the same category as the Federal program in that respect?

DR. LEONARD: I am not sure I would make the analogy directly as you just did, Senator, but I think it is true to say that while you can do more programs faster if you borrow more, you always have to pay, not only for the spending you did, but also for the borrowing. If your needs are such that you can phase in over a longer period and use your own direct funds to do it, you will find those funds are cheaper than funds borrowed through Wall Street. Those guys are in business for a reason; they make money on it.

SENATOR CONTILLO: My final question probably deals with me, as a legislator. I am concerned about how we deal with toxic waste problems and hazardous waste problems. For two sessions now I have heard the concept of stable funding, which is an additional tax or permanent appropriation in order to work the trust fund in the way suggested. But, you also talked about how revenue bonds would not be very appropriate for the toxic waste cleanup problems we have in this State. If we now set aside an additional, the numbers I have seen on the new tax or the stable funding form look like \$100 million a year, or in that neighborhood, that might be better appropriated for toxic waste, but I don't think-- How else will we get money for toxic waste cleanup if not that way?

DR. LEONARD: Well, Senator, let me explain it this way. If you have access to \$100 million a year as a steady source of revenue, there are a lot of different ways you could spend it. One of them would be to spend it on environmental issues through the trust. You could spend it on hazardous waste issues or toxic waste cleanup through the trust, or you could spend it in other forms. You could spend it directly on a hazardous waste program.

My observation about hazardous waste is that there is no aspect of the leveraging or special aspect of the trust that relates to the hazardous waste program. There is no obvious reason why using the trust will help you to get more for your money in hazardous waste. No one is going to lend you money against a lien on a toxic waste site. People are running for cover trying to get out from under liens that are attached to them as a result of responsibilities to clean up hazardous waste.

So, it does not provide-- It is not a very good asset; let's put it that way. A toxic waste site is not a very good asset on which to borrow. There is no special feature of the trust that would allow you to get at that question any better than you can get at it any other way. That is why I am puzzled when I hear continual references to the use of the trust fund for toxic waste. You could run the money for toxic waste through the trust, but you won't have any more money coming out of it than you put into it. I don't see any opportunities for leverage. Now, maybe there are some that I haven't thought of, but I don't know what they would be.

SENATOR CONTILLO: There is not a great source of revenue on toxic waste sites.

DR. LEONARD: I can't think of how to sell one. I know a lot of people who would like to, if they could.

SENATOR DALTON: First of all, thank you for your time and patience, Doctor. I have just a couple of questions.

When I left after the last hearing, if any words had been pounded into my head -- and there were several -- the words more, faster, cheaper, and better were words that were used by the Governor and several of his representatives. Would you agree, given those

characterizations, that the Governor's proposal we are considering would provide more, faster, cheaper, and better?

DR. LEONARD: I think we have gone over the issue, Senator, of the extent to which more and cheaper are linked. As the Senator was asking me before, if you are able to accelerate spending, you may spend fewer dollars, but you are spending them sooner and you are spending them out of dollars that are hard to earn today, relative to the dollars you might be spending later. I don't think there is anything particular about costs savings that comes from acceleration. It may go the other way. There are projects which, if you try to do them too fast, will strain the construction capacity or the capacity of the local economy to handle them. Alaska certainly had examples of that, and I would hate to see New Jersey do it.

SENATOR DALTON: Alaska via what?

DR. LEONARD: Via the Alaskan Pipeline. That is a classic example of a construction project which cost much more than it should have as a result of being completed on what many people regard as much too fast a schedule. My point about the link between cheaper and faster is that if you do things faster by virtue of more borrowing, the borrowing itself is an additional expense. If you are comparing that to some other borrowing, then this isn't cheaper. If you are not comparing it to borrowing, then it is more as a result of borrowing, but that borrowing is expensive. I think that is the critical issue to keep in mind.

SENATOR DALTON: Senator Contillo has a better memory than I have. Would you please repeat the list of alternatives you cited?

DR. LEONARD: Well, there are a variety of alternatives. I did not go into detail about them, but just to set the context for that, the observation was that what is special about the trust fund is its ability to establish a reserve fund that can earn interest and can back borrowing. So, it is a form of credit enhancement and it provides a small subsidy to the borrowers from it.

There are a variety of other ways in which the State might enhance the credit of local areas and also provide subsidies to them. For example, it could set up, just by itself, not in a trust, or in a

smaller trust, a reserve fund, a reserve fund that is pledged for backing borrowing by local units. The State could offer loan guarantees to local units which wanted to borrow money. The State could extend the Qualified Bond Act, which would allow at least local governments to divert funds they have coming from State aid to back their borrowing. That would enhance their credit. If the State wanted to provide a subsidy to qualified local projects, it could do so by subsidizing the interest on the loans they were getting from the private market, or it could help them by buying municipal bond insurance for them. That would enhance the credit and also provide the subsidy.

So, there are a variety of other mechanisms that anyone in the financial community could describe to you that would enhance the credit of these local agencies. I would observe that the trust is one way in which you could do that, that appropriately controlled it would be a mechanism for controlling the activities of the trust so that it would be just a bond-issuing agency. That is one among many alternative ways in which you might proceed.

SENATOR DALTON: We would create a State entity with regard to enhancing the ability of municipalities or municipal units to borrow. When we cut through all the rhetoric, that is what we are talking about -- how to best enhance the municipalities' ability to borrow. The Governor proposes that it would be a State trust. Is there anything, outside of a State trust, or a State trust aside, that we could provide to the municipalities that would enhance their ability to borrow?

DR. LEONARD: Yes, there are a couple of things you could do directly. One, you could, on any approved environmental project you wanted to back, provide-- Let's take a local waste water authority that wants to issue bonds, but is worried about its credit rating and wants help from you. It has a qualified project you believe is important which the Legislature wants to help it with. The local waste water authority would come in and ask you for a guarantee of some of its borrowing. That would enhance its credit for that part of its borrowing. That would be something the State could provide out of

its own credit rating, without any backing, or the State could establish, out of a General Fund appropriation, a regular commercial bank account that would be assets-pledged to back that borrowing. So, you could create that sort of a leveraging vehicle in a variety of different ways well within the control of the Legislature and its oversight.

SENATOR DALTON: Are there any more questions from the Committee? (negative response) Doctor, thank you very much for your time.

DR. LEONARD: It was my pleasure, Senator.

SENATOR DALTON: This concludes Dr. Leonard's testimony; now we are ready to take testimony from the public. Thank you, Senator Gormley, for participating.

There are a number of people who have asked to testify. As I concluded, one of the things we were talking about was enhancing the municipal governments' ability to borrow, so I think it is only appropriate that we hear from the State League of Municipalities at this time. Good morning, Mr. Dressel.

WILLIAM G. DRESSEL, JR.: Good morning, Mr. Chairman. My name is William Dressel. I am Assistant Executive Director of the State League of Municipalities. I would like to thank you for the opportunity to testify on the legislative initiative which calls for the establishment of an environmental trust.

As you may know, the New Jersey State League of Municipalities represents the broad spectrum of municipal concerns in the 554 municipalities which comprise its membership. There are a number of issues which affect our member communities generally as they relate to the establishment of an environmental trust which we believe deserve your consideration.

In recent years there has been considerable dialogue on our State's infrastructure and environmental resources. The 1986-1987 State budget makes a considerable commitment in this area with the creation of an environmental trust. The trust is to assist municipalities in financing resource recovery facilities, providing sewerage loan programs, and financing for waste water treatment

facilities. There is also additional money that will be available in the form of loans to assist municipalities in cleaning up their toxic wastes. Although details are somewhat sketchy and fluid at this point, we understand there will be provisions for grants that will be made on the basis of need. The purpose of the trust is laudable; however, once again, as we have in the past, we have to raise our concern over the funding mechanism in any proposal which provides State funding in the form of loans, and not grants, to local units of government.

Our main problem with the environmental trust, or any other revolving loan funding mechanism, is that there must be a fundamental basis of fairness and equity in relation to what is an appropriate funding source of the trust. We are opposed to the idea of transferring Federal moneys and State funds to the trust which are now distributed to municipalities for specific projects. These moneys would then be loaned to other municipalities to finance projects requiring the repayment of these loans over a period of years at a reduced rate of interest. The concept is that these funds would be recycled to other deserving projects as they come in. The inequity, as we see it, is that the municipalities which previously qualified for grants would no longer be receiving them. Instead, they would be getting a loan that would have to be paid back. We submit that loans must be an integral part of the funding program, but a considerable portion of moneys should be set aside in the form of grants to be allocated to the vast majority of municipalities which cannot afford to pay back a loan.

The cost of running local government is skyrocketing, and to propose an environmental funding scheme that is made up largely of loans gives us some concern. Most of our communities are finding it increasingly difficult to deal with such things as soaring liability insurance costs and finding the necessary moneys to fund additional employee pension and retirement benefits, which are continually being shifted by the State to the local level. At the same time, State funding has either remained constant, as is the case with the State revenue sharing program, or the State has capped the growth of our most important revenue source -- the franchise and gross receipts

revenues. Add to this the fact that New Jersey's local governments may lose as much as \$600 million in Federal aid in the next few years, and you have a financial outlook for local governments in New Jersey that is bleak.

There has been some discussion about using a portion of the growth of franchise gross receipts revenues to capitalize the environmental trust. The League is steadfastly opposed to this proposal. May we respectfully remind the Committee that the gross receipts and franchise taxes are, in fact, not State revenues at all, but merely a replacement for local property taxes. If the utilities' properties were subject to local taxation collected by the municipalities, there would be no question but that the entire annual tax growth would belong to the municipality where it originated.

One provision in this proposal stipulates that the trust may require municipalities that are serviced by a waste management district or municipal or county sewerage, utility, or improvement authority to make payments which would satisfy any deficiencies in the revenues of the districts or authorities to repay their loans to the trust. In light of the fact that municipalities have little or no say in the policy decisions of the district or authority, it makes little sense to have the local taxpayer pick up the financial burden of a separate autonomous body that is not directly accountable to the municipality in which he resides.

In summary, we feel there should be a loan program as part of the overall funding mechanism, but the majority of funds should be set aside as grants that will not require repayment.

We commend the sponsor of this legislation and the members of this Committee for taking the initiative to explore new ways of addressing the environmental resource problems which are plaguing our State and local economy. We are interested in working as a partner in developing an environmental trust fund mechanism which will meet our State's needs without any further financial burden to local governments and, more importantly, to the taxpaying public.

Thank you for the opportunity of appearing here today. I would be pleased to answer any questions you may have.

SENATOR DALTON: Thank you, Mr. Dressel. Are there any questions from the members of the Committee?

SENATOR CONTILLO: You are, in effect, representing the people-- This was really meant to assist the municipalities and the taxpayers. Were you more comfortable with the original form the bond issues took than you are with the suggested form we have now; in other words, the form that came through which was conditionally vetoed?

MR. DRESSEL: We expressed basically the same concerns then as we are expressing now. As I said, we feel that a substantial portion of the trust should be devoted to grants. There should be a restructuring of the State funding priorities. There should be a commitment by the State to pick up a larger portion of the funding. We need a stable funding source, and I think that would require an annual appropriation, a larger assumption of that responsibility by the State.

SENATOR DALTON: You're basically saying that the stable funding source should be the source that is presently going to municipalities.

MR. DRESSEL: Yes, it is a statewide problem. We think there should be a moral obligation, a State obligation, to assume a larger chunk of that action.

SENATOR CONTILLO: You don't think the stable funding source should be a statewide property tax? That is what it sounds like.

SENATOR COSTA: I might add, Mr. Dressel--

MR. DRESSEL: Maybe another funding source. It would be presumptuous of me to recommend one, but there should be a self-generating stable fund, possibly a commitment by this Administration and the next administration to earmark a large allocation of the State budget to our infrastructure needs.

SENATOR CONTILLO: Yes. I think it is incumbent upon anyone who suggests that we have a stable funding source, whether it be yourself or the Administration, to identify that source. If the Administration wants a stable funding source, they should identify it, and if you want one, I think you should identify it.

SENATOR DALTON: Are there any other questions? (negative response) Thank you very much, Mr. Dressel.

MR. DRESSEL: Thank you, Senator.

SENATOR DALTON: Is there anyone here from the New Jersey Business and Industry Association? (no response) Is there anyone from the New Jersey State Chamber of Commerce? (affirmative response)

LINDA PELRINE: Good morning Mr. Chairman and members of the Committee. My name is Linda Pelrine and I am from the New Jersey State Chamber of Commerce.

We would just like to express our support for the efforts of this Committee and the Legislature to develop a comprehensive program for the funding of major environmental initiatives. We have, on many occasions, urged the Legislature to act on a balanced plan which would incorporate funding for resource recovery, the limited use of landfills, and the continued improvement of waste water treatment systems in an attempt to achieve the ultimate goal of a sound and economical method for dealing with solid waste in our State.

We would just like to say we appreciate the extremely complex nature of the funding proposals you're studying now, and we appreciate the careful consideration you are giving them. However, we would like to see the Committee take quick action on the proposals so that an effective plan could be appropriated in time for consideration on the November ballot.

Thank you very much.

SENATOR DALTON: Do you want to recommend which form the proposal should take?

MS. PELRINE: Essentially, we support the Administration's proposal. In view of the expert testimony given by Dr. Leonard and other considerations, we feel it is a very complex financing structure you have to consider. However, we basically support the Administration's proposal. We would like to see further consideration given to that plan, as opposed to the previously approved proposal by the Legislature.

SENATOR COSTA: Or some adaptation of it, correct?

MS. PELRINE: Yes.

SENATOR DALTON: Thank you very much. Next we will have Mr. H. Daniel Pincus from the New Jersey Builders Association. Is there anyone here from the New Jersey Environmental Lobby? (no response) All right. Mr. Pincus?

H. DANIEL PINCUS: Thank you, Mr. Chairman, for allowing us the opportunity to speak with you today.

SENATOR DALTON: I'm sorry it took so long.

MR. PINCUS: That's okay. I, too, would like to commend you for convening this hearing on a topic which I believe to be of critical and urgent concern to all of New Jersey's citizens. Today we are discussing a topic that, left unaddressed, has immediate adverse consequences for our citizens, our economy, and our environment. These immediate impacts pale in significance, however, when we look forward just a few years; inaction today means stagnation and decay in the future. To that extent, I happen to agree with Senator Gormley that we really do have a crisis that must be addressed today. As a matter of fact, as many funds as we can put into the funnel, we should address and do so.

I know of no one who disagrees with the view that if the State's infrastructure continues to deteriorate unabated, we will face a situation where economic growth and prosperity will come to a complete standstill, with literally thousands of jobs lost. Rather than being one of the nation's leading centers of economic activity, our State will rapidly return to the twin evils of high unemployment and low growth that were dominant features of our economy not very long ago.

The validity of this conclusion is certified in a growing body of literature assessing this State's future, most recently in a report issued by the Regional Planning Association. With your permission, Mr. Chairman, I will submit for the record an article by Anthony DePalma which appeared in the Sunday, August 18, New York Times. It is entitled, "Will a Housing Shortage Crimp Economic Gains?" The answer is: Unless we begin to take farsighted, balanced action now, an otherwise optimistic outlook will turn sour.

This is why we believe that the environmental capital infrastructure issue must be addressed now. The prospect of trash accumulating without facilities to dispose of it safely, of untreated waste water being released into waterways, and of dangerously low water supplies is too real and too close at hand to permit petty political

posturing to paralyze the most vigorous State in the Union. To see how real the potential for crisis is, you need only observe the line of trucks waiting to enter the few landfills that are still open.

Let me give you an example of how critical the situation is: Of 567 municipalities in New Jersey, some 96 are already under a sewer ban, with the Camden area among the most severely affected. There it is shown in orange, Mr. Chairman (demonstrating on map). What these bans really mean is that virtually no construction can take place, and that will lead to high unemployment and general economic stagnation. At the present rate, DEP forecasts that, by July, 1988, approximately one-third of New Jersey may be subject to a sewer moratorium, which is tantamount to a building moratorium, mainly due to the lack of funding for needed treatment facilities, and the fact that towns will not be able to meet their treatment goals set by the Federal Clean Water Act.

We have this map with us to illustrate the number of towns affected by sewer bans, plus those that have reached 80% capacity. Those total 50, and are shown in yellow. When a particular authority or sewerage treatment facility reaches 80% capacity, by law that town must submit a plan to DEP for approval, to upgrade its facility and expand it. Mr. Chairman, clearly something must be done, and done now. It is no exaggeration when we say that New Jersey, unfortunately, is in the forefront of the nation when it comes to environmental woes.

Mr. Chairman, this Legislature enacted the Transportation Trust Fund, establishing a revolving loan program for needed road and bridge improvements. For that I commend you. We feel the genius of that approach should be applied to other capital infrastructure projects. Our solid waste disposal and waste water treatment crisis warrants immediate attention; it needs a stable, permanent source of funding. The fact that we have less than two years of landfill capacity in New Jersey is a shocking reality, and one that guides us in the direction of promoting resource recovery facilities. I would like to point out that we, the builders, have been working with DEP for almost two years to try to get an exemption from this landfill program, which would allow us to bury sumps on our own sites, along with other vegetation. We are proceeding, but it has taken two years, at a cost

of \$1 million a month to the consumers of houses, and at a cost of 200,000 cubic yards a month to the State. We are eating up our landfills, as you well know, faster than we can find someplace to put it.

Attached to our testimony is a summary of the results of a recent public opinion survey, which concludes that citizen support for resource recovery facilities is overwhelming and that our solid waste disposal crisis warrants immediate attention.

Creative funding mechanisms must be enacted before it is too late. Therefore, we urge this Committee and the Legislature to act immediately on legislation that would establish an infrastructure trust that would issue low interest loans and grants to local governments for waste water treatment and solid waste disposal projects. The trust should be managed by an autonomous authority to assure that funds from State and Federal sources are secured and dedicated for the exclusive purpose of increasing this State's capacity to maintain its environment and its economic growth simultaneously.

The New Jersey Builders Association recommends that such a trust fund be initiated through a general bond issue to take advantage of its equity capital and additional bond proceeds. For example, the concept of issuing trust reserve bonds to generate these proceeds is an innovative concept with a great deal of potential. It would generate substantial resources at relatively low interest rates by taking advantage of the trust's equity capital and its loan repayment agreements with local governments.

We recognize that the Legislature is facing some difficult decisions with respect to this concept. We note, however, that several other states have enacted legislation premised on this New Jersey-spawned concept. Although I do not mean to take issue with Dr. Leonard, two states, Oregon and Missouri, already have this kind of legislation in place. Illinois has legislation sitting on the governor's desk, and there are seven other states which have bills in committee or ready for debate on the floor of their general assemblies.

The leadership of this State -- in both the Legislative and Executive Branches -- has the capacity to rise to any challenge, so

long as partisan factions are set aside. I am confident that, in the face of our environmental and infrastructure problems, you will act progressively, with your vision set on the State's future.

Mr. Chairman, I commend you and the other members of your Committee for returning to address such a pressing problem. I urge you to adopt the environmental trust fund legislation, thereby creating a sound and stable system to address the problems in a farsighted fashion.

Thank you very much, sir.

SENATOR DALTON: Thank you for your time and patience, Mr. Pincus. Are there any questions from the members of the Committee?

SENATOR COSTA: Yes.

SENATOR DALTON: Senator Costa.

SENATOR COSTA: Mr. Pincus, you addressed stable funding. What tax are you recommending?

MR. PINCUS: I think the probability is that the taxes are already in place as they relate to user fees and other revenue generation that is necessary. I know in every municipality I build in, I pay connection fees. In many, many, many cases, those connection fees are far, far above what the courts have allowed those authorities to charge. As it is right now, I believe they are in place. Certainly, there will have to be an adjustment; there is no question about that. But my point to you, Senator, is that if we allow that to continue and the economic viability of this State diminishes, we will be faced with even more severe problems than this one. We will not have the luxury of worrying about this kind of a situation, when we have 12%, 13%, or more unemployment.

SENATOR COSTA: I appreciate what you have to say, Mr. Pincus. I feel that we all know this has to be addressed, but it is just that we continually hear about a stable funding base and yet we have not gotten it. That's why I asked you what you would recommend.

MR. PINCUS: I do not know what to recommend. I am not a technician in the area. I tried to listen to the testimony of Dr. Leonard this morning and the Governor's representatives during the first hearing. I am under the impression, however, that the interest

generated from that fund will substantially help us over that hurdle as it relates to a stable funding source. If the interest is repaid, the regeneration of those funds in the out years will be enough to sustain us through to the conclusion of all the projects which are presently a serious problem. That is what I was led to believe from the testimony. The only question I believe Dr. Leonard posed, aside from suggesting there are other alternatives, is whether, in fact, you want to spend the money now. If I heard him correctly, he did not address the crisis issue, but if, in fact, you want to spend the money now, the best way to do it is through a leveraging process. I urge you to give serious consideration to that statement.

SENATOR DALTON: Thank you very much, Mr. Pincus. The next person who will give testimony is Freeholder Carol Murphy from the County of Morris.

FREEHOLDER CAROL J. MURPHY: Good morning, Mr. Chairman and members of the Committee. My name is Carol Murphy. I am a member of the Board of Chosen Freeholders of the County of Morris, and I am Chairperson of the Freeholders Planning and Development Committee, which includes the Solid Waste Advisory Council. I would like to thank you for the opportunity to address this Committee, and I would like to speak on behalf of the bills under consideration at this hearing -- Senate Bill 3187 through and including Senate Bill 3191.

The message I bring from my Board is that these measures have our unequivocal support and we urge their immediate passage so the voters of Morris County and the rest of the State may be given the chance to publicly declare their determination to save our threatened environment.

As you know from our previous appearances before this Committee, Morris County is presently the only county in New Jersey to be under an administrative court order that sets time lines for both opening a landfill and a resource recovery facility, with target dates that have very little margin for error.

We are under no illusions that these can be accomplished easily or cheaply. When our Board adopted the latest amendment to our Solid Waste Management Plan, we did so knowing we were committing the

County to borrowing hundreds of millions of dollars, a concern I raised at a previous appearance before this Committee.

We will need help, as will the other counties who will be building the same types of facilities.

We will need help in trying to maintain a stable County tax rate in the face of a mountain of debt service for the bonds that will have to be floated to pay for the landfill and the incinerator.

We will need help in paying for the reconstruction of the many sewage treatment plants in our County which can no longer cope with the flood of waste streaming from new developments and new housing.

We will need help in properly closing the many abandoned landfills scarring the face of Morris County, those silent threats to the adjacent communities and the future of our children.

We have learned in Morris County that despite partisan approaches, garbage has no politics. We know that both parties have their versions of what would work best, but it appears to us that the bills under consideration are the most viable, and we are here today to urge their passage.

If there is any documentation or any analyses you would like to have us prepare to help you in your deliberations, please let me know and we will work on preparing them for you. If you have any questions of me, I will certainly be glad to answer them.

Again, thank you all for hearing me.

SENATOR DALTON: Thank you, Freeholder Murphy. Are there any questions from the members of the Committee?

SENATOR CONTILLO: Did you site your incinerator in Morris County yet?

FREEHOLDER MURPHY: We have sited our landfill, and we are in the process of having that same site looked at for resource recovery because we honestly feel they would be more compatible, and certainly more efficient, were they sited within the same area physically close to each other.

We also plan to place recycling components and the entire mechanism within that same area, feeling that this will certainly cut

down costs and allow us to confine solid waste activities to an area where they can be more carefully monitored.

SENATOR DALTON: Just as a point of information, since I am a Senator who represents part of Gloucester County, they are also under a court order with regard to the same types of things as Morris County.

FREEHOLDER MURPHY: My apologies. I think periodically we probably get a little bit of tunnelvision and a small amount of paranoia follows these things.

SENATOR DALTON: Okay, Freeholder. Thank you very much.

FREEHOLDER MURPHY: Thank you, Senator.

SENATOR DALTON: Does anyone else wish to be heard on the bills? (no response) All right, this will conclude today's hearing. Thank you very much.

(HEARING CONCLUDED)

APPENDIX



NEW JERSEY SENATE

cc. Cary
[Signature]
cc: JK

SENATE CHAMBERS
STATE HOUSE
TRENTON, NEW JERSEY 08625

JUL 25 1985

July 24, 1985

Mr. Cary Edwards
Chief Counsel
Office of the Governor
State House
Trenton, New Jersey 08625

WCC
ACTM

7/25/85

Dear Mr. Edwards:

On June 27, the Senate Minority introduced a package of bills (S.3187,3188,3189,3190,3191) which, to my understanding, constitute the most recent version of the Administration's environment program. As you know, all of these bills were referred to the Energy and Environment Committee. I am also in receipt of the "technical paper" forwarded by your office to the legislative leaders which outlines the funding capacities of the wastewater treatment assistance program.

In preparation for committee consideration of this proposal, I have reviewed all of the information supplied by your office. During the course of this review, I have developed a number of questions about this proposal. A response to these questions would help me, members of my committee, and the public to achieve a more complete understanding of the operation of the proposed Environmental Infrastructure Trust. I am sure your staff and financial advisors will be able to provide complete and thorough answers to these and any other questions.

Following are the questions which resulted from my initial review of the proposal:

I. GENERAL

- (1) The proposed bond act includes a limitation of \$9 billion, \$5 billion for wastewater treatment, \$3 billion for resource recovery and \$1 billion for sanitary landfill closure:
 - (a) How were these figures developed for each program area?
 - (b) Are these limits intended as a cap on the total amount of money the trust will have for grants or loans or are the limits intended as a debt ceiling?
 - (c) If the limits are intended as a debt ceiling, are they placed only upon trust borrowing against State bond proceeds or on the entire borrowing capacity of the Trust?

- (2) You have stated that the Department of Environmental Protection, would determine environmental priorities for trust funding:
- (a) Will the Department set priorities for both first and second generation loans?
 - (b) What criteria is currently used to set these priorities?
 - (c) Will changes in these criteria be made?
 - (d) How will the terms and conditions of loans and grants be determined?
 - (e) What is the Legislature's role in this policy making process.

Please supply this information for each project area financed by the trust.

- (3) The proposed bond authorization legislation contains the necessary provisions to permit bond refunding; however, they do not contain some procedures which are currently followed to sell a refunding issue, such as, Subcommittee on Transfers review of any refunding proposal:
- (a) Why were these procedures deleted?
- (4) The proposed Trust legislation permits the charging of fees to cover expenses but the background material does not contain any cost estimates:
- (a) What is the annual estimated cost to local units for these expenses?
- (5) You have stated that one of the advantages of the Trust is its capacity to lend money to local units more quickly:
- (a) How quickly can the Trust's revenue bonds be issued, given that the bonds are dependent upon adjusted user fees?
 - (b) Can the Trust mandate the increased fees necessary to issue the revenue bonds, or does it have to wait for the Board of Public Utilities' approval of rate filings?

II. WASTEWATER TREATMENT

- (1) The information provided for this program assumes the passage of legislation reauthorizing the Federal Clean Water Act:
- (a) What is your estimate of timing of any Congressional action?
 - (b) How do alternative reauthorization measures now pending in Congress impact on the proposed Trust?

- (2) What specific projects will be financed by the federal grant and 8% state loan portion of program?
- (3) What specific projects will be financed by the 100% federal and state loan portion of the program?
- (4) This proposal changes the current 8% state grant program into a loan program:
 - (a) Why is this change necessary?
 - (b) How will this impact on local units existing financial plans and fee or tax structures?
- (5) The technical paper suggests the use of 15 year loans:
 - (a) Why was this loan period selected?
 - (b) What would be the financial impact on the local units' plans and tax or fee structures if longer term loans were used?
- (6) The background information does not show the amount of revenue bonds to be sold and how the debt service will be paid:
 - (a) Please supply us with detailed information on the Trust's assumed borrowing and repayment schedule including all reserve accounts.

III. LANDFILL CLOSURE

- (1) The information supplied does not provide the same level of detail for this portion of the program:
 - (a) Please provide a detailed financing plan for landfill closure projects.
 - (b) Please supply a list of projects to be funded from the trust.
 - (c) How will these loans be repaid from landfills which are no longer operating?
- (2) Originally, the program included a \$25 million General Fund appropriation and \$25 million in bond funds for landfill closure; however, the revised program would fund this program with \$50 million in bond funds:
 - (a) Why was this change made?
 - (b) Are there advantages of bonding for this purpose?

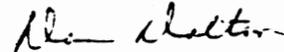
IV. RESOURCE RECOVERY

- (1) The information supplied does not provide the same level of detail for this portion of the program:
 - (a) Please provide a detailed financing plan for resource recovery projects.
 - (b) In addition, please supply a list of projects to be funded from the trust.

As the Administration has requested rapid committee and legislative action on these recently introduced bills, it would be most helpful if you could aid this process by responding to these questions quickly. I would appreciate receiving a point by point response by August 12, 1985.

If you need any clarification, please feel free to contact me.

Sincerely,



Daniel Dalton

THIS DOCUMENT CONTAINS A COMPREHENSIVE SET OF ANSWERS TO SENATOR DALTON'S "QUESTIONNAIRE" (ATTACHED) ON THE NEW JERSEY ENVIRONMENTAL TRUST PROGRAM

GENERAL

Question 1 (a) -

The \$5 billion, \$3 billion and \$1 billion "limitations" actually represent the State's projected capital infrastructure needs in the areas of wastewater treatment, resource recovery and landfill closure.

Regarding wastewater treatment, the \$5 billion needs projection was established through the federal wastewater treatment "Needs Survey," which projects clean water goals on a nationwide basis. The latest federal survey (NJDEP has already forwarded this document to the Senate Energy & Environment Committee) lists \$4.562 billion in total wastewater treatment needs throughout New Jersey; but it underestimates the construction costs of "combined sewer-overflow projects (sewer/storm drain combination systems) by at least \$500 million. The "Proposed Priority System and Project Priority List for Fiscal Year 1986" (attached), which NJDEP revises annually pursuant to the federal Clean Water Act, lists approximately \$3.5 billion in "current" wastewater treatment needs throughout the state. However, while most of the major state projects are included on the priority list (such as the Camden, Hudson & Cape May County regional systems, totaling \$1 billion) not all local governments have requested federal financing assistance for their needed wastewater treatment systems. Therefore, those projects (although included in the federal needs survey) are not included in the Clean Water Act priority list.

Regarding resource recovery, the \$3 billion needs projection was established in accordance with NJDEP's 10-year projections on the construction schedules for the various counties' planned trash-to-energy incinerators throughout the state. A status report which summarizes the efforts of each solid waste management district (the 21 counties & HMDC) to develop long-term solid waste management plans (i.e. comply with the N.J. Solid Waste Management Act) is summarized in the State "Solid Waste Management Plan, Draft Update, 1985-2000" (attached). We caution that the resource recovery needs projection prepared by OLS for the Senate Energy & Environment Committee (attached) is significantly underestimated; for example, it does not include the planned Hudson (\$200 million), Gloucester (\$75 million), Camden City (\$150 million) or Middlesex (\$300 million) facilities.

Regarding landfill closure, the \$1 billion needs projection represents NJDEP's "preliminary" estimate; in final analysis, however, this estimate be very conservative. In the past ten years, over 300 landfills have been shut-down (i.e., terminated, but not necessarily closed in an environmentally sound manner). As an example of the the magnitude of landfill closure, consider that the total projected closure costs of five major landfills in

Gloucester (Kinsley), Middlesex (Hamm's) and Hudson/Bergen Counties (3 HMDC landfills) approaches \$140 million. NJDEP is presently preparing a "State Landfill Closure Plan," which will include projections of capital, operating and maintenance costs associated with the closure and post-closure of landfills.

Question 1 (b) -

As included in the \$275 million "Clean New Jersey Bond Act of 1985" (S-3188 (Gagliano), A-4002 (Muhler), Conditional Veto message for S-3094 (Grechto)), the "limitations" are technically "aggregate bond caps" imposed upon the New Jersey Environmental Trust (Trust) in its use of the bond proceeds. Therefore, the Trust could never issue an aggregate of more than \$5 billion in wastewater, \$3 billion in resource recovery and \$1 billion in landfill closure revenue bonds. As discussed above, however, the limitations are actually an assessment of the state's capital infrastructure needs in these three environmental areas.

Debt
cap

The attached Technical Paper, which summarizes potential Trust financing scenarios for maximizing the total of available loan monies, evidences that the Trust would (in all instances) issue revenue bonds at aggregate volumes far below the "cap" levels. Specifically, the document illustrates that Trust bond issuances would never exceed an aggregate of \$1 billion over 16 years.

*** Although it did not request a specific cap level, the Legislature had originally recommended that the Trust program include some bonding limitation on Trust financing powers. The bond caps presently contained within the Trust program were included in response to that request. As was offered at the August 27 meeting of the Senate Energy & Environment Committee, the Kean Administration will consider any further recommendations by the Legislature to either (1) delete the bond caps, or (2) establish more meaningful aggregate and/or annual bonding limitations on the Trust's financing powers. Such amendments could be modeled after similar provisions included in the New Jersey Transportation Trust Fund Authority Act.

Question 1 (c) -

It is the Governor's firm belief that the voters should participate in the creation of the innovative, yet fiscally-sound Trust program. Consistent with that goal, the proposed "Clean New Jersey Bond Act of 1985" asks the voters to approve the projected environmental infrastructure needs as aggregate bonding limitations on the Trust's use of the bond proceeds in securing the issuance of revenue bonds. Through the proposed Trust financing plan, we would maximize the use of all state and federal monies available for assisting local governments finance their critical wastewater treatment (clean water), resource recovery and landfill closure needs.

It is important to recognize, however, that in addition to these "statutory bond caps" on the use of the bond proceeds, the framework of the Trust program itself contains an effective "inherent bond cap" on the use of

all state or federal funds appropriated to the Trust - this being because the Trust could only issue that amount of revenue bonds which would be securable by its revenue stream, i.e., principal and interest payments on loans and any potential state stable funding source. Therefore, the Trust could never incur "excess debt" because its capacity to issue bonds, the proceeds of which would be used to make zero or low-interest loans, is partially controlled by the loan applications it receives from local governments.

Question 2 (a) -

Section 23 of the Trust act establishes a comprehensive legislative oversight procedure for review of the NJDEP's proposed "project priority lists" for the wastewater treatment, resource recovery and landfill closure components of the Trust program. This legislative oversight procedure, whereby NJDEP annually submits proposed project priority lists to the Legislature for its review (including potential modification where necessary), will be conducted for every year that the Trust is in operation. Therefore, the Legislature will retain project-specific oversight over all first and second generation Trust loans. Also, at the request of the Assembly Majority staff, the Kean Administration has proposed amendments to the Trust act (specifically, in section 22 of S-3187 (Gagliano)) which further clarify that the Trust can only issue loans or grants for those environmental projects specifically approved by the Legislature.

Question 2 (b) & (c) -

Section 23 of the Trust act specifically directs NJDEP to "for each fiscal year develop a priority system for wastewater treatment facilities and ... establish the ranking criteria and funding policies for the projects" Historically, NJDEP has prepared its proposed project priority list for wastewater treatment systems in accordance with the comprehensive water quality standards and priority criteria contained within the the federal Clean Water Act (Note: As is more thoroughly explained in Question 3 under the "WASTEWATER TREATMENT" subheading, the NJDEP must establish a project priority list which complies with the methodology of the Clean Water Act in order to be eligible for any available federal construction grants).

Generally, the Clean Water Act priority criteria are effectively designed to maximize the use of available federal funds for achieving the highest direct water quality benefits. Specifically, the system awards points to projects according to "project discharge priorities" (in order of priority: primary treatment, overflowing source, adequate secondary treatment, new systems, advanced wastewater treatment and infiltration/inflow correction categories) as well as "water use/water quality priorities" (in order of priority: potable water supply, shell fish/trout/non-trout, primary contract recreation, public nuisance and agricultural or industrial water use). The NJDEP's proposed FY-86 Clean Water Act project priority list contains a comprehensive summary of the priority "methodology" employed by NJDEP.

Regarding resource recovery facilities and environmentally-sound sanitary landfill systems, the state solid waste management plan (attached)

is a comprehensive master document which (1) assesses the counties' current progress towards compliance with the New Jersey Solid Waste Management Act, and (2) evaluates the available alternatives for addressing our state's critical solid waste management needs. Specifically, the plan: summarizes types of solid wastes and the institutional structures established to manage them; identifies statewide solid waste disposal capacity needs over time, and the estimated costs associated with the implementation of this capacity; provides a summary of NJDEP policy regarding the applicability of available resource recovery technologies; and presents some of the issues that must be resolved statewide or in given districts in order to implement solid waste management plans. The plan also presents current NJDEP guidance designed to assist solid waste management districts (21 counties & the RMD) in resolving these issues.

Regarding the closure of existing sanitary landfill facilities, sections 23c and 24 of the Trust act expressly establish general priority and eligibility criteria for landfill closure projects.

As is more thoroughly explained in the Governor's Conditional Veto message for A-3112 Acs (Herman), all eligible landfill closure projects would be given priority for Trust financing assistance as follows: (1) local governments who own, operate or utilize sanitary landfill facilities which have received out-of-state solid waste for at least six months; (2) local governments who own, operate or utilize all other landfills (those not receiving out-of-state solid waste) and (3) privately owned and operated landfills.

Landfill closure projects would initially qualify for Trust grants or loans in accordance with the following eligibility criteria: (a) grants would be issued to local governments for those landfill closure costs apportionable to out-of-state solid waste haulers who are no longer using the subject landfill, which the local governments are therefore responsible for paying either directly, as landfill owner or operators, or indirectly, as landfill users through increased solid waste disposal tariffs; (b) below market-rate loans (probably 2% under a stable funding scenario) would be issued to local governments for all other closure costs - those apportionable to in-state solid waste; and (c) below market-rate loans would be issued to owners or operators of private landfills for closure costs.

As stated earlier, NJDEP is presently preparing a comprehensive document which summarizes our statewide landfill closure needs.

The present eligibility and priority criteria which are proposed to qualify and rank environmental projects for Trust loans and grants could be revised in the future as circumstances dictate.

Question 2 (d) -

Section 9 of the Trust act provides that the Trust shall establish the interest rates, terms and conditions of all loans and grants. Each loan by the Trust (including the interest rates, terms, and conditions thereof) would also be subject to approval by the State Treasurer.

*Terms of
loans or
grants*

Although the Trust is theoretically empowered to establish interest rates, terms and conditions for loans, it is important to recognize that all of the alternative Trust financing plans cited in the attached Technical Paper establish very favorable interest rates, terms and conditions for all Trust loans. Accordingly, we believe that the Trust could provide local governments with financing arrangements which will minimize the user-fee impact of constructing the needed environmental projects.

Specifically, all of the alternative Trust loan scenarios cited in the Technical Paper entail interest rates at levels substantially below market-rate (the rate local governments would pay if they financed independently); the scenarios also provide for alternative repayment schedules of 12, 15 and 20 years. All loans would include three-year "construction" deferrment clauses (i.e., no repayments of principal or interest during the first three years after the loan). Since the Trust would offer local governments a choice of alternative loan repayment schedules (12 to 20 years), the governments will be able to effectively balance their total project costs/annual costs based upon their specific fiscal circumstances.

Question 2 (e) -

As is discussed above in Question 2(a) and below in Question 3 of the "WASTEWATER TREATMENT" subheading, the Legislature would exercise a very meaningful and comprehensive oversight over the operations of the New Jersey Environmental Trust - the Trust would only be authorized to issue loans or grants for those environmental projects annually approved by the Legislature in the project priority lists for the wastewater treatment, resource recovery and landfill closure components of the Trust program. Essentially, the legislative oversight provided for in the Trust act exceeds that usually exercised by the Legislature over the expenditure of all state general obligation bond proceeds.

Several additional legislative oversight provisions have already been included in the Trust act at the recommendation of the Assembly Majority staff. Nonetheless, as offered during the August 27 meeting of the Senate Energy & Environment Committee, the Kean Administration is willing to consider any reasonable recommendations by the Legislature for even further extending its oversight powers. Specifically, we would consider recommendations for the establishment of an administratively efficient procedure for legislative approval of all Trust loans (e.g., an annual bill approving each loan for a given fiscal year).

Our willingness to even further negotiate on this issue is consistent with the Governor's goal of establishing a "single purpose" financing program which does not intrude into the Legislature's policy role of determining which local governments will receive available state and federal monies; but rather, a program which has the financial and legal capacities to maximize the aggregate amount of funds available to the Legislature for appropriation to the needed environmental projects.

Regarding the general powers of the Trust, we also advised at the August 27 hearing that we would consider any reasonable recommendations of the Legislature with respect to the Trust's powers to acquire/dispose of

real or personal property (section 5g), or its capacity to retain "engineers" (section 51).

Question 3 -

Consistent with the financing powers given to all other state agencies, the New Jersey Environmental Trust may only issue bonds, refunding bonds, notes or other obligations after prior approval in writing of both the Governor and State Treasurer. Further, the Trust act also contains the following "unique" legislative oversight provisions which are not included in any other state agency enabling acts: (1) the Trust shall provide the Senate and Assembly with written notice of any new bonding or refunding requests for approval of the Governor and State Treasurer at the time the requests are made; (2) it shall provide the Senate and Assembly with written notice of the responses of the Governor and State Treasurer at the time the responses are received by the Trust; and (3) the Trust is required to notify the State Auditor no later than thirty days prior to any planned new bonding or refunding issuances, in order that the State Auditor shall review the proposed issuances, including any covenants therein and report the findings to the Legislature.

In addition to the above, it is important to recognize that the Legislature will have direct input on all Trust activities through the Governor's two legislative appointments, both of whom are appointed (one each) upon the recommendation of the Senate President and Assembly Speaker. Therefore, in comparison to other state agencies, the Legislature would have a more meaningful role in Trust bond issuances and advance refundings.

Question 3 states that the Trust act does not contain certain procedures which "are currently followed" to sell a refunding issue, such as review by the JAC Subcommittee on Transfers. To our knowledge, that procedure has only been included in S-2194 (Weiss) - the bill recently signed by the Governor which implements a constitutional amendment approved by the voters in 1983 whereby the Legislature was empowered to authorize refinancings of State general obligation bonds without first obtaining voter approval. In contrast, there are no instances where state agencies are required to submit their advance refunding plans to the JAC Subcommittee on Transfers for approval.

Lastly, it is also important to recognize that the Trust act is modeled closely after the newly established, but already demonstrably successful New Jersey Transportation Trust Fund Authority (TTFA). The TTFA act does not include JAC Subcommittee on Transfer review; also, it does not contain any of the additional notification requirements contained within the New Jersey Environmental Trust Act.

The above notwithstanding, at the August 27 meeting of the Senate Energy & Environment Committee, the Kean Administration offered to further negotiate on this issue in efforts to reach a compromise on the Trust program. Specifically, we would consider any reasonable recommendations of the Legislature calling for a constitutional and administratively efficient prior review of all Trust bond issuances (including advance refundings) by either the JAC Subcommittee on Transfers or the Legislature.

Question 4 -

Section 5(p) of the Trust act provides that the Trust may:

charge to and collect from governmental units and owners or operators any fees and charges in connection with the Trust's loans, guarantees or other services, including but not limited to fees, and charges sufficient to reimburse the trust for all costs incurred by it in connection with its financings and the establishment and maintenance of reserve and other funds as the trust may determine to be reasonable. The fees and charges shall be in accordance with a uniform schedule published by the trust for the purpose of providing actual cost reimbursement for the service rendered.

It is important to recognize that this provision is intended to only allow the Trust to charge "loan application fees" which are sufficient to reimburse it for its actual loan and grant application processing expenses. Although we have not projected specifically what the application fees would be, we are certain that they would be much less than the application fees and issuance expenses associated with independent debt issuances by local governments in the public credit markets. As a safeguard, the Trust act expressly requires the Trust to establish "uniform" fees and charges for the purpose of providing "actual cost reimbursement" for the service rendered. This particular provision was also recommended by the Assembly Majority staff.

Question 5 (a) & (b) -

Assemblyman Herman has recently introduced a variation the New Jersey Environmental Trust Act (A-3968) which is essentially identical to the Administration version of the act (S-3187 (Gormley), A-4001 (Hardwick), Conditional Veto message for A-3112 (Herman)), except that it also establishes a fifteen-year, \$100 million stable funding source from State Gross Receipt and Franchise Tax collections. Although the Governor has not initiated or endorsed a specific level or source of an annual state contribution, he has publicly stated that he is willing to discuss the concept of "stable funding" for capitalization of the Trust. At this stage, it is appropriate to begin focusing on the alternative "levels" and "sources" of the stable funding component.

In light of Assemblyman Herman's actions (which were presumably on behalf of the Assembly Majority) and the stated conceptual support of stable funding by both the Democratic and Republican leadership of the Senate and Assembly, the attached Technical Paper on alternative Trust financing scenarios includes the following two components: (1) component #1 assumes that the Trust would only be capitalized by the appropriations contained within the 5-bill Trust program; (2) component #2 assumes that the Trust would also be capitalized with an annual \$100 million appropriation from the General Fund during FYs 1987-2001. Even without stable funding, the Trust can assist more local governments finance their needed environmental projects on a much faster, and therefore, correspondingly overall cheaper basis, than could be financed under either the alternative plan recently passed by the

Legislature or by local governments independently in the open public credit markets. As evidenced by the attached Technical Paper, the addition of stable funding will even further enhance the Trust's already impressive capacity to provide MORE - FASTER - CHEAPER to the property tax and rate payers of the state.

As is outlined in the attached Technical Paper, the Trust could issue its revenue bonds (a maximum aggregate of under \$1 billion) in a periodic, orderly fashion, with or without stable funding.

Question 5(a) appears to imply that the Trust might have difficulty in timing its revenue bonds issuances, "given that they are dependent upon adjusted user fees." Both Standard & Poors and Moody's Investor Service (the rating agencies) have informally advised that even without receiving a state stable funding source, the Trust could still issue its revenue bonds in a timely fashion. Initially, it is important to recognize the following two salient points which support that conclusion: (1) the "rate covenants" (promises to establish revenues sufficient to repay debts) contained within the Trust loan agreements would be essentially identical to those already required in the necessary bond resolutions when local governments finance their environmental projects through the issuance of their own (more-expensive) revenue bonds in the public credit markets; and (2) the Trust loans in all potential Trust financing scenarios have three-year "deferrment clauses" (initial time-periods where, in recognition of construction cash flows, there is a deferrment on loan repayments of principal and interest).

Also, it is important to recognize that the Trust act itself contains the following three "default-protection" safeguards which will further enhance the Trust's capacity to satisfactorily secure and issue its revenue bonds on a timely basis: (1) section 9a requires that all Trust loans, including the terms and conditions thereof, must be approved by the State Treasurer (this is especially attractive to the rating agencies in light of the State's own outstanding credit practices, as evidenced by its top-notch "AAA" bond rating); (2) section 9a also provides that all notes or bonds issued by local governments to secure Trust loans shall be approved by the "Local Finance Board" in the DCA's Division of Local Government Services; and (3) section 12, in addition to establishing a last resort state-aid intercept procedure for loan defaulters, provides that in those instances where the local government loanee is a solid waste management district or municipal or county sewerage, utility, solid waste management, pollution control financing or improvement authority, the Trust "may" require the municipalities or counties serviced by the districts or authorities to enter into service contracts providing that they would be required to assist defaulting districts or authorities repay the Trust loans (these contracts would be pledged to secure the payment of of Trust loans).

Question 5(b) appears to imply that the timing of approvals by the N.J. Board of Public Utilities (BPU) on rate increase requests might also hamper the issuance of Trust bonds. In actuality, this timing "obstacle" would be (presently is) a more realistic concern in those instances where local governments finance their environmental projects independently in the open public credit markets. Conversely, Trust bond issuances would be less affected by BPU activity. Initially, it is critically important to recognize that the alternative Trust financing scenarios are consistent in

that they all entail Trust loans which would be made at very favorable interest rates (at least 40% below market-rate), terms and conditions (up to 20-year repayment schedules & 3-year deferrment clauses). Our projections indicate that the repayment of these loans would result in only minimal or gradual (not rate-shock) user-fee increases, if any, in comparison the aggregate user-fee impact of the alternative program recently passed by the Legislature.

From a technical standpoint, it is also important to recognize that the BPU does not exercise regulatory jurisdiction over any local governmental solid waste or wastewater treatment public utility authorities. Further, the wastewater treatment (S-991 (Dalton)) and resource recovery (A-1778 (McEnroe)) privatization acts recently signed by the Governor both provide that local governments can opt for a "one-time" BPU review of the rate covenants in their privatization contracts with private entities. Therefore, assuming that the Trust did not exist, the municipal and industrial development bonds issued to finance those resource recovery facilities and wastewater treatment systems constructed through both public and private/public entity arrangements (most projects) would be secured by default protection safeguards which are virtually identical to those which are envisioned for Trust loans. In those rare instances where the BPU would exercise jurisdiction over a local government's environmental project, its level of involvement would have the same "timing effect" on financing procedures whether the project was financed independently or through the Trust.

Lastly, although section 12(c) of the Trust act theoretically provides that the Trust may "cause" defaulting local government loanees to charge rates sufficient for repaying Trust loans, this clearly last resort power would most likely never be exercised for the following two reasons. First, as is discussed above, the Trust loans would include rate covenants similar to those routinely included in all bond resolutions for local government debt issuances in the public marketplace. Second, and perhaps most importantly, the DCA's Division of Local Government Services exercises regulatory review over the fiscal affairs of both municipalities and counties, and all local authorities (re Governor's signing of A-144 (Doyle)). During its annual review process, the Division could disapprove any preliminary local budgets which did not include sufficient revenue structures to repay Trust loans. This review process would compliment and strengthen the Division's above-mentioned role in reviewing all Trust loan securities offered by local government loanees.

WASTEWATER TREATMENT

Question 1 (a) & (b) -

While Congress has been considering several bills in the current and past sessions, the federal Clean Water Act construction grants program has not yet been officially reauthorized (at the time of this document's writing) to provide monies to states in FY 86 or future fiscal years. However, in view of the tremendous water quality needs in New Jersey and nationwide, as identified in the comprehensive 1985 "National Needs Survey," both White House and Congressional representatives have indicated that the construction grants program will be reauthorized during September 1985, and will provide federal funding to states at approximately the existing \$2.4 billion per year level. In fact, one of our own U.S. senators, Frank R. Lautenberg, has on numerous occasions publicly stated his belief that a reauthorization bill will be approved by Congress before October 1, 1985.

Specifically, the U.S. Senate in June passed an \$18 billion reauthorization bill (S.1128), while the U.S. House of Representatives in July passed a \$21 billion bill (HR.8). We have been advised that the two bills are scheduled to go to joint-conference committee when Congress reconvenes in September.

Despite the anticipated reauthorization of the federal construction grants program, it is important to recognize that less than 15% of our needed 297 wastewater treatment projects would receive (only partial) funding with the remaining federal grant monies that are expected to be available to the State. Therefore, in order to further address our state's clean water needs, New Jersey must continue in its efforts to establish an innovative "revolving loan" program which can reduce all local governments' financing costs for construction of their required wastewater treatment systems.

After twelve months of work towards establishment of such a revolving loan program, we remain convinced that the New Jersey Environmental Trust would be the most effective financing vehicle through which the State could supplement and expand upon the federal construction grants program for wastewater treatment systems. In fact, the concept of a revolving loan fund like the Kean Administration's original proposed "N.J. Infrastructure Bank" and the presently proposed New Jersey Environmental Trust have been well-received by Congress. Our pioneer efforts have also attracted significant interest from other states in their own attempts to cope with the diminishing availability of federal funds (three other states have already established their own environmental trusts based upon our "model" act).

3 States
which

While both S.1128 and H.R.8 vary in specifics, their overall provisions are generally consistent. Although H.R.8 is \$3 billion larger, both bills take a major positive step in support of implementation of the Trust through the inclusion of "alternative" federal grant programs, the funds from which would be used for establishing state "revolving loan" programs for wastewater treatment systems. Directly germane to the Trust, both bills provide that the states may utilize the federal monies either as loans or as revenue sources to secure repayment of state (Trust) revenue or general obligation bonds. Therefore, use of available federal "revolving loan" monies could be maximized through the financing powers of the Trust. In fact, the Senate Committee Statement to S.1128 (attached) provides in part the following:

Subsection (d)(3) of section 603 would allow a State to use the State Revolving Fund and its chief assets (future revenues from loan repayments) as a basis for issuing bonds for further revolving fund activity. Under such an arrangement, a State would be able to leverage outstanding loans made from an initial set of capitalization grants, and thus make available significant amounts of money much sooner than would otherwise have been made possible. (emphasis added)

Specifically, the \$18 billion S.1128 ("Construction Grants Transition Act of 1985") proposes a continuation of federal grant awards at levels of \$2.4 billion for FYs 85-88 and \$1.2 billion for FYs 89-90; and a new state "revolving loan" grant program funded at levels of \$1.2 billion for FYs 89-90, \$2.4 billion for FY 91, and \$1.8 billion, \$1.2 billion and \$.6 billion for FYs 92, 93 and 94, respectively. This bill, which allocates

\$460 million in grant and \$404.5 million in revolving loan monies to New Jersey over a nine-year period, requires a 15% state match as a prerequisite to receiving the loan monies.

The \$21 billion H.R.8 ("Water Quality Renewal Act of 1985") proposes a continuation of federal grant awards at a level of \$2.4 billion for FYs 86-90; and establishes a new state "revolving loan" grant program which would be funded at levels of \$.6 billion for FYs 86-90, \$2.4 billion for FY 91, and \$1.8 billion, \$1.2 billion and \$.6 billion for FYs 92, 93 and 94, respectively. This bill, which allocates \$575 million in grant and \$433.25 million in loan monies to New Jersey over a nine-year period, requires a 20% state match as a prerequisite to receiving the loan monies.

It is important to recognize that through the establishment of the New Jersey Environmental Trust, the state would be assured that it could provide sufficient state matching funds to receive all available state "revolving loan" grants. Also, the attached Technical Paper on Trust financing alternatives is "conservative" regarding the wastewater treatment component in that it assumes final enactment of the smaller federal construction grants reauthorization bill, S.1128.

*** Lastly, while the specifics regarding availability of federal grant and/or revolving loan monies for construction of wastewater treatment systems will not be "final" until the Clean Water Act is officially reauthorized and allocations are approved, both S.1128 and H.R.8 clearly evidence that Congress supports the implementation of state-level, self-perpetuating revolving loan entities like the New Jersey Environmental Trust. This Congressional support is further evidenced by that section of S.1128 which provides that a Governor may request that all or a portion of the construction grant funds available for obligation in a fiscal year be used as revolving loans. Attached for your information are the full texts of both S.1128 and H.R.8, as well as a capsule summary of the funding levels (including New Jersey's allocation) and salient provisions of both bills.

Question 2 -

The attached wastewater treatment "Proposed Priority System and Project Priority List for Fiscal Year 1986" has been prepared by NJDEP in accordance with the provisions of the federal Clean Water Act. The priority list, which is revised annually, contains a comprehensive list of wastewater treatment system/construction projects, cited in order of priority, which are eligible for financing assistance through the federal construction grants program (55% of project cost; no required state matching grants) and new state "revolving loan" grants program (80% of project cost; mandatory state matching loans of 20%).

New Jersey's FY 85 share of the federal construction grants program is approximately \$85 million; FY 85 is the last of a four-year Congressional reauthorization of the program (FYs 82-85) which in aggregate allocated approximately \$385 million in grant funds to the state. As evidenced in the FY 85 priority list (which was already provided by OLS), the \$85 million allocation will only provide 55% grants for the first ten projects on that 295-project list. The balance of our state's clean water needs (less any state matching 8% grants for FY 85) must be paid for by the local taxpayers.

These ten projects will also receive an 8% state matching grant. As is discussed below in Question 4, the Kean Administration proposes to revise the state matching program into 8% loans effective in FY 86. Notwithstanding any policy decisions regarding a state match for the FY 86-90 Congressional reauthorization of the federal construction grants program, we believe it is equitable to retain the 8% state matching grants for the remaining FY 85 federal grant recipients, since all previous recipients in the FYs 82-85 federal program had also received 8% state matching grants.

Looking ahead, New Jersey's FY 86 share of the federal construction grants program will depend upon the size of the reauthorization program actually passed by Congress and approved by the President. Based upon the proposed funding levels in S.1128 and H.R.8 (see Question 1(a) & (b) above), New Jersey's FY 86 allocation will probably be approximately \$115 million; of this amount, \$103.5 is available for construction grants (10% is used for project escrow accounts and administration expenses). This allocation would mean that only the first nine of 297 projects on the attached FY 86 priority list would receive the 55% federal grants and our proposed 8% state matching loans.

Question 3 -

The federal Clean Water Act requires that all federal construction and state "revolving loan" grants shall be allocated by the state pursuant to the annual priority systems and lists established by NJDEP in accordance with the comprehensive provisions of that act. The NJDEP's priority system ranking methodology, as required by the Clean Water Act, is effectively designed to maximize use of the available federal monies for achieving the highest direct water quality benefits statewide. As is more thoroughly explained in the attached FY 86 priority list, the procedure for establishment of the list presently involves a rigorous administrative process which includes full public hearings, etc.

Although the Clean Water Act establishes the general priority criteria and water quality standards pursuant to which the priority systems and lists must be established, NJDEP exercises a certain degree of discretion in actually carrying out its charge of developing the priority lists. Consistent with this procedure, section 23a of the Trust act establishes a process of comprehensive and meaningful legislative oversight over NJDEP's establishment of the annual priority lists. *** In final analysis, all federal wastewater construction grant/state "revolving loan" monies and state wastewater loan funds in the Trust (including all of the proceeds of Trust revenue bonds secured by these monies) would only be awarded to those wastewater treatment system/construction projects on the priority lists annually approved by the Legislature in accordance with the provisions of section 23a.

Specifically, section 23a provides that NJDEP would for each fiscal year develop a priority system, ranking criteria and funding policies for wastewater treatment system/construction projects. Also, for each fiscal year NJDEP would establish a project priority list for funding by the Trust; the list would include the aggregate amount of Trust funds allocated therefor and the date upon which each project on the list would be ready for funding. The project priority list would be in conformance with the provisions of the

federal Clean Water Act and applicable State law. Further, the list would include a description of each project and its purpose, impact, cost and construction schedule, and an explanation of the manner in which priorities were established.

The priority system and project priority list for the ensuing fiscal year would be submitted to the Senate and Assembly on or before March 1. Within 60 days of the receipt thereof, the Senate President and the Assembly Speaker "may" object in writing to NJDEP regarding any projects included in or omitted from the list, and they may make recommendations concerning modification of the list. NJDEP would consider all submitted objections and recommendations and would then resubmit the project priority list within 20 days, together with any modifications based upon its consideration of the objections or recommendations. If any new projects are added to the list, NJDEP would also be required to provide the same type of information on them as was provided on the original list. The Senate President and Assembly Speaker would report to the JAC their findings, objections and recommendations concerning the project priority list; the JAC would consider their comments in reviewing the list as part of the Governor's proposed budget for the ensuing fiscal year.

Prior to July 1 of each year, the JAC would include in the state budget for each fiscal year, or a supplemental appropriations act or other act, the project priority list (as potentially modified by the JAC), including the authorization of an aggregate amount of Trust funds to be expended for loans or grants for the projects on the list. The Trust would only be authorized to make loans or grants to those wastewater treatment system/construction projects on the project priority lists as annually approved by the Legislature in the state budget for each fiscal year, or in a supplemental appropriations law or other law (enacted prior to June 1 of each fiscal year).

Question 4 (a) & (b) -

Initially, it is important to recognize that neither the present four-year reauthorization of the federal (wastewater treatment system) construction grants program (FYs 82-85) or applicable state law require 8% state matching grants. Rather, this was a voluntary state policy established when the federal construction grants program was initially reauthorized. At that time, the state had available a sufficient amount of bond proceeds from previous state bond acts which were allocated for providing the 8% matching grants (proceeds of the "Water Conservation Bond Act of 1970" & "Natural Resources Bond Act of 1980"). At this time, however, all "matching grant" proceeds of previous bond acts have been expended.

For the following two reasons, we are proposing that any future reauthorization of the federal construction grants program should be matched with an 8% state loan:

1. Despite the federal government's promise of "full funding" in 1972 when it established the Clean Water Act, Congress has historically "underfunded" the federal construction grants program. However, although we are at a time where available federal grant monies are presently diminishing and in jeopardy of being discontinued altogether in the near future, the federal

government remains unalterably committed to enforcing the clean water compliance deadline of January, 1988, as established in the Clean Water Act. Therefore, it is imperative that the State develop a plan which most equitably maximizes the use of precious federal and state monies available for assisting local governments finance the construction of their needed 297 wastewater treatment systems as mandated by federal law. We remain thoroughly convinced that creation of the New Jersey Environmental Trust is our best option, as the Trust's revolving loan program would both maximize the use of available monies and preserve our capacity to recycle these funds as "second generation" loans - which in the final analysis is the most equitable assistance program because it will enable the state to offer cheaper financing assistance to all local governments on a faster basis.

Offering 8% State matching loans to those few local governments eligible for the last remaining federal construction grants is consistent with the Governor's good faith policy of equitably maximizing the state's precious resources to the benefit of as many local governments as possible. Unlike matching grants, revolving loans would preserve the state's capacity to assist additional local governments in the future. At a time when we need to "spread the wealth," it is not equitable to offer a few local governments an extraordinary level of aid (63% of project costs in grants) to the indirect detriment of all other localities.

2. The alternative Trust financing scenarios all entail the offering of trust loans at interest rates which are substantially below market-rates; the repayment schedules are equally favorable (up to 20-year repayment schedules & 3-year deferrment clauses). Therefore, the total "financing cost" impact of offering state matching loans instead of grants to those local governments receiving 55% federal grants would be minimal. Assuming that the Trust program is enhanced by a state stable funding source, the establishment of 8% state matching loans is also equitable in the sense that projects financed through 55% federal grants, 8% Trust matching loans and 37% independent local borrowings are roughly equivalent in total project financing costs to those projects financed through 100% Trust loans at 2% interest (the projected interest rate for all Trust "stable funding" loans).

Question 5 (a) & (b) -

As mentioned earlier, the attached Technical Paper on the Trust's financing capacities establishes very favorable interest rates, terms and conditions for all Trust loans. Specifically, local governments would have the option of repaying their loans in ten, twelve or twenty year schedules; all loans would include deferrment clauses allowing an initial three-year deferrment on all repayments of both principal and interest. In comparison to our preliminary projections of 15-year repayment schedules, the optional longer-term repayment schedules will enable local governments to effectively balance their total project cost/annual repayment requirements based upon their particular fiscal circumstances. For example, local governments choosing twenty-year loans will be able to even further reduce the projected annual user-fee and/or property tax levels which they would have to maintain in order to underwrite their (much-cheaper than public marketplace) Trust loans.

It is important to recognize, however, that lengthening of the repayment schedules in any loan arrangement results in corresponding increases in total project financing costs, due to the increased accrued interest over the longer life of the loans. Although the "stable funding" component of the Technical Paper conservatively assumes that all Trust loans would be repayable in twenty years, the Trust would have the discretion to offer local governments shorter repayment schedules in the event that they request them. In those instances where the environmental projects have very large facility-user bases, the increased annual repayment costs (comprised mostly of loan principal) of shorter term loans may only result in negligible (if any) per-user cost increases for the individual facilities. Lastly, the indirect benefit to the State regarding shorter term loans is that the funding capacities of the Trust would be correspondingly increased due to the hastened recycling of the loan repayments.

Question 6 -

All of the alternative Trust financing scenarios included in the attached Technical Paper entail the aggregate issuance of less than \$1 billion in Trust revenue bonds over a sixteen-year period. In fact, in the non-stable funding scenarios, the aggregate bonding total is less than \$600 million. million per year). The specific timing on issuance of, and repayment schedules for, these bonds is explained in the Technical Paper.

LANDFILL CLOSURE

Question 1(a) -

The stable funding component of the attached Technical Paper cites a potential Trust financing plan which includes a \$180 million revolving loan/grant program during FYs 87-96 for financing the closure of sanitary landfills. Based upon NJDEP's preliminary projections for state landfill closure needs, the plan would provide \$150 million in Trust revolving loans for landfill closure (\$20 million per year for FYs 87-91 and \$10 million per year for FYs 92-96). The Trust would also provide \$30 million in grant monies, which would be used to assist local governments pay those closure costs apportionable to out-of-state trash landfilled in New Jersey (\$15, \$10 and \$5 million during FYs 87, 88 and 89, respectfully). Consistent with all other Trust "stable funding" loans, the landfill closure loans would bear 2% interest rates, be repayable in either twelve, fifteen or twenty years, and include three-year deferrment clauses.

The non-stable funding component of the Technical Paper also provides for a \$30 million grant program (\$15, \$10 and \$5 million during FYs 86, 87 and 88, respectfully). Most of these grant monies would be used to assist those thirty-four municipalities, which presently utilize the privately owned Kinsley landfill in Gloucester County, to pay their proportion of that landfill's closure costs which are attributable to Philadelphia trash haulers who are no longer utilizing the landfill (See the text of the Governor's Conditional Veto message for A-3112 Acs (Herman) for a more

thorough explanation of the Kinsley situation). This component of the Technical Paper also establishes a \$20 million revolving loan program.

Question 1(b) -

As is more thoroughly discussed in Question 1(a) above in the "GENERAL" subheading of this document, NJDEP is presently preparing a comprehensive summary of our statewide landfill closure needs. The minimum aggregate closure costs of all New Jersey landfills is expected to exceed \$1 billion.

Question 1(c) -

As was earlier summarized in Question 2(d) above in the "GENERAL" subheading of this document, sections 23c and 24 of the Trust act expressly establish general eligibility and priority criteria regarding Trust revolving loans and/or grants for landfill closure projects.

Although section 24e theoretically authorizes Trust loans to private landfill owners or operators for closure of their facilities, other provisions of the Trust act establish that the making of such loans is very unlikely. First, it is important to realize that private landfill owners or operators are last in eligibility for Trust assistance; and in those instances where they are eligible, they are also last in priority for actual award of Trust loans. Second, it is highly unlikely that private landfill owners or operators who cannot independently pay their closure costs will be able to satisfy the Trust financial requirements for receiving loans.

Section 24e was included to address that rare instance where there is a "good faith" private landfill owner or operator who has sufficient "non-liquid" assets to secure the payment of his own closure costs, but he does not have sufficient cash to accomplish the same. Assuming that the landfill could meet the Trust's financing requirements, a Trust loan in this instance would reduce the overall closure costs of the landfill, and would therefore correspondingly reduce the need for increases in the solid-waste disposal tariff paid to the landfill by local governments and/or private citizens.

Question 2(a) & (b) -

In passing A-3112 Acs (Herman), the landfill closure program passed instead of the Trust, the Legislature presumably anticipated that it would be funded with those landfill closure monies which the JAC added to the Governor's (then) proposed FY 86 Budget. In order to balance the budget forwarded to him by the Legislature, it was necessary for the Governor to progress with his original plan that the landfill closure component of the Trust act would be initially capitalized through the "Clean New Jersey Bond Act of 1985" (S-3188 (Gagliano), A-4002 (Muhler), Conditional Veto messages for S-3094 (Orechio) & S-3093 (Russo)). The proceeds of that bond act would be utilized to initially capitalize the Trust with \$50 million for landfill closure, in addition to \$75 million for resource recovery and \$150 million for wastewater treatment.

When the Governor signed the supplemental budget act, S-3002 (Weiss), he stated that "the reductions made in these appropriations are necessary to curtail spending to a level which will allow maintenance of a prudent surplus of approximately 2% of total projected" FY 86 revenues, "which is absolutely necessary to meet potential emergency needs and provide a cushion if actual revenue collections do not match our estimated revenue projections." He also cautioned that with the (then) pending \$175 million in spending bills which he anticipated signing, the \$135 million approved in S-3002 and the \$8.61 billion budget act (S-3000 (Weiss)), total state spending for FY 86 would approach \$9 billion. In order to preserve the minimum fiscally prudent surplus of 2% of revenues, the Governor had to line-item veto \$138 million in S-3000 and \$50 million in S-3002. Based upon current state revenue estimates, the projected FY 86 state surplus resulting from the Governor's actions will only equal his budgetary reductions of \$188 million. Since this surplus level only barely exceeds the minimum required, it was fiscally impossible for the Governor to support the \$50 million General Fund appropriation for landfill closure.

RESOURCE RECOVERY

Question 1(a) -

The stable funding component of the attached Technical Paper cites a potential Trust financing plan which entails an approximately \$300 million revolving loan program during FYs 87-96 for financing the construction of resource recovery facilities. Trust loans of these monies for 13% of project costs would contribute to the construction of \$2.44 billion in resource recovery facilities (providing 16,650 tons of per-day disposal capacity). Consistent with all other "stable funding" Trust loans, the resource recovery loans would bear interest at 2%, be repayable in either twelve, fifteen or twenty years, and would include three-year deferrment clauses.

The non-stable funding component of the Technical Paper entails a \$245 million revolving loan program during FYs 86-95. Trust loans for 11% of project costs would also contribute to \$2.44 billion in resource recovery facilities. It is important to recognize that under a non-stable funding scenario, the Trust resource recovery component still has a 20% higher output than the alternative legislative plan, assuming both are equally capitalized with \$158 million (\$33 million in general revenues, \$75 million in new state G.O. bond proceeds, \$50 million in existing state G.O. bond proceeds). Under this scenario, the resource recovery account would suffer a temporary (3-year) negative cash flow of approximately \$20 million dollars during the late 1980's. Under the Trust program, the Trust could issue short-term "loan repayment anticipation notes" to cover the shortfall, thereby enabling it to continue the loan program without temporary impasse. The end result: Assuming identical state contributions, the Trust could finance 11% of project costs while the alternative plan could only finance 9%. As is more thoroughly explained below, any additional state financing assistance (even at only an additional 2% of project cost) can have a significant positive impact on "tipping fee" levels for resource recovery facilities.

Question 1(b) -

Initially, it is important to recognize that the resource recovery component of the Trust is intended to provide local governments with access to below market-rate "up-front seed money" for the planning and design costs of resource facilities and state-of-the-art sanitary landfill systems. With projected costs of many of the planned resource recovery facilities exceeding one-hundred million dollars, initial financial assistance from the Trust will act as a "buffer" to the "rate shock" which will otherwise result if local governments were to be required to exclusively absorb the costs of these required facilities through the traditional marketplace.

As is more thoroughly explained in Question 1(a) in the "GENERAL" subheading of this document, the state's projected resource recovery capital needs over the next ten years are summarized in the attached "Solid Waste Management Plan, Draft Update, 1985-2000." The Trust's projected resource recovery output was "targeted" to enable the Trust to offer loans for between 11% and 15% of all planned resource recovery facilities in the state.

Although this appears to be a comparatively "small" level of state assistance, this level actually can make a substantial positive impact on the projected solid-waste disposal tariffs of the planned resource recovery facilities. For example, Essex County presently has a \$48 million financing gap in its resource recovery plan. It is estimated that the "tipping fee" for that facility (presently projected at approximately \$20 per ton) would have to be increased approximately \$1 dollar for every additional \$5 million which the county would have to finance independently. Therefore, without the \$48 million included in the Trust program, Essex County's local tax and rate payers could be required to pay as much as an additional \$10 per ton for trash disposal services.

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Academic Positions

Associate Professor of Public Policy, John F. Kennedy School of Government, Harvard University (1983-); Assistant Professor of Public Policy (1979-1983)

Faculty Research Fellow, National Bureau of Economic Research (1983-)

Harvard University Junior Fellow (1976-1979)

Assistant Head Tutor in Economics, Harvard University (1975-1979)

Other Professional Experience

Member, U.S. Senate Budget Committee Private Sector Advisory Council on Infrastructure Financing (1985-)

Member, College Board Committee on Standards of Ability to Pay (1985-)

Senior Advisor, Council of State Planning Agencies (1984-)

Member, Governor's Advisory Council on Infrastructure (Massachusetts) (1983-1984)

Member, Governor's Council on Economic Policy, State of Alaska (1981-1982)

Co-Chairman, Mayor's Financial Advisory Task Force, City of Somerville (1980-1982)

President and Chief Executive Officer, Delta House Projects, Inc., Cambridge, MA (1982-1983)

Treasurer (1981-1982)

Member, Board of Directors (1981-)

Trustee, Delta House Pension Fund (1982-1984)

Member, Board of Directors, Urban Systems Research and Engineering, Inc., Cambridge, MA (1982-)

Member, Research Committee, Public Sector Section, American Accounting Association (1982-1984)

Member, Finance Committee, Cambridge Visiting Nurses Association (1983-1984)

Books

Checks Unbalanced: The Quiet Side of Public Spending,
Basic Books, 1986

Inference in Partially Specified Models, PhD Dissertation,
Harvard University, 1979

Discrimination in Rural Housing (with Janet K. Marantz and
Karl E. Case), Lexington, MA: D.C. Heath and Company, 1976

Articles and Chapters

"Measuring and Reporting the Financial Condition of Public
Organizations," **Research in Governmental and Non-Profit
Accounting**, Vol. 1, 1985

"The Federal Civil Service Retirement System," in **Pensions,
Labor, and Individual Choice**, Chicago: University of
Chicago Press, 1985

"Financial Risk and the Burdens of Contracts," (with Richard J.
Zeckhauser), **American Economic Review Papers and
Proceedings**, May 1985

"Cost-Benefit Analysis Applied to Risks: Its Philosophy and
Legitimacy," (with Richard J. Zeckhauser) in **Values at
Risk**, Totowa, N.J: Roman & Allanheld, 1985

"Taxation and the Poor" (with Helen F. Ladd) in **The State and
the Poor in the 1980s**, Boston: Auburn House, 1984

"What is Public Finance?," in **Teaching Public Management:
Proceedings of a Workshop to Assess Materials and
Strategies**, Boston University: Public Policy and
Management Program for Case and Course Development, 1984

"Public Insurance Provision and Non-Market Failures," (with
Richard J. Zeckhauser) **The Geneva Papers on Risk and
Insurance**, April 1983

"Elicitation of Honest Preferences for the Assignment of
Individuals to Positions," **Journal of Political Economy**,
June 1983

"The Fragility of Econometric Reporting," (with Edward E. Leamer)
Review of Economics and Statistics, May 1983

"On the Problems of Applying Ramsey Pricing to the Railroad
Industry with Uncertain Demand Elasticities," (with William
B. Tye) **Transportation Research**, Volume 17A, Number 6, 1983

- "Cost-Benefit Analysis Defended," (with Richard J. Zeckhauser)
Report from the Center for Philosophy and Public Policy,
University of Maryland, Summer 1983 (condensed version of
"Cost-Benefit Analysis Applied to Risks," listed above)
- "Federal Credit and the Shadow Budget," (with Elisabeth H. Rhyne)
The Public Interest, Fall 1981
- "The Distribution of Fiscal Burdens and Benefits," (with Richard
A. Musgrave and Karl E. Case) **Public Finance Quarterly,**
July 1974
- "Matrix-Weighted Averages: Computation and Presentation,"
Proceedings of the Eleventh Symposium on the Interface of
Computers and Statistics, Raleigh, NC: Institute of
Statistics, 1978

Articles and Chapters Pending Publication

- "Investing in the Defense Workforce: The Debt and Structure of
Military Pensions," in **Public Sector Payrolls,** Chicago:
University of Chicago Press, 1986
- "Promise Them Anything: The Incentive Structures of Local Public
Pension Plans," (with Howard L. Frant) in **Public Sector**
Payrolls, Chicago: University of Chicago Press, 1986
- "The Derivation of the Bayesian Ramsey Pricing Rule," (with
William B. Tye) **Transportation Research (Part B)**
- "Theory S and Theory T," National Academy of Public
Administration project on public management
- "Theory S, Theory T, and Financial Management," National
Academy of Public Administration project on public
management
- "The Discussion Leader and the Art of Listening," in **The Art of**
Discussion Leading, Harvard Business School 75th Anniversary
series

Published Reports

- "Creative Financing of New York City Projects," New York City
Office of Economic Development, 1984
- "Legitimizing Risk Management for Toxic Chemicals," (with
Richard J. Zeckhauser), Interdepartmental Committee on Toxic
Chemicals, Government of Canada, March 1984
- "Federal and State Infrastructure Banking: Political and
Institutional Issues," (with Richard P. Nathan) Port
Authority of New York and New Jersey, November 1983

"Services from Public Capital: The Outlook for Boston's Physical Infrastructure," (with Arnold Howitt, Helen F. Ladd, and Ann B. Weeks) Harvard-MIT Joint Center For Urban Studies, 1983

"Financing the Cleanup of Uncontrolled Hazardous Waste Sites," (with Henry Lee and Susan Bender) Environmental Protection Agency, September 1982

"Housing Regulation in Cambridge: Its Goals and Effects," Cambridge Chamber of Commerce, 1981

"Condominium Conversion in Massachusetts: An Evaluation of its Benefits and Costs," (with J.F. Kain and R.E. Case), 1980

Baseline Analysis of the Urban Homesteading Program, (co-author) Cambridge, MA: Urban Systems Research and Engineering, 1978

Barriers to Equal Opportunity in Rural Housing Markets, (co-author) Cambridge, MA: Urban Systems Research and Engineering, 1977

Simulation of the Market Effects of Housing Allowances, Volume III (with Gregory K. Ingram and Robert Schafer), New York: National Bureau of Economic Research, 1976

Unpublished Papers

"Reindustrialization and the State: What Can the Public Sector Do to Help?," presented at the Conference on the Political Economy of New York, Albany: April 1983

"Differences and Gains from Trade" (with James K. Sebenius), 1983

"Financing the Reindustrialization of the Public Sector," presented at the UCLA Conference on Creative Financing in the Public Sector, Fall 1983

"Generalized Errors in Variables," presented at the NBER-NSF Conference on Bayesian Econometrics, 1979

"Inference by Individuals and by Panels," 1979

"The Relative Bias of OLS in Sample Selection Problems," 1979

"A Policy Fable," (with Kim B. Clark) presented at the NBER-NSF Conference on Bayesian Econometrics, 1977

"A General Equilibrium Computer Simulation Model of the U.S. Economy in 1899," 1975

"Theoretical and Computational Models of Markets in Which Both Buyers and Sellers Search," (Senior Honors Thesis) Harvard University Archives, 1974

"A Computer Model of Evolution," Harvard University Archives, 1971

Statistics Packages

- SEARCH -- A Bayesian regression analysis package developed jointly with Edward E. Leamer
- UMPIRE -- An interactive package of linear regression analysis routines including generalized errors in variables and specification error analysis

Teaching Experience

Kennedy School of Government, Harvard University

Academic Degree Programs

Public Sector Finance and Financial Management
Public Finance
Econometrics

Executive Programs

Subcabinet Seminar (September 1983, November 1983, April 1984, May 1984, December 1984)
Senior Managers in Government (1981, 1982, 1983, 1985)
Senior Executives in State and Local Government (1981, 1982, 1985)
Senior Officials in National Security (1984, 1985)
Senior Executive Fellows (1980, 1981, 1982, 1983, 1984)
Strategic Budgeting for Massachusetts Executives (1985)
Financial Management in Mental Health (1983)
New York Governor's Office of Employee Relations
Strategic Leadership Seminar (1983, 1984)
University of Colorado Program for State and Local Executives (1983)

Teaching Seminars

Junior Faculty Teaching Seminar (unofficial organizer, with John Boehrer), 1984, 1985
National Defense University, 1984
Army Logistics Management Center, 1983
Defense Systems Management College, 1982

Department of Economics, Harvard University
Computer Modeling

Department of Economics, Boston University
Public Finance

Degrees

Ph.D. in Economics, Harvard University, 1979
A.M. in Economics, Harvard University, 1976
A.B. Summa Cum Laude in Economics, Harvard University, 1974

Awards

Kennedy School Students Association "Best Teacher" Award,
1981 (shared with Jon Brock and Julie Boatright Wilson)
National Science Foundation Graduate Fellow in Economics
(1974-1979)
Allyn Young Prize, "Outstanding Thesis in the Department of
Economics", 1974
Williams Prize, "Best Senior in the Department of
Economics", 1974
Phi Beta Kappa Junior Twelve, 1973
Jacob Wendell Scholar, "Outstanding Scholar of the Freshman
Class", 1972
James Bryant Conant Prize, "Best Term Paper in the Natural
Sciences", 1971
Presidential Scholar, 1970
National Merit Scholar, 1970
Harvard National Scholar, 1970

Revised July 1985

Statement of Herman B. Leonard
before the
Senate Energy and Environment Committee
New Jersey Senate
September 4, 1985

Good morning, Mr. Chairman and members of the Committee. I am pleased to have this opportunity to discuss with you the issues raised by Governor Kean's proposed New Jersey Environmental Trust and to outline alternative financing arrangements that might serve the same purpose. This review was prepared at the request of Senator Orechio. I have examined the proposed legislation to establish the Trust, ancillary legislation to provide its equity capitalization, and technical documents presented by the Governor's office to explain how the program might operate. I also attended your public hearing last week, and received additional technical information about the resource recovery component of the Trust proposal immediately afterward.

My conclusions about how the Trust might operate must be regarded as preliminary. I use the word "preliminary" advisedly. The technical papers submitted in support of the Governor's Trust proposal to date provide one possible picture of how it might be implemented, but only one among many. As initially proposed, the Trust would have considerable freedom, restrained primarily by the Governor's power to veto the actions of its Board, to determine an array of critical operating parameters -- interest

rates, loan terms, guarantee reserves, and so on. Assumptions are made in the Governor's technical papers about what terms the Trust will adopt, but the initially-proposed legislation itself leaves these choices to the Trust, often without legislative review. In the absence of more specificity about the operational features of the proposed Trust, any conclusions about how the Trust will operate must be seen as preliminary.

Personal Background

I have spent a considerable fraction of my professional time over the last decade studying issues related to the financing of large scale public projects, particularly those involving infrastructure systems like those you are discussing today. I teach a series of courses on these subjects at the John F. Kennedy School of Government at Harvard University, where I serve as an Associate Professor of Public Policy. I have examined infrastructure financing questions as a member of the Governor's Advisory Council on Infrastructure in Massachusetts. I have some familiarity with the issues peculiar to the New Jersey and New York region; I have conducted studies on these issues for the City of New York and the Port Authority of New York and New Jersey. I am a member of the Governmental Accounting Standards Board Task Force on Infrastructure. I was recently appointed to the U.S. Senate Budget Committee Private Sector Advisory Council on Infrastructure Financing by Joe Giglio, of Bear Stearns, who chairs the panel.

My interest in these issues is not solely from the perspective of financing, however. My research in public finance

centers on the issue of accountability in government spending. Spending on infrastructure, some of it conducted in hidden forms, provides a particularly interesting case in point. I have recently completed a book on non-appropriated forms of public spending, called **Checks Unbalanced: The Quiet Side of Public Spending**. The issues raised by the Environmental Trust proposed for New Jersey center critically on questions of who will control spending and on what form spending will take. They thus directly involve the kinds of governance questions that are a main focus of my research. My research on these issues leaves me generally favorably disposed toward higher levels of infrastructure spending than we have typically seen in the last decade, but not favorably disposed toward finding creative ways to hide the higher levels of spending we clearly need. My qualifications are more generally described in Appendix II.

The National Context

The level of public spending on basic infrastructure and environmental systems has fallen steadily since the 1960s as a fraction of national income. The effects have become increasingly apparent -- decaying highways, closed bridges, overflowing landfills, leaking and inadequate sewer and water systems, to name just a few. Pressure is rising to increase spending in these areas, to "rebalance" priorities toward public capital investment.

Around the nation, there have been many proposals to establish new executive agencies -- "infrastructure" or "development banks" -- with wide spending discretion and ready

access (through revenue bonding) to public capital markets. New Jersey has repeatedly considered proposals in this vein. Massachusetts continues to deliberate "Mass/Bank." Georgia debated creation of a "bank," and wound up with a capital spending program for wastewater facilities. Other states have considered programs ranging from full-fledged state bond banks to minor readjustments in capital spending programs.

Banks have typically been presented by executive agencies as merely an efficient means of carrying out needed borrowing, devoid of any substantive policy content. But legislatures have universally resisted granting wide borrowing discretion. The reasons given are varied, but at root they are all similar: what executive agencies present as merely an efficient financing tool legislatures see instead as vehicles for large spending programs conducted without the benefit of ongoing legislative appropriations review. In the power to borrow, legislatures -- rightly -- see the implicit power to spend. Public funds would be spent by infrastructure or environmental banks in a variety of ways, some explicit and some hidden -- but all largely beyond the reach of legislative control. One of the defining characteristics of legislatures is their power to control spending. They are reluctant to transfer that power to executive agencies.

As a consequence, proposals for what might be legitimate and efficient financing arrangements have been stalled in one state capitol after another. Executive agencies will continue to seek more streamlined access to capital. Legislatures will continue to insist on their constitutionally-granted prerogative to

control appropriations. The challenge for New Jersey and other states is to develop efficient financing arrangements that do not prejudice the traditional balance and separation of powers of the executive and legislative branches. Infrastructure spending is a matter of critical national importance, and given the direction of federal spending it must be addressed in large measure by state spending. Resolving the problem of appropriate legislative review of infrastructure spending is thus matter of national policy concern.

Issues Raised by the Governor's Trust Proposal

The central questions raised by the Governor's proposed Environmental Trust are questions of governance, of who shall decide what spending to carry out. If New Jersey is to conduct a sizable program of capital spending on environmental projects, it will need, first and foremost, a decision-making vehicle. It will also need to make efficient arrangements for providing financing. But the choice of financing vehicle should be entirely separate from the choice of decision-making apparatus.

Both the legislation and the technical papers supporting the Governor's proposal are dedicated almost entirely to the Environmental Trust as a financing vehicle. Fundamental questions of governance are resolved as if they were dictated by the needs of the financing vehicle. Choosing governance for the convenience of financing would be a bad bargain even if it were necessary. But the central point is that it is not necessary. The control of spending can be resolved as a matter of state policy -- or constitutional mandate. Investors care about

security, about assurance that borrowed funds will be repaid. They have no intrinsic interest in who selects or approves projects, provided the projects themselves are financially sound.

The basic structure of the Governor's proposal is a combination of two revolving loan funds. The first, called the "equity" loan fund, would be capitalized initially by funds from the state and federal governments. The second, called the "self-insured" loan fund, would use funds borrowed by the Trust from the private capital market. The borrowing would be backed by the promises of repayment from the local units to whom the loans were advanced and by a reserve fund capitalized by state funds and repayments of "equity" loans.

The structure of these funds permits spending in excess of the initial capitalization. In the equity fund, this occurs because as the initial loans are repaid, together with interest, the "reflows" can be lent again to support new projects. In the "self-insured" fund, it occurs because the initial capital is used to back borrowing, assuring private lenders that their loans to the Trust will be repaid. This makes available a large volume of borrowed funds that can be lent by the Trust to local units to spend on environmental projects. Of course, it also puts the Trust in the position of bearing any risk that local units will not be able to repay their loans. This is precisely why lenders will be prepared to advance funds to the Trust -- the lenders bear little risk. A relatively small initial capitalization can back an impressive volume of loans from private investors through the Trust to local units.

Much of the discussion by proponents of the Trust centers on the impressive "leverage" ratios -- the volume of total spending that can be supported per dollar of initial capitalization -- achieved by mechanisms of this kind. Concentration on leverage, however, masks important features of revolving loan programs like the Governor's proposal. First, it hides a series of critical policy choices embedded in the selection of the program's loan terms. Second, it obscures the fact that all of the spending must eventually be paid for by taxpayers and users, even if it initially seems painless because of leverage on the first round. Third, concentrating on leverage creates an illusion, the sense that spending is made less expensive and more quickly available.

Policy Choices Once funds have been procured by the Trust, they will be lent to local governments and authorities for use in environmental projects. Concentrating on the volume of spending that can be initiated for each dollar of initial capitalization hides a myriad of critical policy choices the Trust implicitly makes by choosing the terms on which it lends money. Under the Governor's original proposal, its discretion is wide. Will it choose to subsidize projects it favors with low-interest loans, while refusing to lend to other projects, or lending only at high interest rates? Will it provide loan guarantees to reduce credit costs for projects in one part of New Jersey, ignoring needs in another? Will it lend to risky projects with uncertain payback prospects at the same rate as to less risky projects, thus cross-subsidizing users and taxpayers in higher-risk jurisdictions at the expense of others? The Trust appears to have the discretion to do any of these. With every choice it makes -- setting loan,

grant, or guarantee terms -- the Trust will be deciding who shall pay how much for a vast panoply of environmental programs and benefits.

Through its ability to provide subsidies for approved projects, the Trust as it is currently proposed would be able to exercise control over a wide range of environmental spending policies. Local authorities could, of course, choose to enter the private market on their own, but will face higher interest rates than they can obtain through the subsidized Trust. This would give the Trust powerful leverage over the policies and priorities of local units. It would consolidate power over environmental spending patterns at the state government level -- but outside the Legislature.

Obscuring Spending Concentrating on the impressive volume of spending that can be initiated through revolving loan funds and by using state funds to guarantee private loans to local government units also obscures the fact that each dollar of spending must eventually be paid for -- with interest if the funds for it were initially borrowed. This is a fundamental law of finance -- the "Iron Law of Conservation of Dollars." The Environmental Trust would be a cup, not a well. It cannot create money -- it only rearranges it. We can only take as much out of it as someone puts in. And private voluntary participants -- private capital market investors -- will only put funds in if they strongly believe they will be repaid. The Trust could engineer considerable spending for each dollar of initial capitalization, but eventually all of the spending must be paid

for.

Appendix I illustrates the volume of spending that can be financed with initial capitalizations in the equity and self-insured loan funds. The simulations presented use assumptions similar to those made in the technical papers submitted by the Governor's office in support of the Trust, though it should be emphasized that the Trust as originally proposed would apparently have nearly complete discretion to choose any loan or grant terms it wanted. Presuming that the Trust would proceed as assumed in the technical papers, an initial \$100 million of capitalization in the equity fund could support a 15 year spending program amounting to about \$300 million in total; a \$115 million capitalization in reserve funds to back Trust borrowing could make \$1.5 billion in spending possible. But in both cases, the required repayments from taxpayers and users greatly exceed the actual spending carried out. In the case of the equity fund, users and local taxpayers must pay principal and interest of over \$450 million to buy \$300 million in facilities; state taxpayers also see the value of their initial capitalization erode (in present value terms) by nearly \$50 million. Thus, though they can initiate \$300 million in spending for only \$100 million, they must eventually pay over \$500 million.

When borrowed funds are used, the leverage ratio is even higher, but so is the eventual repayment. An initial capitalization of \$115 million permits a 15 year spending program totalling \$1.5 billion. But the users and local taxpayers must pay back over \$3 billion -- and the state taxpayers watch as their initial capitalization is consumed by interest payments on

the borrowed funds. Local taxpayers and users get their facilities for less than they would otherwise have to pay -- the total payment is over \$4 billion -- because some is paid by the initial capital (and interest earnings on it) put up by the state taxpayers at the outset. The reduction in cost to local users and taxpayers does not come from any capital market magic -- it comes from the contribution made by state taxpayers. Every dollar of spending is eventually paid -- and then some, if funds are borrowed.

The additional expense from borrowing is described in the table entitled "How Leveraging Works" on the following page. The first part of the table, marked "SPENDING," presents figures provided by administration representatives showing that by setting aside one-third of the capitalization as a reserve fund, a Trust can borrow approximately \$1.67 for each dollar of initial capital. A Trust thus makes it possible to spend \$2.34 for each dollar of initial capitalization. By contrast, only \$1.00 of spending is possible in the absence of a revolving loan or Trust borrowing capability. The second half of the table, marked "COSTS," shows the associated costs. Interest payments on the borrowed money cost \$1.62; these are offset by interest earnings of \$1.05 on the \$.33 reserve. The net cost of borrowing is thus \$.57. The total cost of \$2.34 in spending from the Trust is thus $\$2.34 + \$.57 = \$2.91$. Thus, with leveraging the total cost of a dollar's worth of spending is \$1.24; by contrast, with no borrowing the cost of a dollar of spending is simply a dollar. Leveraging makes available greater resources immediately -- but

How Leveraging Works

	With Leverage	Without Leverage
SPENDING:		
Initial Funding	\$1.00	\$1.00
Equity Loan	\$.67	\$1.00
In Reserve	\$.33	\$.00
Trust Bonding	\$1.67	\$.00
Insured Loan	\$1.67	\$.00
Equity Loan	\$.67	\$1.00
Total Loaned	\$2.34	\$1.00
COSTS:		
Initial Funding	\$1.00	\$1.00
Spending from Loans	\$1.67	\$.00
Int on Borrow	\$1.62	
Less Int on Inv	(\$1.05)	
<hr style="width: 30%; margin-left: 0;"/>		
Net Interest Cost	\$.57	\$.00
Return from Reserve	(\$.33)	
<hr style="width: 100%;"/>		
Total Cost	\$2.91	\$1.00
Total Spending	\$2.34	\$1.00
Cost per Dollar Spent	\$1.24	\$1.00

only in return for a fee.

Cheaper, Faster A common claim made in support of the Governor's proposal is that it procures funds more efficiently, avoids costly delays, and generally makes environmental investments "cheaper and faster". Concentrating on leverage ratios helps to foster this impression, because it makes it appear that no other spending mechanism could permit so much spending so quickly. This impression is misleading for three reasons:

(a) Other financial vehicles can provide similar leverage if that is desirable. The leveraging advantages from establishing a single state Trust for environmental investments are not unique. Local units already have all the authority they need to borrow using revenue bonds. Pledges of state funds to back their borrowing would work much like the reserves in the self-insured loan program proposed under the Trust. A revolving loan fund capitalized by state borrowing and advanced under legislative appropriation to specific local projects would function much like the proposed equity loan fund. The state could start a program of interest subsidies paid out of the general fund to enhance the creditworthiness of local authorities and to reduce the burden they bear for environmental investments, or could help them purchase bond insurance. The state's Qualified Bond Act could be extended to permit local governments to use liens on state aid to enhance their credit and reduce their borrowing costs. Each of these -- and many other -- alternatives can provide the same kind of leverage as the proposed Trust.

(b) Faster isn't always -- or even usually -- cheaper. Much of the impression that construction delays are expensive comes from the fact that costs rise as a result of inflation. But we also pay those costs in cheaper dollars. The income of state residents who must pay these costs rises. Inflation erodes the value of all dollars -- the dollars we collect in taxes as well as the dollars we spend. We cannot simply compare construction costs in nominal dollars and conclude that it is cheaper to build earlier.

Moreover, delays and expensive discarded plans are not nearly as expensive as waste on ill-conceived projects or projects that are built so fast that they strain available construction resources. The Alaska pipeline was hurried to completion -- and in the view of many experts probably cost 50 percent more than it would have if built at a less hectic pace. When the rate of spending exceeds the rate the construction economy can efficiently absorb, costs rise and work is diverted to non-local contractors. From the perspective of the state economy, neither outcome is desirable. Authorizing rapid spending is a sure way to spend, but not necessarily a way to get value for the money.

(c) Delays are mainly from site selection, not from planning, design, or financing. All financing and decision-making vehicles will face the same site-selection, permitting, and other institutional obstacles to construction. These are the sources of major delay in getting projects completed. Failure to secure legislative authorization to proceed often reflects an

underlying failure to deal effectively with some other critical concern. It is not typically a source of major delay in the absence of other reasons for delay. No financing vehicle can avoid the tortuous process of gaining public acceptance -- or acquiescence.

The Governor's Environmental Spending Program

The environmental spending program described in the technical papers accompanying the Governor's proposed Trust legislation is of a considerably smaller scale than that authorized by the legislation itself. The legislation permits Trust borrowing of up to \$1 billion for landfill, \$3 billion for resource recovery, and \$5 billion for wastewater treatment. The supporting papers do not contain discussion of state or Trust fund spending on a scale approaching these figures.

Landfill My understanding from last week's hearing is that the administration's program for landfill closely resembles that already voted by the Legislature. No analysis has been presented that would use any of the special leveraging or revolving loan features of the Trust for landfill. Any financing proposed so far would be indistinguishable from use of general obligation bond proceeds.

Resource Recovery Following last week's hearing, the administration provided a spreadsheet analysis of a proposed resource recovery spending program to be financed through the Trust. Table 1 shows the administration figures, with the cash reconciliation rearranged from the original to facilitate discussion. Total appropriations to the Trust are assumed to be

Table 1: DEP Resource Recovery Analysis (No Interest Earnings Shown)

		NEW JERSEY																					
		RESOURCE RECOVERY/ INFRASTRUCTURE CASH FLOW AND BALANCES WITHOUT INTEREST EARNINGS																					
		Capacity	Capital	Total	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001			
			Cost	Loan																			
Essex	1988	2250	285.00	48.00	-16.00	-16.00	-16.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00			
Bergen	1988	3000	360.00	36.00	-12.00	-12.00	-12.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00			
Pennsauken	1989	500	68.00	7.50		-2.50	-2.50	-2.50	.63	.63	.63	.63	.63	.63	.63	.63	.63	.63	.63	.63			
Warren	1988	400	40.00	4.00	-1.33	-1.33	-1.33	.33	.33	.33	.33	.33	.33	.33	.33	.33	.33	.33	.33	.33			
other	1989	1500	183.00	18.30		-6.10	-6.10	-6.10	1.53	1.53	1.53	1.53	1.53	1.53	1.53	1.53	1.53	1.53	1.53	1.53			
other	1990	1500	192.15	19.22			-6.41	-6.41	-6.41	1.60	1.60	1.60	1.60	1.60	1.60	1.60	1.60	1.60	1.60	1.60			
other	1991	1500	201.76	20.18				-6.73	-6.73	-6.73	1.68	1.68	1.68	1.68	1.68	1.68	1.68	1.68	1.68	1.68			
other	1992	1500	211.85	21.18					-7.06	-7.06	-7.06	1.77	1.77	1.77	1.77	1.77	1.77	1.77	1.77	1.77			
other	1993	1500	222.44	22.24						-7.41	-7.41	-7.41	1.85	1.85	1.85	1.85	1.85	1.85	1.85	1.85			
other	1994	1500	233.56	23.36							-7.79	-7.79	-7.79	1.95	1.95	1.95	1.95	1.95	1.95	1.95			
other	1995	1500	245.24	24.52								-8.17	-8.17	-8.17	2.04	2.04	2.04	2.04	2.04	2.04			
Total			2242.99	244.50	-29.33	-37.93	-44.34	-14.40	-10.71	-10.12	-9.50	-8.84	.43	10.16	20.37	20.37	20.37	20.37	20.37	13.04			
					Payouts	-29.33	-37.93	-44.34	-21.73	-20.19	-21.20	-22.26	-23.37	-15.96	-8.17								
					Paybacks				7.33	9.48	11.08	12.77	14.53	16.38	18.33	20.37	20.37	20.37	20.37	13.04			
					Cumulative																		
					Payouts	-29.33	-67.27	-111.61	-133.34	-153.53	-174.73	-196.99	-220.36	-236.32	-244.50	-244.50	-244.50	-244.50	-244.50	-244.50	-244.50		
					Paybacks	.00	.00	.00	7.33	16.82	27.90	40.67	55.20	71.58	89.91	110.29	130.66	151.04	171.41	191.79			
					Bond Appropns	50.00	50.00	50.00															
					Trust Borrow						6.32	8.85											
					Trust Repay								.43	10.16	9.34								
					T Cash Balance	21	33	38	24	13	3	0	0	0	0	11	31	52	72	93			
					Trust Debt	.00	.00	.00	.00	.00	.00	6.32	15.80	16.95	8.49	.00	.00	.00	.00	.00			

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\$150 million, provided during the first three years. Under the administration's proposed scenario, the Trust spends a total of about \$250 million by 1995. No borrowing by the Trust is required until 1992; then, in the administration's scenario, about \$17 million in borrowing by the Trust would be required to permit loan repayments to catch up with disbursements.

This analysis appears to assume that the Trust would receive appropriations only as needed (thus maintaining a zero cash balance), or would not receive interest earnings on its available undisbursed cash. Table 2 shows a revised spreadsheet using the administration's figures for disbursement but assuming that the Trust will receive appropriations in cash and can invest available funds at 10 percent interest. (The ability to earn interest on available balances has been presented as one of the advantages of establishing a Trust.) Under this assumption, no additional borrowing would be needed to fund the projects included in the administration's analysis.

It appears from the administration's analysis, as revised in Table 2, that a revolving fund with interest earnings would be sufficient to fund the contemplated projects using the same bond appropriations that the administration specified. If a Trust were used for resource recovery, according to the administration's figures it would not appear to need borrowing authority until 1992; thereafter its borrowing needs appear to be on the order of \$20 million. A limitation on Trust borrowing for resource recovery of this amount would, according to the administration's figures even in the absence of interest earnings, be sufficient through 1995 and, in the absence of

Table 2: Revised Resource Recovery Analysis (Including Interest Earnings)

		NEW JERSEY																		
		RESOURCE RECOVERY/ INFRASTRUCTURE CASH FLOW AND BALANCES WITH INTEREST EARNINGS																		
		Capacity	Capital Cost	Total Loan	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
Loan/Proj Cost	.10																			
Cap Cost Infl	.05																			
Trst Bor Rate	.10																			
Trst Inv Rate	.10																			
Essex	1988	2250	285.00	48.00	-16.00	-16.00	-16.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00
Bergen	1988	3000	360.00	36.00	-12.00	-12.00	-12.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00	3.00
Pennsauken	1989	500	68.00	7.50		-2.50	-2.50	-2.50	.63	.63	.63	.63	.63	.63	.63	.63	.63	.63	.63	.63
Warren	1988	400	40.00	4.00	-1.33	-1.33	-1.33	.33	.33	.33	.33	.33	.33	.33	.33	.33	.33	.33	.33	.33
other	1989	1500	183.00	18.30		-6.10	-6.10	-6.10	1.53	1.53	1.53	1.53	1.53	1.53	1.53	1.53	1.53	1.53	1.53	1.53
other	1990	1500	192.15	19.22			-6.41	-6.41	-6.41	1.60	1.60	1.60	1.60	1.60	1.60	1.60	1.60	1.60	1.60	1.60
other	1991	1500	201.76	20.18				-6.73	-6.73	-6.73	1.68	1.68	1.68	1.68	1.68	1.68	1.68	1.68	1.68	1.68
other	1992	1500	211.85	21.18					-7.06	-7.06	-7.06	1.77	1.77	1.77	1.77	1.77	1.77	1.77	1.77	1.77
other	1993	1500	222.44	22.24						-7.41	-7.41	-7.41	1.85	1.85	1.85	1.85	1.85	1.85	1.85	1.85
other	1994	1500	233.56	23.36							-7.79	-7.79	-7.79	1.95	1.95	1.95	1.95	1.95	1.95	1.95
other	1995	1500	245.24	24.52								-8.17	-8.17	-8.17	2.04	2.04	2.04	2.04	2.04	2.04
Total			2242.99	244.50	-29.33	-37.93	-44.34	-14.40	-10.71	-10.12	-9.50	-8.84	.43	10.16	20.37	20.37	20.37	20.37	20.37	13.04
					Payouts	-29.33	-37.93	-44.34	-21.73	-20.19	-21.20	-22.26	-23.37	-15.96	-8.17					
					Paybacks				7.33	9.48	11.08	12.77	14.53	16.38	18.33	20.37	20.37	20.37	20.37	13.04
					Cumulative															
					Payouts	-29.33	-67.27	-111.61	-133.34	-153.53	-174.73	-196.99	-220.36	-236.32	-244.50	-244.50	-244.50	-244.50	-244.50	-244.50
					Paybacks	.00	.00	.00	7.33	16.82	27.90	40.67	55.20	71.58	89.91	110.29	130.66	151.04	171.41	191.79
					Bond Appropns	50.00	50.00	50.00												
					Trust Borrow						.00	.00								
					Trust Repay								.00	.00	.00					
					T Csh Blnc(Yr St)	21	35	44	34	27	19	12	4	5	15	37	61	88	117	149
					Interest Earnings	2.07	3.48	4.39	3.39	2.66	1.92	1.16	.39	.47	1.54	3.73	6.14	8.79	11.70	14.91
					T Csh Blnc(Yr End)	23	38	48	37	29	21	13	4	5	17	41	67	97	129	164
					Trust Debt	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00

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additional projects, through 2000. This limit could be raised as the need arose.

It is important to note that the main form of leveraging in resource recovery comes from the fact that state funds are often only a small portion of the total package. The administration's figures assume that the state will loan 10 percent of total project costs. The other 90 percent comes from a variety of sources. In many cases, the package will not work -- or the resulting tipping fees will be considerably higher -- in the absence of state funds. A small amount of state money -- whether from a revolving fund, direct appropriation, or through a Trust -- thus "leverages" considerable additional funds in resource recovery projects.

Wastewater Treatment A variety of analyses have been presented showing how the Trust might permit the state to accelerate investment in wastewater facilities. The basic structure is simple. It has three components. First, it presumes that existing 55 percent federal grant funds will be combined with general fund appropriations for the 8 percent state match and local borrowing of the remaining 37 percent of project costs to finance roughly \$.8 billion in facilities. This component is entirely independent of the Trust. Second, it would take additional (anticipated) federal capitalization grants, which will eventually be required to operate through a revolving loan fund, together with state funds from a \$150 million bond issue. These funds would capitalize an "equity" loan fund from which money would be lent to local units. This second component

is simply a revolving loan fund like that proposed earlier by the Legislature. Third, it would use some of the equity loan funds to create an insurance reserve backing additional Trust borrowing. These additional borrowed funds would also be lent to local units under the "self-insured" loan program. This third component of the wastewater program is the source of the "leveraging" that is discussed as a major feature of the proposed Trust.

With the exception of the need to capitalize an insurance reserve fund (which could also be carried out directly, through a state general fund appropriation or bond issue), the operations of the "equity" loan program and the "self-insured" loan program are entirely separate. Thus, all three components of the wastewater facility spending program are potentially separable.

The level of spending contemplated for wastewater facilities is quite substantial. Based on figures submitted by the administration in June, spending under the first component will amount to about \$.8 billion, independent of the Trust proposal. The equity loan component would amount to approximately \$1.2 billion. The self-insured loan program would amount to about \$.6 billion.

If the Legislature does decide to establish a Trust, its borrowing requirements for wastewater would be substantial, but considerably smaller than the proposed bonding cap contained in the Governor's proposed legislation. The administration's figures suggest that roughly \$150 million in Trust borrowing would be used by 1990 and that an additional \$250 million would be used before 1995, with the remaining \$200 million used by

2000.

Implications for Governance

As initially proposed, the Environmental Trust poses deep questions about the division of authority between the executive and legislative branches. It provides what appears to be an absolute veto over Trust actions to the Governor. The Legislature would be invited only to comment on Trust decisions. Some disbursements would be made subject to a legislative appropriation, but much of the reflow of funds from Trust activities would be placed beyond the control of the Legislature. Funds borrowed by the Trust would be applied to local projects largely at its discretion. Given its ability to specify the terms on which it will lend -- and its ability to spend down its initial capitalization by giving subsidies to local units in the form of low-interest loans -- the Trust would have wide discretion to determine the shape of environmental spending in New Jersey.

This balance cannot be redressed by granting the Legislature a veto over Trust actions, for that would be a strong challenge to the constitutional order. But while it may be important to keep the Legislature from becoming an executive agency, it is just as important to keep executive agencies from becoming legislatures. When executive agencies begin to have discretion over raising and appropriating their own funding, the line between executive and legislative powers is blurred. There are good accountability reasons for separating those powers -- the contests over whose spending shall get done first, and whose left

off the list, may appear confusing, but they insure a level of scrutiny difficult to obtain any other way. The legislative branch is designed to provide voice to many competing interests. The executive is designed -- for efficiency -- to permit one voice to be clearly articulated. But a single voice cannot be the vehicle for resolving conflicting priorities and claims. That is a legislative function -- one challenged by the proposed Environmental Trust.

Options for Environmental Investment Under Legislative Governance

The Legislature can move in two directions if it wishes to assert more control over appropriations conducted through the proposed Trust. First, it could adopt another financing mechanism with different governance properties. For example, it could authorize a program of interest subsidies to local authorities, subject to legislative appropriation, or it could establish a grant or revolving loan fund out of which it could control disbursements. It could assemble, through a variety of individual and separate programs, a series of subsidies that mimic the essential features of the Trust under legislative control.

Alternatively, the Legislature could assert more control than was initially proposed for it over the actions of the Trust. If it chooses this direction, the Legislature must proceed carefully. It cannot assert executive control of the operating decisions of the agency -- for all of the same separation of powers reasons the Legislature should not freely dispose of its legislative prerogatives. For example, it should not attempt to

take operational, day-to-day control over Trust activities. Where spending takes place, however, the Legislature can and should assert control over the form and substance of the disbursement. Spending takes place from the Trust when loans, grants, or guarantees are given and when funds are disbursed for operating costs (staff, facilities, supplies, and so on). In addition, borrowing by the Trust is a vital exercise of state authority. Effective legislative control of the Trust would thus consist of three parts:

(1) Control Capital Spending The Legislature should annually approve a list of projects to be funded, amounts to be provided, and terms on which funds will be advanced. Aggregate limitations have little meaning when dramatically different loan terms can completely alter the value of financing offered. My understanding from last week's hearing is that the administration has no objection to project-by-project control by the Legislature over the Trust's activities.

(2) Control Operating Spending The Trust is an executive agency, like many others over which the Legislature retains operating budget control. This control is only effective if it includes the authority to limit spending for operating purposes from income on invested assets. All operating spending should come under Legislative scrutiny. At last week's hearing, the administration's representatives indicated that the Trust's budget should be subject to legislative scrutiny.

(3) Control Borrowing The issuance of debt by the Trust is an exercise of authority with important implications for the

State. As part of the process of deciding which projects to carry out, and on what terms, the Legislature should control the extent of Trust borrowing. It could establish a schedule of debt limitations sufficient to cover the borrowing needs associated with any given set of approved projects, and revise the schedule from time to time as new projects are approved or as the need arises.

These suggestions stem from a common principle: the Trust would not be able to operate without an initial capitalization made available by the Legislature. All of its capabilities -- the ability to generate income, to make loans, to influence local project selection and design, to borrow money by offering security to lenders -- flow from its initial "equity" capital. The people of New Jersey -- through their Legislature -- are the sole equity shareholders in the Trust. Both its capital disbursements (whether from initial capital or from reflows made possible by that initial capital) and its operating spending (whether from income from investments, reflows, or direct appropriations) should properly be subjected to shareholder control.

New Jersey's Challenge

New Jersey was among the first states to seriously consider creating a broad public capital investment vehicle. Like other states, it has found the very real need for more investment sidetracked through a struggle for spending control between the executive and legislative branches. Using public investment needs as an instrument for rebalancing appropriations authority

between the Governor and Legislature has not been fruitful elsewhere. New Jersey can still be the first state to achieve a sustainable and workable balance -- and create a model other states would likely follow.

Appendix I

Simulations of Leverage from Revolving Loan Funds

The following simulations illustrate the spending levels that can be attained through use of revolving funds in a structure like that of the proposed Environmental Trust. It should be emphasized that the proposed legislation does not specify the loan terms on which the Trust may choose to advance funds to local units. These simulations should thus be viewed as merely illustrative. Results are presented separately for the equity loan approach (capitalized by state and federal funds) and for the self-insured loan approach, in which the initial capitalization is used to provide a reserve fund to back borrowing by the Trust from private sources. In both cases, the simulations show spending that can be financed from an initial capitalization made available at the outset; additional capitalization available later would permit additional spending, though at a lower leverage ratio.

Assumptions Equity loans are assumed to be advanced at 5 percent interest, payable over 12 years with a 3 year deferral (with interest). Self-insured loans are assumed to be 20 year self-amortizing loans at 9 percent interest. The Trust is assumed to be able to borrow at 10.5 percent on 20 year terms with a self-amortizing payment schedule. The Trust is presumed to be able to invest available funds at 9 percent on average. In computing net present values, the assumed discount rate is 9 percent. All equity loan balances are assumed to be repaid

within 30 years from the start of the program; all self-insured loans are assumed to be repaid within 35 years. In both programs, spending is assumed to be level at an annual rate of \$15 million for the equity program and \$100 million for the self-insured loan program. Initial Trust capitalization was selected to insure that the Trust balance never fell to zero.

NEW JERSEY INFRASTRUCTURE TRUST

Equity Loan Simulation

Year	Equity Loan	Recycle Loan	Total New Loan	Equity Loan Repmt	Loan Balnc (Yr End)	Equity Balnc (Yr End)
1986					.00	100.00
1987	15.00		15.00		15.75	92.65
1988	15.00		15.00		32.29	84.64
1989	15.00		15.00		49.65	75.91
1990	15.00		15.00	1.96	65.93	68.35
1991	15.00	1.96	16.96	3.92	83.11	59.93
1992	15.00	3.92	18.92	5.88	101.25	50.58
1993	15.00	5.88	20.88	7.84	120.40	40.21
1994	15.00	7.84	22.84	10.05	140.35	28.99
1995	15.00	10.05	25.05	12.52	161.15	16.82
1996	15.00	12.52	27.52	15.25	182.85	3.58
1997		15.25	15.25	18.23	189.77	5.51
1998		18.23	18.23	21.50	196.90	7.64
1999		21.50	21.50	25.10	204.23	9.99
2000		25.10	25.10	27.09	213.70	10.62
2001		27.09	27.09	29.47	223.36	11.52
2002				30.32	204.21	42.88
2003				31.64	182.78	78.38
2004				33.22	158.70	118.65
2005				31.26	135.37	160.59
2006				29.05	113.10	204.08
2007				26.57	92.18	249.03
2008				23.85	72.94	295.29
2009				20.86	55.72	342.73
2010				17.59	40.92	391.16
2011				14.00	28.96	440.37
2012				12.01	18.41	492.01
2013				9.62	9.70	545.91
2014				6.82	3.37	601.86
2015				3.54	.00	659.57
2016				.00	.00	
2017						
2018						
2019						
2020						
2021						
Total	150.00	149.34	299.34	469.16		
NPV	104.93	59.98	164.91	119.10		54.19

Assumptions:

Disc Rate	9.00
Inv Rate	9.00
Eq Ln Int	5.00
Amort Per	12
Const Lag	3
Amort Fac	.13
Drawdown	15.00

NEW JERSEY INFRASTRUCTURE TRUST

Self-Insured Loan Account Simulation

Year	New SILA Loan	SILA Repmt	SILA Balnc	SILA Resrv Reqd	Trust Bond Issue	Trust Bond Repmt	Net Trust Borrow	Trust Balnc (Yr End)
1986			.00	.00				115.00
1987	100.00		109.00	21.80	120.00		20.00	147.15
1988	100.00	10.95	215.87	43.17	120.00	14.58	20.00	178.24
1989	100.00	21.91	320.42	64.08	120.00	29.16	20.00	208.18
1990	100.00	32.86	422.43	84.49	120.00	43.74	20.00	236.87
1991	100.00	43.82	521.69	104.34	120.00	58.32	20.00	264.18
1992	100.00	54.77	617.94	123.59	120.00	72.90	20.00	290.00
1993	100.00	65.73	710.91	142.18	120.00	87.48	20.00	314.20
1994	100.00	76.68	800.31	160.06	120.00	102.05	20.00	336.62
1995	100.00	87.64	895.81	177.16	120.00	116.63	20.00	357.11
1996	100.00	98.59	967.07	193.41	120.00	131.21	20.00	375.50
1997	100.00	109.55	1043.70	208.74	120.00	145.79	20.00	391.58
1998	100.00	120.50	1115.29	223.06	120.00	160.37	20.00	405.17
1999	100.00	131.46	1181.37	236.27	120.00	174.95	20.00	416.03
2000	100.00	142.41	1241.47	248.29	120.00	189.53	20.00	423.91
2001	100.00	153.37	1295.03	259.01	120.00	204.11	20.00	428.55
2002		164.32	1232.48	246.50		218.69		407.86
2003		164.32	1164.29	232.86		218.69		385.30
2004		164.32	1089.97	217.99		218.69		360.72
2005		164.32	1008.96	201.79		218.69		333.92
2006		164.32	920.66	184.13		218.69		304.71
2007		164.32	824.41	164.88		218.69		272.88
2008		153.37	731.44	146.29		204.11		242.12
2009		142.41	642.04	128.41		189.53		212.56
2010		131.46	556.54	111.31		174.95		184.28
2011		120.50	475.28	95.06		160.37		157.40
2012		109.55	398.65	79.73		145.79		132.06
2013		98.59	327.06	65.41		131.21		108.39
2014		87.64	260.97	52.19		116.63		86.54
2015		76.68	200.88	40.18		102.05		66.67
2016		65.73	147.31	29.46		87.48		48.97
2017		54.77	100.87	20.17		72.90		33.62
2018		43.82	62.18	12.44		58.32		20.85
2019		32.86	31.96	6.39		43.74		10.87
2020		21.91	10.95	2.19		29.16		3.95
2021		10.95	.00	.00		14.58		.35
Total	1500.00	3286.39			1800.00	4373.76	300.00	
NPV	878.62	878.62			1054.34	1169.32	175.72	

Assumptions:

Trust Bor	10.50	Trust Bor	10.50
SILA Int	9.00	Trust Trm	20
SILA Term	20	Trust Lag	0
SILA Lag	0	Amort Fac	.12
Amort Fac	.11		
Drawdown %	100		
Trust End	120		

Appendix II

Qualifications of Herman B. Leonard

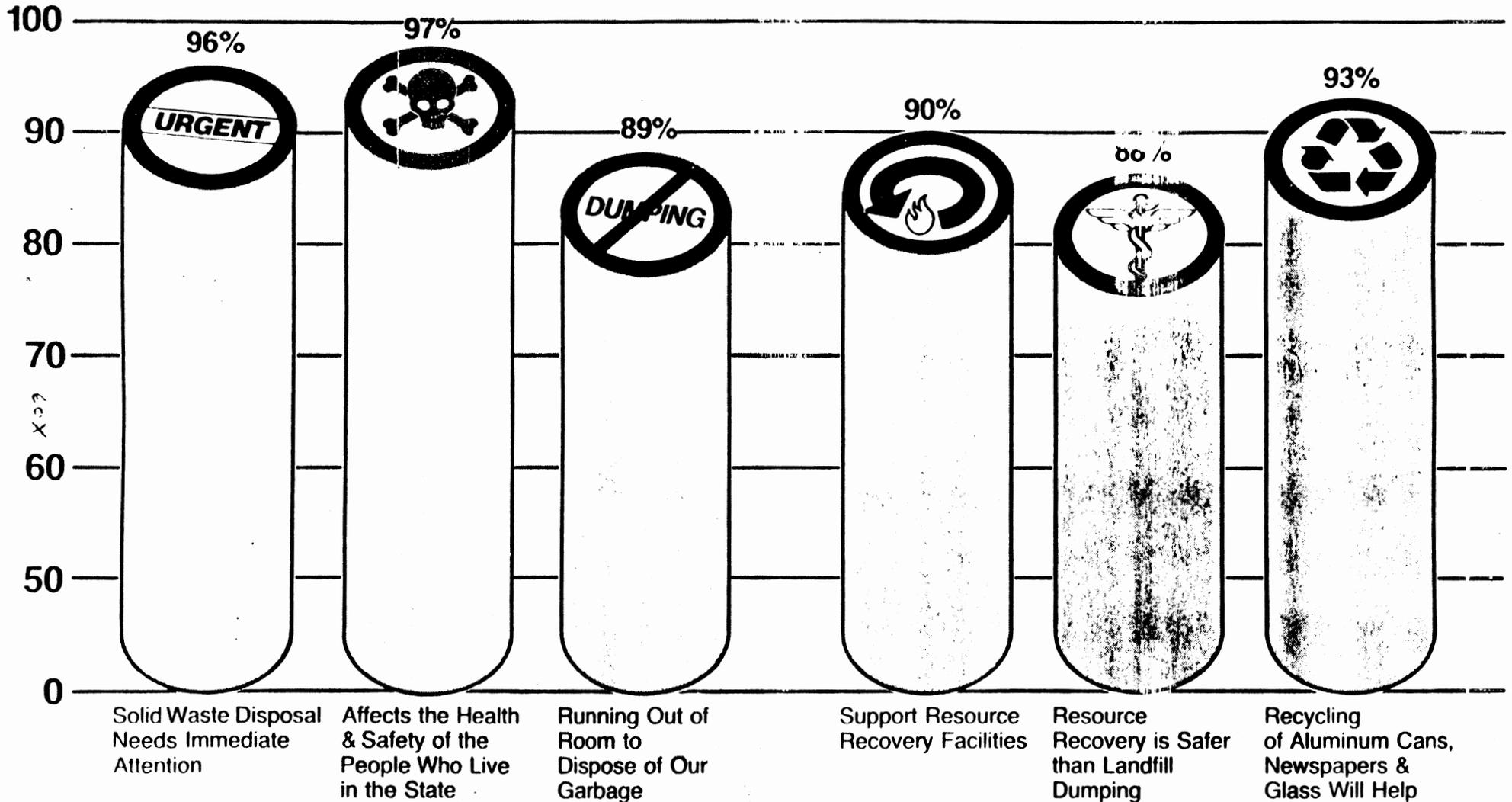
Herman B. Leonard is Associate Professor of Public Policy at the John F. Kennedy School of Government at Harvard University. He teaches courses in public finance and public financial management. He has done extensive research on infrastructure financing, maintenance, and the associated issues of public accountability. He wrote a major report on infrastructure financing for the City of New York's Office of Economic Development and a private study of proposals for a National Infrastructure Bank for the Port Authority of New York and New Jersey. He served on the Massachusetts Governor's Advisory Council on Infrastructure, and is currently a member of the U.S. Senate Budget Committee Private Sector Advisory Council on Infrastructure Financing and of the Governmental Accounting Standards Board Task Force on Infrastructure. His recently-completed book, **Checks Unbalanced: The Quiet Side of Public Spending** (Basic Books, to be released in Spring 1986), deals at length with issues of financing and maintenance of infrastructure. It examines alternative strategies for "creative financing," in particular stressing the challenges they raise for public accountability. The book emphasizes the problems that can arise when public spending takes place outside the control of the appropriations process.

PROBLEM:

Garbage Disposal

SOLUTION:

Resource Recovery and Recycling



• An Evaluation of New Jersey Residents' Attitudes Toward Resource Recovery Facilities as conducted by RMH Research Inc. for the New Jersey Alliance for Action Energy Committee

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