
Committee Meeting

of

SENATE LEGISLATIVE OVERSIGHT COMMITTEE

SENATE CONCURRENT RESOLUTION No. 74

(Finds regulations adopted pursuant to the "Federal Clean Air Mandate Compliance Act" that result in the confiscation of motor vehicles inconsistent with legislative intent)

SENATE RESOLUTION No. 42

(Disapproves the use of moneys in the New Jersey Spill Compensation Fund for administrative costs of the DEP and finds such use inconsistent with legislative intent)

LOCATION: Room 319
State House
Trenton, New Jersey

DATE: June 3, 1996
1:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Senator John P. Scott, Chairman
Senator Andrew R. Ciesla, Vice-Chairman
Senator John O. Bennett
Senator Henry P. McNamara
Senator Ronald L. Rice
Senator Nicholas J. Sacco
Senator Raymond J. Zane

ALSO PRESENT:

Raymond E. Cantor
Office of Legislative Services
Aide, Senate Legislative Oversight Committee



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

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SENATOR JOHN P. SCOTT (Chairman): Welcome to today's meeting of the Legislative Oversight Committee.

There are two bills we will hear today, SCR-42 and SCR-74. Last week I introduced legislation, SCR-74, that clarifies the legislative intent of the Federal Clean Air Compliance Act. There's been a lot of controversy surrounding these regulations, and that adopted the Enhanced Inspection and Maintenance Program, and that may possibly result in the confiscation of motor vehicles that fail to comply with the new emission standards.

As I cast my vote for the Compliance Act last year, I've raised several concerns. Earlier this year, I introduced a bill to delay the implementation of the enhanced I & M Program until our neighboring states complied as well. I met with the Governor and agreed to hold the bill because the implementation plan was amended to provide for more flexibility to maximize convenience for the motoring public.

This concern for the motoring public is why we are here today. Individuals must have a comfort level that their private property will not be in jeopardy due to stringent government regulations for emissions. We all want clean air for the people of New Jersey. However, none of us believe that confiscation of private property, because of failure to comply with new Federal mandates, is an acceptable enforcement measure. Most likely candidates who've failed the new inspection standards are those who drive older cars. These people, in all likelihood, will have lower incomes or many may be senior citizens. They should not be worried about getting their cars inspected out of fear use of their car will be taken away.

Transportation is a fundamental necessity for hardworking, honest citizens in order to continue their valuable contribution to society. I hope that SCR-74 will give the motoring public the comfort level they deserve and that their motor vehicles will remain in their possession regardless of the outcome of the new emissions tests.

I see we have a representative from the Division of Motor Vehicles and, I believe, the DEP here to testify. I look forward to having them shed some light on implementation surrounding the Enhanced Inspection Program.

I think we'll start with SCR-74.

I'd like to call-- Oh, does anybody have any statements they'd like to make? Senators? (no response) Okay.

I'd like to call Dick Kamin, Assistant Commissioner, NJDOT -- now the DMV, is that with the DOT? -- and whoever else you have with you there. You are the Executive Director, aren't you?

ASST. COMM. C. RICHARD KAMIN: Yes, we have two titles.

SENATOR SCOTT: You're an Assistant Commissioner also?

MR. KAMIN: Yes.

SENATOR SCOTT: Oh, okay. Do you get double pay?

MR. KAMIN: Same pay.

SENATOR SCOTT: Same pay. All right, that's good. Good start, anyway.

Dick, some of our concerns, as you well know-- I'd like to hear your statement first, and perhaps, you can answer some questions on concerns that we have. Do you have someone else that you wanted with you?

MR. KAMIN: I think I'm flying a solo flight here, at the moment anyway.

SENATOR SCOTT: Okay.

MR. KAMIN: Mr. Chairman and members of the Committee: It's always a pleasure to be back before the Senate Legislative and Oversight Committee. I have copies of my statement, as well as copies of the flyers for your distribution. I just have a few brief remarks in reference to our emissions program. And quite frankly, we thank you for the opportunity to appear before the Committee concerning SCR-74. The Department welcomes this opportunity and, quite frankly, wanted to unequivocally state to you, once again, that the regulations of the Department in no way, shape, or form allow for the confiscation of motor vehicles failing to pass inspection.

The focus of the program in New Jersey is now, and always has been, maintenance -- the identification and repair of vehicles for the emission-related problems in order to reduce overall levels of air pollution. No owner will be required to undertake these repairs or add any equipment not originally required for his vehicle when it was manufactured or to provide for a recall. Regardless of the model year, cars will only be emission tested according to the specifications under which that car was manufactured. That is to say, if you have a 1960 vehicle, the emissions test will be based on the manufacturer's specifications for the 1960 vehicle. And the important phrase here is that not

only the specifications under which it was manufactured, but, also, an allowance for reasonable wear and tear.

The Division of Motor Vehicles and the Department of Transportation take the position that, in those few instances where people simply refuse to comply with reasonable registration and inspection requirements, they will not be free to drive their vehicles on the roads or highways of this State. The vast majority of people do, in fact, comply with the law and continue to do so under the new inspection program. Anyone having a vehicle who is unwilling or unable to comply with the registration and inspection rules is certainly free to keep the vehicle or to sell it. But they will not be free to drive it on our highways, and the law does not allow us to permit them to do so. We do have waiver provisions for a small percentage of the vehicles to ensure that they can continue to operate that vehicle without undue burden to that owner.

And in conclusion, Mr. Chairman and members, we are not interested -- we are not in the business of confiscating anyone's vehicles, nor will we ever be in that business. We will continue to work with the Legislature and all the interested parties to help further clarify the issue.

I thank you for the opportunity and would be happy to respond to your questions.

SENATOR SCOTT: Thank you. Well, thank you very much, Commissioner.

One of the things that we took a look at -- and these are your own numbers, so you'll have to hope you gave me good numbers in your report. It's estimated that there are 5.9 million vehicles registered in the State of New

Jersey. The estimated failure rate with the new enhanced inspection would be about 30 percent, which is 1,770,000 in round numbers.

MR. KAMIN: Those numbers, Mr. Chairman, if I might comment, were in reference to the initial program being pushed by the Federal government, the so-called, infamous IM-240 Program, Inspection Maintenance 240.

SENATOR SCOTT: And what are your numbers now?

MR. KAMIN: Those numbers will be promulgated by the Department of Environmental Protection in cooperation with the new test that we have, the ASM 50-15, which has been deemed by the Federal EPA to be as good as the IM-240, essentially the same. It's EPA's estimate and DEP's estimates at this point that failure rates will be similar to the program of inspection that we have currently in New Jersey.

SENATOR SCOTT: Which is about 15 percent?

MR. KAMIN: Twelve to fifteen, that's correct.

SENATOR SCOTT: Twelve to fifteen percent.

So the enhanced inspection, with the -- whatever the number is -- it's going -- I think it will probably increase, but-- Based on the failure rate of 30 percent -- which doesn't matter if it's 30 or 20 because it's still a lot -- that, based on a 3 percent waiver, is only waiving 53,000 vehicles. That leaves 1.7 million vehicles of the number that would be unregistered vehicles.

I know you knocked down the dollar amount for repairs, but there is still a \$200 penalty -- am I right? -- for you to collect the unregistered vehicle plates.

MR. KAMIN: A couple of things have changed, again, since these figures that you're referencing from the IM-240 Program have been developed: First of all, the number of vehicles subject to inspection is only 4.8 million. We, in fact, do have more vehicles registered, but the base number is 4.8 million.

SENATOR SCOTT: Four point eight million?

MR. KAMIN: Correct.

SENATOR SCOTT: Okay, that's good. That's less vehicles anyway.

MR. KAMIN: That are subject to the test. Correct.

SENATOR SCOTT: But let me ask you this: When we talk about that \$200 penalty, the fine for having to pick up the plates after the 60 days, I believe it is, is there a time frame-- If I don't pass the test, if my car doesn't pass the test, and I can't get the 3 percent waiver because all 3 percent is already gone -- there's not enough left, I waited too long, or whatever it may be -- now I'm not eligible for it now, or I refuse, whatever, whatever the case may be. I just let it die out. You can then assess a penalty of \$200 because you want to collect the license plate off my car. Is that true?

MR. KAMIN: I'll have to double check that, Chairman.

SENATOR SCOTT: Okay.

MR. KAMIN: We don't believe that we'll approach the 3 percent waiver threshold--

SENATOR SCOTT: Even if it's one car, can you assess a \$200 fine and pick up the license plate?

MR. KAMIN: I don't know the answer, but I'll have it back to you in writing today.

SENATOR SCOTT: Let me see if I can find it here in my notes. I'm pretty sure that somewhere along the line-- I guess this is referring to SCS-17. Page 19, line 40, states, "An order of license plate confiscation, issued by the director, shall include an order imposing a civil penalty of \$200 on the owner. This civil penalty shall be paid to the treasurer who shall deposit one-half the amount in the Motor Vehicle Inspection Fund and the remaining one-half to any municipality or county whose law enforcement, police, or peace officers confiscated the plates, in accordance with the order of the director."

MR. KAMIN: Those would be local municipalities--

SENATOR SCOTT: No, no, wait, okay. Director, let me ask--

MR. KAMIN: --requesting the--

SENATOR SCOTT: In other words, is this part true that you can do it -- and here's a copy of the bill. It says here that you can issue an order to pick up the license plate of someone who has failed and not responded within whatever time frame you put out. At that point when you notify that person of a \$200 penalty -- and it's in here -- at that point, you can notify the local gendarme and say, "Go pick up the license plates of such and such, at such and such a location." That's true, or you don't know?

MR. KAMIN: I don't know.

SENATOR SCOTT: Okay.

MR. KAMIN: I believe that we could, if requested, through the municipal courts-- To be notified by a municipal court, let's say for the City of Newark -- they wanted to issue a notice of confiscation that I would then be

directed because, a judge had said it should be done. In other words, someone has refused to comply with the law, has refused to have their car registered and/or inspected--

SENATOR SCOTT: Wait a minute. The superior court judge or municipal court?

MR. KAMIN: A municipal court judge--

SENATOR SCOTT: A municipal court judge.

MR. KAMIN: --even under existing law, and those would be for--

SENATOR SCOTT: How would he know that I didn't have my car registered or I flunked inspection and I still have it sitting in my driveway? How would he know? How would a municipal court judge know?

MR. KAMIN: They would look up the vehicle identification number and notice, number one, whether it's registered or not, which we could tell them. And whether it was inspected or not, they can tell by looking at the windshield and a valid sticker. We have the same laws today.

SENATOR SCOTT: All right. I think, Commissioner, that's a little bizarre, I think -- You at the DMV have your computer that says plate number whatever flunked, and so on, and so forth. Therefore, you are the one that would issue the order and the fine. And my problem with that, I find that the local ordinances -- almost a huge percentage of municipalities--

Two things: First of all, it is a kickback. Bounty hunter, whatever you want to call them, all right -- you're going to give somebody \$100 to go get the plates. You know, if you give enough to a small community, they'll have some revenue coming in. But that's compounded. I know the DMV has said, "No where in the law has the DMV said we will confiscate automobiles." And

I guess you're right, except when you send that policeman out to take the plates for the \$100 -- won't take him a couple of minutes -- or maybe you're going to hire bounty hunters, peace officers -- I guess that could be anybody.

Now they have a local ordinance that says you cannot have an unlicensed vehicle in your driveway. That's against the local ordinance. Now, I don't know what the fine is for that, but I'm sure now, at that point, they can confiscate the car. They meaning the local municipality. They can grab the car. Is that correct? Do you know that to be?

MR. KAMIN: I believe there are some circumstances under which municipal government is allowed to enforce laws that they have created that effectively impound the vehicle. And some folks might want to choose to interpret impoundment with confiscation.

SENATOR SCOTT: Well, okay. The guy who has his car taken out of his driveway doesn't really care if it's impounded or confiscated. It's gone. It's history. Now, one way or the other, he either can try to get it back -- God knows how he can do that because, then, where is he going to put it, -- okay. He'll have to rent a garage so he can hide it. Then, whatever the impoundment costs -- the local fine. I don't know. Some of the local people -- maybe Senator Zane, might have been a municipal officer of the court at one point, can tell me. It might be \$50 to get your car back from there, plus paying the fee for towing. What we are talking about that's how they're going to impound it.

Director, one of the things I did, I had my staff look through this infamous flyer that went to everybody in the State of New Jersey, and I asked them, "Would you please go through this and find out all the lies that were in

there,” because the newspapers, everybody said it’s all hogwash. It’s all a bunch of lies.

Well, I’ll tell you what we found. It’s not. It’s almost all true. Yes, they said and they just generalized and said your car can be confiscated. They didn’t really want to get into the detail we are getting into right now because they just wanted to alert the people to possibility. “If the people want to call me, I’ll tell them how their car’s going to be gone.” So they were correct in that, even though much maligned. I guess that’s because they didn’t put a name on the flyer -- to whoever it may have been. But we have a problem with that.

You’re talking about it with the \$200 penalty. If based on the numbers of 5.9 million -- I know this is less now because you said there are less cars that are going to be impacted, with more people will pass, and so on -- but that would come to \$343 million. That’s incredible. That’s a chunk of the State budget, and you whacked it up with DMV and the municipalities. The municipalities get a half of that, \$171,000. I’ll tell you, we found a gold mine, and just think, we don’t even have to put a new tax out. We have all that money coming in. That’s a boon to us legislators. We have all that money coming in if we could count on it.

I understand, also, that this goes up until January 1, 2000, as far as waivers. At that point there will be no waivers, is that what we are saying?

MR. KAMIN: At that point, as I understand, the EPA is modifying their Federal rules -- allows for then the waiver program that’s in Federal law to kick into effect. Between the date of the implementation of our program and the year 2001, we can set different waiver rates. And we have

done so, as outlined in our amended State Implementation Plan that was filed and revised with the Federal government back in March 27.

SENATOR SCOTT: You know, I have a couple of problems -- additional problems--

MR. KAMIN: The Federal law requires that the waiver be \$450, adjusted for inflation. And, I believe, that number somewhere right now would be \$615--

SENATOR SCOTT: But you knocked that down to \$200 of expenditure?

MR. KAMIN: Between now and the year 2000, that's correct.

SENATOR SCOTT: Okay, now--

MR. KAMIN: There is a state, for example, like Ohio that has set up a three-tiered waiver program, depending upon the age of the vehicle. I quite frankly think that the waiver program is one of the biggest boondoggles of the entire operation--

SENATOR SCOTT: Oh, all right. Thank you.

MR. KAMIN: --but it would require the change of Federal law in order to eliminate it.

SENATOR SCOTT: Okay, we agree on that one because-- Do you think it's possible for me to go today and get a \$200 receipt for whatever?

MR. KAMIN: I would expect all the folks that are in the public or the private sector that have garages--

SENATOR SCOTT: That's one of the problems we have.

MR. KAMIN: There may be some cheaters in this world, but I would like to think that 99 percent comply.

SENATOR SCOTT: I don't know where they would be, not in District 36, but they might be somewhere else.

The comment and EPA in "New Jersey Register" -- I have the number -- it says something about that "any losses to the small business community will be offset by an increase in the repair business generated by the IM Program. The repair industry would see a marked increase in business."

I mean, is that what we are into, is to help an industry by taking the motoring public and tell them that they have big problems? I have a sincere problem with that. I have a problem with the 50 percent kickback. But I do want to quote you on a couple of statements if you will bare with me. At the SAE-- What is that SAE meeting in--

MR. KAMIN: The Society of Automotive Engineers.

SENATOR SCOTT: The Society of Automotive Engineers. "If you can afford to drive a newer car, you would like to be able to do that. And that's a choice that every family budget has to make, as to how new your car is going to be. Whether you're going to invest in a new refrigerator, a new house, or whatever it might be to upgrade your car this year."

I think one of the problems I have there, Mr. Commissioner, is this. It's nice to think that everybody can upgrade the house, and so on. There are an awful lot of people out there in the world, including me -- I can't afford to upgrade my car. I'm probably going to have my wife-- We got a brand new '92 Chevy, okay. She's probably going to have that till the year 2002. I just tell her don't ride it too many miles. We're not all in that position to upgrade houses, refrigerators, and so on.

And then I like another quote, and I'm going to put you on the hot seat on this one. "In my assessment of it, only in America could a program like this be designed, because they used to come up with ideas like this in the Soviet Union." Boy, I'll tell you, Commissioner, I agree with you. This idea has to come from somewhere like that, and I'm glad to see that you said that.

MR. KAMIN: Mr. Chairman, if I might add, those are accurate quotes. However, both those quotes were given about two years ago when we were referencing the IM-240 Program which this State -- with the cooperation of both Houses, and, especially, this House, Bob Littell, you, and others, Dick LaRossa -- expressed great interest in the program. We were able to, number one, win concessions from the Federal EPA, and, number two, since then, Federal law has changed and allowed for amendments that was passed and signed into law by the President in December of last year. And we amended our State implementation plan in March of this year to respond accordingly. So two major events have taken place since those statements. But they were quoted correctly and accurate, and, at the time, in fact to some degree, I still feel very passionately about having said them.

SENATOR SCOTT: I think I might agree with those statements. I could quote you -- you have a lot of good statements here. I never saw anybody quoted so much in one flyer as you are. But we kind of agree with this stuff, and based on that, I think we do have a real problem with this particular program that's going ahead.

MR. KAMIN: I've always had trouble, Senator, speaking my mind.

SENATOR SCOTT: Pardon?

MR. KAMIN: There's always a question as to where I stood on an issue.

SENATOR SCOTT: Well, yes. Well, that's to be commended, even though you are going to get rapped with it now and then.

You can see our problem. So far, from what I gather, the problems are here, and they are going to stay here for a while, and there is something that we have to do with them. There's no doubt about it.

I'd like to open up and see if Senator Ciesla? (no response)

Senator Zane?

SENATOR ZANE: You covered everything I was thinking.

SENATOR SCOTT: Okay.

Senator Rice?

SENATOR RICE: No.

How are you doing?

SENATOR SCOTT: Don't be too nice to him.

SENATOR RICE: He's my buddy. (laughter)

SENATOR SCOTT: Senator McNamara, are you all right? Do you have any questions? (response indiscernible due to laughter)

Very good, so we know where you stand.

I appreciate your coming -- yes?

MR. KAMIN: Senator, if I may, you had asked about the \$200, where someone could go in and confiscate the plates. This is the answer. Once an order is issued to surrender your plates, there's 45 days to comply. If there's refusal to comply, then an order is issued.

SENATOR SCOTT: Okay, so in other words, you'll notify me that I have to send my plates in, okay--

MR. KAMIN: Yes, so it's not a clandestine operation--

SENATOR SCOTT: No, no, no, it's not--

MR. KAMIN: --as they run, for example, in Florida. I was explaining to--

SENATOR SCOTT: No, we use this. But, however, when you send me the notice, and I still don't comply--

MR. KAMIN: Yes, you have 45 days to comply. Then, there is a notice issued to -- in order to turn in the plates.

SENATOR SCOTT: Who gets the notice?

MR. KAMIN: The motorist. And it's for refusal to turn them in, and the fine is \$200.

SENATOR SCOTT: All right. And at that point, you can notify, if you want to pick them up, the local police, sheriff, peace officer, whatever it may be.

MR. KAMIN: That's my understanding of the law.

SENATOR SCOTT: And that's the problem we have. That's where the confiscation, impoundment -- I'll have to get all these definitions. I'll get my thesaurus out and find out all the different ways we can say the same thing: My car is gone.

If no one has any questions, I'll entertain a motion.

SENATOR CIESLA: Move the bill.

SENATOR SCOTT: Move the bill by Senator Ciesla. I think we have a quorum here.

MR. KAMIN: Thank you, Mr. Chairman, members.

SENATOR SCOTT: Well, thank you for coming down.

Senator Rice?

SENATOR RICE: Yes.

MR. CANTOR: On the motion to release Senate Concurrent Resolution No. 74.

Senator Zane?

SENATOR ZANE: Yes.

MR. CANTOR: Senator Rice?

SENATOR RICE: Yes.

MR. CANTOR: Senator McNamara?

SENATOR McNAMARA: Is this a courtesy that the Democrats vote first?

SENATOR SCOTT: Yes. It's like-- (laughter) We wanted to-- I'm sure it worked out the other way around when it was the other--

MR. CANTOR: Senator Ciesla?

SENATOR CIESLA: Yes.

MR. CANTOR: Senator Scott?

SENATOR SCOTT: Yes.

Thank you, Mr. Director. It was a pleasure, and hopefully, we can resolve this to the motoring public's and my satisfaction, too, and everybody. We have a sincere problem with it. So if you put all those regulations, I hope you'll give me a copy real quick. Thank you.

We will now hear SR-42 -- disapproves the use of moneys in the New Jersey Spill Compensation Fund for administrative costs of the DEP and finds such use inconsistent with legislative intent.

Now, we have a couple of people to testify.

Okay, Rick?

ASST. COMM. RICHARD GIMELLO: Mr. Chairman, how are you, sir?

SENATOR SCOTT: Very good, Rick. Are you here to give us a check for all the money that you've been using and you didn't mean to?

MR. GIMELLO: It's all gone, Senator.

SENATOR SCOTT: It's all gone.

MR. GIMELLO: Well spent, may I add.

SENATOR SCOTT: Okay. All right, if you would, we'd like to--

MR. GIMELLO: My comments actually will be very brief, Senator. I think that what I'd like to say on behalf of the Department, and especially the Site Remediation Program, is that we kind of agree with the concept that one shouldn't be using Spill Fund money for administration.

Unfortunately, there are few alternatives. I think since 1978 through 1990, with one year exception, the Spill Fund admin costs were below \$5 million. It wasn't until 1991, expressly through the language of the budget, through this year, that dollars have been appropriated from the Spill Fund for admin--

SENATOR SCOTT: This year?

MR. GIMELLO: Yes, sir.

SENATOR SCOTT: FY '96?

MR. GIMELLO: Yes. I happen to have the language from '94 and '95 -- I had those budget books on my shelf -- and in '94 there was specific language in the appropriations appropriating \$12 million for the purpose of admin out of the Spill Fund and, in 1995, specific language authorizing the expenditure \$16 million for Spill Fund. I think this has come about simply because there were few alternatives.

As I said earlier, we would agree with your premise that the Spill Fund money ought to be used for emergency remediations, for the establishment of water lines, and to compensate people--

SENATOR SCOTT: So if we've dedicated those funds, you would agree, that that's what it should be?

MR. GIMELLO: Absolutely, I think that was the original intent. It does bait the question where we get the money to administer the program, but, as I said, philosophically, I can certainly agree with the resolution's intent.

SENATOR SCOTT: It's good to hear because, hopefully, I'll put a piece of legislation in to dedicate those revenues. I know you can't cosponsor it with me, but if you give us a nice supporting letter, we'll be very happy to hear that.

Senator Zane? (no response) Senator Rice? (no response) Okay. Well, let's keep on going.

Thank you very much.

It looks like everybody's in agreement here today, it's a wonderful day.

MR. GIMELLO: You're going to help me with the admin money as well, I'm assuming?

SENATOR SCOTT: On the what money?

MR. GIMELLO: That you'll help me with the replacement source, so I can run the program.

SENATOR SCOTT: Oh, absol-- Well, Senator McNamara is going to help on that, because he--

MR. GIMELLO: He's always been very helpful for my program.

SENATOR SCOTT: --he's good with money. Senator McNamara is good with money. Doesn't want to spend very much of it, but-- (laughter)

Jim Sinclair, NJBIA?

JAMES SINCLAIR: Thank you, sir. On behalf of the--

SENATOR SCOTT: Do I tell you, you are going to agree with DEP on this?

MR. SINCLAIR: Yes, I do.

SENATOR SCOTT: Okay.

MR. SINCLAIR: Actually, I agreed all the way through. I believe that, one, the Spill Fund was never designed for that purpose, even though it's in the budget amendment. Two, it was not part of the deal that was cut back in the late '80s when the Spill Fund was increased and the number of substances increased and the dollar amount increased. All that was geared for and sold to the business community that pays that tax that it would go for actual cleanups. It was part of the cleanup program.

This is the same misuse of the funds as the corporate business tax surcharge, all that money in the corporate business tax that disappeared that now is coming back with Senator Bennett and, I think, Senator McNamara is on that bill.

The problem here, and I agree with Commissioner Gimello, is that we should be using the Spill Fund tactically to go after immediate problems -- that's what it was set up to do. It should be dealing with today's current, hot problem. And then you have a pot of money to go after it and deal with it, clean it up right now, and then not wait around until it becomes -- seeps into the groundwater and a variety of things.

So we ought to have that pot of money available for tactical purposes. What Commissioner Gimello says is that the program itself, the Site Remediation Program, needs administrative costs to run. Whatever level of program, this should be viewed as a whole program, and it ought to have an appropriation in there that is sufficient to do what it is that the Legislature wants to do this year and next year and the following years.

So we ought to look at the program in terms of what it is that we want to accomplish in the State and fund it adequately from the different sources, whatever those sources are. We just don't have a plan. And this is-- Part of it is because we, in the late '80s, went to this thing of just dumping everything onto these feed programs, and that is -- the Spill Fund is viewed as a feed program. We need to, you know, wean ourselves from that. And this is not an easy thing.

What Mr. Gimello says that we need to find -- sure, if you take the money out, what are they going to do to run the program? And, I think, everybody would say that this is an important program, and it needs to have some sort of priority in the hierarchy. So not an easy-- It's easy to say, "Let's do this," but it's really tougher to figure out how to make it work in totality.

But we support this bill. This is a good bill.

SENATOR SCOTT: Thank you.

Does anybody have any questions? (no response)

Okay, thank you very much, Jim.

Hal Bozarth, CIC?

H A L B O Z A R T H: Thank you, Mr. Chairman, members of the Committee.

I appreciate the opportunity to also support this specific piece of legislation. I'm glad to see that the Department is also supporting it.

I just want to take a half a second to tell you why it's important to remove the expenditures from administrative costs from this fund. The fair market value tax is the tax in which the Spill Fund uses to collect money. It's a tax that's applied to the first transfer either into the State of a raw material or out of the State of a finished or intermediary product.

It's based on the fair market value of the time the substances are either brought into the State or shipped out of the State. And since it's based on the fair market value, there's an inherent negative that occurs as the years have gone on since 1978.

Raw materials have become more expensive. Without regard to demand on the Department's administrative end or for the cleanup end, the tax also increases exponentially so that there is more tax raised all the time.

It's uncompetitive, frankly, for the following reasons, and that is, it's in addition that my membership with the chemical, pharmaceutical, flavor, and fragrance areas pay. It's in addition to oversight costs that they pay as they are doing individual cleanups around the State that they are involved

with. It's uncompetitive and an addition to the Federal Superfund tax that all those members pay.

So, in New Jersey, you've got almost a three-tiered tax system that people in other states don't have to comply with. Similar folks will pay the Superfund no matter where they are: Louisiana, Texas, or Nebraska. But, in New Jersey, we pay the Spill Fund, the Superfund, the oversight costs, in addition to any specific cleanup costs that the members that I represent are identified with in a liability standpoint.

I understand Commissioner Gimello's point about eating some money for administrative charges. But if you go back to the original history of the Spill Fund in 1978, it was specifically to deal with cleanup of abandoned sites. It was not ever envisioned that the administrative end of things would eat up so much of those costs.

A rhetorical question that you got to ask yourselves is: How many additional sites or portions thereof would have been cleaned up had the money not been necessary to go for administrative charges. We need to do something with dealing with the iniquities here in the general issue of the Spill Fund versus the other burdens that the folks in these situations have accruing to them. But for the moment, I applaud you, Mr. Chairman, for sponsorship of this bill, and it's something that I urge the Committee to release.

Thank you.

SENATOR SCOTT: Thank you.

Are there -- no questions? (no response) Well, it looks like an easy day today.

Motion--

SENATOR CIESLA: Move the bill.

SENATOR SCOTT: --to move the bill. Second?

SENATOR RICE: Second.

SENATOR SCOTT: Second.

Okay.

MR. CANTOR: On the motion to release Senate Resolution
No.42.

Senator Zane?

SENATOR ZANE: Yes.

MR. CANTOR: Senator Rice?

SENATOR RICE: Yes.

MR. CANTOR: Senator McNamara?

SENATOR McNAMARA: Yes.

MR. CANTOR: Senator Ciesla?

SENATOR CIESLA: Yes.

MR. CANTOR: Senator Scott?

SENATOR SCOTT: Yes.

Okay, thank you very much. This Committee hearing is
adjourned.

(MEETING CONCLUDED)