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**PUBLIC HEARING**

before

**ASSEMBLY AGRICULTURE AND ENVIRONMENT COMMITTEE**

on

ACR-3022

**New Jersey State Library**

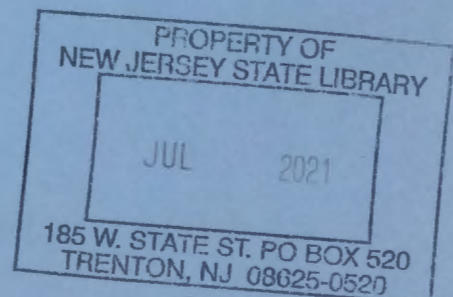
Held:  
July 11, 1983  
Room 313  
State House Annex  
Trenton, New Jersey

**MEMBERS OF COMMITTEE PRESENT:**

Assemblyman Robert P. Hollenbeck (Chairman)  
Assemblyman Anthony S. Marsella (Vice Chairman)

**ALSO:**

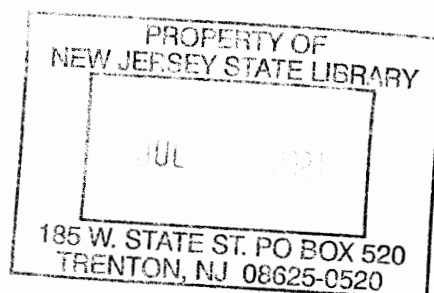
Mark. O. Smith, Research Associate  
Office of Legislative Services  
Aide, Assembly Agriculture and Environment Committee



\* \* \* \* \*

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ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY CONCURRENT RESOLUTION No. 3022

STATE OF NEW JERSEY

ADOPTED MAY 26, 1983

A CONCURRENT RESOLUTION proposing to amend Article VIII,  
Section IV, paragraph 2 of the Constitution of the State of New  
Jersey.

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

1 1. The following proposed amendment to the Constitution of the  
2 State of New Jersey is agreed to:

PROPOSED AMENDMENT

3 Amend Article VIII, Section IV, paragraph 2 as follows:

4 2. *a. There is established a fund for the support of free public*  
5 *schools which shall include all moneys now set aside for this*  
6 *purpose under the laws of this State together with the interest*  
7 *which shall accumulate thereon. The fund shall be managed by a*  
8 *board of trustees consisting of the Governor, five State officers, who*  
9 *shall serve at his pleasure, and five private citizens, appointed by*  
10 *the Governor, with the advice and consent of the Senate, each of*  
11 *whom shall serve for a term of five years, four of the first terms so*  
12 *shortened as to create a vacancy in one of them annually.*

13 *b. The fund for the support of free public schools, and all money,*  
14 *stock and other property, which may hereafter be appropriated for*  
15 *that purpose, [or received into the treasury under the provisions*  
16 *of any law heretofore passed to augment the said fund,] shall be*  
17 *securely invested, and remain a perpetual fund; and the income*  
18 *thereof, except so much as it may be judged [expedient] advisable*  
19 *by the trustees of the fund to apply to an increase of the capital,*  
20 *shall be annually appropriated to the support of free public schools,*  
21 *and for the equal benefit of all the people of the State; and it shall*  
22 *not be competent, except as hereinafter provided, for the Legisla-*  
23 *ture to borrow, appropriate or use the said fund or any part thereof*

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.

24 for any other purpose, under any pretense whatever. The bonds  
25 of any school district of this State, issued according to law, shall  
26 be proper and secure investments for the said fund and, in addition,  
27 said fund, including the income therefrom and any other moneys  
28 duly appropriated to the support of free public schools may be used  
29 in such manner as the Legislature may provide by law to secure the  
30 payment of the principal of or interest on bonds or notes issued for  
31 school purposes by counties, municipalities or school districts or for  
32 the payment or purchase of any such bonds or notes or any claims  
33 for interest thereon.

1 2. When this proposed amendment to the Constitution is finally  
2 agreed to, pursuant to Article IX, paragraph 1 of the Constitution,  
3 it shall be submitted to the people at the next general election  
4 occurring more than three months after the final agreement and  
5 shall be published at least once in at least one newspaper of each  
6 county designated by the President of the Senate and the Speaker  
7 of the General Assembly and the Secretary of State, not less than  
8 three months prior to the general election.

1 3. This proposed amendment to the Constitution shall be sub-  
2 mitted to the people at the election in the following manner and  
3 form:

4 There shall be printed on each official ballot to be used at the  
5 general election, the following:

6 a. In every municipality in which voting machines are not used,  
7 a legend which shall immediately precede the question as follows:

8 If you favor the proposition printed below make a cross (×),  
9 plus (+) or check (✓) in the square opposite the word "Yes." If  
10 you are opposed thereto make a cross (×), plus (+) or check (✓)  
11 in the square opposite the word "No."

12 b. In every municipality, the following question:

	Yes.	<p style="text-align: center;">SCHOOL FUND</p> <p>Do you approve the amendment to Article VIII, Section IV, paragraph 2 of the Constitution which establishes a constitutional fund for the support of free public schools and provides for its management by a board of trustees consisting of the Governor, five State officers serving at his pleasure and five private citizens appointed by the Governor with the advice and consent of the Senate, for staggered five year terms, and amends the existing constitutional provision concerning management of the fund to recognize the role by the board of trustees and to permit the augmentation of the fund by the Legislature through annual appropriation?</p>
	No.	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>Approval of this amendment would reaffirm the status of the fund for the support of free public schools as a constitutionally protected fund which could be altered or destroyed only by constitutional amendment, rather than by amendment or repeal of statutory law and would establish the separation of the fund for the support of free public schools from reliance on the sale of riparian lands for its support. Approval would also clarify the power of the board to determine how much of the income of the fund should be retained and how much should be annually appropriated for school support.</p>



**ASSEMBLYMAN ROBERT P. HOLLENBECK:** I would like to call the public hearing on ACR-3022 to order. The Bill is sponsored by Assemblyman Lesniak. We are holding this public hearing, as required by law, in order to bring this matter to the attention of the general public.

I would like to call the general public's attention to the fact that this hearing was not called by the Chairman. The question of notification to the members of the Committee -- whether they received adequate notification of the hearing or not -- has not been satisfied, not to my satisfaction, anyhow.

However, we are going to proceed with the public hearing, and accelerate the process of transcription, so that we can have transcripts of this hearing put on the desks of the Legislature today, in order to meet the requirement of the rules. We are then going to ask the members of the General Assembly to vote on the Resolution, while simultaneously receiving the transcript of said Resolution. In the opinion of the Chair, this is not a good procedure.

We will now call Senator Lesniak, who has introduced this Resolution in the Assembly.

**S E N A T O R     R A Y M O N D     L E S N I A K:** Thank you, Mr. Chairman. I really appreciate, despite your opposition to the proposal, the fact that you are giving us an opportunity to have this voted on by the Legislature. I expect that vote in the Assembly will not take place until Thursday. At that time, hopefully, if it passes on Thursday with the required three-fifths vote, we will be able to get an "emergency" in the Senate. As you know, if that is not successful, then it cannot be voted on in November.

I would like to submit my testimony for the record, Mr. Chairman, and just briefly give the background of the constitutional amendment.

Last year the Legislature proposed a constitutional amendment, designed to give the Legislature statutory authority to establish criteria, whereby good faith purchasers of property, persons who have been paying property taxes and making improvements on their property, and who have only recently discovered that they are subject to the State's riparian claims -- some property owners still are not



aware that the State of New Jersey has laid claim to all or part of their property -- may clear title to their property for a fair and reasonable sum of money, without the current restraints of having to again pay the full fair market value of a property they had previously purchased.

Last year's proposed amendment failed for a myriad of reasons, but the most important reason for this disapproval by the voters of New Jersey, in my opinion, was its failure to give adequate protection to the preservation of the school fund.

If the constitutional amendment passes today, we will guarantee that the School Fund will continue to have sufficient monies available to serve as a source of school construction bond money -- this will be the chief use of the Fund -- by dedicating the interest from the Fund back into the Fund, rather than into the General Treasury -- a sum in excess of three million dollars per year.

I might add, Mr. Chairman, that this sum is greater than the yearly sum from riparian sales.

This will break the nexus between the riparian sales and the fund, and thereby give the Legislature the statutory authority it sought last year, to enact enabling legislation to effectively deal with this problem while also affording the School Fund the protection it needs.

If you have any technical questions concerning the legislation, Dick McManus is here to answer those questions. He was the drafter of this proposal, after many hours of study and work with the representatives from the School Fund and with Mr. Dickinson.

I do want to state that I believe it is urgent we act now to pass ACR-3022 ultimately, in order that the residents of New Jersey will get the opportunity to vote on this proposal.

Recent surveys and estimates project that there are over four thousand homes which are partially or entirely within the State riparian claim lines, while tens of thousands of other homeowners have riparian claims on unimproved portions of their properties.

These homeowners are unable to sell their property because of these claims and ultimately could lose ownership. Some actually have lost ownership of their property that they legitimately

paid for and have paid property taxes on. In addition, municipal and county governments and boards of education currently have title to property which may actually be owned by the State. No fair remedy to this problem can be achieved without the approval of ACR-3022.

Mr. Chairman, as you are well aware, the importance of this proposal is what the Legislature does with it, in terms of its enabling legislation. I have full faith and trust in our bodies -- that we will not deal indiscriminately with the problem when we pass the enabling legislation. I expect, of course, you, as Chairman, to preside over that process. I do believe that this remedy certainly gives the protection to the School Fund that it needs, and, in fact, makes it a constitutionally-dedicated fund, where, now -- although many of us believe it is -- it is still up in the air in terms of many opinions.

The Save the School Fund itself is in favor of this proposal, and, again, I thank you for allowing us to have this public hearing so that we can at least have the vote on it, one way or the other.

ASSEMBLYMAN HOLLENBECK: I don't want to be an obstructionist to a question that can go before the Legislature.

SENATOR LESNIAK: I appreciate that.

ASSEMBLYMAN HOLLENBECK: However, I have a couple of questions I would like to ask you, all right?

SENATOR LESNIAK: Fine.

ASSEMBLYMAN HOLLENBECK: Has there been any draft done of the enabling legislation?

SENATOR LESNIAK: No, there hasn't.

ASSEMBLYMAN HOLLENBECK: So, if you put this question on the ballot, the ballot question again becomes an unknown figure of what it means to the State?

SENATOR LESNIAK: Oh, no, I think what it means is that the School Fund gets the money that is needed to serve its purpose.

ASSEMBLYMAN HOLLENBECK: The interest from the Fund, which is dedicated now to the Fund--

SENATOR LESNIAK: It is not dedicated now.

ASSEMBLYMAN HOLLENBECK: I said which would be dedicated, but the interest was going into the general revenue. But, what about the

principal -- the new sales -- from riparian rights, where would that money then go?

SENATOR LESNIAK: That money would go into the general fund. As it actually goes now, if there is money appropriated from the School Fund, basically that just frees up money for us to do with other monies whatever we want. You are well aware of that concept. It was done with the casino revenues, and it was done with the income tax money.

ASSEMBLYMAN HOLLENBECK: The three million dollars that we are getting in revenue from the interest on the fund money right now, which is going into the General Treasury, what is the amount of money right now, dealing with the riparian grants? How much is involved with that then?

SENATOR LESNIAK: I believe that history has been that it has actually been less, but I don't believe that history is accurate because there now many more claims, of course, being made. There have not been any projections in that regard, but I would presume that it will increase over what it was in the past.

ASSEMBLYMAN HOLLENBECK: The actual decision that brought this about occurred in 1960, is that right?

SENATOR LESNIAK: That's correct.

ASSEMBLYMAN HOLLENBECK: Was the homeowner protected by anything since 1960 if they closed title and there is now a claim -- or prior to 1960?

SENATOR LESNIAK: The only protection they had was if they had title insurance, and if, in fact, that title insurance did not exempt riparian claims. In many cases it did, and in other instances it didn't.

Under the current situation, however, that home is not marketable at all, unless someone wants to take a risk.

ASSEMBLYMAN HOLLENBECK: Pre-1960, were they normally covered within title claims?

SENATOR LESNIAK: Sure.

ASSEMBLYMAN HOLLENBECK: There was an exemption for a riparian claim by the State, or was it just ignored within the policy that a pre-1960 title insurance policy, if the State made a claim against it, it would probably be against the title policy?

SENATOR LESNIAK: That's correct.

ASSEMBLYMAN HOLLENBECK: Okay. Let's take post-1960, if you closed a home and you had an exemption within your title policy -- which a lot of them did write in after 1960 -- and you had that taint on your title, would there be any claim by the homeowner -- would there be any recourse on the part of the homeowner of the State's claim?

SENATOR LESNIAK: No, not if there is an exemption -- only against the previous property owner for breach of warrantee, and that is probably worth nothing.

ASSEMBLYMAN HOLLENBECK: What about dealing with the banks who have now closed since 1960 and who granted loans -- mortgages on homes since 1960? They have now closed, and there was a title insurance policy that had that exemption in it, that they would not cover a State riparian claim, what about that?

SENATOR LESNIAK: They are out of luck as well.

ASSEMBLYMAN HOLLENBECK: What about if it was done without the knowledge of the homeowner, or the purchaser? The layman would not normally be aware of riparian claims since 1960, or a possible claim.

SENATOR LESNIAK: In most cases they are represented by an attorney.

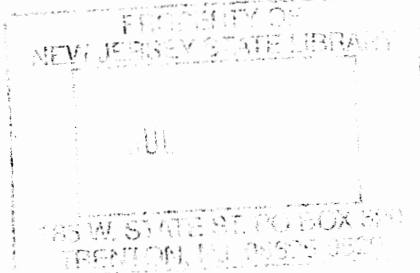
ASSEMBLYMAN HOLLENBECK: And, what happens if the attorney did not fully inform the client -- his client -- of that particular matter?

SENATOR LESNIAK: Since it wasn't a general practice within the profession to do so, it would be my opinion that it would not be actionable -- it would not be an action for malpractice.

ASSEMBLYMAN HOLLENBECK: Do you know?

SENATOR LESNIAK: You could bring a case, but I wouldn't think-- Maybe others will think otherwise, but it was my experience in practice that generally one wouldn't even think there would be a riparian claim running right through the middle of town, cutting right through the Edison Vocational-Technical High School and through City Hall.

I didn't know, quite frankly, that the Elizabeth River moved some fifty yards, one hundred and fifty years ago, and I do not think it would be negligent for an attorney not to have discovered that there



may have been a map filed one hundred and fifty years ago, showing that the river was over that property at that time.

So, I really think that the homeowner has no recourse in many instances.

ASSEMBLYMAN HOLLENBECK: I have a question dealing with the basic fund itself. How much is in the fund?

SENATOR LESNIAK: Thirty-five million dollars, approximately.

ASSEMBLYMAN HOLLENBECK: As long as we don't have the enabling legislation introduced, how would that be worded? How would we have some kind of wording in the enabling legislation?

SENATOR LESNIAK: Let's take the last question. You know, the first question was a bad one. You and I both thought so. We were one of the few that thought it was a bad one.

ASSEMBLYMAN HOLLENBECK: I think the second one-- I did support that, only because I thought we were in a hell of a quandry. I think one of the major problems we always have with these is that we don't have the companion, enabling legislation, so at least we can give some idea to the public of what we are talking about. It could turn around and the enabling legislation could be the biggest giveaway in the State.

SENATOR LESNIAK: It could. I trust that this legislation wouldn't do anything of the sort.

ASSEMBLYMAN HOLLENBECK: It is a tough question. I agree with the sponsor. It is a tough one to handle. I don't think in a lot of cases that the extent of it is as bad as pictured sometimes. I don't think that the Tidelands Council itself has been too adequate when looking at the riparian rights.

SENATOR LESNIAK: I agree with you, Mr. Chairman, but it is kind of like trying to describe something as being a depression or a recession. It is a recession when your neighbor is out of work and a depression when you are. And, it is not that big of a problem, but to those thousands of people -- and there are thousands of people -- it is a horrendous problem.

And, I am confident that with you as Chairman, no legislation is going to get through this Committee that would not be a fair and reasonable response to the problem.

ASSEMBLYMAN HOLLENBECK: I have no further questions. Thank you, Senator.

SENATOR LESNIAK: Thank you, I appreciate it very much.

ASSEMBLYMAN HOLLENBECK: I know some other people want to be witnesses. I found out about the hearing about ten minutes before I walked into the room.

Our next speaker will be Mr. Tucker, Save the School Fund.

**J A C K T U C K E R:** Mr. Chairman, this won't be too long. I would like to get some facts and figures on the record.

My name is Jack Tucker and I am here today to testify on behalf of former Senator Fairleigh S. Dickinson, Jr., who is Chairman of Save the School Fund, Inc., a committee of concerned citizens dedicated to preserving riparian revenues for New Jersey schools.

Senator Dickinson very much wanted to appear personally before this Committee. Unfortunately, he had to be in New England today and asked that I appear to express his views, and the views of our organization on the proposed constitutional amendment as set forth in ACR-3022 committee substitute.

We testified at length on the original ACR-3022 and provided detailed information as to the needs of the school fund. We strongly support the present bill, and are testifying today in its behalf. For the record, I would like to enter a few facts concerning schools needs, but I will not go into detail, as we previously did.

Several charts providing facts and figures are attached to the copy of the testimony, which I provided.

I think our goals are clear to all of you. As our name implies, we are concerned with the perpetuation of the Fund for the Support of Free Public Schools, and the protection of its constitutionally-pledged assets, so that the Fund will continue to grow at a rate necessary to assure its financial soundness.

As you know, New Jersey statutes require that a reserve of one and one-half percent of the nominal value of school bonds be maintained within the School Fund as a guarantee of security against default by outstanding local school bonds. This means that virtually

all school bonds in the State have a AA rating, making them more easily marketable and at lower cost to taxpayers.

To determine the level of income needed to assure that there will be sufficient money in the School Fund to guarantee future bonds, we commissioned Dr. Stan Willis, Professor and former Chairman of the seventeen-year analysis of school needs. Before reviewing those findings, it should be noted that in the decade of the '70's, New Jersey's capital expenditures for public schools were sixty-nine percent below the national average. This was due in large part to a school building boom in the 1950's and 1960's that resulted in a large stock of useable school buildings. This stock can be expected to depreciate in the next decade.

Combined with the need for schools in growth areas of the State, this will spur an increase in bond issues during the latter part of this century.

Here are the key findings of Dr. Willis's study:

Between 1982 and the year 2,000, New Jersey's public school population will increase by nineteen point nine percent. School population will increase in nineteen counties and decrease in two, Hudson and Essex. Population will increase considerably in Cape May, Ocean, and Atlantic.

This population will require 465,700 new school spaces at a current price cost of \$2.7 billion.

By the year 2,000, it is estimated that the volume of outstanding school bonds will have grown from \$1.6 billion in 1985 to \$4.4 billion.

The School Fund, in order to continue to provide the one point five percent reserve in the year 2,000, will need to grow to a minimum of \$65 million.

This means that the Fund will have to increase at the minimum rate of \$2.4 million a year between 1983 and the year 2,000.

We feel that the proposed constitutional amendment guarantees that the Fund will have the necessary revenues to assure its financial soundness until the year 2,000. We also feel that the provisions for enlarging the Board of Trustees, including public members, and the requirement for annual certification of the needs of the Fund are

positive safeguards, further assuring that the Fund remains financially sound.

We salute the efforts of Senator Lesniak, members of this Committee, your other colleagues, the Administration and various trade and public interest groups, in developing this constitutional amendment as a first step in arriving at a reasonable and workable solution to the riparian question that has troubled this State.

The interpretive statement notes that this amendment "would establish the separation of the Fund from reliance on the sale of riparian lands for its support." The committee statement of May 26th reaffirms that the breaking of the nexus "proposes to resolve the issue." We think it will also. The public gains by having the guarantee that the School Fund will be financially sound and can be depended upon to guarantee bonds and thereby help to contain the cost of school construction. The breaking of the nexus also means that the complication of having riparian revenues pledged as assets of the Fund is eliminated, thus making it easier for the Legislature and the Administration to institute the meaningful reform in riparian statutes that many people feel is needed to remove the title cloud which is proving worrisome to many small homeowners.

We are sympathetic to the concerns on this question expressed by Senator Lesniak and Senator Gormley, and others, and encourage their efforts to enact responsible legislation that will enable homeowners to fairly and expeditiously obtain clear title to their homes. We see the development of such legislation as a companion to this constitutional amendment in arriving at a just solution to the riparian question.

In the course of developing this legislation, we remain confident that the Legislature will continue to be sensitive to the protection of the environment and the preservation of wetlands which are so important to New Jerseyans.

In conclusion, we strongly support this proposed constitutional amendment and urge its adoption.

Thank you.

ASSEMBLYMAN HOLLENBECK: Can you answer some questions?

MR. TUCKER: Surely, I'll try.



ASSEMBLYMAN HOLLENBECK: The School Fund now supports this particular Concurrent Resolution because of the dedication of the revenues of the existing funds -- is this the basis on which you now support it?

MR. TUCKER: Our major concern has been to assure that the Fund would continue and would have adequate financial revenue so that it would be sound. We feel that this amendment meets those needs.

As I said, we estimate that approximately a minimum of \$2.4 million is needed a year between now and the year 2,000. Given the interest income and the size of the present Fund, we feel that it will be fairly easy to generate that \$2.4 million.

ASSEMBLYMAN HOLLENBECK: So, when the Committee was in opposition to the question that was on the ballot previously, it was only based upon the interest monies that were going to the general revenue, and not based upon what the sale price was of any of the existing riparian grants?

MR. TUCKER: Our primary opposition -- if you are referring to last year's amendment -- was that it made no provisions to provide future assets for the School Fund.

ASSEMBLYMAN HOLLENBECK: So, you weren't really concerned last year about what any additional monies were for any riparian land, whether it was an absolute grant by the State to someone -- a riparian grant -- as long as the interest money was more than adequate?

MR. TUCKER: Our primary interest has been the protection of the Fund -- hence or name. We did take a position concerning riparian lands because the two issues were intimately tied together last year.

ASSEMBLYMAN HOLLENBECK: And, any claims that you had in reference to that, that it was a giveaway of the State's monies, were erroneous then?

MR. TUCKER: Mr. Dickinson has taken a position, and I testified on his behalf concerning the previous amendment, that he was quite pleased with the system as it is now, and he sees no need to change it. However, he is willing to compromise that position, as long as the School Fund ends up protected. His primary interest is in the protection of the School Fund.

ASSEMBLYMAN HOLLENBECK: It seems to me that is quite a reversal of the position of Save the School Fund.

MR. TUCKER: It is not a reversal of position, because last year was a totally open-ended situation. That would, in essence, have given away the lands.

Senator Gormley's legislation, as I understand it, does not go anywhere as far as last year's constitutional amendment would have gone.

ASSEMBLYMAN HOLLENBECK: Thank you.

MR. TUCKER: Thank you, sir.

ASSEMBLYMAN HOLLENBECK: Senator, do you want to testify? Do you have prepared testimony with you?

**S E N A T O R     W I L L I A M     G O R M L E Y:** I always carry a riparian file with me. (laughter)

Although the bill is not before the Committee right now, it is in Committee -- S-1925. We have worked out amendments. In fact, it would be an Assembly Committee substitute for the piece of legislation that I have introduced. It specifically provides that the Tidelands Resource Council can take into account improvements that have been made on property over the years, which -- if you will -- is a homeowner's amendment.

As you know, this has been very complex. There isn't an attorney in the State who doesn't have a different theory from every other attorney in the State on how to handle the question. But, we have been able to come up with this language. It has been approved by the Attorney General's office. It has been agreed to by the Save the School Fund. And, it is like everything else; it is a compromise. But, under the circumstances, if we were to try another constitutional amendment this year, specifically affecting land rights, there is a question about the three-year provision for another constitutional amendment on that particular issue. And, this is the best possible constitutional solution at the time. It has been agreed to by all parties.

My predicament, obviously, is the time frame. I would like to see what we can do to-- By the way, this has been agreed to by my old compatriot, Senator Lesniak. We are working very closely on this now. I know it wasn't listed on the agenda today, but I would like to see if it could be moved today.

ASSEMBLYMAN HOLLENBECK: We are having nothing but a public hearing on the ACR today. That is all we have. Your legislation does not require a constitutional amendment.

SENATOR GORMLEY: No, but they are companion pieces that have been worked out.

ASSEMBLYMAN HOLLENBECK: How come your companion went in before the constitutional amendment ACR?

SENATOR GORMLEY: Well, I'll tell you. Mine would have been out faster, but I don't have a majority in either house -- okay? There is a two-thirds vote needed on a constitutional amendment. You have the committee substitute, don't you? This has been approved by the Attorney General's office, and if we could, maybe we could work something out possibly with the Speaker today, I would appreciate it. It has been agreed to by Senator Lesniak, Save the School Fund, and the Attorney General. This is the greatest amount of unanimity we have ever had on this issue, as you well know. Usually, it is a blood bath.

ASSEMBLYMAN HOLLENBECK: I don't know who caused the severing that caused the blood.

SENATOR GORMLEY: I don't know. Well, we had to address the issue. I am glad we addressed it.

ASSEMBLYMAN HOLLENBECK: It all depends upon who caused the issue in the first place.

SENATOR GORMLEY: I think it is a pretty good cause.

ASSEMBLYMAN HOLLENBECK: Mr. Ferguson.

**R O B E R T     F E R G U S O N:** I am Bob Ferguson. I am with the New Jersey Association of Realtors. I am here on behalf of the Association to support the Assembly Committee substitute for ACR-3020. We feel it is a realistic and responsible answer to a problem that has been plaguing homeowners who have been impacted by riparian claims.

Both Senators have indicated we finally have all of the concerned groups pulling in one direction, and I think in working together, we can demonstrate to the public that the purpose of this bill is in the public interest.

We urge its immediate adoption. We had testified on May 5th against the original bill, which called for a lease in perpetuity, and one of our positive approaches was to rededicate the interest back into

the Fund as a means of taking the pressure off the need of the Tidelands Resource Council to use the fair market value concept in granting sale and lease of riparian lands. We think it is a good bill. We also think eventually we have to address the bill by Senator Gormley as well. They have to fit together. The end result will be, I think, the solution to the problem.

ASSEMBLYMAN HOLLENBECK: Thank you.

We will hear next from Bill Halsey, Chamber of Commerce,

**WILLIAM HALSEY:** Mr. Chairman, I am Bill Halsey. I am Legislative Representative for the State Chamber of Commerce. I have prepared testimony with me.

We support this legislation and the Committee substitute to ACR-3022. I also found out about the hearing at the last minute.

ASSEMBLYMAN HOLLENBECK: The Chamber of Commerce supported ACR-116 last year?

MR. HALSEY: Yes, I believe we-- I have to check, but I think we did. We had trouble with one bill that came out because it had a-- It might have been 116, there have been so many versions of this legislation. There was a difference in the treatment of institutions and businesses and the way they would be assessed, and other ownership -- private home ownership -- so we had that one caveat of our position. I believe that was ACR-116.

ASSEMBLYMAN HOLLENBECK: You supported the original ACR?

MR. HALSEY: Yes, we supported that. Actually, with that one we did want to see the maps drawn up as fast as possible, to come to a resolution of the problem.

ASSEMBLYMAN HOLLENBECK: You didn't think you were going to open that can of worms, did you?

MR. HALSEY: No.

ASSEMBLYMAN HOLLENBECK: Frank Haines, New Jersey Taxpayers Association.

**FRANK HAINES:** My name is Frank Haines. I am the Executive Director of the New Jersey Taxpayers Association. This is probably one of the most difficult pieces of legislation I have ever had to comment on in terms of the time element.

First, let me say that the Association has no specific position at this time on this legislation. I come to comment to you on this because of the extreme complexity of the problem, and with the hope that if this does pass, that the record will have sufficient information on which a reasonable information job can be done to help the voters to understand the purpose of this amendment.

We had many questions about it. Some of these questions have been answered in the testimony today. It is regrettable, I think, that this amendment comes with the same constraints we had in terms of trying to get it through in order to get it on the fall ballot. We recognize the great complexity of the question.

The whole concept here that it is necessary to protect the Fund is something, of course, which we were looking for evidence on. And, apparently this had been submitted earlier, and we were unaware of the fact. It seems unusual, however, that this had to be done by a private study and did not originate from the State Department of Education. I hope that the study -- and I will attempt to get a copy of it -- will reflect some concurrence from the Department of Education, in terms of the projections on needs.

It is interesting, I think, to look at the trend of balancing the Fund. As the Senator said, he used a figure of about \$35 million. At the end of '82 the Fund balance, as reported by the Treasurer's Department, was \$35.9 million, which is projected to grow by several million dollars. It is interesting that in '82, I think almost \$2.4 million accrued to that Fund from grants, but projections for this year and next year were considerably under one million dollars.

With that as a growth rate, if that is to be the experience, then it may be understandable why it is necessary that the interest continues to accrue to the Fund and not be transferred back into the General Treasury.

There is one thing in terms of this, because certainly from reading the amendment it is hard for anyone to say that the result of this is that it is going to keep the interest in the Treasury-- There is no specific language that says that, and to a neophyte, not knowing about the Fund and how it is worked, this certainly isn't clear. As long as I can remember, it has been the custom for all the interest

earnings to come into the General Treasury, and there is a statute which dates back to 1903 which provides that these funds shall be used for school purposes, and the language isn't necessary to support debt or to pay the salaries of county superintendents of schools.

But, there is no other trail possible, because it is about three million dollars now versus a two billion dollar expenditure for education. So, there is no way you can demonstrate there the money has been going, other than for school purposes.

You have indicated, I think, the desirability of implementing legislation. Shortly, I think there is need to indicate which parts of the existing statutes will be repealed, and one of the questions that was raised, and I realize the time element here, is, why is it necessary to write into the Constitution an organizational unit to administer this Fund? I think ideally you would give the Legislature the authority to create an agency to administer the Fund. That is already in existence in statute -- and certainly those statutes would probably have to be repealed. This would merely increase, as I see it, the size of the group. But, it isn't the type of language that is ordinarily put in the Constitution, in spelling out an administrative agency.

So, I think this is important, because if there is language in the statutes, there would be some indication as to which of these would be repealed in the future and how it would work

I realize, again, that I have probably not given too much constructive thoughts here in terms of your consideration, but our concern is that there is sufficient evidence that the Fund will be maintained, with or without the interest, and I think anyone who says you are going to lose three million dollars out of the State general fund, realizing the tightness of the situation, has to say, "Well, this is something else, some other revenue that may have to be made up from some other source."

If we have this, if there is a need to utilize some of this revenue in the future, combined with some other technical amendments, which would deny the freedom of funds in the General Treasury, we have to recognize that a combination of circumstances in the future may certainly necessitate the increase in taxes to finance the government.

Thank you, sir, for the opportunity to present these views, and to stress the need for sufficient evidence to do a reasonable education job on the part of the public if they are to understand this very complex matter.

ASSEMBLYMAN HOLLENBECK: Thank you very much.

We will now hear from Octavius Reed, New Jersey School Boards Association.

**O C T A V I U S       R E E D:** Thank you, Mr. Chairman. My name is Octavius Reed, and I represent the New Jersey School Boards Association. As has probably been said before, this Committee hearing probably set the record for short notice in terms of being adequately prepared. However, we would also like to speak on behalf of the Assembly Committee substitute for ACR-3022.

We feel that this proposed constitutional amendment reaffirms the longstanding commitment of the Legislature to education in New Jersey, by constitutionally dedicating the School Funds, the protection of school bonds, and by providing a guaranteed source of revenue -- that is, the interest from the Fund -- the taxpayers of New Jersey will continue to benefit through lower bond interest cost.

We are pleased that steps are being taken now to prepare for the surge in school construction and rehabilitation that will occur in the next decade.

We also feel that the provision for an annual certification of the needs of the Fund will enable the trustees to quickly respond to changing educational needs. In addition, the enlarging of the Board to include public trustees assures that a broad diversity of opinion will be heard and considered in planning for educational needs. We think this is wise and prudent and strongly encourage very prompt passage of A-3022, the Committee substitute.

I would also like to suggest that the School Boards Association was one of the original members of the Save the School Fund, and we worked very hard on this issue when it first came up. It has perhaps been one of the most complex and most confusing to a majority of the public. We do finally have some agreement now. The school boards themselves are in agreement, and the preservation of the School Fund has been something that has been of considerable interest to us.

We believe that the legislation proposed by Senator Gormley, the substitute for Senate Bill 1925 is a companion part of this measure, that it is an important piece of legislation that should go along with the passage, and we would strongly encourage you that when you release the ACR that you also release that bill. Thank you.

ASSEMBLYMAN HOLLENBECK: Thank you. Is there anyone else who wishes to testify on this bill?

Does any member from the Tidelands Council, Natural Resources Council, wish to testify on this bill?

For the record, I'd like to show that no members of-- I requested that some member of that Council appear for this hearing and testify on this legislation. What we are doing here, of course, is dealing only with the changing of an interest to the Fund. We are not dealing with anything -- dealing with the market value of that particular land, fair market value, which is the basic question. This does not address that question. I think this is where the major problems fall. We are not setting anything down on this now.

The Tidelands Council, some of the prices they have been looking into, varying prices for different persons, inconsistencies in what they are charging, and asking the riparian rights be purchased for in varying areas of the State, in my opinion can't be condoned.

The values of leasing, where they have leases of riparian rights -- long term leases, short term leases -- can never be condoned.

I found someone that was leasing a piece of property and they wanted to build a dock and a lagoon. They owned two lots, so they wanted to get a riparian lease on it because they couldn't get a right, and for a fifty by one hundred foot lot they charged them \$2,000 for the lease, annually. This is inconceivable in anybody's opinion as to how they reached those figures. I would think they should testify. I don't see any testimony or reference to this constitutional amendment to be adequate for the Legislature, so they have a proper chance to review this and so that the members of the Legislature can adequately vote on this bill.

MR. REED: I would just like to point out that some of the questions you are raising are addressed by the companion piece of legislation, sponsored by Senator Gormely. That deals with the



guidelines promulgated by the Attorney General regarding the fair market value for these properties. That is not what is contained in this specific constitutional provision, and it seemed kind of unfair that the issue that needs to be addressed by 1925 would, in effect, hold up any action on the constitutional amendment, since the two issues are basically separated.

ASSEMBLYMAN HOLLENBECK: Except that there might be some people who think the question of fair market value and the principle of the sale of the State's land should go into a continuing fund, rather than just be used in the General Treasury, and what that fair market value is -- whether it is fair.

MR. REED: I would contend, sir, that that would be one of the reasons why you would want to consider 1925 as part of the package with ACR-3022.

ASSEMBLYMAN HOLLENBECK: Except that I think when you are dealing with questions like this, you should have companion legislation. That just happens to be convenient to call them companion pieces of legislation at this time. They were introduced at different times and are different concepts. What we are talking about here is a change of philosophy, of what should happen with the Fund, whether there should be grants, actual grants of the rights of people who have been in there, or whether there was value, what is the value of a riparian claim with the State, what was its need for the State, whether that need was just for the act of general commerce through the navigable waterways, back in the days when they had no grant, etc. That is really what it was for. What is the value of that particular need to the State anymore? What is the value then of back bay riparian needs of the State as compared to oceanfront needs of the State? These are the questions I think we should be talking about.

Okay, this public hearing is now adjourned.

(hearing concluded)