

To keep

PUBLIC HEARING

before

ASSEMBLY COUNTY GOVERNMENT AND REGIONAL AUTHORITIES COMMITTEE

on

ASSEMBLY BILL 1778

(Provides for a Resource Recovery Investment Tax
on Solid Waste Disposal at Sanitary Landfills)

Held:
April 19, 1984
Hall of Records
Newark, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Harry A. McEnroe, Chairman
Assemblyman Anthony Vainieri
Assemblyman Gerald Zecker

ALSO PRESENT:

Peggy McNutt, Research Assistant
Office of Legislative Services
Aide, Assembly County Government and Regional Authorities Committee

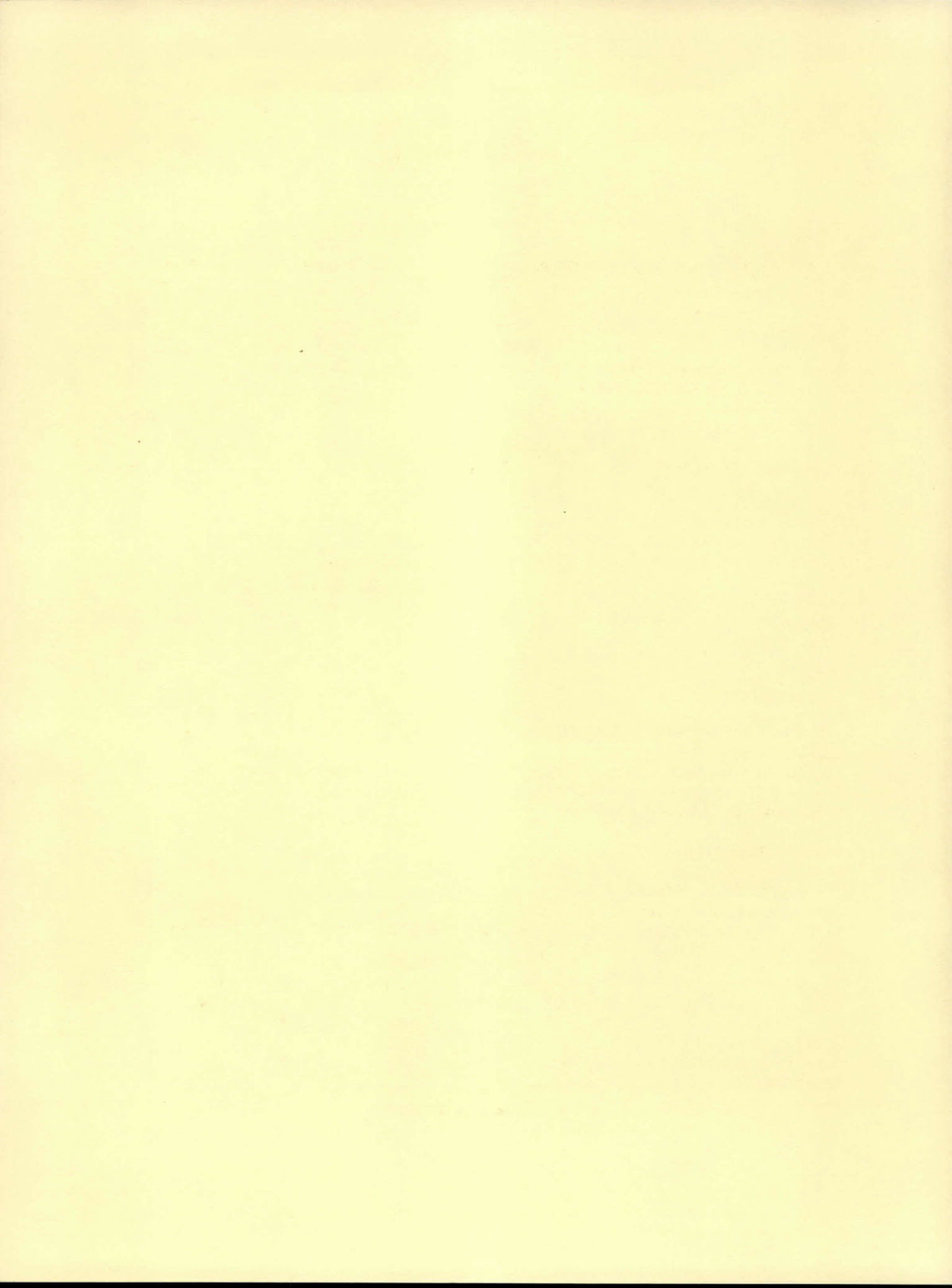


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ASSEMBLY, No. 1778

STATE OF NEW JERSEY

INTRODUCED MARCH 15, 1984

By Assemblymen McENROE, VAINIERI, HENDRICKSON,
ZECKER, Assemblywoman COOPER, Assemblyman ROD,
Assemblywoman OGDEN, Assemblymen FORTUNATO, OTLOW-
SKI, GALLO, LARocca, Assemblywoman KALIK, Assembly-
men LONG and PANKOK

AN Act concerning solid waste disposal and resource recovery,
amending P. L. 1975, c. 326, P. L. 1970, c. 40 and P. L. 1971, c. 198
and supplementing P. L. 1970, c. 39 and P. L. 1976, c. 68.

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

1 1. (New section) The Legislature finds and declares that the
2 State's capacity to safely dispose of solid waste at sanitary landfills
3 is rapidly diminishing; that the recovery of any potential resource
4 in solid waste, especially its conversion to useable energy, is in the
5 public interest; that the acquisition, construction or operation of
6 resource recovery facilities is characterized by high initial capital
7 expenditures and initially high costs of disposal which may be
8 stabilized or decreased based upon a return on energy generated,
9 all of which require long-term financial arrangements and a steady
10 and secure flow of waste; that to encourage the use of resource
11 recovery it is necessary to attain the most advantageous financing
12 and ownership structures for implementation of resource recovery
13 projects by units of local government while maintaining strict
14 financial and programmatic scrutiny by agencies of State govern-
15 ment; and that it is necessary to provide for funding of the solid
16 waste management programs of the State and of the solid waste
17 management districts, all as hereinafter provided.

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

1 2. (New section) As used in this act:

2 a. "Contracting unit" means any county; any municipality; or
3 any board, commission, committee, authority or agency, which is
4 not a State board, commission, committee, authority or agency,
5 and which has administrative jurisdiction over any district other
6 than a school district, project, or facility, included or operating in
7 whole or in part, within the territorial boundaries of any county or
8 municipality which exercises functions which are appropriate for
9 the exercise by one or more units of local government, and which
10 has statutory power to make purchases and enter into contracts or
11 agreements for the performance of any work or the furnishing or
12 hiring of any materials or supplies usually required, the contract
13 price of which is to be paid with or out of public funds;

14 b. "County" means any county of this State of whatever class;

15 c. "Department" means the Department of Environmental
16 Protection;

17 d. "Director" means the Director of the Division of Taxation
18 in the Department of Treasury;

19 e. "District" means a solid waste management district as desig-
20 nated by section 10 of P. L. 1975, c. 326 (C. 13:1E-19);

21 f. "District investment tax fund" means a District Resource
22 Recovery Investment Tax Fund established pursuant to subsection
23 b. of section 15 of this act;

24 g. "Division" means the Division of Taxation in the Department
25 of Treasury;

26 h. "Franchise" means the exclusive right to control the disposal
27 of solid waste within a district as awarded by the Board of Public
28 Utilities;

29 i. "Independent public accountant" means a certified public
30 accountant, a licensed public accountant or a registered municipal
31 accountant;

32 j. "Investment tax" means the resource recovery investment tax
33 imposed pursuant to subsection b. of section 3 of this act;

34 k. "Investment tax fund" means the Resource Recovery Invest-
35 ment Tax Fund containing subaccounts for each county pursuant to
36 the provisions of section 14 of this act;

37 l. "Out-of-district solid waste" means any solid waste accepted
38 for disposal in a district which was generated outside the receiving
39 district;

40 m. "Person or party" means any individual, public or private
41 corporation, company, partnership, firm, association, political sub-
42 division of this State, or any State, bi-state, or interstate agency or
43 authority;

44 n. "Resource recovery facility" means a solid waste facility
 44a constructed and operated for the collection, separation, recycling,
 44b and recovery of metals, glass, paper, and other materials for reuse
 44c or for energy production;

44d o. "Sanitary landfill facility" means a solid waste facility
 45 at which solid waste is deposited on or in the land as fill for the
 46 purpose of permanent disposal or storage for a period exceeding
 47 six months, except that it shall not include any waste facility
 48 approved for disposal of hazardous waste;

49 p. "Services tax" means the solid waste services tax imposed
 50 pursuant to subsection a. of section 3 of this act;

51 q. "Services tax fund" means the Solid Waste Services Tax
 52 Fund established pursuant to section 12 of this act in which the
 53 receipts from the services tax and any interest thereon will be
 54 deposited;

55 r. "Subfranchise" means the exclusive right, as awarded by a
 56 district, of a vendor to control the disposal of solid waste within all
 57 or any portion of a district; and

58 s. "Vendor" means any person or party financially qualified for,
 59 and technically and administratively capable of, undertaking the
 60 design, financing, construction, operation, or maintenance of a
 61 resource recovery facility or of providing resource recovery ser-
 62 vices.

1 3. (New section) a. There is levied upon the owner or operator
 2 of every sanitary landfill facility a solid waste services tax. The
 3 services tax shall be imposed on the owner or operator at the
 4 initial rate of \$0.25 per cubic yard of solids and \$0.003 per gallon
 5 of liquids on all solid waste accepted for disposal at a sanitary
 6 landfill facility. On the first day of the 18th month following the
 7 imposition of the services tax and annually thereafter, the rate of
 8 the services tax shall be increased by \$0.01 per cubic yard of solids.

9 b. (1) There is levied upon the owner or operator of every
 10 sanitary landfill facility a resource recovery investment tax. The
 11 investment tax shall be levied on the owner or operator at an
 12 initial rate of \$0.28 per cubic yard of solids and \$0.004 per gallon
 13 of liquids on all solid waste, other than waste products resulting
 14 from the operation of a resource recovery facility, accepted for
 15 disposal at a sanitary landfill facility.

16 (2) Unless the rate is otherwise adjusted pursuant to section 11
 17 of this act, the rate of the investment tax shall be increased pur-
 18 suant to the following schedule:

19 (a) On the first day of the 18th month following the imposi-
 20 tion of the investment tax, the rate of the investment tax shall
 21 increase to \$0.56 per cubic yard of solids;

22 (b) On the first day of the 30th month following the imposi-
23 tion of the investment tax, the rate of the investment tax shall
24 increase to \$0.84 per cubic yard of solids; and

25 (c) On the first day of the 42nd month following the imposi-
26 tion of the investment tax, the rate of the investment tax shall
27 increase to \$1.12 per cubic yard of solids.

28 The investment tax shall no longer be levied on the owner or
29 operator of a sanitary landfill facility on and after the first day of
30 the first month of the 11th year following the imposition of the
31 investment tax.

32 c. (1) There is levied upon the owner or operator of every sani-
33 tary landfill facility a surcharge on the investment tax. The sur-
34 charge shall be imposed on the owner or operator at a rate of
35 \$0.21 per cubic yard of solids and \$0.003 per gallon of liquids on
36 all out-of-district solid waste, other than waste products resulting
37 from the operation of a resource recovery facility, accepted for
38 disposal at a sanitary landfill facility.

39 (2) If the department shall determine that a district has failed
40 to fulfill its solid waste management planning responsibilities
41 pursuant to section 17 of this act, the rate of the surcharge on the
42 investment tax levied pursuant to paragraph (1) of this subsection
43 shall, upon notification to the Board of Public Utilities and to the
44 director, immediately be increased to a rate determined by the
45 department, not to exceed \$0.42 per cubic yard of solids or \$0.006
46 per gallon of liquids.

47 d. If any owner or operator of a sanitary landfill measures the
48 solid waste accepted for disposal by a measure other than cubic
49 yards or gallons, the taxes and surcharges imposed by the provi-
50 sions of this section shall be levied at a rate equivalent thereof as
51 determined by the director.

52 e. No taxes or surcharges shall be levied on the owner or operator
53 of a sanitary landfill facility for the acceptance of solid waste
54 generated exclusively by any agency of the federal government if
55 a solid waste collector submits to the owner or operator a copy of
56 the contract with the federal agency indicating the effective date of
57 the contract was before the effective date of this act. Taxes and
58 surcharges shall be levied on the owner or operator for acceptance
59 of solid waste generated by a federal agency if the contract between
60 the federal agency and the solid waste collector was entered into,
61 or renewed, on or after the effective date of this act.

1 4. (New section) a. Every owner or operator of a sanitary land-
2 fill facility which accepts solid waste for disposal and which is
3 subject to the taxes and surcharges imposed pursuant to section 3

4 of this act, shall register with the director on forms prescribed by
5 him within 20 days after the first acceptance of that waste.

6 b. The director shall prepare and transmit to each owner or
7 operator of a sanitary landfill facility forms for the rendering of a
8 tax return. The form shall be structured in a manner and form
9 determined by the director and shall provide for the following
10 information, and any other information he may deem necessary
11 to be rendered in the return:

12 (1) The total number of cubic yards of solids and gallons of
13 liquids accepted for disposal during the previous month;

14 (2) The number of cubic yards of solids and gallons of
15 liquids accepted and place of origin of out-of-district waste
16 accepted for disposal during the previous month; and

17 (3) The amount of each tax or surcharge paid according to
18 the amount of solid waste accepted.

19 The director may prescribe a consolidated form for reporting the
20 taxes and surcharges imposed under this act and the taxes imposed
21 pursuant to P. L. 1981, c. 278 (C. 13:1E-91 et seq.) and P. L. 1981,
22 c. 306 (C. 13:1E-100 et seq.).

1 5. (New section) Every owner or operator of a sanitary landfill
2 facility shall, on or before the 20th day of each month, render a
3 return under oath to the director and pay the full amount of taxes
4 and surcharges due as stated in the return.

1 6. (New section) a. If a return required by this act is not filed, or
2 if a return when filed is incorrect or insufficient in the opinion of
3 the director, the amount of tax due shall be determined by the
4 director from such information as may be available. Notice of such
5 determination shall be given to the taxpayer liable for the payment
6 of the tax. Such determination shall finally and irrevocably fix the
7 tax unless the person against whom it is assessed, within 30 days
8 after receiving notice of such determination, shall apply to the
9 director for a hearing, or unless the director on his own motion
10 shall redetermine the same. After such hearing, the director shall
11 give notice of his determination to the person to whom the tax is
12 assessed.

13 b. Any taxpayer who shall fail to file his return when due or to
14 pay any tax when the same becomes due, as herein provided, shall
15 be subject to such penalties and interest as provided in the "state
16 tax uniform procedure law," Subtitle 9 of Title 54 of the Revised
17 Statutes. If the director determines that the failure to comply with
18 any provision of this section was excusable under the circum-
19 stances, it may remit such part or all of the penalty as shall be
20 appropriate under such circumstances.

21 c. (1) Any person failing to file a return, failing to pay the tax,
 22 or filing or causing to be filed, or making or causing to be made, or
 23 giving or causing to be given any return, certificate, affidavit,
 24 representation, information, testimony or statement required or
 25 authorized by this act, or rules or regulations adopted hereunder
 26 which is willfully false, or failing to keep any records required by
 27 this act or rules and regulations adopted hereunder, shall, in addi-
 28 tion to any other penalties herein or elsewhere prescribed, be
 29 guilty of a crime of the fourth degree.

30 (2) The certificate of the director to the effect that a tax has
 31 not been paid, that a return has not been filed, that information has
 32 not been supplied or that inaccurate information has been supplied
 33 pursuant to the provisions of this act or rules or regulations
 34 adopted hereunder shall be presumptive evidence thereof.

1 7. (New section) In addition to any other powers authorized by
 2 this act, the director shall have the following powers:

3 a. To delegate to any officer or employee of the division any
 4 powers or responsibilities required by this act as he may deem
 5 necessary;

6 b. To promulgate and distribute any forms necessary for the
 7 implementation of this act; and

8 c. To adopt any rules and regulations pursuant to the
 9 "Administrative Procedure Act," P. L. 1968, c. 410 (C.
 10 52:14B-1 et seq.) as he may deem necessary to effectuate the
 11 purposes of this act.

1 8. (New section) The taxes imposed by this act shall be governed
 2 in all respects by the provisions of the "state tax uniform pro-
 3 cedure law," Subtitle 9 of Title 54 of the Revised Statutes, but only
 4 to the extent that a specific provision of this act or any rule or
 5 regulation required to be promulgated by this act may be in con-
 6 flict therewith.

1 9. a. (New section) Notwithstanding the provisions of any law
 2 to the contrary, the owner or operator of a sanitary landfill facility
 3 may collect the taxes and surcharges levied and imposed pursuant
 4 to this act by imposing an automatic surcharge on any tariff estab-
 5 lished pursuant to law for the solid waste disposal operations of
 6 the sanitary landfill facility.

7 b. For the purposes of this act, all municipal, county, and State
 8 contracts for solid waste collection and disposal shall be considered
 9 tariffs for solid waste collection, and shall be subject to any adjust-
 10 ment of tariffs resulting from the provisions of this act.

1 10. (New section) a. The Board of Public Utilities shall, within
 2 60 days of the effective date of this act, issue an order adjusting

3 the tariffs established pursuant to law for solid waste collection
4 operations by an amount equal to the total amount of the increase
5 in the adjusted tariffs for solid waste disposal operations to take
6 effect on the date on which the tax is imposed.

7 b. The Board of Public Utilities shall, by the date of any increase
8 in the services tax or the investment tax required in subsection a.
9 of section 3 of this act, issue an order adjusting the tariffs estab-
10 lished pursuant to law for solid waste collection operations by an
11 amount equal to the total amount of the increase in the tariffs for
12 solid waste disposal operations that shall be adjusted on that date.

13 c. The Board of Public Utilities shall, within 60 days of notifica-
14 tion by the department that an additional surcharge shall be
15 imposed on an owner or operator of a sanitary landfill facility or
16 that the investment tax rate shall be adjusted in a manner other
17 than by the rate adjustments provided in subsection b. of section 3
18 of this act, issue an order adjusting the tariffs established pursuant
19 to law for solid waste collection operations by an amount equal
20 to the total amount of the increase in the tariffs for solid waste
21 disposal operations.

22 d. In issuing any order required by this section, the Board of
23 Public Utilities shall be exempt from the provisions of R. S.
24 48:2-21.

1 11. (New section) a. Each district, in consultation with the
2 department, may conduct a study to determine the tax rate esti-
3 mated to be necessary to be paid into the district investment tax
4 fund so as to lower the cost of resource recovery facility services
5 to a level which is competitive with the cost of disposal in a sani-
6 tary landfill utilized by the district.

7 b. After completion of the study, the district may request the
8 department to adjust the investment tax rate set forth in section 3
9 of this act to a rate, not to exceed \$2.80 per cubic yard, or the
10 equivalent thereof, which is consistent with the conclusions drawn
11 in the study and with the plan developed pursuant to subsection d.
12 of section 15. The district may request the department to adjust
13 the rate, subject to that maximum rate, on an annual basis in
14 accordance with the conclusions drawn as a result of a review of
15 the study and any additional information gained during the pre-
16 vious year.

17 c. The provisions of any law to the contrary notwithstanding,
18 two or more districts may conduct a joint study and establish a
19 single investment tax rate for the districts.

20 d. The department shall, upon approval of a request by a dis-
21 trict, notify the Board of Public Utilities and the director of the
22 investment tax rate adjustment in that district.

1 12. (New section) There is created a nonlapsing Solid Waste
2 Services Tax Fund to be the depository for the services tax moneys,
3 and any interest thereon, paid to the director pursuant to this act
4 and disbursed as provided herein.

1 13. (New section) a. Before any moneys in the services tax fund
2 are appropriated as provided hereunder, the cost of administration
3 and collection of the tax shall be paid out of that fund.

4 b. The moneys collected in the services tax fund shall be appro-
5 priated to the Department of Environmental Protection and shall
6 be used only in the following manner:

7 (1) By the department for solid waste planning, permitting,
8 regulation, enforcement and research, pursuant to the provisions
9 of the "Solid Waste Management Act," P. L. 1970, c. 39 (C. 13:1E-1
10 et seq.);

11 (2) By the department for reviewing the economic aspects of
12 solid waste management;

13 (3) By the department for administering the services tax fund;
14 and

15 (4) To provide State aid to solid waste management districts
16 for preparing, revising, and implementing solid waste management
17 plans. At least 50% of the annual balance of the services tax fund
18 shall be used for State aid and shall be distributed in amounts
19 proportionate to the population of each district, except that no
20 district shall receive less than 2% of the amount apportioned to
21 aid all districts. In the event that the department determines pur-
22 suant to section 17 of this act that any district shall fail to fulfill
23 its solid waste management planning responsibilities, the depart-
24 ment may withhold for the entire year or until the district fulfills
25 its responsibilities, all or a portion of the amount of moneys that
26 district would have received in any year pursuant to this para-
27 graph. Any moneys withheld for the entire year shall be distributed
28 among the remaining districts in the same proportion as the other
29 moneys were distributed.

1 14. (New section) There is created a Resource Recovery Invest-
2 ment Tax Fund to contain subaccounts for each district to be held
3 by the State Treasurer, to be the depository for:

4 a. The investment tax revenues collected by the director
5 resulting from the amount of solid waste generated from within
6 each county;

7 b. The surcharge revenues collected by the director resulting
8 from the acceptance of out-of-district waste;

9 c. The investment tax revenues collected by the director not
10 otherwise deposited in another investment tax fund subaccount

11 pursuant to subsections a. and b. of this section shall be
12 deposited in the receiving district's subaccount; and

13 d. Any interest thereon.

14 The moneys deposited in each district subaccount fund shall be
15 disbursed as provided herein.

1 15. (New section) a. Before the moneys in each investment tax
2 fund subaccount are appropriated as provided hereunder, the cost
3 of administration and collection of the tax and surcharge shall be
4 paid by the moneys in the subaccounts.

5 b. Each district shall create a District Resource Recovery In-
6 vestment Tax Fund, to be the depository of the moneys appropriated
7 to each district pursuant to this section to be administered by the
8 governing body of each county, and the Hackensack Commission, in
9 the case of the Hackensack Meadowlands District.

10 c. The moneys collected in each investment tax fund subaccount
11 shall be appropriated to each district for deposit in its district in-
12 vestment tax fund and shall be used only in accordance with a plan
13 prepared and approved pursuant to subsection d. of this section
14 and only for the following purposes:

15 (1) To reduce the rates charged by a resource recovery facility
16 serving the district in order to provide gradual transition between
17 resource recovery facility rates and sanitary landfill facility rates.
18 Any reductions may be achieved through use of investment tax
19 fund money; to pay construction costs and related facility start-up
20 costs, or to pay directly part of the fees charged for disposal at a
21 resource recovery facility.

22 (2) To cover any expenses directly related to the planning, design-
23 ing, financing, construction, operation or maintenance of a resource
24 recovery facility or the acquisition of the services of a resource
25 recovery facility, including expenses incurred if a study is con-
26 ducted pursuant to section 11 of this act;

27 (3) To design, finance, construct, operate, maintain environ-
28 mentally sound sanitary landfill facilities to be utilized for:

29 (a) Disposing of those solid wastes which cannot be pro-
30 cessed by a resource recovery facility or which result from the
31 operation of a resource recovery facility;

32 (b) Disposal of solid waste, on an interim basis, until a
33 resource recovery facility becomes operational; and

34 (c) Disposal of solid waste, on a long term basis, in those
35 districts which demonstrate to the satisfaction of the depart-
36 ment that utilization of a resource recovery facility is not
37 feasible for disposal of the solid waste generated in that dis-
38 trict; and

39 (4) To administer the investment tax fund, provided that not
40 more than two percent of the annual balance shall be used for
41 administration.

42 d. Within two years of the effective date of this act, and prior to
43 the disbursal of any funds, each district shall prepare a plan, includ-
44 ing a schedule, which shall outline the proposed uses of the moneys
45 in the district investment tax fund as well as describe the manner
46 in which those moneys will be disbursed. Each plan shall be adopted
47 as an amendment to the district solid waste management plan re-
48 quired pursuant to the provisions of the "Solid Waste Management
49 Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.). This plan may be
50 amended, as necessary, in accordance with the procedures provided
51 therefor pursuant to the "Solid Waste Management Act," P. L.
52 1970, c. 39 (C. 13:1E-1 et seq.).

53 e. Each district shall, by October 31 of each year in which moneys
54 remain in its district investment tax fund, file an audit of the
55 district investment tax fund and any expenditures therefrom with
56 the Local Finance Board in the Division of Local Government
57 Services in the Department of Community Affairs. The audit shall
58 be conducted by an independent public accountant.

59 f. Upon approval by the department, two or more districts may
60 establish a joint investment tax fund to receive the investment tax
61 fund revenues and any surcharge collected pursuant to section
62 3 of this act.

1 16. (New section) If the department shall determine that a dis-
2 trict has failed to fulfill its solid waste management planning re-
3 sponsibilities pursuant to section 17 of this act, the department
4 may assume the administration of the district investment tax fund
5 of that district and may use the moneys in the fund for the pur-
6 poses permitted in subsection c. of section 15 of this act for the
7 benefit of that district.

1 17. (New section) The department may determine that a district
2 has failed to fulfill its solid waste management planning responsi-
3 bilities as required by sections 11 and 12 of P. L. 1975, c. 326
4 (C. 13:1E-20 and 13:1E-21) and by subsection d. of section 15 of
5 this act. A determination of failure shall include a finding that the
6 district has not made a good faith effort toward fulfilling its
7 planning responsibilities.

1 18. (New section) Notwithstanding the provisions of any law,
2 rule or regulation to the contrary, as an alternative to any other
3 procedure provided for by law, the design, financing, construction,
4 operation or maintenance, or any combination thereof, of a resource
5 recovery facility or the provision of resource recovery facility

6 services may be procured by a contracting unit in accordance with
7 the provisions of sections 19 through 27 of this act.

1 19. (New section) Any contract between a vendor and a con-
2 tracting unit for the design, financing, construction, operation or
3 maintenance, or any combination thereof, of a resource recovery
4 facility or for the provision of the services of such a facility may
5 be awarded for a period not to exceed 40 years.

1 20. (New section) a. The contracting unit shall issue a request
2 for qualifications of vendors which shall include the date, time of
3 day and place by which qualifications shall be received and the
4 minimum acceptable qualifications, and which shall be made avail-
5 able to all potential vendors through adequate public notice which
6 shall include publication in at least one appropriate trade or pro-
7 fessional journal and a newspaper of general circulation in the
8 jurisdiction of the contracting unit. In addition to all other factors
9 bearing on qualification, the contracting unit may consider infor-
10 mation which might result in debarment or suspension of a vendor
11 from State contracting and may disqualify a vendor if the vendor
12 has been debarred or suspended by any State agency.

13 b. The contracting unit shall publish, in the same publications
14 in which notice of the request for qualifications appeared, a list
15 of qualified vendors and a statement setting forth the basis for
16 their selection.

1 21. (New section) a. The contracting unit shall issue a request
2 for proposals to the qualified vendors which shall include a de-
3 scription of the services and facilities required, the specific infor-
4 mation and data required, and a statement as to the relative im-
5 portance of price and other evaluation factors.

6 b. The contracting unit shall fix a date, time of day and place
7 by which proposals shall be received and shall specify the format
8 and procedure for submission of proposals. The contracting unit
9 may extend the time for submission of proposals provided that any
10 extension shall apply to all qualified vendors and the contracting
11 unit shall provide simultaneous written notice of any extension to
12 all qualified vendors.

1 22. (New section) a. Proposals shall be reviewed by the con-
2 tracting unit so as to avoid disclosure of contents to competing
3 vendors during the process of proposal review. A list of proposals
4 shall be prepared and shall be open for public inspection in the
5 offices of the contracting unit at reasonable hours for at least 30
6 days after the contract award.

7 b. As shall be provided in the request for proposals, discussions
8 may be conducted with qualified vendors who submit proposals.

9 for the purpose of clarification to assure full understanding of, and
 10 responsiveness to, the solicitation requirements. Any revisions in
 11 the request for proposals which may be developed in the course
 12 of those discussions shall immediately be communicated to all quali-
 13 fied vendors. Revisions to proposals may be permitted after sub-
 14 missions and prior to award for the purpose of obtaining best and
 15 final offers. In conducting discussions, there shall be no disclosure
 16 of any information derived from proposals submitted by competing
 17 vendors.

1 23. (New section) a. The contracting unit shall designate the
 2 qualified vendor, or two vendors if simultaneous negotiation is to
 3 be conducted, whose proposal or proposals are determined in writ-
 4 ing to be the most advantageous to the public, taking into considera-
 5 tion price and the evaluation factors set forth in the request for
 6 proposals. No other factors or criteria shall be used in the evalua-
 7 tion. The contract file shall include the basis on which the desig-
 8 nation is made.

9 b. The contracting unit may negotiate a proposed contract, which
 10 shall include the accepted proposal, with the designated vendor.

1 24. (New section) Any contract to be awarded to a vendor pur-
 2 suant to the provisions of sections 19 through 27 of this act or pur-
 3 suant to the "Local Public Contracts Law," P. L. 1971, c. 198
 4 (C. 40A:11-1 et seq.) or any other contracting procedure authorized
 5 by law for resource recovery facilities, shall include where applica-
 6 ble, but not be limited to, provisions concerning:

7 a. Allocation of the risks of financing and constructing a resource
 8 recovery facility, such risks to include:

- 9 (1) Delays in project completion;
- 10 (2) Construction cost overruns and change orders;
- 11 (3) Changes necessitated by revisions in laws, rules or regu-
- 12 lations;
- 13 (4) Failure to achieve the required operating performance;
- 14 (5) Loss of tax benefits; and
- 15 (6) The need for additional equity contributions.

16 b. Allocation of the risks of operating and maintaining a re-
 17 source recovery facility, such risks to include:

- 18 (1) Excess downtime or technical failure;
- 19 (2) Excess labor or materials costs due to underestimation;
- 20 (3) Changes in operating procedure necessitated by revi-
- 21 sions in laws, rules or regulations;
- 22 (4) Changes in the amount or composition of the solid waste
- 23 delivered for disposal;

24 (5) Excess operation or maintenance costs due to poor
25 management; and

26 (6) Increased costs of disposal of the resource recovery
27 facility residue.

28 c. Allocation of the risks associated with circumstances beyond
29 the control of any party to the contract;

30 d. Allocation of the revenues from the sale of energy;

31 e. Default and termination of the contract;

32 f. The periodic preparation by the vendor of an operating per-
33 formance report and an audited financial statement of the facility
34 which shall be submitted to the contracting unit, the department
35 and the Division of Local Government Services in the Department
36 of Community Affairs;

37 g. The intervals at which the contract shall be renegotiated; and

38 h. Employment of current employees of the contracting unit
39 whose positions will be affected by the terms of the contract.

1 25. (New section) Any new or substantially renegotiated con-
2 tract to be awarded to a vendor pursuant to this act shall be the
3 subject of a public hearing to be held by the contracting unit in
4 the jurisdiction of the contracting unit, prior to submission of the
5 contract for the approvals required in section 26 of this act, in
6 accordance with the following procedure:

7 a. The contracting unit shall provide adequate public notice of
8 the proposed contract award to prospective consumers and other
9 interested parties, which shall include publication in at least one
10 newspaper of general circulation in the jurisdiction of the con-
11 tracting unit;

12 b. The contracting unit shall schedule a meeting to be held within
13 45 days of publication of the public notice with consumer repre-
14 sentatives and other interested parties in order to present and
15 explain the terms and conditions of the contract and to receive
16 written questions which shall become part of the hearing record;

17 c. The contracting unit shall hold a public hearing within 90
18 days of providing notice of the proposed contract award at which
19 the questions submitted at the meeting held pursuant to subsec-
20 tion b. of this section shall be addressed. At the hearing, interested
21 parties may submit statements or additional questions concerning
22 the terms and conditions of the proposed contract;

23 d. The contracting unit shall, within 30 days of the close of the
24 hearing record, publish a hearing report which shall include all
25 issues and questions raised at the hearing and the contracting
26 unit's response thereto; and

27 e. The hearing report and the determination of the contracting

unit concerning the terms and conditions of the contract shall be provided to all interested parties and hearing attendees at least 15 days prior to submission of the contract for the approvals required in section 26 of this act.

26. (New section) a. Any new or substantially renegotiated contract to be awarded to a vendor and a copy of the public hearing report shall be submitted to the department which shall approve or disapprove the proposed contract based on its being consistent with the district solid waste management plan adopted pursuant to the provisions of the "Solid Waste Management Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.) within 60 days of receipt. If the department shall disapprove the proposed contract, the contracting unit may prepare an amended contract and, if the amendments are substantial, hold a public hearing thereon pursuant to the provisions of section 25 of this act. Thereafter the amended contract may be resubmitted for approval. In the alternative, the district solid waste management plan may be amended so as to be consistent with the proposed contract.

b. Any new or substantially renegotiated contract to be awarded to a vendor and a copy of the public hearing report shall be submitted to Division of Local Government Services in the Department of Community Affairs which shall approve or disapprove the proposed contract within 60 days of receipt. The Division of Local Government Services shall approve the contract if the division finds, in writing, that the contract meets the requirements of section 24 of this act concerning the contents of the contract and that the contract comports with the fiscal and financial capabilities of the contracting unit. If the Division of Local Government Services disapproves the proposed contract, the division shall inform the contracting unit, in writing, of the changes necessary for approval. The contracting unit may then prepare an amended contract and, if the amendments are substantial, hold a public hearing thereon pursuant to the provisions of section 25 of this act. Thereafter, the amended contract may be resubmitted for approval.

c. Any new or substantially renegotiated contract to be awarded to a vendor pursuant to this act, pursuant to the "Local Public Contracts Law," P. L. 1971, c. 193 (C. 40A:11-1 et seq.) or pursuant to any other contracting procedure authorized by law for resource recovery facilities, shall be filed with the Board of Public Utilities along with a copy of the public hearing report. The Board of Public Utilities shall, within 90 days of receipt, review any contract filed with it and approve that contract if the board finds the contract to be in the public interest. If the Board of Public Utilities

40 disapproves the contract because the contract is not in the public
 41 interest, the board shall notify the contracting unit in writing of
 42 the changes needed in the contract in order for it to be in the public
 43 interest. The contracting unit may prepare an amended contract
 44 and, if the amendments are substantial, hold a public hearing
 45 thereon pursuant to the provisions of section 25 of this act. There-
 46 after the amended contract may be resubmitted for approval.

47 In reviewing and approving the contract, the Board of Public
 48 Utilities shall not determine a rate base for, or otherwise regulate
 49 the tariffs or return of, the proposed resource recovery facility. The
 50 board shall not, thereafter, conduct any further review of the
 51 contract.

52 d. Notwithstanding the provisions of subsection c. of this section,
 53 all parties to any contract may request the board to determine a rate
 54 base for the proposed resource recovery facility, in which case the
 55 board may make that determination and the terms of any contract
 56 so approved shall remain subject to the continuing jurisdiction of
 57 the board.

58 27. (New section) The contracting unit may award a contract
 59 for resource recovery facilities or services to a vendor only after
 60 a public hearing thereon and upon approval by the department, the
 61 Division of Local Government Services, and the Board of Public
 62 Utilities.

1 28. (New section) Whenever the Division of Rate Counsel in the
 2 Department of the Public Advocate represents the public interest in
 3 a proceeding held to consider a contract awarded pursuant to sec-
 4 tions 19 through 27 of this act, the Director of the Division of Rate
 5 Counsel may assess the vendor in the manner provided for in section
 6 20 of P. L. 1974, c. 27 (C. 52:27E-19).

1 29 (New section) A contracting unit may lease or sell the site for
 2 a resource recovery facility to a vendor which has been awarded a
 3 contract pursuant to this act or pursuant to the "Local Public
 4 Contracts Law," P. L. 1971, c. 198 (C. 40A:11-1 et seq.) or pursuant
 5 to any other contracting procedure authorized by law for resource
 6 recovery facilities.

1 30. (New section) Any contracting unit which has substantially
 2 and materially complied with the provisions of sections 20 through
 3 23 of this act, prior to the effective date of this act, as determined
 4 by the department, may award contracts pursuant to the provisions
 5 of this act.

1 31. (New section) a. Each district which is awarded a franchise
 2 pursuant to the provisions of section 6 of P. L. 1979, c. 40 (C.
 3 48:13A-5) may award subfranchises to one or more persons en-

4 gaged in operating a resource recovery facility in all or any part
5 of that district, provided that any subfranchise so awarded does
6 not alter the terms of any franchise awarded by the Board of Public
7 Utilities and that the subfranchise shall conform to the solid waste
8 management plan for that district as approved by the department.

9 b. Subfranchises awarded pursuant to this section shall be of
10 sufficient area to support the estimated technical and economic needs
11 of the resource recovery facility which is to serve the district or
12 portion thereof.

1 32. (New section) a. The department may adopt any rules and
2 regulations pursuant to the provisions of the "Administrative
3 Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) as it may
4 deem necessary to effectuate the purposes of this act.

5 b. The Board of Public Utilities may adopt any rules and regula-
6 tions pursuant to the provisions of the "Administrative Procedure
7 Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) as it may deem
8 necessary to effectuate the purposes of this act.

9 c. The Division of Local Government Services in the Department
10 of Community Affairs may adopt any rules and regulations pursu-
11 ant to the provisions of the "Administrative Procedure Act," P. L.
12 1968, c. 410 (C. 52:14B-1 et seq.) as it may deem necessary to
13 effectuate the purposes of this act.

1 33. (New section) Any additional expenditures made by a munic-
2 ipality or county necessary to comply with an order, issued by the
3 department pursuant to the provisions of the "Solid Waste Manage-
4 ment Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.) and the Board of
5 Public Utilities pursuant to the "Solid Waste Utility Control Act
6 of 1970," P. L. 1970, c. 40 (C. 48:13A-1 et seq.), to transport solid
7 waste to a resource recovery facility, or any expenditures necessary
8 to reflect adjustment in rates, fees or other charges made in con-
9 nection with the taxes and surcharges imposed pursuant to section
10 3 of P. L. c. (C.) (now pending before the Legislature as
11 Assembly Bill No. 1778 of 1984), or the provisions of a contract
12 entered into pursuant to the provisions of P. L. , c. (C.
13), (now pending before the Legislature as Assembly Bill No.
14 1778 of 1984), shall, for the purposes of P. L. 1976, c. 68 (C.
15 40A:4-45.1 et seq.), be considered an expenditure mandated by
16 State law.

1 34. Section 11 of P. L. 1975, c. 326 (C. 13:1E-20) is amended to
2 read as follows:

3 11. a. (1) Within 360 days after the effective date of this amenda-
4 tory and supplementary act, the respective boards of chosen
5 freeholders, in the case of counties, and the Hackensack Com-

6 mission, in the case of the Hackensack Meadowlands District,
7 shall develop and formulate, pursuant to the procedures herein
8 contained, a solid waste management plan for each respective solid
9 waste management district; provided, however, that the commis-
10 sioner may extend such period for a maximum of 45 additional
11 days upon the certification of the board of chosen freeholders or
12 the Hackensack Commission, as the case may be, of the causes of
13 the delay in developing and formulating a plan, and upon the
14 commissioner's determination that an extension will permit the
15 development and formulation of a solid waste management plan
16 as required herein. Within 90 days of the effective date of this
17 act, each district shall make the necessary personnel, financial and
18 legal arrangements to assure the development and formulation
19 of the plan within 360 days of the effective date of this act.
20 Every such solid waste management plan shall be developed and
21 formulated to be in force and effect for a period of *not less than*
22 10 years, upon the expiration of which a new plan shall be developed
23 and formulated pursuant to the procedures herein contained; pro-
24 vided, however, that every such plan shall contain provisions for
25 automatic review thereof not less than once every two years
26 following the approval thereof by the department, which review
27 shall be undertaken by the board of chosen freeholders or the
28 Hackensack Commission, as the case may be; and, provided further,
29 however, that every such plan may be reviewed at any time by the
30 department. Upon such review, if the board of chosen freeholders,
31 the Hackensack Commission, or the department, as the case may
32 be, determines that any solid waste management plan, or any part
33 thereof, is inadequate for the purposes for which it was intended,
34 such board of chosen freeholders or the Hackensack Commission, as
35 the case may be, shall develop and formulate a new solid waste
36 management plan, or any part thereof, and such new plan, or part
37 thereof, shall be adopted thereby pursuant to the procedures con-
38 tained in section 14 of this amendatory and supplementary act.

38A Nothing herein contained shall be construed as to prevent any
38B board of chosen freeholders or the Hackensack Commission from
38C readopting a solid waste management plan upon the expiration of
38D same in a solid waste management district; provided, however,
38E that any such readoption shall be pursuant to the provisions of
38F section 14 of this amendatory and supplementary act.

39 (2) Any two or more districts may formulate and adopt a single
40 solid waste management plan which shall meet all the requirements
41 of this act for the combined area of the cooperating solid waste
42 management districts.

b. (1) To assist each board of chosen freeholders in the development and formulation of the solid waste management plans required herein, an advisory solid waste council shall be constituted in every county and shall include municipal mayors or their designees, persons engaged in the collection or disposal of solid waste and environmentalists. The respective size, composition and membership of each such council shall be designated by the respective boards of chosen freeholders. In the Hackensack Meadowlands District, the Hackensack meadowlands municipal committee, established pursuant to article 4 of P. L. 1968, c. 404 (C. 13:17-7 and 13:17-8), is hereby designated an advisory solid waste council for the purposes of this amendatory and supplementary act; provided, however, that nothing herein contained shall be construed as in any way altering the powers, duties and responsibilities of the Hackensack Meadowlands municipal committee except as herein specifically provided. The respective boards of chosen freeholders and the Hackensack Commission shall consult with the relevant advisory solid waste council at such stages in the development and formulation of the solid waste management plan as each such board of chosen freeholders or the Hackensack Commission, as the case may be, shall determine; provided, however, that a solid waste management plan shall be adopted as hereinafter provided only after consultation with the relevant advisory solid waste council.

(2) In the development and formulation of a solid waste management plan for any solid waste management district, the board of chosen freeholders or the Hackensack Commission, as the case may be, shall:

(a) Consult with the county or municipal government agencies concerned with, or responsible for, water pollution control, water policy, water supply, or zoning or land use within the solid waste management district;

(b) Review such plans for solid waste collection and disposal proposed by, or in force in, any municipality or municipalities within the solid waste management district, to determine the suitability of any such plan, or any part thereof, for inclusion within the solid waste management plan of the solid waste management district; and

(c) Consult with persons engaged in solid waste collection and disposal in the solid waste management district.

35. Section 6 of P. L. 1970, c. 40 (C. 48:13A-5) is amended to read as follows:

6. a. The Board of Public [Utility Commissioners] *Utilities* shall, after hearing, by order in writing, when it finds that the public

5 interest requires, designate any municipality as a franchise area
 6 to be served by one or more persons engaged in solid waste collec-
 7 tion and *may award* any solid waste management district ~~as~~ a
 8 franchise ~~area to~~ *which shall* be served by one or more persons
 9 engaged in solid waste disposal at rates and charges published in
 10 tariffs or contracts accepted for filing by the board; provided,
 11 however, that the proposed franchise area for solid waste collection
 12 or the proposed franchise for solid waste disposal conforms to the
 13 solid waste management plan of the solid waste management
 14 district in which such franchise area is to be located or such fran-
 15 chise is to be awarded, as such plan shall have been approved by
 16 the Department of Environmental Protection.

17 *b. Upon application by any solid waste management district,*
 18 *the Board of Public Utilities shall, by order in writing, award a*
 19 *solid waste management district, or two or more districts, a fran-*
 20 *chise which shall be served by a person engaged in operating a*
 21 *resource recovery facility, provided that the proposed franchise*
 22 *shall conform to the solid waste management plan, as approved by*
 23 *the department, of the solid waste management district or districts*
 24 *to which the franchise will be awarded.*

25 *Each district awarded a franchise pursuant to this subsection*
 26 *may award subfranchises pursuant to the provisions of section 31*
 27 *of P. L. c. (C.) (now pending before the Legis-*
 28 *lature as Assembly Bill No. 1778 of 1984), provided the subfran-*
 29 *chises do not alter the terms of a franchise awarded pursuant to*
 30 *this subsection.*

31 *c. Franchises awarded pursuant to this section shall be of suffi-*
 32 *cient area to support the estimated technical and economic needs of*
 33 *the resource recovery facility which is to serve the district or*
 34 *portion thereof.*

35 *d. For the purposes of this section, franchise shall mean the*
 36 *exclusive right to control the disposal of solid waste within a*
 37 *district as awarded pursuant to this section.*

38 *e. The board shall encourage the consolidation of all accounts,*
 39 *customers, routes and facilities by persons engaged in solid waste*
 40 *collection [or] within franchise areas or in solid waste disposal*
 41 *[within such] pursuant to a franchise [areas].*

42 Nothing in section 11 of this act (C. 48:13A-10) shall be inter-
 43 preted to prevent the implementation of this section by the Board
 44 of Public [Utility Commissioners] Utilities.

1 36. Section 15 of P. L. 1971, c. 198 (C. 40A:11-15) is amended to
 2 read as follows:

3 15. Duration of certain contracts. All purchases, contracts or

4 ~~agreements for the performing of work or the furnishing of ma-~~
 5 ~~terials, supplies or services~~ shall be made for a period not to exceed
 6 12 consecutive months, except that contracts or agreements may
 7 be entered into for longer periods of time as follows:

8 (1) Supplying of

9 (a) Fuel for heating purposes, for any term not exceeding
 10 in the aggregate, two years;

11 (b) Fuel or oil for use of airplanes, automobiles, motor
 12 vehicles or equipment for any term not exceeding in the aggre-
 13 gate, two years;

14 (c) *Thermal energy produced by a cogeneration facility, for*
 15 *use for heating or air conditioning or both, of ar any term not*
 16 *exceeding 40 years, when the contract is approved by the Board*
 17 *of Public Utilities. For the purposes of this paragraph, "cogen-*
 18 *eration" means the simultaneous production in one facility of*
 19 *electric power and other forms of useful energy such as heating*
 20 *or process steam.*

21 (2) (Deleted by amendment; P. L. 1977, c. 53.)

22 (3) The collection and disposal of garbage and refuse, for any
 23 term not exceeding in the aggregate, five years;

24 (4) The recycling of solid waste, for any term not exceeding 25
 25 years, when such contract is in conformance with a solid waste
 26 management plan approved pursuant to P. L. 1970, c. 39 (C. 13:1E-1
 27 et seq.), and with the approval of the Division of Local Government
 28 Services and the Department of Environmental Protection;

29 (5) Data processing service, for any term of not more than three
 30 years;

31 (6) Insurance, for any term of not more than three years;

32 (7) Leasing or servicing of automobiles, motor vehicles, [elec-
 33 tronic communications equipment,] machinery and equipment of
 34 every nature and kind, for a period not to exceed three years; pro-
 35 vided, however, such contracts shall be entered into only subject
 36 to and in accordance with the rules and regulations promulgated
 37 by the Director of the Division of Local Government Services of
 38 the Department of Community Affairs;

39 (8) The supplying of any product or the rendering of any service
 40 by a telephone company which is subject to the jurisdiction of the
 41 Board of Public Utilities for a term not exceeding five years;

42 (9) Any single project for the construction, reconstruction or
 43 rehabilitation of any public building, structure or facility, or any
 44 public works [projects] *project*, including the retention of the
 45 services of any architect or engineer in connection therewith, for
 46 the length of time authorized and necessary for the completion of
 47 the actual construction;

48 (10) The providing of food services for any term not exceeding
49 three years;

50 (11) On-site inspections undertaken by private agencies pur-
51 suant to the "State Uniform Construction Code Act" (P. L. 1975,
52 c. 217; C. 52:27D-119 et seq.) for any term of not more than three
53 years;

54 (12) The performance of work or services or the furnishing of
55 materials or supplies for the purpose of conserving energy in build-
56 ings owned by, or operations conducted by, the contracting unit,
57 the entire price of which to be established as a percentage of the
58 resultant savings in energy costs, for a term not to exceed 10 years;
59 provided, however, that such contracts shall be entered into only
60 subject to and in accordance with rules and regulations promulgated
61 by the Department of Energy establishing a methodology for com-
62 puting energy cost savings[.];

63 (13) The performance of work or services or the furnishing of
64 materials or supplies for the purpose of elevator maintenance for
65 any term not exceeding three years;

66 (14) Leasing or servicing of electronic communications equip-
67 ment for a period not to exceed five years; provided, however, such
68 contract shall be entered into only subject to and in accordance
69 with rules and regulations promulgated by the Director of the Divi-
70 sion of Local Government Services of the Department of Com-
71 munity Affairs;

72 (15) Leasing of motor vehicles, machinery and other equipment
73 primarily used to fight fires, for a term not to exceed seven years,
74 when the contract includes an option to purchase, subject to and in
75 accordance with rules and regulations promulgated by the Director
76 of the Division of Local Government Services of the Department of
77 Community Affairs;

78 (16) The provision of solid waste disposal services by a resource
79 recovery facility, or the design, construction, operation or mainte-
80 nance of a resource recovery facility for a period not to exceed 40
81 years when the contract is approved by the Division of Local
82 Government Services in the Department of Community Affairs, the
83 Board of Public Utilities, and the Department of Environmental
84 Protection; and when the facility is in conformance with a solid
85 waste management plan approved pursuant to P. L. 1970, c. 39
86 (C. 13:1E-1 et seq.). For the purposes of this subsection, "resource
87 recovery facility" means a solid waste facility for the collection,
88 separation, recycling and recovery of metals, glass, paper and other
89 materials for reuse or for energy production.

90 All multi-year leases and contracts entered into pursuant to this

91 section 15, except contracts for the leasing or servicing of equip-
 92 ment supplied by a telephone company which is subject to the
 93 jurisdiction of the Board of Public Utilities ~~or~~, *contracts for*
 94 *thermal energy authorized pursuant to subsection (1) above*, con-
 95 struction contracts authorized pursuant to subsection (9) above, or
 96 contracts and agreements for the ~~provisions~~ *provision of work or*
 97 the supplying of equipment to promote energy conservation au-
 98 thorized pursuant to subsection (12) above, *or contracts for re-*
 99 *source recovery services or a resource recovery facility authorized*
 100 *pursuant to subsection (16) above* shall contain a clause making
 101 them subject to the availability and appropriation annually of
 102 sufficient funds as may be required to meet the extended obligation,
 103 or contain an annual cancellation clause.

104 The Division of Local Government Services shall adopt and
 105 promulgate rules and regulations concerning the methods of ac-
 106 counting for all contracts that do not coincide with the fiscal year.

1 37. This act shall take effect immediately except for section 3
 2 which shall take effect the first day of the third month following
 3 enactment.

STATEMENT

The State's capacity to dispose of its non-hazardous solid waste through landfilling is rapidly diminishing. As required under the "Solid Waste Management Act," P. L. 1970, c. 39 (C. 13:1E-1 et seq.), each solid waste management district has prepared a plan for solid waste management. Most of the plans developed provide for the establishment of resource recovery facilities to replace the sanitary landfills currently in use. Resource recovery facilities provide an environmentally acceptable means of solid waste disposal and also will convert waste to energy and thereby be more economically efficient than landfilling.

The construction and initial operation of resource recovery facilities are highly capital intensive and, therefore, the owners or operators of the facilities may need to charge disposal fees which, at least initially, will be substantially higher than landfill disposal fees. In order to encourage and facilitate the provision of resource recovery services, it is necessary to reduce the initially high cost of these disposal services so that the fees are more competitive with landfill disposal fees.

This bill provides for a resource recovery investment tax on solid waste disposal at sanitary landfills to be placed in a resource recovery investment fund in each solid waste district for later use in

subsidizing the transition to resource recovery. The tax will be levied on all solid waste generated within each district at an initial rate of \$0.23 per cubic yard of waste. Thereafter, the tax will be automatically increased by \$0.23 at 18 months, 30 months, and 42 months after the tax is first imposed unless otherwise adjusted by the district with the approval of the Department of Environmental Protection. In addition, the bill provides for a surcharge on the tax to be levied on all out-of-district waste received in a district at a rate of \$0.21 per cubic yard. The funds generated by the surcharge will be retained in the resource recovery fund of the receiving district as compensation for accepting solid waste from another district and to provide an incentive to districts that send waste to another district to discontinue that practice.

This bill also provides for the imposition of an additional tax to be levied on all solid waste accepted at landfills at a rate of \$0.25 per cubic yard. At least 50% of the funds generated by this additional tax will be distributed among the 22 solid waste management districts for the purpose of preparing, revising, and implementing solid waste management plans. The remaining funds will be used by the Department of Environmental Protection for research, planning, permitting, regulating and enforcing the provisions of the Solid Waste Management Act and for administering the services tax fund.

To attract private sector financing of resource recovery facilities, it is necessary to remove any institutional impediments which now exist. This bill would encourage private sector financing of resource recovery facilities by establishing a method of procurement by local government through the use of long term negotiated contracts, designated franchises and simplified rate setting as an alternative to traditional public utility regulation. This process would be subject to strict scrutiny by the Department of Environmental Protection, the Board of Public Utilities and the Department of Community Affairs.

ASSEMBLYMAN HARRY A. McENROE (Chairman): I would like to welcome everyone today to the second in a series of hearings conducted by our Committee, the Assembly County Government and Regional Authorities Committee, which is charged with the responsibility of reviewing Assembly Bill 1778, legislation which addresses the orderly management, in New Jersey, of our solid wastes. I am the Chairman of the Committee; I am also the sponsor of the legislation.

I would like at this time to introduce the other members of the Committee who are present. On my right is Assemblyman Anthony Vainieri, representing the County of Hudson. On my far left is Assemblyman Gerald Zecker, representing part of Passaic County. On my immediate left is our Committee aide, Miss Margaret McNutt. On my far left is the Committee aide, representing the minority party, the Republican Party, Mr. Glenn Beebe. On my far right is Mr. John Alati, Majority Aide to the Committee.

Before asking for input from our first witness, I would just like to comment and review quickly the general intent of the bill. This is our second in a series of hearings held by the Committee to gather input on the particular bill I mentioned before, Assembly Bill 1778. The bill provides a framework for managing our solid waste in this State in a more efficient and orderly manner. It was introduced in March with considerable bipartisan support. And, hopefully following a review and input from the public, the Governor may consider the bill sometime in the next few months.

The legislation is strongly supported by county governments. In fact, we have unanimous support by county governments across the State of New Jersey.

All of us, I think, recognize that New Jersey is our most densely populated State. In the past 200 years we have made enormous advancements technologically and have made great scientific advancements, but we continue to spoil our most precious resource, our lands, by dumping our wastes from our throwaway society in a very careless and indifferent manner. It is time that we begin the first step in managing our wastes in a more orderly way, and the latest technology and the latest effort recognized across the country and around the world is energy recovery. It certainly must be done in an

environmentally-sound way, and in no way is there a discouragement of efforts across our State -- certainly in the more rural areas -- to provide environmentally acceptable sanitary landfill disposal.

The bill attempts to provide revenue, which is certainly a strong part of our management effort, and that revenue will be returned to each of the counties for management and encouragement of disposing of our wastes in a more acceptable way.

The purpose of our hearing today is to address specific proposals and provisions and to accept comment and revision of the bill. The bill, we think, will have a good impact on people across the State of New Jersey. It is not intended as a referendum on the advisability of specific sites for resource recovery projects. The criteria for siting facilities, whether they be sanitary landfills or whether they be energy recovery plants, remains a local district option. That matter is not addressed within this bill. We do, however, recognize a legitimate concern on the part of all the public regarding air quality and emission control at the site of any resource recovery facility.

This Committee will hold hearings in the near future regarding air emission and quality of air control on any energy recovery facility. We have been charged by the Speaker of our House with the responsibility to oversee matters relating to energy recovery, sanitary landfills, and generally the management of solid wastes in New Jersey. We take that responsibility seriously. We know there are genuine questions regarding air emission. We intend to address that question at a specific time and to make an overall effort, I think, to develop stronger regulations, if that be the direction we need, and certainly to provide the opportunity for everyone to be heard on that particular subject.

With that, I think we will begin our hearing and I will ask our first gentleman to offer testimony. He is the Executive of this County, and we are very happy to be here. Essex County is a county that certainly leads in so many areas of government and business and it is one of the foremost counties of our State. I would like to extend our appreciation to Mr. Peter Shapiro, the County Executive of Essex, and to welcome him. The floor is now yours, Mr. Shapiro.

ESSEX COUNTY EXECUTIVE PETER SHAPIRO: Thank you very much, Mr. Chairman. It is a pleasure to be here today and to welcome you to our Hall of records, which as I know you are aware, having been a member of our Board of Freeholders and Director of the Board of Freeholders, is an historic structure. I would ask, by the way, your colleagues from Passaic -- although Gerry also represents part of Essex, of course -- and from Hudson, if they have some extra time when the hearing is over -- although, I think, it will be a lengthy hearing -- to look around our area and perhaps go up to Branch Brook Park and get a look at what is the world's largest collection of cherry blossoms, which I understand just began to bloom yesterday. You will get a chance to see a really beautiful sight in its initial stages.

Let me say, it is particularly a pleasure to welcome you here to commend you for the far-reaching and comprehensive legislation that you have introduced to guide resource recovery in the State of New Jersey.

As County Executive of Essex County and as a person greatly concerned with the environment, I urge prompt action on A-1778.

We must stop sticking our heads in the sand when dealing with the subject of garbage. We live in a State that faces the imminent danger of choking in its own garbage as it piles up in landfills that grow larger by thousands of tons each day.

There are some who would like to hide, try to bury the subject, and pretend it will go away. "Let's not have any progress on the issue," they say.

Indeed, prior to this legislation, the Legislature has not been an active enough partner in stopping landfills. Landfills blight our landscape and make residents and visitors feel as if they are entering a big garbage dump when they come to New Jersey through the Holland Tunnel, Lincoln Tunnel, or Newark International Airport, our three biggest points of entry to the State. As they come from those points of entry, they go on the major highways that go through dumps which seem to proliferate and grow everyday.

Landfills continue to give off a steady stream of unmonitored air pollution of all sorts, which threaten our atmosphere and cannot be controlled through any method that is now available or is on the

horizon. Pollutants ooze out in all parts of landfills, unmonitored and uncontrolled. This cannot be allowed to continue.

Counties have been given the responsibility to develop and to carry out programs of solid waste management under Chapter 326, Laws of 1975. This puts us in a reciprocal relationship with the State government. On the one hand, we are called upon to implement State policy favoring material and energy recovery; on the other hand, we cannot succeed in these goals without the active participation and assistance of State government.

This legislation accepts that partnership and acts decisively upon it in two critical areas.

First, it provides a comprehensive State structure for the procurement and regulation of resource recovery facilities. My support for this is based on experience with the Essex County facility which, because it is in the forefront, is serving as the pioneer in the State.

Second, it establishes a financial mechanism that will price landfills on a level that will reflect their true social and environmental cost -- something, which in the past, has not been done. By a series of credits and taxes, the funding will be provided to assist solid waste management. It makes sense that communities which are most successful in carrying out State policy should not be financially penalized for it.

I have the highest praise for this legislation. Its goal is sound: To stop the building of garbage mountains that pollute our air and water and threaten the health of our residents.

A-1778 recognizes that resource recovery in concert with an aggressive recycling program is the only environmentally-sound method of dealing with the massive quantity of garbage that New Jersey produces daily.

This legislation will ensure that the environment will be protected by the construction and operation of modern resource recovery facilities. They will process ordinary garbage under the strictest supervision to make sure that toxic wastes do not enter. As a result of the state-of-the art controls, the air will be protected with continuous monitoring and with independent testing of emissions.

And finally, we will be turning garbage into the resource that it should be. We will be turning it into energy and substantially reducing our reliance on dangerous and ugly landfills.

I want to congratulate you, Mr. Chairman, on this legislation. It clearly sends out the message that we must stop treating garbage as a throwaway to be piled all over our land.

We need to think of garbage as the valuable resource that it can be. And, given the amount we produce, if we in New Jersey use it as a resource, garbage can become to us what oil is to Kuwait.

Thank you very much.

ASSEMBLYMAN McENROE: Thank you very much Mr. Executive.

MR. SHAPIRO: I would now like, if I can, to turn it over to David Hull, our Director of Planning and Economic Development, whose department oversees the supervision of our energy recovery project and our material recovery project, combining recycling and the garbage treatment that the program envisions.

ASSEMBLYMAN McENROE: Thank you very much. We appreciate your support, Mr. Shapiro. The Chair recognizes David Hull.

DAVID HULL: Chairman McEnroe and members of the Committee, I appreciate the opportunity to elaborate on the statement of the County Executive.

My name is David Hull, and I am Director of the Essex County Department of Planning and Economic Development.

We are strongly in support of the proposed legislation, A-1778, which will help to advance resource recovery in New Jersey. This is an important goal both for the State and the County, for reasons which County Executive Shapiro has indicated.

The legislation deals with most of the institutional and financial issues which the State must address if it wishes to turn into reality its policy commitment to move away from exclusive reliance on landfills toward environmentally sounder alternatives. The major strength of the bill is its comprehensiveness.

There are three areas in which we believe the bill could be strengthened so as to better achieve its objectives. One would be to provide a sales tax exemption for equipment purchased to build resource recovery facilities. This would be a significant assist in making the

economics of building resource recovery facilities more feasible. It would be logical in that State taxes, in order to promote resource recovery, would not be offset by other State taxes which would tend to retard it. Such a tax exemption could be passed through to a reduction in disposal fees and would, therefore, promote the public purpose of this act under consideration, as well as existing solid waste management legislation.

Massachusetts has provided a sales tax exemption for resource recovery and we will be pleased to send you further information concerning it. I would ask that the sponsor and the Committee consider amending this comprehensive piece of legislation to include a similar sales tax exemption.

Another improvement would be in the section concerning franchising, which is critical to directing an assured flow of waste to facilities. This legislation strengthens and clarifies Section 6 of Public Law 70, Chapter 40, but it falls somewhat short of what is needed for counties that have already gone through the Board of Public Utilities' procedures.

As you know, Mr. Chairman, Essex County went forward with and did obtain an order under the franchising provisions as they now exist. This was an extensive effort involving protracted negotiations and, ultimately, cooperation with many involved parties. It is important that solid waste management districts which have done so receive the full benefits of the proposed legislation without having to go back through the whole elaborate process again. We will propose language which will accomplish this purpose for your consideration.

ASSEMBLYMAN McENROE: (interrupting) Excuse me. I just want to comment here. That certainly seems to me to be a matter that we can support. I know Essex has gone procedurally to the Board of Public Utilities and has an agreement of franchise, and we'll certainly give that strong consideration.

MR. HULL: (continuing) Thank you very much, Mr. Chairman.

A third area we would like the Committee to look at for possible strengthening of the bill is the contract review provisions. These are quite extensive, and we are concerned that they might be cumbersome and lead to unnecessary delays. There are a large number of

State agencies given review roles over the counties which are responsible for implementing resource recovery facilities. While we fully acknowledge the need for close environmental scrutiny, supervision, and control by the Department of Environmental Protection, we are not as certain of the need for the multiple levels of State bureaucracies brought into plan by the contracting provisions. Counties should not be in the position of being subject to having contracts it may enter into overridden by several State agencies on grounds that are not clearly spelled out.

We have pointed out the need for a further look at these three areas in the belief that a good bill can be made even better. It is appropriate to conclude by highlighting several of the particular strengths which the bill now has and which are quite important to preserve.

One area of strength is in the so-called "privitization" provisions. This is the jargon for setting up a legislative structure which promotes private-sector investment in resource recovery. The fairly moderate State taxes in this bill will attract and leverage considerable private investment to help accomplish a public purpose. This is highly desirable for at least two reasons. One is that it may plug a gap in the financing of a project. The other is that it allows a project to capture and pass through to the ratepayers Federal investment tax credits and accelerated depreciation.

The interest by resource recovery system vendors and other investors in contributing equity to these projects is real. It has taken place in Westchester County, New York and Saugus, Massachusetts, among other places. The legislative framework being proposed should allow it to happen in New Jersey. Our own project intends to reap the advantages of private investment, with approximately \$50 million of equity from the joint venture which will build and operate the facility supplementing \$165 million of Port Authority bonds and State aid to complete the financing of our project.

Another important feature of A-1778 is that it allows the investment fund being established to be used for material recovery as well as energy recovery facilities. While recycling cannot dispose of enough of New Jersey's solid waste by itself because of market and

other practical limitations, it can and should be part of a combined program to reduce the reliance on landfills, which unfortunately cannot be completely eliminated.

Our study last year on "The Integration of Energy and Material Recovery in the Essex County Solid Waste Management Program" shows that resource recovery and recycling are compatible and can work together. We are committed to making that happen.

The Committee, after passing this landmark legislation, may wish to look at further steps it could take to promote recycling. This could be done in the context of the mandated review of the New Jersey Recycling Act.

Thank you very much, Mr. Chairman.

ASSEMBLYMAN McENROE: Thank you very much, Mr. Hull.

We have some questions that we had prepared for your consideration, and frankly you have answered them in the text of your testimony. Our questions were really relating to what kind of interest the market has shown in the "privitization" concept for resource recovery, and also we were interested in the financial arrangements under consideration by the County of Essex. In your paragraph on page four, you indicated that the Port Authority of New York and New Jersey anticipates \$165 million of bond sales. That answers it very well -- the questions that I have.

There is one particular question, though, regarding the difficulties with a bill such as this; just yesterday I discussed the matter with the League of Municipalities. They have some concern with the fact the counties will have a major role. The municipalities are concerned that they will not be given the kind of attention that they need, in that they have always had the primary responsibility of overseeing either contracts or in a sense drawing contracts with private firms to collect waste locally. Could you address generally the plans of Essex County regarding the relationship they have with their 22 municipalities? Is there a working arrangement at the present time?

MR. SHAPIRO: I think it is important to stress two things. First of all, it's the local situation here in Essex -- which has been a very good one with our municipalites.

And second is the overall framework within which the Legislature is making the changes.

The truth is, on the latter point, that the shift which is occurring here is not from municipality to county, but rather from State to county. The responsibility for preparing for the final disposition, if you will, of the garbage has, in the past, been something run by the private sector and tightly regulated by the State, or in some cases run by a quasi-public agency, such as the Hackensack Meadowlands Development Commission. That will be delegated, in effect, under the existing law to counties as it already is. So it is not a taking away of a municipal role and replacing it with a county role as much as it is decentralizing and delegating it more to local officials from the State level.

In terms of cooperation with the municipalities, that is something we think of as having utmost importance. That cooperation in Essex has gone on on many levels. One level, in particular, has been the involvement of representatives of every single one of our 22 municipalities on our Solid Waste Advisory Council that wishes to have a representative there. We open that up to every one of our 22 mayors and councils to make sure that there is representation from each town. Some of them are extremely active, and many of them have provided us with some of the most important knowledge, information, and input that we could have in developing our plant.

The other level, and a very important level, has been a relationship with the host municipality for our plant, which is the City of Newark. With the governing body there -- with the Council, with the Mayor, and with the administrative agencies -- that has been a very close working relationship. It has involved some back and forth in negotiation as all processes of negotiations will, so occasionally you may see some signs of that negotiation becoming spirited. But, the reality of it is, I think, that it has been a good, cooperative relationship, and, in truth, we insist upon that because frankly we depend upon the same constituents to survive. The officials of this County are elected by the same people who elect the municipal officials, of course, and if we are not getting along together, we're not serving those constituents well.

ASSEMBLYMAN McENROE: Thank you very much.

Are there any questions from the members of the Committee for Mr. Hull or Mr. Shapiro? Do you wish to have a further comment, Mr. Hull?

MR. HULL: The only thing I was going to add was the other side of the County Executive's point about counties being given the responsibility for the ultimate disposal of waste. Under existing legislation, the municipalities continue to have, as you know, the responsibility for the collection and hauling of the waste. If that continues, they must be consistent with the district adopted in state-approved solid waste management plans. But, that continues to be a municipal responsibility. I am not aware of anything in this proposed legislation that would change that and we wouldn't advocate any change in that.

ASSEMBLYMAN McENROE: No, I agree with you. The legislation does not address that particular point, but it is a matter of concern with the leading municipalities, that they be fully acknowledged as a participant in decisions made relating to the counties' new responsibilities. And, I think it is an important point, and as Mr. Shapiro has commented, the partnership between all the people in a matter of such major importance is essential to its success.

MR. SHAPIRO: I would, if I could, ask you not to further encumber the legislation on this issue. I think it is a necessary precondition for a cooperative solution, but to prescribe a specific formula in the legislation, I would think, would be a mistake because it would possibly further hamstring plants and allow small minorities to delay things and the like.

ASSEMBLYMAN McENROE: I do think the amendment to the Solid Waste Management Act proposing the Solid Waste Advisory Councils around the State is a recognized successful effort to involve municipalities and representative public groups in the process of decision making.

MR. SHAPIRO: As a matter of reality, on the trickiest issue that you encounter in other counties, is that some municipalities have great fear that the county could impose a landfill or impose a plant on them. I have heard this fear expressed by mayors in Morris County, our adjacent county to the west, for example.

If we look at the record on resource recovery, it simply has never been the case that we can find in this area that a plant was sited without the cooperation of the municipal officials, and it certainly -- from what I hear here in New Jersey -- would not occur without that. So, perhaps it is that reassurance -- that in reality that's how it seems to work -- that would suffice.

ASSEMBLYMAN McENROE: Thank you both very much.

We will now call Mary Sheil, Administrator of the Office of Recycling in the Department of Energy.

Ms. Sheil, I would like to welcome you to our hearing. Of course, you have met, I'm sure, Assemblyman Vainieri and Assemblyman Zecker.

MARY SHEIL: Thank you.

Assemblyman McEnroe and members of the Assembly County Government and Regional Authorities Committee, my name is Mary T. Sheil, Administrator of the Office of Recycling, and I am testifying on behalf of Leonard S. Coleman, Jr., Commissioner of the Department of Energy.

A-1778 is an important investment bill for the future of solid waste management in New Jersey. The Department of Energy considers it an important step forward in addressing the resource recovery needs of this State. However, we should not lose sight of the balanced solid waste management program that we are committed to developing in New Jersey, that is a program that includes landfilling, energy recovery, and materials recovery. Although the definition of resource recovery in the bill includes materials recycling, the substance and content of the bill seems to ignore the potential of such a program. The materials recycling programs have the potential to decrease the municipal waste stream by at least 25 percent and should be recognized as a vital element in any legislation that addresses resource recovery.

It is, therefore, recommended that the bill include definitions of recycling, materials recovery facilities and reference to the need for district solid waste management plans to meet the goals of the recycling plan adopted by the Department of Environmental Protection and Department of Energy in September 1981.

It is also important that the section of the bill which references franchise and sub-franchise agreements for solid waste flows recognize that materials separated for recycling are excluded from such awards.

The benefits of a materials recovery program as a compatible and complementary element in the development of a resource recovery facility was outlined in a report entitled "Integration of Energy and Material Recovery" prepared for my office by the Essex County Department of Solid Waste Management in April 1983. This report outlines the significant economic and operating benefits that accrue to a waste-to-energy facility when the project is coordinated with a county-wide materials recycling program. These benefits will be lost if we do not integrate materials recycling in the planning and development of such facilities.

It is recommended that the Committee specifically include moneys from the Resource Recovery Investment Fund for materials recycling projects. Market development activities would be a particularly appropriate use of these moneys. Recycling is a constant balancing act between demand and supply, and we believe that within the framework of Public Law 1981, Chapter 278, the State Recycling Act, we can address the supply problem. However, additional funds and incentives are necessary for the demand side of the equation. Research and market development funds will not only assist in marketing the materials from source separation programs, but also the materials recovered from the waste-to-energy plants.

If the Committee is receptive to expanding the concepts of the proposed legislation, the Department of Energy and the Office of Recycling are prepared to work with the Committee to incorporate specific language in A-1778 that addresses the issues outlined in our testimony.

Thank you for providing the Department with the opportunity to comment on this important piece of legislation.

ASSEMBLYMAN McENROE: Thank you very much.

Do any members of the Committee have any questions for Ms. Sheil? (no response)

Ms. Sheil, we thank you for your comments.

I have a few comments to make and a question for you. My comment is that of course the Committee will consider every comment and criticism by your Department and by any other person who comes before us today to offer testimony on the bill.

And also in the area of recycling, your Department is charged with that particular responsibility, and you have done, I think, a good job in alerting the people in our State of the importance of recycling. But, can we put recycling in perspective, please; what percentage of success could we have -- as far as reducing our waste stream -- by our efforts to recycle? The reason I bring this up is because there has been comment made that if we in the State of New Jersey plan to spend somewhere in the area of \$1 billion to construct energy recovery facilities in certain parts of the State that perhaps that expenditure is not needed because there isn't an opportunity to recycle a major part of our waste. Is that a reasonable point or is that totally incompatible with the reality?

MS. SHEIL: Our position is that we need both systems. We need energy recovery systems, as well as material recycling systems, to handle the waste stream that is generated in New Jersey.

And, our goal is to shoot for recycling 25 percent of the municipal waste stream, which is about 1.3 million tons a year. There is about 5.5 million tons a year of municipal waste generated in New Jersey. But, materials recovery will not take care of the entire municipal waste stream. First of all, you will have fluctuations in market situations that will have to be corrected through other types of systems. We also are looking at that whole issue of market development and other uses for recycling materials.

Our position is that we need both systems and we are looking to reaching our goal, recycling at a minimum, 25 percent of the municipal waste stream.

ASSEMBLYMAN McENROE: Thank you very much.

Your figure of 5.5 million tons is at variance with information that we have, that the waste stream in New Jersey is considerably more than 10 million tons.

MS. SHEIL: That's total waste stream. I'm talking about municipal waste stream, that being residential and commercial. The

total waste stream in New Jersey is about 10 or 11 million tons. We set a focus on the municipal waste stream in our program, which is about half of the total waste stream. .

ASSEMBLYMAN McENROE: Very good. Thank you very much. We appreciate your testimony. And you'll be in touch with me and members of the Committee and our staff regarding proposed review of the legislation?

MS. SHEIL: Yes. Thank you.

ASSEMBLYMAN McENROE: We will have Mr. Pereira, representing the Department of Environmental Protection, State of New Jersey.

LINO PEREIRA: Thank you, Mr. Chairman.

Mr. Chairman and Members of the Committee, it is a pleasure to be here today at this second public hearing on this important legislation. Commissioner Hughey testified at the first hearing and, I think, indicated then that he considers this to be the most important environmental bill that the Legislature will be considering this year.

We have been working closely with the counties and I know with you, Mr. Chairman, and other members of the Legislature in the development of this bill. It is, as you quite correctly described it, intended to address one of several important issues having to do with proper solid waste management in this State. It does not address all of those issues, and the Department will be most pleased to participate in the hearings which you announced on air controls for resource recovery facilities and, indeed, to benefit from the public comment, which I am sure, the Committee will receive on that issue.

Among other things that this bill does not address, as you have pointed out, is the responsibility of the districts to site these facilities and the current short-term crisis in landfill capacity in this State. And, I know that on another matter, a month ago, I addressed this Committee very briefly on that subject, and I am prepared to expand on that subject today because, although it is not directly addressed by this legislation, there are elements to this legislation, which affect it. There is an encouragement -- a financial encouragement -- to the interdistrict movement of wastes to help develop regional solutions to the problem. And indeed, I think it would be important as we look to the future of solid waste management to understand how serious the problems today are.

I have prepared some notes for myself. I'm sorry to say I was on vacation this past week, and I was not able to prepare information to give you, but I would be happy to do so following the hearing. But, I do have some information on the amounts and types of waste generated and disposed of in this State.

I should begin by saying that I think it would be most fruitful to limit my discussion to those wastes that are principally addressed by this legislation -- the municipal, commercial, and industrial wastes that are amenable to resource recovery and to proper landfilling. There are a number of waste streams that are not addressed and we think ought to be separately addressed. We already know that hazardous wastes are dealt with under separate legislation and ought to be. Sewage sludge is another category and so forth. So I won't be addressing myself to those at all. But, I will say that of the approximately 12 million tons disposed of in the State, over 90 percent is taken to some 13 existing landfills. In fact, about some 90 percent goes to the top 12, but if you were to list all of the 72 operating landfills in the State, you would see that the top 13 take the great bulk of the waste; the remaining 59 are very small, generally municipally operated, most of them in South Jersey, handling a portion of a single municipality's wastes.

I'll go through, if you will allow me, each of those 13 landfills in the State and their current status because I think it will be informative.

I'll begin by discussing the first one: The Hackensack Meadowlands 1-A Landfill in Kearny. And, while I certainly would not discourage you from visiting the cherry blossoms -- I have seen them and they are certainly one of the most beautiful sights in New Jersey -- I think you would be hard-pressed to disagree when I say that that landfill is probably one of the ugliest sights in New Jersey. It's about 10 minutes from here, and if you can find the time, I would urge you to take a look. It is now overcapacity and has been for at least a couple of weeks and is rapidly approaching the peak of a pyramid. It will accept some 1,750,000 tons of waste a year, which amounts to about 14 percent of all the waste landfill in New Jersey. It will be reaching that peak in the next two to three weeks, and then it will be actually physically impossible to put anymore waste in that landfill.

The second largest landfill in the State, in terms of the waste accepted, is the Kingsley Landfill in Deptford Township, which receives almost as much, about 1,700,000 tons per year. It has, we estimate, between six months and one year of remaining licensed capacity, and there is no county plan to replace that facility.

The third largest is the landfill operated by the Bergen County Utilities Authority in Lyndhurst. It takes all the waste from Bergen County, some 1,690,000 tons a year, about 13-1/2 percent of the State's waste. It, too, is overcapacity, and the Bergen County Utilities Authority is under a court order to continue operating on that site and to find an alternative within the next two months. They are desperately trying to find an emergency site adjacent to that existing landfill to take over.

The fourth largest is the Edgeboro Landfill in East Brunswick. That landfill accepts some 1,370,000 tons, about 11 percent of the waste, and in terms of remaining capacity it is one of the few that has some. It has about 5,000,000 tons of remaining capacity.

The Industrial Land Reclaiming Landfill in Edison Township accepts about 1,160,000 tons, about 9.3 percent of the State's waste, and it has been overcapacity for about a year and is operating under a court order and will close under that court order within the next two months unless they are able to obtain a new permit; that permit application is now under review in the Department.

The Hackensack Meadowlands Baler and Balefill in North Arlington takes about 1,000,000 tons a year, about 8 percent of the State's waste and the balefill and the landfill that goes with it are both overcapacity as well. The Hackensack Meadowlands Commission is seeking an emergency expansion, seeking to obtain adjacent land and seeking to obtain permission to dump on land adjacent to that facility on an emergency basis.

Monmouth County owns a facility that handles its waste at 730,000 tons per year. It's at capacity and has a permit now pending before us that came in quite late.

There is a private landfill in Bordentown, Interstate Waste Removal, which handles 470,000 tons per year. It has a capacity of about 1.2 million tons remaining.

There is a Pennsauken Township Landfill which serves several communities in that area. It handles 430,000 tons per year; it has about one year of remaining capacity.

There is a Pinelands Park Browning Ferris Industry Landfill in Atlantic County that takes 330,000 tons, about 2.6 percent of the wastes, and it is scheduled to close at the end of 1985.

The remaining are the Hamm's Landfill at 300,000 overcapacity; the L & D Landfill in Mt. Holly at 280,000 tons per year -- about 1,000,000 tons left -- ;and the Ocean County Landfill in Manchester, also one with a lot of remaining capacity, compared to the others at least -- about 5,000,000 tons of capacity left and takes 270,000 tons per year.

If I go through this list quickly, you will note that of these landfills that handle 90 percent of the State's waste or more than 90 percent of the State's waste, six of them handling a total of 53 percent of the State's waste, are now overcapacity and are operating without the required State license, simply because they are needed for the time being and the courts have recognized their continued operation and sanctioned it while we desperately try to find new and better facilities. That happens to be the state of solid waste management right now. Those landfills, as I said, for the most part are not a pretty sight. A few of them have good environmental controls; most of them do not. We clearly need to move to a better form of landfilling as an interim measure, as well as to move into resource recovery as the preferred technology for the vast majority of our wastes. This bill helps to do that, and I hope that this explanation puts that somewhat in perspective.

The other issue that seems to come up frequently is the cost of existing landfilling and how quickly it's rising. That's not surprising, considering the fact that in the past landfills were little more than open dumps, and only now are we beginning to see them operate properly.

The most recent improvements in landfills we have seen have been in Cape May County -- the development of a county regional landfill, the first one developed under the Solid Waste Management Act by a district. The price for dumping at that landfill will be \$25 a

ton, which is considerably higher than what the communities and State are accustomed to.

There are two major rate cases now before the Board of Public Utilities. One is the landfill in Ocean County -- the Ocean County Landfill Corporation -- that I mentioned as having a fair amount of capacity; that particular facility has a rate case, which I think brings the cost in at about \$45 a ton. The Pinelands Park Landfill that I mentioned, in Atlantic County, has a rate case before the Board that would be \$57.75 a ton. As few as three or four years ago, the average price for disposal in New Jersey was \$3 a ton, so you can see that the cost of proper landfilling is rising rapidly, and the number of landfills is dwindling and we're quickly reaching a crisis stage in the State.

One of the features of this bill is that it permits and enhances the ability of districts to develop interim landfill solutions while moving toward resource recovery; we think that's one of the more important provisions of the bill.

Again, I am pleased to hear that the Committee will be taking up the air pollution issue. I'll touch on that only very briefly. New Jersey is one of two states in the Nation that has a statewide policy requiring control of acid gases and establishing controls intended to deal with organic emissions from resource recovery facilities. California is the other state. There are three or four others that do so on a case-by-case basis, but they have no uniform policy, and the vast majority of states rely on federal standards which deal principally with particulate emissions.

We have identified early on the need to have the best possible air pollution controls on the State's facilities. We think they are worth the price, and we think that it is important to go forward and not replace any existing problem at landfills with another one at resource recovery facilities. We think that the State standards will protect the public health and will be a vast improvement over the current system of getting rid of our solid wastes.

Mr. Chairman and members of the Committee, I would be pleased to take any questions. I have with me a lady who you have seen sitting here with the previous witness. This is Barbara Greer. She is an

attorney with our office and she may be able to handle some legal questions. She helped in the drafting of the bill, as you know.

ASSEMBLYMAN McENROE: Thank you very much, Mr. Pereira.

Ms. Greer, welcome. We have prepared some questions regarding the remaining capacity of sanitary landfills in New Jersey. I think Mr. Pereira anticipated that, and I really think your testimony is impressive and dramatizes the concern of every responsible public official in the State, that New Jersey must take a step forward and resolve its difficulties.

I can recall, just last evening, on television there was a report that waste generated in New York City and deposited in Staten Island was winding up on the shores of local beaches in the township of Woodbridge. I think it indicates not only New Jersey's difficult problem, but it also emphasizes the importance that this be addressed on a regional basis. I think New Jersey -- with its limited size, its important location, and without any alternative -- must proceed as quickly as possible with an orderly development of a better way of doing things in the area of solid waste.

We do have a few other questions. Most of them concern air emission standards, and you have addressed our concerns with that. I do anticipate the Department being represented at our hearings on air emissions, as they relate to energy recovery facilities.

I think I would like to advise you that we would be interested in what other states are doing -- where energy recovery facilities are established, and how they are working for the betterment of communities across the nation and across the world. We would like to have input on their concerns and their solutions to those difficult problems.

We appreciate your comments today, Mr. Pereira.

Do you have any questions for Mr. Pereira? (no response)

We will anticipate seeing you again at later hearings. And, to Ms. Greer, we certainly appreciate your input on the technical and legal aspects of the bill. We believe it is comprehensive and addresses the overall challenge of resolving our difficult problem. Thank you both for your appearance today.

MR. PEREIRA: Thank you.

ASSEMBLYMAN McENROE: The next individual who is listed called to advise us of his interest in appearing. This will be on behalf, I believe, of the Mayor of the City of East Orange. We'll call on Dominick J. D'Altilio, Director of Sanitation for the City of East Orange. Mr. D'Altilio.

DOMINICK J. D'ALTILIO: Good morning.

ASSEMBLYMAN McENROE: How are you, Sir?

MR. D'ALTILIO: East Orange is a supporter of resource recovery as a means of reducing the dependency on landfilling for solid waste disposal.

The intent of A-1778 is to be applauded, and the following remarks should be taken in that context. Basically our remarks are in the form of questions.

The first one deals with Section 3c.-1. We would like to know what effect on interdistrict waste flow orders does this section have? Will the counties such as Essex County, whose waste is directed to another district, be charged an amount?

Sections 9 and 10 regarding adjustments -- We would like to compliment these sections which deal with the pass-through of the charges. These sections should eliminate confusion on the part of municipalities as to who is to assume the cost of the increases, and also may cause municipalities to review their garbage collection contracts and separate collection and disposal costs.

Section 13 -- regarding the distribution of solid waste service taxes: Part of the moneys collected in this fund should be directed to planning, encouraging, and funding -- and I stress funding -- county recycling plans. Recycling should be specifically mentioned in this section as an appropriate use. Recycling is an immediate way of reducing the amount of waste that has to be disposed of. Not enough money is being allocated by the State for this important ingredient in solid waste management. Also, increasing recycling can reduce the size of resource recovery facilities and thereby their construction costs. This can be seen in the plans for the Essex County facility, where a reduction in the plant's size was a direct result of the County's commitment to a countywide recycling plan. Recycling is a viable and immediate means of conserving landfill space and recovering the

resources in solid wastes; recycling is actually a low-tech resource recovery system, which should be included in this act.

Sections 26c. and d. deal with the Board of Public Utilities Commission's review of contracts for resource recovery facilities. Current legislation requires the Board to review and set tariffs at solid waste disposal/utilization facilities. In the past, their review has kept the tariffs at an equitable level. It concerns us that if the Board of Public Utilities does not set the tariffs at the facility, it could increase at a non-equitable rate, thus impacting even more on municipal budgets. The Board of Public Utilities' tariff procedures, with its review of operating expenses and profit statements, is a sound method of developing and setting tariffs. We recommend that the current tariff procedures remain in effect, and that lines 47 through 57 on page 15 be deleted and be replaced with appropriate language to allow the BPU full review and control over tariffs at the facility.

Section 33 -- this deals with the mandated expenditures.

I would like to depart from my prepared comments, at this point, and state that -- prior to my speaking here -- everyone else has not been an actual payer of the increases. And, right now we are the first speaker who will reflect on what the cost to municipalities is actually going to be.

Section 33 again. These increases would be considered mandated increases and they are outside the "cap." This would lessen the impact of the increase, but it would still be there, and that is the most difficult part of this Act to support.

As the Act is written, East Orange would have an immediate increase of approximately 27 percent in its disposal costs the first year, and substantially more in subsequent years. With our current solid waste contract, disposal costs are based on the current disposal rate at the approved Essex County disposal facility. We are aware that rates will increase when the energy recovery facility comes on-line and we have planned accordingly. But, this increase has not been planned for.

The initial increase will be approximately two tax points on our existing tax rate, and the following years' increases would further impact on our citizens.

Once again to depart from my statement -- Basically every penny of increase in disposal fees represents approximately \$25 hundred in disposal cost increases to the City.

It is difficult for communities to accept these increases without explaining their impact to the legislators who propose the regulations. The problem of waste disposal cannot be viewed in a vacuum. A municipality has only so much money to draw upon; increases in one area equal decreases in another area. The rate proposed in this Act may result in communities appealing to the State for funds to make up for redirected tax monies. You must consider the financial impact on the urban cities when voting on this Act.

I would like to thank you for this opportunity to express our comments on this Act.

ASSEMBLYMAN McENROE: Thank you very much Mr. D'Altilio.

As I am sure you are aware, today's hearing provides an opportunity for members of this Committee and members of the public to evaluate and comment on amendments that are to be considered by the Committee. All of your remarks indicate a genuine thoroughness in review of the bill, and I want to assure you of our openness in evaluating each one of the points you have made. Certainly, each question that you have raised, each proposal to change or modify the legislation, will be reviewed thoroughly.

The point you make regarding Section 13, the distribution of the solid waste services tax, and your concern with the lack of recycling being encouraged and mentioned within the body of the bill, is certainly an excellent point, particularly in view of the current law regarding the recycling tax that will end at the end of 1986. So at that point, we certainly don't want to discourage recycling efforts; we feel it has to be a strong part of our solid waste management efforts across the State.

Your background comment, that the more we address the need for recycling the more we can properly size energy recovery facilities, is an excellent one.

Certainly, the other points you made regarding the Board of Public Utilities' Commission's review and your interest in the current tariff structure, I think, is a technical and legal aspect. We will

certainly have the Department of Environmental Protection, and its legal department, review those comments thoroughly.

Through this Chair and through members of this Committee, I want to assure you that you have available to you any of the members and myself as Chairman, to review the particular points made. We will not proceed with the legislation until each of the points made in your remarks is addressed thoroughly by the Committee.

We thank you very much for your testimony. East Orange is a city that, I think, placed in the County of Essex, has a large responsibility insofar as its residential customers -- primarily it's a residential city -- and it certainly has an important consideration in our discussions.

We thank you very much for your testimony, and again if there are members of the Committee who wish to ask any questions of Mr. D'Altilio, you may do so at this time. (no response)

Again, we appreciate your time before us. Thank you.

ASSEMBLYMAN McENROE: We will now call on Mr. Richard Bagger, a Councilman in the town of Westfield, and he is representing Union County's Solid Waste Advisory Council.

We have also been asked to hear testimony from a young man, Sergio Ferreira, from Oliver Street School. We'll hear from Mr. Ferreira as soon as we complete testimony from Mr. Bagger.

Good morning, Mr. Bagger. Welcome.

RICHARD BAGGER: Good morning. My name is Richard Bagger and I am a member of the Town Council in Westfield. Today, I am speaking as representative of the Union County Solid Waste Advisory Council, a group comprised of local government officials, industry representatives and concerned citizens, established pursuant to the State Solid Waste Management Act.

At a meeting of our Advisory Council on March 28, we adopted unanimously a resolution opposing that section of Assembly Bill 1778 which will impose a surcharge on the solid waste of counties like Union which do not have sufficient landfill capacity. A copy of that resolution is attached to this testimony.

Union County should not be penalized because of historical trends and land-use development patterns which have resulted in a lack

of substantial landfill space within our county, forcing most of our dumping, as a practical matter, into adjacent areas. Of an estimated 260,905 tons of residential solid waste generated annually in Union County, only 20,000 tons are disposed of within the county.

The impending closing of the I.L.R. landfill in Middlesex County presents the possibility that by the end of 1984 most Union County residents will be facing substantially higher disposal rates because of the great increase in hauling distance, perhaps as far as Ocean County.

Long faced with the prospect of landfill shortages, Union County has been a leader in studying and planning for a resource recovery plant, and it is prepared to build its own facility, without State aid, because of the punitive surcharge that is proposed here.

Recently, Union County officials announced that a site in Rahway has been selected for the construction of an advanced waste-to-energy plant, to be financed, designed, built, and operated by a private firm. This facility, which is scheduled to begin operation in 1988, will be able to incinerate virtually all of the solid waste generated within the county.

Specifically, Union County opposes Section 3c.-1 of the bill found on page four, which levies on landfill operators a surcharge of \$0.21 per cubic yard for all out-of-district solid waste. This added tax would be passed on to consumers through tipping fees and collection rates. Union County residents and industries would be compelled to pay higher rates, despite the best efforts of a county government committed to the construction of a resource recovery facility as soon as practicable.

The purpose of Assembly Bill 1778 is laudable; we do not criticize the general plan to create a fund to facilitate the move to resource recovery in New Jersey.

We strongly oppose, however, the prospect that Union County residents would have to bear an inordinate share of the cost, based on factors over which they have no control, particularly in light of the good faith efforts of our county government to reach exactly that goal to which this legislation aspires.

There are two arguments given to support the surcharge on out-of-district waste. First, counties should be encouraged to use in-county refuse disposal. Union County, however, has taken a leading role in resource recovery and needs no additional encouragement based on financial sanctions. Second, the revenues are earmarked for grants to assist construction of waste-to-energy plants. In the long run, however, the costs to Union County residents will be far higher if the surcharge is paid and only partially recouped through State aid.

We recommend, on behalf of Union and other similarly situated counties, that Assembly Bill 1778 be amended to eliminate the proposed surcharge on out-of-district solid waste. Rather than using sanctions unevenly applied, we feel the legislation's purpose can be best served with the positive incentives created by a resource recovery State fund based on the evenhanded tax on landfill proposed in Section 3b.-1 of the bill.

Thank you for the opportunity to testify today. I would be happy to answer any questions.

ASSEMBLYMAN McENROE: Thank you, Councilman. We appreciate your taking time to appear before the Committee. I understand completely the concern of Union County relative to the surcharge. Every part of the bill will be thoroughly reviewed by the Committee prior to its consideration for a vote. Certainly, your point on behalf of Union is understandable; but, likewise, the County of Middlesex would obviously take the alternative view.

This County of Essex, where we are conducting our hearing today, of course, will be impacted with a substantial surcharge because all waste generated in this county is deposited in another county. So, the surcharge is a matter of genuine concern in Essex County.

Again, I understand your concern; you represent a county, as you have stated quite correctly, that has done great work, really, in the area of resolving their own difficult problem, as it relates to solid waste.

The legislation addresses the concern all of us have for a statewide solution. It's not intended to be punitive; it is really intended to be corrective or to emphasize the importance of each county resolving its difficult problem on its own, where possible. The

surcharge is really not intended as a bounty; it is a workmanlike way to address the question of how you compensate a receiving county for the waste generated in other counties being deposited in it. Certainly, I think the courts have spoken clearly: When a landfill is required to accept out-of-county wastes it should be compensated. Of course, they are diminishing their own capacity to deposit their own wastes. So it is a genuine question for all of us to consider. I hope you will keep our comments in mind and refer them to the members of the Solid Waste Advisory Council. We are not approaching it on a Union versus Middlesex or Essex versus Hudson basis; we are addressing the concern of everyone in New Jersey with a plan to resolve the problem on a statewide basis.

MR. BAGGER: I understand the statewide purposes, and I will relate that back to our Board and our Freeholder Board. I will point out that any adverse effects on Union and Essex will only, hopefully, be felt for four or five years, until we get these resource recovery plants operating, and then the surcharge will no longer apply to us.

ASSEMBLYMAN McENROE: Thank you. And congratulations too, to a functioning advisory council in a county that is doing a fine job.

MR. BAGGER: Thank you.

ASSEMBLYMAN McENROE: We would like to ask Mr. Sergio Ferreira, representing the group of students who are with us today, and who are, I understand, students from Oliver Street School, to join us.

These are members of the Legislature, Sergio. It is nice to see you here today. We want to assure you that you are welcome and we want you to be totally relaxed and give us the best of your concerns and the collective wisdom of your colleagues at Oliver Street School.

SERGIO FERREIRA: Ok. Thank you.

First of all, I would like to say that I'm a representative of Oliver Street School, and I live in the Ironbound section. This is really something for our social studies lesson -- to see the value of judging things. I don't really know a lot about this subject, but I do know a little bit, well enough to speak.

We already have toxic wastes; we have smoke from the buildings and cars; we have asbestos; we have a lot of things. I don't think we really need a garbage incinerator to add to the other things that are bad for our health.

I would also like to ask you, that if the bill passes, can you guarantee that the garbage incinerator will not be put in the Ironbound community?

ASSEMBLYMAN McENROE: Thank you, Sir. You will have an opportunity to comment further, but regarding your first comment -- your concern with hazardous waste, toxic waste, and the imperfect world in which we live -- I think everyone in this room shares your concern. By their attendance today, they bear witness to the concern of public officials, that we make a decision which will be beneficial for everyone in the State of New Jersey, whether they live in Cape May County, Sussex County, the Ironbound section, or any other part of the State, and whether they are school children, people that work for a living, or retired people. Again, our State is faced with a difficult task of resolving a major question; stated in simple terms, it is simply a question that we have lots of garbage and we do not have anywhere to put it. We must find a solution that is acceptable to-- I cannot say to all the people, because in any society there will be people who will oppose a particular way of doing things. We are trying to compromise and come to a way that will be of benefit to everyone.

The second question you have, regarding the location of a proposed energy facility in the Ironbound section -- I recognize the importance of that community. The question really is not addressed within this bill; this is a bill that addresses the overall management and attempts to provide revenue for each of the 21 counties in the State. To address the major question again, how do they do it in their particular county? The judgment will be made, of course, within this county, certainly with input from every citizen of this county. There have been continuing efforts to keep the lines of communication open. I think all of us, whether we are classmates of yours or whether you are colleagues of mine in the Legislature, should continue the dialogue, continue to speak to each other, and continue to demonstrate our sincerity, and also to provide information that, I think, will, hopefully, disseminate many of the concerns and fears that have arisen over the potential for an energy facility in the Ironbound section of Newark.

MR. FERREIRA: We could recycle the steel and the glass. We can use the waste foods as fertilizer. We do not really have to burn it all up and start making more polluted air, more than there already is.

ASSEMBLYMAN McENROE: I think every effort is being made to recycle and to find new ways of doing things in order that we can reduce the waste stream and live a more enjoyable and environmentally-sound life. There is no intention that we poison the atmosphere, destroy neighborhoods, or ruin the future for any segment of our population.

Continuing efforts have been made. You have heard the very sincere and capable testimony of the Department of Environmental Protection. We are in the State of New Jersey, which is recognized across this country as a State that has adopted the most stringent air pollution quality controls of any industrial state. This is New Jersey; it is not a large open state; it is highly industrialized, and it is densely populated. That is why the crisis and the imminence of our decision is so important to all of us. I assure you of everyone's concern for the points you have made.

MR. FERREIRA: Ok. Thank you.

ASSEMBLYMAN McENROE: Excuse me. Mr. Vainieri would like to address you.

ASSEMBLYMAN VAINIERI: Mr. Chairman, through the Chair and members of this Committee, I wish to congratulate Sergio and the school children who are present here this morning, for their profound concern on this matter. I think the teachers ought to be congratulated for the fine manner in which they are performing this morning. I just think it is great to have the youth of our country so concerned about this matter.

ASSEMBLYMAN McENROE: Thank you, Assemblyman.

MR. FERREIRA: Thank you.

ASSEMBLYMAN McENROE: Thank you, Mr. Ferreira.

We'll now call on Mr. Robert Hardy, the Chairman of the Solid Waste Task Force for the New Jersey Energy Research Institute. Good morning, Sir. I would like to introduce the members of the Committee. On my right is Mr. Vainieri, Assemblyman from Hudson

County, and to my left is Mr. Zecker, representing Passaic and part of Essex.

ROBERT W. HARDY: Mr. Chairman and members of the Committee--

ASSEMBLYMAN McENROE: (interrupting) I just want to interrupt one moment. Do you have prepared testimony?

MR. HARDY: Yes. I gave it to the clerk for the Freeholders.

I am Robert Hardy, Chairman of the Solid Waste Task Force of the New Jersey Energy Research Institute. NJERI, as it is called, is a group comprised of a Board of Trustees derived from the private sector, the universities of the State of New Jersey, the utilities, and the agencies of the State government. There is no equivalent to NJERI found in any of the other 49 states. Our members are found among the top agencies and companies of New Jersey and are listed in the written response, so I will not take the time to enumerate them at this time. However, I assure you that the membership represents a broad spectrum in the public and private area of the State. NJERI is a nonprofit, fully tax-exempt organization, serving the public benefit in New Jersey.

NJERI would like to commend the Department of Environmental Protection and the Legislature for its work in promoting resource recovery to help solve the solid waste disposal dilemma facing the citizens of New Jersey. The DEP has taken a step toward the implementation of resource recovery through the introduction of Assembly Bill 1778 and by working with this Committee.

Through the introduction of this legislation, DEP identifies for removal, some of the major obstacles to resource recovery implementation -- one of which is the cost advantage enjoyed by low-technology landfills versus high-technology resource recovery facilities.

DEP recognizes that the planning process has been hindered, in many cases, by a lack of available funds on the part of solid waste districts. The legislation seeks to aid those districts by providing the means to assist them in completing and implementing their plans.

Further, DEP recognizes that certain districts will be importers and others, exporters of waste, by existing waste flow

patterns. By encouraging interdistrict agreements, DEP attempts to reward districts willing to provide capacity for waste generated beyond the district borders.

Along with the ingredient of guaranteed waste flow, an economic balance must be struck between a realistic cost for disposal of waste and market force reality for the sale of products, in most cases electricity.

We believe that the intention of the DEP to improve this ratio, on the obligation of municipal waste to carry its fair share of the financial burden, is meritorious. However, the estimated accrued reserve fund for this purpose, as outlined in A-1778, would require financial feasibility studies in order to indicate potential significant impact in this regard. Economics may indicate preferred waste-shed districts. Such studies should be revealed and discussed with the BPU in order to determine their significance in light of known techniques, such as rate averaging, in order to diminish disposal costs in the early years of resource recovery operations.

We also respectfully suggest that the following be given earnest consideration and be included in any feasibility studies and conclusions derived:

1. The cost for administration of the various funds to pay for the implementation of A-1778 on both the State and the local level;
2. The evaluation of any impacts on the critical path of pending, approved, or planned resource recovery facilities;
3. An evaluation of the time-frame impacts regarding investors, developers, and long-term debt service in support of resource recovery;
4. Evaluation of the impact of A-1778 on NJSA 48:13A.

Experience has taught that successful implementation of resource recovery occurs when most of the social and economic needs of a district are met in the best interest of ratepayers. In order to ensure this event, we believe the intention of New Jersey PL 326 best establishes the framework for the agencies mandated with the planning and the franchising functions.

There is no question that the DEP is best equipped to provide and implement the best available environmental standards to protect the residents of New Jersey in matters that concern the environment. Also, it is well documented by existing legislation, that the Board of Public Utilities is in a position to provide ratepayers with the most economic solution for the provision of public services. The objective of both of these agencies is clearly outlined by existing legislation, and if amended, should reinforce these tasks under the current system of real checks and balances, which is the hallmark of our governmental system.

The environmental planning and regulatory function of the DEP and the franchising and rate review function of the BPU should remain as distinct entities in the arena of resource recovery, so that the best interests of concerned New Jersey residents will be protected and so as to provide the best environmental solutions at the best available purchase price.

NJERI would be pleased, as a nonprofit, objective institution, to provide services in order to help with this analysis. Further, along with economic impacts, NJERI believes that the siting issue is of equal importance, and is prepared to support, in an objective way, an improved resource recovery facility plan.

I would just like to make a comment about Sergio's statement, which is, I think, a very important point and a very important syndrome of what we are going through in this State. NJERI has just received a grant from the Dodge Foundation to assist any regions, districts, municipalities, parties, or persons, with an objective review and education of residents in any district, with the implementation of resource recovery.

We appreciate the opportunity to present these thoughts and we are prepared to meet with the proposers of A-1778 to assist the Committee in its efforts. Thank you very much.

ASSEMBLYMAN McENROE: Thank you very much, Mr. Hardy. We certainly want to avail ourselves of the opportunity to have your address in order that we might provide this information to municipalities that wish to avail themselves of your expert advice in the area of siting air emissions, and other questions. All of the

points you have made will certainly be given review. Your comment regarding the impact of this bill on the Board of Public Utilities' review is certainly important; that will be given careful review. You will be provided with an opportunity, before we vote, to come before the Committee. I want to encourage your involvement. I am intrigued by the fact that you are a nonprofit, fully tax-exempt organization serving the public benefit in New Jersey. I think your other comment, though, regarding the obligation on municipalities to carry their fair share of this financial burden as being meritorious -- they think it is worse than that. They would like to be relieved of this great burden and to see more of the obligation met by members of some large organizations that are members, frankly, of your institute.

We appreciate your coming before the Committee. As a professional organization, we welcome your involvement and your participation in what we think is the proper direction for legislation on this subject.

Mr. Vainieri or Mr. Zecker, do you wish to question Mr. Hardy? (negative response) Thank you very much Mr. Hardy. We'll be in touch with you.

MR. HARDY: Thank you, Sir.

ASSEMBLYMAN McENROE: Dr. James Hilbert, Executive Director, West Morris Organization, is the next name on the list.

I am Assemblyman McEnroe; Senator Vaineri is on my right; Assemblyman Zecker, Assemblyman from Passiac and Essex Counties, is on my far left.

JAMES HILBERT, Ph.D.: I have written copies of my statement which I can distribute afterwards.

ASSEMBLYMAN McENROE: We would like them now.

DR. HILBERT: Ok. My name is Dr. James Hilbert. I am Executive Director of West Morris Resist. I am also a member of the Rockaway Township Environmental Commission. By way of saying a little bit about my background, my Ph.D. is in the field of medicinal chemistry.

In starting my testimony today-- I was reminded, when I started to write this, of something that I have heard a lot throughout the present years -- of tight budgets in government. When the

expensive projects in most anything -- say, military spending, social spending, whatever -- come up, an argument against these that often comes up is that you are simply throwing money at them. And by that, what they simply mean is that the projects are expensive and we don't know whether the proposed solution will work, so there is a good chance of wasting money.

I bring this up today because the bill that we are discussing seems, to me, to be a perfect example in the environmental field. The idea of committing funds to sound solid waste planning and management, to me, is very appealing. But, this bill, as I read it, only commits huge amounts of money to one technology -- that is, the technology of garbage incineration. And that technology is an unproven technology, with many health and environmental risks that the State DEP has shown it is not prepared to deal with. This money will be used to fund large-scale incinerators for which there are no clear siting criteria at this time and for which, at this time, there are few air quality regulations which I would characterize as outdated. Passage of the bill would mean that we are throwing money at the solid waste problem in hopes of a quick solution, when the DEP and the counties have not done the basic homework in planning what is needed to provide for a sound solid waste management plan, which has as its foremost goal the protection of the health and safety of the general public.

Let me detail some of the unique pollution problems of garbage incineration that your bill would be helping to spread.

First of all, dioxins -- Probably most of you have heard of the term dioxins before. Dioxin emissions continue to be reported by scientists around the world each time garbage incinerators are examined. Dioxins are among the most harmful toxic chemicals that are known. One of these chemicals is the toxic component of Agent Orange.

The frequency of the reports of dioxin, and the amounts that are found, seem to be increasing all the time, and I have done a fair amount of literature research on this. Let me just detail one report for you, for instance. Italian scientists found there were enough dioxins being emitted, on average, from each of 20 Italian incinerators to produce what is known as an adverse dose -- according to scientists in the Netherlands -- for over two hundred million people. This dioxin

came from incinerators which were very small. They averaged 8 times smaller than what Morris County is proposing as their reduced-size incinerator, that is 700 tons per day, and 26 times smaller than the proposed plant right here in Newark. Scientists who investigated the incinerator particulates, which come out of the stack, for toxicity have found them to have "enormous toxic potential," -- those last three words are a quote from one scientific publication -- not just because of the dioxins, but because of the combined effect of the dioxins and many other chemicals, whose names are probably very hard for you to remember, but are very significant to scientists; that would be chemicals such as dibenzofurans, which are chemical cousins of the dioxins, formaldehyde, polycyclic hydrocarbons, and the heavy metals which I will discuss below.

Despite the grave risks, the DEP has given no indication that it will ever issue standards or exposure limits for dioxins, dibenzofurans, or the other chemicals I mentioned. And, as far as the EPA goes, here again, there are no exposure limits; there are, in fact, no ambient air standards for total dioxins anywhere in this country.

Heavy metals: Garbage incinerators emit an unprecedented variety and amount of heavy metals. Of these, there are several metals which are extremely toxic, even at low levels. These metals, for example, lead, cadmium, antimony, nickel, chromium, mercury, and arsenic, will likely have garbage incinerators as one of their prime, if not their major source, in New Jersey.

Let me just go into one example for you: Lead -- because you may be familiar with that. Lead is a kidney and heart poison, even at low levels, and researchers have found that levels of lead which were previously thought to be safe, can actually damage children's brains and impair learning ability. I want to refer to a Star Ledger article of March 26, which I think puts the enormous problem into perspective and shows what the DEP might or might not do about it. According to that article, a major source of lead pollution emits five tons per year into our air, and there were serious questions about our State's implementation plan of the Clean Air Act, as to whether the DEP would ensure the public's safety from these sources. Yet, according to the DEP's own published figures on garbage incineration, a garbage

incinerator as large as, say, the proposed reduced-sized Morris County facility emits 12 tons of lead a year. The Essex facility would be in the neighborhood of 40 tons a year. I think that we cannot expect the DEP to protect us from this amount of lead when it is having trouble even regulating the current emissions.

Still not addressed by the DEP are cadmium and the other extremely toxic heavy metals that I talked about earlier. There are no guidelines and there are no regulations, but I would submit that there are a lot of risks from these heavy metals.

Particulate matter: As it has been repeatedly pointed out, the pollutants that I have mentioned are unique and the way in which they are delivered is unique. They are mainly found on microscopic particles that come out of the stack. They preferentially escape pollution control equipment; they disperse over great distances; and they are easily breathed into the lungs from which the poisons can very easily be absorbed into the body. The DEP's own figures, again, indicate that particulate emissions are twice that of a comparable oil-fired boiler. Of course, we're not planning on constructing 20 oil-fired boilers in this State. Furthermore, a much greater fraction of those particulates, from a garbage incinerator, are the more hazardous microparticulates that I have just talked about it. These microparticulates tend to have most of the pollutants on them; they have the most trouble getting picked up by pollution control equipment, and they are dispersed for miles. While other states are considering stringent microparticulate regulations, New Jersey's proposed guidelines neglect microparticulates altogether, and the proposed guidelines for total particulates are far less stringent than the state-of-the-art guidelines which are being proposed in California.

Acid gases: Acid gas emissions will be substantial from garbage incinerators. Again, using the DEP's figures, over 2,400 tons of sulfates and nitrogen oxides from the Newark plant alone are predicted by the DEP. The acid gas of chief concern to me, however, is hydrogen chloride which, unlike the others, becomes a strong, corrosive acid immediately on contacting moisture in the air. But, if you like acid rain, you'll like garbage incinerators. Federal regulations for hazardous waste incinerators specify 99 percent removal

of hydrogen chloride. If a hazardous waste incinerator, which usually has more chlorine input than a garbage incinerator, can be expected to meet this level, I fail to see why we cannot do that in New Jersey for garbage incinerators.

Impact on landfills: Incinerators are often sold to the public as a means to eliminate landfills, but they do not. Up to 30 percent of what goes in must still be landfilled, most as incinerator ash. Now the arguments that I have heard from the DEP seem to indicate that they believe the most important factor in ash disposal is the volume that it fills, not the hazard it presents. Incinerator ash puts all the toxic chemicals, that I mentioned earlier, into that smaller landfill volume. The ash is considered hazardous waste in California. The state of Massachusetts testers have also concluded that it should be classified as hazardous. As of now, the DEP has no policy for it. I have been told by them, it would perhaps require a hazardous waste disposal facility if they tested. However, those of us who have watched the siting process of hazardous waste facilities in this State unfold, know what a difficult process that is, and how little we need a major new source of hazardous waste to just make that problem worse.

Siting of the incinerators: As you know, there are no clear siting criteria for these plants. In my own county, in Morris, I have heard County Freeholders say they are looking to the DEP for leadership in siting. However, I have also heard the DEP contend that it is not their responsibility. Yet, plants are still being sited. In Morris County, to give an example, eight potential sites were chosen, and it appears, to me, that closeness to energy users was the only criterion used. Two of these sites in the Picatinny Arsenal area are located directly over a federally-designated Sole Source Aquifer that recharges the Rockaway River. That aquifer and that river are the sources of drinking water for hundreds of thousands of people in this State. Another example of poor siting is right here in Newark; we're placing a plant in Newark very close to a densely populated area, the one in which the highest level of dioxin contamination in the country is already located.

Impact of recycling: I think we have heard a little bit about this before this morning. Recycling, however, it should be

noted, is true resource recovery. It is the recovering of materials, and it often has energy saving which is greater than that which is potentially gained by burning the materials. Furthermore, of course, recycling makes no threat to the environment. While this bill throws money at garbage incineration, there is no comparable funding for recycling. Funds for recycling could launch a statewide program with the capability of taking care of as much solid waste as incineration is taking care of. The DEP has decided that the future of recycling is limited; that decision, to me, appears to be based only on the present situation, where there is a severe shortage of solid data on the potential of source separation. I would say that the announced 25 percent ceiling on the amount that can be recycled is an artificial one, until we have more data and know what funding is available.

Are recycling and incineration compatible? The people of Akron, Ohio might say no, since they are prohibited from recycling their newspapers, so they may be incinerated. Before we are locked into the incinerator technology for 40 years, the State needs to thoroughly investigate and implement the maximum amount of recycling. We also need a commitment of manpower and economic resources to recycling, which is of the same order of magnitude that is proposed for incineration, before we are locked into the incinerator technology. This will ensure that we reduce, if not totally eliminate, the amount of health-threatening technology that must be implemented. And, I would say that it is significant that last year the Assembly Energy and Natural Resources Committee reported that if a proper amount of recycling were implemented, we would need, at most, 4 incinerators and not 20. The language on that report, as I read it, was vague enough that I could see there was not enough solid data on recycling to tell if even that number 4 was the right number.

In summary, I would say approval of this bill is a signal to the DEP and county governments, that the Assembly considers it fine to build these threatening plants without the regulations, controls, or siting criteria. You will be telling them that they may be go ahead and put one of these plants in every county, when in fact far fewer, and perhaps even none at all, would suffice if proper attention were given to recycling. Approval of this bill would also give a signal to

everyone across the State that you consider it all right to pay only lip service to recycling.

I recommend that this bill be held until legislation is passed which gives recycling the highest priority in the State and adequately funds it, and until legislation is passed which mandates issuance of siting regulations, construction regulations, design regulations, and state-of-the-art air emission regulations, including the pollutants that I have mentioned, for garbage incinerators.

In short, I recommend that you say, "We're sorry Governor Kean and we're sorry Commissioner Hughey, but we cannot give so much money to a house in such poor order; we cannot throw money at just one so-called solution that has many health and safety questions." I recommend that you hold this legislation until we first have maximum recycling, sound planning, and comprehensive regulations. (applause)

ASSEMBLYMAN McENROE: Normally we don't allow emotional comment at our hearings, but in view of Mrs. Hollaway's long interest in doing things in the more acceptable manner, and since you are part of the group applauding Dr. Hilbert, we'll allow it. We couldn't prevent it for that matter.

DR. HILBERT: I have one more request, if I might. There was another person who was scheduled to testify-- I'm not sure when he was scheduled. His name is Dr. Stephen Stoldt; he is chairman of our environmental commission. Dr. Stoldt called me this morning and informed me that because of business commitments he will not be able to be here today. He has a one-page sheet of facts on garbage incineration, and I think it bears on what I was trying to say in my testimony. Would that be all right?

ASSEMBLYMAN McENROE: How long is Dr. Stoldt's testimony?

DR. HILBERT: It's one page.

ASSEMBLYMAN McENROE: All right. One page, we'll allow. We would prefer it, if there are other circumstances where other people wish to be heard and they are not here, that we just have the testimony recorded as a matter for the Committee's review.

DR. HILBERT: And again, I have this written testimony--

ASSEMBLYMAN McENROE: (interrupting) It is on the behalf of whom?

DR. HILBERT: Dr. Stephen Stoldt, Chairman of the Rockaway Township Environmental Commission.

ASSEMBLYMAN ZECKER: Excuse me, Mr. Chairman. Before he begins--

ASSEMBLYMAN McENROE: Mr. Zecker.

ASSEMBLYMAN ZECKER: Dr. Hilbert, you don't have Resist's phone number or address on the information you have given us.

DR. HILBERT: I'm sorry.

ASSEMBLYMAN ZECKER: You have covered a lot of ground; you have covered it very quickly; and you bring up a lot of concerns. I am going to have to read this over one or two times. You have used words in here that I have never heard of before, to be honest with you.

DR. HILBERT: I'm sorry. I will give you my address and phone number, and I would be happy to give you more information, if you would like it. The address is 125 Erie Avenue, Rockaway, New Jersey 07866. The phone number is 201-625-9147.

ASSEMBLYMAN ZECKER: Thank you.

ASSEMBLYMAN McENROE: Before you continue with Dr. Stoldt's testimony, I do have some questions. Mr. Zecker, are you satisfied?

ASSEMBLYMAN ZECKER: The testimony has generated more questions than it has answered, obviously. I would just like you to know, Dr. Hilbert, I'm the father of a ten year old child, an eight year old, and a seven year old, and I have no desire at all to endanger their future in the State of New Jersey. What I would like to do, Mr. Chairman, is to have Dr. Hilbert's testimony referred to the DEP, and I would like some answers from the DEP concerning the very salient points that he brings up. I'm sure there are two sides to the argument; your arguments are very convincing and I would like them addressed by the experts in the field at DEP. I will be giving you a call to ask you further questions and perhaps ask for additional information.

DR. HILBERT: I would just like to say one thing in that regard: At the last meeting of the DEP's Waste Management Advisory Committee, I was invited, along with Dr. Stoldt, to talk about the problem and many of the answers, as I have said, in terms of what the DEP said -- it might not be regulated -- come from that particular meeting.

ASSEMBLYMAN McENROE: I have a few questions for you. You referred to the legislation only addressing one technology. It is my understanding, as sponsor of the bill, that we don't impose any technology on any particular solid waste district, which would be the county. If there is a county that prefers to establish an environmentally acceptable sanitary landfill as a solution to its particular problem, that certainly is a matter allowed under the legislation.

DR. HILBERT: I would submit that no county in this State is probably anxious to construct a landfill because of the problems that have occurred with landfills. My thrust was that I did not see, in particular, any address being given to the source separation aspect of this.

ASSEMBLYMAN McENROE: That is very much a part of the intention of the legislation, and for the record, there are counties that are actively considering the establishment of a landfill as a part of their solution. In fact, we are holding a hearing one week from today in Salem County. It is the intention of that county's governing body to construct an acceptable landfill for the disposal of their waste.

You mentioned one point-- I just want to review this a few times. You began to refer to the DEP's regulation, then you backed away from regulations and called them guidelines. I submit to you that I agree that there are currently guidelines, and I would like to see some further regulations.

DR. HILBERT: Currently there are not even guidelines, to tell you the truth. They are proposed guidelines; they were first proposed over a year ago. I have heard several times from the DEP that they are going to be coming out with final guidelines, although they still have not come out as yet. And, as far as regulations, at least air quality regulations, they are not supposed to come out as air quality regulations.

ASSEMBLYMAN McENROE: Your comments and your statistics are dramatic. You do mention that the emissions from an energy facility could be double that of a comparable oil-fired boiler. That concerns me, because in my knowledge of how we develop electricity through our

public utilities, it is mostly done with either coal or oil-fired boilers. So you are submitting that as dramatic as the testimony is, your concern is regarding air emissions? Are you saying that we are presently subjecting our citizenry to half of those levels, by the placement of public utility generators around this State?

DR. HILBERT: First of all, I am not aware of any plans to construct new coal or oil-fired boilers; however, I think, there are plans to construct 20 garbage incinerators. The statistics that I gave are not my statistics; they are the DEP's statistics. They were first published in the Middlesex County Solid Waste News in December of 1982. They have been reprinted in the American Lung Association booklet, Throwing Away in New Jersey, and in Morris County's Resource Recovery Report in November and December of 1983.

ASSEMBLYMAN McENROE: My point is that if we are presently generating our electric energy by the use of oil-fired boilers, then currently in this State and in other states across the Nation, we are subjecting our citizenry to some levels of harmful--

DR. HILBERT: (interrupting) There will be some levels of particulates from any particular facility that is constructed. What I find most interesting about this, besides higher levels of particulates, is the different type of particulates that come from a garbage incinerator, because they are the small particulates. Many of the larger ones, which tend to come more from the coal or oil-fired boilers, are ones that will not be absorbed into your body -- they are ones that you will sneeze out, cough out, or whatever, and the chemicals that might be on them would not get into your system.

ASSEMBLYMAN McENROE: Your editorial comment on page three -- "If you like acid rain, you will love garbage incinerators" -- is dramatic and impressive. The other side of it is that 20 years from now, we could have a statewide slogan: "If you like garbage dumps, you will love New Jersey." That's what this legislation is all about.

DR. HILBERT: This legislation is directed, as you seem to say, either towards the landfill or to the incinerator.

As I mentioned, the recycling technology is improving all the time, and recycling technology can be implemented now. We are not limited to what you might call manual source separation. There are

automated plants which do the same sort of thing. I am not recommending one or the other, but I certainly have not seen any investigation of one or the other. We do not appear to have any good legal framework for widespread, mandatory curbside pickup source separation that includes industry. The point I am trying to make is that a lot more could be done in the State in that direction, since it is a safer direction to proceed in than either landfill or garbage incineration.

ASSEMBLYMAN McENROE: Just for the record, I'm the sponsor of legislation--

DR. HILBERT: (interrupting) I realize that.

ASSEMBLYMAN McENROE: (continuing) --that would require mandatory statewide source separation. It is, I think, an effort towards encouraging recycling to an even greater and more successful degree than we have at present.

The other comment I have is that certainly I have never heard-- I must address this point you made, that DEP seems to be pulling away from its commitment to recycling. In my experience, that's not supported by the facts or by their conduct.

The other comment regarding the potential for 20 energy recovery facilities being built around the State of New Jersey -- I was a member of the committee that published that report, and in our judgment, it would amount to about 4 energy resource recovery facilities.

DR. HILBERT: I'm referring to what is on the books right now, as far as each county's solid waste master plan. When you look at 22 districts' solid waste master plans, 20 out of the 22 have plans for garbage incineration.

ASSEMBLYMAN McENROE: There will be no intent to ever construct 20 to 22. Certainly, in any of our lifetimes, I don't think you would see more than 4 constructed in those areas that find themselves in the throes of the greatest crisis.

DR. HILBERT: I have a problem with that. Why then do have 20 solid waste master plans that say they are going to be constructed? That's what I don't understand.

ASSEMBLYMAN McENROE: I don't know that they have at this time.

We thank you very much for your testimony. We have your address. We will certainly avail ourselves of the opportunity to refer to you, and hopefully when we do conduct our public hearing, which will be directed at the basic question of air emissions and the quality of the air as it relates to energy recovery facilities, we would like to see you there to provide testimony.

DR. HILBERT: I intend to be there.

ASSEMBLYMAN McENROE: Thank you.

DR. HILBERT: Ok. I would like to read Dr. Stoldt's statement.

ASSEMBLYMAN McENROE: Dr. Stoldt's statement.

DR. HILBERT: It is entitled Air Pollution From Garbage Incinerators.

"What does the current New Jersey law do to protect you against air pollution from a garbage incinerator?

"What does the Department of Environmental Protection plan to do to improve this protection?

"Correct answer to either question: 'Almost nothing!'

"The New Jersey Air Pollution Standards for incinerators have not been revised in 15 years. They allow an incinerator to emit -- legally -- 5 to 10 times the weight of particulate pollutants that other combustion sources may emit. Incinerators are specifically excluded from existing standards that deal with air pollution from other burning processes. Yet, air pollution travels for many miles from incinerators.

"The DEP finally issued guidelines for garbage incinerators in 1983. These are not laws or regulations, and they have no power to force compliance. These guidelines:

"Still allow garbage incinerators to emit five times as much particulate pollution as other combustions sources - measured under the same conditions.

"Permit combustion to proceed for too short a time at too low a temperature, ensuring formation and emission of dioxins and many other toxic chemicals.

"Allow a pound of hydrochloric acid to be emitted for each

ton of garbage burned if the assumed pollution control equipment is operating at full efficiency, and ten times that amount when it is not operating.

"The Department of Environmental Protection's own published figures admit that, compared to coal and oil-fired boilers, garbage incinerators will emit:

"2 to 3 times as much particulates,

"10 to 12 times as much carbon monoxide,

"50 to 60 times as much lead, and

"12 to 150 times as much hydrochloric acid.

"Is this enough 'Protection' for your families and communities?"

ASSEMBLYMAN McENROE: Thank you very much.

For the record, is Dr. Stoldt's doctorate in chemistry also?

DR. HILBERT: His Ph. D. is in organic chemistry, and he has 15 years experience in combustion chemistry.

ASSEMBLYMAN McENROE: Thank you very much.

ASSEMBLYMAN ZECKER: Mr. Chairman. Will this correspondence also be referred to the DEP for comment?

ASSEMBLYMAN McENROE: Yes.

ASSEMBLYMAN ZECKER: I would want them to know that I am concerned with these types of statistics.

ASSEMBLYMAN McENROE: I understand that, and I share your concern. Thank you.

We will now hear from Mr. Rudy Stys, representing Public Service Electric and Gas. We don't want anyone to complain about their electric bill because Mr. Stys is here on another subject.

May I introduce my colleagues. Mr. Vainieri is on my right; Mr. Zecker is on my left.

RUDOLPH STYS: Thank you, Mr. Chairman.

My name is Rudolph Stys. I am vice president of System Planning at Public Service Electric and Gas. Public Service has been involved in discussions on potential resource recovery projects for many years now, and so we are familiar with the situation at hand.

PSE&G supports the development of resource recovery facilities within the State of New Jersey. PSE&G is fully aware of the

solid waste disposal problems presently facing this State. We believe that properly designed resource recovery is a viable solution to these problems. PSE&G is ready and willing to purchase the by-product, electric energy delivered from the resource recovery facilities, at a price that is fair, reasonable, and nondiscriminatory. We plan to arrange power purchase contracts with the various resource recovery developers so that both parties can derive a benefit from the by-product electricity which is produced in resource recovery plants. We will also consider active participation in resource recovery projects, provided that there is some benefit for our ratepayers and stockholders.

Bill A-1778 addresses the sources of funding for resource recovery projects. PSE&G is concerned that the value of the electricity produced in the proposed projects be appropriately handled in the economic considerations. The viability of a resource recovery facility should be judged on the true cost of refuse disposal. All revenue streams from the sale of electricity and materials should reflect their true value. The value of recoverable materials from the resource recovery facility is based on market conditions for these materials. The revenue stream from the sale of electricity should be based on the value of the electric energy purchased by the utility. This value is described by the utility as its avoided cost. With the revenue stream from the sales of electricity and recoverable materials based on their true value, the real cost of disposal of refuse can be determined.

The value of purchased electric energy by a utility has been addressed by the Public Utilities Regulatory Policies Act of 1978, the Federal Energy Regulatory Commission and the New Jersey Board of Public Utilities. The true measure of avoided cost on the PSE&G system has been developed in hearings regarding this regulation. The New Jersey Board of Public Utilities has ordered, and the Company is in fact paying, a 10 percent surcharge above avoided cost to eligible co-generators and other qualifying facilities.

At the true avoided cost pricing structure for electric energy produced by a resource recovery facility, the electric ratepayers would neither subsidize nor be subsidized by a resource

recovery facility. The electric ratepayers pay for the electric energy at a price that would have been incurred if the energy were not produced by the resource recovery facility, and therefore, in a true economic sense, the electric ratepayers are unaffected. We strongly believe that it would be inappropriate for the electric ratepayers to subsidize, through higher rates, any non-utility generation product, including resource recovery projects. To the extent there are subsidies, electric rate payers would be paying to lower the waste disposal rates of disposers who may or may not be in the electric service area. Subsidies would also result in electric customers supporting the rate of return provided to the developers of resource recovery facilities.

While the subject I have dealt with is very technical in nature, it is of vital importance to the electric ratepayers of PSE&G and should be properly addressed in future deliberations of methods of project funding.

Thank you for the opportunity to exchange our views on these subject. I would be glad to answer any questions which you might have.

ASSEMBLYMAN McENROE: Thank you, Mr. Stys.

Are there any questions from members of the Committee?
(negative response)

Before you leave, I just want to offer a thought. We certainly consider your testimony as important; you represent the largest utility in the State of New Jersey; and your comments relating to the concern you have for ratepayers is laudable. I will advise our own legislative staff of your concern. We will evaluate the comments you have made regarding cost to the electric ratepayer. We will advise the Office of the Public Advocate because they have a responsibility to become involved in the particular area of the legislation concerning the Board of Public Utilities, as they have a commitment to these kinds of concerns.

Prior to our consideration of the legislation, the Committee will address each of your questions. You can provide particular input at that time. We will have the value of your testimony to guide us.

Thank you very much, Mr. Stys, for appearing here today.

MR. STYS: Thank you.

ASSEMBLYMAN McENROE: Next we will have Madelyn Hoffman, representing Statewide Movement Opposing Killer Environment. Do you have prepared testimony, Ms. Hoffman?

MADELYN HOFFMAN: No I don't.

ASSEMBLYMAN McENROE: I would like to introduce the members of the Committee: Mr. Vainieri of Hudson County on my right and Mr. Zecker representing Passaic and Essex Counties on my left.

MS. HOFFMAN: My name is Madelyn Hoffman. I am the statewide coordinator of SMOKE, a coalition of community groups from all around New Jersey, who are faced with proposals to build garbage incinerators in their counties or in their areas. We represent, at this point, people in ten different New Jersey counties, who have said that we should not be building garbage incinerators and that the best course of action, right now, is to call a moratorium on it for a number of reasons. I will go into those reasons in a minute. Before I do, I would like to say also, that many members of SMOKE are extremely upset that this hearing is being held at 10:00 in the morning and on a weekday -- which also happens to be Holy Thursday -- at a time when many people cannot be here. If your goal is to have maximum input on this issue which concerns so many New Jersey residents, the schedule of the hearing does not allow for that. I know that you have received a letter from SMOKE to that effect requesting that a hearing on this matter be held in the evening.

People within SMOKE do not favor this bill at this time; they feel there should be a moratorium on the construction of garbage incinerators because, (1) there are no air pollution standards; (2) there are no siting criteria for garbage incinerators; (3) they will not eliminate the need for landfills; and (4) not enough money and time has been spent on establishing recycling programs, implementing them, creating markets, and so on.

On the issue of siting -- I want to give you a few examples of where these incinerators are currently proposed. The first one is here in the Ironbound section, on Blanchard Street, in Newark. The incinerator is proposed right next to a site that the State wants to put on the Superfund list because of contamination, and it is also near where the highest levels of dioxin in the country were announced last

summer. In Manville, in Somerset County, an incinerator is proposed for the factory that Johns-Manville used -- where many people in the area were exposed to asbestos particles. There are approximately two thousand residents of Manville who have filed suit to get compensation for their exposure to asbestos. People here have already suffered enough with their lungs and their breathing from air pollution sources in the past. There is also a garbage incinerator proposed for Trenton, half a mile or less from an elementary school, in the middle of a residential neighborhood. In Deptford, New Jersey there is a proposal to put an incinerator right on top of the Kingsley Landfill which has been operating there for many years and which has been a constant nuisance to people of the area. In East Brunswick one is proposed, also right on top of a landfill that has had suspected illegal dumping of hazardous wastes; there are some investigations going on at this time. There is a proposal for one on the land adjacent to Hamm's Landfill in Sussex County. Residents there have been fighting for many years because of the nuisance created by that landfill. And, the list goes on. There is one proposed for Lyndhurst or Ridgefield, in Bergen County, in the middle of a very densely populated area, already heavily polluted. There is also one proposed for Rahway. Within a circle of northern New Jersey you might have four or five garbage incinerators built very close to each other -- all in the middle of this very densely populated area that has already been saturated with chemical companies and air pollution. At this time there is no siting criteria anywhere in this State to prevent that.

There are no air pollution standards, as I said before. The guidelines that are on the books are totally inadequate. We have testified at hearings about them and explained why we thought they were totally inadequate. Dr. Hilbert mentioned some of the specifics and some of the technical aspects; I won't do that right now.

In addition to some of the things Dr. Hilbert mentioned, there is the whole problem of toxics being brought to garbage incinerators both legally by small generators and possibly illegally -- we all know the history of dumping in landfills in this State, and we know there have been a number of congressional investigations conducted about suspected illegal dumping of this stuff. There is no reason to

think that will stop just because we are building incinerators instead of dumping it into the ground.

These incinerators are not all designed to deal with the toxic materials that will be brought in there, either illegally or legally. We know there will be a certain amount of toxic materials brought there legally; we have no protection from that.

I would like to emphasize again, that I think it is totally wrong to suggest that building these garbage incinerators will be a solution to our problem with landfills. As I have said already, many of those that are proposed would be built right on top of existing and operating landfills. About 30 percent of the garbage will have to go to the landfill as ash. An additional 20 percent of the garbage, which cannot be burned, will be brought directly to a landfill and never brought to an incinerator.

What we are doing, if we pass this bill, is giving approval for the construction of numerous garbage incinerators around the State. This will be very expensive and will cause tremendous air pollution, and we're asking the citizens of the State to pay for it through higher disposal fees, taxes, etc. It is our feeling, as members of SMOKE who are fighting currently proposed incinerators -- and some of us have also fought landfills in the past -- that we have paid enough. We have paid enough with our health, and we have paid enough through high fees. We have paid enough through ground-water contamination, and we don't want to have to pay for things which are extremely costly and which are going to cause us air pollution that we are going to be subjected to for the next 30 or 40 years.

If the other part of your bill is adopted, which is that part which allows for privatization and entrance of long-term contracts-- The way we have seen this work in other states is that these long-term contracts are for 30 to 40 years, and they are put-up or pay contracts, which means that if the municipality, county, or district does not supply enough garbage to those incinerators for that time period, that district will have to suffer a severe financial penalty. That locks us into this technology and also serves as a disincentive to recycling as much as is possible.

Let me give you a number of examples. In Woodbury, New Jersey, residents are already recycling 55 percent of their waste and they are not finished. In Wilton, New Hampshire, people are recycling close to 70 percent of their waste. This is possible, if the time, the energy, and the money are used and spent to develop these kinds of programs. The technology exists and the markets could exist -- if this is what the State were committed to doing instead of throwing the money away on garbage incinerators. We submit that if this goes through, none of that will ever happen. That kind of research, that kind of money, and that kind of allocation of resources should happen first, before we find ourselves locked into this technology that is going to cause us all these problems for years to come.

In addition to recycling paper, aluminum, and glass, we can recycle batteries, metals, waste oil, and plastics. Materials can be composted. There is a shortage of earth in the Midwest; if we compost a lot of what we have, we can ship that out to the Midwest and help preserve the soil. There are a lot of very good things we could do if we were looking at the garbage problem from the standpoint of how much can be recycled, as well as how we can create markets if they don't exist, and how we can deal with it instead of throwing money away on the construction of garbage incinerators around the State.

Thank you.

ASSEMBLYMAN McENROE: Thank you very much.

This bill, as I am sure you are aware, was not written in a short period of time. All the major concerns relating to orderly disposal of our wastes were considered. The concept of a new direction in funding solid waste management was being considered prior to the introduction of the bill that funds the Recycling Act, but it was held off because recycling remains such an important part of the orderly overall proper management of solid waste in a State like New Jersey. I don't think that we are backing off from our commitment to recycling. This is a new concern that is being addressed by many people in the public sector, and I recognize that. I assure you that there is no intent on any responsible legislator's part to back away from a continuing interest in recycling.

MS. HOFFMAN: All I am saying is that if these incinerators are constructed with the long-term contracts which have been in existence elsewhere, that all efforts towards going beyond a small amount of recycling will never happen. The State has set a goal of 25 percent recycling by 1987. We are now currently recycling 5, 6 or 7 percent of what we have to recycle. If we go for these incinerators, we are not going to achieve the kind of recycling that is possible. One reason, as Dr. Hilbert referred to before, is that one of the prime sources of fuel for incinerators is paper. If we take all the paper out of the waste stream, the people who operate the incinerators may not have to look somewhere else for fuel. We are talking about two things that don't exist side by side in a nice way that a lot of people would like to think they do. They exist directly in tension with each other.

ASSEMBLYMAN McENROE: I don't have an engineering or scientific background, but the point you are making is certainly under challenge, as far as removing paper or not reducing the intensity of the operation. I'm not sure that statement is a correct one.

MS. HOFFMAN: You can recycle plastics which are one of the primary sources of dioxin and combustion, and so far no one has taken steps to accomplish that. There are many things beyond the 10 to 15 percent of the waste stream that can be recycled, if the time was spent on figuring how that could be done and if the commitment was there.

ASSEMBLYMAN McENROE: I share your concern and your disappointment. I likewise am concerned with the percentage of items being recycled, particularly in our urban areas, such as Hudson and Essex Counties. It is something we are conscientiously working on, educating the public as to the requirements of living in an environmentally-sound State. All the comments you have made are matters under consideration by this Committee. You have outlined your concerns very well. I understand them and I really admire your participation; I compliment you in your involvement in all of this. None of these decisions are being made in a vacuum. We are addressing the overall statewide problem.

MS. HOFFMAN: I think that it was important that this type of comment be made about where exactly these incinerators are proposed and

the kinds of areas that might be hosts for these facilities. We are talking about a statewide problem that has been created over the last 20 years based on-- landfills were once a state-of-the-art technology. We're not talking about what might be nice. What you are calling resource recovery facilities are just garbage incinerators, and that is all there is to it. This is the kind of impact that will be felt by the communities, if they are built.

ASSEMBLYMAN McENROE: Thank you very much. We are again reviewing the legislation very carefully.

We will now hear from Mr. Art Rosa.

ART ROSA: Good afternoon. I am Art Rosa, and I live in the Ironbound section of Newark with my wife and five children. I am also a businessman who currently employs 45 people in the City of Newark and over 100 people throughout the State of New Jersey. I mention this because our particular business is constantly in contact with the people that it is serving, and I think there are very few other businesses in the area who have such contact with the people living both in the City of Newark and the surrounding areas. Their concerns, be it from obtaining a permit to what affects them as far as their health, is normally geared through our office because many of them have a language barrier. I am proud to be part of this community. We have a message that has been constantly related to us, and that is, we do not want this garbage incinerator in our community. The reasons are many, and we have heard many alternatives, as mentioned earlier, for a different solution, which the 65,000 residents of the Ironbound section and the tens of thousands of others that work here on a daily basis feel is safer for their health and more beneficial to their community and their children.

You probably have heard of our community; I know that the State and the City of Newark have proudly shown this community throughout the United States -- pointing out our restaurants, the low crime and the pride the people have taken in this community. We have been focused throughout the United States. However, there is another side to the Ironbound section; that is, any time any group or State official wants to dump their garbage, it is usually dumped in the Ironbound section.

ASSEMBLYMAN McENROE: (interrupting) I just want to make one comment, as Chairman of the Committee. The bill in no way addresses the question of where a facility should be sited in a particular county. I certainly am interested in your comments, as a public official representing this county, but I do just want to admonish you that this is a question of importance to every citizen of our State. This bill attempts to establish a framework for the development of solid waste management in a more acceptable way. Your particular concern with the possibility of siting the facility in the East Ward of the City of Newark is understandable. The Board of Freeholders and the Solid Waste Advisory Council in this county are all a part of that determination. Your point to us is important, but it is really a bit off the subject of the legislation. However, I want you to proceed.

MR. ROSA: (continuing) I guess the message that we are trying to bring here to you, as the lawmakers -- the people that represent the citizens of the State of New Jersey -- is that we wanted to show you the human-side of this bill. The people are, in fact, very angry; their emotions have been expressed at meeting after meeting, at which representatives of the County have been present, and they have overwhelmingly rejected this incinerator. This is directly affecting them because you are discussing the funding that might put a generator in this area. However, I'm not here just representing myself; I'm here representing many groups and among them the Portuguese people of the City of Newark, who comprise the great majority of the citizens. They are very angry. We fear violence. We fear that if our message is not heard, they have had enough. I urge you to consider the consequences, and I urge you to consider the fact that we are already known throughout the country as "Cancer Alley." If nothing else, if other counties have rejected this incinerator because it is going to kill trees, consider the fact that we are human. We must live. We built this neighborhood, we have our families here, and we intend to stay here. In my case, we're good employers, and we feel that we too have the right to say what we feel regarding this bill, and I'm trying to relate to you the human aspect of it. I urge you to study this in more detail. Study the consequences of the humans living in this neighborhood before you fund this project. Thank you.

ASSEMBLYMAN McENROE: Thank you very much, Mr. Rosa.

Are there any questions from members of the Committee?
(negative response)

We now have Mr. David Stadle of Jersey Central Power and Light Company. Mr. Stadle, I am Assemblyman McEnroe. On my right is Assemblyman Vainieri, and Assemblyman Zecker is my left.

DAVID SHADLE: Good afternoon, Mr. Chairman and Honorable Assemblymen. My name is David Shadle. I am the environmental licensing manager for Jersey Central Power and Light Company. Speaking on behalf of JCP&L, I would like to thank the Assembly County Government and Regional Authorities Committee for providing JCP&L the opportunity to present this summary of our comments on A-1778. We will subsequently be submitting additional written testimony. I believe you have copies of my testimony at this time.

I would like to note that JCP&L is not presently directly involved in the resource recovery business. However, we are very interested in the welfare and economy of New Jersey, and we have maintained and continued to believe that a statewide program for resource recovery, in its varied forms, is in the best interests of New Jersey. Additionally, JCP&L is always interested in potential sources from which we may purchase competitively priced electric energy. It is from this perspective that we offer the following comments.

During the generic hearings held by the BPU, about six months ago, JCP&L identified a number of major issues which we felt must be addressed in order for resource recovery to gain a long overdue foothold in New Jersey. We are encouraged and pleased to say that Assembly Bill 1778 incorporates a number of these issues. JCP&L had testified, and a number of other industrial firms agreed, that several changes must transpire in order to reduce the perceived risks and uncertainties of resource recovery in New Jersey. First, we indicated that a resource recovery facility must have a guaranteed waste stream. Recognition of a solid waste management district's exclusive franchise rights, which is implicit in A-1778, and the district's right to subfranchise should help to alleviate uncertainty in this area. Additionally, this bill should encourage, through natural market forces, joint action by two or more districts to combine their franchise areas for greater flexibility and economies of scale. JCP&L

strongly encourages such a regional approach for this capital intensive industry.

During the generic hearings last August, JCP&L also supported measures which would ensure adequate disposal and tipping fees. The provisions of A-1778, which permit districts to enter into competitive contracts without restrictive rates of return, should satisfy this uncertainty. The tax provisions of this measure will further ensure that the required disposal fees can be obtained without causing tipping fee "rate shock."

Importantly, the fees required to actively sustain resource recovery facilities will be attained without artificially increasing the price of their energy output, which in many cases will be in the form of electricity. Consequently, the solid waste industry will, in no way, be subsidized at the expense of electric utility or other utility customers. We believe it would be inequitable any other way. Finally, JCP&L previously commented that the resource recovery industry should be organized to enhance the market for the industry's energy output, if that is the product they choose.

The tax provisions of this bill, as well as the unregulated rates of return, should resolve the problem of finding an energy customer. These provisions will allow facilities to recover more of their costs through tipping fees, thus allowing for competitively priced energy. Such competitively priced energy -- which for utilities should be no greater than avoided cost -- either on a near term or a levelized basis, is the best way to ensure an adequate market. In addition, for maximum flexibility, JCP&L encourages the production of electricity as the energy product for resource recovery facilities.

We will, of course, also fully evaluate opportunities to purchase steam; however, this mode of energy purchase will be much more difficult to arrange, and it is much less flexible.

Due to the solid waste crisis which exists in New Jersey today, it is no longer a question of whether we need resource recovery; rather, the question is how can we promptly and effectively implement resource recovery. Consequently, we would like to offer the following comments and recommendations which we believe will accelerate the implementation of an effective resource recovery industry. Adoption of

this bill is in the best interest of this State and should occur as rapidly as possible. Uncertainties with regard to the status of the bill will only discourage movement on resource recovery by investors and developers. Accordingly, we recommend continuation of this expedited hearing process. We believe that the planning of resource recovery facilities on a regional basis, that may transcend county lines, should be encouraged whenever possible.

Based on our experience with coal-fired boilers, which are technologically similar to resource recovery boilers, JCP&L can provide cost figures which illustrate the economies-of-scale associated with larger sized regional resource recovery facilities, and the result in favorable tipping fees and energy pricing.

The centralized approach will result in the optimum use of economic, administrative, technical, and environmental resources, and consequently will improve the certainty of resource recovery as a long-term investment and minimize the cost of solid waste disposal to the public. Although we do not have any specific suggestions at this time, measures to minimize the bureaucratic requirements associated with administering the bill's tax collection measures, should be pursued. Complicated administrative procedures may divert moneys from their intended purpose, which is the subsidized resource recovery in its early years.

Section 3b.-1 of the bill exempts waste products from the operation of a resource recovery facility from the resource recovery investment tax. We believe that unburnable and economically recyclable wastes from other processes should also be exempted. This would include, for example, all combustion by-products and air pollution control residues, in addition to certain household and industrial wastes. Such an exemption would encourage the safe and environmentally-sound disposal of unburnable wastes.

Section 15c.-3 allows a district to use its Resource Recovery Investment Tax Fund for an interim or long-term, environmentally-sound landfill. The construction of an interim or long-term landfill could impede the progress towards building a resource recovery facility in a particular district. Accordingly, we believe strict controls should be enacted to limit such occurrences to the necessary minimum upon adoption of this bill.

In addition, as written the Resource Recovery Investment Tax could be used for a long-term landfill if resource recovery proves to be infeasible in a specific district. Since resource recovery is a more environmentally-sound method for waste disposal as compared to landfilling, these districts should also be encouraged to investigate the opportunities for an interdistrict resource recovery facility.

Once again, I would like to emphasize JCP&L'S encouragement and support regarding the process and coordinated planning that this bill demonstrates in helping to solve one of the State's most perplexing problems. We are also pleased to see the Department of Environmental Protection's involvement in this area. If JCP&L can provide any further input regarding this important undertaking, we would welcome the opportunity. I thank you.

ASSEMBLYMAN McENROE: Thank you very much. I appreciate your comments. I will state, for the record, that Jersey Central Power and Light has been very much involved in deliberations regarding solid waste management in New Jersey, and their interest is appreciated.

Are there any questions for Mr. Shadle? (negative response)

Thank you very much.

I would like to call on Margaret Holloway. She has been a strong voice on behalf of the County of Hudson and particularly the Town of Kearny. She has been involved as a concerned public citizen for a long time regarding solid waste.

MARGARET HOLLOWAY: I have been involved in the solid waste problem in the Town of Kearny, in the State of New Jersey, for at least 20 years and have watched my Town of Kearny in Hudson County be destroyed by garbage. We have three mountains that form a cup. There is no air. There is no day that goes by that there aren't garbage trucks flying in and out every second.

We have a picture here that shows all the hazardous areas of the State of New Jersey. We also have this, and it says Bayonne, Harrison, Kearny, Newark, Belleville, and Nutley. We are right in the middle of it. We do not have as large a population as the Ironbound section, but I have relatives who have lived there for years -- I still have a brother who lives there -- and I live right opposite the Ironbound area. When they have a problem with chemical pollution and

everything, it blows right into our yard, into our county playground, and therefore, I know what this problem will do to us if it is done in the haphazard way that it was done on the landfill of 1A, 1C, and 1D (referring to picture). This is my Town of Kearny, this circle. There are four mountains of garbage here. Now there is a plan to put a solid waste incinerator plant in the town next to us, which lies on the border of our Town of Kearny. It lies on the border of Hudson County in the Jersey City area, and it borders on the Ironbound section; we are all in this gully.

We want to get rid of the garbage. But, until there are proper designated facilities-- We know there are 22 municipalities in Essex County. We know that the HMDC and the DEP did do a study to find areas to put the hundred thousand tons of Essex County garbage into Essex County. But, through finagling of laws somehow, it didn't happen; it was still pushed into Kearny -- because Essex County is going to do billions and billions more dollars of development. So, this to me, is saying the hell with Kearny, the Ironbound section, North Arlington, and the Hudson County area that borders on these dump sites.

If that incinerator is put into our Ironbound section, which I am opposite of -- which I breathe in whenever their chemical is blowing, the same as the chemicals in my town -- all three of our areas of very dense population will be strangled. Even though the DEP has regulations that this must be done for the dumping, this must be done for that, etc., it doesn't matter because it is never abided by. Their regulations come out after every construction is finished. That's not what we need. We feel that there is enough area-- Now I'm talking about the siting because this must be brought in for you to understand before you go any further with the incineration situation. There is ample room in Essex County, in the northern part. I studied the map carefully with an awful lot of people. It is in the vast area where there are palatial homes, beautiful grounds, and vast open space for each home area. There is room there. The study has been made. I have a copy of that study. If the incinerator is put within that area of North Arlington, Lyndhurst, the Ironbound section, or Kearny, you are going to destroy the people in our area -- the little people who are

paying every bill for everything that the State does. It's not the millionaires who are paying for all these things; we, the little people, are struggling to survive so that we can have our lives in our poor little communities protected. If this bill is going to be passed, the people planning it are going to say, "Thank God the bill is passed, now we can go ahead with it, and we will definitely put it in the Ironbound section with their vast population of poor people, in the town of Kearny and North Arlington which are also full of poor people." You will not even think of saying, "Let's put it up in the other area where there is vast open space." As I said, we studied that map carefully. There are vast open spaces, and as was said at the last meeting of the Advisory Council, there is plenty of room in areas that the government owns that will never be developed.

I do know that something has to be done with the garbage. In 1974 I put a letter on the Assemblymen and Senators' desks -- every one of them -- requesting, at that time, a mandatory bill to recycle at the source immediately. Nobody wanted to listen to it because the 5,000 garbage operators in the State of New Jersey, who had formed a 500 group conglomerate -- with money that would pay for everything in this country, I think -- blocked it. The Public Utilities Commission also had a hand in it at that time. At a hearing then at Kean College, the garbage operators, who were there in swarms, said they would be losing moneys, so the Public Utilities Commission said, "Then we can't do that." The Public Utilities Commission said that the garbage operators must be able to make their well-earned living, regardless of what it would do to municipalities like my own.

Therefore, if you people are thinking of the resource recovery, I think as the doctor has said, every environmental condition must be completely studied -- not just half way. A lot of times the DEP doesn't even listen. Mr. Pereira said that if the HMDC and George Casino say, "No more garbage is to come in there, we'll stop." George Casino said to me, "They're lying." So, we don't know who to believe, but we know that the garbage contractors are controlling the ball game. I feel that there is too much money given out at election time to all kinds of people. There are an awful lot of people who need that money to be elected. Maybe I'm wrong -- I don't know. But, what else

is controlling it to this kind of a point? If that incinerator is going to be built, we would like to know where there is one that is working and how long it has been working. We would like to have members from the Ironbound section, Kearny, the North Arlington area, and Hudson County all go and tour that as they just toured Maryland's food plant. I was asked to sit in on their meetings; it's going to be a beautiful thing if it is done. Until all us go out there by bus -- or whatever the State can give us money to do -- and to see it firsthand, to look at their books, to check their records to see their financing, to check how the environment is, and to check the pollution standards that were abided by -- and to check what is very wrong there and what has to be changed. Until then, I don't think we should even think of this -- until all this is found out by you, Mr. McEnroe, and by every Assemblyman and Senator who is going to be involved in this.

I'll tell you one thing that I am very concerned about and I told Mr. Shapiro. I said, "Mr. Shapiro, Essex County has the most people sitting on any legislative thing; they have the largest number, according to the Index that I looked at. So therefore, we would have a hell of a job trying to protect ourselves." That is another thing which concerns me. If this is going to ever happen, I would like to be sure that you are going to listen to everyone of us here who want to protect our future and protect it right, because in my town now it has gone straight to the "hot place," because of the HMDC and the privileges that they have, which the State is allowing. The Public Advocate -- I don't know if you have someone sitting here from there -- said to me, "Mrs. Holloway, we can't help a group; we can only help an individual." Well then, darn it, I'm going to go and let him help me try to settle the darn garbage problem.

You have to think of everything I'm telling you, and I can only tell you in my own words. I'm not a college graduate. Please, as these people stated, look into every inch of everything and let us go see a place that is working, to check out their records, to check out the health situation, and to check out the air pollution and water situation. I will guarantee you that it is not in a closely-knit, home-living area. Please, this is my plea for my Town of Kearny, for the Ironbound section, for North Arlington, and for every man, woman,

and child in the State of New Jersey, who has to face this problem. Don't let any garbage operators or the Public Utilities Commission interfere when we might get to a point where we -- the people -- will be protected. I thank you for letting me sit here and tell you my view for our people. Thank you. (applause)

ASSEMBLYMAN McENROE: I appreciate very much, not only your comments today, but your long involvement on behalf of the citizenry regarding this important question.

MRS. HOLLOWAY: It is so important.

ASSEMBLYMAN McENROE: All the questions you raised are of genuine importance, I'm sure, to every member of the legislature. It is our role and our responsibility to provide them with the kind of information you have given us today.

MRS. HOLLOWAY: This is why this must be looked into thoroughly with a fine-toothed comb. Every one of us here must know that you people are going to come back to us and have us sit down and go over it thoroughly again, and not just dump it into the boiling pot and take us with you.

ASSEMBLYMAN McENROE: We are planning an additional hearing regarding air emissions and the quality of the environment in an area where any of these facilities would be located.

MRS. HOLLOWAY: As you know, to feed a public service utilities company, you will have to have a continuous flow of garbage 24 hours a day. You will have to have a complex that will store enough garbage for a two or three-week time -- in case of breakdowns or strikes. There are too many things here to look at for us to just go and vote on the bill. We want all these details first given to us so that we know that every measure is done; otherwise, forget it.

ASSEMBLYMAN McENROE: All those questions, hopefully, will be addressed.

MRS. HOLLOWAY: Thank you.

ASSEMBLYMAN McENROE: Mr. Vainieri, Assemblyman from Hudson County.

ASSEMBLYMAN VAINIERI: Through the Chair, I would like to thank Mrs. Holloway for being here this afternoon. I happen to be one of your legislators who represent the Township of Kearny, and I know

that the other five Assemblymen in Hudson and the three State senators also share your views. Although the bill that Assemblyman McEnroe has been sponsoring, that I have cosponsored, maintains that we have to do something with our garbage and with resource recovery, your complaint is mainly about the site where we are going to put the incinerator plant. I know that is a very difficult and delicate question. Mrs. Holloway, I would like to tell you that I introduced in the Assembly -- before we adjourned -- a resolution also complaining about the site that they contemplate on putting in the Township of Lyndhurst. I don't know if you are aware of this or not, but I think that the Chief Executive of that municipality is in favor of that site to be put in his own town.

MRS. HOLLOWAY: We know that. He did not even discuss it with his people.

ASSEMBLYMAN VAINIERI: Right. So you see, we are facing many obstacles. We have to satisfy everyone, but I am sure that this Committee will keep your thoughts in mind. Our main concern right now is how we are going to dispose of the garbage, not where the site is going to be. No one wants it in his own back yard; I agree with you.

MRS. HOLLOWAY: Right. We have had 55 years of it. I think even from that date to 1987, the HMDC should have found a spot in one of the 13 areas in the upper part of New Jersey, where we toured. There are no people living there; there is nothing there, and yet Essex County says no. We -- a little town of nine and a half square miles -- have gotten one hundred thousand tons of garbage for years from Essex County. Is that justice? I think that is criminal. I think we should sue Essex County and Mr. Shapiro. Thank you.

ASSEMBLYMAN McENROE: Thank you very much.

The disposal of Essex County's waste in Hudson is by decree of the courts, as I am sure you are aware.

MRS. HOLLOWAY: I know it is, but let me tell you what happened. It was done by an Essex County judge in Essex County, and we demanded it to be done elsewhere by a different judge. I think our rights were taken away from us again on that point, Sir. Thank you.

ASSEMBLYMAN McENROE: Thank you very much.

We would like to hear now from Mr. Frank Brill of the National Solid Waste Management Association. In view of Mrs. Holloway's comments, Mr. Brill, we would like to have your testimony, representing the collectors and haulers within the solid waste industry.

ASSEMBLYMAN ZECKER: Excuse me, Mr. Chairman.

ASSEMBLYMAN McENROE: Mr. Zecker.

ASSEMBLYMAN ZECKER: As I have just told you on the side, the unfortunate thing is that we don't know how to time ourselves for these committee meetings, and I do have a meeting with the Passiac Valley Water Commission this afternoon with legislators from that area. I just want the public to be made aware of the fact that we do get a transcript of the records, and I will be made aware of the input. And also, Mrs. Holloway, I have been in six elections and I never was given a campaign donation by any garbage contractors, so I am certainly not influenced by the group, but I'm not soliciting from them either.

MRS. HOLLOWAY: I know that. These are the rumors that go around by various influential people. I don't know their names, but they come to me.

ASSEMBLYMAN ZECKER: From what you have said, I think they are giving all their money to the Kearny people who are running for office. They certainly leave me alone.

MRS. HOLLOWAY: They are not giving it to the Kearny people.

ASSEMBLYMAN ZECKER: Mr. Chairman, again I apologize, but I think you understand the problems that we sometimes have.

ASSEMBLYMAN McENROE: Thank you very much, Mr. Zecker.

Where I live I can't even contact the contractor; he won't return my calls.

Mr. Brill.

FRANK BRILL: Thank you, Mr. Chairman. I don't necessarily thank you for scheduling me after Mrs. Holloway; she is a tough act to follow. I probably should be joining Mr. Zecker in adjourning right now.

My name is Frank Brill, and I represent the New Jersey Chapter of the National Solid Waste Management Association (NSWMA).

The Association's membership includes companies involved in all aspects of solid and hazardous waste collection and disposal,

including two national companies -- Browning Ferris Industries and Signal RESCO, Inc. -- which are at the forefront of resource recovery development in this State.

NSWMA has consistently supported resource recovery as an integral part of planned, environmentally-sound and economically-efficient solid waste management. We are pleased to see that A-1778 not only attempts to expedite the development of resource recovery in our State, but also recognizes the need to construct and maintain sanitary landfills. The bill would provide financing for landfills used as precursors to resource recovery facilities, as back-ups to the plants we hope to see in operation in the next few years, and also as long-term alternatives in areas of the State where resource recovery is not feasible, as the Chairman mentioned earlier.

NSWMA believes that the only way to avoid the solid waste disposal crisis which threatens our State because of disappearing landfill capacity is to work diligently to implement resource recovery and to expand existing landfills and establish new land-disposal facilities where geologic conditions, state-of-the-art engineering and the strictest regulatory control will ensure safe operations.

For many years the topic of waste-to-energy conversion prompted many interesting discussions, industry seminars, and newspaper stories in New Jersey, but very little action. Now a few counties have had the foresight and political courage to go beyond all the talk, have started to deal with the tough question of facility siting, and are negotiating with private developers over construction and operation of waste plants.

A-1778 is designed to help solid waste management districts implement resource recovery by offering a more flexible framework for rate regulation. It also institutes disposal taxes with a twofold purpose: Closing the gap between low landfill and high resource recovery disposal rates, and providing funds to subsidize resource recovery construction.

I must say that NSWMA has always been skeptical of legislative solutions which are based on manipulation of the free market. Nonetheless, free-market economics have not been permitted in New Jersey solid waste disposal for many years. Instead, the BPU's

severe rate restrictions have resulted in disposal fees so artificially low that resource recovery development has been discouraged and New Jersey has become a dumping ground for neighboring states. Still, we question whether the solution lies in the new taxes proposed in this bill -- yet another effort to control the free market.

Putting aside our philosophical objections, however, and reserving, for the moment, some serious questions about parts of the bills as currently drafted, NSWMA finds a number of good provisions in the legislation, evidence that bill drafters were careful to anticipate problems which the legislators otherwise might have provoked.

Some examples of those sections are, in the order of their appearance:

Section 3e. provides a temporary exemption from the new taxes for haulers under contract with Federal installations. This is only fair since the hauler otherwise would be required to pay the tax out of his own pocket for the duration of the existing contract. That is a situation that did develop after the recycling and closure taxes were passed a few years ago.

Sections 9 and 10 establish a mechanism enabling landfill operators and haulers to pass through the new taxes to the commercial and residential waste generators. This automatic pass through acknowledges the bureaucratic and economic nightmare that hauling and disposal companies face every time they seek a rate adjustment under the antiquated system of economic regulation imposed by the Board of Public Utilities.

Section 15c.-3 recognizes the indisputable fact that New Jersey's waste cannot be disposed of through resource recovery alone. This section of the bill permits counties to use investment tax funds to develop and operate sanitary landfills. Since a portion of the waste stream cannot be processed through incineration, there always will be a need for landfills as an adjunct to resource recovery plants. DEP planners also wisely acknowledge in this provision that landfills may be necessary on a long-term basis in areas of the State where resource recovery is not feasible.

We are pleased with the second half of the bill which helps remove a number of impediments to private-sector financing of resource

recovery facilities. The Department has spent hours in discussions with investment houses and facility developers trying to learn why resource recovery -- an established technology in many other states -- has never been tried in New Jersey. It learned that one of the chief obstacles is the inflexible system of BPU economic regulation to which the solid waste industry is currently subject. This bill provides an alternative to the BPU's rate base/rate of return regulation through long-term contracts and designated franchise areas. We fully support these provisions.

As I said earlier, we have reservations about other areas of the bill.

First, we object to the concept of using solid waste haulers and landfill operators as State tax collectors. In recent years, the industry has been burdened with the collection and, in some cases, the escrowing and auditing of taxes for recycling, landfill closure and the cleanup of abandoned sites. Passing these new taxes through to waste customers sounds straightforward in bill form, but it has caused many unanticipated accounting and billing problems for our members and hostility by our customers.

Turning, specifically, to the investment and services taxes created by this bill, we offer the following:

The use of the Investment Tax Fund as a subsidy to cushion the shock of high resource recovery tipping fees is a proposal with merit. We propose, however, that Section 15b.-1 be clarified to guarantee resource recovery tipping fee subsidies to all disposers. Our concern is that districts might be tempted to use the fund only in the form of grants to municipalities which provide their own waste collection services. This, of course, would be unfair to residents and businesses in towns without municipally-financed waste collections. These customers would be subject to the new taxes, but would receive no subsidy in return.

In contrast to the investment tax, we see little benefit to be derived from the proposed services tax. Half of this amount would constitute a dedicated fund underwriting DEP's solid waste budget. NSWMA has always believed that departmental spending should be subject to legislative review through the normal budget process. If, however,

this Committee is not troubled by the loss of such authority, we would suggest that you make two clarifications. First Section 13.a-2 permits DEP to use the Services Tax Fund for "reviewing the economic aspects of solid waste management." This phrase is so broad as to be virtually meaningless. We would like to know specifically what the Department has in mind. Also, the Department should be bound by the same two percent "cap" for administering the services tax as is imposed on the district's use of the Investment Tax Funds in Section 15c.-4.

Our most serious concern is for the use by the 21 counties and the Hackensack Meadowlands District of the \$7 million which the Department projects the Services Fund will raise in the first year alone. Section 13.b-4 states that these funds will be used by the districts to prepare, revise, and implement solid waste management plans. It is our understanding that money needed for solid waste planning at the district level has already been spent for the most part. Do the districts really need new planning money? We doubt it.

It is interesting to note that several of the districts with the most established and sophisticated solid waste plans -- those already well on their way to implementing resource recovery -- will receive some of the largest shares of this Fund. Bergen and Essex, for example, will each receive almost three-quarters of a million dollars in the first year. That may be good news for county consultants and engineers, but we do not think it is good news for taxpayers.

To summarize:

1. NSWMA fully supports the second half of the bill dealing with regulatory flexibility in establishing contractual rates.
2. We are much less enthusiastic about the first half which adds two new taxes to an industry which already is collecting and processing State taxes for recycling, closure and cleanups.
3. District use of the proposed investment tax to subsidize resource recovery tipping fees is a good idea if those subsidies are guaranteed to all disposers.
4. The Services Tax provides an unjustified windfall to the districts and an unregulated subsidy to DEP. We believe it should be rejected.

Thank you.

ASSEMBLYMAN McENROE: Thank you very much, Mr. Brill. We appreciate your testimony. It was well prepared. It does raise questions that are legitimate concerns of the industry, and I share your interest particularly in the area of tax collection. I wonder just how well the industry is auditing the collection of land closure fees and recycling tax moneys. That does concern me. This would mean substantially more revenue being raised through the offices of the collectors, and I wonder if we could not find a better mechanism. It is a matter that we will be reviewing, if not in this particular bill, it can be addressed in another bill. The accounting procedures and how the money is appropriated to the Department of Environmental Protection is another matter of genuine interest, and your testimony is well written and raises substantial questions that we will address carefully before the bill is finalized.

Mr. Vainieri, do you have any questions? (negative response)

Thank you very much, Mr. Brill.

ASSEMBLYMAN McENROE: We have quite a few more individuals who have signed our list as participants. Could we hear from June Kruszewski, please? (not present)

David Burgess, Metropolitan Ecumenical Ministry? (not present)

UNIDENTIFIED PERSON FROM AUDIENCE: He has written testimony to submit.

ASSEMBLYMAN McENROE: Thank you. May we have that testimony please? That will be submitted as part of our record.

We have Robert Cartwright of the Ironbound Community Corporation.

MR. CARTWRIGHT: I would like to yield to another Ironbound resident, Rosa Conceicao.

ASSEMBLYMAN McENROE: I am sorry, we didn't catch your name, please.

ROSA CONCEICAO: My name is Rosa Conceicao, and I thank you for allowing me to speak.

As a resident of the Ironbound and part of the Portuguese community, I have researched several facilities, and I have learned that in Roosevelt, Long Island, an incinerator was built, which cost

\$107 million. It started to operate in 1978, but it only remained in operation for two years. However, it was sufficient time for thousands of people to go to the hospital complaining of horrible headaches because of nauseating odors. The air was impossible to breathe. The fact that this incinerator has been rotting away for four years is sufficient motive for the possible victims not to work. They should not ignore the local authorities, one of which is to defend those people.

I am expressing my concern about this problem, not only as a resident of the Ironbound section, but also as a medical student. I care about my health and the health of my neighbors.

This is a question of survival. Please help us to survive. We have had enough already.

Thank you. I am sorry about my English, but I have only been here for a few months.

ASSEMBLYMAN McENROE: That is very good. Thank you very much, Rosa. We appreciate your thoughts and your concern.

Mr. Cartwright, do you wish to testify?

MR. CARTWRIGHT: (from audience) No, that is okay. I yielded my time.

ASSEMBLYMAN McENROE: Oh, you are not interested in testifying at all then?

MR. CARTWRIGHT: (from audience) No.

ASSEMBLYMAN McENROE: Okay, thank you. Mr. Joe Carney? (not present) Reverend Lin Powel? (not present) Arnold Cohen, Greater North Bay Coalition Against Toxic Waste? (not present) Manual DaSilva?

MANUEL DaSILVA: Mr. Chairman, and members of the Committee, I, too, am a resident of the Ironbound section of Newark.

Since the purpose of A-1778 is to raise funds, part of which will be expended in the incinerator project in the Ironbound section of Newark, I would like to state my opposition to the legislation for the following reasons:

As a resident of the Ironbound section, I am concerned for the health and safety of the community. A recent article in the Star-Ledger stated that Essex County was furthest along in its

incinerator project for the Blanchard Street site. Anyone who has, as I have, attended public hearings on the issue, could testify to the bitter reaction demonstrated by the people against the facility. In my humble opinion, the primary criteria in choosing a site should be whether it is already contaminated with other harmful pollutants, as is the case in the Ironbound section, or relatively free of pollution. It is alleged that similar facilities are already in operation in this and other countries and are sited near residential areas. However, a fair comparison cannot be made unless it can be proven that the prevailing environmental conditions in the different locations are equal.

A recent newspaper report indicated that the eastern section of the Ironbound is the polluted section in Essex County. Anyone who is familiar with the area has to agree. The residents of the Ironbound section already have more than their share of a polluted atmosphere, and they sternly oppose construction in the neighborhood of the garbage incinerator project proposed by Essex County.

Mr. Chairman, I urge you not to sponsor State plans to increase taxes on solid waste disposal to raise funds for a project which is dangerous to our health and which would be potentially devastating to our pocketbooks.

Thank you sir.

ASSEMBLYMAN McENROE: Thank you, Mr. DaSilva. I appreciate your testimony and your concern. I fully recognize the importance of the Ironbound as a strong contribution to the Essex County community. I can assure you that we will evaluate the points you made in your testimony.

MR. DaSILVA: Thank you, sir.

ASSEMBLYMAN McENROE: Next we have Betty Cifrodelle. Is Betty here? (not present)

MRS. HOLLOWAY: (from audience) We have a gentleman here, an engineer, who has come to speak for the Kearny/Devon Street group. He also spoke at your other hearing. He is Mr. Peter Grippa. May he speak, please?

ASSEMBLYMAN McENROE: Okay, in a moment. I just want to give the other people on our list the opportunity to speak.

MRS. HOLLOWAY: Okay, thank you.

ASSEMBLYMAN McENROE: Is Loretta Mannion here? (not present) Jim Lanard, New Jersey Environmental Lobby? (not present) Our Committee Aide has advised that Mr. Lanard will submit written testimony on behalf of the New Jersey Environmental Lobby.

This concludes the individuals who formally requested that they be allow to testify. Is there anyone who submitted his name and has not been heard?

MRS. HOLLOWAY: Mr. Grippa came in too late to submit, but he--

ASSEMBLYMAN McENROE: (interrupting) We're going to hear from him in a second.

MRS. HOLLOWAY: Thank you.

UNIDENTIFIED PERSON FROM AUDIENCE: I would like to testify, but I haven't submitted my name.

ASSEMBLYMAN McENROE: All right. You can testify after Mr. Grippa testifies. Mr. Grippa? I understand you are an engineer, and we always can avail ourselves of technical information. Mr. Grippa, this is my colleague, Assemblyman Vainieri of Hudson County.

PETER GRIPPA: Thank you. I am Peter Grippa from the Town of Kearny, and I am an engineer. I am also with a citizen's group.

This hearing has already taken a long time, and I have no desire to repeat what I think you have already heard. Certainly, we from Kearny, have a great interest in the objective you are expressing in this bill, which is to provide some alternative method to landfills, but we do, of course, have reservations and concerns with some of the very important details regarding the implementation. I think they were beautifully expressed this morning, so I'm not going to go over those now.

All I want to do now is to speak on behalf of Mayor Hill from the Town of Kearny. He wanted to voice his displeasure to you with the physical facilities provided for at this public hearing. When he arrived, this chamber was so crowded that he was unable to enter. He was in the corridor, and there was no public address system provided in the corridor. Certainly, the Town of Kearny and Mayor Hill have a great interest in knowing what goes on here. He wanted to be an active

observer, but he felt he was not afforded the opportunity to be an active observer because the chamber was too crowded. So, he just--

ASSEMBLYMAN McENROE: (interrupting) Excuse me, Mr. Grippa. Had I known he was present, he could have sat right over there in that chair and awaited the opportunity to testify. I wasn't aware of his presence, or I certainly would have accorded the respect we have for Mayor Hill and for the Town of Kearny. He is an energetic man, and a man we all respect. He has been very visible in the State House in Trenton, and he has made his point very clear time and time again -- that he is a solid representative of the best interests of the Town of Kearny. My apologies to you and certainly to him. I was totally unaware--

MR. GRIPPA: (interrupting) Well, your apologies are certainly accepted, and I would say really unnecessary, because we certainly accept the fact that there is no doubt in his mind or any of our minds that had you been aware he wanted to be here, you would have given him special treatment. But, I think the opportunity should be provided for anyone, whether he is a mayor or just a citizen, to be an active observer, if not a participant. He left and he said that he hoped in future proceedings regarding this subject, that some consideration could be given to providing adequate facilities for any interested participant or observer.

Thank you.

ASSEMBLYMAN McENROE: I concur entirely. We would, of course, extend the courtesy to an elected official -- the Mayor of that Town--

MR. GRIPPA: (interrupting) Thank you, that is all I have to say. I'll convey that message to him.

ASSEMBLYMAN McENROE: Thank you, please do. May we hear from Ms. Jean Clark? Jean, may I introduce my colleague, Assemblyman Vainieri? Ms. Clark has been active in environmental matters in Essex County and around the State.

JEAN CLARK: I am here today as the Vice President of the New Jersey Recycling Forum. The Forum is very interested in this proposed legislation, but we have not yet completed our review. We will be submitting written comments on it shortly for your consideration.

Today I want to make a few brief comments. It would appear from the definition of a resource recovery facility in Section 1n. that recycling activities could be included for funding under the Act. However, there is no other mention of recycling or sewer separation in any other section of the Act. Since the State has adopted, as part of its solid waste management plan, a materials recovery plan, which sets a goal for the sewer separation and recycling of 25 percent of the waste stream, we feel that this should be specifically recognized in the Act. Twenty-five percent of the amount of the revenue from landfill surcharges and taxes should be channeled to support the preparation of district recycling plants, the construction of intermediate processing facilities, the purchase of equipment, developing of markets, and other elements of sewer separation programs necessary to obtain that goal.

By assuring that we can reach the State's recycling goal, we can assure that waste-to-energy plants will not be sized larger than necessary, thus reducing the need for construction capital. Sewer separation of recyclables also increases BTU value of the remaining waste, which means more revenue from the sale of energy to offset tipping fees.

It also means less residue to be landfilled when the burning process is completed. The level of sewer separation required under the State recycling plan will not be attained unless you devote the necessary resources for the task.

That is all I have to say.

ASSEMBLYMAN McENROE: Thank you very much. We assure you of our concern about the points you made regarding recycling. I think one of the most important concepts that I've been educated about today is the fact that maybe we haven't emphasized recycling enough in this bill. We will take a good look at it.

MS. CLARK: In Essex County, for instance, the first year's impact of all the landfills, surcharges, and tipping fees in this Act and others would be \$1.31 per cubic yard, of which only 12 percent would be devoted to recycling. We have certainly got to devote at least as much of the resources as we intend to get out of it.

ASSEMBLYMAN McENROE: Thank you very much. Is there anyone else who wishes to be heard by our Committee on Assembly Bill 1778?

MS. HOLLOWAY: (from audience) I just want to say that I thank you for holding this hearing in such a courteous manner. Different people express themselves in different ways, so I thank you.

ASSEMBLYMAN McENROE: Thank you very much. This has been a long, productive hearing, and I appreciate everyone's participation. I share all of your concerns regarding the eventual development of a better way of doing things in New Jersey. I commit to you that the Committee will hold hearings, particularly on the impact of the quality of air as it relates to energy and recovery facilities. We are going to review all of the testimony, proposed amendments, and qualifications that have been provided by the public today. I think this has been a productive three and one-half hours that we've spent in reviewing this proposal. We think this was an appropriate forum for discussion.

Thank you all very much.

(Hearing concluded)

APPENDIX

THE INTEGRATION OF ENERGY AND MATERIAL RECOVERY
SUMMARY OF BENEFITS FROM THE APRIL 1983 ESSEX COUNTY REPORT

ENERGY RECOVERY:

Heating Value of MSW:

<u>Recovery Rate</u>	<u>% Increase</u>
15%	6.2
25%	8.1%
35%	12.9%

Energy Generation Rate:

<u>Recovery Rate</u>	<u>KWH/Ton</u>	<u>% Increase</u>
0%	527	-
15%	571	8%
25%	580	10%
35%	604	15%

ENVIRONMENTAL IMPACT

Ash production

<u>Recovery Rate</u>	<u>% Decrease</u>
15%	3%
25%	4%
35%	6%

FACILITY COSTS

Capital Cost(all costs in millions):

<u>Recovery Rate</u>	<u>Capital Cost</u>	<u>Difference</u>	<u>% Savings</u>
0%	180.0	-	-
15%	157.5	22.5	12.5%
25%	135.0	45.0	25.0%
35%	112.5	67.5	37.5%

Net Unit Cost/Ton:

<u>Recovery Rate</u>	<u>\$/Ton</u>	<u>Difference</u>	<u>% Savings</u>
0%	27.32	-	-
15%	25.33	1.99	7%
25%	23.31	4.01	14.6%
35%	19.68	7.64	28%

COUNTY/MUNICIPAL SAVINGS(at 15% recovery rate):

Gross Savings or Revenues(annual):

Disposal Savings = \$4.6 million

Collection Savings = \$.9 - \$4.3 million

Material Recovery Revenues = \$4.1 .. \$7 million

Net Benefits(minus recovery costs) - Total:

\$5.4 - \$11.8 million per year

RESOLUTION
UNION COUNTY SOLID WASTE ADVISORY COUNCIL
MARCH 28, 1984

The Solid Waste Advisory Council is very concerned about the impact upon Union County of proposed legislation which would have the effect of imposing surcharges on refuse collection in counties such as Union which transport refuse to out-of-county locations. The arguments given in favor of such surcharges come down to two: counties should be encouraged, if not forced, to in-county refuse disposal, and the revenues will assist in financing the building of waste-to-energy plants. As for the first, this county has been a leader in studying and planning for such a facility, and we need no encouragement based on a punitive surcharge. As for the second, we believe the cost to our residents in the long run will be less than if we have to pay out the punitive surcharge and then recoup only a portion of same back from the state via some grant-in-aid. Union County is prepared to build its own facility without aid based on such a punitive surcharge. We therefore urge the Freeholders to call upon our representatives in the Legislature not to include the punitive surcharge proposal in pending legislation.

New Jersey Energy Research Institute

TESTIMONY OF MR. ROBERT W. HARDY
Before the
ASSEMBLY COUNTY GOVERNMENT
&
REGIONAL AUTHORITIES COMMITTEE

Hon. Harry A. McEnroe Presiding.

Thursday, April 19, 1984

Hall of Records
Room 506
465 Martin Luther King Blvd.
Newark, New Jersey.

I am Robert Hardy, Chairman of the Solid Waste Task force of the New Jersey Energy Research Institute (NJERI), a group comprised of a Board of Trustees derived from the private sector, universities, utilities, and State Government. There is no equivalent to NJERI found in any of the other 49 states. Our members are: Engelhard Industries Division, Exxon Res. & Engineering Company, Foster Wheeler Energy Resources, Jersey Central Power & Light Company, Johnson & Johnson, Nabisco Brands, Inc., New Jersey Bell Telephone Company, New Jersey Inst. of Technology, Port Authority of NY & NJ, Power Recovery Systems, Prudential Insurance Company, Signal RESCO, Stevens Inst. of Technology, New Jersey Board of Public Utilities, New Jersey Dept. Environmental Protection, New Jersey Dept. Human Services, New Jersey Dept. Energy, New Jersey Dept. Commerce & Economic Development. Our associate members are: American Hoechst Corp., Americas International Consultants, CUH2A, Hellmuth, Obata & Kassabaum, Elson T. Killam Assocs, Merck & Co., E.R. Squibb & Sons, Tishman Research Corp. NJERI is a non-profit, fully tax-exempt organization, serving the public benefit in New Jersey.

NJERI would like to commend the Department of Environmental Protection and the Legislature for its work in promoting resource recovery to help solve the solid waste disposal crisis facing the citizens of New Jersey. The DEP has taken a step toward the implementation of resource recovery through the introduction of Assembly Bill #1778. Through the introduction of this legislation, DEP identifies for removal some of the major obstacles to resource recovery implementation--one of which is the cost advantage enjoyed by low-technology landfills versus high-technology resource recovery facilities.

DEP recognizes that the planning process has been hindered, in many cases, by a lack of available funds on the part of solid waste districts. The legislation seeks to aid those districts by providing the means to assist them in completing and implementing their plans.

Further, DEP recognizes that certain districts will be importers and others, exporters by existing waste flow patterns. By encouraging inter-district agreements, DEP attempts to reward districts willing to provide capacity for waste generated beyond the district borders.

Along with the ingredient of guaranteed waste flow, an economic balance must be struck between a realistic cost for disposal of waste and market force reality for the sale of electricity.

We believe that the intention of the DEP to improve this ratio on the obligation of municipal waste to carry its fair share of the financial burden is meritorious. However, the estimated accrued reserve fund for this purpose as outlined in A#1778 would require financial feasibility studies in order to indicate potential significant impacts in this regard. Economics may indicate preferred waste-shed districts. Such studies should be revealed and discussed with the BPU in order to determine their significance in light of known techniques such as rate averaging in order to diminish disposal costs in the early years of resource recovery operations.

We also respectfully suggest that the following be given earnest consideration and included in any feasibility studies and conclusion derived:

1. The cost for administration of the various funds to pay for the implementation of A#1778;
2. The evaluation of any impacts on the critical path of pending, approved, or planned resource recovery facilities;
3. An evaluation of the time-frame impacts regarding investors, developers, and long-term debt service;
4. Evaluate the impact A#1778 has on NJSA 48:13A.

Experience has taught that successful implementation of resource recovery occurs when most of the social and economic needs of a district are met in the best interest of ratepayers. In order to ensure this event, we feel that the intention of NJ PL 326 best establishes the framework for the agencies mandated with the planning and with the franchising functions, and that these functions if amended by A#1778 should be reinforced.

NJERI would be pleased as a non-profit, objective institution to provide its services in order to analyze and offer constructive alternatives with regard to economic impacts and time frames of A#1778. Further, along with economic impacts, NJERI believes that the siting issue is of equal importance, if not more important, and is prepared to support in an objective way any approved resource recovery facility plans.

We appreciate the opportunity to present these thoughts and are prepared to meet with the proposers of A#1778 to assist the committee in its efforts.

Ironbound Ecumenical Association

106 ANN STREET
NEWARK, NEW JERSEY 07103

Testimony before New Jersey Assembly Committee

April 19, 1984

Essex County Hall of Records

My name is David S. Burgess, Pastor of the St. Stephens United Church of Christ which is located in the heart of the Ironbound section of Newark. I come as spokesman for the Ironbound Ecumenical Association representing 11 Catholic and 11 Protestant churches of this area and as Acting Director of the Metropolitan Ecumenical Ministry of Newark. Both organizations have passed resolutions opposing the construction of a large garbage incinerator plant known euphuistically as an "energy recovery facility" for all of Essex County within Ironbound itself. The reasons for our opposition to such construction are numerous.

(1) Despite a well financed campaign of the County authorities to convince the Ironbound residents and other Newark residents that the facility would benefit the whole community, there is ample evidents from already operating plants the world over that the contemplated plant would generate dioxin and other cancer-causing substances in the air, water and earth. No amount of publicity about the so-called "state of the art"^{not} in incineration has yet proved that dangerous substances would^{not} be generated from the burning of an unmonitered mixture of household and industrial wastes there.

(2) The trucking of household and industrial waste from all over the County to the burning site would destroy roads, disrupt traffic, increase noise pollution and cause all manner of hardship and health hazards to the 50,000 or more working people who now live and work in the Ironbound section of Newark.

(3) It is our opinion that the building of such a plant would have a strong negative effect upon the establishment of a much needed mandatory county-wide (as well as state-wide) program to establish ways of collecting and paying for reclyable substances from the garbage stream such as aluminum, tin, glass, papers, magazines and corrugated boxes. In last Sunday's New York Times New Jersey Section (April 15, 1984) there was a most interesting article entitled "State (of New Jersey) Weighs Mandatory Reclycling," concerning ways to reduce the 13½ million tons of garbage and solid waste crowded into landfills each year and how to create new markets for re-used materials. Already, as the article pointed out, 350 communities or 60% of all communities in New Jersey, are involved in some type of reclycing programs. However, if the State authorities allow Essex County Government to construct a huge garbage burning plant for disposing of household and industrial waste, this would kill any prospect of having a mandatory recycling plan for Newark and the other communities of our county. Once a plant is built, the county authorities would be chiefly concerned about feeding a certain amount of garbage from household and industrial sources into the plant each day, and they would be against any plan to lessen the daily volume of garbage burning by the establishment of mandatory recycling programs.

It is encouraging that the town of Woodbury in our state, by judicious planning, is now reclying over 55% of its waste products. As a result of this program, benefits have come to retailers and many other community residents. In many of the larger cities of the United States as shown in recent studies and consultations conducted by the Institute for Local Self-Reliance (2425 18th Street, N.W. Washington, D.C. 20009), community mandatory reclying plans have reduced the volume of household and industrial waste, created small industries and provided year around employment to hundreds of people. The State of Nebraska, the District of Columbia, Atlantic County of New Jersey and the City of St. Paul have used the advice of the Institute. Rather than raising land-fill costs sharply and support-

ing the construction of a huge garbage burning plant within the most populated city of New Jersey, we might examine recycling alternatives and find other means of disposing of waste.

(4) Despite the known threat of dioxine and other particulants which will be coming out of the contemplated garbage burning plant in Essex County, current state standards in regard to plant location, pollution and needed monitoring by authorities are today out-dated.

As is clearly evident during public meetings in the Ironbound community in which representatives of the County Executive of Essex argued for the merits of a garbage incinerator plant, a vast majority of our local residents are unalterably opposed to the building of such a plant in the Ironbound because it will be a peril to public health, because it will be costly, and because it will hinder if not make impossible the coming of a much needed mandatory countywide and state-wide program to recycle household and industrial wastes.

