
Committee Meeting

of

ASSEMBLY SOLID AND HAZARDOUS WASTE COMMITTEE

**ASSEMBLY BILL Nos. 515, 516, 517, 518, 519 (proposed ACSs)
and
ASSEMBLY BILL Nos. 1605 and 1889**

*(Discussion on proposed committee substitutes
relating to solid waste management and disposal)*

LOCATION: Committee Room 11
State House Annex
Trenton, New Jersey

DATE: May 7, 1998
2:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman John E. Rooney, Chair
Assemblyman Peter J. Biondi, Vice-Chair
Assemblyman Larry Chatzidakis
Assemblyman Melvin Cottrell
Assemblywoman Connie Myers
Assemblyman LeRoy J. Jones Jr.
Assemblyman Alfred E. Steel



ALSO PRESENT:

Algis P. Matioska
Leonard J. Colner
*Office of Legislative Services
Committee Aides*

Thea M. Sheridan
*Assembly Majority
Committee Aide*

Yvette Ross
*Assembly Minority
Committee Aide*

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

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ASSEMBLYMAN JOHN E. ROONEY (Chair): Good afternoon. I'm going to call this meeting to order. Please clear the aisles, as they say. Take your seats. Take the conversations out of the room, please.

This is the Assembly Solid and Hazardous Waste Committee. We have several bills on the agenda dealing with solid waste today. That will be the theme of this meeting. The order of business will be-- The first bill will be Assemblyman Luongo's bill. The next -- we will consider the entire package of solid waste bills, including A-1605, as one package. All the testimony will be given on A-515, 519, and A-1605 at the same time.

So having understood that, we will start with Assemblyman Luongo.

ASSEMBLYMAN GERALD J. LUONGO: Thank you.

Thank you, Mr. Chairman and members of the Committee. I have been here before because my concern about the environmental investment charges has not changed one iota, but rather has escalated to the point that I felt that there was some need to do something. Now, whether or not my bill is going to address the long-range effects or the final outcomes of the EICs, I seriously doubt that it would.

What I'm actually hoping to do is--

ASSEMBLYMAN ROONEY: Gerry, let me interrupt for just one second.

ASSEMBLYMAN LUONGO: Absolutely.

ASSEMBLYMAN ROONEY: I'm sorry. I just want everyone to know that the entire record of today is being transcribed, including your bill

and the package. So this will all be transcribed and be made available at a later date for anyone's perusal.

Please continue.

ASSEMBLYMAN LUONGO: Fine, thank you.

What I'm hoping to see is if we can take some kind of action with the plethora of bills that are before you, which have been here, which seemingly haven't met with everyone's approval, to move ahead because those of us who are in counties where the EIC has become "in the eyes of the Freeholders' law"-- And just recently as last night in the County of Gloucester where the Gloucester County Freeholders, excepting one person, voted in favor to mandate by resolution and to send to Commissioner Shinn their belief that the EICs are in fact "legal," and since they'd be putting into a document that is an official record-- Using legal is my term, but I would say that is what an ordinance or a resolution does, it legalizes what people believe to be fact.

Presently, as you know, the Freeholders are not collecting the tax, but rather the GCIA is, which I still quarrel does not have the authority to invoke or collect a tax under any set of circumstances, let alone an EIC. I guess my concern even goes further because, like in many counties, Gloucester has not seen a decisive decline in the amount of debt even considering the amounts of money that have been collected for about the last 12 years. In fact, without the EICs, I assume they would be on the brink of default unless the Freeholders of the State of New Jersey were to assist them to bail them out.

My bill again is a stopgap remedy. It is a moratorium. It says, can we just stop this until there is a bill approved out of committee and eventually gets a hearing that can take some action to solve this problem in the State of

New Jersey. That's all my bill is saying. It's not a great detailed bill. It doesn't go into all kinds of what-ifs and then. It's just saying, if we can stop-- Because these EICs are getting a life of their own. The life is becoming the fact the Freeholders believe that they are in fact legal. The authorities most assuredly will believe that they are legal because it's their only option to save the stranded debt.

Whether I'm going to blame the State or not, that's not my issue here. I will say I believe the State needs to find a way out of this so that it is equitable for every one of the counties who are now in this problem. So all I'm asking for is parity and equity. You're asking certain counties for their residents to acquire this debt, and yet we have not seen a reduction. The Freeholders are not raising taxes, basically, legally, but yet we are paying a tax through another venue, and I find that to be the problem here.

Finally on this issue, New Jersey, the Governor, everyone speaks about being business friendly. We're supposed to be helping our commerce trade. What does this say? This is not a friendly way to act, especially when you read in the paper today, headline, "Haulers face stiff trash fines." Now we are back to punitive measures. Well, fine, if you don't obey us. We have not come to a conclusion. There has been no legislative action that would give any county or any authority the right to do what they are doing. They have taken upon themselves-- They usurped, in my opinion, the authority of the Governor. They usurped, in my opinion, the authority of legislators, and they have just gone out and said, "We're taking over." That would be tantamount to me, as a Mayor of Washington Township, deciding that I don't like the idea that all government agencies in my town are tax free and, if you don't pay

taxes, I'm going to start suing the State of New Jersey. That is preposterous. That means that I think I'm above the law.

I believe that the Freeholders and the authorities feel they are, with the help of our own government, which has been certain departments which have authorized this, and I believe that's where the quandary is here. Who is in charge? The Governor and the Legislature is in charge, and they need to take grips with this and show the people of this state, those of us who are affected by these, and I know it's not every county, someone does care and is willing to take on the responsibility of reaching a conclusion that is fair and equitable for everyone that is being impacted by these EICs.

I only ask you to move ahead. If you feel that my bill is not the answer, fine, but I think it's doing something. At least it's less -- well, perhaps it isn't because some counties are paying. It's less evasive in a sense that it is not going to redo everything. It's just going to say, let's stop, let's take a few steps back, let's examine this, let's take a breather, let's give everyone a chance to talk about this in a forum, which I believe should be at the Legislature.

Thank you, Assemblyman Rooney.

ASSEMBLYMAN ROONEY: Thank you, Assemblyman.

One other thing-- I just realized-- Something came to my attention that several people have called in and advised that they are on their way and there has been a severe accident on the Turnpike and supposedly about a 10-mile delay, including Assemblyman Jones. So what I would like to do, probably at this point, is take a recess, perhaps, to find out a little bit more information as to whether these people can get here or not. Because it is imperative that we have all the people to testify that are available -- all the

people to vote. So can we take a bit of a recess. I'll ask for about a 15-minute recess until we can find out on car phones whether these people will be here or not.

(RECESS)

AFTER RECESS:

ASSEMBLYMAN ROONEY: Can we get back to the meeting again, please. We are going to continue with Assemblyman Luongo's bill.

Gerry, want to come up to the microphone and possibly answer any questions that might come up from testimony. (Assemblyman Luongo complies) I have several people to testify on your bill.

What we will do first we'll go through the testimony and then have the Committee add, and I intend to add some testimony myself. But, first, we will call Art Maurice from the New Jersey Business and Industry Association.

ASSEMBLYMAN CHATZIDAKIS: Mr. Chairman.

ASSEMBLYMAN ROONEY: Yes.

ASSEMBLYMAN CHATZIDAKIS: If I may, what is the status of the meeting -- of the people who are stranded on the Turnpike?

ASSEMBLYMAN ROONEY: We are waiting to hear. Assemblyman Jones is the only one that's left.

He was, I guess, ahead of you.

ASSEMBLYMAN STEELE: He was behind me.

ASSEMBLYMAN ROONEY: Behind you.

ASSEMBLYMAN CHATZIDAKIS: Obviously he was behind him because he's not here. (laughter)

ASSEMBLYMAN ROONEY: Okay, well--

ASSEMBLYMAN CHATZIDAKIS: So, in other words, we are going to proceed with the hearing from now on, then.

ASSEMBLYMAN ROONEY: Yes, we are just going to go straight through with the hearing (*sic*), and hopefully Assemblyman Jones will get here at some time today, tonight, or whatever. Again, eventualities being what they are that was quite--

We still have several witnesses that I know are coming to testify that are not here either. So, first, Art Maurice.

Can anyone find Art out in the hall?

ASSEMBLYMAN LUONGO: He's here.

ASSEMBLYMAN ROONEY: He's not here.

ASSEMBLYMAN LUONGO: He's here.

ASSEMBLYMAN ROONEY: Yes, I know he's here. I saw him.

Since Art is not here why don't we go to-- He's here.

ARTHUR J. MAURICE: Yes, Assemblyman. My watch must have stopped. I'm sorry about that.

ASSEMBLYMAN ROONEY: Stopped on Trenton time, right.

MR. MAURICE: Good morning.

ASSEMBLYMAN ROONEY: I'd like to hear from the New Jersey Business and Industry Association.

MR. MAURICE: Thank you. I will be here to testify on several of the bills. We're on Assemblyman Luongo's bill now?

ASSEMBLYMAN ROONEY: Yes.

MR. MAURICE: We support that legislation. We'd like to see EICs permanently taken off, not just for the 180 days, but we certainly support that as well.

ASSEMBLYMAN ROONEY: Okay. Any other testimony to give?

MR. MAURICE: No.

ASSEMBLYMAN ROONEY: On this bill.

MR. MAURICE: Not in this bill, that's right.

ASSEMBLYMAN ROONEY: Okay. Next we have Michael Egenton from the New Jersey State Chamber of Commerce.

MICHAEL EGENTON: Okay, Chairman. My testimony I kind of lumped everything together, so I will just give you our testimony on Assemblyman Luongo's bill.

Another avenue counties and authorities have taken to increase revenue and alleviate their debt is through the use of the environmental investment charge.

ASSEMBLYMAN ROONEY: I'm sorry.

MR. EGENTON: The EIC serve to artificially inflate the costs of waste disposal by imposing an additional tax on trash. Businesses, residents, and municipalities, for example in Atlantic County, pay an additional \$31 per ton of waste because of the imposed EIC. In addition, a proper accounting of where the money is actually going has not been done, leading many to claim that EICs do nothing other than perpetuate a needless bureaucracy.

Chairman Rooney, you have seen the shortsidedness nature of EICs and you have included language in your bill which prohibits the

imposition of EICs. In addition, we support Assemblyman Luongo's bill, A-1889, which prohibits the collection of EICs for 180 days and until a comprehensive, overall legislative solution can be reached.

Thank you, Chairman.

ASSEMBLYMAN ROONEY: Thank you.

Next is David Pringle, New Jersey Environmental Federation.

DAVID PRINGLE: Thank you, Mr. Chairman. My name is David Pringle. I'm the Campaign Director for the New Jersey Environmental Federation. We support Assemblyman Luongo's bill. We see the environmental investment charges as an oxymoron, neither environmental nor an investment, but a charge against property taxpayers.

It is a regulatory version of the Gibson bill of last term that was not viable in the Legislature and should not be viable in the regulatory process as well. Actually, we are in rare agreement with the Business and Industry Association, and we would like to see this be permanent as well. (laughter)

Finally, the Assemblyman has joined in lawsuit with the haulers, again in agreement with business, and they are suing counties that have assessed these to date on two grounds: one, that the -- I should probably let them speak to it -- counties and the DEP do not have the authority to assess these charges, that they are in fact taxes, and only the Legislature can do that. Even if they did have that, it is a regulatory version of flow control, which we all know has been ruled unconstitutional.

So, on all those grounds, we urge the Committee to move the bill up today.

ASSEMBLYMAN ROONEY: Thank you.

I know -- I've gotten a note here that there are two people that are trying to get here, George Lohman and Ed Cornell. They are stuck in traffic on the Turnpike and they want to testify. If we get to that point where we are looking at this bill, I would probably hold the record open for those people to come and testify even if it requires another hearing. So I will make that known at the present time.

I know Steve Changaris wants to testify, also, on behalf of NSWMA.

So, Steve--

STEVEN G. CHANGARIS: I believe on Assemblyman Luongo's bill this will be good for George, too, from NSWMA.

ASSEMBLYMAN ROONEY: All right, it will be for George but not Ed Cornell. I just want to make sure that the record is held open for anyone who wishes to testify because it is a bad situation that they have. Apparently there is fatalities involved in that accident, and I know for a fact they will actually close the Turnpike down completely regardless of who is behind the traffic. That's a sad situation. Again we have to-- I feel obligated that we hear all testimony. Again the record may carry over to another meeting. I just want that understood.

Steve, you want to testify on your issues?

MR. CHANGARIS: My name is Steve Changaris. I'm the New Jersey Chapter Manager for the National Solid Waste Management Association. I have appeared before you before. Thank you for the opportunity today.

John, I will start just on the moratorium on the EICs. NSWMA has taken the position that the imposition by bureaucratic fiat of EICs is a stretch of the law. We filed litigation in several counties. We are probably filing litigation in additional counties as those decisions are made. So certainly we endorse a proposal that stops further implementation of them as contained in Assemblyman Luongo's bill. Of course, we would also like the State to fashion an alternative approach in trying to come up with a comprehensive statewide solution to the solid waste situation.

So we are on board with the Assemblyman's bill. We have severe problems with EICs with the way they are being currently implemented at the county level. As the days and weeks unfold, we will see the judges as they slice and dice it on the law side to tell us if our meaning of the law is correct.

Thank you.

ASSEMBLYMAN ROONEY: Just a question. Which counties are involved right now, that you know of, that have an EIC out there and have been now litigated against?

MR. CHANGARIS: I can only speak from what is on my radar screen. NSWMA, with others, has filed suit in Atlantic and in Gloucester where there were actionable EIC issues that we could litigate. Burlington was in the pocket to be litigated, but we couldn't do it because the plan wasn't certified at the time. However, that plan amendment, as I understand it from the legal offices yesterday, has been certified. The Burlington EIC is now in cue, and we should execute on filing that.

I also understand the Union County plan has been certified, and there is an EIC component in that. We have not made a decision whether we

will seek the similar applications. Hudson has an EIC component that is somewhere between certification and review. Bergen County has an EIC plan, and I think that's it. Passaic I guess has one, too.

ASSEMBLYMAN ROONEY: How about Cape May?

MR. CHANGARIS: Cape May-- Excuse me. Cape May has one and it's done. The reason it caught me was because they are using it to require haulers to go to their facilities to be weighed and assess the EIC before they depart. Several of the other counties-- The EICs are different in their application. Some seek to go directly to the mayor in the town, others seek to go directly to the generator.

So we could spend a lot of time on each one of those different cuts of cloth and explain the differences, but Cape May definitely has one, and they are collecting it. If I understand it correctly, the process that they have gone through, they took advantage of the six-month emergency regulation to have the EIC. As late as last week, they had a public hearing with their SWAC, and the Freeholder Board is only obligated to submit to the DEP its alternative to the weighing scheme within the six-month period of the initial approval of November 10th, which is May 10th.

So that means by May 10th the Freeholder Board will vote on this alternative plan, and at that time, the way the code is written the EICs can be continued to be collected under the November 10th amendment until that time the Department either approves or rejects that new plan amendment. I have not seen the content of that plan amendment and what alternatives Cape May has offered to provide for the funds that are collected through the EIC.

ASSEMBLYMAN ROONEY: Has your group decided to file in Cape May?

MR. CHANGARIS: There were some-- Again, I'm not a lawyer, but in listening to them on these conference calls, there were certain perimeters under which we could file lawsuits. Because I think it was a 45-day clock had already passed before we-- We were really hopeful that between the lame duck session and early in this session that the Legislature would come forward. So we sort of put our hope and faith in a statewide solution and the legislative process.

Since that didn't come, we saw the handwriting on the wall and decided to take action in Gloucester and Atlantic. We missed that opportunity in Cape May. I've raised the question, tracking the Cape May issue as I've just explained it to you, to the legal folks to determine how to proceed.

The other question is that I think the ball is sort of on their court. They are going to have to seek to enforce it, and if they seek to enforce it, the hauler could then say that there are legal infirmities in it. I think right now it's a little bit of a Mexican standoff.

ASSEMBLYMAN ROONEY: In Cape May, you're saying that the county is directing the haulers to bring garbage to them for weighing.

MR. CHANGARIS: Right.

ASSEMBLYMAN ROONEY: And that's all they are asking for.

MR. CHANGARIS: And once you're weighed and you're assessed this EIC charge, based on your tonnage, you're then free to take it wherever you wish, or you can use their facilities. I think the rate had been-- Again forgive me on the exact numbers. It had been in the 90s. The rate is now in

the 80s. So the EIC charges in the high 30s, and the tipping fee is about 40. So after you assess the EIC--

It's economic flow control. You're there, you payed the fee, it's not economically viable to run the waste to another jurisdiction.

To the extent that any hauler is not abiding by that ordinance they run the risk of the penalty -- the county authority seeking penalties under the law and letting a judge decide whether the scheme is legally viable. I have not known of one of those cases have not been before a judge and he or she has not tried to remedy it.

ASSEMBLYMAN ROONEY: So, in essence, a hauler at any time can say I don't want to go there?

MR. CHANGARIS: I believe some are.

ASSEMBLYMAN ROONEY: All right.

MR. CHANGARIS: Saying that on the grounds my lawyers-- Last night I testified before the Gloucester County Freeholder Board, and I really apologize for not having official prepared comments this morning. But the way I represented it to the Freeholders in Gloucester is that there is a real inequity developing here. The towns and the haulers that choose to comply do so because that's what their good faith sensibilities tell them to do. Those that choose not to comply are following their same good faith sensibilities.

I'm not a lawyer, but when the issue is the utility authority statutes and the improvement authority statutes say you can assess these fees on users of the system and you can assess these fees on generators of waste in the system, that is what you should do. A hauler is neither, in many cases, a user, any longer, of the system and a generator, but it is convenient to try to

keep the tax collection element of the EIC on the back of the hauler as opposed to grappling with the issue in a public policy sense and coming up with a statewide solution.

In the process, I watched Jim Baker on C-SPAN the other night, and he talked about the dehumanization of your adversaries and you got to be real careful with that. These are people pursuing honest and legitimately motivated-- There is serious issues involved here. I explained to the Freeholders last night my view is that both parties are going to be bitter. If the people who pay find out down the road that the tax was improper, they are going to say, "Well, I've been duped and I paid tens and hundreds of thousands of dollars."

If the others who fought it are found by some stretch of the imagination that the EIC scheme is legal, they are going to say, "Well, we are paying more for a service and we're being overregulated," and they are going to walk away bitter. So there is no peace in that equation. And that is really the heartthrob of what's going on out there.

We've been at the table from day one. We've come forward with a sensible, credible solution to try to help. One of the legal-- Last night we did both things; we prepared the legal testimony, the legal response and submitted it for the formal record. I went down and talked from a policy analyst perspective: It's very clear this Legislature debated EICs all last year. If there was this huge legislative debate and we couldn't pass them through because there were infirmities and that the Legislature wasn't inclined to support them, why should the Local Finance Board and the DEP just, on its own, go forward and say that we are going to use these things?

When you look at the legal arguments, the policy objectives are fine, but you're bending and stretching and taking on new heights that maybe ought not to be going. That's why the legal acts-- Again we have done that. We don't want to do that. I told it in my testimony that I have written for others and said it, those are transitional costs. Businesspeople don't want to pay them, government doesn't want to pay them, they are a waste of people's money. Let's get the coalition together, let's get people in a room, let's figure out a solution that we can all live with and get on to business of handling trash in an environmentally sound, economically friendly way. On that score we are very much behind the moratorium on the EICs.

ASSEMBLYMAN ROONEY: All right. Why don't you wait until anyone else has any questions.

Anyone from the Committee have any questions for Steve at this time? (no response)

We've been joined by Assemblyman Jones, at this point.

So I hope you're not too frazzled from your experience on the Turnpike. We've heard about it for quite a while.

ASSEMBLYMAN JONES: No, the frazzling, quite frankly, is not so much the Turnpike. It's perhaps what we are discussing here today. (laughter)

ASSEMBLYMAN ROONEY: Well put. If you have any questions about the EICs, which I know are being impressed in your county, also. So any questions or statements?

ASSEMBLYMAN JONES: Not at this point. Let me just certainly apologize for my tardiness. It's just something that couldn't be avoided at this point.

I'm interested in, certainly, understanding what folks have to say, certainly the witnesses in their testimony, and you know I do have my own opinion as to some of the legislation before us. At the appropriate time, I will certainly share that opinion with all of you.

ASSEMBLYMAN ROONEY: Okay, what I said, Assemblyman Jones, is that there are several other people that have called. I have messages from my legislative office forwarded here. Some of the messages -- I guess, people -- on car phones or mobile or cellular phones -- that are here have received messages -- people that want to testify today that are unable to be here. So what we will do is, on all the bills, hold the record open until such time as we can get that testimony, even if it includes holding it over to another hearing.

ASSEMBLYMAN JONES: That's fine.

ASSEMBLYMAN ROONEY: We are being transcribed today on all the bills that will be before us.

ASSEMBLYMAN JONES: Okay.

ASSEMBLYMAN ROONEY: So your comments will be on the record for availability at a later date. So we understand everything right up front.

ASSEMBLYMAN JONES: Thank you, Mr. Chair.

ASSEMBLYMAN ROONEY: Anyone else have any questions?
(no response)

MR. CHANGARIS: Thank you, Mr. Chair.

ASSEMBLYMAN ROONEY: I see one other that says on all bills and that's-- It says A-515 and others. I'm going to ask Mr. Schwartz if he is going to testify on this particular bill, on the EICs.

Ted Schwartz, Esq., Ocean County Landfill.

T H E O D O R E A . S C H W A R T Z , E S Q . : Good afternoon, Mr. Chairman and members of the Committee. I have two purposes in coming today. I was glad that there is another opportunity for a hearing (*sic*). One is a personal reason and the other is a business reason that has to do with these particular bills.

At the last hearing, I guess I kind of got caught up in the excitement of dealing with the solid waste issues in New Jersey, having being frustrated for many years and trying to work with members of the Legislature to speak on behalf of Ocean County. It's usually very unusual for me to criticize people from a one-to-one perspective, and I wanted to take this opportunity to apologize to the Chairman and to the two members of his staff on OLS for singling them out as individuals relative to the frustrations that we've had. I usually don't do those kinds of things.

It's been a long, tough haul, and I guess when you speak on the issues so many times and then you see things come up and you're not -- I should say getting what you want, in trying to do the right thing, you get a little excited. So I hope you accept my apology, and I hope that the two gentlemen from OLS do the same thing.

ASSEMBLYMAN ROONEY: Mr. Schwartz, I want to thank you very much for that. You know that I was very upset after that meeting because

there were certain things that were said that unfortunately warrant-- As you now know, I was never part of this Committee in prior administrations. I was never part to your testimony, per se. I never had copies of it because, when I was there, I was in the audience with you, and I was there to testify, not to listen to the testimony. I have been fighting this battle as long, probably even longer than you have.

The other thing I want to say right up front is OLS and the staff at OLS do what the chairman and what any of the committee members ask them to do. They are not acting individually in any way, shape, or form. Whatever they produce is because of what we and the Legislature ask them to produce. So I don't want anybody to take offense with anything that comes out here. It's my responsibility and members of this Committee who have generated that. So there is nothing personal meant or taken, but I think we can clarify that right up front.

If Algis has put out amendments or Len put out amendments on this or bills, it's because we have asked for them, and we have asked for them in that particular way. If there have been previous bills that have gone through -- I think Connie Myers will tell you one of her bills went through last year, and there is a lot of her bill in this particular package. We try not to reinvent the wheel. We try to use existing legal words. That's the only thing that staff will do.

So, on behalf of staff and myself, I accept that, and I hope that we can go forward and work together to solve the problem. So again I compliment you for you coming down.

MR. SCHWARTZ: That's not my style, but I am a very strong advocate, and I'll continue to be that way where I feel it's necessary.

ASSEMBLYMAN ROONEY: And so will I.

MR. SCHWARTZ: I want to, unfortunately, tell you that when I walked in this afternoon, I received the Assembly committee substitutes. I have no prior knowledge as to what they would be. I haven't met with anybody relative to any of these. The committee substitutes -- I have read them very quickly. They do not address the Ocean County issues as I had presented them in my testimony the last time.

Just for the sake of a quick review. We had talked about amending the definition of a qualified vendor to include a solid waste facility with a preexisting franchise that has an environmental escrow fund for improvements. In looking at the definition, I have to tell you, Mr. Chairman-- I read this real fast. We have hundreds of pages of documents, and what I try to do in my office is take all the changes and see what they mean as a whole because a lot of times in drafting legislation misconceptions occur.

ASSEMBLYMAN ROONEY: Can I interrupt just a second?

MR. SCHWARTZ: Sure.

ASSEMBLYMAN ROONEY: What I want to do is hear testimony on Assemblyman Luongo's bill first.

MR. SCHWARTZ: I'm sorry.

ASSEMBLYMAN ROONEY: You had it on all bills.

MR. SCHWARTZ: I'm sorry.

ASSEMBLYMAN ROONEY: Can we direct it to that? One of the things I will say is that some of these amendments were developed as late as Monday. We were here Monday between 3:00 and 5:00.

MR. SCHWARTZ: I'm terribly sorry.

ASSEMBLYMAN ROONEY: No, that's okay. It's well taken. But we just wanted to hear Assemblyman Luongo's bill right now.

MR. SCHWARTZ: I'm sorry.

ASSEMBLYMAN ROONEY: And then we will go from there.

MR. SCHWARTZ: I support his bill.

ASSEMBLYMAN ROONEY: The one thing I will say is I did phone the two gentlemen that I met with Assemblyman Gibson -- I'm sorry, Assemblyman Cottrell. Your issue of the environmental escrow account, what we offered to Ocean County, that whatever was paid in the tax -- the 6 percent tax -- you would be able to deduct from the environmental escrow account and that would be clear in the bill. We presented language to that effect to the Ocean County delegate of the group.

You're paying \$18 and something for your environmental escrow account. If you paid at \$50 a ton, if you paid \$3 into the tax debt, the environmental escrow account would be reduced to 15. So it would be a quid pro quo. You'd still be eligible as a qualified vendor under that for any improvements or any debt that you had outstanding to be considered also. That was rejected, I understand, from Mr. Cottrell.

MR. SCHWARTZ: I--

ASSEMBLYMAN ROONEY: Just so you are aware that that's the conversation we've had. We've been trying to run it through the individual legislators.

MR. SCHWARTZ: And also the-- I'll come back later on. I'm sorry. I apologize.

ASSEMBLYMAN ROONEY: Let's do that later, but let's concentrate on Assemblyman Luongo's bill.

I have no one else to testify according to the sheets here.

Does anyone else wish to testify? (no response)

One of the things that I'm going to do is to call right now -- is there anyone from the Governor's Office that would like to testify on this bill? (no response) Is there anyone from the DEP that would like to testify on this bill, since the DEP has been approving the EICs on a regular basis? (no response) Is there anyone from Treasury that would like to testify on this bill? (no response) Is there anyone from Department of Community Affairs that would like to testify on this bill? (no response)

Hearing none, I want everyone to understand that nobody from the administration has contacted the Chairman of this Committee or any member of this Committee to let them know what the position of the administration is on any of these bills. To tell you the truth that makes me extremely angry, and I think you can tell that, that I have not heard from the administration despite the fact that our Governor has said that none of the counties are going to go default on any of the bonds. There has still not been, in two months of discussion on the solid waste plan, a communication with the Chairman of the Solid Waste Committee.

I want that on the record. I want the Departments to make note of that, that there has been no communication whatsoever. We still do not know what the administration is going to do on any of these bills that are up today.

ASSEMBLYMAN JONES: Mr. Chairman.

ASSEMBLYMAN ROONEY: I think Mr. Luongo. I'd like to hear from--

ASSEMBLYMAN LUONGO: I just want to respond, Assemblyman Rooney.

ASSEMBLYMAN JONES: Point of order, Mr. Chairman.

ASSEMBLYMAN ROONEY: Yes.

ASSEMBLYMAN JONES: To your point because I think it's germane and I think it sort of flows. I just want to lend toward the record that I have been contacted by the administration, and I have scheduled meetings with the administration relative to these issues.

Thank you. (laughter)

ASSEMBLYMAN ROONEY: I'm glad the minority party has weighed in on this issue, but I haven't.

ASSEMBLYMAN JONES: I don't believe it's an issue of majority or minority. I believe this issue of a person who has demonstrated the willingness to work and be open-minded about the legislation that we have to move forward.

Thank you.

ASSEMBLYMAN ROONEY: And I appreciate that, and I don't think that I have ever made the start of this meeting without making the

comment that I will accept anyone's plans or proposals, and I intended to do that on my package. As long as you remind me right now, I will say to the Committee, to anyone, that if there is a better plan available, put it on the table. We don't have much time. There are counties that are looking at the possibility of default, and you just can't put Band-Aids on each one of these and appropriate some dollars that happened to be there. We've got to come up with a comprehensive solution, and I think we have got to come up with it rather quickly.

Assemblyman Luongo.

ASSEMBLYMAN LUONGO: I just want to conclude. First of all, thank you. The purpose of my bill is very singular. I have heard the Governor say that no county will go into default. I have written letters to everyone who invoked the EIC. I have not had the courtesy of response, and I'm one of the townships, the largest in the county, who are affected. All I'm saying is that I thought my bill would tell them, "Well, guess what? There are no EICs. What are you going to do now that your hand is forced?"

As long as we discuss this from now until whenever there is a bill, they are going to feel very comfortable having someone else pay the debt. If I have someone else paying my bills every month, I'm not going to come up with a master plan to figure out how am I going to assume that liability or responsibility, according how you look at it.

My bill was to force the administration to once and for all take a stand publicly on what they plan to do with a grand plan that they offered to the counties 15 years ago that a few of us bought into. Obviously, the greater number did not buy into, so you must have known something we didn't know

because whatever you did know has come to pass in the negative. That was the purpose of my bill. To wake up the Trenton people, which I am a part of, and say it's time to come to the plate now. It's time for you to hit the ball. We've been doing it long enough.

Thank you.

ASSEMBLYMAN ROONEY: Thank you, Assemblyman Luongo.

Anyone want to add additional testimony to this because I do and I want to have the Committee--

ASSEMBLYWOMAN MYERS: Are you going to move the bill?

ASSEMBLYMAN ROONEY: At this point, I'm not sure. I still would like to have other people have the ability to testify. They still may be coming. If Assemblyman Jones can get here, they may be able to do it also.

But what I would like to do is any other testimony because I have some things to add.

ASSEMBLYWOMAN MYERS: Well, if we are going to vote on it, I have a comment.

Assemblyman Luongo, as we discussed earlier, I'm not quite sure where we would leave counties that have adopted EICs if we put a moratorium on them without another solution in place. I agree with just about everybody, I guess, at this point that we need to move legislation and we need to have a solution in place that addresses the problems across the state.

But I cannot support this bill in isolation. If it were tied to another solution, even Assemblyman Rooney's proposal, and I think it's a reasonable one, I believe-- As a matter of fact, there is language in A-519 to

address the EICs. I'm sympathetic to your concerns. I'm just afraid that it doesn't offer a remedy by itself.

Thank you.

ASSEMBLYMAN LUONGO: Thank you.

ASSEMBLYMAN ROONEY: Anyone else want to add testimony? Because I definitely do. (no response) I wanted to basically close it out after I testify.

ASSEMBLYWOMAN MYERS: No, if it's in isolation.

ASSEMBLYMAN ROONEY: What I would like to say is, on the EICs, let's understand what the EICs are and what they do. The EIC, this environmental investment charge, is a tax, and do not misunderstand that. It is a tax that's being assessed. I believe, Assemblyman Luongo, you told me you received one of these EIC notices and it said tax on it -- environmental investment tax. These are being issued by authorities. Authorities, to my way of thinking and my knowledge of government, which is only 15 years down here -- authorities are not able to raise taxes. I believe that is reserved for municipalities, for counties, and for the State of New Jersey to raise taxes. So that's the first problem I have with an environmental investment tax.

The second problem that I have is that some of these EICs are involving the direction of waste flow telling municipalities bring your waste flow here to be weighed as an excuse. That is another thing that I find extremely apparent. We are directing waste flow, and isn't this what it was all about? The crux of the *Carbone* situation, you could not direct waste flow. So that's another problem I have.

In my county we have something that is really objectionable, and that's what they do to the commercial and industrial waste in our counties. For example, if I use my neighboring towns of Norwood and Old Tappan, they don't do anything with garbage. They tell their residents go out and contract with whomever you wish. You contract with whatever carrier. In one town, they say we have established a price with this particular carter. You deal with him, you pay him directly, and the municipality does not get involved.

So now along comes Bergen County. As part of their EIC that they have submitted to the County of Bergen, they say that you have to pay this EIC on the trash that your residents are sending to this carter, but you also have to pay an additional EIC for the commercial and industrial waste in your town.

I'll give you Northvale's numbers. Northvale has 2000 tons a year of trash. A little bitty town, 1.1 square miles. We have been collecting that. They want us to pay \$26 a ton in an EIC. Then they turn around and give us numbers, and these numbers are based, by the way, on 1993 numbers because they claim that was the last year we had some real numbers. Now they are saying that your commercial and industrial people in your town are generating 3000 tons worth of garbage and we are going to charge you an EIC. They say in the letter to each municipality that we have no way of collecting this from the commercial industrials, so we are coming to you in your town.

What do I have to do? I have to raise that in taxes. If you figure out the numbers, the tipping fee that I'm paying \$26 a ton for 2000 tons, then I'm paying another \$26 a ton for 3000 tons. We were paying \$102 a ton.

Now, I could pay as high as \$120 a ton after flow control is gone. Does this make sense? Is this legal? I think not.

So these are the experiences with the EICs, and that's why I thoroughly support your bill, and it has to be abolished. It's absolutely unconstitutional, illegal, and immoral. So I support the bill. I would ask for you to vote for it. We do have other people that I see have arrived that do want to testify. So I'm going to leave it open to the Committee for any comments.

But I do see Mr. Cornell is here who did want to testify.

EDWARD M. CORNELL: (speaking from audience) I'm not testifying on this bill.

ASSEMBLYMAN ROONEY: How about George?

MR. CORNELL: George is behind me.

ASSEMBLYMAN ROONEY: Still behind you.

MR. CORNELL: Yes, we were tied up in that traffic.

ASSEMBLYMAN ROONEY: I know. Assemblyman Jones only arrived a few minutes ago, and the Reverend Steele only arrived about a half hour ago or hour ago. Many people have been delayed. So I will hold then the testimony on the bill, and then we will continue with the hearing.

Anyone else have any questions?

ASSEMBLYMAN LUONGO: Ladies and gentlemen, thank you.

ASSEMBLYMAN ROONEY: Thank you very much. And I apologize. It's been a very confusing day with the delays that we have had.

With that we will go on to the package of bills that are A-515 to 519 that include Assemblyman Geist and Gusciora's bill. I do not see

Assemblyman Gusciora here. A-1605, and George Geist, Assemblyman, has a statement to make.

ASSEMBLYMAN GEORGE F. GEIST: Chairman Rooney, colleagues, good afternoon. Simply stated, New Jersey's problem needs New Jersey's solution. I provide to you a bipartisan solution, authored in the Senate by Democrat Senator Raymond Zane from Gloucester County. I'm proud to join my colleague and Assemblyman Luongo today as the first two witnesses before the Committee today.

As one of the authors of State mandate-State pay, I believe this legislation is consistent with State mandate-State pay. The Solid Waste Management Act of 1970 mandated that every county develop and implement a plan for the collection, disposal, or recycling of solid waste generated within its geographical borders. The State mandate simply stated, in my opinion, the State should now pay. I respectfully believe that the State government has a responsibility to address the responsibility arising from the State mandate. And that is why today, in the spirit of bipartisan cooperation and sponsorship, I copresent the initiative of Assemblyman Gusciora and Senator Raymond Zane. I ask for the Committee's consideration.

In closing, Chairman, I recognize that this bill may be incorporated in consideration of an Assembly committee substitute. I recognize the hearing is now on the package. I would ask the Committee to also consider a separate vote on this particular bill in addition to consideration within the package. I do so with the understanding and support of Assemblyman Gusciora. Assemblyman Gusciora's staff director is here today.

I believe that you can do both a vote on the bill and a vote on the bill being blended into the package.

I thank the Chairman.

ASSEMBLYMAN ROONEY: Anyone have any questions for Mr. Geist at this time?

ASSEMBLYMAN STEELE: Yes, Mr. Chair, I just want to make sure I get clarity.

Did you say a vote individually and then blend it into the package?

ASSEMBLYMAN GEIST: Yes, I did say that specifically because this bill and -- Assemblyman Gusciora and I believe this bill is independent of the funding. It establishes the State government will be responsible. I recognize the prerogative of the Chairman to blend it into the package with a possible committee substitute, but I truly believe this bill on its own should have a judgment on its own.

I thank the Chairman.

ASSEMBLYMAN ROONEY: I think it's a little bit difficult, just from the standpoint of being the sponsor of the original. We didn't discuss this prior to the meeting, and I would have preferred to discuss it with you at that time. I don't think it's possible because it's two different approaches. I had originally intended to incorporate it into the package because it is a comprehensive package verses a one-shot solution, which I think is a little bit lacking in other things. It doesn't have the other mechanisms in it to go through the process. So I would have a hard time supporting that on separate

requests and voting on it separately. And I don't think that you'd get the vote, that's the other thing. Just to be on the record with that.

Anyone wishing to testify on this bill individually?

We have -- George Marinakis, Cape May MUA, is the only one I have signed up at the present time for this bill individually.

George Marinakis. I hope I'm pronouncing that correctly.

GEORGE MARINAKIS: You did just fine.

ASSEMBLYMAN ROONEY: Thank you.

ASSEMBLYMAN JONES: Mr. Chairman.

ASSEMBLYMAN ROONEY: Yes.

ASSEMBLYMAN JONES: Just a point. I'm just trying to get clarification on how we are working this piece of legislation. This is going to be a stand-alone piece of legislation. It's not going to be--

ASSEMBLYMAN ROONEY: No, it won't because basically I had spoken to Assemblyman Geist prior to the Committee, and I said I would propose it as part of my package and merge it into my package as part of the substitute. To vote it out separately--

Excuse me a minute, I just want to confirm.

Mr. Marinakis, I'm sorry to interrupt you. I just had to clarify some points.

MR. MARINAKIS: The--

ASSEMBLYMAN ROONEY: Is the red light on? (referring to PA microphone)

MR. MARINAKIS: The red light is on now.

ASSEMBLYMAN ROONEY: Now you're on.

MR. MARINAKIS: Okay. I guess I understood this as a separate piece of legislation, also. So my comments were focused on it as a separate item, separate from the package of the bills A-515 through 519. So my comments were really on A-1605 specifically.

I do have additional comments on the other package of bills, which I know you are going to speak to later. This bill as introduced would appropriate from the State General Fund sufficient monies to provide for any revenue shortfall realized by counties or county authorities when operating State-mandated solid waste facilities under a nondiscriminatory market competitive system.

The sponsors of this legislation are to be commended for having the honesty to acknowledge the financial problems now confronting most solid waste districts in New Jersey as a direct result of previous legislative mandates by the State. They should also be recognized for having the fortitude to acknowledge in no uncertain terms -- I'm quoting from the statement in the bill itself -- "the State has an obligation to financially assist the counties and public authorities with these State-mandated costs."

The focus of this bill is directed at the immediate problem, the shortfall in debt repayment, and appropriately defers any action regarding total restructuring of the solid waste management system, which has been developed in New Jersey over the past three decades. We agree with that philosophy that the immediate problem is the debt repayment and that's what we should be focused on. There are many complexities associated with restructuring the entire system, especially unless we have a clear definition of what that

replacement system is and can't truly effectively deal with the waste management goals set forth in the solid waste management.

Although some changes to the present system are now appropriate, we feel they should be presented to the appropriate deliberation process and discussion on the advantages and disadvantages of those specific changes should occur at that time. Again, we are urging the Committee and the Legislature to address the issue of the debt repayment and enable us to do so.

I fully agree with the comments made a little while ago by Assemblywoman Myers, that when you speak about the environmental investment charge and your dislike for it, we wouldn't need an environmental investment charge if we had a true financial solution for all of the debt that has to be repaid. I'm not talking about a solution that only focuses on a part of your selected portions of the debt. If we don't have that, then we have to have a way of addressing this financial need.

There are a few concerns regarding this legislation, but they really are associated with some of the details needed to implement it, not the concept. We fully endorse the concept of this legislation, and we would ask the Committee to consider it as a separate matter.

Thank you.

ASSEMBLYMAN ROONEY: Thank you.

Anyone else wishing to testify on Assemblyman Geist's bill? (no response)

Hearing none, I'm going to hold the bill for now, George.

ASSEMBLYMAN GEIST: Thank you, Chairman.

ASSEMBLYMAN ROONEY: Thank you.

We'll continue--

MR. MARINAKIS: I do have a letter to submit to the Committee. I faxed it to the Chairman yesterday. I know you didn't probably have a chance to circulate it, so if you want to have copies--

ASSEMBLYMAN ROONEY: All right. You faxed it to my legislative office?

MR. MARINAKIS: Yes, I did.

ASSEMBLYMAN ROONEY: I have not been in my legislative office. In fact, I haven't been in town in the last two days. I've been at a conference.

MR. MARINAKIS: I can leave copies here with the Committee.

ASSEMBLYMAN ROONEY: We'll continue on with the package A-515 to 519, and we'll start hearing testimony on that specific issue.

Again starting with Art Maurice, NJBIA.

MR. MAURICE: Thank you, Assemblyman.

My name is Arthur Maurice. I'm Vice-President with the New Jersey Business and Industry Association. We urge your opposition to ACS-519. While the Association supports other legislation and the five-bill solid waste deregulation package, A-515 through 519, we cannot support in position of a 6 percent tax on all solid waste collection and disposal activities to pay for counties' stranded debt and county solid waste parading in management programs, the so-called environmental improvement costs.

We oppose the statewide tax for the following reasons: One, imposition of the tax is premature since we do not yet know the actual stranded debt amount for each of the counties, yet the tax is effective

immediately. Calculating the actual stranded debt amount requires, according to the proposed legislation, the use of mitigation techniques listed in Section 7, paragraph C(1). No tax should be imposed until the Department of Community Affairs issues their report on estimated stranded debt amounts.

Second, the tax should not be used to pay for nonstranded debt and general operating costs. These general solid waste costs term as stated earlier, environmental improvement costs, have nothing to do with stranded debt. There is no limit on the amount of these costs that should be paid from the new tax revenues.

Third, no tax should be imposed unless all consumers are guaranteed a solid waste service rate reduction. Prior to court order deregulation New Jersey had among the highest waste disposal rates in the nation. New Jersey consumers need rate relief. Imposition of the tax is only feasible if it can be provided in the context of an overall rate reduction for all consumers. This follows the precedence established by the New Jersey Board of Public Utilities. An energy master plan is in regards public utility recovery of electric industry stranded debt. They and the BPU permit such stranded debt recovery only in the context of an overall electric rate reduction.

The NJBIA commends the sponsor for his commitment to the establishment of the competitive solid waste services system. We urge the Committee to remove the imposition of the tax from ACS-519 and recommend that the Assembly Appropriation Committee continue this review in its preparation of the Fiscal Year 1999 State budget.

Thank you.

ASSEMBLYMAN ROONEY: Arthur, I'm confused, very confused. You handed me amendments that you had proposed for this, and we've agreed to accept those amendments.

MR. MAURICE: Well, I didn't know that, Assemblyman. I hope that you will accept those amendments.

ASSEMBLYMAN ROONEY: Absolutely.

MR. MAURICE: Okay.

ASSEMBLYMAN ROONEY: For you anything, Arthur, you know that.

MR. MAURICE: I hope that is stated in the record. (laughter) I'll remind you of that, Assemblyman.

ASSEMBLYMAN ROONEY: The amendments were drafted. You've submitted them, so now can we have a different testimony.

Can we agree that you support A-519 with the addition of the amendments that you presented to me today.

MR. MAURICE: Which would--

ASSEMBLYMAN ROONEY: If you want to read those amendments into the record, I have no problem with that because we have accepted them.

MR. MAURICE: No, the time is late. Just taking off -- out the environmental improvement cost is a permissible--

ASSEMBLYMAN ROONEY: Absolutely.

MR. MAURICE: --use and, secondly, guaranteeing a rate reduction for all consumers of at least 10 percent included in the text. Fine.

ASSEMBLYMAN ROONEY: So you now are in favor of A-519 along with the rest of the package.

MR. MAURICE: With those amendments.

ASSEMBLYMAN ROONEY: With those amendments.

MR. MAURICE: Yes, sir.

ASSEMBLYMAN ROONEY: Which I have agreed to, and I explained to you that I would agree to those prior to this meeting.

MR. MAURICE: Yes, sir.

ASSEMBLYMAN ROONEY: I know that things are prepared prior to agreement.

MR. MAURICE: Thank you.

ASSEMBLYMAN ROONEY: Thank you for clearing that point for me. It's a little confusing.

Let's do New Jersey State Chamber of Commerce again, Michael Egenton.

MR. EGENTON: Good afternoon, Chairman Rooney and members of the Committee. I am Michael Egenton, Assistant Vice-President of Government Relations for the New Jersey State Chamber of Commerce. I appear before you today representing the business community's concerns regarding the package of bills being considered here today.

First, I must commend the diligent efforts and perseverance of Chairman Rooney and his colleagues in tackling the deregulation stranded debt of the solid waste industry. This is not an easy issue. We want the record to indicate our appreciation for the hard work that went into developing a comprehensive solution to this complex issue.

The State Chamber traditionally focuses our resources on lowering the cost of doing business in the state. By reducing the cost associated with running a business in New Jersey, we increase the number of jobs created and the economic vitality we enjoy. Bringing open-market competition through deregulation to the solid waste industry will dramatically lower the cost of waste disposal and will move New Jersey out of the position of being the most expensive state in the nation for waste disposal.

State Chamber supports the package of bills A-515 through 518 that sets forth the process to deregulate the solid waste industry. Residents, municipalities, and businesses throughout the state will see their garbage costs lowered thanks to these bills.

In addition to deregulation, the other key issue in this debate is stranded cost and debt. History shows it was the State that mandated that every county must develop and implement a plan for the collection, disposal, or recycling of solid waste generated within its geographical borders. Some counties chose to build incinerators, some utilized landfills, others chose to ignore the mandate. As a result of the court order ruling that flow control is unconstitutional, those counties that did what they were told now face a debt problem. The issue remains to be solved is simple. Who pays?

State Chamber feels that because it was the original State mandate that created this debt, the State has the obligation to pay for it. It is because of this belief that we support Assemblyman Gusciora's and Assemblyman Geist's bill, A-1605, which provides for the State financial assistance for the solid waste debt service. However, on the other hand, we oppose Assembly Bill No. 519 and other legislation, which imposes surcharges in order to subsidize

the solid waste facility debt. A-519 would impose the \$6 per ton surcharge, an additional added expense that does not serve to hold the State accountable. The State, through the General Fund, should make the counties and the authorities in question whole.

The State Chamber will continue to work with the Legislature on this difficult issue. Again we thank Chairman Rooney for making this a front burner issue and allowing the New Jersey State Chamber the opportunity to offer our views on behalf of our membership.

ASSEMBLYMAN ROONEY: Thank you.

Just -- correction on your testimony. Six dollars a ton was never a part of the package. The latest is 6 percent on the revenues, and a maximum of 6 percent could be as low as-- We're looking at those numbers now, and those numbers will have to be developed at the Appropriations Committee. That particular bill will go to the Appropriations Committee.

What has been proposed by Assemblywoman Myers is a maximum of 6 percent with a maximum 50 percent (*sic*). I'm going to turn it over to Assemblywoman Myers because it has been her amendments on this particular portion of it. Also, to give fair credit where it's due, the amendment that was submitted by Art Maurice was also proposed by Assemblywoman Myers earlier.

So, Connie, would you please describe the present method of funding this system.

ASSEMBLYWOMAN MYERS: Just to clarify what I think we have agreed to. The assessment will be up to 6 percent, but nothing in the bill-- I didn't expect anything would change in the Appropriations Committee. When it would change would be after the Division of Local Government

Services annually assesses the debt and what debt needs assistance. A percentage will be put on the gross revenues based on that assessment, which will be a number that the Division comes up with after completing audits of all of the counties seeking assistance, which is the current process that is going on in the Treasurer's Office.

Also, another part of the amendment would cap the tax or the assessment at five years. If additional assistance was needed beyond five years, it would have to come before the Legislature for renewal.

ASSEMBLYMAN ROONEY: There was a sunset provision on this tax at a five-year period, irrecoverable as far as I'm concerned.

MR. EGENTON: Chairman, in lieu of that, I haven't had an opportunity to look at the most current amendments, but I think you get the gist, if you will, of our position.

ASSEMBLYMAN ROONEY: It's just the first meeting that we've had on the bill. It's been 6 percent maximum. The 6 percent on the current tonnage, or current average price, across the state is \$50 average, and that's \$3 a ton is what we are looking as maximum.

MR. EGENTON: Right.

ASSEMBLYMAN ROONEY: In most counties, you are looking at a situation taken-- Let's go to the average cost as of just pre flow control. Average cost was somewhere down \$86 a ton. So now we are down to \$50 a ton, and with a 6 percent tax, we are at \$53 a ton verses average cost of 86. I've tried to hold harmless those counties that had low rates such as Burlington, such as Ocean, where they had landfills. I tried to make it and I proposed this. I've asked for the language for it where we will reduce their

environmental escrow account by whatever the amount of tax is that they pay. If they are paying the \$3 a ton and they have \$18 in the escrow account, they will go down to \$15 a ton. That's been a proposal of mine right from the beginning.

We're are trying to bring everybody to the table, and we're trying to make sure that everybody either receives big reductions, which they have seen already, or is held harmless so that there is no big increases. We are also trying to make sure that we have equal competition. There is no creditory situations where one county or one authority or facility is going to be able to go out and take from other counties. It should be all on a level playing field. That's been the entire effort on my part.

I want to get this thing over with. I want to get into the free market of solid waste and let the free market determine what the price is, and everybody will benefit by the free market. You're a free-marketeer; otherwise you wouldn't be here from the State Chamber. I feel the same way myself, and I think that's the way really to control costs on garbage. So that's been my opinion right along, and I tried to put as many amendments in there that accomplish that purpose. If there are any other amendments that I could possibly put in here that help, I'm open to it.

I said it from the beginning. If somebody has a better idea than this, put it on the table. I haven't seen any solution. All we are doing is delaying, delaying, and we are winding up with counties that are on the verge of bankruptcy. So then what we will do is put a Band-Aid on it. We'll take so many dollars out of Connie Myers's bill from last year, the \$25 million that she put in, you're going to take a few million dollars and say, "We'll pay this

particular month's debt service and you'll be good for another three months." But we continue the same damn problem. I'm tired of that and I think all of us should be tired of it. We shouldn't be discussing this and beating it to death. Let's solve it once and for all. That's what I ask and that's what I'm trying to accomplish here.

Assemblyman Cottrell.

ASSEMBLYMAN COTTRELL: You know, you said you were cutting back 6 percent of these taxes, but I still say you don't realize that with a hauler, that's only 6 percent that back charge onto the customer. I mean, they have had towns out there who do all their garbage by a private company. They even do the recycling out there, a lot of them, by a private person.

Now, the consumer helps pay 6 percent on the garbage pickup with (indiscernible), you know that. Then you got the township who picks up their (indiscernible) waste and the (indiscernible) of that goes to the landfill, and the taxpayers pay another 6 percent. To set up the program that we had, and I can only have investment dollars in my own town, is over a half a million dollars taxpayers' money to send it there in the first place. Now we are going to pay tax over top of that.

We pay tax, and for me to hear here that the people were told to put the incinerator in -- and it's not fair. They (indiscernible) to put the incinerator in. There are probably 15 counties that didn't want to put it in, and you want 15 counties to be responsible for something that 5 or 6 counties thought it was the greatest thing in the world and kept on it.

It's hard to go back to a town, it's hard to go back to anywhere and ask the people for the charges of this town and, I guarantee you, throughout

the whole state, have private citizens (indiscernible) picking up no garbage. I had an elbow tax for them, civil tax for the incinerator, and they ain't never paid their bills in five months.

ASSEMBLYMAN ROONEY: Mel, we've had this debate both publicly and privately as far as what was mandated and what wasn't mandated. It's easy to say that it wasn't mandated, but when the State comes along -- and in your situation, you have a landfill that's open and you're allowed to continue it, it's one thing, but when they come in and close the landfill in your county and tell you, "Now, come up with a plan after we've closed your landfill," and every plan you submit is rejected unless it's an incinerator, that may not be that they forced us into doing an incinerator, but it certainly looks like it to me because I was there.

I was the one that was told, "Well, you better come up with the incinerator in Bergen County or your plan is not going to be approved." That's what we had to do. Then we had to go to a transfer station. In the meanwhile we fought, we fought. So I know, I went through it, we did do diligence, we tried to spend the money in the best way possible. We had the only incinerator in this state that was contracted for on a competitive basis. We had simultaneous negotiations with three different vendors. No other authority did that. They all selected a vendor and then said, "Okay, we'll buy from you, and then tell us what the price is." That's why some of them are extremely high cost now. We had the most competitive one, and yet it wasn't enough.

We wound up-- The State put us in the wrong. We selected one location. hey said, "No, you can't go there, you have to go here." We've got

wetlands, we got a hostile host community, we got all kinds of problems. Why? Because the one we selected they wanted a baseball stadium in, so they threw us out of that site.

Tell me about it. I've been through this, Mel. I know what you're saying. This happened in county after county. I don't believe that these counties really went into this of their own volition, going out to bid for incinerators. They were forced into it by the State and the State created this mess, and I believe we have an obligation to do it.

We talked about other situations where-- Maybe Ocean County is a different situation. I've tried to resolve it with your amendments, and I told you how we would do that, hold you harmless. In the meanwhile, many of us Bergen County legislators, when shore protection was necessary -- didn't help us in the least up in Bergen County -- we turned around and we voted for it. Ten Assembly people from Bergen County voted for shore protection. It didn't do us a bit of good, but we felt that it was in the best interest of the state, and I compare that to what happened.

I'm sure the Essex County legislators voted for it and other counties that didn't get any benefit from it. This is a statewide problem, it should be a statewide solution, we should be thinking as State legislators. I've tried to help everybody in their district. With the Ocean County situation, I've outlined ways where it doesn't cost you a penny. It shouldn't cost you a thing. I'm going to hold you harmless so your taxes won't go up. I don't know what more I can do, so I'm just trying to--

ASSEMBLYMAN COTTRELL: Assemblyman Rooney, don't paint a picture. I can understand what you're saying, but don't paint a picture to me about the shore.

ASSEMBLYMAN ROONEY: I know you are not a shore legislator, I agree, but--

ASSEMBLYMAN COTTRELL: Wait a minute, wait a minute. Let me finish now. I vote for the shore. I vote for the water coming down from New York -- Sterling Forest -- to come into North Jersey. You thought that was an issue that should be addressed by the State. Nobody made that a problem. That was a natural problem of water shortage. I'm going to vote for anything like that, but we did not create the problem. We took care of it. We took care of it at the -- countywide. And the other counties took care of the problem the county wanted. That's the difference.

I want the Pinelands. You want to talk about something? I want the Pinelands. Fifty percent of my town in it, 170 square miles. You know what taxes are worth? Nothing. Nothing. You know whose picked up? I pay \$6000 on a \$125,000 home.

Don't tell me about taxes. We have them. I decided to put on the tax bill to pay the landfill problem, to pay-- (remainder of comment indiscernible) We paid for it. The taxpayer paid for it. That's a pot of gold for somebody else. It's not fair.

ASSEMBLYMAN BIONDI: Mr. Chairman.

ASSEMBLYMAN ROONEY: Yes, Mr. Biondi.

ASSEMBLYMAN BIONDI: I'm somewhat confused. If the State mandated incineration, how come we don't have 21 incinerators in the State

of New Jersey? I ask it rhetorically, not to get into a debate. But I still think that the cart is in front of the horse. I think if you are going to throw money at a problem, then I think the problem needs to be evaluated. I think you need a full, comprehensive financial analysis of the operation of each of the incinerators. Take a look at salary and wages. Take a look if they are current and normal fees, or are they inflated fees.

ASSEMBLYMAN ROONEY: We agree with you.

ASSEMBLYMAN BIONDI: Excuse me.

ASSEMBLYMAN ROONEY: Mr. Biondi, we agree. Go ahead.

ASSEMBLYMAN BIONDI: Take a look at the business practices that have been put in place by those counties with the incinerators and let's-- If it walks like a duck and talks like a duck, folks.

A few years back it was a great business to get into with an incinerator (a) if you have the courage to site one -- but you had a captive audience. You couldn't help but make money. Well, now times have changed in business, and when times change, as a businessperson one needs to be creative and innovative. You get rewarded for making the right decisions and you get hurt when you make the wrong decisions. To take statewide and throw money at this problem without having evaluated the operation of these incinerators--

Can they be improved? Were they poor practices? Were they operating at the most peak efficiency that they possible could? Are we just chasing bad money? These are answers I need. I cannot sit here and support this bill without answers to these questions. I offered a month and a half ago to make a compromise to put this bill out. I said I would have given the vote

if you took the 6 percent off and kicked it over to Appropriations and allow them to do the research to find out what was needed. My colleague on the other side chastised me telling me, how we have to make the best possible legislation.

I thought it was a good compromise. I represent a district that has a transfer station, no incinerator and no debt. But to sit here and not take a business approach to this complex situation I think is just spinning wheels, Mr. Chairman. I give you all the credit in the world for the tenacity of that.

ASSEMBLYMAN ROONEY: Well, Assemblyman Biondi, I just want to say one thing before I turn it over to Assemblywoman Myers because she had some comments specifically on this issue. We're not talking about the facilities, especially the incinerator, being run publicly. These are private facilities that are out there that are being run, and it's not those facilities we're talking about. We are talking about the public debt associated with them, whether it be an incinerator or another vehicle.

Now, Assemblywoman Myers has been one of the big critics about-
- In fact, she was the one that created the audits, and she will tell you exactly the experience on the audits that were created a year ago.

Connie, please.

ASSEMBLYMAN CHATZIDAKIS: Mr. Chairman, Connie is going to yield to me first.

ASSEMBLYMAN ROONEY: Okay, fine.

ASSEMBLYMAN CHATZIDAKIS: You said you welcome anyone to bring another idea to the table. We've had this discussion many times over the phone and everything, and as Assemblyman Biondi said-- I want to draw

the analogy. Let's say I had a business that went bankrupt, which in essence what we may have here with many entities. When you declare bankruptcy, you go to the bank or your creditor and you offer a reorganization plan. Say this is what I want to do to stay in business. This is what the point we've been trying to get across. We're reversing the order. We're coming up with taxes. I'm glad you finally used the *T* word because we have a lot of--

ASSEMBLYMAN ROONEY: I've always used the *T* word.

ASSEMBLYMAN CHATZIDAKIS: We have assessments in here and all kinds of different words, but they are taxes. And it's more than a 6 percent tax, it's a 10 percent tax. Because we want to hit the general revenue funds for maybe another \$50 million or \$60 million. So if you combine that total of about \$125 million using the math we have here, we're talking about a 10 percent tax.

We do enough in Trenton imposing a lot of regulations on the residents of the state. Now we want to impose 21 Freeholder decisions on every taxpayer in the state on top of everything else we do. So I think we have to sit back. I think nobody disagrees there has to be some kind of a statewide baseline. But to jump in and say we're going to give you so much money in the beginning without analyzing anybody's operation--

I want to give you my bills for my kid's college, and I would like you to give me the money without me telling you how I'm going to handle it. I'd love to do that because-- You know the reaction I get when I go around talking to different people? The State is going to bail us out, so who cares what we do. I think that's a signal that we got off on the wrong foot because we all must agree realizing improvement authorities and incinerators -- I don't

want to pick on any one entity. We know that has to be grossly, in many cases, grossly inefficient. We know that.

You use the word stranded debt. I still don't know what stranded debt means to me. You gave me a definition of assets minus liabilities. I don't know what that means. An asset is not worth anything until you do something with it. To have it on a piece of paper doesn't mean anything. So, along with some of our other colleagues, I think it's a shame we have wasted some time. There still is some time. We've heard EICs mentioned. Not all we talk about here is taxes and who is going to bear the brunt. That's what we are talking about.

Thank you for yielding the time.

ASSEMBLYMAN ROONEY: I just want to answer some of those. If I can give you examples of what stranded debt is. One of the best examples is, when we're looking at Union County-- Right now Union County is looking into an agreement with Ogden Martin. From what I understand, they have \$290 million worth of debt. Once the deal is completed, they will be left with \$75 million dollars worth of debt. That's stranded debt, what's left.

ASSEMBLYMAN CHATZIDAKIS: I don't argue with that point.

ASSEMBLYMAN ROONEY: Then Bergen County, we are out for RFP right now on leasing our facility on the transfer station. The transfer station has about-- Well, the total debt we have is about \$118 million. I estimate -- just my own estimation -- we might get-- Let me transfer it back to annual debt.

Annual debt is about \$10 million to \$11 million in Bergen. I would estimate that we may get as much as \$5 million in revenue from the

leasing of the station. Which means that stranded debt in Bergen County is going to be \$5 million or \$6 million, which is the balance of the debt. On and on and we've mentioned this before and I'll bring it up again. With Mercer County, right here in Mercer County, they had \$280-some-odd million worth of debt for an incinerator. They never put a shovel in the ground, they never built the thing, they defeased the bonds, called the bonds, and they still have \$142 million.

That leads me into the other example. What do you do about that? And I asked Mr. Prunetti those questions and how do we justify that. That's a question that, according to this bill, is going to be determined by the Division of Local Government Services as how we pay that or if we pay it at all. They are going to have to submit to that procedure, including the audits, in order to go to the Division of Local Government Services for payment of their stranded debt.

So that's what I tried to bring out in this Committee. And you can go on and on with each facility at each county. You have \$100-and-some-odd million worth of debt in Burlington--

ASSEMBLYMAN CHATZIDAKIS: Correct.

ASSEMBLYMAN ROONEY: --for cocompost facility which could--
- They could, under this bill, apply to have some of that debt relieved by them. The audits are critical and this is why--

ASSEMBLYMAN CHATZIDAKIS: Yes, but, John, the audits are after the fact.

ASSEMBLYMAN ROONEY: No they're not.

ASSEMBLYMAN CHATZIDAKIS: They are after the fact.

ASSEMBLYMAN ROONEY: No they're not. They are before the fact that they can get any money they have to go through an audit process--

ASSEMBLYMAN CHATZIDAKIS: Let's talk about Trenton reality.

ASSEMBLYMAN BIONDI: But it's after the awarding of this bill.

ASSEMBLYMAN CHATZIDAKIS: You mean to tell me a (indiscernible) is going to present a plan to the DCA and they are going to reject your plan.

ASSEMBLYMAN ROONEY: I got news for you. Many plans have been rejected in the past, so don't go by that. That has happened.

Connie Myers.

ASSEMBLYMAN CHATZIDAKIS: Thank you again, Assemblywoman Myers, for yielding your time. This sounds like Congress.

ASSEMBLYMAN ROONEY: I hope not.

ASSEMBLYWOMAN MYERS: Assemblyman Cottrell and I were the only members of the current Committee that worked with Assemblyman Gibson -- he was here, is he still here? -- last session trying to get a handle across the 21 counties of what the numbers were, what the problems were. As he may want to testify, it was a nightmare trying to nail it all down.

What we've been waiting for-- I was not willing to vote for these bills in February because we had been hoping that the audit process that was established under my initiative adopted in the budget last year would give us the numbers through the current audit process, and it's my understanding that the audit teams involving Treasury, DEP, and DCA are close, but they are not there yet.

Six months ago only two audits had been issued. It's now May and there have been no more audits issued; therefore, I am beginning to be concerned about the pace that the administration is keeping with regard to addressing this critical issue. I represent the county with the highest per capita solid waste debt in the state.

Warren County has probably worse problems than any other county with an out-of-the-way facility and adverse court decisions now striking down in district agreements that had been guaranteeing them some trash flow. I have been promising Warren County that the Legislature must address this issue and enact legislation by July 1st when we usually break for the summer.

I think it is important to send a signal to the administration and to the Senate that the Assembly feels this is an urgent matter that needs action. I am prepared, as I have informed the Chairman, to vote for his bills with my amendments today. I tried to explain to Assemblyman Chatzidakis and Assemblyman Cottrell and Assemblyman Biondi why I am changing my position.

Let me just ask you, Mr. Chairman. You have always been very democratic about the issue and have encouraged us all to submit alternate plans. Is it fair for me to assume that if this package is voted out today and the administration does give us an alternate proposal based on these audits, which is what we kind of been waiting for, later this month you would be just as open to going ahead and hearing that alternate proposal at our June meeting?

ASSEMBLYMAN ROONEY: Absolutely.

ASSEMBLYWOMAN MYERS: Okay.

ASSEMBLYMAN ROONEY: I have no problems with hearing any proposal at any time. My phone works both ways. Everyone knows how to contact me. I don't think anybody has any problem contacting me, except for the last two days I have been at a conference. I have asked for the administration to come forward with their alternative. I've even asked Senator McNamara if he's heard anything, and he really hasn't heard anything. He's heard rumors. The ones are that they have a plan.

ASSEMBLYWOMAN MYERS: Well, it's my understanding that they are trying to make sure the numbers are right before they go public. I suppose that's a prudent approach. However, I don't think it will hurt for us to move ahead and take some action so that they know that we are taking this very seriously at this point.

ASSEMBLYMAN ROONEY: I will commit to this Committee, and to the public at large, any suggestions that the front office has or any of the Departments have that improve this and solve the problem. I will put it to the votes. Again, I have offered it to everyone at every turn. I have no problem. If Appropriations comes out and says we don't want a tax, we want to have just everything come out of the budget, fine. I have no problem with that. If they want to do that, fine.

Whatever comes out that is the solution to this problem I want to get it over with. I'm tired of debating it, I'm tired of beating it to death. We have problems out there. Passaic County is ready to default. Other counties are ready to default. We have EICs that all over the place. The challenges in the courts are costing us thousands and probably tens of thousands and

hundreds of thousands of dollars in every county. Every minute of delay costs us more and more money.

A lot of our residents across that state are still paying these erroneous charges and it shouldn't be. We should be down at the level of garbage disposal that is known through the rest of the country. It should be in the \$40 to \$50 range. In fact, it averages between \$30 and \$40 everywhere else except New Jersey. Now we are at the \$50 range average, and we should even be lower than that, and we can do it if we let the free market prevail, and that's what these bills do.

Yes, Assemblyman Chatzidakis.

ASSEMBLYMAN CHATZIDAKIS: Free market, that's a pretty expensive free market to impose the taxes we want to impose. Forget about A-519, how about A-516. We want to devolve waste management back to the local level, 500 and some-odd municipalities.

ASSEMBLYMAN ROONEY: We've--

ASSEMBLYMAN CHATZIDAKIS: I think we forgot our lessons from the '70s.

ASSEMBLYMAN ROONEY: No, we've not devolved anything. Any municipalities that wish to do the same thing that they have been doing all along to have the contract to pick up on a residential contract can do so by having a public hearing. Any municipality that wants an interlocal agreement with the county or with other groups, let's say groups of other towns that want to get together, can do so. All of those amendments had been put in to let the status quo remain. So don't say that it changes anything there now. But what

does happen is it allows municipalities to go out and do the right thing and get the lowest prices they possibly can.

That's where the problem is. The counties have done a rotten job, and it's time that we actually got some--

ASSEMBLYMAN CHATZIDAKIS: Well, speak for Bergen County, not Burlington County.

ASSEMBLYMAN ROONEY: It's not only Bergen. I'm saying counties plural, not specific, which ones. I can name them, but I won't do that at the present time.

ASSEMBLYMAN CHATZIDAKIS: Remember you're on the record, John, so be careful.

ASSEMBLYMAN ROONEY: I don't have any problem with that, you know that. I have already mentioned a couple, and I mentioned how they have done it. But the point is that the best way to control garbage and how it's disposed of is basically at the local level. I know what is good for my town and I can go out-- I've reduced the cost of garbage collection in my town by -- and I even got free recycling. Now, curbside recycling I got a contract that actually was lower the first year of that contract than the last year of the previous contract with recycling thrown in free because we did a better job and other municipalities can.

If they don't want to, then God bless them, do whatever you want, but at least leave that decision to the municipality. Let them do the best for their residents because I believe the closer you are to the public, the better job you can do. Because at local level you can do a good job for your public as

long as the State stays the hell out of your business and the counties stay the hell out of your business. I think as a local official, former local official--

ASSEMBLYMAN CHATZIDAKIS: I still am a local official.

ASSEMBLYMAN ROONEY: I'm sorry, as a local official you've got to feel the same way, Larry. So that's-- You are going to get me on a soap box and I don't want to do that. We're trying to get testimony and I apologize.

ASSEMBLYMAN CHATZIDAKIS: I've been trying to get you off, not on. (laughter)

ASSEMBLYMAN ROONEY: You get me on whenever you come up with this stuff. You know the proper buttons to turn. (laughter) And speaking of the Pinelands Commission, Mel--

MR. EGENTON: Chairman, the last thing that I just wanted to say is that I agree with the Committee, the remarks made by Assemblyman Biondi and Assemblywoman Myers. We need to do the comprehensive audits to take a look at -- that we are not paying for everything and the kitchen sink included.

I guess the essence of my testimony basically is it's hard for me, as a lobbyist for the State Chamber of Commerce, to go back to my small mom-and-pop business members and say we are going to charge you for this. I can't justify that.

ASSEMBLYMAN ROONEY: If you speak to Assemblyman Maurice you can go back -- Art Maurice, I'm sorry. He's almost like an Assemblyman the way he knows the law. If you speak to him on his bill, he's asking us to put a guarantee in here for 10 percent. Assemblywoman Myers

has strengthened the audit process of the whole situation, and we will be looking at lower rates. Believe me, I have spoken at the ELC breakfast at the Chamber--

MR. EGENTON: Right.

ASSEMBLYMAN ROONEY: --and I told your members. I told them, if you aren't seeing lower costs in you garbage disposal, then you are being screwed. And that's exactly the way I put it, and I'm saying it again here.

MR. EGENTON: As long as we get rid of the EICs, though.

ASSEMBLYMAN ROONEY: No, I'm talking-- Well, in those counties that are doing it, that's exactly my point. You're either being screwed by government or by your contractor. They should be able to obtain lower disposal rates in just about every place in the state. And you should be going back to them and saying, "Hey, why am I--" If, in Bergen County, for example, if I went from \$102 down to \$50 a ton and I didn't get a resulting rate decrease, shame on me. Because I know damn well I've gotten that. I'm saving my town almost \$100,000 in disposal, little bitty Northvale.

ASSEMBLYMAN JONES: Mr. Chairman.

ASSEMBLYMAN ROONEY: Yes.

ASSEMBLYMAN JONES: I would certainly think it would be in the best interest of all the witnesses and the members of the Committee if we could just allow the testimony to flow.

ASSEMBLYMAN ROONEY: Yes, I think you are absolutely correct, Mr. Jones, and that's what I was trying to do.

Any other testimony? (laughter)

MR. EGENTON: No.

Actually, Assemblyman Jones, I was going to agree with you that the last part of this puzzle, if you will, is to find out what the administration is going to do about this. And I guess what I was again saying in my testimony that we are looking for them to step up to the plate and take some responsibility.

And I know you have tried, Chairman, so I guess I will leave you with that.

Thank you.

ASSEMBLYMAN ROONEY: Just one final thought on that.

MR. EGENTON: Yes.

ASSEMBLYMAN ROONEY: If the administration was really interested in solving this problem, they wouldn't be out there approving EICs, which caused the problems that we are having right now.

MR. EGENTON: Assemblyman Jones, I just want to tell you the analogy, and it almost sounds like charity care all over again.

ASSEMBLYMAN JONES: I think you're right.

MR. EGENTON: Thank you.

ASSEMBLYMAN ROONEY: Thank you.

Next I want to hear from Bill Harrison, Pinelands Commission, since you were mentioned just at the previous round of discussions.

WILLIAM HARRISON: Let me try and do this very quickly. When I last testified, I raised three concerns concerning the package of bills. I had concerns with A-515 and A-516 and you agreed to changes which are incorporated in the committee substitutes, and I thank you for that.

The other concern I raised was providing funding if A-519 was going to be reported out by this Committee for the closure -- providing money for the proper closure of landfills that had already been closed. I picked up the Assembly committee substitute on Monday. It had language that accomplished that. It was in with the environmental improvement costs, which my understanding is that it is now disappearing. There are four items in the environmental improvement costs, one of which is the closure and postclosure costs for landfills.

I understand the concerns with the other three items in that, and I don't want to debate the merits or demerits of those. I do think that for landfills that have already been closed, because I don't think it should be open-ended, there should be some that the State should play a role in funding them.

I just want to bring one specific example which is typical of many communities in the Pinelands that exists. This is Bass River Township in the southern end of Burlington County, which is a community with a total population of 1500 people. Their 1998 municipal budget is \$1.3 million. The estimated cost of closing their landfill is somewhere between \$800,000 and \$1 million. They just don't have the money to do it. They are willing to put forward some money. They have no realistic way without destroying the home owners in that community of raising the money to properly close the landfill.

I think if A-519 is going to go forward that a provision should be made so that some of the money could be used to properly close landfills that have ceased operating at this point in time. I would urge the Committee to include language to do that. We had actually sent up language to an earlier

version of the bill that would have just addressed that, and we'd be glad to work with OLS if the Committee chooses to do that to come up with language.

ASSEMBLYMAN ROONEY: I've been informed by staff that this is not in the bill, the closure.

MR. HARRISON: Right.

ASSEMBLYMAN ROONEY: I think you said Burlington County was-- How much was that?

MR. HARRISON: This was just one community. There are about 30-some landfills in the Pinelands that are in this situation. This was one community in Burlington County needing abruptly a million dollars. Their current yearly municipal budget is \$1.3 million.

ASSEMBLYMAN ROONEY: You better speak to Assemblyman Chatzidakis about that because he should probably be looking at putting in some legislation as a separate issue.

ASSEMBLYMAN CHATZIDAKIS: You better call the Freeholders. (laughter)

ASSEMBLYMAN ROONEY: Thank you very much.

I see George Lohman is here. I know George called and asked to be included in--

GEORGE LOHMAN: (speaking from audience) Steve Changaris is going to testify rather than myself because I was so late getting here.

ASSEMBLYMAN ROONEY: Okay. Steve testified on one of the other bills.

Steve, do you want to testify again on the package?

MR. CHANGARIS: Again thank you, Mr. Chairman and members of the Committee. I am Steve Changaris. I'm New Jersey Chapter Manager for NJWMA.

Right now there had been amendments proposed and incorporated and adopted with the redrafts and the proposed committee substitutes and stuff. It is very difficult to look at every feature of the bill and be absolutely 100 percent comfortable that everything in there is what we'd like to see. In terms of the broad strokes, we believe the package of bills represents an attempt at fashioning a statewide solution. We believe that the package of bills attempts to create an open market where waste is treated as an article of commerce and isn't commanded and controlled for tax purposes to fund district facilities that are bloated, uneconomical, and inefficient.

We believe that there are elements in terms of opening the market and having an opportunity to have the full force and effect of competition get into the whole solid waste management system of New Jersey has a great promise for the residents and businesses of the state. Along all those lines we are very much in support of this package of bills and would like to see them released today.

I do understand that there have been some amendments and there have been some discussions, and we have to look at those real carefully. Issues about the tax and about disposal facilities and collection and things that we may think are in there that may not be that we have to look at real hard. To the extent that this bill opens up the market, allows people to make choice in their solid waste decisions, and to the extent that market forces are allowed in to lower rates, then we are very much supportive of the package of bills.

And to the extent that -- picking up on something Assemblyman Biondi said and others in the past -- if the funding issue is a controversial issue-- I've had this discussion with BIA, I've had this discussion with people in the industry and many people on the Committee already. If the funding mechanism--

We attempted in our discussions to provide, I'll characterize it as, a pedestrian approach to try to help the State out with this severe debt problem. No money, in our way of thinking, is ever going to be spent until the costs are mitigated. There is a strict process. The audit process that Ms. Myers put together is a wonderful process. It's *laissez-faire*. There is no linkage between the recommendations contained in those audits and the behavior of the authorities and the districts. We believe that the mitigation process is one where there is severe linkage that you shall do X, Y, and Z before you get the money. And that it will be done in a concerted, omnibus fashion thought out and put together in a process where the school teachers there with the reed to wack your knuckles if you get out of line. That's the kind of role-- There is going to be some hard decisions to make in the process and that's how we envision the mitigation process to go.

So, to that extent, we think the mitigation process is on board. We think the opening of the market is absolutely essential. We have to make this point. Economic float control, regulatory float control, any kind of float control that you think of creates an artificial market. Haulers and solid waste companies are prevented. Government puts barriers from us to get into the customers and into the market place and offer market competitive services. We don't even know the full force and effect of true market competition in

New Jersey because we have been an entirely rate-regulated state from the time the trash is at the curb to the time it's at the collector's truck, to the time it's disposed for 25 years.

There is so much layering that's there that we have to open this system up, and we believe that rate will come down. People say that you have a great rate in Burlington County, you have a great rate in Ocean County. These are fine things, but they have all been rates established at regulatory fiat levels. They have not been established by true markets, and that's what we're really talking about here: open the market up, let the forces go, and see what kind of good things can flow from that.

We're a capitalist country. When I was in college, I read Karl Marx and I fantasied myself a Marx. We're a capitalist; profit in this country is not bad. It builds better mousetraps, it advances the cause. So, to that extent, there is a lot of good things to say about how we can advance solid waste in the state through this open market freedom of choice kind of package of bills and to whatever extent the funding mechanism presents a problem.

If there are other people in the Legislature or the administration that has a better mousetrap, we will look at that as long as it opens up the market and allows our companies a chance to get in and help provide low cost, efficient, environmentally sound solid waste services. I really don't see how we could be in opposition to that.

ASSEMBLYMAN ROONEY: Questions?

ASSEMBLYMAN JONES: I just have one comment to make, Mr. Chairman, through you if I can. I listened very, very carefully to what the witness said, and I'm not quite sure his testimony is that compelling to the

point that it moved me. And the reason that I say that is because the terminology that you used at the outset of your discussion. You used attempts. The bill attempts to do this, the bill attempts to do that.

What I would like to be able to know is what the bill actually does. Attempts are fine, but if it doesn't hit home, then we've all wasted our time and you've wasted that eloquent soliloquy here. So those are the things that we need to begin to narrow down. I go back on my earlier statements in other sessions that we've had in terms of how we craft a piece of legislation and that legislation shouldn't be partially crafted here and then passed on to someone else to figure out how else we should put it together. So that it is a fundamentally solid piece of legislation.

And on your views, with respect to this being a capitalist society, I certainly agree with that. What I don't support is that when profits are earned and those that are earned on the backs of those that live paycheck to paycheck and week to week that's where I have problems and that's where this bill really -- or this package of bills -- don't hit home with.

So those are the things that we certainly have to be mindful of, and that's why we are what we are called and that's representing a constituency. That's my constituency and that's what I'm going to do with respect to this legislation here. So I want you to be clear on what my views are in terms of what you just lent to the record.

MR. CHANGARIS: If I might, Mr. Chairman.

ASSEMBLYMAN ROONEY: Absolutely.

MR. CHANGARIS: Clearly, the word attempt is in the follow-up, it's in the administration. The vision, the idea of an open market for solid

waste services is what we are striving to achieve, if that can be done, and I say if because we are just a regulated industry in the State of New Jersey and we can only do what you permit us to do.

So, to the extent that you open the door and let us really have a shot at providing low-cost, economical, environmentally sound solid waste services that's how sometimes maybe I couch my words. It's really how far you let us go.

The next step in terms of the cost and who pays the cost I think you have to look at the record. Historically, in the national solid waste service marketplace, solid waste services are economically -- they are inexpensive. Landfills exist, waste energy facilities exist, communities provide essential public services, and the cost of garbage and trash is modest. If you look at the charts in New Jersey, our rates have been -- we've led the nation in the rates.

I think this should be a great economic relief to the people. Businesses provide low-cost services if that's what customers want and need. So I think that's something that we have been sort of prevented from doing under the regulatory regime set up by the State of New Jersey. Where we are today stems from where we were 20 years ago, and where we want to be tomorrow comes from the decisions that you lay down today.

Things like EICs, economic flow control schemes -- those are not the things that's going to free the market up to allow us to provide low-cost services, and that's currently what is going on out there. A free market with choice and competition where businesses can say I want to shop for that facility because it has a good rate that's where the action is in terms of America and the fluidity of the way we can provide solid waste services better.

So I don't want to speak in a tentative sense. These bills, if enacted, from my vision as a policy analyst, will free up the market and will provide at least cost environmentally sound services. The next step in terms of half crafting a bill we get into a real problem. Public policy is what's driving this equation. We go down to Gloucester County yesterday and we argue that EICs are a burden to business. They are not fully mitigating the cost of running the county program. It's requiring our trucks to be weighed. It's creating an economic flow control scheme that may not be helpful to business and industry and communities in the city and in the county. But we have to comply with system. But we're getting into the equation saying, if you do this to us, we are going to have to pass those costs along and be subject to survive in that kind of a system. We're doing, I think, our due diligence to come forward and say we need open markets, we need the ability to choose where we take the wastes. As long as the environmental features of waste management are met, the economics take care of themselves,

ASSEMBLYMAN JONES: Well, based on -- through you, Mr. Chairman -- my understanding of the legislation and some of the language in it and you mention the issue of passing on costs. There is language that is clearly in the bill which allows any tax that we craft in this legislation to be passed on to New Jersey's consumers. That goes back to the point that I made with respect to the issue of capitalism and profits that are earned. Those profits that are earned and profits that are somehow ultimately taxed are passed back on to those very consumers that we're talking about attempting to bail out. Because all of which make up what we call these local

governments. Those are the people of those local governments who ultimately bear this cost. And that we can ill afford to begin to do.

That's where, you know, I have some line-drawing issues in this legislation because I don't believe it reaches the depth and the breath of what we are essentially trying to do, and that is, relief in some shape or form in this legislation. It's not hitting home.

ASSEMBLYMAN ROONEY: Let me ask you that question.

ASSEMBLYMAN JONES: It's not a question, Mr. Chairman, through you respectfully.

ASSEMBLYMAN ROONEY: Well, the statement-- I would like to answer the statement that you have made.

ASSEMBLYMAN JONES: It's a clear statement and I think-- Let me just say this, Mr. Chairman. I think what's happening in this process is that you have wrapped yourself into this legislation so personally that anytime anyone says anything that perhaps contradicts your views then you feel compelled to respond to it, to correct the record.

Now, I have an opinion, Assemblyman Chatzidakis has an opinion, Biondi has an opinion, Assemblywoman Myers, and Assemblyman Cottrell. We all have opinions. That's why we are here. Our opinions shape the process in the legislation, so I think you have to begin to back off a little bit. I'm just saying this respectfully, and I think most of the folks agree that you have to begin to back off and let the process develop. Because that's how-- It's not going to be a phone call that you are going to get to help you formulate what we are trying to do here. It's going to be through healthy debate in this process. That's what we are here for.

So I just want to say that for the record, so we can get back to the issue of flow control in this room so that the dialogue can continue to flow and we can hopefully get healthy testimony so that we can move this issue forward.

ASSEMBLYMAN ROONEY: Assemblyman Jones--

ASSEMBLYMAN JONES: With that I will sign off.

ASSEMBLYMAN ROONEY: I just want to answer what you have brought forth. The issue of the tax -- and I call it tax and I never called it anything but a tax -- on solid waste is a broad-based solution. Then we have also included the fact that the State will put an appropriation from the budget. The alternative, as you call it, the alternative currently is the State continues to approve EICs, which are selective, discriminatory, and absolutely ludicrous as far as singling out individual counties and individual municipalities for huge costs ranging from about \$20 a ton -- and we are talking about a tax that should be somewhere less than about \$3 a ton, broad based. You are talking about EICs that right now are ranging from \$19 a ton up to possibly \$79 a ton.

You tell me that I should wait for the State. The only thing that the State has done is approve more and more of the EICs. That's what I see as their response to what we are doing here, not a broad-based solution, selective, discriminatory. And talk about discrimination, some of these counties \$26, \$30 a ton. That's real discrimination on how they pay for their garbage disposal. To me that's absolutely wrong. Any type of discrimination is wrong, and I think you of all people should be in favor of a solution that is broad based and not discriminatory. This is something that really, really--

ASSEMBLYMAN JONES: Why would you even suggest that, me of all people? Let's sort of extract that.

ASSEMBLYMAN ROONEY: Assemblyman Jones, you and I have been together a long time and we've talked about different things, and I've heard basically your position--

ASSEMBLYMAN JONES: Well, I think these folks would like to know what that means, right, ladies and gentlemen?

ASSEMBLYMAN ROONEY: I've heard your position.

MR. CHANGARIS: Mr. Chairman, one other thing, if I might. I would like to get off the witness stand. (laughter) I always wondered how far I can slide down the slope sometimes. But, if I might, I just want to suggest to Assemblyman Jones and to everyone else -- and I think I heard myself say it to a reporter at one of the press conferences -- that the mitigation process that is in this legislation is what's most important. The mitigation process should be the benchmark that you all feel comfortable with because you can write the legislative language that guides the Department of Community Affairs in determining how to mitigate these costs, and that's we are hoping that will be contained in the legislation as it advances and is finally signed.

So in terms of making sure that your constituents pay the absolute least amount of money to maintain an efficient and environmentally sound solid waste system and pay off the stranded debt, then that's the process that we have. We are getting caught up in the tax and these other things. The mitigation process is going to be the process that makes sure that cost is reduced to its absolute barest bones. And that's what is going to have to be passed on and recovered, and we would think this is a fair idea.

One of the lawyers working in the Bergen venue has suggested that the EIC component -- once the costs are fully mitigated and capped and

identified just for stranded debt and fees that are unrecovered in new solid waste fees, those EIC fees should become capped. The agreement should be signed between the town and the authority, and it should be on a finite schedule for a time to be paid off. It's a very prudent, good government kind of concept to make sure that you only pay what you need to pay.

If I might, the last thing. There are two elements to this bill. One is the big picture of changing the solid waste management system in New Jersey and making it look more like the 48 others or 50 others -- 47 others in the country. Well, the 47. There is some other systems out there, but New Jersey could look much more like other solid waste management systems around the country. And that's what this legislation attempts to do, restore choice, rearrange the Solid Waste Management Act, and that part we really think is absolutely important that this Committee say that that's where we want to go and that's where we want to get to.

The funding mechanism is the other issue. Again, as I tried to explain before, we put forward our best shot at how to help do that with the best minds that we had in the industry. If the Legislature and the political people have other needs that have to be addressed, then maybe you could separate that and proceed on setting the policy that New Jersey is open for business, that New Jersey wants to have competitive solid waste services run efficiently, providing economical service in an environmentally sound way.

So that's my final pitch unless there are any other questions. Otherwise, I appreciate your indulgence.

ASSEMBLYMAN CHATZIDAKIS: If I may, through the Chair.

ASSEMBLYMAN ROONEY: Assemblyman Chatzidakis.

ASSEMBLYMAN CHATZIDAKIS: I'm a little confused. You just stated earlier about Bergen County about incorporating EICs into a solution with a cap.

MR. CHANGARIS: Currently, the proposed EIC in Bergen County is just that, a proposal. We get crossed wires here because there is legislation, there is court decisions. But right now the authority invested with direction from the Local Finance Board and the DEP is pursuing an EIC. The mayors who are being presented with this EIC have signed together and are working with counsel to fight the EICs implementation.

One of the things that I thought was very appropriate, the mayors are calling for mitigation. Let's see the facts that the BCUA is really mitigating their costs, driving it down, getting it down. The mayors seem to be -- I don't want to take it out of context -- they want a statewide solution, but if one doesn't come, the mayors are over here on this page -- and I can't speak for them because I'm not a representative for the mayors. But the way I understood the process to go along is that wheedle down the debt, get the BCUA lean and mean, make it work.

Now you have an EIC that's a real number. Now execute that agreement with the towns and the utilities authority to pay that debt finite and get rid of it. That's a secondary argument after whether or not the BCUA can even charge the EIC.

ASSEMBLYMAN ROONEY: That's the problem.

MR. CHANGARIS: What I'm trying to say-- I was trying to be responsive to Assemblyman Jones's point that right now the Local Finance Board has approved EICs. There is no telling what the rates are going to be

next year. They haven't really been exactly clear in some of the findings of what the fees can be used for. There has been no full analysis of maybe-- The Local Finance Board says that this shall be used for debt service, but no one has looked at the current gate rate that facility is charging to determine what's in there that could go to reduce the \$30 EIC charge.

That's what we are talking about in the mitigation process. In that process someone is going to have all the facts in front of them armed with the information produced from the audits along the lines of Assemblywoman Myers's legislation. Put it in a room, sit down, and have those marathon negotiating sessions, mitigate the debt, and come up with a petition that all the pieces fit properly. That's what is missing. We have one group doing this, another group doing that. We are looking for an omnibus solution.

ASSEMBLYMAN CHATZIDAKIS: Well, I think that's what we've been saying, trying to do that. Go back to a capitalistic lesson. You were giving us economics 101.

MR. CHANGARIS: Forgive me.

ASSEMBLYMAN CHATZIDAKIS: You're talking about a free market here, but you're talking about a free market that's going to be subsidized by everybody in the State of New Jersey. That's not a free market. You keep referring to that. And know what a free market is? Let everybody out here sink or swim without anybody up here being here. So we are way away from being a free market.

MR. CHANGARIS: No, no, no.

ASSEMBLYMAN ROONEY: Let me just correct one thing. It's not a free market when some counties, municipalities are burdened with

anywhere from a \$19 EIC to a \$70 EIC because that's not free market. Nobody will go to those facilities.

ASSEMBLYMAN CHATZIDAKIS: I'm not disputing that. But either is a 10 percent tax on everything in its state.

ASSEMBLYMAN ROONEY: Larry, please understand that the only solution without this bill, these bills, the only solution is the EIC. That's what the State is approving. That's what we are saying should not be because it does not even the playing field.

ASSEMBLYMAN CHATZIDAKIS: Let me ask you a question, Mr. Chairman. Have you ever looked at what an EIC in the Bergen County capped nice and tight in the package would be compared to a statewide tax?

ASSEMBLYMAN ROONEY: Yes, absolutely. Because I'm one of the mayors that he is talking about. Instead of \$26 a ton, it's probably \$19 a ton.

ASSEMBLYMAN CHATZIDAKIS: For how long? I think we should have those numbers and come up with an idea.

ASSEMBLYMAN ROONEY: Right now for approximately the bond issue is still out there for almost 20 years.

ASSEMBLYMAN CHATZIDAKIS: Mr. Chairman, you're asking us to vote for a tax today, and I don't think anybody here -- maybe you do or maybe Connie Myers does -- knows how that impacts our constituents. I have no idea what this 6 percent--

ASSEMBLYMAN ROONEY: I think it's been pretty clear how it impacts the constituents because what is going to happen--

ASSEMBLYMAN CHATZIDAKIS: I don't know. If I go back home and tell them I voted for a tax--

ASSEMBLYMAN ROONEY: --is it's 6 percent on the tipping fee. If it's \$50 a ton, it's \$3 a ton.

ASSEMBLYMAN CHATZIDAKIS: That's two different things, though. We're talking about tax on revenues and a tax on tipping fees. It's two different things. Because revenues, I assume, mean more than tipping fees in a private enterprise. I don't know.

ASSEMBLYMAN ROONEY: Let me put it a little bit differently. If you figure it on the, probably the most expensive scenario which is the private residential contract. That's the one that we look on in a monthly basis. If you are paying \$30 a month now, first of all, you should have gone down, any counties that have reduced rates in tipping fees. Let's say \$30 a month it's 6 percent of \$30. That's all passed through in the whole process. It's \$1.80 extra you would be paying.

ASSEMBLYMAN CHATZIDAKIS: I can do that math.

ASSEMBLYMAN ROONEY: Fine. I know you can because I know your background.

ASSEMBLYMAN CHATZIDAKIS: The point that I'm getting at is revenues are more than just tipping fees.

ASSEMBLYMAN ROONEY: Revenues that we have estimated--

ASSEMBLYMAN CHATZIDAKIS: Transportation costs. I don't know what this 6 percent of what. There is more than one unknown in this equation here. I can only figure an equation with one unknown, more than one I can't.

ASSEMBLYMAN ROONEY: I think we beat that horse to death.

ASSEMBLYMAN JONES: Mr. Chairman, can I make a point because I think Assemblyman Chatzidakis makes an excellent, excellent point. Back to this issue of the assessment on the tipping fee or tax or whatever we want to call it. I'm going to just give you some information about what happens to my county, and I represent a vast population of Essex County.

Essex County is serviced by American Refuel Company. Now the facility's annual capacity is about 985,000 tons. The average tipping fee is about \$60. Essex Counties current annual tonnages is about 300,000 tons. The cost of the assessment to Essex County is about, on this assessment on the 6 percent, \$3.5 million. Three million five hundred forty-six thousand dollars. That's a per ton cost of the assessment on Essex County weight waste which is about \$11.82 per ton. Now the annual increase in county stranded debt or cost will obviously be the \$3,546,000.

Now what happens is the ability to pass that right back over to the consumers in the legislation itself in A-19 on Page 11, Section D. Every solid waste collector is hereby authorized to calculate, charge and collect rates, fees, or surcharges from responsible solid waste generators sufficient to recover the solid waste collection assessment levied by the Department pursuant to this section.

There enlies the problem, \$3.5 million of additional costs that would obviously be rested on the taxpayers of Essex County. Now we don't know what happens in the other 20. Your point is clear and that's why we can't deal with this in a blindfolded way. That's why we need to know by way of audit, by way of whatever vehicle, by way of assistance from the Department

of Community Affairs, the Division of Local Government Services, Treasury. And I do agree with you that, yes, if to the extent the word discrimination is appropriate, if that's been going on with respect to the EICs, then we need to get to the table and sit down and begin to craft this thing.

Because if we are sitting here fooling ourselves thinking that we're going to sit and pass a piece of legislation that is going to sail through the Assembly, that's going to sail through the Senate, and that's going to be signed by the Governor, then we all need to be examined thoroughly because that's just not going to happen.

ASSEMBLYMAN CHATZIDAKIS: Or we have another insurance bill out there.

ASSEMBLYMAN JONES: Exactly.

ASSEMBLYMAN ROONEY: I question some of the numbers. LeRoy, if you mind-- You're just going to stretch. You'll be here to listen.

ASSEMBLYMAN JONES: My kid phoned me, so I want to call him back.

ASSEMBLYMAN ROONEY: Just before you go I just quickly-- One of the things that I have been working on the Essex County situation. Right now you are supposed to be paying \$72 a ton, according to your contract. That's in court with Essex County right now. I understand the Port Authority and Essex County are into that negotiation.

The other situation you said that you are paying \$60 a ton whereas the vendor in your case, which is American Refuel, is out soliciting garbage from places like New York City for as low as \$43 a ton on a long-term basis. Forty-three dollars a ton to burn New York City's garbage in your

community right in the heart of the ironbound section of Newark. Now, to me the only reason that this is being done, and it's possible, is because of what we are doing in having the uneven playing field that we have where they don't have to be competitive.

They are being subsidized by Essex County. Essex County has to put or pay, supposedly, on that agreement that they have. Even if it's \$50 a ton you've agreed and there is a contractual arrangement that you have to pay for 300,000 tons by your own admission. And that's the problem with this. As long as we continue this process where we have an uneven playing field, Essex County can go up to Clarkstown (phonetic spelling) and charge \$26 a ton, which they have done.

They have taken Rockland County's garbage for as low as \$26 a ton because you're subsidizing them. That's wrong and I want to help you. I want to help you stop this unfair situation. Let them compete in the open market. Let's get rid of the EICs, let's get rid of these nonsense contracts that were developed under an illegal law, an unconstitutional law. That's why I think you should be representing-- I believe you should represent your constituents and support the bill for those reasons.

ASSEMBLYMAN JONES: I don't disagree with much of what you said.

ASSEMBLYMAN ROONEY: He moved over to my side.

ASSEMBLYMAN BIONDI: Let's call for a vote. (laughter)

ASSEMBLYMAN ROONEY: We are going to step outside in a little while and discuss it a little further.

ASSEMBLYMAN JONES: I don't disagree with much of what you said, Mr. Chairman. The information supplied, I believe, is accurate information. I believe, like all of us do, that there needs to be a comprehensive solution. I think where we are at loggerheads is how we get there. I think that you have members of a Committee that are willing to sit down, roll up their sleeves, and get to work on trying to create and resolve this issue coupled with some assistance from the administration. We are not going to be able to do it by phone call, fax, or pager, and cell phone up and down the Turnpike. We are going to have to be able to do it in a real kind of way with input from individuals such as the witness and others that have been here.

That's we are trying to make a point of, but also there are some flaws that exist in the bill that would be of detriment -- grave detriment -- not to just my constituents, which I think I tried to do a decent job in representing, but to many of the people throughout the State of New Jersey, which we all have a responsibility to make sure that their interest is protected.

ASSEMBLYMAN ROONEY: All right.

ASSEMBLYMAN JONES: With that, Mr. Chairman, I'm going to sign off, call my son. Hold that thought and I'll be right back.

ASSEMBLYMAN ROONEY: Okay.

Now I'm going to call one other witness. Mr. Schwartz, again, please excuse the delay.

MR. SCHWARTZ: You guys are doing great. I think I should keep quiet. (laughter)

ASSEMBLYMAN ROONEY: And we are still having fun. As long as we can laugh at ourselves--

MR. SCHWARTZ: I don't envy you. I have struggled with this myself. I have 35-years experience in this--

ASSEMBLYMAN ROONEY: Is your mike on?

MR. SCHWARTZ: Yes, it's on the red light.

ASSEMBLYMAN ROONEY: Yes, yes.

MR. SCHWARTZ: That's a tough problem.

All of you probably wonder why I keep coming back just on behalf of one entity, the Ocean County Landfill. But I have to tell you that we didn't create this situation. It was just the way things worked out. The government agencies got in the solid waste business, and we wound up with only one private facility left in the State of New Jersey. Whether that occurred as a result of the private industry being driven out in other parts of the state relative to disposal, I don't know. But here we are, the only private corporation operating a solid waste landfill in the state. And we are kind of up against all the government entities that exist. They are our competition, the facilities operated, whether it be by Monmouth, Burlington, or the Atlantic, or whatever.

We have always felt confident in a statement that you made at the beginning of these hearings and was made also by Assemblyman Gibson when he was conducting the hearings and also by Senator McNamara when he had hearings on solid waste. That is to create a level playing field. That's my theme. That has always been my theme. All of the discussions and comments that I have made on behalf of the Ocean County Landfill have been with that theme in mind.

The last time I was here I went through a bunch of issues that I thought would be helpful relative to gaining our support for what you want to do. They kind of centered around taking the Ocean County Landfill and keeping our franchise and our grandfather rights relative to that franchise. While I was sitting in the room I got the rest of the amendments, and I got to tell you, Mr. Chairman, it's really hard to sit and read and try to put all of this together. I got a big chart in the office and it shows what one change does to another. It's hard.

ASSEMBLYMAN ROONEY: I think it would have been even more difficult with one bill. At least you only have to deal with five smaller bills.

MR. SCHWARTZ: It's a tough situation. It's a hundred and some-odd pages and you have to think as a lawyer, well, if they make a change here, what does that do to all these other sections.

But in any event, my quick reading of A-518, for instance, shows that you still have the repealers of a franchise. That's still repealed. You totally destroyed the public utility system in New Jersey. What I tried to do last time was to explain a vehicle due to the unique situation that we have here to kind of mold something that would work at recognizing this one particular problem. Every county has their own little quirks, but our bottom line is that we don't have the powers of private company to tax and our competitors can tax. Monmouth County has done it. They are eating part of the operational costs in general taxation and that's very hard to compete with, but we are kind of staying alive with them.

What I thought that we could do was to keep the franchise in place for those facilities that have had a franchise with a fixed date. We don't have a franchise like Public Service Electric and Gas or some of the water companies. We have a fixed date. 2016 is our date, and we are out of there as far as a franchise is concerned.

What I thought would be helpful in developing a level playing field was to take the definition of qualified vendor, which you have, which covers Gloucester, which is a private facility operated by Wheelabrator. You took the Union County situation and put that to a qualified vendor. If we also added some language that said a solid waste facility that has an existing franchise that has an approved environmental escrow fund, we could also fit under qualified vendor. That way it kind of gives us the ability to keep our franchise in place and let us participate in the stranded debt issue, so to speak.

Our environmental escrow fund, as I pointed out before, is not -- the monies don't belong to Ocean County Landfill. We have no-- We just can't write checks out of these accounts. It all works through the DEP. It's really owned by the users of the site. It's escrow to them, and it specifically says it's not our money. All that money is used for is environmental improvements at the site, capital cost items.

We had a recent reduction in the landfill disposal rates. Why? Because we are finishing some of the infrastructure work and we don't need the money so we drop it down. We went to \$55 this past -- the beginning of the year. The ability to share in this pot would be, of course, very beneficial to the residents of Ocean County, and we would share a relationship for the

environmental escrow fund that we have, which is presently about \$18 a ton or \$19 a ton.

We had thought that something was being worked on to put us in the qualified vendor category, give us the ability to offset the environmental escrow fund cost for the facility and that way give us a level playing field with our other competitors. We are not afraid of competition. That's not the issue. We can get squeezed out real easy by government. They can artificially drop the rates and suck the waste away and things like that. I'm sure people don't want to do that, but that's a possibility.

The other issue -- I'm really narrowing it down -- was the public bidding. You had that if it was municipality, the government entity, whether it be a county utility, that they would not have to bid for the solid waste services, they can do it by negotiation. Being that we would maintain a franchise, we have no problem being regulators of public utility. In other words, we would justify our rates to the Department of Environmental Protection as being just and reasonable.

So once we are in that public utility framework for this kind of unique situation, there is no need for us to get involved in a bidding situation because our charges are published. We have to charge whatever our published tariff is. Everybody knows that, so the competition is aware of what these charges are, and there is very little we can do about it except to kind of-- If we want to lower them down, we could before we raised them we can't.

But we are willing to live with the utility system. It has worked for Ocean County. Ocean County just has a unique situation. It just happened that way. We just don't want to get squashed out. We want to be able to

compete. So I've always been thinking of how do we compete on a level playing field, and those are the thoughts that I had in order to put us on that level playing field.

That's kind of it in a nutshell. I feel that the amendments that we want are not that complicated and we would like to see that taken care of. I think-- I can't speak for Ocean County as a county government, I don't represent them, but I think one of their biggest problems is not getting back dollar for dollar into their system. Assemblyman Cottrell could probably speak a lot better to that than I can. That's my solution for dealing with our unique problem.

If somebody wants to take garbage out of state God Bless them. We are not looking to prevent that. I've stayed away from that because I as a lawyer I know that I'm not going to make out with that issue. But having a franchise does provide the ability to compete on a level playing field coupled with a qualified vendor and the public bidding issue. We are comfortable, but until those changes are made, and we can see how they work, I have to respectfully say that as the bill sits right now there is no way that we could support it and it would not be attractive for Ocean County.

We've worked hard with the Governor there, believe me. After I left this room the last time when we had that little heated exchange I kept my commitment. I'm a funny guy. I'll go right down the line for you and I worked it and I was hoping that something good would come out of it, but I'm not part of the inner process and I've never had the opportunity to sit down with the OLS representatives next to you or, for that matter, you. I felt that

maybe between the legislators we could work it out. So I'm still willing to work on it--

ASSEMBLYMAN ROONEY: Right and I can--

MR. SCHWARTZ: --and really devote my time to see the appropriate amendments if everybody feels comfortable. If they don't then--

ASSEMBLYMAN ROONEY: Right and what I'm going to say, basically, is that I tried to keep my commitment to you, also. That I met with the people from Ocean County with Mel, as I said I would. I guess it was the week after that we had the session and I had offered the swap of taking dollar for dollar from the environmental escrow account, whatever tax that it was paid. So that has been rejected back then and was rejected even recently.

As far as the-- Including you as a solid waste facility. I didn't have any problem with that. That would have been as part of the total package. The deregulation-- The industry is looking for the deregulation, and I know that Senator McNamara's bill is total deregulation. It's not even as sparse as in my bill. I have compared that with him.

MR. SCHWARTZ: What I'm driving at there is, in order to make the qualified vendor definition work, you keep the franchise, the grandfather franchise--

ASSEMBLYMAN ROONEY: Mr. Schwartz, if the one--

MR. SCHWARTZ: --that's what makes it work.

ASSEMBLYMAN ROONEY: --thing was accepted, then the whole package would have been put together to satisfy you. It was not accepted by Ocean County. It was rejected by Ocean County. They didn't want any part of the bills. I had no choice but just to continue on.

MR. SCHWARTZ: I haven't communicated with the Freeholders or anybody down there.

ASSEMBLYMAN ROONEY: Mel, can you tell me the people that we met with? I don't have their names right in front of me.

Alan Avery and--

ASSEMBLYMAN COTTRELL: One of them is here right now.

ASSEMBLYMAN ROONEY: Okay.

ASSEMBLYMAN COTTRELL: You can talk to him. Let me tell you what the big problem is. The big problem is-- (remainder of comment indiscernible) I never received amendments. I am sitting here today, and when they faxed them -- and I had other commitments, too, see what I'm saying. I went to a place today where I went to high school-- (remainder of comment indiscernible) All the high school's there for career day.

A fax from a third-party amendment to my office--

MR. SCHWARTZ: Oh, I see.

ASSEMBLYMAN COTTRELL: --this morning.

MR. SCHWARTZ: You're right.

ASSEMBLYMAN COTTRELL: I haven't been in my office. I had to go to this commitment I made.

That's not the only problem this bill has. I worked on this for two years. We had it rewritten with A-50. And the problem that I am having now people tell me, this town, that town, what are we paying? All the towns I represent and the towns outside of it send me resolutions that they don't want it, all but one town. And we're talking about -- approximately (indiscernible) or approximately, say-- (remainder of comment indiscernible) I would say

200 or 300 pounds. I have 518 square miles, and you know how many towns I have, 20 towns. But they all sent resolutions. The county sent resolutions.

What I'm trying to say here the fair side let me explain to you and you about the franchise. If we allow anything like -- and if I can take-- (remainder of comment indiscernible) But let me give you a sample what happened to us one time.

Long Beach Island -- (indiscernible) out of the Health Department, okay. What cost us \$600 a home in taxes in Long Beach Island, who are very wealthy in their rateable, for that's how you deal with a town (indiscernible) when they are paying the taxes. When their rateable -- and other counties on the shore-- (remainder of comment indiscernible) Towns that are inland-- (remainder of comment indiscernible) That franchise in that bill would kill 75 percent of the town.

You say you want to represent all people. Let me tell you, there are towns like Short Hills when the last time I heard has 575 million (sic) (indiscernible) and they don't owe anything, but-- (remainder of comment indiscernible)

When we should come out of here and go to the Governor, we should have a plan that is compatible to all departments. Now, let's say--

If I don't have your attention, I'm not talking.

We have three departments. We have the Legislature -- Assembly, we have the Senate, and we have administration, the Governor.

ASSEMBLYMAN ROONEY: Executive.

ASSEMBLYMAN COTTRELL: If we don't have something (indiscernible), we're spinning our wheels, and we've been spinning our wheels

for three years. I want a plan now to come up, and I think we need a plan that will (indiscernible) in the Senate-- Even the auditing, if it took two weeks-- They said it in February and we haven't heard nothing on it. What happened after we passed that bill? They're going to audit all these towns -- will take two years before we get your auditing done and tell them what we have to do, create more paperwork, more-- (remainder of comment indiscernible) I say now we should hold this bill. Take it back to the administrators and say here we want an answer that a bill is going to pass, and then if they don't come back within the next meeting, then I will change my attitude.

I say that we have to have something that will work. I don't think we can sit here.

Listen, Mr. Schwartz, I want to tell you something. I've been listening to the same thing for three years and we got nowhere. Time is to take action, and action that among the Legislature let's sit down and put the best deal in here for the people. Let's go to the Governor and say, "You get back to us in two weeks," (indiscernible), and then we can sit down as legislators in our responsibility to do the job and what we should do. Right now we're only spinning wheels and I'm tired of that. After three years, we are going to have to say, here, let's hold the bill, let's take it for a vote regardless of who likes it and who doesn't like it. I'm hearing the same thing, the same thing.

Am I right Assemblywoman?

We hear the same thing now for three years. Now it's time to say action. If you want to help these people-- (remainder of comment indiscernible) Let's help them the right way-- (remainder of comment indiscernible) We'll do it the right way. And I don't want to hear no more--

ASSEMBLYMAN ROONEY: Mel, you're saying something that I've been trying to get somebody to say. You're saying to me-- You see, I've been waiting for the administration. I've contacted the administration. Don't get the impression that I haven't asked the administration to come forward and discuss it with me. I've asked many of the people in the administration.

I just want to say that if we don't do anything, if we don't set a deadline on what we are going to do, then they are going to continue with the EICs. That's the only solution they have come up with. And if you are saying to me that if we delay this till the next meeting and they are not here, in the next meeting, with their plan that you will vote for the bill, I'll say right now I love you.

MR. COTTRELL: (indiscernible)

ASSEMBLYMAN JONES: Mr. Chairman, he said he would change his attitude. He didn't say anything about his vote. (laughter)

ASSEMBLYMAN ROONEY: Well, let me tell you, as long as the administration hears that there won't be a solution, a definite solution for the next meeting, we never will get any of their plans. We have to go forward with something; otherwise, they will never get the message, they will continue down the same path they have for the last four years. For four years we have known that this situation is unconstitutional. Nothing has been done. They have been dragging their feet. I'm trying to bring them to the table. The best way to bring them to the table usually is to put a bill up and they are not here.

ASSEMBLYMAN COTTRELL: Listen. Listen to what I said. If we vote it out of here and the Senate changes it, and then the Governor steps in and she wants to change it, we are doing nothing. We're absolutely doing

nothing. But if the people (indiscernible) would know we are doing the right thing-- Senate, Governor they had the opportunity. After two weeks we don't get the answer, we'll want to vote this bill out. When it comes down to the floor-- (remainder of comment indiscernible) I won't vote for that today because, when I like to vote, I don't like-- (remainder of comment indiscernible) I vote yes or no, I don't-- (remainder of comment indiscernible)

ASSEMBLYMAN CHATZIDAKIS: Mr. Chairman, one point. We keep vilifying EICs. How do we know that EICs would have a lesser impact than the statewide tax we want to put on everything? We don't know that information.

ASSEMBLYMAN ROONEY: We know that for a fact because we know the numbers on the EICs. In different counties there are different EICs. That is not a level playing field.

ASSEMBLYMAN CHATZIDAKIS: But wait a minute. But the EICs will not be a constant, and they won't be around as long as these five-year taxes--

ASSEMBLYMAN ROONEY: The EICs will be around long enough to pay off bonds in each county. The counties have bonds and debt that extend for 20 years. That's what we are talking about, Mr. Chatzidakis. We can have all of that information.

I know my own county -- we have at least 20 years left on our bonds, 20 years that we are going to have to pay \$10 million a year and an EIC of \$26 a ton. That is common in every county that has the EIC -- almost every county.

ASSEMBLYMAN CHATZIDAKIS: Yes, but that's all debt. We are not talking about the total debt here. There is a component here of operating expenses we haven't looked at. There is a lot of components here.

ASSEMBLYMAN ROONEY: We've gone over that issue.

ASSEMBLYMAN CHATZIDAKIS: Yes, but, John, you say that, but we've never addressed it.

ASSEMBLYMAN ROONEY: The operating cost is still operations on--

ASSEMBLYMAN CHATZIDAKIS: You could take money savings from operating costs and apply it towards a debt. That's what I'm trying to say.

ASSEMBLYMAN ROONEY: I would believe that most counties have done that already. I know that most of them have done it. There are a few that have stuck -- and I don't know what yours is and (indiscernible) the experience in South Jersey. North Jersey, I know there have been many, many changes that have made to the authorities to trim it.

Bergen, Bergen is out trying to sell the whole facility. They are going out to either lease the solid waste and sell the waste water. They want out of it totally, that's how bad it is up in Bergen. Now, that's happening in some other counties. In Union they have done their due diligence. They are going through the process now of selling the facility, and they are going to be left with a \$75 million stranded debt.

That's what we are talking about. This deals with it on a broad-based basis. We are not going to have a situation where one county has an EIC and another county has none. Somerset County is going to have probably

\$45 to \$50 a ton. Right next door in Warren they are going to have to put \$79 a ton in their charge for disposing of that waste in order to pay off the debt. Is that fair, especially when Somerset and Hunterdon were the two that went into--

ASSEMBLYMAN CHATZIDAKIS: Is that any fairer, John, then making somebody else in Salem County pay?

ASSEMBLYMAN BIONDI: We were paying \$131 a ton.

ASSEMBLYMAN ROONEY: I understand that.

ASSEMBLYMAN CHATZIDAKIS: See, John, the counties I know that dropped their tipping fees and out of the EIC are still cheaper than the prior tipping fee.

Atlantic County, for example, they dropped their tipping fee. Add the EIC and they are still cheaper than the original tipping fee.

ASSEMBLYMAN ROONEY: And Atlantic County is still far behind. Morris County, they are down to like \$90 a ton when everybody else in the state is paying \$50. It should be in the \$50 range. You're not going to get there unless you eliminate EICs in the other counties.

ASSEMBLYMAN CHATZIDAKIS: You're going to get there by--

ASSEMBLYMAN ROONEY: It's discrimination. What's going to happen is you're going to diversion from county to county. Nobody is going to be able to collect an EIC in their county when garbage is going to go elsewhere.

ASSEMBLYMAN CHATZIDAKIS: So you want to have cross subsidization is what you want to have--

ASSEMBLYMAN ROONEY: I'm not talking about cross. I'm talking about--

ASSEMBLYMAN CHATZIDAKIS: --to equal-- But that's what you want to equal the playing field. That's what you are going to have to do.

ASSEMBLYMAN ROONEY: Let's go on with the witness.

I believe Mr. Avery is in the room, and I made the commitment to Mr. Avery on the phone as early as last week.

I guess, Mr. Avery, we talked about the situation that I would go dollar for dollar on the bill to eliminate that portion of the environmental escrow account to equalize the debt.

I gave that commitment, and I don't have a problem stating that on the record, so if he wants to dispute it, fine.

MR. SCHWARTZ: Well, I--

ASSEMBLYMAN ROONEY: Can I have your attention, please.

MR. SCHWARTZ: I'm sorry.

ASSEMBLYMAN ROONEY: No, you're on. I want to listen to the witnesses.

MR. SCHWARTZ: I made the suggestions-- I don't really think-- You know, Ocean County as a county government and the Ocean County Landfill are pretty much in sync on everything. We have a good public-private arrangement, and we have a good system that works well. We don't want to destroy it. I think that Ocean County as a county is supportive of what we want to do. I don't think that's a problem.

But you have to get by this public utility issue. That makes this thing work, and it's only an isolated -- until the year 2016. That's all it is to -- grandfathering of an existing franchise to make it work.

ASSEMBLYMAN ROONEY: Mr. Schwartz, we have covered that on testimony. We've got to get to new issues and move on. As I said, the Senate version of A-518, which is the deregulation of the industry, is totally deregulation. This at least keeps in some of the regulations.

MR. SCHWARTZ: I think that my arguments will be persuasive at the appropriate time--

ASSEMBLYMAN ROONEY: Okay.

MR. SCHWARTZ: --relative to what the Senate does. We've conferred with Senator Ciesla -- I'm not going to speak for him -- and others, and their wavelength is exactly what I am telling you here. It is to preserve the system and it's perfectly legitimate to carve out this situation because it is totally unique to the entire State of New Jersey.

ASSEMBLYMAN ROONEY: Yes, and I offered to work out amendments for Ocean County.

MR. SCHWARTZ: I've said enough, and I will do whatever is within my power to see to it that this system gets what it deserves. If we fail, we will fail in the legislative process, but I'm never going to stop until we get it done.

ASSEMBLYMAN ROONEY: All right and I appreciate it.

ASSEMBLYMAN JONES: Mr. Chairman.

ASSEMBLYMAN ROONEY: Yes.

ASSEMBLYMAN JONES: I'm very interested in what Mr. Schwartz has to say, so if he can, for my benefit, just share with us what those points are.

MR. SCHWARTZ: Well, okay, Assemblyman. One of the-- I don't want to be too repetitive. But we have a unique situation. We are the only private facility in the State of New Jersey, and I'm taking up the Chairman on his word that what he wants to do is have a bill that creates a level playing field. I'm saying the way the bill is it doesn't create a level playing field vis-à-vis Ocean County.

So I created a way that could create a level playing field and I discussed that the last time I was here. The bills that I have seen this morning, or this afternoon, when I got here -- the proposed amendments -- they don't address the issues that we have discussed. One way is Ocean County Landfill has a franchise, it's the only private landfill franchise in New Jersey. What I suggested is to keep that franchise alive. It's got a date of 2016 when it terminates.

The environmental escrow fund that we have is only dedicated to capital improvements at the site. We had a resource recovery plan -- you make the investment up front and you build a hardware and you begin to operate. With a landfill you make the investment as you are going along because it's a constantly moving target and you keep creating new areas to put solid waste in.

So we said, with this fund that we have, this environmental escrow fund, which does not belong to the Landfill, it belongs to the people, we would propose that the definition of qualified vendor in A-519 be amended to include

this particular situation so that it would say a solid waste facility which has an environmental escrow fund and a franchise would meet the definition of a qualified vendor. What I'm trying to do is create the uniqueness so it belongs in the qualified vendor definition, and the only way to do that is to couple it with a reference to a franchise.

Then the other issue had to do with public bidding. Since we would continue to be a public utility for the limited purpose of being a qualified vendor, we want to be able to contract with municipalities if we have to. We don't now. We don't contract with anybody. Under the bill a municipality doesn't have to bid if they contract with a public entity, the utilities authority, so on, and so forth.

ASSEMBLYMAN ROONEY: We substitute an interlocal agreement for that under the same interlocal agreement law.

MR. SCHWARTZ: Yes, so we can't do that under the bill. We would have to bid. And so again it's the level playing field thing. Monmouth County can turn around and go to a town that is on the borderline and say, "Let's sit down, we'll cut a deal here." They know what our rate is. There is nothing we can do about it. It's a published rate, and we don't have the ability to raise taxes as some of these counties do to help lower their rates or lower their costs. We have no vehicle to do that.

Being that we are so unique that any legislation that deals with this situation will be perfectly legal because of the uniqueness of the situation. That's all I ask. I'm trying to make this thing work. I don't like EICs either.

ASSEMBLYMAN ROONEY: Mr. Schwartz, I'm trying to make it work, too, and I offered to do those amendments, except for the deregulation

bill. That was going to remain unchanged. You would have gotten the EIC to -- and I made that offer and I made it through the--

And I'm sorry, I misidentified you.

ERNEST J. KUHLWEIN JR.: It's Ernie Kuhlwein.

ASSEMBLYMAN ROONEY: Right, you were at the meeting if I'm not mistaken.

MR. SCHWARTZ: We have to maintain the franchise piece, that's what makes it work and I don't think--

ASSEMBLYMAN ROONEY: That's--

MR. SCHWARTZ: We don't destroy the deregulation issue by doing that. I hope you understand that.

ASSEMBLYMAN ROONEY: I don't have a problem with the franchise piece, and that's to be clear between us, and I will work with you on that. I don't have a problem with that.

MR. SCHWARTZ: Well, that's what I have been hoping to do for the last two months.

ASSEMBLYMAN ROONEY: I will get you-- I was trying to work with the, basically, elected officials and the people through the county.

MR. SCHWARTZ: I personally don't like EICs. I'm involved in litigation fighting them right now.

ASSEMBLYMAN ROONEY: Then we are on the same side.

Let's go to Mr. Kuhlwein.

MR. KUHLWEIN: Assemblyman, just addressing our telephone conversation. We had a conversation and you had indicated that you were going to make some changes; however, I never got a copy of those changes so

I just would like to dispute the fact of rejecting it out of hand. We never had an opportunity to review those changes to see if they would meet what we would need to have in Ocean County.

ASSEMBLYMAN ROONEY: Well, I think as the conversation went, I guaranteed you that you would be held harmless, that the EIC -- I mean the tax that you paid on the 6 percent would be deducted from the environmental escrow account. If you're paying \$18 on the escrow account and it costs you \$3 in a tax, that will be deducted and that will be part of the bill. That was a simple explanation. I authorized staff to do that, and what I heard was that you weren't in agreement with anything of it, so we dropped it.

MR. KUHLWEIN: Well, I hadn't talked to any of your staff about it.

ASSEMBLYMAN ROONEY: Mel said that whatever we sent up.

ASSEMBLYMAN COTTRELL: Let's clarify one thing. I didn't go into my office on Monday. The (indiscernible) faxed those amendments to us on Monday morning.

Am I correct?

MR. KUHLWEIN: That they would be delivered some time Monday either through you or wherever.

ASSEMBLYMAN COTTRELL: Right, Monday. I called. I called four or five times that day and never got any amendments. I never got the amendments. You know I called four or five times. Now, I'm not playing games up here, and I'm not lying up here. I'm saying here I (indiscernible) in the world and someone will come up to me in the last minute and say here is the amendment and put it here on the back.

They had them Monday, and I heard it several times that they had it Monday afternoon. Why weren't they faxed to my office Monday afternoon?

ASSEMBLYMAN ROONEY: Let me--

ASSEMBLYMAN COTTRELL: That's my point.

ASSEMBLYMAN ROONEY: Mel, I just want to get the time. Monday afternoon was 5:30 when we left here with the-- Basically the amendments were done at 5:30 in the afternoon so it was impossible to get it to your office that day. It should have been there Tuesday. It should have been.

ASSEMBLYMAN COTTRELL: Why would it be impossible? Why would it be impossible?

ASSEMBLYMAN ROONEY: At 5:30 in the afternoon. It should have been there Tuesday. Because, first of all, we redid them--

ASSEMBLYMAN COTTRELL: Why would it be impossible on Monday?

ASSEMBLYMAN ROONEY: I was here on Monday addressing Connie's amendments, and I made that available, and I asked if you were going to be here. I was looking for you on Monday, saying that I would be here -- I left that message with your office.

ASSEMBLYMAN COTTRELL: I was here until 4:00 Monday, 4:00.

ASSEMBLYMAN ROONEY: I left a message at your office that I was looking for you to address those amendments here. I even told Connie

and I told staff that we were waiting for Mel to see if we could address those while we were here. So, I'm sorry.

ASSEMBLYMAN COTTRELL: I was right down the hall until 4:00.

ASSEMBLYMAN ROONEY: I only got here at 3:00. I had nothing here on Monday. I came down specifically to do that.

ASSEMBLYMAN COTTRELL: (indiscernible) I'll call Tuesday, I'll call Wednesday.

ASSEMBLYMAN ROONEY: I didn't get a message. Well, I wasn't in. I was leaving on Tuesday. I'll discuss that later of where I was.

MR. SCHWARTZ: I want to make an observation, and I think this is the root of the problem that you're having. It just dawned on me. You indicated that we would have a \$3 increase to pay the tax at the land-- It's about \$3, and then we would get back \$3 to offset that. That doesn't do anything for anybody.

That rate is \$55 right now, so it went up \$3 to \$58, and then you gave us back \$3. We would still be at \$55. You still got the same problem. That's the problem you're having here. You got to pump the money back to take our environmental escrow fund, which is \$18, and start chopping that down so that we could be competitive with the other counties. You're not doing that. In short, what it is you're giving us, with all due respect, is ice in the winter. That's what it boils down to.

ASSEMBLYMAN ROONEY: Mr. Schwartz, all I said at the onset of this, when we discussed this, is that we would hold you harmless and we would keep the rate at the same rate you are doing now. If you're not

competitive now, I don't think I should be subsidizing you by that method. Now if we want to discuss-- The environmental escrow account is a separate issue and we will deal with that. If Mel wants to put in a bill to eliminate your environmental escrow account, I will be happy to hear it.

MR. SCHWARTZ: No, he wants dollar for dollar.

ASSEMBLYMAN ROONEY: No, let's talk about-- We are talking about A-519. A-519 is creating a tax of 6 percent on garbage. You were saying to me that's going to penalize you to add 6 percent. I said-- And you offered--

MR. SCHWARTZ: I didn't say that.

ASSEMBLYMAN ROONEY: Well, Mel did. That you didn't want to pay more than you were paying now, and I agreed with that. I said, fine, if there is a way that we can offset that.

You mentioned in your testimony that you had the environmental escrow account. We found out through staff it's \$18-plus--

MR. SCHWARTZ: Right.

ASSEMBLYMAN ROONEY: --a ton. I said I don't have any problem in reducing your environmental escrow dollar for dollar with whatever the tax is. That makes you held harmless. If you are not competitive now that is a whole different situation, and that should be addressed in a separate bill to get rid of your environmental escrow account or reduce it.

MR. SCHWARTZ: No, see you can't do that because -- well, you can. The Legislature can do whatever they want. The point that I'm making is that under the qualified vendor definition, the qualified vendor is allowed to share in this so-called stranded debt repayment, and all we are doing is

saying you take our environmental escrow fund, treat it as stranded debt because it is an obligation, we have to spend the money, and whatever money has come back to Ocean County-- It's going to be a lot more than \$3, I can tell you that, because they are going to put in a hell of a lot more than \$3.

ASSEMBLYMAN ROONEY: Mr. Schwartz, I think it's a subject for another conversation because I think we have beaten it to death.

MR. SCHWARTZ: Fine. I think that's the point of the problem here that we have to sit down and work on these things.

ASSEMBLYMAN ROONEY: But again it doesn't pertain, I should say on the bill and this is not on the bill. If you are not competitive based on the environmental escrow account that's not in this bill. This bill shouldn't be a method for you to reduce your cost.

ASSEMBLYMAN COTTRELL: Mr. Chairman.

ASSEMBLYMAN ROONEY: What I'm saying is that--

ASSEMBLYMAN COTTRELL: Mr. Chairman, I'm not interested--

MR. SCHWARTZ: That's not true.

ASSEMBLYMAN COTTRELL: I'm not interested in an argument or debate between him and him.

ASSEMBLYMAN ROONEY: I'm not either. I'm not trying to be argumentative. All I'm trying to do is continue with the witness list.

ASSEMBLYMAN COTTRELL: I make a motion that we hold the bill until the next meeting and--

ASSEMBLYMAN ROONEY: I want to hold-- We have two more witnesses. They should be quick.

ASSEMBLYMAN COTTRELL: I made a motion we want to hold the bill. I'm entitled. Anyone going to second?

ASSEMBLYMAN CHATZIDAKIS: I got in trouble last time. Maybe you ought to do it. (laughter)

I'll second the motion.

ASSEMBLYMAN BIONDI: Our sitting here taking testimony, spinning wheels, is going absolutely nowhere, in my opinion.

So far it's, let's see, four, eight-- We put in almost 12 hours on this.

ASSEMBLYMAN ROONEY: I think parliamentary procedure has it that I don't have to recognize the motion as the Chairman of the Committee. This is a different process.

ASSEMBLYMAN BIONDI: No, but we get to vote on your bill. (laughter)

ASSEMBLYMAN ROONEY: We have two more witnesses. The people have shown up today to discuss this bill, and I don't want them to have come down here--

MR. SCHWARTZ: I'll work with you, whatever you want.

ASSEMBLYMAN ROONEY: I'll give you a call tomorrow.

MR. SCHWARTZ: No problem.

ASSEMBLYMAN ROONEY: Tomorrow I will call you. Leave me your card.

MR. SCHWARTZ: Thank you.

MR. KUHLEWEIN: Assemblyman, the same for the county.

ASSEMBLYMAN ROONEY: Okay.

George Marinakis, again, from Cape May.

MR. MARINAKIS: Obviously from the discussion and this all focused around the financial aspects and not even the other elements of this package of legislation. It's a very complex issue and trying to address everyone's needs is not easily done. Each of the counties approached the issue differently, and each of them come up with different solutions, and each county has a different stake right now at bringing this matter to some kind of financial closure, if you like.

Our concern is really that the Legislature created a Solid Waste Management Act. It delegated to the counties this responsibility and it essentially authorized waste flow control. At this point we are looking to the Legislature to address the problem. The mix in this package of legislation, introducing proposed revisions to planning and other issues, we don't feel is necessary at this time. We don't feel that it is essential to dealing with the financial issue.

We also believe, from our understanding of the litigation and the court rulings, that it is not relevant to addressing the financial matters. I know it's been a long day. I have tried to keep pace with this legislation, and only yesterday did we get what we believe to be the last drafts of -- I think it was dated April 27th. I don't know if that's the last draft or not anymore. It's has been a moving target. So in that respect, I even gather that some of the Committee members may not be quite current, perhaps.

What I would like to do is give you a copy of the more lengthy text of the comments that we prepared, again rather hastily because we only received just yesterday what we believe to be the latest version. Hopefully you

will have an opportunity to review those before you take any action. Having said that, I would just like to emphasize that the scope of the present package of bills goes well beyond what's needed to address the court decisions, and it goes well beyond what is needed to address the financial situation.

We are very concerned about a couple of things in here that we don't even fully understand, and I hope that you do before you would take any vote on it. You have now what appears to be four different sources of funding that would go into this financial solution. You have the tax on the gross operating revenues of the generators, you have the amount that would be charged through the municipal base, and you have now added a tax on the 6 percent tax on waste disposal and waste disposal at the facility, and lastly would be the State's contribution.

At this point I have no idea how much either of those categories would generate and I hope that you do before you would take any action on this legislation because I would think you would want to know how much is this going to affect my local constituents and how much is it going to affect my State budget. At this point, all we have is no more than 50 percent from the State government, but I'm not even sure after you add the other three together that the State government puts in anything. I really can't tell and I think that that would be essential to be understood by anyone trying to consider approval of this legislation.

And essentially, because of some of the provisions in it, we would say we were opposed to it, but quite frankly, we don't fully understand the financial aspects well enough to even be assured of making that statement. I guess with that I give you my written text of comment and ask you to review

it but with the understanding we are trying to keep up with a moving target here, and hopefully we will have another opportunity when you finalize the text.

ASSEMBLYMAN ROONEY: I can share the numbers with you, Mr. Marinakis, and I'll get them to you. The total is \$96 million that we are raising \$20 million from the budget process. The rest will be raised by that tax.

MR. MARINAKIS: Well, how did you get \$96 million from the budget process?

ASSEMBLYMAN ROONEY: No, \$96 million is total. Twenty million dollars from the budget process and the rest is coming from the 6 percent tax on last year's revenues which we anticipated were \$1.6 billion. The six landfills are not included in that, including yours.

I'll get those to you. The staff will have all of the information.

ASSEMBLYWOMAN MYERS: Six landfills aren't included in what?

ASSEMBLYMAN ROONEY: They are not included in the assessment.

MR. MARINAKIS: Is the starting point still the approximate \$140 million that was represented by Beth Gates from the Local Finance Board?

ASSEMBLYMAN ROONEY: What we are finding is the \$140 is quite a bit more than we would ever anticipate as the actual debt because what happened was we were including-- For example, Union County, \$290 million with the pending transfer of sale to Ogden, their stranded debt is \$75 million. We're anticipating that's going to happen in many, many more cases, and the

actual stranded debt will probably be less than \$100 million. We believe \$100 million is a target number. Again we have had no information from the State to verify that, and we are working to try and get that.

What I want to do is just ask you one question. What's the per ton fee in Cape May County currently?

MR. MARINAKIS: In the environmental investment charge?

ASSEMBLYMAN ROONEY: Total tipping fee.

MR. MARINAKIS: Total tipping fee-- If one were to stay there. Again, I think it was mentioned earlier by the representative from the Waste Management Industry that we charge environmental investment charge and at that point the hauler can go where they choose.

So, if they stayed with our facility and they had regular household waste, it would be \$82.75.

ASSEMBLYMAN ROONEY: Eighty-two dollars and seventy-five cents, which is \$32 more than the current average of what we are seeing in the reduced numbers.

MR. MARINAKIS: Well, yes.

I do have a problem when you make those generalities as what it should be because, unless you know what our situation is and what our system is, how can you make that statement? We have a population change in Cape May County that goes from 100,000 population year round to 600,000 people in the summer. There is no other county in the state that has that. We have a unique and an inherently inefficient system. I'll be candid in that respect. But to make these representations it should be \$50 is--

ASSEMBLYMAN ROONEY: What's your EIC, Mr. Marinakis?
What is your EIC?

MR. MARINAKIS: Thirty-six dollars and thirty-six cents.

ASSEMBLYMAN ROONEY: Under this bill you would go from your \$80 some-odd, \$36 would be out because it would be paid by this tax. You would be down to \$50 a ton which is exactly what I'm saying. Your citizens down there would be paying \$50 a ton instead of \$86 a ton. That's what we are trying to do is to level the playing field because anybody can come into your county and say, "Hey, I can do it for \$50 a ton, you're not competitive."

That's what the purpose of the bill is, Mr. Marinakis. If you're not in favor of it, I'm not looking to change your mind. I don't want to debate it any further. I'm just citing you what the intent of the bill is.

MR. MARINAKIS: Thank you for the opportunity to share my comments, and I will give the written comments to your aide.

ASSEMBLYMAN ROONEY: We would appreciate it.

MR. MARINAKIS: Thank you.

ASSEMBLYMAN ROONEY: One other, David Pringle from Environmental Federation. He's the last testifier as far, as I know, and you're opposed to the bill as on the same grounds as previously. We know because you don't want to proliferate anymore incinerators. You want them all smashed into the ground.

MR. PRINGLE: Among other things.

Now that you said I'm last, though, the pressure is on because I'm sure everybody would like to go home so I will be--

ASSEMBLYMAN ROONEY: You're the speaker that everyone has been waiting for.

MR. PRINGLE: I'm sure.

I will keep my comments brief and just add some new information.

I am the Campaign Director for the New Jersey Environmental Federation. I am also representing Reclaim, which is a new coalition of grass roots and statewide citizen groups, including 13 local county groups. Reclaim supports three bills in particular, as you mentioned, but we call an immediate, permanent ban on incineration. Point two, how we address the two questions that arise from the first, which is what do we do with our garbage and how do we pay for it? I will speak to that right now.

We still believe that this legislation is, although significantly improvement over environmental investment charges and the A-50 from the last legislative term, still is fundamentally flawed because it looks to taxpayers as a first or second choice as opposed to as a last choice. This bill remains a taxpayer bailout of the environmentally and economically flawed incinerator industry and it doesn't need to be. Just like we should have a solid waste hierarchy on how we manage our solid waste, which I know uses the Chairman's support. We should have a hierarchy on how we pay off this debt.

Very briefly, I would like to lay out those eight points. The first, which I think is very consensus around, is refinancing and audits. Second is -- and I think there is consensus around this -- that debt isn't stranded until it isn't paid for and should not include operating expenses. Third, and this is what I just don't understand, incinerator companies should be the first tax we look to. They are the ones that profited from this mess that we are in. They

are the ones that got us into this mess in the first place with the State's help because they sold us a bad bill of goods.

Why are you looking to the taxpayers of New Jersey before the folks that got us into this mess. I just don't understand that. To give you a most recent example of the types of folks we are talking about -- I know they have a representative here today. Foster Wheeler is pushing for a new incinerator in Salem County. They say it is modeled after an incinerator in Illinois that has been operating since last June very efficiently and cleanly. However, it has just been cited for over 700 Clean Air Act violations over a period of the first six months. These are the types of folks we are talking about. So that is why we should be looking at them before the taxpayers.

The fourth option should be the insurers. Roughly \$540 million of the stranded debt -- or of the so-called stranded debt -- has been insured. When we have insurers pay for this debt this is not default. Default is when bondholders, investors, do not receive full compensation. This is not the case if the insurance cut kicks in, and in fact, it is exactly this situation why we have insurance in the first place.

When you get into a car accident -- and we all talk about car insurance these days -- your car is totaled and the other driver is at fault, you don't foot the bill, your insurer does. That's how it should be here.

Number five, junk bond investors. Since 1994 bondholders have been selling and junk bond investors have been buying these bonds. I say 1994 because that's when the first Federal court rulings came down and most of these bonds are downgraded to junk bond status and they are being sold at 10 cents on the dollar. That means, if there is a complete statewide bail out

of this debt, junk bond investors will be getting 100 percent rate of return at taxpayers expense.

I also don't understand from both parties how they could support this bill. The Republicans clearly have-- Anti-tax platform is an important part of their party. The Democrats certainly look to corporate polluters before lower-income people to pay off and to fund statewide solutions. So again we should be looking the polluters, not the taxpayers.

Number six. Now we start talking taxes if that doesn't cover the entire debt, and it should be a hierarchy of taxpayers. This is a statewide problem and it should be a Statewide solution. We certainly do not advocate any of the bills before us, but if push comes to shove-- I look at it as there are three options. There is existing State funding, which the Geist bill would be a model of that, A-1605, as a sixth choice. A seventh choice would be your bill, Mr. Chairman, because at least it is a statewide solution. The last alternative would either be the environmental investment charge and the regulatory version of A-50 from last year.

For all those reasons, I urge you to move again A-1889 today because at a minimum that bill says no property tax bailout of incinerator industry. The time is short, so I will just leave you one thought that is related but not directly. Again, just like we had the solid waste hierarchy in New Jersey, or should have one, as we did in 1993 and we need to have that hierarchy financially.

If we increase source reduction by 10 percent in the state, if we increase composting by 10 percent, and we recycled 10 percent more than we currently do, we would be self-sufficient. We would not send any trash out of

state to any location, we would not have to burn any trash in New Jersey, and in fact, we would reduce the amount we have to landfill in New Jersey. That is not a tall order. Ten percent more source reduction, 10 percent more composting, 10 percent more recycling, taxpayers as a last alternative, polluters as a first alternative, and you have a solution to this situation we are in. And we urge the Committee to take a look at that.

One final comment. I don't understand why it's left to an environmental group to do a financial analysis. Everyone says we can't default, we can't have the insurers do this, but no one has done the analysis, and it's left to a nonprofit environmental group to hire economic consultants to figure out the options. and that just doesn't make sense to me as well.

Thank you.

ASSEMBLYMAN ROONEY: Thank you, David.

Before I end the hearing, I am going to hold all the bills.

ASSEMBLYMAN JONES: Just one statement that I think I want to make and then one recommendation. The one statement is as much of the testimony that we heard today-- We heard, in many cases, particularly with the last gentleman from Cape May County, where the 6 percent tax would place or pay off the eliminated EIC. So what we have there is a very, very serious issue with respect to public policy whereby we would be imposing one tax in order to pay off another. I think we have to rest very, very careful when we are a body -- a smaller extension of a greater body -- that has a responsibility to set appropriate and prudent public policy.

I think when we begin to-- Much of this comes by way of the testimony because it becomes more clear and more focused that we have to be

very, very careful with respect to where we are going, how we are crafting this, and what it resembles in terms of that essence, public policy. That's my statement.

Now, the recommendation that I have dovetails off of Assemblyman Cottrell's recommendation, and that is to engage and involve members of the administration because as I understand they are also working -- and I don't know how rapidly, I don't know what the pace is, but they are also working on legislation that would impact what we are talking about today. So what I would recommend is that the Committee -- all of us because I think we all ignominiously believe that their input is essential for a number of different reasons -- that we have a letter sent to the appropriate representatives from the administration, those agencies and departments that have direct input, and ask them to be here at the next scheduled Committee meeting and in the interim, as Assemblyman Cottrell recommended, they be provided with the complete package of the bills and be prepared to at least provide testimony to the existing legislation and perhaps even recommendations that they may have and then during that time frame we will also be moving in that direction.

I think when we get to that point, then we can be able to at least have that discussion, have some attitude changes, and some vote changes, and some level of comfort so that all of these folks don't have to rush down here, we don't have to rush down here and all of it is for not. I think that should be the process and I would certainly sign off. Just give the approval for my name to be added to a piece of correspondence that ignites and initiates that action. That's my recommendations, Mr. Chairman.

ASSEMBLYMAN ROONEY: I would, as Chairman of the Committee, request that OLS prepare that letter and send it under my signature. If everyone is willing, add your signatures to the letter. Anyone wishing to not be included, speak now.

ASSEMBLYWOMAN MYERS: When is the next meeting?

ASSEMBLYMAN ROONEY: June the 4th.

ASSEMBLYWOMAN MYERS: And we are asking for this by June 4th?

ASSEMBLYMAN ROONEY: Right. To have the administration proposal by June the 4th. What I'm also going to suggest is that--

ASSEMBLYWOMAN MYERS: Could I add something to that letter?

ASSEMBLYMAN ROONEY: Absolutely.

ASSEMBLYWOMAN MYERS: In November, the Treasurer promised Warren County a response within days or weeks, not months. That was six months ago. Warren County has almost \$1000 per capita in solid waste debt. By contrast, Essex has about \$51 per capita in solid waste debt, to give you a comparison. They will go into bond default by the end of June. I'm not sure if we are not going to even begin to hear from the administration until June 4 that we are going to have anything by July 1st. I would ask that there be included in that letter a note about the urgency of the situation, particularly in Warren County, and ask them to address it immediately.

ASSEMBLYMAN STEELE: We have the same in Passaic County.

ASSEMBLYMAN ROONEY: In Passaic County the same to have their--

ASSEMBLYMAN JONES: I have no problem with that being included.

ASSEMBLYMAN ROONEY: Please include that.

What I intended to do is that anyone wishing to discuss these bills further with me, firstly, I will make myself available next Monday at my legislative office. I mean physically there. Just call tomorrow and arrange for a time. I'll do it at your convenience. Preferably either early morning or later in the afternoon.

Also, I will be here the 18th, as we all will, for the voting session, which our caucus begins at approximately at 11:00. I can be available at 9:00 here in Trenton on the 18th, and if there are any other special arrangements that have to be made, please contact my legislative office tomorrow, 201-967-8910, 201-967-8910. It's real easy to remember. The Committee members are welcome to attend to be part of that. I will let them know who is going to show up at what time and where. Anyone who wishes to partake, please.

So with that I am going to ask if anyone has any final words. Hearing none, I close the meeting. We'll hold the bills.

Thank you.

(MEETING CONCLUDED)

