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PUBLIC HEARING

before

ASSEMBLY ECONOMIC GROWTH, AGRICULTURE AND TOURISM COMMITTEE

ASSEMBLY BILL NO. 300

(Establishes the "Manufacturing Retention and Equitable Taxation Act")

September 27, 1988
Gibbstown Volunteer Fire Company
Gibbstown, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Jack Collins, Chairman
Assemblyman Frank A. LoBiondo, Vice Chairman
Assemblyman Anthony S. Marsella

New Jersey State Library

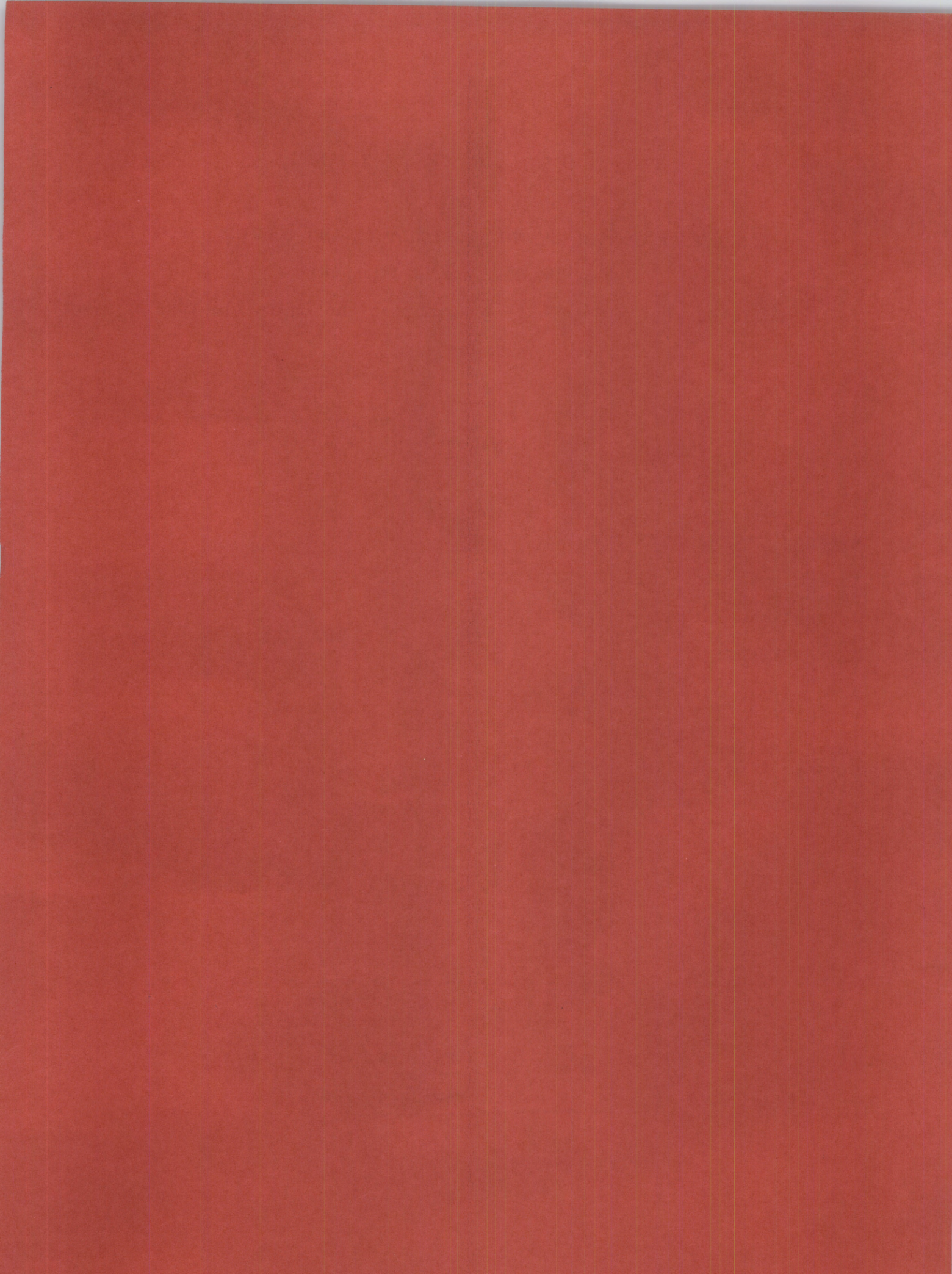
ALSO PRESENT:

Assemblyman Gary W. Stuhltrager
District 3

Amy E. Melick
Office of Legislative Services
Aide, Assembly Economic Growth, Agriculture
and Tourism Committee

* * * * *

Hearing Recorded and Transcribed by
Office of Legislative Services
Public Information Office
Hearing Unit
State House Annex
CN 068
Trenton, New Jersey 08625





JACK COLLINS
CHAIRMAN
FRANK A. LOBIONDO
VICE-CHAIRMAN
JOHN T. HENDRICKSON, JR.
ANTHONY S. MARSELLA
EDWARD H. SALMON

New Jersey State Legislature
ASSEMBLY ECONOMIC GROWTH, AGRICULTURE
AND TOURISM COMMITTEE

STATE HOUSE ANNEX, CN-088
TRENTON, NEW JERSEY 08625
TELEPHONE: (609) 984-7381

MEMORANDUM

September 16, 1988

TO: MEMBERS OF THE ASSEMBLY ECONOMIC GROWTH, AGRICULTURE
AND TOURISM COMMITTEE

FROM: ASSEMBLYMAN JACK COLLINS, CHAIRMAN

SUBJECT: COMMITTEE MEETING AND PUBLIC HEARING - TUESDAY,
SEPTEMBER, 27, 1988

(Address comments and questions to Amy E. Melick, Committee Aide,
(609) 984-7381.)

The Assembly Economic Growth, Agriculture and Tourism
Committee will meet on Tuesday, September 27, 1988 at 1:00 p.m. at
the Gibbstown Volunteer Fire Co., Walnut Street, 2nd floor,
Gibbstown, New Jersey, to consider the following bills:

A-999 Farragher	Appropriates \$125,000 to Dept. of Commerce, Energy and Economic Development for Small Business Development Center.
A-2134 Stuhltrager	Makes various amendments to the "New Jersey Waterfowl Stamp Act."
A-2346 Hendrickson	Establishes four conservation officer positions for shellfish law enforcement in four counties.
A-2966 Bush	Directs Department of Commerce, Energy and Economic Development to study impact of military spending on New Jersey.
A-3225 Marsella/Riley	Appropriates \$90,000 to the DEP for gypsy moth control.
A-3249 Kline/Moran	Establishes position of county shellfish conservation officer in four counties.

-over-

New Jersey State Library

A-3413
Villane/Palaia

Provides that Shareholders Protection Act does not apply to persons who became stockholder on or after August 5, 1986 and before January 1, 1987.

AR-108
Roberts/Bryant

Memorializes Congress to transfer Coast Guard base to Gloucester City.

S-2675
Lesniak

Provides that Shareholders Protection Act does not apply to a person who became an interested stockholder on or after August 5, 1986 and before January 1, 1987.

Immediately following the meeting the committee will hold a Public Hearing on A-300 (Establishes the "Manufacturing Retention and Equitable Taxation Act").

A-3412
Villains/Palms

Provisional
does not
stock
below
January 1, 1987

AR-200
Robert's Grant

Member
Lassak
Congress to transfer Coast
State City

3-2875
Lassak

Provisional
does not
interest
1988
January 1, 1987

Public Hearing on A-300 (L)
and Sustainable Taxation Act

ing the committee will
in the "Manufacturing"

ASSEMBLY, No. 300
STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblyman KAMIN

1 AN ACT concerning the taxation of certain business personal
2 property, amending R.S. 54:4-1 and P.L. 1986, c. 117 and
3 supplementing Title 54 of the Revised Statutes.

5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. (New section) This act shall be known and may be cited as
8 the "Manufacturing Retention and Equitable Taxation Act."

9 2. (New section) The Legislature finds and declares that since
10 1979, New Jersey has lost more than 100,000 factory jobs and
11 nearly 1,000 manufacturing plants, and this trend has persisted
12 despite the recent economic recovery, with employment in the
13 manufacturing sector declining to just over 684,000 jobs in 1986,
14 the lowest level since 1940. The Legislature also finds that New
15 Jersey's manufacturing sector, notwithstanding the recent
16 losses, continues to be an important source of relatively
17 high-paying employment for a large portion of the workforce,
18 and an essential foundation for the rest of the economy. The
19 Legislature further finds that in order to retain manufacturing
20 jobs, it is in the interest of the business community,
21 municipalities and the State of New Jersey to establish and
22 maintain a policy regarding the taxation of business personal
23 property which is historically consistent, equitable and
24 competitive with neighboring states, and which creates and
25 maintains certain reasonable incentives for manufacturing
26 interests to exist and thrive in New Jersey. The Legislature,
27 therefore, declares that it is the policy of the State, through
28 this act, to establish and maintain a manufacturers exclusion
29 from the taxation of all business personal property, similar to
laws which exist in Pennsylvania and other states.

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 underlined thus is new matter.

1 The Legislature further declares that certain municipalities,
which may experience a revenue loss as a result of this act, shall
3 be entitled to a mechanism by which lost revenues may be
recovered and made available by the State.

5 3. R.S. 54:4-1 is amended to read as follows:

7 54:4-1. All property real and personal within the jurisdiction
of this State not expressly exempted from taxation or expressly
excluded from the operation of this chapter shall be subject to
9 taxation annually under this chapter. Such property shall be
valued and assessed at the taxable value prescribed by law.
11 Land in agricultural or horticultural use which is being taxed
under the "Farmland Assessment Act of 1964," [chapter 48, laws
13 of 1964] P.L. 1964, c. 48 (C. 54:4-23.1 et seq.), shall be valued
and assessed as provided by [said] that act. An executory
15 contract for the sale of land, under which the vendee is entitled
to or does take possession thereof, shall be deemed, for the
17 purpose of this act, a mortgage of said land for the unpaid
balance of purchase price. Personal property taxable under this
19 chapter shall include, however, only tangible goods and chattels,
exclusive of inventories, used in business of telephone, telegraph
21 and messenger systems, companies, corporations or associations
subject to tax under [chapter 4, laws of 1940] P.L. 1940, c. 4 (C.
23 54:30A-16 et seq.), as amended, and shall not include any
intangible personal property whatsoever, whether or not such
25 personalty is evidenced by a tangible or intangible chose in
action, except as otherwise provided by [section] R.S. 54:4-20
27 [hereof]. Cogeneration facilities including machinery, apparatus
or equipment attached to or functionally essential to a
29 cogenerator, shall not be taxable as real property. Property
omitted from any assessment may be assessed by the county
31 board of taxation, or otherwise, within such time and in such
manner as shall be provided by law. Real property taxable under
33 this chapter means all land and improvements thereon and
includes personal property affixed to the real property or an
35 appurtenance thereto, unless:

a. (1) The personal property so affixed can be removed or
37 severed without material injury to the real property;

1 (2) The personal property so affixed can be removed or
severed without material injury to the personal property itself;
3 and

5 (3) The personal property so affixed is not ordinarily intended
to be affixed permanently to real property; or

7 b. [The personal property so affixed is machinery, apparatus,
or equipment which is neither functionally essential to a
structure the personal property is within or to which the
9 personal property is affixed nor constitutes a structure itself]
The personal property so affixed is machinery, tools, apparatus,
11 devices or other equipment, which is used in the manufacturing
or processing of the products that the establishment or business
13 conducted upon the real property is intended to produce and are
necessary parts of the manufacturing or processing process, or
15 which are necessary to the performance of the service, if the
business is a service business, that the business performs.

17 Real property, as defined herein, shall not be construed to
affect any transaction or security interest provided for under
19 the provisions of chapter 9 of Title 12A of the New Jersey
Statutes (N.J.S. 12A:9-101 et seq.). The provisions of this
21 section shall not be construed to repeal or in any way alter any
exemption from, or any exception to, real property taxation or
23 any definition of personal property otherwise provided by
statutory law.

25 The Director of the Division of Taxation in the Department of
the Treasury may adopt rules and regulations pursuant to the
27 provisions of the "Administrative Procedure Act," P.L. 1968, c.
410 (C. 52:14B-1 et seq.) as may be deemed necessary to
29 implement and administer the provisions of this act.

31 4. Section 3 of P.L. 1986, c. 117 (C. 54:4-1.12) is amended to
read as follows:

33 3. For the purposes of chapter 4 of Title 54 of the Revised
Statutes and notwithstanding the provisions of R.S. 54:4-1, a
tank having a capacity of more than 30,000 gallons is deemed to
35 be real property unless it is used directly in the manufacturing
or processing process as provided for in subsection b. of R.S.
37 54:4-1.

39 5. (New section) There is established in the Department of
the Treasury a "Manufacturing Property Tax Recovery Fund."

1 The state Treasurer shall annually credit to the "Manufacturing
Property Tax Recovery Fund" an amount up to \$15,000,000.00 or
3 an amount equivalent to the amount of revenue recovery
computed by the Director of the Division of Taxation in the
5 Department of the Treasury pursuant to the provisions of
section 6 of this 1987 amendatory and supplementary act.
7 Moneys credited to the "Manufacturing Property Tax Recovery
Fund" shall be derived from revenue collections under the
9 Corporation Business Tax Act (1945), P.L. 1945, c. 162 (C.
54:10A-1 et seq.), attributable solely to changes in federal
11 income tax laws effectuated by the "Tax Reform Act of 1986,"
Pub. L. 99-514. Moneys in the "Manufacturing Property Tax
13 Recovery Fund" shall be appropriated annually for
municipalities, on a pro rata basis upon proper application to the
15 director, to recover revenue losses directly attributable to items
being newly excluded from assessment pursuant to R.S. 54:4-1
17 and section 3 of P.L. 1986, c. 117 (C. 54:1-1.12), as a result of
the amendments made thereto in section 3 and 4 respectively of
19 this 1987 amendatory and supplementary act.

6. (New section) On or before November 1, 1987 and on or
21 before November 1 in each year thereafter, the Director of the
Division of Taxation in the Department of the Treasury shall
23 compute the amount of revenue recovery due each municipality
pursuant to section 5 of this 1987 amendatory and
25 supplementary act for the succeeding year, and shall thereupon
notify the governing body and the tax collector or other chief
27 fiscal officer of each municipality which has duly made
application for such funding of the amounts so determined. The
29 determination made by the director as to the amount of revenue
recovery due each municipality shall be final.

7. (New section) Upon notification by the Director of the
31 Division of Taxation in the Department of the Treasury of the
33 amount of revenue recovery funds due, the governing body of
each municipality shall anticipate such revenues in its budget
35 for the succeeding year and shall apply all such revenues to the
reduction of the property tax levy.

1 8. (New section) On or before December 1 annually, the
 2 Director of the Division of Taxation in the Department of the
 3 Treasury shall certify to the State Treasurer the amount of
 4 revenue recovery funding due each municipality under the
 5 provisions of this 1987 amendatory and supplementary act. The
 6 State Treasurer, upon the certification of the director, and upon
 7 the warrant of the State Comptroller, shall pay to each
 8 municipality the amount due on or before December 15 annually.

9 9. (New section) The Director of the Division of Taxation in
 10 the Department of the Treasury is authorized to promulgate
 11 rules and regulations pursuant to the provisions of the
 12 "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1
 13 et seq.) as may be necessary to carry out the provisions of this
 14 act.

15 10. This act shall take effect immediately and shall be
 16 applicable to assessments made for the tax year 1987 and
 17 thereafter.

19

STATEMENT

21

22 This bill provides that manufacturing machinery, tools,
 23 apparatus, devices or other equipment used in the manufacturing
 24 or processing process shall be exempt from real property
 25 taxation. The bill also establishes a "Manufacturing Property
 26 Tax Recovery Fund" to be the depository of moneys necessary
 27 to pay municipalities for the revenue lost pursuant to the new
 28 real property tax exemption. The moneys to be credited to the
 29 fund are to be derived from revenues collected pursuant to the
 30 corporation business tax which are attributed solely to changes
 31 in the federal income tax laws.

32 The bill also provides a real property tax exemption for
 33 cogeneration facilities.

35

TAXATION

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State Budget and Finance

38 Establishes the "Manufacturing Retention and Equitable
 39 Taxation Act."

1 (New section 101) The Department of the Treasury shall have the authority to...
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Assemblyman G. Richard K...
District 33

Deputy Mayor Joseph G. Nash
West Deptford, New Jersey

Charles Woodford
Plant Contractor
Ford Motor Company
Edison Assessor's Plant

Frederick Francis McDevitt
Gloucester County, New Jersey

Horace Spoor
Vice President
Association of Municipal
Assessors of New Jersey

James C. Moore
Vice President
New Jersey State Chamber of Commerce

William H. Gossel, Jr.
Assistant Executive Director
New Jersey State League of Cities

George W. ...
Director
Office of Economic Research
New Jersey Department of
and Economic Development

Frank P. Leone
President
Gloucester County Assessor's
Association

John K. Meeker, Jr.
Union County Tax Administrator

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Vice President
New Jersey Business and Industry
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Solicitor for the
Township of Greenwich

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Gen. L. ...

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William E. ...
Chairman
Legislative Committee
Association of Municipal
Assessors of New Jersey
Past President of the State
Association of Assessors

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Harry ...
Resident of ...

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John ...
Hollman ...

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George ...
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Kevin ...
Association ...
New Jersey ...

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James E. ...
Executive Director
New Jersey ...

APPENDIX:

Statement submitted by
Assemblyman G. Richard ...

Statement, plus attachment,
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ASSEMBLYMAN JACK COLLINS (Chairman): If I could have everyone's attention, we are ready to start the hearing portion now. As I mentioned earlier, we are here today to first have a Committee meeting of the Assembly Economic Growth, Agriculture and Tourism Committee. We have had that, and have voted out legislation. Also today, we will have a hearing by the Committee members on Assembly Bill 300.

When the Committee holds a hearing, it is exactly that. It is a hearing. There will be no vote on this legislation today. The testimony that is given by all of the speakers is being recorded by the transcriber to my left. The microphone for the audience is the black one. The silver one is the microphone that leads to the transcriber.

Assemblyman Salmon had to leave for another appointment. I make mention of that for this reason: The testimony that is given here today will be given to all Assembly members sometime in the future. So, though four Assemblypeople are here, and there is a possibility, if this hearing goes on for a long period of time, that some may have to leave, I don't want anyone to feel that, first, their testimony isn't important, and secondly, that their testimony is falling on eight ears now, and then maybe six ears, and then four ears, whatever. The statements you make will be recorded, and they will be put forth in a document to all Assembly members.

We have a large group of speakers here today. I want to give everyone the opportunity to speak on this bill. The only thing I will ask is -- and I will ask it occasionally during the next hour, two hours, whatever it will be -- if your particular comments echo those of someone who has already spoken, if you could at least cut them somewhat short, unless it is a particular point that you want to reenforce. I will try my best to allow everyone to speak, and I am not going to put time limits on the speakers. But I do hope that for all

concerned here, we will take into consideration making comments of pertinence, but also, if you have heard them a number of times, you may want to say, "As others have said, and I agree," and then move on to a particular point.

The first person I would like to call to the microphone is a gentleman who I have a great deal of personal respect for. I already thanked him publicly, and his staff, not just for the cordiality that they have shown to us in setting up this hearing, but going even further and coming up with coffee and cookies for us. I am very happy to bring to the microphone to give us words of welcome, the Mayor of Gibbstown, Mayor Dick Jenkins. Dick?

MAYOR RICHARD T. JENKINS: I am very glad to have Assemblymen Stuhltrager, Collins, and all the other distinguished Assemblymen and people here today. Also, we have in our audience, I am sure, solicitors, assessors, and persons from all over our county. I would like, first of all, to welcome you.

UNIDENTIFIED SPEAKER FROM AUDIENCE: We can't hear you. (discussion of microphones at this point)

MAYOR JENKINS: I don't get paid for this, you know. (laughter) I would like to welcome you here today. I'm sure Greenwich Township is honored to have this hearing here. I was glad when you called, to arrange it.

I have some testimony, and I'm sure that a lot of other people do. But I am going to bow, for the most part of it, to our professionals, to our solicitor and assessor, who have a much better, probably, attack on this than I.

What I have is a start. I was first Councilman or, at that time, Committeeman, in 1965. We, at that time, enjoyed a fairly stable tax base from industry, meaning that approximately 80% to 85% of our taxes were borne by industry. A lot were envious of our position. It had some drawbacks, of course. We couldn't get as much aid, and things like that.

But now that has shrunk and eroded. At the present time, as you may know from reading the papers, we have industries that are asking for adjustments on their taxes which, of course, will detract from that. This bill, I feel, is just a straw.

Back when the so-called tank tax was enacted and was successful, we felt pretty good about it because our solicitor, assessor, Council, and Mayor had supported this. It had, as a matter of fact, some grass-roots backing the year before, when we had presented it at the League of Municipalities convention. We certainly 100% endorse that.

We feel quite safe that if that is kept in force, it will be a real asset to our community, because along with industry, as you might know if you had the same occurrence, we also have the attendant environmental problems. We take this because we know we are close to our benefactor. So I would say we are 100% in back of the effort to stop this bill. We don't think it offers anything constructive to our part of the county, or our part of the State.

I would like to mention one thing that was in the bill, talking about industry leaving. I'll tell you that I believe that a lot of this -- and I think I can be supported with this -- a lot of the industrial transition is not all due to economics and all due to taxes, or tax structure. I think a good bit of it is because of our DEP regulations, which have forced people to other places.

So, I would say, let's not take this to mean that by enacting this bill we are going to support industrial growth, because I do not feel that that will actually be the case.

I will leave any further testimony to our professionals, but I will say that as taxpayers -- as a taxpayer, and all of the rest of the taxpayers who I represent in Gibbstown, Greenwich Township -- we certainly hope that this bill -- A-300 -- is not successful. We vote to maintain the

status quo and keep things as they are, which would be beneficial to us.

Thank you.

ASSEMBLYMAN COLLINS: Thank you, Mayor. Once again -- and I know I speak for all here -- we appreciate your hospitality in allowing us to come here today to Gibbstown. Thank you very much.

The first testimony we will take today is from Assemblyman Dick Kamin. Assemblyman Kamin is the sponsor of this legislation. He is Assistant Majority Leader of the Assembly, and a good person to kick off this particular hearing. We welcome you to the Third District, Assemblyman. You haven't been here since Friday night. It's good to have you here for two days, in such short order.

A S S E M B L Y M A N C. R I C H A R D K A M I N: Mr. Chairman, thank you very much. I am not sure which of these microphones are working. I'll try them both. I would like to thank you and the members of the Committee, and may I also say learned staff-- For those of you who do not know the members of the OLS staff -- the members of the Majority and Minority staffs -- they make us look good, in spite of ourselves, and it is kind of them to be down here to do all the legwork to set up these meetings.

Two years ago, before I became a member of the Legislature, changes were made creating Chapter 117 of the State's Business Personal Property Tax. These revisions have been extremely harmful to the New Jersey manufacturing community. Local tax assessors, under pressures to find new revenues, are using the new law to bring onto the tax rolls new items which prior to Chapter 117 were not taxed. How serious is this ongoing problem? Let me explain.

Since 1979, we have lost over 100,000 factory jobs in the State of New Jersey. We have lost nearly 1000 manufacturing plants. We are now at the lowest level of

manufacturing employment in the private sector since 1940 -- slightly over 680,000 jobs. Chapter 117 took away the manufacturing incentive that was passed by the Legislature in 1976, with the phase-out of the Business Personal Property Tax. Our only response as legislators has been to pass a plant closing bill. Assembly Bill 300 is a plant opening bill, not a plant closing bill, and will put us on a level playing field again with our neighboring states of New York, Delaware, Pennsylvania, and Maryland.

The need for this legislation, in my opinion, is clear. Assembly Bill 300 exempts machinery, tools, and devices and equipment used in manufacturing. In addition, the bill, to meet the future energy needs of the State and of this region, exempts cogeneration facilities from being taxed as real property.

Now that the regulations have been issued by Director John Baldwin of the Division of Taxation, where the whole refining process would now become tax-exempt, I think the need for the passage of A-300 is even more urgent. It should be noted that A-300 would still tax storage tanks greater than 30,000 gallons.

Let me give you some further history and comment about the use, and especially the abuse of Chapter 117. Cable television antennas are now taxable -- a case that was settled up in Audubon Borough. In Edison Township, home of Ford Motor Company-- Edison Township's tax assessor increased the tax liability up there as a result of Chapter 117 by \$25 million. Litigation costs for this yet unsettled case -- and you will hear some explanation in some testimony today from Mr. Charles Browning of the Ford Motor Company-- The litigation costs alone exceed \$700,000. In Freehold, after a trial had ended for Brockway Glass, the municipality sought to reopen the record and introduce testimony on the value of two glass furnaces which were previously untaxed. Other companies, like

General Motors, RCA, and Chlorox, have made financial commitments to their communities and to their operations, only to have the interpretation of the new law by local aggressive tax assessors change the rules in a very arbitrary fashion.

In Clifton, for another example, they projected a tax of \$1.9 million on a new cogeneration facility. After construction, the tax assessor decided it was going to be \$13 million. An agreement was finally reached for a tax liability of \$5 million in 1987, and for this year it is \$6 million.

Why did I become interested in this situation? Because, Mr. Chairman, I have a concern for employment and for opportunity, because I think legislation like the plant closing bill was a mistake, and because I believe the McBride amendments and resolutions out in South Africa were also misguided. It bothers me to see manufacturing jobs stand in the State of New Jersey at the lowest level in over 40 years. And it bothers me that tax assessors are responding to the need for revenue enhancers by leaning on business.

I would like to remind the members of the Committee that I spent 10 years in local government, in a municipality of about 25,000 people -- the Faulkner Plan E form of government -- and I know what local government is all about, and why everybody has to scramble for revenues. The way we should fix that-- I know, working with the League of Municipalities, the way to fix that is to fix the cap laws, which are restrictive and abusive, but not to take aggressive tax assessments.

What should be remembered, however, is that the only ones who are really benefiting from the expansionism policies are the attorneys who argue these cases in court. We can't just continue to say that business should pay more tax. Whatever tax is added on will be passed on as a cost of doing business, and we, as consumers, will pay more in that tax for the products we buy in the marketplace.

Business in New Jersey, as the Mayor commented, is surrounded by additional problems -- the environmental costs and ECRA reform, the threat of new taxes after the SLERP Commission's report. We have a labor shortage in the State of New Jersey. We can't give affordable housing to our workers. There are insurance and health benefit problems. The question then becomes to business, why stay in New Jersey or, for that matter, why even come to New Jersey?

I represent a five-county region -- Hunterdon, Morris, Mercer, Warren, and Sussex -- which has to compete with Pennsylvania. We are right on the Delaware River border. It is very much like your district, Mr. Chairman, but I must tell you, we are losing ground in jobs to neighboring Pennsylvania. It is time to restore fairness, and to clearly spell it out, in a legislative manner, so that we exclude from taxation integral parts of manufacturing. It is time to end the costly litigation between business and our host communities, which only benefits attorneys.

Under Assembly Bill 300, storage tanks would remain taxable. I know that is a concern to you in this district. Local government would be held harmless by a \$15 million replacement fund, which is created in this bill. There is a clear definition of business personal property and real property. It also provides for tax uniformity and equity as a reasonable incentive to retain and expand business investment here in the State of New Jersey.

Mr. Chairman and members of the Committee, I thank you for your kind attention and the opportunity to present this legislation to you. It is a piece of legislation that I feel will make New Jersey an even better place to live and, most importantly, to work.

Thank you, and at this time I would like to introduce Seth Davenport, who is a legal counsel, Mr. Chairman.

ASSEMBLYMAN COLLINS: Mr. Davenport, we are going to listen to your testimony, but I don't know in what particular sequence. We are going to try to keep a balance of those supporting the bill and those opposed to the bill. But you definitely will get your chance. We do appreciate your being here, and you will get the opportunity.

Assemblyman, I appreciate your comments. I know in the previous conversations we have had over the last nine months on this particular bill, that you are committed to the words you have stated here today about the manufacturing atmosphere in this State. During this hearing today, we are going to listen, I'm sure, to people who support the position that you have enunciated here, and I assure you, you are going to hear from people who do not feel this is the way to go. I would hope that you would stay here toward the front in case a particular question comes up, or if at any time during this hearing you want to make a comment or a point of clarification, we will be very happy to hear from you.

Assemblyman Kamin, as I mentioned, is the sponsor of A-300. This is a bill that will make changes in the current law. The sponsor of the bill that became the law that the Assemblyman's bill deals with is a member of this Committee today. He is not only a member of the Committee, but my colleague representing the Third District. He would like to make some comments now -- Assemblyman Gary Stuhltrager. Assemblyman?

ASSEMBLYMAN STUHLTRAGER: Thank you, Mr. Chairman and, Dick, thanks for coming down today, because I think it is important that the people in our community, which was really the genesis of our efforts two years ago, hear firsthand what A-300 is all about and have an opportunity to question you and inform this Committee about their thoughts on it.

I was thinking as I came over here today, you know, about what we went through two years ago. The tension,

historically, between real property and personal property and the taxation of that property goes back many, many years. In 1986, based on some tax appeals that originated in this district, we decided to, legislatively, try to change those definitions. It seemed pretty clear to me at that time that the men in the white hats were the people in the municipality. The reason I say that is, the courts had, in my opinion, and in the opinion of those of us who were looking at the revenues and some of the appeals and the decisions from those appeals-- There had really been a perversion of what was real versus what was personal. That is why we started.

I also want to say, what was our intent? Our intent was the status quo. Our intent was not an open invitation to tax assessors in all of our municipalities to go in and use the new definition as a way of gathering more revenues than they had been getting previously. I do want to mention, we talk about tank tax, and that could be a little bit misleading because the tanks, even for those of us who started it, and that was sort of the moniker it assumed, was really only the tail on the dog, so to speak,

I want to emphasize that in terms of the definition, we are trying to define what is real and what is personal. That definition, it became very clear very quickly to those of us who were at a number of meetings-- You could not define it such that something is included here and excluded there, and it might reverse itself in another town because of the way it had always been taxed in the past.

Previously, I would say that the tank tax-- I shouldn't say previously. The tank tax itself ultimately has an over-inclusive definition. If you go by the literal definition and you start from scratch, you could go in and tax more things than have been taxed in the past, and I think that has happened. It hasn't happened here. It hasn't happened in the companies and municipalities that were the reason that we

put this legislation into being. It has happened in other places, Dick, and you talked about some of those things.

One of the things that really disappointed me, after the passage of the tank tax -- 1986 -- was the fact that the Director of the Division of Taxation took almost two years to come out with regulations that were supposed to help assessors determine what was taxable and what wasn't. That two-year period, if that had been shortened -- and it is water over the dam, of course -- and we had had those regulations within several months, we may have avoided some of the problems that you now have. The fact of the matter is, the regulations are just out. Are those regulations going to bring that taxing versus non-taxing system into a closer degree of equipoise? I don't know. That is a question I would certainly like to have addressed by both sides here today, whether or not the regulations, which haven't had a chance to work -- whether or not those regulations are sufficient, or are they too much? I would like to hear from both sides on that to help me in my analysis of it.

The trust fund, Dick, that you talk about-- I certainly would like to hear from the municipalities and the people representing them whether or not that trust fund of \$15 million is sufficient. Is that going to be enough money? And maybe even more important than whether it is enough money, is it going to be there? People have long memories, in some cases, and if I mention gross receipts, I think people will know what I am talking about -- anybody who has been in municipal government. The same thing that happened with gross receipts -- at least it's possible -- would happen with this trust fund.

I have some information that I wasn't aware of, Dick, that indicates that that trust fund has already been allocated, or designated to another source. Maybe you could address that, when you get the opportunity.

So, these are some of the questions. It is a complex piece of legislation. We understand the emotional pulls of the municipalities; they need money, and the needs of business to stay in operation and have a favorable tax climate. We are trying to reach that balance. Maybe we have gone too far on the one hand, with the court decisions prior to the tank tax. Maybe the tank tax has gone too far this way. Is there somewhere in the middle? Maybe there isn't. Maybe the regulations are there. They are the kinds of thoughts I have in my mind. I hope during the course of today we can at least get people's thoughts on those kinds of questions.

Thank you, Mr. Chairman.

ASSEMBLYMAN COLLINS: Thank you, Assemblyman. Assemblyman Kamin, just a question I have right now, spinning off what Assemblyman Stuhltrager said with regard to the \$15 million, and we will hear, I'm sure, from many of the municipal representatives. But, it is my understanding that that money -- those moneys that you are planning to put in there from changes in the Federal tax law -- have already been going into the Hazardous Waste Discharge Site Cleanup Fund. Is there going to be enough money to get the \$15 million? Whether or not \$15 million is enough is another question, the one that Assemblyman Stuhltrager referred to. But, is there even \$15 million to put into this fund?

ASSEMBLYMAN KAMIN: Mr. Chairman, if I may respond to that question, which, to many, is the very heart of the matter-- Fifteen million dollars may not be enough, but I feel, as do many of the co-sponsors, of which there are 49 from both sides of the aisle-- I felt so strongly about this bill when I started working on it, upon its reintroduction at the beginning of the year, I went to the Governor, and I told him the worst possible case was that the money has all been allocated of the \$80 million change in the Federal tax laws -- that that \$80 million has gone to other sources, and we may

have to make an appropriation -- an annualized appropriation -- that will become a permanent part of the budget, just as an allocation to DEP to run its Department. But it is that significant and that important, I think, to the economic health and welfare of the State of New Jersey, that if we have to, that is the kind of commitment it will take.

I pledge to you, Mr. Chairman, that this bill will not move unless that funding source is there, so that you and the members of the Legislature, and especially me, are comfortable with that guarantee.

ASSEMBLYMAN COLLINS: Just a thought that has crossed my mind. It crossed it before when I was going through this. Just the way you said that we do not-- In fact, I think you pointed it out to me; in fact, there is almost a running score. I have five co-sponsors, I have 20 co-sponsors, and now we're up to -- whatever number it is -- more than the number necessary to release this bill from the Assembly and send it to the Senate, provided it can get three votes out of this Committee, or provided it is ever posted in this Committee.

But I do know the numbers that are involved here. I do have a question along this line. There is that kind of support, and now you tell me that you have spoken to the Governor.

ASSEMBLYMAN KAMIN: It has also been introduced in the Senate.

ASSEMBLYMAN COLLINS: And if it comes from the Senate, it will come to this Committee?

ASSEMBLYMAN KAMIN: Well, it would. We would hope to merge the bills. I would like to see the Assembly, since the Republicans are in the majority in the Assembly, take a leadership role for jobs and prosperity.

ASSEMBLYMAN COLLINS: Right out there on this one, huh? Okay.

But, if there is this kind of support for what you're saying -- I know Dick very well; as Gary mentioned, we have talked many times on this -- your commitment is absolutely to keeping that positive manufacturing climate. If there is that kind of commitment by legislators, the Governor's office, and, you tell me, over in the Senate, is this the only way to go? Couldn't we take that kind of support for an increase in manufacturing jobs and a change on the decline of manufacturing, and go another way?

I am not saying that we have that answer here today, but with that kind of positive attitude about rekindling our manufacturing jobs, wouldn't it be something that we could-- It is almost rhetorical. We can just leave it right there. Go ahead.

ASSEMBLYMAN KAMIN: Well, let me respond to it briefly, Mr. Chairman. What should be taxed, and what have always been taxed, are the building and the land -- period. Everything else that is involved in manufacturing should not be taxed. It is out of hand. The inmates are running the asylum here. I realize the frustration of some local officials, having come from and having worked very closely with years' worth of budgets, of how can we have a good public/private cooperative effort? But what should only be taxed are the building and the land.

ASSEMBLYMAN STUHLTRAGER: Dick, may I--

ASSEMBLYMAN KAMIN: One other point.

ASSEMBLYMAN STUHLTRAGER: Go ahead; go ahead.

ASSEMBLYMAN KAMIN: Yes, it is important enough that we have to address this. There are substantial amounts of money involved, which you will hear in testimony this afternoon.

Gary brought up a point on regulations. The regulations that are out would, in fact, adversely, to a tremendous extent, affect this district in particular, and municipalities throughout the State. Here in this district, it

would affect the refining process. It would be tax-exempt in its entirety. That is what the regulations call for.

ASSEMBLYMAN COLLINS: Assemblyman, if I may-- To my colleagues on the Committee, any time that someone wishes to ask a question, feel free to do so. We have, as I said, a number of people who want to testify. As we go along, we are not going to wait for any question and answer period, or whatever. Just jump right in whenever you want. It will be my job to keep things somewhat under control.

ASSEMBLYMAN KAMIN: Mr. Chairman, if I may ask-- Mr. Browning is one of those to testify. He is from the Ford Motor Company. If you could put his request at the top, he has a meeting back up in North Jersey at five, and it is about a two hour drive for him. If you could put him on early, I would appreciate it.

ASSEMBLYMAN COLLINS: Assemblyman, we are always courteous to our visitors here in the southern part of the State.

ASSEMBLYMAN KAMIN: Mr. Chairman, maybe what your friends and colleagues here from this district do not know, is that Frank LoBiondo, Gary Stuhltrager, the Chairman, and I all sit right together -- all four of us. This bill has been--

ASSEMBLYMAN COLLINS: Well, we used to sit together. I don't know what is going to happen Thursday when we go back up. But it is always nice to have you right there in the row with us, Assemblyman.

ASSEMBLYMAN KAMIN: Yes. Thank you, Mr. Chairman.

ASSEMBLYMAN COLLINS: Thank you. Seth, we will come back to you. (speaking to gentleman sitting with Assemblyman Kamin) Assemblyman, would you please stay somewhere up here?

I would like to call to testify, Mr. Joseph Nahas, Deputy Mayor of West Deptford.

D E P U T Y M A Y O R J O S E P H G. N A H A S: Good afternoon, Mr. Chairman. I am Joseph G. Nahas, Deputy Mayor of

the Township of West Deptford. I would like to begin by thanking Chairman Collins for the opportunity to set forth West Deptford's concerns regarding Assembly Bill 300.

Assembly Bill 300 -- the Manufacturing, Retention, and Equitable Taxation Act -- represents a serious assault upon the taxpayers and communities of Gloucester County, as well as other communities in the Third District of the New Jersey Assembly. West Deptford is a unique community, a blend of residential, commercial, and industrial property owners. We are a citizenry of approximately 18,000 people, yet we have some of the most prominent industrial sites in New Jersey. The Township Committee of West Deptford is committed to preserving our community, and A-300 threatens that balance.

Just two short years ago, the Legislature, under the bold bipartisan leadership of Assemblyman Stuhltrager, Senator Zane, and yourself, enacted the Tank Tax Law, a law designed to keep the status quo; a law that in the words of Mr. Edward Rosenblum, our special counsel, was enacted by an overwhelming majority of both the Assembly and the Senate; a law that has withstood a constitutional challenge before the full Tax Court in the case of Chevron v. The City of Perth Amboy.

Because of your persistent efforts, our communities were saved from a crushing blow to their tax base, and for that we thank you very much. Now, to quote Mr. Rosenblum, "In a brazen effort by some elements of the business community to undo the benefits of Chapter 117, there is proposed the enactment of A-300, a bill which, if enacted, would again strike a catastrophic blow to the ratable bases of New Jersey municipalities."

The passage of A-300 would only critically reverse the policies embodied in Chapter 117, and would result in complete exemption from real property taxation of oil refineries and associated storage tanks used to store products at the facilities.

During that frustrating period two years ago, West Deptford joined with our sister communities of Greenwich Township, Paulsboro, and Westville in a long and difficult effort to enact into law, Chapter 117. It was a complicated and frustrating battle to repair the injuries done to small business persons and the average homeowner.

A series of absurd and unfair court decisions have resulted in real property, which for years had been subject to property taxes, now being treated as business personal property and, therefore, not subject to property taxes. The example most often cited was the exemption of a 500,000 gallon petroleum storage tank, which are a common sight along I-295 in Gloucester County.

It is important to note that the greatest damage to the local tax base would not be limited to storage tanks, but many other large ratables previously subject to property taxes. Again, that result would have a devastating blow without Chapter 117. However, the efforts of yourselves, the League of Municipalities, and our towns are worth the substantial time and tax dollars expended working on behalf of that enactment. What was achieved with the enactment was the preservation of the status quo regarding the taxation of real estate in New Jersey. The law simply reversed the unfair and misguided rulings that held such improvements as 500,000 gallon tanks no longer real property and, therefore, not subject to taxes.

West Deptford Township is currently spending hundreds of thousands of dollars to defend our tax base from the petrochemical industry, which simply wants a reduction; a reduction which will put higher dividends into the shareholders' pockets, while placing their fair share of tax squarely upon the residents of our township and other towns, many of which can ill afford such a spectacular increase.

We thought the Tank Tax Law had resolved at least half of this problem. If you undo what an awesome majority of your colleagues have done, you will treat oil tanks which were used in manufacturing and processing as tax-exempt. You will treat cogeneration facilities as tax-exempt. You will treat other apparatus, equipment, devices, machinery, which are a part of the processing and manufacturing process, as tax-exempt. The bottom line is, A-300 will substantially exempt all oil refineries located in West Deptford Township, Gloucester County, and probably the State.

The consummate question is, what has happened in two years that would cause the State Assembly to reverse a position that was taken so overwhelmingly? The purpose clause indicates a great loss of jobs and industry in New Jersey. That industry needs greater incentive to compete with neighboring states. I submit, Mr. Chairman, that this premise is false. The only industry that appears to be affected by this bill is the oil industry. If A-300 be judged by its title, namely the Manufacturing, Retention, and Equitable Taxation Act, it would be difficult for a reasonable person to oppose such a measure. But this legislation is certainly not about retaining high paying employment, and it is certainly not a law providing for equitable taxation. What A-300 is intended to do, is completely undermine the essential fairness embodied in Chapter 117. It is a thinly disguised effort to exempt the petrochemical industry and other large manufacturing interests from shouldering their fair share of the tax burden; taxes that provide schools for our children, police and fire services, pay spiraling solid waste and insurance costs, and other essential services provided by counties, municipalities, and school districts.

It is interesting to note that this same legislation was introduced last year by Assemblyman Kamin, when it then was Assembly Bill 4426, an act concerning the taxation of certain

personal property. However, A-4426 has become A-300 and, while it is virtually identical to its predecessor, it is now designed as a bill to retain high paying jobs.

While it would grant huge tax breaks to small groups of industries, it requires no specific performance from those industries regarding retention of jobs in New Jersey. Certainly the Legislature should do everything to retain quality jobs in our State. However, a tax break of this magnitude should require more than just a promise that jobs will remain in New Jersey.

Perhaps equally disturbing is the tax recovery fund which is to be established. We know, as Assemblyman Stuhltrager mentioned earlier, the policies and philosophy in the Business Franchise Tax, a philosophy that changes at will. What assurances will we have that the fund will be preserved ad infinitum or into the next century, or, for that matter, survive the next session of the Assembly or the next administration? This uncertainty threatens the sanctity of our community.

We have the following objections to the bill's plan: Fifteen million dollars is a cruel hoax. Gloucester County, West Deptford, Greenwich, Paulsboro, and Westville alone would lose \$6.3 million each year if A-300 becomes law. As the chart I distributed indicates, the fund would have to be \$407 million per year to begin compensating municipalities, counties, and school districts for lost revenue.

A-300 also provides for a pro rata reimbursement. Does that mean 15 cents on the dollar? Does that mean 10 cents on the dollar? Pro rata certainly doesn't mean a dollar on the dollar. What assurance will be offered that the dedicated revenue will not be reallocated to some other public purpose deemed more worthy by the Governor or the Legislature? Remember the Franchise Tax Law.

If you look at the chart, on the first page, in one year, the total of the four municipalities goes down \$227 million. The lost revenue is \$6.3 million. Statewide, on page 2 -- and you can review the whole chart at your leisure -- it would need \$407 million per year at 100% on the dollar to replace what would be lost if this bill were passed.

The sponsor and those who support A-300 indicate that the bill is a reaction to overreaching assessors as a result of the passage of Chapter 117. This is simply not true. There have been no decisions by any court in this State in which it has been determined that any assessor has misapplied Chapter 117. Furthermore, Mr. Rosenblum knows of no instance in which an assessor has altered his or her assessment in an attempt to take unfair advantage of Chapter 117. Indeed, he has indicated to us that the enactment of 117 has literally saved the City of Perth Amboy from disaster in its tax appeal against Chevron. In that decision, the Tax Court held that absent the enactment of 117, the entire refinery would have been declared to be personal property, and would have been removed from the tax rolls.

Additionally, the Director -- as Mr. Stuhltrager has alluded to -- of Taxation is currently drafting, if he has not finished, the guidelines whose aim is the fair application of 117. West Deptford submitted comments and, while we are not satisfied with the regulations as published, we are hopeful that the Director will take into consideration our concerns, as well as those expressed by other municipalities.

If there is concern about abuse, then each case must be decided on its own merit in a Tax Court, rather than penalize the masses.

In conclusion, A-300 is not a bill designed to retain high paying jobs or bring equitable taxation. Simply put, it provides a free ride for the petrochemical industry and other large manufacturing interests. What it will achieve is a

wholesale shifting of the property tax burden from industry to the backs of residential taxpayers, as well as small and medium-sized businessmen, who pay their fair share of taxes without complaint.

For that reason, I respectfully request, on behalf of all of those in West Deptford, Greenwich, Paulsboro, Westville, Gloucester County, and the entire State of New Jersey, who pay their fair share of taxes without complaint, that Assemblyman Collins and the members of this Committee take a strong position in opposition to A-300 and any similar legislation. Do not let this bill out of your Committee. Let those who feel they are being taxed unfairly take their case to court, and not to the lobby of the New Jersey State House. The Legislature should be concerned with preserving municipal tax bases, not destroying them.

Throughout my years of service in the Navy, my current career as a financial administrator at a major university, and my responsibilities as a Committeeman and Deputy Mayor of West Deptford Township, there is an old saw that never rang truer: Gentlemen, "If it ain't broke, don't fix it."

Thank you. (applause)

ASSEMBLYMAN COLLINS: Thank you, Mr. Nahas. I appreciate your comments, and you did do an excellent job presenting your arguments. I think the applause backed that.

That I would like to ask, though, is -- because we do have a number of people on both sides-- The determination of this particular bill will not be based on how much applause one side gets, or the other side gets. If we could just listen to the discussions-- Anyone who isn't even on the list now, as we go through it, who would like to express their opinions at the microphone, we would be more than happy to have you come forward.

Are there any questions of the Deputy Mayor? (no response) Thank you very much, Mr. Nahas.

Next I would like to call Mr. Charles Browning, of the Ford Motor Company. Mr. Browning?

C H A R L E S B R O W N I N G: Thank you, Mr. Chairman. I appreciate this courtesy. As was mentioned, I have another commitment later this evening.

ASSEMBLYMAN COLLINS: Just one comment, Mr. Browning. We thank you for coming down, particularly since you have another commitment, because we do want to listen to all sides on this. We are looking forward to your comments and, of course, from those who might not have the same position as you. Go right ahead, Mr. Browning.

MR. BROWNING: Certainly. I am Charles Browning, Plant Controller of Ford Motor Company's Edison Assembly Plant, located in Edison, New Jersey.

In 1982, the Township of Edison went through a complete real property reevaluation, which resulted in Ford Motor Company's Edison Assembly Plant being assessed at a total of \$20,800,000 for the 1983 tax year. While this was somewhat higher than our internal specialists felt was justified, the difference was not enough to warrant an appeal. However, in August, 1983, the Township appealed this assessment, and was successful in having the Middlesex County Board of Taxation increase the assessed evaluation to \$28,400,000. Ford appealed this finding to the New Jersey Tax Court.

During April and May, 1986, a 16-day trial was held before Judge Andrew of the Tax Court on the assessments pertaining to the 1983, 1984, and 1985 tax years. Before the Tax Court rendered a decision, Chapter 117 was enacted into law. The Township then moved, successfully, to reopen proofs in this case, based upon the retroactivity provisions of Chapter 117. A certification of their appraisal expert, Barry Polayes, was submitted in support of the motion. The certification contained a list of items thought to be realty under the newly enacted statute. Since that time, we have

continued a court battle with Edison over these items. The list has changed many times in the ensuing months, but the current expert report presented by Edison includes the following items, among others: pits, paint spray booths and ovens, paint delivery system, compressed air system, paint air supply systems, various tanks, including some under 30,000 gallon capacity, and a complete conveyor system. It is worth noting that our legal and expert fees continued to mount during this period.

Yesterday, the Tax Court issued an opinion concerning the 1983, 1984, and 1985 tax years. Although we have not had the opportunity to review the decision at length, it appears that the court did not find it necessary to address the issues raised by Chapter 117. These issues, however, continue to be pertinent because of the pending tax appeals for the years 1986 through 1988, and for assessments in future years.

In an article appearing in The Star-Ledger on September 19, 1988, Edison's attorney, Anthony Andora is quoted as saying that the "massive equipment" in the assembly plant, which is now taxable as real estate under Chapter 117, could raise the assessment on the plant by \$25 million to \$50 million. This latter figure, if sustained, would result in a significant tax increase to Ford and a windfall to the Township.

I do not believe that such a result was ever anticipated by the Legislature in the passage of Chapter 117. However, it is an example of a municipality taking every advantage of the ambiguity which exists in the language of this legislation. As a result, Ford is being unfairly treated and caused to suffer a large economic loss in the form of increased legal fees and possibly increased property taxes. The passage of A-300 is badly needed to halt such excesses, and to assure the business community of a stable tax climate.

If A-300 is not passed and the Township's attorney's prediction comes true, I cannot reasonably say that an

immediate shutdown of the Edison Assembly Plant would occur. However, such a result would have a definite effect on the economic viability of the facility, in that it would impede the cost competitiveness of this 40-year-old plant, which is already burdened with substantial obsolescence. The loss of such a facility to the community, with its employment of more than 1200 people, an annual payroll of more than \$50 million, and local purchases of approximately \$10 million, would have a far greater impact on the local economy than the additional tax money the Township is wrongfully pursuing.

Thank you for the opportunity to make this statement.

ASSEMBLYMAN COLLINS: Thank you, Mr. Browning.
Assemblyman Stuhltrager?

ASSEMBLYMAN STUHLTRAGER: Could you give some examples of the most clearly personal types of property that are going to be subject to real property taxation? I guess I don't mean what the Township is claiming per se, because what they claim and what the court says could be two different things.

MR. BROWNING: Well, all of the items which I mentioned, Assemblyman, were previously included in our personal tax returns -- personal property tax returns -- to the State, where appropriate, though, in essence, all of the items I have mentioned, with the exception of the 30,000 gallon tanks, which would be incorporated in A-300, we would consider to be personal property under prior legislation.

ASSEMBLYMAN STUHLTRAGER: And you had paid tax on them as personal property?

MR. BROWNING: Where they had been acquired prior to the cutoff date, yes, we had. While some of these are very large pieces of machinery, they are clearly related to the assembly of automobiles, and for that purpose only.

F R E E H O L D E R F R A N C I S M c D E V I T T: May I ask a question for clarification?

ASSEMBLYMAN COLLINS: Okay, a question for clarification, Freeholder McDevitt, because you do want to testify, do you not?

FREEHOLDER McDEVITT: I was going to, but I have to be out of here at three o'clock, and it's 2:30 now.

ASSEMBLYMAN COLLINS: Okay.

FREEHOLDER McDEVITT: But this is very important at this point.

ASSEMBLYMAN COLLINS: Freeholder, would you please come over to the microphone, so the transcriber will be able to pick you up? You might as well grab both microphones there from Mr. Browning.

FREEHOLDER McDEVITT: First of all, let me thank you for recognizing me, but the point just came up that Ford Motor has been paying personal property taxes to the State. I think you picked that up, Gary. Just for clarification, do we collect taxes on personal property at the State level?

ASSEMBLYMAN STUHLTRAGER: If it is prior to 1977, we do. Isn't '77 the cutoff?

MR. BROWNING: But that no longer exists today.

ASSEMBLYMAN STUHLTRAGER: No, it has been phased out, but if the property is acquired, isn't 1977 the year, Mr. Browning?

MR. BROWNING: I believe it was -- '76 or '77.

ASSEMBLYMAN STUHLTRAGER: If it was prior to 1977, it was-- Of course, it was a much lower rate than the property tax. So if you had a choice of which one you were going to pay, you would do the personal property.

FREEHOLDER McDEVITT: No double taxation. I am familiar with that, but I certainly wanted to clarify that point.

One other thing before I leave, and I am sorry I have to leave at this point in time. The point with the personal property tax was very important because of the fact that it was

something that identified, and clearly identified, business personal property, and now it is no longer taxed at all. I want to make sure that everybody understands that at this point in time.

ASSEMBLYMAN STUHLTRAGER: That is correct. Anything after 1977-- Anything that was acquired after that time isn't taxed at all if it is personal.

FREEHOLDER McDEVITT: Thank you very much. Again, I would like to testify, but most of the things I was going to say have been covered. Thank you.

ASSEMBLYMAN COLLINS: Okay, thank you, Freeholder. Mr. Browning, thank you very much. Thank you for coming down. I hope you have a safe trip back to where you are going. Thank you, sir.

It seems that in the early discussions we have had quite a bit of talk about-- I keep hearing the word "assessors." So maybe we should have an accessor come forward. Horace Spoto, Tax Assessor of Gloucester County. Excuse me, Mr. Spoto, do you have written testimony?

H O R A C E S P O T O: Yes, I have submitted it.

MS. MELICK: (Committee aide) It's here.

ASSEMBLYMAN COLLINS: Okay. I didn't see it here, but that's fine. I would like to take this opportunity-- The reason I mentioned it was because I didn't think you had it, so I thought it would be easy to use you as the person to slide into what I want to say. Those people to testify who have written statements, we are going to put them into the record. They will be included in the record for this occasion and, as I said earlier, every Assemblyperson will be receiving a copy. I would say -- and I said this in the very beginning -- I would like to give everybody the opportunity to speak, but I would ask those people who have written testimony if they could bring that testimony into a more concise form just by orally stating it. That would be helpful not just to the Committee members

who still remain, but to all of the audience. You may read it. I am not going to say at this time that you may not, but if you would just give it to us, it will be put into the record, and then you could maybe just make some comments about it. Thank you very much. Mr. Spoto?

MR. SPOTO: I'm new at this and my comments are brief, so I am going to read mine.

Good afternoon, Mr. Chairman and Committee members. I am Horace Spoto, Vice President of the Association of Municipal Assessors of New Jersey. I guess I am one of the inmates that Assemblyman Kamin spoke of. I am here to speak in opposition--

ASSEMBLYMAN COLLINS: I am sure that was just a point of reference, just a humorous remark, a lead-in, but go right ahead.

MR. SPOTO: I am here to speak in opposition to A-300 and offer an assessor's viewpoint of the proposed bill. My remarks, incidentally, are not an official statement of the Association of Municipal Assessors. Mr. Birchall will deliver them later.

I would like to depart for a moment from my prepared statement just to read a note here. I don't know if any assessors are here from the districts where the alleged abuses have taken place, but my rebuttal would be, were those assessors fully doing their duties before the enactment of Chapter 117? Just a question maybe we ought to look into.

As you know, the tax assessor's duties are clearly defined in State statutes. The assessor performs a governmental function in which he acts as an agent of the Legislature, immune from undue pressure locally. In essence, we are your employees assigned to local government.

Just what are our duties? Very basically, to assess all property in accordance with general laws and by uniform rules as provided for in the Constitution of the State of New Jersey. The cornerstone of the entire process is uniformity.

I believe A-300 represents a departure from the concept of uniformity, in that it provides preferential treatment for a certain class of property. A simple example will illustrate my point.

The New Jersey Assessor Appraisal Manual includes numerous items in its residential adjustment section, one of which is a deck. A deck clearly is not a necessary component of a house. They are oftentimes resting on cement pads or foundations and anchored to the home by bolts or nails. They are relatively easy to construct and equally as uncomplicated to disassemble. Tool sheds and prefab pools also fall into this category of improvement. You have directed the assessor to compute the value of decks and tax the residential property owner accordingly.

On the other hand, A-300 would have us close our eyes to certain industrial and commercial property which requires much more technical construction than a deck and is intended as a permanent part of the land improvement. This is not uniform treatment.

Are you aware that we must assess such residential items as hot tubs, range tops, central vacuums, and garage door openers? Yet, you are considering legislation that would ignore structures like industrial furnaces, huge tanks, and process stills. This puts the assessor in the position of assessing, using two sets of rules.

If retention of the manufacturing sector is the major goal of the bill, I ask you to consider the history of the Farmland Assessment Act of 1964 and its effect on agriculture in New Jersey. The main purpose of the Farmland Act was to retain farms and preserve open spaces in a State that was rapidly losing land to development. At best, all the Act has accomplished is a postponement of the inevitable. Gloucester County, for one, is losing farms to developers at an alarming rate. Reasons given for abandoning farming include:

economics, weather conditions, environmental constraints, and a failure of younger generations to adopt farming as a livelihood. Real estate taxes are not a factor.

In my opinion, passage of A-300 will have no greater impact on retaining the manufacturing sector than the Farmland Act has had in keeping farms or preserving open spaces.

As a tax assessor charged with treating all classes of property by the same standard of value, I urge you to abandon support of this bill, and allow us to treat each and every class of taxpayer fairly and impartially.

I will be here all afternoon to address any assessment questions you may have resulting from these or other comments.

ASSEMBLYMAN COLLINS: Assemblyman Stuhltrager?

ASSEMBLYMAN STUHLTRAGER: Horace, is it likely, if you know, that different municipalities, different assessors I suppose specifically, have treated the same type of property, or very similar property, differently, whether it be in the residential sector or the industrial sector?

MR. SPOTO: You're saying between classes, or among classes of property?

ASSEMBLYMAN STUHLTRAGER: Well, the same thing. I mean, a cracker at an oil refinery and another large industrial piece of equipment, real property arguably, at Anchor Glass, or at a large glass place.

MR. SPOTO: I can only comment on what I know in Gloucester County. I think the assessors here, from our meetings and communications, are pretty much doing everything the same. I don't know about North Jersey, but maybe they were tentative. I don't know. I think that is something we ought to look into.

ASSEMBLYMAN STUHLTRAGER: It seemed that one of the problems we ran into when we were trying to define a definition within the tank tax bill, was a definition that would include what you have been taxing as status quo, and would also include

what someone else has not been taxing as their status quo. For all intents and purposes, to look at it, it looks like pretty much the same thing.

I guess that kind of leads me -- and I don't want to make you lose your train of thought -- but these assessments-- The more complex the facility, I would think the more likely we are to have this. Isn't it many times an agreement within a certain range between the municipality and the facility on a fair assessment?

MR. SPOTO: Okay. I can tell you that our New Jersey Assessor Manual -- which is our guide, our Bible, so to speak -- is very specific in the residential area, and even in the farm area, and some commercial areas. It is very vague on industry and some other commercial areas. So, yes, basically we sit down with industry. They have the numbers, better numbers than we have. We inspect, we go over the numbers, we consult with our experts, and we do develop a number. You're absolutely right, there is a range, an upper and a lower. Somewhere in-between we hope to come to a number that we will both be comfortable with.

But, we do not ignore what industry has given us. They have the figures, the facts. We have to accept that, and we do.

ASSEMBLYMAN STUHLTRAGER: And ultimately, when that process breaks down, when the relationship between the municipality and the industry-- When they fail to reach an agreed upon number that both agree is fair, then the question of definitions obviously comes into play. When you get into court, you can't just go in there and say, "We just don't agree." You are defining "real" versus "personal," and that is where the problem has arisen.

MR. SPOTO: Absolutely.

ASSEMBLYMAN STUHLTRAGER: Thank you very much.

ASSEMBLYMAN COLLINS: Assemblyman Marsella?

ASSEMBLYMAN MARSELLA: Thank you very much, Mr. Collins. You know, the point that you brought up with regard to taxation-- I just want you to answer a couple of simple questions. What you said is, hot tubs are taxable. When someone goes into a township or a municipality and applies for a building permit to construct a pool, what happens after that construction permit is issued?

MR. SPOTO: Okay. First of all, anything greater than 10 by 10 requires a permit in the State of New Jersey. Okay, they come in for a pool. You asked about a pool. Obviously, the assessor gets a copy of that. When we get a certificate of occupancy, we know that it is completed. We try to use that as our guide because we know all of the proper inspections have been made and the resident is then permitted to use it. We go out, we inspect the property. We measure it, and we price it out of our manual. Okay? Then it becomes an added assessment, to be added onto the bill -- the current bill -- that the property owner has.

ASSEMBLYMAN MARSELLA: So, what you are saying here today is, when a residential property owner buys a house in a development and then makes improvements to his ground, whether it be a pool or a garage or whatever, he pays additional property taxes. Is that correct? (no response) That is exactly the point. When we wholeheartedly worked together as the Assembly and the Senate on this tank tax bill we did two years ago, the main argument was that the residential customer -- the residential taxpayer -- in the State of New Jersey pays for his improvements. The thrust of the tank legislation was -- I just want to make this statement -- that when big industry is going out making major improvements to their grounds, whether it be tanks or whether it be buildings or so forth and so on, they should become part of the real property tax.

I just wanted to make that statement so that Assemblyman Kamin would understand that. I don't disagree with

Assemblyman Kamin with regard to personal property tax relating to what he is trying to do, but maybe we ought to try to do that through the corporate tax -- give some tax investment credits that were taken away from us business people just a year ago through the reform act that passed the Congress and the Senate of the United States, because that was a tremendous blow to business -- when they took the investment tax credit away from business. I mean, it was just a tremendous blow.

ASSEMBLYMAN KAMIN: Mr. Chairman?

ASSEMBLYMAN COLLINS: Assemblyman Kamin has joined us at the table, to give us balance.

ASSEMBLYMAN KAMIN: Thank you, Mr. Chairman. Let me first of all make a comment about tax reform, which we refer to all the time. Tax reform is, "Cheat the other guy, and pass the savings on to you." That is what tax reform is, and that is how it is applied.

Now, as Assemblyman Marsella just pointed out, if a business comes in and expands its operation, we are all delighted to have that. But the building they build to house the machinery-- That should be taxed. The land that it is on-- That should be taxed. But not the equipment inside; not what is making that product. If it is part of the manufacturing, it should not be taxable. That was never the intent of Chapter 117. By the examples that you have heard already, and by those you will hear this afternoon, you are going to see the abuses of members of your Association, Mr. Spoto, of taking a liberal interpretation of the law, as they see it.

The business community won't say this, but I, as a legislator, will. It borders on extortion by members of the assessing community, to go after business in such a fashion. It is blatant abuse of their power, and they say, "If you don't like it, then let's go talk about it in court." Then it is taxpayers' dollars that defend their case, and it is business dollars that have to defend their position.

MR. SPOTO: I can't imagine that it is so blatant in North Jersey, and I don't see it here, because we are reviewable by a court. But you mentioned in your bill a tank using a manufacturing process, material in and material out.

ASSEMBLYMAN KAMIN: That will not change.

MR. SPOTO: As I understand it, it is part of the processing equipment -- material in, material out, manufacturing equipment. Have you ever seen the BOCA requirements for assembling a tank? Have you ever seen-- I have a five-point check list for tanks, both on top and under the ground. There is nothing comparable for a butler building, so to speak. Those are popular prefab buildings. How can I look at that and not put that in the same classification as real property? There is an imbalance there. That is just one example.

ASSEMBLYMAN COLLINS: Thank you, Mr. Spoto. I would like next to call Mr. James Morford, New Jersey State Chamber of Commerce. Welcome, Mr. Morford.

JAMES C. MORFORD: Thank you, Mr. Chairman.

ASSEMBLYMAN COLLINS: Shall we guess whether you support or oppose this piece of legislation, or should we wait to hear from you?

MR. MORFORD: Let's keep the suspense going.

Mr. Chairman, members of the Economic Growth, Agriculture and Tourism Committee: I am James C. Morford, Vice President, New Jersey State Chamber of Commerce. We welcome the opportunity to express our support for A-300.

ASSEMBLYMAN COLLINS: Oh, the suspense is gone.

MR. MORFORD: I didn't keep you in suspense long. The State Chamber, founded over 75 years ago, serves as the legislative and public policy voice for the more than 45,000 businesses --- large and small -- who are members of chambers of commerce throughout our State.

The State Chamber has traditionally been the leading advocate for a strong and healthy business climate in New Jersey. A key ingredient of that business climate is our State's ability to attract and retain business. New Jersey has long been a major manufacturing State. Only in recent decades have we seen a significant decline in manufacturing in our State. Among the reasons for that decline is the perceived, or actual, attitudes of government.

Since the early 1970s, New Jersey has lost between 150,000 and 200,000 manufacturing jobs, and more than 1000 manufacturing facilities. There are some in this State -- like the Chamber of Commerce -- who still believe that New Jersey's location, labor force, transportation network, and other attributes make our State a desirable place for manufacturing.

Throughout the legislative debate that preceded enactment of A-2251/S-1858 into the law that became P.L. 1986, Chapter 117, both proponents and opponents of the proposal stressed their desire to preserve the "status quo" with respect to the taxation of business personal property and real property. That is to say the status quo that existed prior to certain court decisions related to large storage tanks.

In its July 8, 1986 appeal to Governor Kean to veto the legislation, the State Chamber stated, "The New Jersey State Chamber of Commerce is deeply concerned with legislation passed by the Assembly and Senate which would create a new definition of real and business personal property.

"The property test proposed by the legislation would, we believe, make drastic changes in the business tax structure of our State, rather than preserve the 'status quo,' as argued by proponents of the legislation.

"The State Chamber believes the tax incentives provided to manufacturing interests in New Jersey are not out of date, but are a major reason why over 70,000 people are employed today in manufacturing jobs in our State. Enactment

of legislation which would send such a negative signal to present manufacturing industries and potential investors, is playing with fire."

A-300, introduced at the request of the State Chamber by Assemblyman Kamin in January of this year and co-sponsored by 47 members of the General Assembly, is designed to clarify ambiguous language in Chapter 117, establish in law a real property tax exemption for business equipment like that of nearby competitor states, and in reality, return to the "status quo" that was stated to be the goal by municipal officials.

We want to believe that municipal officials who profess to seek no more than a return to the status quo were, in fact, sincere, and not fraudulent in their representations to the Legislature. We are grateful to the distinguished Assemblyman Kamin for his sponsorship -- not only his sponsorship, but also for his leadership in this effort to achieve fairness and tax equity.

Because of the ambiguous language of Chapter 117, at least some local tax assessors have assessed business personal property as real property. If this situation is permitted to go unchecked, the taxing enthusiasm of some assessors could well sweep the State and do irreparable harm to our State's business climate.

Under Chapter 117, local governments are seeking to tax virtually any attachment to land or buildings as real property, such as telephone equipment, electrical systems for production equipment, conveyors that are attached to building structures, water recycling systems, large machines such as air compressors, glass furnaces, automated paint booths, and cranes, radio and television transmission towers and equipment, non-fixed storage tanks and those with less than a 30,000 gallon capacity.

The ambiguity created by Chapter 117 has, we believe, added a negative to our State's business attraction and retention efforts.

Apparently, as local fiscal demands increase, there is greater pressure to find ways to tax business personal property as real property.

At present, very costly and time-consuming tax appeals are the only means of possible relief. And even the use of this avenue has reportedly been reduced in at least some communities when assessors have significantly raised assessments and then threatened to tax everything imaginable if the business should pursue an appeal.

Recently, we have seen some hope for relief from the taxing frenzy that has seized some local assessors. That relief comes in the form of the stabilizing effect of the long-awaited proposed regulations that implement Chapter 117. While not everything it could be, the proposed rules do interpret and apply Chapter 117 in concert with longstanding New Jersey business tax policy.

The State Chamber supports A-300 for the reasons stated here:

A-300 clearly defines business personal property and real property.

Large storage tanks, contrary to the representations of some municipal officials before you today, will remain taxable as real property, thereby retaining the "status quo."

Under A-300, local governments are held harmless by establishing the Manufacturing Property Tax Recovery Fund. Surely, a State that enjoys such large annual surpluses can appropriate from the General Fund moneys sufficient to meet this obligation to local governments.

A-300 provides tax uniformity and equity as reasonable incentives to retain and expand business investment in New Jersey.

It specifically excludes cogeneration facilities from taxation as real property, in accordance with the public policy of the State of New Jersey to encourage such facilities.

In conclusion, enactment of Chapter 117 was represented as a response to a court decision which removed fixed storage tanks of over 30,000 gallon capacity from real property tax rolls.

For tax purposes, language in Chapter 117 blurred the identity of real property and business personal property. Because of this lack of clarity, many local governments are now taxing production equipment as real property.

Levies on previously tax-exempt business personal property have created a dampening atmosphere upon retentions and expansions of manufacturing in New Jersey.

In order to restore and stabilize the taxes upon manufacturing, A-300 has been introduced. The New Jersey State Chamber of Commerce fully backs A-300 and believes it should be enacted as soon as possible.

Thank you for your consideration of the views of the State Chamber.

ASSEMBLYMAN COLLINS: Thank you, Mr. Morford.

MR. MORFORD: I tried to speak rapidly, Mr. Chairman, in the sense of time.

ASSEMBLYMAN COLLINS: Yes. We could have read it just as rapidly.

MR. MORFORD: But I wanted to exercise the same privilege as the Deputy Mayor.

ASSEMBLYMAN COLLINS: Yes, yes, but after the Deputy Mayor and his eloquence, we have now sort of maybe suggested that we could turn in the written and make a few comments. But, it was excellent, as it always is in your presentations.

First, a question: Where you are going with ambiguous language of 117 and blurred the identity and so on, you do know that Assemblyman Stuhltrager is the sponsor of the bill that became--

MR. MORFORD: Senator Zane and Assemblyman Stuhltrager, Mr. Chairman, and I believe with the best of intentions to restore the status quo.

ASSEMBLYMAN COLLINS: Okay. This legislation that has become the law of this State -- as we have heard from some people and will hear from others -- has been instrumental in helping some communities -- in fact, the community in which you now sit -- from, maybe to go to the extreme, but almost from bankruptcy, and we already had that testimony on Perth Amboy.

But I have a couple of questions, if I may, Jim. One is -- and I think you inserted it from your written comments-- You have in here: "Because of the ambiguous language of Chapter 117, at least some local tax assessors have assessed business personal property as real property." Then I think you made the comment: "And this could lead in the future to many tax assessors doing this." Just keep that in your mind. And secondly, later on in your written comments, you say that the regulations that came from this Chapter 117 by the tax office-- "While not everything it could be, the proposed rules do interpret and apply Chapter 117 in concert with longstanding New Jersey business tax policy."

Now, if you take those two statements, one is that some tax assessors have done it. I don't think that anyone who may be in opposition to this bill would say that that has not taken place, but it has taken place somewhat sporadically and in some areas. You say it could happen and go further. So it could. Then you say that the rules, though not all they could be, are leaning to a longstanding business tax policy. With both of those statements, shouldn't we wait before we take any action; wait until there are actions that are statewide and really negate the positive benefits that many see in Chapter 117? And, if the rules have just come out, why don't we wait to see how the rules affect the State?

MR. MORFORD: I know we have waited a great deal of time even to get to the point where we are today, to even begin discussing in a public forum this important legislation. I don't know that it really advances the interests of the business community in New Jersey to wait still longer.

The rules and regulations, as proposed, are rules and regulations, and they are subject to change and modification more readily in our view, than statute. Therefore, we would be comforted by having the stability of a statute such as A-300 in place, which clearly establishes in New Jersey law the business equipment -- the manufacturing business equipment exemption, similar to that in Pennsylvania and Ohio, because, very frankly, that is where similar language was found to draw this New Jersey bill. We would be much more comforted by that stability in the law.

ASSEMBLYMAN COLLINS: Assemblyman Stuhltrager?

ASSEMBLYMAN STUHLTRAGER: Jim, I don't want you to take this that I am jumping on you for this, but I want to echo what Mr. Spoto has said -- a speaker or two ago. That has to do with the number of manufacturing jobs lost and the number of facilities lost. Whatever the correlation between our business versus real personal property tax and that, I think, is very, very difficult to determine. It is a regional, national, international trend. I can't see myself ever being moved on this bill on that issue. Okay? I know you mentioned it. You may not have highlighted it. But, for anyone else who is looking to promote their position, I do not see that as an argument. I mean, it is distressing as a fact of life, without a doubt, but I do not see its relationship with respect to this bill very, very closely at all.

MR. MORFORD: May I respond?

ASSEMBLYMAN COLLINS: Surely.

MR. MORFORD: Assemblyman, one of the ingredients in a decision to locate a business in a given state certainly is the stability of its tax climate. The situation with respect to the circumstances surrounding Chapter 117 has created some uncertainty about that stability, and I think does, therefore, serve as a dampener. I am not saying it is the ultimate determiner, but I think it does dampen what might otherwise be

some enthusiasm to come into New Jersey. We think New Jersey deserves to have more manufacturing. It should have more manufacturing. We should not be surrendering it as easily as we have. We would hope that this could be clarified to be one piece of a pro New Jersey, pro manufacturing climate.

ASSEMBLYMAN STUHLTRAGER: Unfortunately, we seem to be grasping for pieces of a smaller and smaller pie, what we get from Pennsylvania or New York. For every one of them, two more are going somewhere out of the country or out to the Southwest. I don't dispute that there is a correlation. I just suggest that it is rather low, and not one that I could base a decision on with respect to this.

MR. MORFORD: It is one of the ingredients.

ASSEMBLYMAN COLLINS: Assemblyman Kamin?

ASSEMBLYMAN KAMIN: Thank you, Mr. Chairman. I would like to further comment, as well as ask Mr. Morford to respond, about a business decision as it relates to A-300.

Especially in this region, in this county, in this district, there are opportunities for businesses to choose further investment to be on the New Jersey side of the Delaware River or on the Pennsylvania side of the Delaware River. My dad is a retired duPont employee. He used to work over in the Deep River Plant -- the Deepwater--

ASSEMBLYMAN COLLINS: Deepwater, right in our district.

ASSEMBLYMAN KAMIN: --the Deepwater Plant -- for many years. I was raised in Delaware County, Pennsylvania. If duPont, for example -- and I don't know this to be the case-- But suppose they were to put up a new cogeneration facility to be in a building. Under proposals like this, the building would be paying taxes; the land would be paying taxes; but the equipment inside the cogeneration plant would not. The way things are right now, it could be taxable. If it is unclear as to what is going to happen in the State of New Jersey as to how

we are going to treat real versus personal property, and it is very clear in Pennsylvania or in Delaware, I think a company like duPont, or others that have facilities in both locations, are going to go where they know what the rules are and where they are not going to change. That is the thrust of this legislation. It is to show clearly that we are playing on a level playing field.

ASSEMBLYMAN COLLINS: Well, first it is an assumption that they are clear in Pennsylvania or somewhere else, and that they are not clear here. But clearing them up is one issue, Assemblyman. Setting them up-- To clear them in a way that is detrimental to some communities, or whatever, is another issue altogether. Clarity is something that I think everyone would be committed to, but it depends on how you clear it up as you are clearing it up. If you set it up that, "Well, it is very clear that this is going to happen," and it is negative, well, I think that is a separate issue.

ASSEMBLYMAN KAMIN: Let me draw, Mr. Chairman, if I might, another parallel--

ASSEMBLYMAN COLLINS: Surely.

ASSEMBLYMAN KAMIN: --which is often used politically. If I go into my boss and I am making \$25,000 a year, and I say, "I am doing a good job for you. I would like to have my salary increased to \$30,000." You, as my boss, say, Mr. Chairman: "Yes, you are doing a good job, Mr. Kamin, but I am not going to give you a \$5000 increase to \$30,000. I am only going to increase your salary by \$2000 to \$27,000." Can I go out of this room and say that I just had my salary cut \$3000? The same thing is applying here -- to say that we are going to take away taxes from the municipalities and disrupt the local tax base. This is property that never before was taxed, and shouldn't be taxed in the future. If you are putting it on the tax rolls, that is a new tax. I am not taking anything away with this proposal. To say that, that is

unjust enrichment. The argument is, it might be taxed in the future if this gray area continues to go unbridled -- uncontrolled. But it is not on the books now, and that is the difference.

ASSEMBLYMAN COLLINS: Assemblyman Stuhltrager?

ASSEMBLYMAN STUHLTRAGER: I want to ask a very specific question, and I don't know if anyone here has the answer. I know cogeneration facilities have been mentioned a couple of times -- prospective facilities whose decision to be constructed may rest on what we do with respect to taxation here in this State. Would there be any basis for treating cogeneration facilities as a special class? Would that offend the uniformity aspect of taxation, or is there some basis that could be carved out where cogeneration facilities could be treated as a special class of property, and perhaps an A-300 type formulation trust fund set aside just for that special class? I don't know the answer. I throw it out. If someone wants to respond when they get their turn, or in writing to me, I would appreciate it.

MR. MORFORD: I think there are further speakers, Mr. Chairman, who would be able to address that. If I could just inject--

ASSEMBLYMAN COLLINS: Surely, Mr. Morford.

MR. MORFORD: --two thoughts, because there were comments about the business personal property tax phase-out. That was done, a deliberate act of the Legislature seeking to create a friendly business climate in New Jersey to attract business. It was specifically done for that purpose, to make New Jersey more attractive to locate -- a more attractive place in which to do business.

Also, to respond to Assemblyman Marsella: When business makes improvements on its real property, business, too, just as the individual homeowner that he cited, does, in fact, pay taxes on those improvements. I think there was a suggestion there that business somehow didn't.

Thank you very much, Mr. Chairman.

ASSEMBLYMAN COLLINS: Thank you, Jim. We appreciate your comments here and on previous legislation in the Committee meeting portion.

MR. MORFORD: You are very gracious, Mr. Chairman. Thank you.

ASSEMBLYMAN COLLINS: Next I would like to call Bill Dressel. The question, again, is what side you're on. We are going to have to wait and see.

W I L L I A M G. D R E S S E L, J R.: Thank you very much, Mr. Chairman. My name is Bill Dressel. I am Assistant Executive Director of the State League of Municipalities. I would like to thank you for giving me the opportunity to testify in opposition to A-300. So, the suspense is over.

ASSEMBLYMAN KAMIN: I never thought it would be quite this official, Mr. Dressel.

MR. DRESSEL: The State League of Municipalities represents the broad spectrum of municipal concerns in the 559 municipalities which comprise our membership. A-300, if enacted, would not only impact the municipalities in the Third District, where this meeting is located today, but it would have an adverse impact on nearly every municipality in the State. This legislation would undo the benefits of Chapter 117, the Public Laws of 1986. That legislation was viewed by the municipal lobby as a landmark statute, as it provided for the first time a statutory test for determining what is real or personal property for local property tax purposes.

A-300 is in response to a perceived abuse or overreaching by assessors as a result of the passage of Chapter 117. The Deputy Mayor of West Deptford made this point, but I would like to emphasize it again. There has been no decision by any court that any assessor has misapplied Chapter 117. I take strong exception with Assemblyman Kamin's remark that there are some assessment practices going on in this State

which border on extortion. The New Jersey Tax Assessors Association is a highly respectable group of municipal employees. It is an integral part of the League of Municipalities. Their representatives were present during the debate and dialogue which took place on your legislation -- on Assemblyman Stuhltrager's legislation and Senator Zane's legislation, which led to the enactment of Chapter 117, and I don't believe that those representatives or the people who they represent practice such things. I would officially like to record my strong concern with that statement.

Again, we know of no instance in which an assessor has altered his assessment in an attempt to take unfair advantage of Chapter 117. As the Deputy Mayor of West Deptford mentioned, Chapter 117 was in response to a series of Tax Court decisions declaring that many categories of property traditionally assessed as real, were declared personal and not taxable.

Chapter 117 was to maintain the status quo. The Governor, in his conditional veto of the original legislation, went on to express that, and that is an addendum to the statute.

Again, as has been stated before, but I think it has to be reemphasized, in 1987, Chapter 117 withstood a constitutional challenge in Chevron USA v. Perth Amboy, which involved a contested assessment of a major oil refinery. Absent Chapter 117, the Tax Court held that the entire refinery would have been tax-exempt. Chapter 117 was never intended to increase the ratable base.

Why do we need Assembly Bill 300? There has been no demonstration of need. We could assume, from reading the bill, that the State of New Jersey taxes other things that the State doesn't. Therefore, we are losing jobs to other states. Our understanding is that Delaware, New York, and Connecticut treat property used in manufacturing the same as New Jersey. We must assume, therefore, that we are losing jobs to Pennsylvania, and I think the sponsor noted that.

What we want to see is documentation justifying that finding. What kind of jobs are we losing to Pennsylvania? What are the reasons they are leaving? Is it because of high taxes? Could it be maybe our antiquated industrial base -- the infrastructure we have? We have a highly industrialized State. A lot of the factories were built many years ago. It would take a fortune to upgrade those facilities. Maybe that is the reason. Maybe it is environmental reasons; maybe it is labor problems. But I think that documentation has to be forthcoming before we start jumping to the assumption that taxes are the number one reason.

This legislation would remove all refineries and chemical facilities from tax rolls, which have, since antiquity, been taxed as real property. This would have a devastating impact on not only the Third District, as I indicated, but on many municipalities throughout the State.

ASSEMBLYMAN COLLINS: I keep hearing that Third District in this commentary. Go right ahead.

MR. DRESSEL: Well, I'm in the Third District. There is one provision in this bill, quite frankly, that I know is well-intended, but I find it most annoying. The bill does attempt to reimburse municipalities for any tax loss through the creation of a \$15 million Municipal Property Tax Recovery Fund. The municipal lobby, as I know Mr. Kamin knows -- maybe Mr. Morford doesn't -- but the municipal lobby, particularly this past year, has not been treated fairly in Trenton. Traditional revenues -- i.e. the franchise gross receipts moneys, the school aid moneys, the in lieu of property tax moneys, and I could go on and on, which have statutory funding levels -- have been cut. Within the past several years, we have not even gotten the minimum funding, according to the statutes. I have a problem with statements which say, "Well, you know, the State is doing well. We can use the surplus to offset any losses." Well, I think the record does not show

that. This past year, we had a surplus of over a billion dollars, and we were cut \$30 million in the Municipal Purposes Tax Assistance Fund. The garbage crisis, which most of our communities throughout the State have been suffering from-- Not one red penny went to -- not one red cent went to offset those losses. I find that particular section, quite frankly, very disturbing.

Again, in summation, our intent in achieving the enactment of Chapter 117 was to maintain the status quo. The Governor's conditional veto message reinforced that intent. A-300 is a piecemeal attempt to rewrite the assessing statutes. Any revisions should be done as part of a comprehensive study. This past three years, the SLERP Commission has been grappling with this issue of taxes and assessments and revenues and expenditures. I think that this kind of an issue should have been addressed. If it hasn't, I think it should be reconstituted to discuss this, because it has a very crucial role in how much municipalities are going to be receiving in their revenues, and is very important to the State of New Jersey.

ASSEMBLYMAN COLLINS: Thank you, Mr. Dressel. Any questions or comments? (no response) Thank you very much.

Next I would like to call Mr. George Nagel, Department of Commerce.

GEORGE NAGLE: Thank you, Mr. Chairman.

ASSEMBLYMAN COLLINS: Mr. Nagle, before you start -- and this is not directed to you -- we are approaching 4:30. We have about 10 more speakers and, not to cry on anyone's shoulder, I am going to be here. I have nowhere to go until 7:30. But, I am under some pressure as the Chairman, because I am trying to get pro and con, and I am also trying to bring in some people who have a longer trip, such as Mr. Meeker, who will be up very soon -- Mr. Meeker from Union County -- and so on. So, if we could make our comments more concise than they originally were-- If you were planning to speak for an hour,

that could maybe just move down to a half hour. Again, I am not trying to stop anyone from saying what they want to say, but, again, if we could just think that there are others to follow. That is not at all directed to you, sir. Please go right ahead.

MR. NAGLE: Thank you. Commissioner Putnam asked me to come down today and speak in favor, and to note that we strongly support A-300, which simply clarifies the tax base for the business personal property tax. We believe the bill is pro manufacturing. We also recognize the fact that we are in tough competition with other states for manufacturing investment, relocation, and expansions. But we have known for many years, since the mid-1950s, that New Jersey manufacturers have under-invested in New Jersey. They invest at rates only 70% to 90% of manufacturers in other states. This basic issue led the Legislature's own Economic Policy Council to investigate and study this subject in some detail.

Very briefly, one of the findings of that study noted that declines in New Jersey's investment by manufacturers were related, among other things, to taxes on manufacturers. One conclusion from that study reads, and I quote: "The greatest area of concern is the business personal property tax. Besides being a major obstacle and deterrent to manufacture capital expending, it is opposed on the grounds of equity. Fair and uniform assessments are unattainable, and the tax bears no relationship to profitability of business." And finally: "The New Jersey business climate can greatly benefit from outright repeal."

Those statements were drafted back in 1975. I can't believe that I am here, 13 years later, talking on the same issue. The importance is just the same today as it was at that time. Manufacturing in New Jersey is still declining. Even over the past year, the most recent trends show that over the U.S., manufacturing employment has improved, and is starting to

grow -- 2.7% led by an export boom. In New Jersey, manufacturing jobs have declined 1-1/2% over the past year.

The numbers on manufacturing investment in New Jersey continue to decline. Although the date is a little bit sketchy, our numbers show that investment in industrial real estate lags far behind investment in residential, commercial, and office buildings.

We still think that A-300 can reverse some of these negative trends in manufacturing. Why? We have to be competitive with other states. We cannot continue to tax productive manufacturing equipment. We cannot afford to lose any more of our manufacturing tax base. And finally, urban centers have much to do with the same subject, since many of these manufacturers are located in our urban centers.

One additional issue addressed by the bill is energy costs. A recent independent study by a major business consulting firm measuring and assessing the business climate of state manufacturing found that New Jersey ranked forty-fourth out of 48 states in terms of energy costs. That is near the bottom. Because of this one particular fact, the Department of Commerce promotes and encourages cogeneration in New Jersey. We feel that exempting these facilities from the real property tax base is a step in that right direction.

Just in sum to be brief, the Department supports the bill. I personally hope that once and for all the bill will clarify these issues that I brought up some 13 years ago.

Thank you.

ASSEMBLYMAN COLLINS: Well, I commend you for your persistence, Mr. Nagle. Hang in there, and hopefully we will come to a resolution of your problem. Whether this bill is the avenue to resolve it, only time will tell.

Are there any questions or comments? (no response)
Thank you, and thank the Commissioner for having you come down. We appreciate it. Thank you very much.

We have had a number of comments about the tax assessors, as I have said before. If I may, I would like to call two at this particular time; one who may well have traveled the furthest, at least representing a tax base as such, if not the administrator, Mr. Meeker -- John Meeker -- from Union County, the Tax Administrator. Also, since we have an extra seat, if Frank Leone, the President of the Gloucester County Association of Assessors-- Frank, would you like to come up? I particularly saw your reaction to Mr. Dressel's comment in quoting the Assemblyman, who, as I say, was just making a point with regard to some of his comments.

F R A N K P. L E O N E: I was going to give Mr. Meeker my place, in case you called me first.

A S S E M B L Y M A N C O L L I N S: Well, what a gentleman. I must have felt that and called you both. Again, not to cut either of you off-- Mr. Meeker, as our guest here in the southern part of the State, please go first. We welcome you to Gloucester County.

J O H N K. M E E K E R, J R.: Thank you, Mr. Chairman, and thank you for your hospitality. I will send a written statement to the Committee.

A S S E M B L Y M A N C O L L I N S: We would appreciate that. We will put it, with other documents, into the transcript. Thank you.

M R. M E E K E R: There are a few brief comments I would like to make today. One, I would like to invite you to my county with your Committee, to hear directly from some of our local officials. I think that would be most enlightening.

A S S E M B L Y M A N C O L L I N S: Well, as I mentioned to you earlier, Assemblyman Hudak and Assemblyman Deverin have let us know their feelings, and I know they worked closely with Assemblyman Stuhltrager two years ago when this law was put into place. But, go right ahead, sir.

MR. MEEKER: Thank you. In addition to being the Tax Administrator of the county, I, too, have served as a Councilman in my Town of Westfield, and I have been a Freeholder in my county. I also have served as a member of the county Tax Board. I served from '70 to '75. I think I have seen some of the history of real property and personal property tax in the State. My sense of history is probably a little different. My interpretation of the status quo might be a little different from what you have heard from other speakers.

As you know, in the mid-1960s, we did change the tax laws and we eliminated the personal property tax, so to speak. It was separated out. Up until that time, basically real property and personal property were assessed at the local municipal rates. Now, you know what happened. The State tax was put on, and in '77 that tax was repealed. However, you also know that the revenues at the 1966 level -- which most municipalities chose -- were frozen. I think we are all aware of the inflation that has occurred since 1966. So, those revenues the municipalities received from the State as replacement revenues for that locally collected tax, have been frozen at the 1966 levels.

I think what we are concerned about with this bill-- I understand the sponsor, Mr. Kamin, intends that the municipalities should not lose any revenue. Well, I would like to point out to this Committee that we live in this real world, and I don't think the moneys we are going to lose with this bill are going to be replaced. I understand there is a \$15 million line item, but I don't think that is going to quite cover the amount of money we are going to lose.

We know that this year, the State Legislature spent \$500 million more than it is going to take in. We tapped into that surplus. Those are the numbers that have been discussed at the SLERP Commission, of which I am a member. We spent \$500 million of our surplus. Now I think that if you have a billion

dollar surplus, and we can all add and subtract, I wonder if the money is going to be there as the sponsor intends -- and I know he intends it -- to save the municipalities harmless?

ASSEMBLYMAN COLLINS: Well, I think the sponsor definitely intends it to be there. As I am sure you know, Mr. Meeker, the sponsor of this legislation is the Vice Chairman of the Appropriations Committee, and to his right is a member of the Appropriations Committee. So, I'm sure those two gentlemen are quite confident that the State has the moneys to go forward. Go ahead.

MR. MEEKER: Mr. Chairman, with all due respect, I also know the Governor of this State of New Jersey has a line item veto. He can veto any number out of that budget.

ASSEMBLYMAN COLLINS: He surely can, as he has done.

MR. MEEKER: I think when I mentioned status quo-- A lot of items that have been discussed here today -- we'll name the oil refineries and the large tanks -- have always been assessed. I don't think it was until Coastal moved to this county -- it is this county?--

MR. LEONE: Yes.

MR. MEEKER: --that the assessability factor was addressed. I believe Coastal took the point of view that a whole refinery should come under personal property. The new laws, or mainly the new laws, do not have any assessment on it whatsoever.

This was the result of a long series of adverse court cases that served to erode our property tax base. Traditionally, these large billboards you see from the Turnpike and whatnot, have always been assessed. I am going back to the early '70s and the '60s. They were always assessed as real property. Large TV towers, radio towers, have always been assessed. Mention was made of Brockway Glass in Freehold. I think Mr. Davenport is here, and I think he is party to this case. I think he represents the taxpayer. That has always

been assessed, as I understand it. So, the challenge is being made by the taxpayer.

Let's move on to the share that business actually pays. You have all seen bills come before the Legislature to have a moratorium created for a municipality. Why do we do that? You know what happens, and why they want that moratorium; because with that reevaluation, what happens is, industry is going to pay less tax, and the homeowner is going to pay more. That is what is happening in this State. So I don't see any real adverse tax climate as far as a property tax is concerned. I think the war stories you have heard today are few. There has been no industry or no taxpayer who has come to me in my county and complained the way you heard that Ford Motor Company complained. I would like to say that for the record.

I would also like to ask you, Mr. Chairman -- and you have the power -- to ask a tax assessor who has been named as maybe going too far the other way-- Ask him to come before this Committee, and get his side of the picture. Let's get his version. I think that would only be fair. It is difficult, I think, to talk in the abstract.

The other concern I have, and it is an overall concern with this bill, is, if this bill is enacted, I ask -- and we have a mayor in this room -- would a mayor allow some large facility to come into his area, if he knew there was going to be a lower assessment placed on that type of property because it was manufacturing? What do you think he is going to opt to have it zoned for? An office park or other things on which he could collect a tax assessment. Do you think this Delaware River is going to be zoned for heavy industrial property or development if they can't tax it? I ask the same thing about the Arthur Kill, in my county. Some of the most valuable real estate in this country -- where Exxon is, with the deep water port access and close to New York City, and all other forms of

transportation-- Do you think that we are going to want that type of installation in my county, if we can't get the fair taxes we should get from it? I think you can answer that question.

What does that do then to the industrial climate, or the manufacturing climate in this State? Does that produce the jobs we want? We are going to take -- and this is a double sword, this type of legislation-- We are going to tell the municipalities, "You can't collect the taxes," and they are not going to let industry in, that we want in.

The other main point I would like to make is, I don't think we can compete with other countries the way we think we can, with this legislation. I have a major pharmaceutical company in my county, and they are building a large installation in Ireland. I would like to have it in my county, but I cannot offer them no taxes for 10 years -- no taxes -- and I cannot compete with the wage rates in my county that Mexico can compete with, where they are building a lot of parts for our industry here. They are assembling things here, but a lot of things are being built down there. I don't think our citizens are going to work for those kinds of wage rates.

I talked to another individual, whose headquarters is in another county. He happens to be a neighbor of mine. I asked him about manufacturing. He said, "You have to look at the big picture. It's just not taxes." He said, "The affordability of homes is a main concern for locating in New Jersey." I think that issue was addressed, I believe, in the SLERP report. I think what we propose with our farmland and some of the other issues as far as repealing all personal property tax, and a few other reports and recommendations in the SLERP Commission's statement, should be widely read by the Legislature. I think a lot of those proposals should be enacted. I know it is going to take time, but I think we have to look at the big picture.

Mr. Chairman, I will answer any questions, and I thank you again for allowing me to testify.

ASSEMBLYMAN COLLINS: How about if we hear from Mr. Leone, and then we can see if there are any questions for either gentleman? Mr. Leone?

MR. LEONE: Instead of repeating a lot of things that the other people brought up, I would like to identify myself as Frank Leone. I just want to say that I am President of the Gloucester County Assessors Association. I am not happy with the idea that an accusation is being made today about what the assessors have been doing. I agree with my colleague here that if anyone has done this, they should be brought to task. I think everybody understands exactly how that could be corrected. If we do anything wrong, I know we are accountable for it.

I think you also want to understand-- I guess it is because I am old, but I have been the assessor for Gibbstown since 1956. I happen to have on the river front exactly what is ideal -- duPont, Mobil, and Curkleys (phonetic spelling) Air Products and Research. I defy anyone to tell me that what I have been doing is eroding the tax base.

I think the other thing we should never lose sight of is, we had a reevaluation in 1982, which went into effect in 1983. At that point, industry was part of the personnel who worked out settlements with the reevaluation firms. So, here again, I would have to say that there is nothing that has been done that would erode the tax base.

It is not fair to say to us that it is going to affect our economic climate. I think you are talking, in this particular case, to the wrong group. If you were to go to Mobil, you would know that they went from 4000 down to 1000. I hope you don't say that is because of the tax base, because you want to remember that Greenwich Township has had the lowest taxes in Gloucester County ever since I have been in office.

So, it can't be that. It has been automation and it has been consolidation. I don't fault industry for doing that, but don't come up and tell us today that this is the reason why they are moving out, because of the tax base.

We know that duPont went from something like a 900+ figure, which is conservative, down to a total work load now of 140. All they did there was-- A lot of the units that were in operation here are now being consolidated in Deepwater and what have you. A lot of them are being sold to Japan and what have you, so they don't have the luxury of having that product again. Here again, it is not fair to say to us that this is the reason why they left.

I think that if you look at the overall picture, you will know exactly what we are trying to establish as assessors. We understood -- and I think both-- Mr. Stuhltrager and Mr. Collins, you both know that from when we started this with Zane, our theory of the whole thing was status quo. There was nothing that anyone has brought up today, or can bring up today, that says it is not status quo any more. We do know that it has been status quo in Gloucester County. I think the statement was made before by my colleague -- and somebody else before him -- that if you do have an assessor who is guilty, let's bring him to task. Let's not change what we took two years, with your cooperation, to put into effect. Now the rules have just been handed down, before we have even had a chance to try them out. Throw the whole picture out.

I think, as far as cogeneration is concerned, there have been a couple of suggestions today. But you want to remember that-- You ought to think about the whole idea before you decide to throw it out and, you know, make it exempt, because there are some pros and cons there. Is it a moneymaker? Is it something for ecology, or what is it?

I think the other statement I would like to make at this point-- I will read this off and then hand it to you, so that we won't drag this hearing out. "The towns in Gloucester County are against Assembly Bill 300, and as President of the Gloucester County Assessors Association, I am here today to strongly recommend that this bill not be taken out of Committee. It has only been a little over a year since the Assembly and the Senate enacted a tax bill that was primarily enacted to keep assessment in industry at status quo." I keep going back to the idea of status quo. "The assessors of Gloucester County have held to a status quo agreement. Homeowners should not be faced with this continuous threat of tax increase." What I am saying here, too, so that everybody understands, is, we should not spend the rest of our lifetime being faced with the threat of having something thrown at us to take away our economic stability. I think it is important in a town such as Greenwich, or West Deptford, or Paulsboro, or Westville, or Logan, that is on the river front, to be faced with these things.

I think the picture will be shown clearly that if you go from Logan all the way up to Westville, nobody is doing anything but the status quo. We are trying to do exactly what our Assemblymen and Senator put into effect, and we have been living by that on a day in and a day out basis. It is not fair to say that we are guilty. I think the other statement that was made by Assemblyman Kamin about what we are almost doing, was uncalled for.

In Greenwich Township, Assembly Bill 300 will not encourage more jobs, because taxes are not a reason for industry to locate here. We have had the lowest taxes -- I will repeat it -- in the county for the past 25 to 30 years. The only thing that has happened is a continuous reduction in jobs because of automation, not taxes.

Now the other part, too -- and I think you want to keep thinking about this, because the people -- the citizens -- in Greenwich Township are faced, along with industry, along with the Assemblymen, along with the freeholders, along with the mayors of the towns-- We are faced with chemicals in our water supply and poor air quality. Don't forget, some of these things, I think, as they were coming about-- We knew that some of this we had to face up to because of the continuous low taxes. We assumed some of this pollution; we assumed some of this. But now we are to the point where the chemicals and the water and the poor air quality-- We know that steps have to be taken, not only by the State Assembly and Senate, but they should be taken by everybody. What we are actually asking you today, for the first step, is to leave the present tax bill, passed in 1986, alone, and ensure future problems and costs by sharing with homeowners and industry, as they are now.

All I am saying to you again now -- and I want to leave this thought in mind-- We're still saying status quo. Not more, not less; leave it the way it is.

Thank you.

ASSEMBLYMAN COLLINS: Thank you, Mr. Leone. Questions, Assemblyman Kamin? (applause) Now, remember, we started without the applause.

ASSEMBLYMAN KAMIN: First of all, that is exactly what we are trying to do and accomplish with A-300 -- status quo. If I have offended anyone who is here today who is a professional assessor, and who handles his or her job in a responsible manner, by referring to some of the tactics that have been used as bordering on extortion, I apologize, because it certainly was not the intent. But, with some of the war stories that are being presented here today, I have to ask myself, what kind of professional responsibility is that, when a faceless bureaucrat uses the power he has to force business, on behalf of the taxpayer, to the binding arbitration table,

which is essentially the way it works out? Whether it is business, or whether it is a large apartment complex, if there is a dispute on the assessment, it is ultimately handled out of court.

I cannot leave Mr. Meeker's comments about somehow I am going to be taking tax revenues away by the proposals in A-300. Let me ask you both, in your professional opinion, what is the proper way to assess a manufacturing firm versus a retail firm? What do you assess in those two cases?

MR. MEEKER: I think what happened-- The reason 117 came about was because items that had been traditionally taxed, were taken out. The tank bill -- and that was Stem Bros., I believe, in your district, Assemblyman Kamin -- Alexandria Township--

ASSEMBLYMAN KAMIN: That's right.

MR. MEEKER: When Judge Conley rendered the decision that those tanks could be chopped up in pieces and taken out of the ground, they were then not going to be assessable as real property. Well, when that gets extended, you can take anything and chop it up into little pieces. I believe this is why a committee was formed. Assemblyman Stuhltrager was involved -- actively involved. We tried to hammer out an agreement. Basically, the agreement is Chapter 117.

ASSEMBLYMAN KAMIN: So you're saying the test should be whether you can move it or not, not whether or not it is used in the manufacturing process?

MR. MEEKER: "All land in improvement" -- those are the words that are used in Chapter 117 -- improvement. Then it goes on to list the tests for the personal property that is used. I think it boils down to the word "structure." If that personal property is a structure -- and that is the word I think everybody is hung up on -- "structure"--

ASSEMBLYMAN KAMIN: Okay.

MR. MEEKER: --it should be assessed. I think the rules and regulations which have been promulgated -- but I do not believe they are official -- attempt to redefine the word "structure" as a building -- habitable. That was not the intent of the legislation, and I was part of the committee. Many members of that committee are in this room today. That was not the intent. If we wanted to use the word "building," we would have used the word "building," not "structure."

ASSEMBLYMAN KAMIN: Maybe Mr. Stuhltrager will comment on that, because from talking to other legislators, the interpretations of the word "structure" and how it is being done now-- That was not the legislative intent of three years ago.

MR. MEEKER: Assemblyman, I get down to very specifics. When I look at those huge things over there on the river, is that a structure?

ASSEMBLYMAN KAMIN: We are not arguing tanks. I am not arguing tanks.

MR. MEEKER: No, I'm talking about those big things that go up and down and do all those-- Whatever you want to call them, they are structures. They are structures. If it is ordinarily intended to be fixed to that land, it goes with the land when they sell the property. It goes with the land like you would sell your house and the swimming pool at your house, if you had one. That would be assessable.

ASSEMBLYMAN KAMIN: Mr. Meeker, through you, Mr. Chairman--

ASSEMBLYMAN COLLINS: Surely.

ASSEMBLYMAN KAMIN: The legislation is not -- I say once again -- addressing the tanks. They are still taxable -- period. My question to you is, how do you treat differently a manufacturing operation that is on land, which is assessable, with a building, and a retail operation? They should be taxed exactly the same, should they not?

MR. MEEKER: Let me read what 117 states.

ASSEMBLYMAN KAMIN: Now, Mr. Meeker, excuse me. I don't want to hear what 117 says. My question of you--

ASSEMBLYMAN COLLINS: Hold on, hold on, Assemblyman and Mr. Meeker. We don't need it read. We can find that information by looking it up.

MR. MEEKER: I think--

ASSEMBLYMAN KAMIN: This is a very key--

ASSEMBLYMAN COLLINS: Assemblyman, I don't have any problem with him following up on your question. However, I would prefer that it isn't read. If the only way to get the answer is to have it read, then you can do that. But this particular situation is a hearing. I have tried to be very open and allow a lot of people to discuss things. We have other people, people who have been waiting. There are some very knowledgeable people who will be speaking. I tried to balance this whole thing. I want to be fair; I want to have a hearing. On the other hand, we just don't want to continually drag out with minutiae. If this bill is ever posted, we will definitely have the opportunity, at that particular time, to really go into detail.

ASSEMBLYMAN KAMIN: I withdraw my question.

ASSEMBLYMAN COLLINS: Thank you, Assemblyman. I appreciate that. Okay. Are there any other questions? (no response) Thank you both, gentlemen, very much.

MR. MEEKER: Thank you.

MR. LEONE: Thank you, Mr. Chairman. I do welcome you to my county.

ASSEMBLYMAN COLLINS: I heard that, and it was duly noted.

Robert Woodford, Vice President, New Jersey Business and Industry Association.

ROBERT WOODFORD: Thank you, Mr. Chairman and members of the Committee. I am here today testifying for the

New Jersey Business and Industry Association because we feel that what is needed now is-- (brief discussion about microphones) The New Jersey Business and Industry Association believes that the current uncertainty, the climate of litigation, provides a clear need for clarifying the rules and, at the same time, protecting both industry and our economic base and our municipal financial resources. A-300, in our opinion, does that. It also reaffirms a policy which is economically sound, which was adopted in 1966, intended to remove all business personal property from the local property tax base and, in return, to substitute dollars from the State Treasury. That is the overall outline of A-300. It was the overall outline of the 1966 reforms.

In 1977 -- as has been mentioned previously -- the State took the next step on its own State Business Personal Property Tax, and alleviated that tax from the items put in service from 1977 on. So we have, by design, a policy -- 1966, 1977 -- which was there to relieve manufacturing and other businesses of costs on their means of production, to preserve a job base, an economic base for the State.

The 1986 enactment, Chapter 117, while it has been described as an effort to preserve the status quo, in fact, realistically could not do that, because the underlying practices that had grown up since 1966 differed in some municipalities from the norm. A non-uniformity cannot be affected by uniform rules and produce the status quo. Because it could not produce the status quo, what we have today is more litigation to determine who gets hurt.

I suggest that the approach of A-300 is the only approach in which no one gets hurt; in which the State's sound economic policy of freeing machinery and equipment from tax can be married to the protection of municipalities from the financial loss which will occur if they, under current law, lose the litigation currently under way, or if the rules are in

any way changed by A-300 as a proposal. That is the only method of protecting everyone, where the status quo, pre 1986, provided variations in practice.

For example, petroleum refining in this State has been taxed, even after 1966, although contrary to the intent of that law, so that processing equipment was continued in the local tax base. That was not intended in 1966, but that was the practice that continued. I might add that the industry, in permitting that and not filing under the State Business Personal Property Tax, played a role, indeed, in that continuing practice. Very similar processing equipment in the chemical industry did come under the State Business Personal Property Tax, very similar in the way in which it operates, very similar in every respect, but it is treated differently because, in fact, they followed the policy set down in 1966, and the municipalities, in turn, were rewarded with replacement dollars from the State Treasury.

So, what do we do now? Again, there are other industry examples that could be given, but I won't present them at this time for brevity's sake. What do we do with a non-uniform situation, when we need a uniform, clear, and certain rule that serves both the economy of this State and serves to protect the municipalities in their resources? I think the only answer is the answer that Assemblyman Kamin is offering, which is to further clarify the fact that machinery and equipment used in business, even though it be attached to a building, or structure, so long as it serves a purpose other than the structure, should not be taxed in the local base, and that insofar as some municipalities may be taxing such items, the State should step in with its resources to protect those municipalities from any injury financially which might occur.

So, we do support this legislation as one means of ending a long period -- what will be a long period of uncertainty and costly litigation, which will cast a shadow

over the decision-making of businesses in their investment decisions in this State, and which, if business loses in current litigation, adds another cost burden which must be shouldered by those businesses in attempting to market their product or their service. If they cannot market it competitively, then their decision must be to invest where they can produce and market competitively. That picture has never changed.

It is in the interest of all to adopt this kind of legislation, which serves both the business community and the municipalities by protecting their interests and furthering the policy of 1966, which was a sound economic policy to remove those assets from our base and follow the policy of our neighboring states.

Thank you.

ASSEMBLYMAN COLLINS: Thank you very much, Bob. We appreciate your input. Thank you.

Next I would like to call two people at once. I see them sitting side by side. We have already heard from Mayor Jenkins, but we are honored to have Mayor Burzichelli of Paulsboro here. Mayor, would you like to come forward? Also, we have Mr. Ken DiMuzio, who is the Solicitor for the Township of Greenwich -- Gibbstown. We'll get two up at a time. We have a few more, and we will get to everyone.

Mayor, you and I talked before. You said you would try to get here at the end of your workday, and we appreciate your making that effort. We will be more than happy to hear from you.

MAYOR JOHN D. BURZICHELLI: Thank you, Mr. Chairman. My name is John D. Burzichelli. I am the Mayor of Paulsboro; have been the Mayor of Paulsboro for 13 years. I was a Councilman for three years before that.

Just a little bit about Paulsboro. We are two square miles, 6500 people, registered a Distressed City by the State

of New Jersey. We have five facilities we are talking about, which are spread right across our town. It is all premium property. I feel this bill would do an injustice to the taxpayers. I feel they should all pay their share. They have been paying their share.

Let me talk about that just a little bit real quick. I read a reevaluation last year. Two of these companies -- without mentioning any names -- went to the Tax Appeal Court and negotiated, or whatever. They won a \$176,000 cash payment that we had to pay back. So, if you talk to all of the other homeowners in Paulsboro who were part of this, all of their taxes went up, and industry's went down. That is just a little picture of what happened in Paulsboro.

I don't have to talk to you about the expenses of the town. You know, trash is \$50 a ton today to dispose of it. This time three years from now, it will be \$135 a ton. You know about the insurance.

ASSEMBLYMAN COLLINS: Don't announce that, Mayor.

MAYOR BURZICHELLI: So, you know that the costs are going up. I read it real quick. It said something about that we would get the money to make up the difference. Everybody is still wondering why they have to pay such a high school tax, when I thought the income tax was supposed to take care of that.

So, there are a lot of questions. We are against it, we in Paulsboro. We would like to see things stay the way they are.

Just another point: I heard about industry not coming to New Jersey. Mobil announced that it is in the process of building a \$35 million blending and packaging plant in Paulsboro. If everything goes right, it should be in operation within the next two years. They are going to break ground in April. We are proud to be able to announce that. So, industry is staying, and I think they should pay their fair share.

Thank you.

ASSEMBLYMAN COLLINS: Thank you, Mr. Mayor. You mentioned Mobil, and there was a smile from one of the Mobil representatives in the back of the room. I know they are going to be very happy with their new facility in Paulsboro.

You did mention that Paulsboro is a Distressed City at this particular time. That is something that has happened within the last year or so.

MAYOR BURZICHELLI: Thanks to you, yes.

ASSEMBLYMAN COLLINS: Thank you, Mr. Mayor, for mentioning that. That was my piece of legislation that did that. I appreciate it.

MAYOR BURZICHELLI: Yes. That did help. We got the check, and I hope we are going to get another check next year. It is very much needed, believe me; very much needed.

ASSEMBLYMAN COLLINS: Thank you, Mr. Mayor. I appreciate, again, your stopping in at the end of your workday. You are welcome to stay there, or you can go back and sit with Mayor Jenkins. It's good to see two good leaders right there before me.

MAYOR BURZICHELLI: Thank you.

ASSEMBLYMAN COLLINS: Thank you, Mr. Mayor. Mr. DiMuzio, thank you for joining us today. I know you have been here since the beginning. I'm sure you have listened to all of the comments. Not to put you on the spot at all, but you were one of the ones to whom I referred who has been involved in this process and has the background, and we look forward to your comments.

KENNETH A. DIMUZIO, ESQ.: Mr. Chairman, thank you, and the members of the Committee. Welcome to Gibbstown.

I have given you a three- or four-page outline of my comments. I also have about six or seven exhibits which I will give to the secretary, so she can append them to one of the memoranda, because they contain some statistics which support the arguments I am going to make against A-300.

On behalf of Greenwich Township, as the township attorney, I would like to state our opposition to A-300. Very quickly, to summarize the bill in the particular areas we are concerned about, it creates exemptions for personal property used in manufacturing or processing, similar to the law in Pennsylvania. Secondly, it creates exemptions for tanks -- contrary, I think, to Mr. Kamin's interpretation -- used directly in the manufacturing or processing, as well as cogeneration facilities. Being a lawyer, that word "directly" can have many meanings. I tell you, as a lawyer, that attorneys for taxpayers will argue that storage tanks, both holding the crude and holding the product, will be considered as directly used in the manufacturing process, and they will argue that they are not taxable.

ASSEMBLYMAN COLLINS: Ken, may I just jump in right now? That was one of my concerns earlier, Dick, when you said there would be no change in the tanks, because my interpretation, in talking with staff--

ASSEMBLYMAN KAMIN: Well, that is what the \$15 million is for.

ASSEMBLYMAN COLLINS: Okay, but there will, then, be a change in the tank idea.

ASSEMBLYMAN KAMIN: If I may interrupt, with your kind permission, at this point-- The local officials -- and I remind you I come from local government -- are concerned about somehow changing the rules for the taxation, that they are going to lose revenue, with the exception of the tanks. There is no change, because what is involved in the manufacturing process should not be taxable. What we are concerned about -- at least I feel we should be as legislators -- is the expanding role of the assessors as to what is becoming taxable. It is not happening here, but it is happening in other parts of the State, where assessors now say, "We think that should be taxed; we think this should be taxed." They change the rules each and

every year, and you can't have this gray area. To make up for the loss of revenue -- as specifically outlined in the bill-- That is what the \$15 million is for -- period.

ASSEMBLYMAN COLLINS: Okay, thank you. I am the one who caused that problem, because I wanted to jump in and make that point, as you did.

MR. DiMUZIO: I will respond to that as I give my presentation.

ASSEMBLYMAN COLLINS: Okay, go ahead, Mr. DiMuzio.

MR. DiMUZIO: Thirdly, it admittedly will cause a reduction in revenues. The bill states that it will. And fourthly, it creates a fund which is intended to help municipalities cover their losses.

Now, my criticism of the bill is as follows: First of all, the motive for the bill -- the reason why it was introduced -- was to attract and retain industry. I am arguing that those goals will not be served by the bill, for many reasons. Number one, industry has already left New Jersey, and the reasons were unrelated to taxes. This has already been alluded to. If your primary motivation for the bill is to attract industry or keep industry, and you find that industry has already left, or those that have stayed have survived the shake-out, but are here and are going to stay, you don't need the bill, because it won't do the job.

Now, I have documentation. I am quoting industry leaders who say this. The reason industry left from 1966 on was: a) tough environmental and health regulations; b) poor productivity; c) increased foreign competition, especially cheap labor; and d) the oil crisis. Nowhere was it mentioned that the real estate taxes in New Jersey caused this industry shift. Also, the Office of Technology Assessment, a congressional arm, in 1986, did a study of this very process that Mr. Stuhltrager was talking about. This is not only a regional phenomenon. It is way beyond New Jersey. It is a national phenomenon.

The point is, and again this is based on statistics from the Federal government in 1986, the middle Atlantic area, which includes New Jersey, and I would say it also includes Pennsylvania -- which has the Pennsylvania rule -- had more than their share of lost manufacturing jobs. There is no question that the jobs have been lost.

The Gloucester County Times did a series of articles which discussed this. Prior to the articles being published, on May 21, 1986, Myron Foveaux, of the Chemical Manufacturers Association, discussed the chemical industry's predicament in New Jersey. Foveaux said he believed New Jersey rated moderately well for new investment by the chemical industry. But, he said, "Tough State environmental and health laws diminish the State's attractiveness to investors." I'm saying to this Committee that if the motivation behind this legislation is to lower the taxes for industry to attract it in, its primary obligation is to research the statistics to prove that that was a primary motivating factor for industry to leave, and will it attract industry in by doing that? If they left for other reasons, then the bill has a false premise, and based on the statistics I produced, it does have a false premise.

Secondly, there is no proof that A-300 will overcome the disincentives. What do I mean by that? If industry left for other reasons, then there is no proof that this marginal attraction to industry by offering a tax break, by excluding manufacturing equipment, is going to overcome those disincentives. Again, the Federal government has studied the fact that the middle Atlantic states suffered losses similar to New Jersey's, despite the manufacturers' exclusion in Pennsylvania. One of the things I think the Committee has to do is an economic assessment of the Pennsylvania rule in Pennsylvania. How much industry has been retained because of that rule? We have people here today who will show you

employment statistics that show there is less unemployment in New Jersey than in Pennsylvania. If the manufacturing rule is working so well, why do we have better employment statistics?

I do recall -- and I can't remember the town in Pennsylvania -- they built a VW plant about 10 years ago. They were very proud of that plant. The plant closed down after about 10 years. Why -- they had a more favorable tax rate? It was because of those other aspects of competition that I talked about -- foreign competition, etc. They caused the shift.

I think the third element of criticism, and to me the most personal and the most damaging -- and I think you really have to carefully consider this, especially in the older communities -- is that the proposed cure, that is, excluding tax on manufacturers, is worse than the disease, the disease being losing industry, because the shift in the tax burden is too painful for a majority of the residents, especially those senior citizens in established industrialized municipalities.

You have industrialized municipalities in this State, and during the last 20 years there has been a shake-out in the industries that were longstanding. Those that were going to leave basically have left, and those that are going to stay, stay. Unfortunately, they do not employ as many people as they used to. I have statistics here, which I will give you, which show that duPont, in 1966, employed 2000 people. Today, there are less than 200 who work there. Statistics about Mobil employing 3000 and 4000 people, or 2000 people years ago. Now they are down to about 1100. It goes on and on and on.

The other thing you have to consider is, when you are talking about attracting manpower by industry, you forget the technological renovations that have gone on. It simply doesn't take as many people to run these plants any more. So your attractiveness to industry to bring people into work is not what it used to be. There aren't that many people who work there any more -- as the people at Coastal in West Deptford

found out. When they went on strike and they had management running the plant and they finally reopened, they didn't hire back an awful lot of people, because they found that they could run the plant without that many people. So, you are not getting that great economic incentive, that great employment boost, that you say you are getting. It just doesn't happen.

This was a point that Mr. Meeker started to raise. Municipalities simply are not as favorable to industry. Manufacturing is less appealing than clean service industries, and this is the trend. I am not saying that as being critical. This township depends very heavily on industry, and we want industry to stay. But the point is -- as a matter of fact the book "Megatrends" established this years ago -- there has been a wholesale shift in this country from manufacturing to service industries. That is an economic force that is cosmopolitan -- beyond this nation, beyond this State. Because of that -- the trend to service industries-- That is where unemployment is coming from.

This bill -- and this is the double-edged sword that Mr. Meeker was talking about, and it is a very serious one-- Why in the world would a municipality invite problematic industries into its municipality if they are going to overtax them, when there are service industries, light manufacturing, light industrial warehousing that do not cause any problems to the municipality? You create this bill that is too favorable by excluding manufacturing-- To attract industry in, you have to go through the Municipal Land Use process. Why are they going to site these facilities here? It is not going to have the impact that is intended.

To make my point, and I think you have to assess the priorities we are talking about in terms of whether or not this bill is going to attract industry, I have included chapter after chapter of environmental laws. Just a couple I can read to you very quickly: The Air Pollution Control Act, the Clean

Air Act, the CAFRA Act, the Coastal Zone Management Act, the Flood Hazard Area Control Act, the National Flood Insurance Program, the Hackensack Meadowlands Development Commission. And hazardous waste laws: The Spill Compensation and Control Act, the Major Hazardous Waste Facilities Siting Act, ECRA -- the Environmental Cleanup Responsibility Act, the Worker and Community Right-to-Know Act. More recently, the Toxic Catastrophe and Prevention Act. That is a law that is a New Jersey law, which requires industry to provide for emergency planning. It is also a companion piece to SARA Title III, which is a Federal statute. Any new industry that wants to come into this State has a host of environmental obstacles to overcome.

What I'm saying is, the little tidbit that this proposed bill is going to give those industries doesn't amount to a hill of beans, compared to the environmental obstacles they have to overcome. If they are going to stay out of New Jersey, it is going to be because of the environmental obstacles, not because they are paying too many taxes. If they decide, after going over all of those environmental obstacles, to locate here, there is going to be such a sound financial projection for those companies, that the little bit additional that they are going to pay in taxes by keeping the status quo is not going to keep them out of New Jersey. That has not been analyzed.

We can talk about CERCLA, the Superfund, the Resource Conservation and Recovery Act, HOSCA, the Noise Control Act, the Pinelands Protection Act. There are certain areas of this State you are not going to locate industry in. The Sewerage Authorities Law-- Recently, we had a sewer ban in this township. We have had a sewer ban in over 100 municipalities in this township because of the Clean Water Act. Industry has to meet MCLs -- maximum contaminant levels. They are all disincentives to locate in New Jersey. The tax bill and its

proposed bonus to industry pales in comparison to these other requirements.

ASSEMBLYMAN COLLINS: Are you suggesting, Ken, that we should change some of those laws?

MR. DiMUZIO: Not at all. As you know, I am an environmentalist.

ASSEMBLYMAN COLLINS: Okay.

MR. DiMUZIO: What I'm saying is, you have to prioritize the reasons why industry will either stay or leave, and this bill isn't going to amount to a hill of beans, compared to those.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Sure it will.

ASSEMBLYMAN KAMIN: May I ask a question, Mr. Chairman, on that point?

ASSEMBLYMAN COLLINS: Surely.

ASSEMBLYMAN KAMIN: What bonus to industry are you referring to that my bill is going to give?

MR. DiMUZIO: It is going to now exclude, for instance, tanks -- which you talked about. It is going to exclude structures, because a tax attorney will say that that is part of the manufacturing process.

ASSEMBLYMAN KAMIN: If a building is located in an industrial zone, or a building is located in a housing or warehouse zone, are they taxed at different rates in the municipalities you are aware of?

MR. DiMUZIO: Not that I am aware of.

ASSEMBLYMAN KAMIN: That is my point, and they shouldn't be. If it is in an industrial zone and it manufactures something, the equipment that is inside that building should not be taxed.

MR. DiMUZIO: And if a structure which is not a building per se and is not habitable and it is five times as big as a house, it should be taxed.

ASSEMBLYMAN KAMIN: The building absolutely should be taxed.

MR. DiMUZIO: No, structure.

ASSEMBLYMAN KAMIN: The other point, and it has not been emphasized enough today by the opponents of A-300, is that the regulations, in fact, call for the refining process to be exempt. That is not the intent of my bill.

MR. DiMUZIO: That wasn't the intent of the statute under which (indiscernible) was operating either.

ASSEMBLYMAN KAMIN: Well, the regulations, in fact, exempt refining.

MR. DiMUZIO: The proposed regulations.

ASSEMBLYMAN KAMIN: The regulations as proposed -- that is correct -- exempt refining.

MR. DiMUZIO: We have criticized them as being contrary to statute.

ASSEMBLYMAN KAMIN: All we are trying to say, so that there is no further controversies when we have meetings like this, and discussions like this, where one side is saying, "Yes, it is," and one side is saying, "No, it isn't," is, a bill like A-300 will put it to bed permanently. If it is involved in the manufacturing process, it should not be taxable. If it is a building that houses manufacturing, it should be taxable. If it is land, it should be taxable.

MR. DiMUZIO: I disagree with that.

ASSEMBLYMAN COLLINS: Of course, that is why we are here listening to testimony.

ASSEMBLYMAN KAMIN: That is not the way the laws are today.

MR. DiMUZIO: I absolutely disagree with that.

ASSEMBLYMAN KAMIN: That was not what the status quo was proposed in '85, and that is not what the legislation that Gary Stuhltrager sponsored was supposed to--

MR. DiMUZIO: Oh, yes it was.

ASSEMBLYMAN KAMIN: Absolutely not.

MR. DiMUZIO: We talked about the tank situation.

ASSEMBLYMAN KAMIN: The tanks are still, under my bill as well, taxable.

MR. DiMUZIO: That is your interpretation.

ASSEMBLYMAN KAMIN: No. The bill says 30,000 and more is still taxable. (reaction from audience) Thirty thousand gallons or greater is taxable -- period.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Read the bill.

ASSEMBLYMAN COLLINS: It does say, as I understand the bill, "unless it is involved in manufacturing." That is the point--

UNIDENTIFIED SPEAKER FROM AUDIENCE: He wrote the bill.

MR. DiMUZIO: It's on page 3; it's line 32: "For the purposes of Chapter 4 of Title 54" -- and it cites the statutes -- "a tank having a capacity of more than 30,000 gallons is deemed to be real property, unless it is used directly in the manufacturing or processing process, as provided."

ASSEMBLYMAN KAMIN: That is an error in drafting the bill. It will be deleted.

MR. DiMUZIO: We're making some improvement today.

All right, let me get to the second major category of the reasons--

ASSEMBLYMAN KAMIN: I apologize for any confusion, and I wish we had been able to clear this up three hours ago.

ASSEMBLYMAN COLLINS: I mentioned that a while back. It really was just under the surface. That's why when he started talking, and you had made mention with the last speaker, Assemblyman, that the "unless" was there -- we don't have to beat this-- That is an improvement. Let's continue on.

MR. DiMUZIO: The second major category of reasons why A-300 should not be enacted, or reported out of Committee, is with regard to the fundamental fairness issue. I will just ask some rhetorical questions, which hopefully will go beyond being rhetorical. One is, why should dwellings be subjected to tax, while large structures are exempt? Secondly, why should

residential taxpayers, especially senior citizens, subsidize industry? Thirdly, why favor old industrial taxpayers over trend-setting service industries, when the market is bringing the latter to New Jersey?

Now, again, I do not want to be misinterpreted. I am not saying that Gibbstown doesn't want industry. What I am saying is, let's be realistic. Let's look at market forces, and if the trend-setting, based upon national studies, etc., is that we are getting into a service-oriented economy -- a service industry economy -- why are you going to have this bill that favors old industrial taxpayers?

Now, the fundamental fairness issue, and this gets somewhat personal and keyed in to, say, a Greenwich Township situation, which I don't think the Assembly necessarily appreciates yet, but I hope you will-- This is an old industrial town. duPont has been here for 80-some years, or more. I am fourth generation. My great-grandfather -- they called him "Jumbo Ulysses"-- They called him Jumbo because he carried the railroad ties they used to build the railroad into duPont. My grandfather on my mother's side worked at duPont. He pushed a handcar over those railroad tracks. He carried nitroglycerin when they were making dynamite. My grandfather worked there for 40 years. My father-in-law, who is now retired, worked there for 40 years. But the industrial base is gone. It is not what it used to be. To my way of thinking, as someone who has lived here, as the fourth generation -- and I have my children living here -- I think you have to focus on what happens to these older people? What happens to the widow of my grandfather, when you start to propose this kind of a situation, where you are now going to start to exempt property -- with all due respect to you, Assemblyman Kamin-- Property that is being taxed now, you are going to start to exempt.

You shift that tax base over to those widows, to those older people who were here for a long time.

ASSEMBLYMAN KAMIN: Mr. Chairman, a point of order. If, in fact, there were no other funds, if they could only come from the local property tax base, a charge like that would be correct. That is why my fund is in there, to guarantee that the \$15 million-- The lost revenues to the municipalities are there, so that there is not a shift of the property tax burden to the individual homeowner, the taxpayer, the landlord, who has renters in his area. That is why. But I think it is an unfair charge to continually bring that up, when I do, in fact, have funds set aside for that.

ASSEMBLYMAN COLLINS: Hold it one minute, Dick.

ASSEMBLYMAN KAMIN: I have given my assurances to the Chairman that I will not move the bill without that funding mechanism being in place. I give you that assurance as well.

ASSEMBLYMAN COLLINS: Not only did Assemblyman Kamin give that assurance to me as Chairman earlier today, but in all of our previous discussions. As he made mention, we -- the four of us, the three who are here and Assemblyman LoBiondo, all sit in the same row, and we have talked about this bill, it seems, every time I see his smiling face. He has always asserted that, Mr. DiMuzio.

On the other hand, Assemblyman, I think Mr. DiMuzio was making the point of the taxpayer, in a way that we have all done at times, with concern about what happens to our senior citizens, and what happens to those on a fixed income. I don't think it was a direct charge at you, nor did I think some of your comments, using analogies in expressions earlier, were direct charges at anyone else.

We have gone on here for a long time, and we have had opposing views. I think it has been a little warm, although every effort has been made with fans and air conditioning. It is somewhat late. I want the discussion to continue, but let's not be a little on edge as we all move on. We have more speakers, but, Mr. DiMuzio, please continue.

MR. DiMUZIO: I am trying to. I don't want to duplicate what was--

ASSEMBLYMAN COLLINS: I understand that. I have always had a little personal problem for those of you who are still waiting, that because the Chairman calls you last, it seems you always get beat out of your time. I am trying my best not to do that. It is a policy that I try to stick with. If you don't want to stick around and listen, that is up to every individual. But I am going to do my best to allow everyone the opportunity.

Just one other point. A number of people in this room have come in late. The three Assemblymen who are still here are listening, of course, but we are representative of the entire Assembly, and they will all hear what has taken place here. That is what the lovely ladies over there to my left are dealing with. They will put together a document that will have all of the comments made here today, including the one I just made about how lovely they are.

Please go right ahead, Mr. DiMuzio.

MR. DiMUZIO: The third category criticism responds to Mr. Kamin's point about the fund. That criticism is that the fund will not work. Number one, the State has not kept its promises in the past about funds, and there is no reason to believe that history will not repeat itself. With all of Mr. Kamin's good intentions, that is not enough, because the people who live in this town cannot base their livelihood on good intentions. We can't base our tax base on good intentions. Had the State lived up to past promises, maybe we could.

They have cited the Gross Receipts Tax as an example. There will be other documented examples.

The second aspect is, section 5 of the Act provides for payment of either \$15 million or an amount computed by the director. It does not say whichever figure is less or whichever figure is more. If it is \$15 million, it is awfully

inadequate. As indicated by West Deptford, just four municipalities in this State, conceivably, would lose \$6.3 million. That would leave \$9 million for the rest of the State. That is not very realistic. So, the real cost accounting associated with this replacement revenue has really not been analyzed sufficiently.

Also, the director's determination is final. It gives the director too much discretion in determining exactly how the fund is going to be created, and it gets into a third problem. That is, on page 4, line 15, it talks about the fact that they are going to assess newly excluded property. Really, what is the process? I don't really understand how if you succeed in attracting new industry in, and they build a plant-- You are going to have a bifurcated procedure where somehow you are going to assess the shell, and they you are going to assess the part that used to be taxable, but now is no longer taxable because it is part of the manufacturing process. Does our assessor do that? It doesn't say that. It says the director does it. Do we wait for the director to send somebody down? Is he going to be properly staffed to do that? Do we hold up the municipal budget while we are trying to figure out how much funds we are going to get from the fund, based upon this assessment process? It is going to become a very convoluted, mysterious process. Given the State's attitude about this issue -- and I say that because of Baldwin's proposed regulations -- I don't think this township is going to benefit from that kind of an assessment process -- the creation of a fund through the director's office.

As I indicated to you, I will be giving you-- I will supplement my comments with additional exhibits and statistics, but in closing, A-300 will not achieve its goal at an acceptable price. Any incremental attraction to industry is far outweighed by the painful shift in the tax burden to residential property owners, especially senior citizens in older industrialized areas.

The State-controlled substitute fund will be inadequate. The director has too much discretion in assessing and allocating the fund. The fund itself will not work.

Thank you.

ASSEMBLYMAN COLLINS: Thank you very much. Any questions of Mr. DiMuzio? (no response) Thank you, Ken.

It seems like only yesterday, Mr. Davenport, that you were at that chair, so why don't we bring you back. I really didn't think, when I told you that we would get to you, that it would be almost three hours later.

S E T H I. D A V E N P O R T, E S Q.: Mr. Chairman, it feels like yesterday, but I sat and I listened, and was educated. I feel I can intelligently bring some insight to this Committee.

ASSEMBLYMAN COLLINS: We look forward to that.

MR. DAVENPORT: Okay. Well, to begin, I am an attorney. I represent many large industrial taxpayers. I do this throughout Pennsylvania, New Jersey, New York, and basically along the East Coast, on what we call a pro hac vice basis.

ASSEMBLYMAN KAMIN: This is one of the men I want to put out of work.

ASSEMBLYMAN COLLINS: Yes, I have noticed that. You keep referring to those attorneys, and then you had one sitting with you.

ASSEMBLYMAN KAMIN: Absolutely right.

ASSEMBLYMAN COLLINS: Go right ahead, Mr. Davenport.

MR. DAVENPORT: Mr. Chairman, I have prepared a handout, which I gave to the board. Again, for the sake of brevity, I am going to summarize. More importantly, I would like to comment on some of the things that were said here. I don't need to go into the history of the State's need for manufacturing. It has been said many times by the Legislature in many different committee reports. It was described and put

forth in many bills, so I need not go into that. You have said repeatedly, manufacturing is important. It is an important commodity to the State, and we want to keep it here. I closed my statement with this comment, but I think it is appropriate here: "We have to keep moving forward without killing off the engine," or, in this case, "the machine." That was recently said, I believe, about our national economic recovery, and I think it is appropriate here.

The abuses are real. They are not fantasies, they are not threats, they are real. It is happening. I am in the trenches. I would like to comment that Brockway furnaces were never assessed. If they were assessed, why did the municipality file a motion to reopen the record after Chapter 117 to bring in valuation testimony on the furnaces? Why do they still seek to do that today? Why in the Anchor Glass case did the municipality file an affirmative claim to raise the assessment of Anchor Glass? It was represented to me by their attorney that the purpose of that was -- or the underlying impetus to that was Chapter 117. Those are just two examples. Chlorox-- A specific case that was decided by this Tax Court -- the New Jersey Tax Court. Owens-Corning-- They found tanks -- small tanks -- 5000 or 6000 gallon tanks taxable. Why? Because of Chapter 117. The municipality did not tax them before; wants to tax them now.

We are not looking -- and when I say "we" I mean Mr. Kamin -- for a tax break. The machinery and equipment were never on the tax rolls before. The furnaces weren't there. The machinery and equipment at Ford wasn't there. The machinery and equipment at General Motors-- Now, apparently, there is conflict up in Union County, and that is another comment I want to make. The reason nobody goes to the assessors in Union County, is because everybody is in the Tax Court right now, basically. That is where they are expressing their dismay.

What we are looking for here is not to take them of the tax rolls. They are not there now. The process units may be there on certain southern municipalities. The cat crackers are on the tax rolls, and they may come off because of A-300. But they are going to come off under 117 also. So, we are not asking for the tax breaks. What we are asking for is uniformity, to tell the rest of the State -- not the southern municipalities, which may not have been abusing Chapter 117, but the rest of the State -- that this is the law. Let's clarify it. I think the major point that was made here was specifically the word "structure." That is a problem in the Tax Court. It is a problem that we have been facing when we deal with assessors.

I have been threatened by assessors that if I don't drop my tax appeal, they are going to throw on machinery and equipment. I'm telling you that. I am also telling you, as a tax attorney, as one who probably-- My firm probably represents more taxpayers than any other tax firm in the State. We are not going to try to put on structures or tanks -- or take them off, I mean. -- that may be a Freudian slip -- or to take them off the tax rolls. That is also a misconception. I think it is important that we clear up this misconception.

The problem with 117, with all due respect to Assemblyman Stuhltrager, is the word "structure." I have received correspondence, and I don't think it was willful. Believe me, I have no problem with the word.

ASSEMBLYMAN STUHLTRAGER: If it was wrong from Assemblyman Stuhltrager, it surely wasn't willful, I assure you.

MR. DAVENPORT: I don't think Assemblyman Stuhltrager had a problem with the word, and I personally have no problem. I think the problem exists in the definition being accorded by assessors. The problem is, they are not according to the definition. There is no demarcation line of what is a structure and what is not.

I received a letter from the other side of the street -- the Senate -- from a sponsor in the Senate of 117. I reviewed the letter; I didn't receive it from him. He used the word "structure" interchangeably with "building." That is my interpretation of the word structure, building, and that is what I thought the legislative intent was. However, A-300 would do what 117 is doing, but isn't doing correctly; that is, exempt the machinery and equipment that was never taxed before.

I don't think 117 was designed specifically to bring onto the tax rolls the machinery and equipment. I think it was designed to protect those municipalities that feared the loss in revenue; that feared the large oil storage tanks coming off the tax rolls. As a matter of fact, if you will remember, the original version of 117 dealt purely with petroleum tanks, no other tanks. The Governor made a very good observation that that might be unconstitutional.

ASSEMBLYMAN COLLINS: If I may, Mr. Davenport, as someone who was involved in the original idea of what we now call 117, I think you are very accurate, at least in my mind. Assemblyman Stuhltrager strongly carried the ball in our house on this. There was a great deal of discussion, and so on, even with the Governor personally. As I am sure the Assemblyman remembers, when President Reagan came to Glassboro-- We discussed it with the Governor that particular day privately, at least as privately as we could be with most of America watching on television, waiting for President Reagan.

I think we heard the term, particularly from Mr. Leone, "the status quo," and so on. My personal frustration, and I have waited until 5:30 to say this -- and it surely isn't with you -- is, when this first started, we had the Stem Bros. case. I found it personally offensive that there was an opening and people rushed in -- in this case, the business community -- and took advantage. Status quo was something I was very comfortable with. As a co-prime sponsor of the bill

that Assemblyman Stuhltrager worked so hard on, I was very comfortable with where we were, even when the business community, which I am very supportive of, and very honestly, which has been supportive of me in the past, was opposed to it, because I felt it was right.

Now I find-- I am willing to take what you say as fact. I have heard it for a long time. I have heard it from not just people in this room, but others, that now people are abusing it on the other side. I am personally frustrated with it. I don't think I have ever heard a complaint, and I am proud to say that in this sector of the State. At least at this particular time, there haven't been any of those problems. We keep hearing "clarity," we keep hearing "uniformity," but are we really going to get that through this piece of legislation, or are we going to hurt and take away -- and that is what this hearing is for, and other discussions which I am sure will go on from here -- what the intent of the bill was. You know, that is my personal frustration.

I don't ask you to respond to that. It is just that I have sat here for over three hours and listened as have others, and I just wanted to say that, particularly because where you're going, I think, is a very fair way to go, at least in your comments thus far. That's all.

Go right ahead, and thank you for that.

MR. DAVENPORT: Well, Mr. Chairman, I would welcome the opportunity to respond to that. One of my responses would be a question: Exactly-- Well, it would help us as a community to have specified what the exact intent of Chapter 117 was. I know I heard the words, "status quo." Status quo to me meant, leave things the way they are; don't change anything. Well, if that was the intent, then are we fostering the intent by allowing the abuses to go on? I don't think that is the case, and I see your frustration with that.

However, on the other hand, we have a clear bill, a bill-- See, 117-- I have to commend Assemblyman Stuhltrager for the beauty of this bill. We sat without legislation on this issue for a long time, and he had the foresight and took the bull by the horns and put in legislation. The problem is, it was new. There have been no test cases on it. There are still no test cases on the issues we are dealing with. Don't be mistaken. Chevron does not address the issue. Chevron never talked about structure. It was stipulated that they were structures, and wrongfully so. So, Chevron isn't a test case.

We have another state that has legislation that I believe does what A-300 -- what Chapter 117 was intended to do. We have Pennsylvania. We could look to the way Pennsylvania has interpreted these cases. It is informative. Pennsylvania enacted their legislation to attract business away from New Jersey. They said so. Now, I am not here to contend-- I understand Assemblyman Stuhltrager's contention that taxes are not going to be the end-all, save-all of business. But, as one of the speakers mentioned, it is a straw, and with all of those strict regulations which Mr. DiMuzio has indicated to this board, do we need to thrust upon manufacturing or industry another straw? Do you want to send a signal to manufacturers that, "You are not welcome in the State of New Jersey"? I don't think so. I think the environmental legislation is good. I think it is important. However, I think we also need equity and fairness in the way we tax machinery and equipment from municipality to municipality. I think A-300 would do that.

Another comment. You know, I hate to direct comments that create -- or direct my comments to an argument -- but with regard to the question of structures and that those things out there on the river -- which you call "cat crackers, cumming units, vacuum units" -- are structures, because they are meant to be there permanently, and they go with the land-- I tell

you this: They don't go with the land. They are often sold separately and apart from the land. This was evidenced in the Chevron trial, and the Chevron court looked at this, and said, "Yes, there is a separate market for those big machines. They are sold all the time." Unfortunately, most of the time, they are sold overseas. But, they're moved. They are sold, and they are taken apart. I could provide this Committee with a tape showing the dismantling and rebuilding of those so-called structures, which I call "machines."

So, that is one contention I think had to be cleared up. They are not structures; they are just very large machines. They are impressive. You look at them; they are bigger than you are. But they do the same thing that a manufacturing assembly line does -- process in, process out. For example, with regard to the furnaces, the municipality's own expert testified that those furnaces were purely a machine. In no way were they a building or a structure in his testimony. Do we want to start taxing machinery and equipment at the local levels, creating competition among municipalities, aside from draining the rest of the State? I don't think so.

I think also an--

ASSEMBLYMAN COLLINS: Gentlemen, you don't have to ask me. When you feel like it, just jump right in. Assemblyman Stuhltrager?

ASSEMBLYMAN STUHLTRAGER: I would like to make a couple of points, if I may, briefly. The issue of structure-- I went back and I am looking right at the language. One of the things we grappled with when we were trying to define the language-- You were here when I spoke earlier about the fact that there was no definition that was going to get in the crackers down on the river, which have always been taxed, and leave out the Brockway furnace, which maybe has never been taxed. There was no way to define it in the English language that would get one in -- or keep one in, the so-called status

quo, which in some respects has been a fictional law -- to keep one in and keep one out. There was no way to do it. So the language that was ultimately defined, or settled upon, recognized the fact that some things, while they are not structures in the traditional sense of this building we are in-- Some things are so large, so expensive, so unusual in the times when they are ever moved. I think of the London Bridge, which I would suggest you won't find in London any more, but probably somewhere-- I think it is Lake Havasu, Arizona. Nobody ever thought it was going to be moved, because nothing would seem more permanent than a bridge, and even that was moved. So, in terms of that as a test, I am not so sure it is the be-all and end-all that we look at.

I was satisfied with this definition for as good as it could be. We even came up with another, and it is going to be under-inclusive. There is no doubt that this can be applied different ways in different places. It was in the status quo, and it is today. That was my frustration when we did it; the frustration, as Jack said, of, you have a Stem Bros. case, and then a leak in the dike, and everything else comes rushing through. I guess that is just the nature. I mean, how do you tell a client, "Hey, we have a new case here. You have an opportunity. You better take advantage of it"? I don't blame anyone for that.

You did mention the fact that this new piece of legislation is going to require interpretation, the Chevron case not being the last word on it. But, you know, in terms of an argument, we had Stem Bros. years after the other standard had been set. You are always going to have people challenging, even in the case of -- take self-service gas, in the face of a 40-year-old precedent. Someone brings basically the same case and it is reversed. So, you are never going to stop legislation. There is going to be more legislation on this as it stands, without a doubt, but I don't see that, in and of itself, as a critique of it, or a real criticism.

MR. DAVENPORT: Well--

ASSEMBLYMAN COLLINS: Before you respond, Mr. Davenport--

ASSEMBLYMAN STUHLTRAGER: I don't know. That was more my response to him. You're welcome to, but--

ASSEMBLYMAN COLLINS: Right, whatever, just hold up for one second. One of the most difficult things I have had to do today is to Chair this and to keep people moving along, and so on, and they have done very well, and you are doing very well. I won't turn around and look at the clock behind me, but I have just been informed that--

ASSEMBLYMAN STUHLTRAGER: It's 20 to six.

ASSEMBLYMAN COLLINS: Don't tell me. I want to make believe that I don't know that it is 20 to six. I have been informed that there is another meeting scheduled in this room at 6:30, and we have to get things out of here, and so on. So what I would like to do, is to end this hearing at six o'clock. We have about five more people to testify. I definitely want to give them the opportunity. I am sorry, to those people, and to you, Mr. Davenport -- who may continue when I stop speaking -- that you will not be able to have "an unlimited time." I hope you understand. I look forward to your comments, but I just mention it now so you can think a little bit about making your comments even more concise.

Mr. Davenport, thank you, and please go on.

MR. DAVENPORT: Well, I appreciate the necessity for brevity. I believe I can conclude inasmuch as you all have my handout.

ASSEMBLYMAN COLLINS: We do have that, sir.

MR. DAVENPORT: I thought they were very important observations. Obviously, there is always going to be interpretation of a statute in the courts. Lawyers are going to be called on to litigate and bring that about. However, when you have a statute that has already been interpreted by

another state -- and the Legislature knows that, and has dealt with it, and has that as the backdrop -- the interpretations by the courts of this State become a little bit easier. I think that is one element that has to be considered. If it is a test you are looking for and you can't find it, I think the A-300 test is the perfect test.

Thank you.

ASSEMBLYMAN COLLINS: Any questions, Assemblyman Kamin?

ASSEMBLYMAN KAMIN: No.

ASSEMBLYMAN COLLINS: None for this gentleman, okay.

Thank you, Mr. Davenport.

William Birchall, Co-chairman, Assessors Association Legislative Committee. Not at all do I mean this in any derogatory way to Mr. Spoto, but when I called on him, I didn't see your name at the bottom of the list. I thought, well, we'll get one of those assessors. Then, after I got him up here, he said, "Well, Mr. Birchall will speak for all of us." You may now do so, sir.

W I L L I A M E. B I R C H A L L, J R.: To introduce myself, I am William Birchall. I am the assessor in Hainesport and Lumberton Townships in Burlington County, as well as a past President of the State Association, and current Co-chairman of the Legislative Committee.

I will keep my remarks brief, as most of the people who have been here before me have covered many of the points I was going to cover, including Bill Dressel, from the League of Municipalities.

Some questions that were raised during the course of the session, though, I think I will talk to, more than what is in my prepared remarks, which have been given out.

In section 3b. of A-300, the material to be added would seem to me to be almost as ambiguous, if not as ambiguous, as the material to be deleted. The question of, what is a structure, is here proposed to be deleted, and then

substituted with language that would open up the interpretation as to whether or not something is machinery or equipment or apparatus, or whatever, if it is necessary to the process to which it is involved in, and therefore not taxable under the property tax. I personally feel that this opens the ball game up for the lawyers to make all kinds of interpretations, which is where we were before we had Chapter 117.

ASSEMBLYMAN KAMIN: Mr. Chairman, through you, if I might, if there is proposed legislation -- proposed language for that portion of the bill that you would like to submit for my consideration, I would be happy to work with you on it.

MR. BIRCHALL: Okay. I will take that up with--

ASSEMBLYMAN KAMIN: Knowing what our legislative intent is, and what I know yours is, I want to make the job easier, and put lawyers out of work as well.

MR. BIRCHALL: Right.

ASSEMBLYMAN COLLINS: There is another one of those comments, Assemblyman Kamin. I know you don't really--

ASSEMBLYMAN KAMIN: Yes, I do. I truly mean that one.

ASSEMBLYMAN COLLINS: Do you know that your good friend, Assemblyman Stuhltrager-- Okay. Go right ahead, Mr. Birchall.

MR. BIRCHALL: As far as the trust fund is concerned, there have been several comments on that and its adequacy. I am inclined to think that maybe the \$15 million would take care of the City of Linden, with enough money left over for coffee for the Mayor of Perth Amboy. But it wouldn't really cover--

ASSEMBLYMAN COLLINS: Well, George Otlowski drinks a lot of coffee, so don't be too sure.

MR. BIRCHALL: --the needs of all of the towns that would be affected. Also--

ASSEMBLYMAN KAMIN: Excuse me. Why would Linden need money to begin with? They are not one of the cities that would benefit, as far as I see it. Tanks over 30,000 gallons are going to be taxed.

MR. BIRCHALL: Yeah, but if you are taking out items in section 3b. that are necessary parts of the manufacturing or processing process, you are wiping out, as I see it, the entire Exxon Refinery and everything--

ASSEMBLYMAN KAMIN: The regulations propose that refining be exempt, not my bill. We'll work on that language so that you are comfortable, too.

MR. BIRCHALL: The way I interpret this bill, it does, and I think some attorneys would agree with me. Maybe Mr. Davenport wouldn't, because he normally works on the other side of the table from the assessors.

ASSEMBLYMAN COLLINS: As a point of interest, Mr. Davenport doesn't agree with you. His head was shaking, "No." Go right on.

MR. BIRCHALL: Also, much discussion has gone on about the loss of manufacturing jobs. I really agree with the people who said that it can't all be attributed to the taxation process. The general shift from manufacturing to service industries has absorbed the job population to the extent that we do not have the 100,000 people who lost these manufacturing jobs standing on the unemployment line waiting for a check every week. They are doing something else. Many of them have been retrained in the service industries, which also benefit the State.

The Chamber of Commerce people and the Business and Industry Association people really represent both sides of the issue. They represent the manufacturing and the service sides. By pushing the manufacturing, they may be doing a little bit of a disservice to the service side of their own constituency.

One of the comments I was going to make is, I was concerned with Assemblyman Kamin's reference to the assessors. I appreciate his apology. I grant that there may be differences in the way assessors in different parts of the

State handle their jobs. Historically, that has probably been true with several phases of the position. Part of the problem, I believe, doesn't lie with the legislative process, as much as it does with the administrative process, and such things as the proposed regulations, which have taken almost two years to even get to the proposed point. I can appreciate that. I was involved with the committee that Senator Van Wagner got together to review language which eventually became part of Chapter 117. The director's people were there; we were there; all kinds of attorneys were there. At that point in time, there should have been enough impetus to jump on getting the regulations out and into effect, so that everybody would have the same guidelines to work with.

To remain brief, I will let the Committee read what I have given them.

ASSEMBLYMAN COLLINS: Right. We do have your written comments.

MR. BIRCHALL: Right, but I would like to at least read my closing paragraph, which was: "The assessors of New Jersey are charged by the Legislature with the responsibility for equitable assessment for all types of real property. The members of the Association of Municipal Assessors of New Jersey, an affiliate of the New Jersey State League of Municipalities, are committed to that goal, and believe strongly that the enactment of A-300 would be a disservice to the residents and voters of New Jersey."

Thank you.

ASSEMBLYMAN COLLINS: Thank you, Mr. Birchall. Harry Magazu?

H A R R Y M A G A Z U: I am Harry Magazu, a resident of Gibbstown. My comments will be very brief.

ASSEMBLYMAN COLLINS: Mr. Magazu, that is your only role here, as a resident of Gibbstown?

MR. MAGAZU: Yes.

ASSEMBLYMAN COLLINS: I apologize. I have been looking for just a regular person the whole day. I saw this, and I thought, well-- I thought you had another capacity, not that there is anything wrong with another capacity. Thank you for staying with us. We look forward to your comments.

MR. MAGAZU: My comment is, if there is a concern about loss of employment because of current tax rules, then this is erroneous. Just making one telephone call to Trenton yesterday and asking for some statistics from the Department of Labor, I found that our unemployment figures since 1982 are going down. As of August, our unemployment figure is 3.9%. If you compare that with Pennsylvania, theirs is 4.5%, and nationally it is 5.6%.

Like I said, to be brief--

ASSEMBLYMAN COLLINS: We're doing a heck of a job in New Jersey, aren't we? (no response)

MR. MAGAZU: I don't believe that lowering taxes will have any effect on employment in the State of New Jersey.

Recently, in all of the local newspapers, there have been articles with concern about New Jersey being able to supply the work force for the early 1990s. The articles stated that the way we are going, we will not be able to satisfy the needs of the service industries and the other industries we maintain in the State.

That is my only comment.

ASSEMBLYMAN COLLINS: Any comments from the Committee members?

ASSEMBLYMAN KAMIN: No, but I think the unemployment reductions not only in New Jersey, but nationally, have been coincidental with Ronald Reagan becoming President of the United States.

ASSEMBLYMAN COLLINS: We need none of those comments at this particular time.

Mr. Magazu -- I mean this sincerely -- thank you very much for staying to make your comment. We appreciate that, and we appreciate the statistics you have given us. Thank you, sir.

John B. Dalton, Hoffman-La Roche, Inc. As you come up, Jack, thank you very much for being with us today, and for staying with us until the end.

ASSEMBLYMAN KAMIN: For those assessors who are still in the room, this is one of the war stories that I think you would like to hear. Perhaps you might know the assessor involved, but I think it was a breach of faith to make a commitment to a business where something was going to be assessed at a certain rate, and then once it was constructed, you turned the tables.

J O H N B. D A L T O N: Mr. Chairman, I can say now "Good evening," rather than as my comments read, "Good afternoon."

ASSEMBLYMAN COLLINS: Now, Jack, that was uncalled for.

MR. DALTON: But, I want to wish you a good day, good evening, good morrow, everything.

ASSEMBLYMAN COLLINS: I got your message. If you would, speak into the microphone. A lot of them didn't get the impact. You can hit me with that one again. Jim Morford didn't hear it in the back, so give me that one again. Good evening, was that? Go right ahead.

MR. DALTON: Good evening, Mr. Chairman, yes.

ASSEMBLYMAN COLLINS: Thank you.

MR. DALTON: My name is John Dalton. I represent Hoffman-La Roche. There is another gentleman with the name LaRouche, with whom we prefer not to be associated.

ASSEMBLYMAN COLLINS: Yes, sir.

MR. DALTON: We are one of the world's leading health care companies. I will skip the commercial that is in my written testimony about what we do, and the contributions we make to New Jersey and the rest of America.

We believe that A-300 must be enacted into law to clarify the confusion which exists among some tax assessors as a result of the passage of Chapter 117 of the Laws of 1986. We believe this law resulted in an unfair and inequitable real estate tax on cogeneration equipment installed in a new building at our Clifton, New Jersey site.

In planning this new cogeneration facility prior to the enactment of Chapter 117, we had projected our 1987 tax liability at \$37,500. We had every reason to believe that our cogeneration equipment would not be included in the taxation of this new facility, because we have had, since 1983, a different kind, but nevertheless cogeneration equipment installed at our Belvidere plant. But because the Clifton assessor included our cogeneration equipment as part of the valuation of this new facility, their projection of the tax liability was \$256,500, an increase of almost 700%.

Now, rather than pursuing this matter in court, because we anticipated the eventual dissemination of rules as required in Chapter 117, we continued our negotiations with the assessor. But, despite the fact that we were able to present such documents as the one I have attached to my written testimony -- a letter from Senator Zane, in which he indicated to us his legislative intent, and in which he judged that the Legislature did not mean to have cogeneration equipment caught up in Chapter 117-- We used that as part of our negotiations, but we still were not able to prevail. Wanting to remain a good corporate citizen in the City of Clifton, we agreed eventually to a tax assessment of our new facility in the amount of \$5 million in 1987, and \$6 million in 1986, still a far cry from the \$1.9 million we had anticipated this new building, which houses our cogeneration equipment, would cost us.

Senator Zane, in his letter, indicated that he believed the equipment in our new facility was clearly within

the exclusionary language of the new statute, and, therefore, not subject to real estate taxation by the municipality. In fact, the building which houses our cogeneration equipment was specifically designed with break-away glass fronts for removal of the turbine engines and associated equipment, in the event repairs or replacement ever become necessary.

We urge you to pass A-300 to underscore the State policy favoring the development of cogeneration with all the energy advantages it provides. We believe A-300 would also clarify State policy concerning the taxation of process machinery and equipment used in the manufacturing of products in New Jersey. So, we are also concerned about future tax assessments on new process equipment that we install in our facilities, as well as on what we believe it would be righting the wrong of the cogeneration equipment being taxed as real property.

We are very concerned that something be done, either the final promulgation of the rules as proposed, which does address -- which do address the matter of cogeneration equipment, or the passage of A-300. We believe that one of these two things will clarify our situation, and we will be in a much better position to negotiate the 1989 tax on this facility. Clifton is undergoing a full reassessment of all properties in 1989, and we are, at this time, in negotiations with them. So, we are hoping for some indication from the Legislature, or the government's really final promulgation of the proposed rules on 117, which could aid our cause.

So, whatever you can do, gentlemen, to assist us in this manner, we sincerely would appreciate it.

ASSEMBLYMAN COLLINS: Assemblyman Stuhltrager?

ASSEMBLYMAN STUHLTRAGER: Well, as I indicated earlier, I would be interested in seeing some opinions of a legal nature with respect to cogeneration. There may be some public policy rationales for carving out a niche for

cogeneration that would not offend the uniformity of our tax laws. I would certainly be curious to see if we have any cogeneration facilities in our district -- I know a few are proposed -- and whether the Senate will be supporting the exclusion for them, too. That wasn't the intent, or maybe I should say, that wasn't my intent. When you read the definition of "structure," and what I said to one of the earlier speakers about how we grappled with that, things that were large, self-contained, and had the overall effect of being a structure in and of themselves-- That was what we were trying to reach.

MR. DALTON: We do not seek the tax exemption for cogeneration facilities to include the building in which cogeneration equipment is housed. But we see cogeneration equipment involved in the production of an essential raw material -- energy and steam, electric power and steam -- which is involved, not only in the manufacturing process, but in the research and development that is conducted at our site there. We are not becoming competitors of PSE&G or JCP&L with this facility. It will not even meet our own needs fully, because cogeneration results in the production of steam and electric power, and there has to be a balance there. We can only use a certain amount of steam at our facility. Therefore, our new cogeneration equipment will only be meeting 75% of our electric power needs at the Clifton site. We will still be buying electric power from PSE&G.

So, we are only interested in having the Legislature, or our government, in some way, identify that cogeneration equipment is business personal property that has a unique role in producing two sources of energy for our use as a manufacturer and as a business organization. We want to pay taxes on all facilities that we construct for any purpose, because we feel that is just.

ASSEMBLYMAN STUHLTRAGER: Thank you.

ASSEMBLYMAN COLLINS: Thank you very much, Jack. Again, thank you for staying with us.

The clock behind me has reached six o'clock. We have just a couple more people. Again, I apologize to those who are being called on now. We want to hear your comments, but if you could make them even more concise than you have probably done the four other times I have asked that--

Greg DeLozier, New Jersey Society for Environmental and Economic Development. The fact that you are handing us a written statement, Greg--

G R E G O R Y D e L O Z I E R: And I will be real brief.

ASSEMBLYMAN COLLINS: Thank you.

MR. DeLOZIER: My name is Greg DeLozier. I represent New Jersey SEED. New Jersey SEED is a coalition of the State's leading business--

ASSEMBLYMAN COLLINS: We are quite familiar with New Jersey SEED. Mr. Morford's in the back, you know, holding up the SEED cheerleading sign. So you can get right to your comments. Go right ahead.

MR. DeLOZIER: We are here to stress our united support of labor and business for A-300. Last year, New Jersey SEED took a careful look at New Jersey's manufacturing condition. The report that resulted is submitted with our statement. You will find it attached to the back. We hope you will take careful consideration of this report, as you consider A-300.

The passage of A-300 would give much needed tax stability to many of New Jersey's manufacturing firms, which are constantly competing with neighboring states and international companies.

Mr. Chairman, business and labor stand together in calling on this Committee to release A-300 for an Assembly vote today.

Thank you.

ASSEMBLYMAN COLLINS: Today? You wouldn't want us to do that today.

ASSEMBLYMAN STUHLTRAGER: He was so brief, I am almost tempted.

ASSEMBLYMAN COLLINS: Well, I don't think you want it out today, particularly with Assemblyman Stuhltrager on the panel. But, we appreciate your comments, and also, Greg, appreciate your waiting here until the end to make them. We do have your written comments, and they will be entered into the record.

MR. DeLOZIER: Thank you.

ASSEMBLYMAN COLLINS: Thank you. Kevin Donahue, Chemical Industry Council of New Jersey. Kevin, a written statement? You're a good guy. We like that. Thank you.

KEVIN DONAHUE: Thank you, Mr. Chairman.

ASSEMBLYMAN COLLINS: We also thank you for being here, and not Hal Bozarth. Go right ahead.

MR. DONAHUE: Mr. Chairman, members of the Committee: My name is Kevin Donahue, Associate Director of the New Jersey Chemical Industry Council. I am here to present--

ASSEMBLYMAN COLLINS: Don't read that next sentence. Go right ahead from there.

MR. DONAHUE: --testimony on A-300 on behalf of my boss, Executive Director, Hal Bozarth.

ASSEMBLYMAN COLLINS: I told you not to read that sentence. Go ahead.

MR. DONAHUE: The Chemical Industry Council is a statewide trade association representing 90 member companies in the chemical and allied process industries. For your information, the industry employs approximately 95,000 workers, and has a sales value of \$14 billion per year. This places New Jersey's chemical and allied process industries second in the nation behind Texas and ahead of Louisiana. As recently as eight years ago, our employment figures indicated that there

were 120,000 chemical industry employees in New Jersey. Such a dramatic loss is of grave concern to our membership.

Our industry fully supports A-300, and we applaud Assemblyman Kamin for its introduction.

The New Jersey Department of Commerce, Energy and Economic Development and the New Jersey State Chamber of Commerce have previously talked on this issue and told you about the technical aspects. These groups have taken the lead on this issue, and it is appropriate that the CIC support them.

Let me now discuss our segment of the manufacturing community. Our members--

ASSEMBLYMAN COLLINS: Kevin, if I may-- You know, I am reading along with you, and I know the other Assemblymen are. Maybe if you would just slide down to the last paragraph, and then hammer it in from there. "A-300--"

MR. DONAHUE: Okay. A-300 would stop the animus between municipalities and manufacturers. The taxation of business personal property must be driven by a uniform policy decided by the Legislature. It must be fair and equitable and applied evenly across-the-board.

Notwithstanding the recent regulatory proposal by the Division of Taxation, A-300 would provide guidance as to how business personal property will be assessed. We applaud such direction and guidance.

In addition, A-300 will redefine the way in which cogeneration facilities will be taxed. The Chemical Industry Council also supports this measure as an incentive to help manufacturers lower the cost of doing business in New Jersey.

In fact, just down the road from where we are speaking today, a CIC/NJ member has received approval to set in place a cogeneration facility. B.F. Goodrich in Pedricktown has entered into a 30-year contract with Atlantic Electric to provide the utility with 106 megawatts of capacity. The Goodrich facility will use natural gas to provide electricity

and steam for their plant, and will sell the excess power to Atlantic Electric. In fact, enough power will be provided to the utility to supply 124,000 homes with electricity. The savings to this energy-intensive facility is enormous. So large, in fact, that it ensures Goodrich the opportunity to remain competitive here in our State. We think such opportunities need to be increased and supported.

Rarely in New Jersey does industry have the opportunity to support legislation that is aimed at helping this vital sector of the economy. No longer should manufacturers be at the mercy of tax assessors who decide to change the longstanding practice of how business personal property is taxed. No longer should New Jersey manufacturers be forced to close their plants because of exorbitant utility costs. No longer should manufacturers be treated as second-class employers.

Please help us save these beleaguered employees by releasing A-300. Thank you for the opportunity to address the Committee.

ASSEMBLYMAN COLLINS: Kevin, thank you very much. Any questions from any of the Assemblypeople? (no response) All right. Thank you very much, and thank you for staying.

ASSEMBLYMAN KAMIN: Just a comment. Mr. Donahue, I appreciate that you addressed the cogeneration aspects of it in the good story from B.F. Goodrich. I think that was an important point that we had not emphasized much today.

ASSEMBLYMAN COLLINS: Is that the B.F. Goodrich where Assemblyman Stuhltrager and I were two weeks ago for their program dealing with safety -- quality and safety? Do you mean that B.F. Goodrich, Assemblyman?

ASSEMBLYMAN KAMIN: I don't know.

ASSEMBLYMAN COLLINS: That's the one; that's the one. Thank you, Mr. Donahue.

John Cassidy?

UNIDENTIFIED SPEAKER FROM AUDIENCE: He left.

ASSEMBLYMAN COLLINS: Oh, okay. Thank you. I have one other speaker, who made the mistake earlier of saying, "I'll be here, and I'll speak later." And now it's later. I am very happy to call Jim Benton, New Jersey Petroleum Council, who, according to my list, is the last speaker. Thank you, Jim; thank you for your patience.

JAMES E. BENTON: It's my pleasure. Mr. Chairman, thank you for your time. I sincerely appreciate your willingness, and the opportunity to testify before the Committee. I will be brief, although I think my participation, quite frankly, is critical in terms of necessity. I have had an opportunity to listen to all of the previous speakers attempt to define the issue in terms of a big oil issue and a tank tax issue. Those particular comments--

ASSEMBLYMAN COLLINS: And those things that go up and down. I know that bothered you, so in order to make you happy, we're--

MR. BENTON: One gentleman, who has since left, said, "Yeah, there is a big structure." Those types of innuendos and characterizations are of particular concern to our industry.

New Jersey is a major State in petroleum refining. We, last year, provided 3.6 billion gallons of gasoline, and 725 million gallons of heating oil were sold to New Jersey customers. New Jersey is northeastern home to the petroleum industry, and we are a major location for transportation facilities also.

Let me say at the outset, in an attempt to summarize my comments -- which I will provide to the Committee -- I think history has been adequately discussed by Bob Woodford, from the Business and Industry Association. Jim Morford, in particular, referenced the historical context. I think the examples have been well-documented. I know you paid careful attention to the remarks offered by Charlie Browning from Ford Motor Company, and the abuses that Seth Davenport characterized.

I am particularly concerned about citizens. The petroleum industry in New Jersey, across-the-board, has had the intention to be a good neighbor. I think our record demonstrates that we have. One of the speakers on behalf of the League ran through a litany of arguments that really characterized the difficulties of operating a business here in New Jersey. Let me also say that we are not unfamiliar with those types of difficulties. I think we also have demonstrated a concern for our citizens who are here, and those who will be here. I am equally concerned, and that is why I am testifying today about the future of New Jersey, and particularly the refining and manufacturing community.

I have heard all types of commentary. I was particularly heartened by the comments, and I took to heart the comments by Assemblyman and Chairman Stuhltrager, that perhaps the characterization of a tank tax was erroneous, as I felt it was at the time. Indeed, history has shown that Chapter 117, as enacted, was much more than a tank tax, and his offer to begin to search for a middle ground is appropriate. We extend that search for a middle ground. We take it to heart. We recognize that improvement needs to be made, because certainly refineries can close. If you look around the State, you will see examples of that. Automobile assembly plants can close. I think you took Charlie Browning's -- Ford's testimony -- to heart. You will recall Mahwah, and the removal of those high skilled -- those technical jobs -- in that community. The improvement -- and I use that word facetiously -- in response to that, by replacing them with the low-skilled -- low-paying, unskilled jobs there-- I think that is a detriment to all of us.

We believe the enactment of Chapter 117 was to address several specific purposes. Its intention was to continue the State's effort in fostering a fiscal climate that would be attractive to economic growth and continued prosperity, by

maintaining a consistent and uniform system of tax classification.

Second, it was to specifically classify storage tanks with a capacity in excess of 30,000 gallons as real property. Hence the moniker "tank tax."

Third, and most importantly, and supported by all parties, was to direct the Director of the Division of Taxation to adopt rules and regulations necessary to administer the provisions of this Act. Assembly Bill 300 continues to work towards that goal. It expresses, in the clearest terms possible, the intention of the Legislature to continue to foster a State tax policy which increases capital investment by business enterprises in the State of New Jersey.

As a participant in that effort, we support a clearly stated tax policy. We encourage clarity and consistency in developing a sound fiscal policy that would contribute to the attraction of business and industry. Let me say that too often, unpredictable assessment results at the local level and disparate rates have acted to discourage economic expansion and foster increased litigation.

Let me say that it is not the sole reason why New Jersey industry does relocate. I think that has been clearly highlighted before. I don't think any speaker has said, "This is the reason." But let me also say, New Jersey's reputation is tax lightening. I have been around Trenton for a long time. New Jersey's representation as a tax lightening State was one of the key reasons for the enactment originally of the State Business Personal Property Tax, and really serves as a label -- as a disincentive to all manufacturers looking to locate facilities. That hurts as much as any label that the State of New Jersey can bear. We certainly don't want to see a return to those days when a knock on the door meant a new tax rate or a new tax burden that would be borne by a manufacturer.

Let me also state very clearly, so that everyone can understand the intentions of the petroleum community in this State once and for all: A-300 does not reopen the question of storage tanks with a capacity of more than 30,000 gallons. They are, and will continue to be -- deemed to be real property. Now, if that were the intention of the petroleum industry, it should be communicated clearly. Most tanks are used for storage and, as such, will continue to be taxed as real property, if they are larger than 30,000 gallons. Yet, in an effort to build support for the opposition of this bill, opponents of A-300 would have one believe that this is an exemption or a tax break. These claims are erroneous, and should be dismissed. I think the sponsor has addressed that also.

In the final analysis, history has shown that New Jersey and its economy have benefited from a strong manufacturing base paying high wages to skilled employees who participate in our State's economy. Confusion with respect to the classification of certain real and personal property for local property tax purposes does not benefit either the municipality or the manufacturer. New Jersey tax policies should not utilize the litigation mechanism for resolving local property tax assessments. Consistent statutory definitions should provide guidelines across the State to distinguish real from personal property under State tax law, and eliminate confusion and litigation, which serve no interest.

The members of the New Jersey Petroleum Council support Assemblyman Richard Kamin and his co-sponsors in their efforts to introduce and secure passage of A-300.

Thank you very much for the opportunity to clarify those concerns. I think we are concerned with the efforts that have been made to characterize this as a tank tax bill and reopen the tank tax question.

I thank you very much. I have tried to be as brief as possible but, again, Mr. Chairman, our participation as the petroleum industry in this State is critical because of the innuendos that have been cast about. I have always tried to be up-front on this issue and engage with you personally, Mr. Chairman--

ASSEMBLYMAN COLLINS: And you have, Jim.

MR. BENTON: --and the members of the Committee, in a forthright manner in dealing with this. I deeply resent the characterization that this is a somewhat-- I think the one speaker who particularly -- "a brazen attempt"-- Mr. Chairman, there is nothing brazen about a public hearing held in an open forum under the Public Open Meetings Act of this State.

ASSEMBLYMAN COLLINS: Well, as I have said a number of times today, people use words that may have the listener react in a certain way. I don't necessarily think they mean that, but some may.

To just echo your comments, you have talked with me on this issue. I know when this became law, you spent a great deal of time with Assemblyman Stuhltrager. You have always been right in front of us. There is no question about that.

Are there any questions or comments?

ASSEMBLYMAN STUHLTRAGER: I don't think so, Jim.

MR. BENTON: Mr. Chairman, just one closing comment. It distresses us that a reactor, a vessel, which is an item of personal property, can be exempt in one facility, and yet come to another facility right down the street -- and we can document this -- and be classified.

ASSEMBLYMAN COLLINS: Does that mean because you are moving into another municipality?

MR. BENTON: No, it doesn't mean that we are moving anywhere. New Jersey is a home to the petroleum industry. We intend to continue to manufacture petroleum product here in this State. Indeed, as one witness said, there has been

recently announced an expansion right up the road. We are very proud of that. But we need the consistency and the uniformity throughout the State. That is the central issue which we believe A-300 correctly advances.

Yes, it was a tank tax law, and it addressed the tank tax. Once it went into the amendment of the statutory definitions, that is where the error began. That is the correction that needs to be addressed, and we thank Assemblyman Kamin for attempting to add clarity to this. We urge your consideration of that proposal.

ASSEMBLYMAN COLLINS: Thank you very much. As I said earlier -- some of you were here, and others have arrived -- this was a hearing on A-300. We have had the hearing. The statements that were made and the other documents will become part of the public record. Jim?

MR. BENTON: I was just concerned over characterizing this as a big oil company and a bitter fight. That type of characterization was distressing.

ASSEMBLYMAN COLLINS: Okay. We appreciate all who participated here. Thank you all for coming. Once again, we thank Mayor Jenkins and the people from Gibbstown. That's it.

(HEARING CONCLUDED)

recently announced an effort to right up the law. We are very proud of that. But we are also proud of the consistency and uniformity throughout the State. We believe that the central issue which we

believe is to correct the law, and it is addressed in the tax law, and it is addressed in the amendment of the law. The error began, and we think it is necessary to correct it. We think it is necessary to correct it. We think it is necessary to correct it.

Thank you very much. I said earlier -- some of you. This was a hearing on statements that were part of the public record. We have had these documents become

MR. BENTON: This was a hearing on statements that were part of the public record. We have had these documents become a bid off company. This was a hearing on statements that were part of the public record. We have had these documents become a bid off company. This was a hearing on statements that were part of the public record. We have had these documents become a bid off company.

(CONCLUDED)

APPENDIX

APPENDIX

Assembly Republican News

Sept. 26, 1988

CONTACT:

Assemblyman Dick Kamin
201-584-5422
Karen Ericson
609-292-5339

KAMIN TO TESTIFY ON BUSINESS PERSONAL PROPERTY TAX BILL

Assembly Assistant Majority Leader Dick Kamin will testify Tuesday, September 27, before the Assembly Economic Growth, Agriculture, and Tourism Committee in Gibbstown.

The Committee will be holding a hearing on his bill, A-300, the "Manufacturing Retention and Equitable Taxation Act."

A text of his testimony is attached.

MORE

TESTIMONY ON A-300 BY ASSEMBLYMAN RICHARD KAMIN (District 23)
before the Economic Growth, Agriculture and Tourism Committee
September 27, 1988 in Gibbstown, New Jersey

Two years ago before I became a member of the legislature, changes were made creating Chapter 117 of the state's business personal property tax. These revisions have been extremely harmful to the New Jersey manufacturing community. Local tax assessors - under pressure to find new revenues - are using the new law to bring onto the tax rolls new items which, prior to Chapter 117, were not taxed.

How serious is the problem? Since 1979, we have lost over 100,000 factory jobs. We have lost nearly 1,000 manufacturing plants. We are now at the lowest level of employment in the manufacturing sector since 1940.

Chapter 117 took away the manufacturing incentive that was passed by the legislature in 1976 with the phase-out of the business personal property tax. Our only response as legislators has been to pass a plant closing bill.

A-300 is a plant opening bill - and will put us on a level playing field once again with our neighboring states of New York, Pennsylvania, Delaware and Maryland.

The need for this legislation is clear. A-300 exempts machinery, tools, and devices or equipment used in manufacturing. In addition, to meet the future energy needs of our state and region, the bill exempts cogeneration facilities from being taxed as real property.

Now that the regulations have been issued by Director John Balwin of the Taxation Division, where the whole refining process would become exempt, the passage of my bill becomes even more urgent.

It should be noted that A-300 would still tax storage tanks greater than 30,000 gallons.

Let me give you some further history and comment about the use and abuse of Chapter 117.

Cable TV antennas are now taxable - Audubon Boro

Edison Township - increased the tax liability after c. 117 by 25,000,000 - litigation costs on this unsettled case exceed \$700,000 - Ford Motor Company

Freehold - after a trial had ended for Brockway Glass, the municipality sought to reopen the record and introduce testimony on the value of two glass furnaces which were previously untaxed.

Other companies, like General Motors, RCA, Clorox made financial commitments to their operations, only to have the interpretation of the new law by local assessors "change the rules" in an arbitrary fashion

Clifton - projected a tax assessment of \$1.9 million on its new cogeneration facility - after construction -\$13 million. An agreement was reached for 1987 of \$5 million- this year it is \$6 million.

-Why did I become interested in this situation?

Because I have a concern for employment and for opportunity.

Because I think the plant closing bill was a mistake.

Because I believe the McBride amendments and the resolutions on South Africa were misguided.

It bothers me that manufacturing jobs stand at their lowest level in over 40 years. and it bothers me that tax assessors are responding to the need for "revenue enhancers" by leaning on business. What should be remembered - however- is that the only

ones benefiting from their expansionism are the attorneys who argue the case in court.

We can't just continue to say that business should pay more tax. Whatever tax is added will be passed on as a cost of doing business, and we, as consumers, will pay for that tax in higher prices in the marketplace.

Business in New Jersey is surrounded by problems-

Environmental costs and ECRA reform

The threat of new taxes after the SLERP report

A shortage of labor

Affordable housing for the work force

Insurance and health benefits

The question then becomes - why stay in New Jersey - or for others - why even come?

I represent a five county region (Hunterdon, Morris, Mercer, Warren, & Sussex) which has to compete with Pennsylvania. It is a district very much like yours, Mr. Chairman. But I must tell you that we are are losing ground and jobs to our neighboring states.

It is time to restore fairness - and clearly spell it out in the legislation - so that we exclude from taxation the integral parts of manufacturing.

It is time to end the costly litigation between business and their host communities which benefits only attorneys:

Even the SLERP Commission's report recommends the repeal of the Business Personal Property Tax.

Under Assembly Bill A-300, Storage tanks will remain taxable; Local government will be "held Harmless" by a 15 million dollar replacement fund created in the bill; and there is a clear definition of business personal property and real property. It also provides tax uniformity and equity as reasonable incentives to retain and expand business investment in New Jersey.

Mr. Chairman, and members of the Committee, I thank you for your kind attention and the opportunity to present this legislation that I believe will make New Jersey an even better place to live - and most importantly - to work.

Even the EIRP Commission's Business Property Tax

Under the bill 4-100, local governments will be allowed to create local business property tax units. This also allows for incentives to retain and expand investment in the

Mr. Chairman, and members of kind attention and the opportunity I believe will make New York and most importantly to

**STATEMENT BY JOSEPH G. NAHAS
DEPUTY MAYOR, WEST DEPTFORD TOWNSHIP**

**IN OPPOSITION TO A-300
"THE MANUFACTURING RETENTION AND EQUITABLE TAXATION ACT"
BEFORE THE ASSEMBLY ECONOMIC DEVELOPMENT, AGRICULTURE
AND TOURISM COMMITTEE**

**TUESDAY, SEPTEMBER 27, 1988
FIRE DEPARTMENT
WALNUT STREET
GIBBSTOWN, N. J.
1:00 PM**

Good Afternoon. I am Joseph G. Nahas, Deputy Mayor of the Township of West Deptford. I would like to begin by thanking Chairman Collins for the opportunity to set forth West Deptford's concerns regarding Assembly Bill A-300.

Assembly Bill A-300 "The Manufacturing Retention and Equitable Taxation Act" represents a serious assault upon the taxpayers and communities of Gloucester County, as well as others communities in the Third District of the New Jersey Assembly.

West Deptford Township is a unique community -- a blend of residential, commercial and industrial property owners. We are a citizenry of 18,000 people, yet have some of the most prominent industrial sites in New Jersey.

The Township Committee of West Deptford is committed to preserving our community and A-300 threatens the balance.

Just two short years ago, the Legislature under the bold bipartisan leadership of yourself, Mr. Collins, Assemblyman Stuhltrager and Senator Zane, the "Tank Tax Law" was enacted -- a law designed to keep the status quo. A law that in the words of Mr. Edward Rosenblum (our special counsel) "...was enacted by an overwhelming majority of the members of both the Assembly and the Senate, with only a few dissenting votes." ... "a law that has

withstood a constitutional challenge before the full Tax Court in
the case of Chevron Company v City of Perth Amboy." Because of
your persistent efforts our communities were saved from a
crushing blow to their tax base. And for that we thank you very
much.

Now (to quote Mr. Rosenblum) "In a brazen effort by some
elements of the business community to undo the benefits of
Chapter 117, there is proposed, the enactment of A-300, a bill
which if enacted would again strike a catastrophic blow to the
ratable bases of New Jersey municipalities." The passage of A-
300 would unequivocally reverse the policies embodied in Chapter
117 and would result in the complete exemption from real property
taxation of oil refineries and associated storage tanks used to
store products at the facility.

During that frustrating period two years ago, West Deptford
joined with our sister communities of Greenwich Township,
Paulsboro and Westville in a long and difficult effort to enact
into law Chapter 117. It was a complicated and frustrating battle
to repair the great injustice done to small business persons and
the average homeowner. A series of absurd and unfair court
decisions had resulted in real property that for years had been
subject to property taxes, now being treated as business personal
property and therefore not subject to property taxes. The
example most often cited was the exemption of 500,000 gallon

petroleum storage tanks that are a common sight along I-295 in Gloucester County. It is important to note that the greatest damage to the local tax base would not be limited to storage tanks, but many other large estates previously subject to property taxes. The result would have been devastating without chapter 117.

However the efforts of ~~the~~ yourselves, League of Municipalities and our towns were worth the substantial time and tax dollars expended working on behalf of the enactment of chapter 117. What was achieved with that enactment was the preservation of the status quo regarding the taxation of real estate in New Jersey. The law simply reversed the unfair and misguided rulings that held such improvements as 500,000 gallon oil storage tanks no longer real property and therefore not subject to taxes.

West Deptford Township is currently spending hundreds of thousands of dollars to defend our tax base from the petrochemical industry, who simply want a reduction. A reduction which will put higher dividends into the shareholders pockets, while placing their fair share of tax squarely upon the residents of the our Township and other towns, many of whom can ill afford such a spectacular increase.

We thought the Tank Tax Law had resolved at least half of this problem. If you undo what an awesome majority of your colleagues

have done you will treat oil tanks which are used in manufacturing or processing as tax exempt; you will treat cogeneration facilities as tax exempt; you will treat other apparatus, equipment, devices and machinery which are part of the processing and manufacturing process as tax exempt.

The bottom line is A-300 will substantially exempt all oil refineries located in West Deptford Township, Gloucester County and the State.

THE CONSUMMATE QUESTION IS; WHAT HAS HAPPENED IN TWO YEARS THAT WOULD CAUSE THE STATE ASSEMBLY TO REVERSE A POSITION THAT WAS TAKEN OVERWHELMINGLY.

The purpose clause indicates a great loss of jobs and industry in New Jersey. That industry needs greater incentive to compete with neighboring states. I submit, Mr. Chairman, that premise to be false. The only industry that appears to be affected by this bill is the oil industry.

If A_300 be judged by its title, namely, "The Manufacturing Retention and Equitable Taxation Act", it would be difficult for a reasonable person to oppose such a measure. But this legislation is certainly not about retaining "high paying employment", and it certainly is not a law providing for equitable taxation. What A-300 is intended to do is completely undermine the essential fairness embodied in Chapter 117. It is a thinly disguised effort to exempt the Petrochemical Industry

and other large manufacturing interests from shouldering their fair share of the tax burden, TAXES that provide schools for our children, police and fire services, pay spiraling solid waste and insurance costs, and all other essential services provided by Counties, Municipalities and School Districts.

It is interesting to note that this same legislation was introduced last year by Assemblyman Kamin when it was then Assembly Bill 4426, "An Act Concerning the Taxation of Certain Business Personal Property". However, A-4426 has become A-300 and, while it is virtually identical to its predecessor, it is now a bill designed to retain "high paying jobs." While it would grant huge tax breaks to a small group of industries, it requires no specific performance from those industries regarding retention of jobs in New Jersey. Certainly the Legislature should do everything it can to retain quality jobs in our state. However a tax break of this magnitude should require more than just a promise that jobs will remain in New Jersey.

Perhaps equally disturbing is the Tax Recovery Fund which is to be established. We know that the policies and philosophies on the Business Franchise Tax, change at will, what assurances will we have that the fund will be preserved ad infinitum, or into the next century, or for that matter survive the next session of the Assembly or the next Administration. This uncertainty threatens the sanctity of our community.

We have the following objections to the bill's plan:

1. \$15,000,000 is a cruel hoax. Gloucester County, West Deptford, Greenwich, Paulsboro and Westville alone would lose \$6.3 million each year if A-300 becomes law. As the chart distributed indicates the fund would have to be \$407,000,000 per year to begin compensating Municipalities, Counties and School Districts for lost revenue.
2. A-300 Provides for PRO RATA reimbursement, which suggests reimbursement is not on a dollar for dollar basis.
3. What assurance will be offered that the dedicated revenue will not be reallocated to some other public purpose deemed more worthy by the Governor or the Legislature. Remember the Franchise Tax.

REFER TO TAX REVENUE LOST EXHIBIT

The sponsor and those who support A-300 indicate that the bill is a reaction to overreaching by assessors as a result of the passage of Chapter 117. This is not true. There have been no decisions by any court in this state in which it has been determined that any assessor has misapplied Chapter 117. Furthermore Mr. Rosenblum knows of no instance in which an assessor has altered his/her assessments in an attempt to take

unfair advantage of Chapter 117. Indeed, he has indicated to us that the enactment of Chapter 117 has literally saved Perth Amboy from disaster in its tax appeal with Chevron U.S.A. In that decision the tax court held that, absent the enactment of 117, the entire refinery would have been declared to be personal property and would have been removed from the tax rolls.

Additionally, the Director of the Division of Taxation is currently drafting guidelines whose aim is the fair application of Chapter 117. West Deptford has submitted comments and while we are not satisfied with the regulations as published, we are hopeful that the Director will take into consideration our concerns as well as those expressed by other municipalities.

If there is concern about abuse then each case must be decided on its own merits in the Tax Courts, rather than penalize the masses.

In conclusion, A-300 is not a bill designed to retain high paying manufacturing jobs, or bring about equitable taxation. Simply put, it provides a free ride for the Petrochemical Industry and other large manufacturing interests.

What it will achieve is the wholesale shifting of the property tax burden from industry to the backs of residential taxpayers as well as small and medium size businesses who pay their fair share without complaint. For that reason, I respectfully request on behalf of all those in West Deptford, Greenwich, Paulsboro,

Westville, Gloucester County and the entire state of New Jersey who pay their fair share of taxes that Assemblyman Collins and the members of this Committee take a strong position in opposition to A-300, and any similar legislation. Do not let this bill out of your committee. Let those who feel they are being taxed unfairly take their case to court and not to the Lobby of the New Jersey State House.

The legislature should be concerned with preserving municipal tax bases not destroying them.

Throughout my years of service in the Navy, my current career as a Financial Administrator at a major University and my responsibilities as Committeeman and Deputy Mayor of West Deptford Township, there is an old saw that never rang so true--

IF IT AIN'T BROKE, DON'T FIX IT.

THANK YOU MR. COLLINS.

UNOFFICIAL EDITION OF HOUSE OF A-300

SA-265-98

27-Sep-88

PROJECTED EFFECT OF PASSAGE OF A-300

MUNICIPALITY	REFINERY/ MANUFACTURING RATABLES TRUE VALUE	AMOUNT OF REDUCTION DUE TO A-300	REMAINING ASSESSMENT AFTER A-300		1988 TAX RATE	LOST REVENUE	TAX RATE INCREASE FOR A-300
West Deptford	144,795,457	(117,281,320)	27,514,137	Local	0.55	645,047	
				County	0.98	1,149,357	
				School	1.48	1,735,764	
				Total	3.01	3,530,168	0.64
Greenwich	116,640,496	(94,478,802)	22,161,694	Local	0.61	576,321	
				County	1.03	973,132	
				School	0.86	812,508	
				Total	2.50	2,361,961	0.72
Paulsboro	13,265,100	(10,744,731)	2,520,369	Local	0.86	92,405	
				County	0.71	76,288	
				School	0.98	105,298	
				Total	2.55	273,991	0.13
Westville	5,598,000	(4,534,380)	1,063,620	Local	0.87	39,449	
				County	0.78	35,368	
				School	1.26	57,133	
				Total	2.91	131,950	0.14
Total	280,299,053	(227,039,233)	53,259,820	Local		1,353,222	
				County		2,234,145	
				School		2,710,703	
				Total		6,298,070	

15X

27-Sep-88

PROJECTED EFFECT OF PASSAGE OF A-300

MUNICIPALITY	REFINERY/ MANUFACTURING RATABLES TRUE VALUE	AMOUNT OF REDUCTION DUE TO A-300	REMAINING ASSESSMENT AFTER A-300	1988 TAX RATE	LOST REVENUE	TAX RATE INCREASE FOR A-300
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ESTIMATED STATE-WIDE EFFECT ON PROPERTY TAXES

4-B PROPERTY STATE-WIDE 18,088 PROP.	16,219,582,759	(13,137,862,032)	3,081,720,727	3.10	\$407,273,723	0.20
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PREPARED BY:

Gerald A. White Administrator
Richard M. Giuliani Director of Finance/Treasurer
Alicia Nelson Tax Assessor

161

FORD MOTOR COMPANY STATEMENT TO ASSEMBLY COMMITTEE ON
ECONOMIC GROWTH, COMMERCE AND TOURISM

PRESENTED BY CHARLES BROWNING

SEPTEMBER 27, 1988

In 1982 the Township of Edison went through a complete real property revaluation which resulted in Ford Motor Company's Edison Assembly Plant being assessed at a total of \$20,800,000 for the 1983 tax year. While this was somewhat higher than our internal specialists felt was justified, the difference was not enough to warrant an appeal. However, in August, 1983, the Township appealed this assessment to the Middlesex County Board of Taxation resulting in an increase of the assessed valuation to \$28,400,000. Ford appealed this finding to the New Jersey Tax Court.

During April and May, 1986, a trial, which encompassed sixteen days of testimony, was held before the Tax Court on the assessments pertaining to the 1983, 1984 and 1985 tax years. Before the Tax Court rendered a decision, however, Chapter 117 was enacted into law. The Township then moved successfully to reopen the case based upon the retroactivity provisions of Chapter 117. A certification of their appraisal expert, Barry Polayes, was submitted in support of the motion. The certification contained a laundry list of items which Edison considered to be realty under the newly enacted statute. Since that time we have been embroiled in a court battle with Edison over these items. The list has changed many times in the ensuing months but the current report submitted by Edison includes the following items, among others:

- o Pits
- o Paint spray booths and ovens
- o Paint delivery system
- o Compressed air system
- o Paint air supply systems
- o Various tanks including some under 30,000 gallon capacity
- o Complete conveyor system

It is worth noting that our legal and expert fees continued to mount during this period.

Yesterday the Tax Court issued an opinion concerning the 1983, 1984 and 1985 tax years. Although we have not had the opportunity to review the decision at length, it appears that the Court did not find it necessary to address the issues raised by Chapter 117. These issues, however, continue to be pertinent because of the pending tax appeals for the years 1986 through 1988 and for assessments in future years.

In an article appearing in the Star-Ledger on September 19, 1988, Edison's attorney, Anthony Andora, is quoted as saying that the "massive equipment" in the Assembly Plant is taxable as real estate under Chapter 117 and could raise the assessment an additional \$50 million. This would nearly double the assessment on the Assembly Plant. Moreover, Ford has already paid personal

property taxes to the State of New Jersey on many of the items which Edison seeks to include in this increased assessment.

We do not believe that such an extraordinary result was ever intended by the Legislature when it enacted Chapter 117. The passage of A-300 is vitally needed to halt such excesses and to assure the business community of a stable tax climate.

Thank you for the opportunity to make this statement.

*Copy to
link in
file*



Alice C. Cantwell

*Re A 300 = 2 copies of attached
report as referred to on pg 1*

Regional Manager
State Government Relations

111 Washington Avenue
Suite 208

Albany, New York 12210
Telephone: 518/436-8541

*of Ford statement
presented in Brown*

Dr. Kevin J. McDermott

6 Oak Place

Demarest, New Jersey 07627

8/5/88

PERMANENCY AND THE EDISON FORD MOTOR CO. ASSEMBLY PLANT

This report will address the question of intent of permanent installation of equipment by Ford Motor Company at its facility in Edison, New Jersey, originally completed in 1948 and whether such equipment is functionally essential to the use of the structure or plant.

In my judgment, the intent was to construct a facility to accommodate a permanent installation of large items of equipment used in the assembly of automobiles, as it has done successfully for almost 40 years.

From 1949 to 1960 - 804,045 Mercury automobiles were produced in Edison; from 1960 to 1965 - 517,777 Falcons were produced; from 1965 to 1971 - 785,217 Mustangs; from 1971 to 1980 - 1,823,488 Pinto's and Bobcats; and from 1981 to 1983 approximately 300,000 Escorts were produced for a total of over 4,000,000 cars. This indicates that the plant is actively being used by the original owners for the functions for which it was designed and built.

Since 1948 there have been additions to the facility, and varied models of cars have been produced but the basic and original purpose of the plant is still intact, that is, the assembly of automobiles. The additions to date have all enhanced this original

purpose of automobile assembly. The plant is designed to accommodate a permanent installation of equipment which is functionally essential to the utilization of the plant.

Looking at the question of permanency in the negative, if the plant was built for another purpose, other than automobile assembly, what was the product? It is difficult to imagine any marketable product from one facility with a volume of 100,000 units per year and a physical size of 400 cubic feet and a weight of 2,000 pounds. If the plant was designed for conversion to another purpose and product, why is there no evidence that the plant was designed for easy conversion? In fact, many reasons can be presented to show the permanent nature of the facilities and the equipment.

Automobile Assembly Processes

The Ford Motor Company facility at Edison, New Jersey was designed and constructed for the assembly of automobiles. Parts and materials, such as car seats, glass, sheet metal and paint are delivered to the plant by train and truck. To produce a car, the frame of the car is assembled and welded together using approximately 1,000 spot welds. Doors and fenders are attached and painting occurs in varied areas of the plant. Seats, upholstery, the dashboards, etc., are assembled to the frame and the engine/transmission, tires, and gas tanks are added. Finally, inspection takes place and the car is completed.

The above processes are supported by the following interrelated systems: power and control wiring system which supplies power and controls electricity to the building and machinery; a compressed air system which supplies pressurized air throughout the plant; an air ventilation system which supplies fresh air for the workers and which also ventilates the areas of the welding and paint spraying work cells; a set of storage tanks which house various liquids, some of which are funnelled into the

plant through a piping system; a material handling conveyor system that moves the parts, materials, subassemblies and completed cars throughout the plant; a paint distribution system that takes the paint from the outside oil house and distributes the paint to several painting stations in the plant; a fire detection system to monitor, detect and activate the overhead sprinkler system; a water distribution system for the needs of the workers as well as various painting and welding work cells; an extensive series of pits under several of the work cells which provide access to the work cells for workers and equipment and hundreds of openings in the roof for ventilation and heating purposes, and several other systems described later in this report.

All of the above are interrelated and each is a required function in the utilization of the facility for the assembly of the automobile. The cars could not be efficiently assembled if any one system was not functioning and in almost all cases the plant and/or the systems would be damaged if any of the systems were removed.

These work cells and systems are described in greater detail in the following portions of this report.

1) **HOLES, PITS** - The plant has many holes and pits embedded in the floor throughout the plant to facilitate the production of automobiles. These pits are permanent in design and construction and each has been developed to support specific activities and heavy machinery and equipment. Schedule A shows the locations of some of these pits along with their associated work functions and the dimensions of the pits.

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**SCHEDULE A
CHANNEL PITS AND WORK FUNCTION**

<u>Approximate Location</u>	<u>Work Function Area</u>	<u>Dimensions</u>
M38	SCIAKY press area	10' x 12' x 2'
M36	Respot area	N/A*
M34	Center floor plan press area	20' x 20' x 6'
M30	5 stage underbody area	20' x 20' x 6'
K23	Lowerator area	12' x 20' x 1'
J21	Undercoat fine wire booth	N/A
J23	High lift table area	4' x 6' x 10'
H22	Highlift (transfer table)	4' x 6' x 10'
B23	Cross over welding line	N/A
D26	Second stage panel area	1' x 5' x 12'
E24-B24	Transfer conveyor pit area	10' x 4' x 50'
D22	Buck pit area (two)	16' x 20' x 6'
B23	PGM area	5' x 4' x 12'
D20	Respot line area	3' x 3' x 20'
H20	Fine wire booth area	3' x 3' x 20'
C18, K18	Cross over areas	(2) 6' x 8' x 3'
K18	Cross over area	6' x 8' x 3'
L13, L14	E coat area	Full Basement
K15	E coat area	Full Basement
K10	E coat area	Full Basement
H6	Paint area	N/A
H10	Paint area 2 tone	5' x 30' x 10'
B7	Inspection area	N/A
E14	Storage area	N/A
AA18	Lowerator area	8' x 16' x 6'
BB20	Gas tanks installation	6' x 5' x 30'
CC28	Tire area	4' x 8' x 4'
AA30	Engine area	3' x 5' x 4'
B3	Toe-in Pit area	12' x 20' x 6'
B3-B20	Trim lines	3' x 8' x 150'

As stated before it is very difficult to envision a marketable product that could be produced which would need these pits arranged in specific areas of a plant with the pit dimensions as shown. The only reasonable utility of these pits is for automobile

* N/A = needed to be verified.

production. To remove the pits would mean that the work functions described above could not be accomplished productively since the associated pits have been specifically designed to accommodate the associated heavy machinery and equipment in the development of the related work function.

2) ELECTRIC UTILITY SERVICE - The facility has two electric distribution transformers each with a capacity of 8000 KVA. These feed eight substation transformers rated at 2000 KVA which service eight areas of the plant. Wires and cables are embedded permanently in the floors, walls and ceiling going to and from the ten transformers and all areas of the plant. These in turn are connected to switches, outlets, fuses, control panels, etc. which in turn are connected to those areas of the plant where functions such as painting, welding, etc. are performed. All of the above are installed permanently, and intended to be so, as required by the National Electric Code, the removal of which would cause material injury to the assembly plant as well as to the component parts of the electric utility service.

The electric power is used for the lighting and heating of the plant, as well as to power the electric machinery such as that used in the several welding stations, the five (5) spray painting booths, the material handling conveyors, the compressed air system, the five (5) large ovens with 22 temperature zones, and the lowerator/elevators and highlift tables, etc. The removal of these wires and cables would cause considerable damage to the plant since the wires and cables are permanently installed throughout the plant. In addition, without power, the plant could not be utilized for automotive assembly. The manner of installation and the use to which it is applied demonstrates that all the electrical service is intended to be permanent.

3) **FIRE DETECTION SYSTEM** - Water Flow alarms exist in 35 areas of the plant. Each is wired back to a central detection area to detect a fire when water is flowing through the water pipes. These pipes are 12" Header water pipes below and along the concrete floor. The pipes go under the footings of the buildings. They lead to the flow alarms and the sprinkler heads in the ceilings.

The floor would have to be broken up to remove the piping causing material injury to the piping and assembly facility.

This fire detection system serves as a safety function for the plant and is required by law. It also demonstrates the permanency of the facility and its equipment. The system is extensive in that it needs to access all areas of the 1,200,000 sq. ft. plant because of the volatile nature of the assembly process particularly in the painting and welding work cells where fires are more likely to occur if proper precautions are not taken.

4) **PAINING SYSTEMS**

(The painting process is described in the next several sections of this report.)

The frame of the car is painted by dipping in a paint tank in the E-Coat Building. Here, three large enclosures over 600 feet long are used to house the car frames during the process which includes the drying of the paint in an oven. A Del-Park system in the E-Coat Building is used to remove the excess paint using a recirculating water technique, including a 16,000 gallon recirculation tank in the basement of the E-Coat Building.

The cars are spray painted in five booths varying in size from 20' x 12' x 10' to 135' x 14' x 9'. The paint is initially mixed in the outside Oil House Building and

transported to the five spray booths and E-Coat Building, etc., through a network of approximately 4,000 feet of piping.

Each of the five spray booths has an individual air supply system consisting of a ducting system connected to an air supply house on the roof of the building. These houses are 10' x 20' x 50' or 10' x 20' x 100' and are used to filter the air, add moisture and heat the air, as required. About 150 roof exhausters are also mounted on the roof to vent the air from the building, and 30 to 40 smoke vents are on the roof to be used as required. The air supply systems are functionally essential to the Ford Edison facility and as described below, constitute a structure itself.

Each spray paint booth has an associated oven to dry the paint. The five large ovens vary in size from 130' x 20' x 10' to 350' x 10' x 10' and each has 3 to 6 temperature zones with associated heaters of 2 to 6 million BTU's.

The Painting Systems at the Ford Motor Company in Edison, New Jersey are unique and highly specialized because of the nature of the product being painted, namely an automobile. It is physically large and heavy and about 100,000 are produced each year. Accordingly, the large tanks, spray booths and drying ovens, etc. could not be used to productively paint any other product.

In removing these painting systems significant damage would be done to the equipment and the plant itself. The painting function is a special feature of the plant and specifically designed and built for the sole purpose of painting automobiles. The permanency of installation is demonstrated by the manner of installation and tie-in with other systems. The booths would also appear to be structures which house equipment.

A more detailed discussion of the paint system components follows.

5) DEL-PARK SYSTEMS - There are two similar Del-Park systems in the Ford Assembly Plant, one in the E-Coat area and one in the Body Prime area.

The Del-Park System in the basement of the E-Coat building consists of a large tank of recirculating water attached to the Body Second Spray Booth. Here the excess overspray paint is chemically treated and flocculated out of the water and placed in a sludge tank.

The recirculating tank contains 16,000 gallons of liquid and has the dimensions of 14 feet by 22 feet by 7 feet. Twenty-four inch water lines connect the recirculating tank to the spray booth which is located at a distance of approximately 150 feet away. The return water lines are 14 inches in diameter. The lines run through the 6 inch concrete floor.

Access to the basement is through an 8 foot by 10 foot access hatch thereby requiring the cutting of the tank into sections for its removal. The concrete floor would have to be broken in order to remove the 150-feet of 24 inch pipe, causing material injury to the tank and to the Ford Edison facility.

The two Del-Park Systems are part of the painting functions of the plant, and are required in the production of the automobile and are intended to be permanently affixed to the Ford Edison facility. Because of the large physical size of the recirculating tank and the 24" water lines, etc. and its physical connections to two other painting systems, the Del-Park Systems could not be productively utilized in painting another product. If considered to be apparatus, they are functionally essential to the assembly plant.

6) SPRAY PAINT DELIVERY SYSTEM - The Spray Paint Delivery System is a network of tanks, mixers, controls and pipes that move the paint from the paint mixing

area in the Oil House Building to the 5 paint spray booths in the main assembly building. The pipes are 1 1/2 inches in diameter and run approximately 750 to 1,000 feet through a tunnel between the buildings to each of the four paint booths for a total of 3,000 to 4,000 running feet of pipe. There is no other product manufacturer that could possibly utilize this network other than for automobile assembly. Only an automobile assembly plant has the need for such an extensive system using the large volumes of paint including the varying colors. This also shows the permanency of the installation of equipment since the Spray Paint delivery system is a required function of the plant. Without it, the cars could not be painted to quality standards. If the spray paint delivery system was removed, there would be considerable damage to the system and to the plant.

7) **PAINT SPRAY BOOTHS** - The five paint spray booths are structures that are used to spray paint the cars as they move through the booths. The booths serve the function of housing the painting process so that the excess paint fumes and particles do not go into other areas of the plant. The specifics of the spray booths are as follows:

<u>LOCATION</u>	<u>DESIGNATION</u>	<u>DIMENSIONS</u>
B-F, 15-16	Body Prime	105' x 12' x 7'
H-J, 6-10	Body Second	(75'-135') x 14' x 9'
E-F, 4-7	Two-tone	(60'-75') x 12' x 9'
C-D, 4-5	Touch-Up	30' x 12' x 10'
D-E, 3-4	Final Repair	20' x 12' x 10'

They are composed of 10 gauge sheet metal which would be damaged in the cutting operation of a removal process. In particular, the two foot water tank at the

bottom of some booths and the rail conveyor that runs through the tanks would have to be cut causing damage to the tanks and rails.

These booths serve a necessary function in the painting process and although they may be modified to accommodate different model cars from year to year nonetheless the basic functionality of using spray booths in the plant has existed for almost 40 years. The design and installation demonstrates an intent to install permanently, subject to modifications and changes, and also the essentiality to the paint function. There is no easy method of removal or disassembly. This would take considerable time to accomplish resulting in material damage to equipment and the plant. To remove the network of 15,000 linear feet of pipe would involve extensive damage to the pipe as well as to the plant itself. The paint spray system is functionally essential to the Edison facility; the assembly plant could not operate without it.

8) COMPRESSED AIR SYSTEM - Permanency is further shown by the intricate and extensive networks of the compressor system. This Compressed Air System consists of five (5) large compressors connected to many areas of the plant through a network of 15,000 linear feet of pipe ranging in diameter from 12 inches nearest the compressors to 0.75 inches near the point of use of the compressed air.

The compressed air is used for the spray booths, as well as the welding stations, tools, fixtures, lift tables, etc., throughout the plant. The Edison facility could not be operated as an automobile assembly facility if the compressed air system was not in operation. This system is intended to be permanently affixed to and within the Edison facility.

The compressors range in size up to 30 inches in diameter and 10 feet long.

There are few, if any, other product lines which require as extensive a compressor system as exists at the Edison Ford Plant. This also points to the permanency of both the facility and its machinery, equipment and apparatus. To remove the network of 15,000 linear feet of pipe would involve extensive damage to the pipe and cause material injury to the plant itself.

9) **E-COAT ENCLOSURE (3)** - The E-Coat area has 3 structures on the main level as follows:

<u>DESIGNATION</u>	<u>DIMENSION</u>	<u>VOLUME</u>
Phosphate	250 ft. x 12 ft. x 8 ft.	24,000 cubic ft.
Dip Tank	100 ft. x 10 ft. x 8 ft.	8,000 cubic ft.
Oven	300 ft. x 10 ft. x 9 ft.	27,000 cubic ft.

The Phosphate and Dip Tank structures are constructed of sheet metal varying in thickness from 14 gauge to 10 gauge. The Oven is constructed of sheet metal panels and contains 5 heaters with capacities of 2 to 4 million BTU's. The Phosphate structure is waterproof and houses the function of washing the car frames and zinc coating them. The Dip Tank structure is also waterproof and the frames are painted by dipping them in the tank. The Oven cures the paint by baking.

To remove the Phosphate and Dip Tank structure, they would have to be cut into many sections thereby damaging the structure rendering them useless.

The rail that conveys the frames through the Oven, the piping and distribution systems would also have to be cut causing material injury to the items and the Edison facility itself.

The three independent structures provide a necessary function and demonstrate the intent of permanency.

10) AIR SUPPLY SYSTEMS FOR SPRAY PAINTING BOOTHS - There are five paint spray booths, each of which is served by an individual elaborate air supply system. The system function is to maintain a constant temperature in the paint booths as well as to exhaust the air into the atmosphere after its use in the spray booths.

Each air supply system consists of a one or more air supply houses on the roof, and several exhaust fan sub-systems through and above the roof.

The air supply houses are composed of sheet metal steel permanently mounted on the roof of the building. A single house is 10' x 20' x (30'-50') and a double house is 10' x 20' x (60'-100'). Within each structure is a 2-4 million BTU burner; a device to add moisture to the air if required; various air filters and input/output ducts; central panel gas valves and associated doors and walkways. The air supply booths would be damaged in removal since their large size require that they be unbolted and/or cut and burned in order to reduce them to a size that could be moved using a crane or helicopter. A large opening in the roof approximately 36" x 85" would also be exposed for each air supply house and the permanent connections for electricity, gas and water would also suffer material injury.

The many exhaust fan sub-systems are designed to exhaust the air from the spray booths into the atmosphere. The ducts for the exhaust fans start at the paint spray booth and are initially approximately 2' x 15'. They then narrow down to a 3' diameter hole in the roof and then proceed 30' above the roof for a total length of 50' to 60' for each exhaust fan sub-system. The ducts are individually designed and constructed for each paint spray booth. The removal of the spray booth would necessitate the cutting of the duct in order to remove it resulting in a hole in the roof for each duct, causing material injury to items that are intended to be permanently affixed to the Ford Edison facility as well as the facility itself.

A) BODY PRIME AIR SUPPLY SYSTEM - For the body prime booth there are three air supply houses on the roof. Two are a double house of 10' x 20' x (60'-100') and one is a single house of 10' x 20' x (30'-50'). There are approximately 15 exhaust fan sub-systems each of which extends from the floor of the building for over 50 feet to a point 30 feet above the roof.

B) BODY SECOND AIR SUPPLY SYSTEM - Here there are four air supply houses permanently attached to the roof, encompassing 10' x 20' x (120'-200') of volume. Two of these are a double house and two are single houses. In addition, there are sixteen exhaust fan sub-systems that convey the exhaust air from the shop floor to a point 30' above the roof.

C) TWO TONE AIR SUPPLY SYSTEM - There are two air supply houses on the roof for the two tone spray painting system. They have a total volume of 10' x 20' x (60'-100'). There are also three exhaust fan sub-systems.

D) TOUCH-UP AIR SUPPLY SYSTEM - There is one air supply house for the touch up paint booth.

E) FINAL REPAIR AIR SUPPLY SYSTEM - Here there is one air supply house (10' x 20' x 20') and two exhaust fan sub-systems.

In total, then, there are eleven air supply houses on the roof. There are also 36 exhaust fan sub-systems. Each has been designed specifically for a particular

painting function and each has been permanently attached to the building. To remove any one or all of them would cause material injury to the individual units, the property that supplies the necessary utilities, and the structure to which they are attached.

11) FRESH AIR MAKE UP HOUSES - There are 50 to 70 fresh air houses on the roof of the building. They vary in size from 5' x 6' x 8' to 8' x 10' x 20'. Each house contains a motor, fan and burner control and a hole in the roof is required for each house. The houses are a structure in themselves as well as a permanent part of the facility. To remove them would require the unbolting and burning of the support members and electrical and gas services resulting in holes in the roof and material injury to the items supporting them (gas, electric, etc.). The Fresh Air Make Up Houses are functionally essential to the Edison facility which would not be operated without them.

12) SMOKE VENTS - There are 30 to 40 smoke vents in the roof of the building to vent the smoke in particular areas if a fire occurs. They are triggered to open automatically and range in size from 6' x 8' to 6' x 12' and possibly larger (6' x 60') with an accompanying roof opening size.

13) ROOF EXHAUSTERS - There are about 150 roof exhausters that allow air to vent through the roof. The roof openings are 3' diameter holes or 4' x 4' square holes. The removal of the exhausters would cause material injury to the exhausters themselves as well as to the roof. The Edison facility could not function without the roof exhausters.

14) **OVENS** - There are five large ovens located in the plant. These are used to cure the paint of the cars in stages so a properly painted car is obtained. The ovens are as follows:

<u>OVEN DESIGNATIONS</u>	<u>DIMENSIONS</u>	<u>TEMPERATURE ZONE</u>	<u>OVEN HEAT REQUIREMENTS</u> (million BTU)
E-Coat	300' x 10' x 10'	5	(1) 4.5
			(1) 2.0
			(1) 2.5
			(2) 4.0
Body Prime	350' x 10' x 10'	6	(5) 2.5
			(1) 2.0
Body Second	150' x 20' x 10'	5	(3) 2.5
			(1) 6.0
			(1) 4.0
Two Tone	130' x 20' x 10'	3	(2) 4.0
			(1) 2.5
Final Repair	150' x 10' x 10'	3	(3) 3.5

Each oven is a structure in and of itself in that it houses, and contains various items of property.

In addition, there is a heating tunnel oven located in the cushion room (AA-8). The dimensions are 30' x 8' x 5' and its function is to heat the seat cushion so any wrinkles in the fabric can be removed. The heating tunnel oven, too, is a structure in and of itself.

The many unique features of these painting systems can only be productively utilized in the painting of automobiles which further supports the permanency of these items at the Ford facility. Without these systems and equipment, the building could not be utilized for the purpose for which it has been designed and improved.

15) SUB-STATION TRANSFORMERS - There are eight sub-station transformers. They are rated at 2 megawatts each with dimensions of 5' x 5' x 7'. The transformers are permanently located on the roof level adjacent to the fan rooms. To remove them the hatch on which they are mounted would have to be removed, all the electrical connections would have to be disconnected and then the transformer could be lowered onto the shop floor. Once the transformers are removed, the plant could not operate because of the large amount of equipment and machinery, etc., that runs on electricity including many controls, switches, breakers, outlets, etc.

16) TANKS - There are several tanks above and below ground at the Ford facility which contain fuel, water, oil, paint, etc. They are used to house the liquids until they are needed. Piping exists between the tanks and their point of use. The tanks are listed below:

- (a) 250,000 gallon oil tank.
- (b) 1,000 gallon oil tank located underground near the executive garage.
- (c) The schematic drawing of the oil house shows tanks which vary in size from 15 feet long and 10 feet in diameter to 30 feet long and 10 feet in diameter. All of these tanks would be severely damaged upon removal since they would have to be cut into small sections so they could be hoisted through the narrow floor hatches.
- (d) Storage tank under the canopy.
- (e) Storage tank under the covered railroad loading platform. 10,000 gallon tank for demineralized water.
- (f) 500,000 gallon fire tank. This is a water suction tank.
- (g) (2) 150,000 gallon fire tanks.

(h) 250,000 elevated water tank. This is a gravity water tank located next to the oil house.

(i) Storage tank located under the pedestrian bridge. This tank is a 60,000 gallon transfer tank used to house the E-Coat paint when maintenance work is done on the E-Coat tanks.

(j) (3) 10,000 gallon gasoline storage tanks.

(k) (5) propane storage and surge tanks. There are (3) 30,000 gallon, (1) 10,000 gallon and (1) 6,000 gallon surge tanks located in the northwest corner of the building.

(l) One anti-freeze tank. Approximately 10,000 gallon tank located in the oil house. This is one of the eight tanks located in the basement of the oil house, as previously discussed in Item (c).

(m) (4) Naptha storage tanks. These two approximately 10,000 tanks are located in the basement of the oil house [see (c)].

(n) (2) Enamel thinner tanks. Approximately 10,000 gallon tanks in oil house basement [see (c)].

(o) (2) Transmission oil storage tanks. These approximately 10,000 gallon tanks are located on the ground level of the oil house.

(p) (2) Prime paint storage tanks. These approximately 10,000 gallon tanks are located on the ground level of the oil house.

(q) (3) Motor oil storage tanks. These approximately 10,000 gallon tanks are located in the basement of the oil house. Two are designated on the oil house schematic as being used for the storage of windshield wiper fluid and paint. The tanks are marked "not in use" [see (c)].

(r) Sunoco spirits storage tanks.

(s) (4) Caustic storage tanks. There are four other tanks located on the ground level of the oil house. These are 6,000-10,000 gallon tanks. They are designated "power storage", "auto trans", "solvent naphtha" and "auto trans".

(t) Propane storage tank. There is a 10,000 gallon surge tank next to the propane tanks.

17) WORK CELLS - In addition to the painting work cells, there are several areas in the plant where other work cells have been constructed to perform specific tasks such as respot welding, spot line welding, engine installation, etc. These work cells, including those previously discussed, have been designed and constructed to perform a sequence of tasks on specific parts of the automobile. The work cells require various configurations of electricity, compressed air, hydraulic pumps, water, control lines, ventilation, fixtures, motors, conveyors, etc. A discussion of some of these work cells follows.

A) SCIAKY PRESS - M38 - This work cell automatically spot welds parts of the engine compartment of the cars as they proceed through the assembly process. The cell is approximately 12' x 15' x 12' and is composed of electric machines, hydraulic pumps, welders, fixtures, conveyors and associated computer control devices and switches, etc. A pit, 10' x 12' x 2' is also part of the work cell. The cell is serviced by electricity, compressed air, water, and a series of control lines which interface the cell to the plant operation. The weight of the cell is 16-20 tons and it interfaces with and is connected to the other components of the assembly process through the material handling conveyor system of the plant.

As with almost all the work cells, if it were removed, the operation of the plant would cease, since in this case the cars would not be structurally secure without the spot welding of the engine compartment that occurs at this work cell. The cell has been designed and constructed for this specific function, spot welding of the engine compartment, at this specific location (M38) within the plant. To remove this work cell would be prohibitive because of the expense involved and because of the material injury to the cell in removal. The work cell has been engineered to perform this specific spot welding function at a specific location. To remove a device that is 12' x 15' x 12' and weighing 16-20 tons and containing many connections including the attached conveyor system and a 10' x 12' x 2' pit is prohibitive. The Sciaky Press is functional essentially in the production of the Ford automobiles.

B) RESPOT WELDING SYSTEM - M36 - The respot welding work cell at location M36 is a physically large cell containing seven industrial robots designated Unimate 4000's. Parts of the car, the front structure of the engine compartment, enter this work cell on one of the conveyor systems. They are clamped into place using a series of fixtures so that the robots can weld the cars in the exact locations desired. As with the Sciaky press the cell is composed of electric machines, fixtures, welders, conveyors, controls, switches, etc. All seven robots are interfaced mechanically and electrically to each of the other robots as well as to the total work cell itself. The work cell has connections for electricity both power and control, water, and a ventilation system is required to remove the fumes from the welding work cell.

This welding system also is functionally essential to the plant and it is a state of the art high technology welding system. Without this workcell, the front structure of the

engine compartment would not be structurally secure and the automobile would not meet specifications.

C) CENTER FLOOR PAN PRESS - M34 - This work cell provides the welding for part of the center floor pan. The cell is composed of 2 large presses 12' x 18' x 12' weighing 40 tons. In addition, the presses are mounted on pedestals in a pit measuring 16' x 20' x 6'. The work cell requires control and power electricity, compressed air, water and exhaust system for its operations. To remove a work cell consisting of 2 presses of this size and weight would cause material injury to the cell and the Edison Ford facility. All the connections would have to be disconnected including some that would have to be cut and/or burned such as the fixture plates and the copper water pipes, etc.

This welding cell has been designed and constructed for the specific function of welding part of the center floor pan. It could not be used for any other function without first damaging it through disassembly. The press is essential to the function of the Edison facility, (i.e., assembly of automobiles).

D) FIVE STAGE UNDERBODY WELDING SYSTEM - M30 - This welding system is composed of two welding machines with two stages each and a bolt-on fifth stage. The size of the welding machine is 15' x 18' x 12' and weighs 40 tons with an associated pit of 20' x 20' x 6'. The connections, etc. are similar to the other welding stations. Removal of this large 40 ton work cell is prohibitive. The work cell is a vital link in the function and purpose of the Ford facility. As with the other work cells, removal would cause material injury to the system, the utilities supporting the system and the Ford Edison facility.

E) LOWERATOR SYSTEM - This work cell is a material handling device or elevator that takes the underbody of the car from a conveyor at one height to a conveyor at another height. It is 12' x 20', weighs about 6 tons, and has a 1' pit below it. The lowerator is controlled by electric motors, control switches, etc., and it interfaces with the material handling system of the plant.

F) UNDERCOAT FINE WIRE BOOTH - J21 - At this location, welds, that were missed in the underbody of the car are applied. This work cell consists of a pit and a booth 10' x 25' x 10'. The booth is composed of sheet metal either bolted or welded together. The underbodies are moved into the cell on a conveyor.

G) HIGH LIFT TABLE - J23 - This high lift table is a device which takes part of the car from a conveyor level of 19" to the floor level conveyor. It is 5' x 8' with a weight of 1,000 pounds and a pit of 4' x 6' x 10'. Compressed air, electricity and various controls are required to interface the high lift table with the conveyors

H) HIGH LIFT TABLE - H22 - This high lift table is the same as the one discussed at J23 except it takes the car, which now has side panels, etc., back up to the 19" level.

I) CROSS OVER WELDING STATION - B23 - At this station operators manually weld parts of the cars. The cars are moved through the 100 foot cell on a conveyor system. The station requires electricity, compressed air, an air ventilation system and a series of interlocks and controls. To dismantle the conveyor would

require the cutting and damaging of the 100' conveyor rail into small sections for removal.

J) **SECOND STAGE PANEL WELD SYSTEM - D26** - Here, the inner wheel house of the car is assembled and welded in 2 manual and 1 automatic operations. The first stage is 5' x 5' x 2'. A pit 1' x 5' x 12' is under the second stage operation. This system, as the other welding systems, requires compressed air, water, ventilation, controls fixtures, etc.

K) **TRANSFER CONVEYOR PIT WELDING SYSTEM - E24-B24** - At this work cell various parts of the side panels of the car such as the posts and sheet metal are placed in position, secured with fixtures and then manually welded in place. The work cell uses a conveyor to transfer the panels and a pit 10' x 5' x 50'. Electricity, water, compressed air and interfacing are required.

L) **BUCK ASSEMBLY AND WELDING SYSTEM - D22** - At this work cell additional parts are assembled and welded together. There are two separate assembly and welding systems, one for certain model cars and the other for other models. Each work cell is 10' x 16' x 5' with a pit 16' x 20' x 6' and each weighs about 15 tons. Each requires electricity and control wiring, compressed air, water, ventilation, fixtures, and various interfaces.

To remove these 2 heavy, bulky, and complicated work cells would result in damage to the 30 ton cell, and would leave two holes in the floor 16' x 20' x 6'.

M) PGM WORK CELL - B23 - This work cell is composed of a 5' x 4' x 12' pit in the floor and a conveyor system with part of the car fixtured to it which allows a worker to attach a type of shock absorber to the bumper of the car

N) RESPOT WORK CELL - D20 - Here, eleven robots at individual stations weld parts of the cars, along with a manual welding station. The conveyor system moves parts of the cars into position, at which they are fixtured into place and welded. The robot stations are alongside the conveyor and each welds selected portions of the car. The respot work cell is controlled electrically by computers and each robot has its own computer which has several programs which direct the robot to designated points and weld specific parts. Within the work cell there are several interlocks and control switches which control the movement of the parts through the work cell. In addition, compressed air, ventilation and water is needed, as well as two pits 3' x 3' x 20'. As with the other robots these are permanently installed. To remove them would cause damage to the many related connections.

O) FINE WIRE WELDING - H20 - Here parts of the car are welded manually in a 6' x 45' area. The conveyor system moves the parts to the area for welding. There is no pit in this area and the area is shielded by plastic curtains. The area requires electricity, water, compressed air, etc.

P) TWO CROSS OVER CONVEYORS - C18, K 18 - These conveyors transport parts of the car from one conveyor to another conveyor. They have pits under them 6' x 8' x 3', and interlocks and control devices.

Q) LOWERATOR WORK CELL - AA18 - At this location an elevator type device lowers the car from a height of 10 feet to a conveyor 2 feet above the floor. The lowerator is 18' x 7' x 8' and weighs about 2 tons. It has an 8' x 16' x 6' pit and a hydraulic cylinder which is 10 inches in diameter and 10 feet below the floor level. The lowerator interfaces with the conveyors and requires electricity (control and power), compressed air, hydraulic, fixtures, interlocks, etc.

R) GAS TANK INSTALLATION WORK CELL - BB20 - This is a pit 6' x 5' x 30' and a conveyor with the car mounted on it. Workers in the pit take the gas tank off another conveyor and move it up into the car for assembly

S) ENGINE INSTALLATION WORK CELL - AA30 - Here the car is on an overhead conveyor and the car motor is carried by another device (3' x 5' x 4') to the car and automatically lifted into the bottom of the car. The two devices are synchronized together using a control system.

T) TIRE INSTALLATION WORK CELL - CC28 - The equipment at this work cell is a belt conveyor, valve inserter, tire mouter, tire inflator and a tire balancer which are used to assemble the tires before they are placed in the car.

U) TOE-IN WORK CELL - B3 - This cell consists of a pit over which the completed cars are driven so that caster and camber adjustments can be made to the cars. The pit is 12' x 20' x 6'.

V) **WELDING STATION - M40** - This is a manual welding station with a conveyor and no pit. Parts of the car are assembled and welded manually.

W) **HOT METAL SEALING WORKCELL - J22** - Here a Cincinnati Milacron 760 robot is used to seal parts of the car with a sealing compound. The car enters the work cell on a conveyor. The car is lifted off the conveyor, the robot seals the car parts; and the car is placed back on the conveyor.

All of the machinery, equipment and apparatus under this section are functionally essential to the operation of the Edison automotive assembly plant. The removal of the personal property under this section would cause material injury to the property as well as the Edison facility.

18) **MATERIAL HANDLING CONVEYOR SYSTEM** - There are several material handling conveyor systems throughout the plant. They are in the overheads, at floor level and below floor levels. These conveyor systems are several miles long with some heavy continuous rails of about 0.5 miles. Their functions are to move materials and parts throughout the plant; serve as fixtures to hold these parts as they are operated on; and also to provide storage facilities at certain locations. They are synchronized electronically and mechanically and are an intrinsic part of the assembly operation. They would have to be cut and/or burned and subsequently damaged in removal.

The Ford Property Accounting System lists over 800 individual conveyor types with over 30 of these items costing over \$100,000 each. The conveyors are the largest individual group in the Accounting System. They have been installed in almost every area of the plant and are functionally essential to the use of the plant in the assembly

of the Ford automobile. Cars could not be assembled without these elaborate interconnecting conveyors. The removal of the conveyors would be damaging to the conveyors themselves as well as to the walls, ceilings and uprights.

CONCLUSIONS

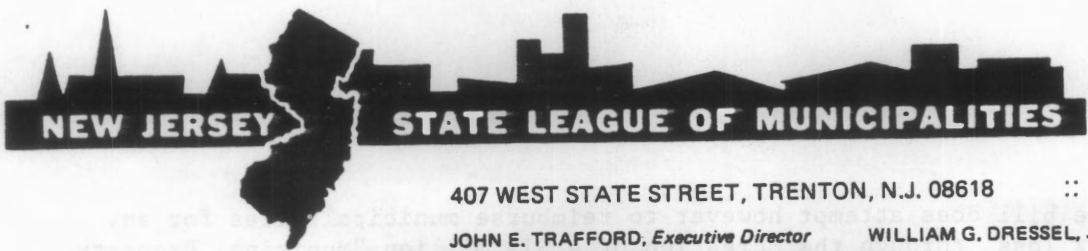
The Ford assembly plant in Edison, New Jersey has existed for almost 40 years during which over 4,000,000 cars have been assembled. It was designed and built specifically as an automobile assembly plant and has functioned successfully as such for that period of time. There have been improvements and additions to the plant, each of which has enhanced the original basic purpose of the plant, the assembly of automobiles.

The plant consists of various interconnected work cells, each designed and constructed for a specific function such as welding or painting. In almost all cases, the cells and associated walls and floors would be materially injured if they were removed. Each cell was installed permanently and the functions have remained unchanged even though there have been modifications to improve the productivity of the cells as the car models changed.

The plant contains miles of material handling conveyors; many permanently installed pits and channels in several areas of the plant; an 8,000 KVA industrial grade electric utility service; an elaborate state of the art painting system that contains five large spray painting booths, five large ovens up to 300 feet long, with over a mile of piping to move the paint into the plant; an elaborate air supply system for the spray booths including individual large air supply houses mounted on the plant roof; over 200 fresh air houses, smoke vents, and roof exhausters on the plant roof; many large storage tanks up to 500,000 gallon capacity; miles of compressed air piping throughout the plant; and a series of state of the art welding work cells that can spot weld approximately 500,000 welds per day. It is inconceivable to imagine any other

use for this configuration of plant and equipment other than for the assembly of automobiles.

The facility was constructed as an automobile assembly plant and has remained fixed as one since its inception. The basic functions of assembly, welding, painting, inspection, etc., are still performed. The facility has remained unchanged from the standpoint of functionality for almost 40 years. It was designed and built as an automobile assembly plant and operates as one today. It has never been used for any other purpose and could not be changed without considerable damage to the plant and equipment.



407 WEST STATE STREET, TRENTON, N.J. 08618

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(609) 695-3481

JOHN E. TRAFFORD, *Executive Director*

WILLIAM G. DRESSEL, JR., *Asst. Executive Director*

STATEMENT BY WILLIAM G. DRESSEL, JR.

ASSISTANT EXECUTIVE DIRECTOR, STATE LEAGUE OF MUNICIPALITIES
IN OPPOSITION TO A-300,

"THE MANUFACTURING RETENTION AND EQUITABLE TAXATION ACT",
BEFORE THE ASSEMBLY ECONOMIC DEVELOPMENT, AGRICULTURE
AND TOURISM COMMITTEE

TUESDAY, SEPTEMBER 27, 1988

FIRE DEPARTMENT

WALNUT STREET

GIBBSTOWN, NJ

1:00 P.M.

Good afternoon Mr. Chairman and Members of the Committee. I am William G. Dressel, Jr. Assistant Executive Director of the League of Municipalities. Thank you for giving me this opportunity to testify in opposition to A-300.

As you know, the New Jersey State League of Municipalities represents the broad spectrum of municipal concerns in the 559 municipalities which comprise our membership. A-300, if enacted would not only impact the municipalities in the 3rd legislative district but would most definitely affect nearly every community in the State.

This legislation would "undo" the benefits of chapter 117, PL. 1986. Chapter 117 was viewed by the municipal Lobby as a landmark statute, as it provided for the first time a statutory test for determining what is real or personal property for local property tax purposes. (In 1987, Chapter 117 withstood a constitutional challenge before the full Tax Court in the Case of Chevron Company V. City of Perth Amboy).

At present the State Division of Taxation is in the process of finalizing regulations regarding the assessment procedures for implementing Chapter 117 at the local level. Although, we have a number of concerns on these regulations (see attached correspondence from Ed Rosenblum, Esq.) we do not believe that A-300 will remedy them.

A-300 seeks to adopt in New Jersey the so-called "Pennsylvania Rule" relating to the taxation of business personal property. In essence, this bill could exempt from real property taxation any business personal property or equipment which is used in the manufacturing process of the business conducted upon the premises. In the opinion of Edward Roseblum, Esq. General Counsel for the Association of Municipal Assessors, A-300 would exempt from real property taxation any business personal property or equipment which is used in the manufacturing process of the business conducted upon the premises

The bill does attempt however to reimburse municipalities for any tax loss through the creation of a \$15 million "Municipal Property Tax Recovery Fund". Although we have no firm estimate of what the state-wide loss would be to local government we do believe that the \$15 million figure is woefully low. One of our major concerns with the reimbursement fund is that there are no assurances that this administration (or future administrations) will indeed restore these monies to local governments. The State's track record in keeping good on statutorily imposed municipal funding programs is not good. Case in point is the Franchise Gross Receipts Program and the state-in lieu tax payments for State owned properties (see attachments).

We strongly oppose this legislation and would ask that it not proceed further.

I would be pleased to address any questions that you may have.

50X

What Is Real Property?

by Edward G. Rosenblum, Esq.

AS a result of the joint efforts of the New Jersey Assessor's Association, the League of Municipalities and several taxing districts, Governor Kean recently signed into law S1858 which, to the relief of many confused assessors and the benefit of many municipalities facing massive ratable losses, provides a statutory definition of what constitutes real or personal property for purposes of local property taxation.

This bill reverses a recent trend in our tax court decisions liberalizing the definition of personal property to the extent that toilets and sinks in a commercial property are not assessable as real property because they can be removed without physical damage, while those same sinks and toilets situated in a residential property remain taxable as real property. Of greater significance, however, is the decision in *Stemm Bros. v. Alexandria Twp.*, 6 N.J. Tax 537 (1984) which held that a 150,000 gallon

above-ground storage tank, the removal of which would require disassembly by a

“Governor Kean recently signed into law S1858 which, to the relief of many confused assessors and the benefit of many municipalities facing massive ratable losses, provides a statutory definition of what constitutes real or personal property for purposes of local property taxation.”

welder's torch, was nonetheless personal property exempt from real property taxation. Equally disturbing was the judge's decision that a 20,000 gallon

below-ground storage tank is personal property because the excavation required for its removal would not inflict irreparable physical damage to the land.

The foregoing cases represent an overextension of the principles of law laid down in *Bayonne v. Port Jersey Corp.*, 79 N.J. 367 (1979) which held that cranes located at a container port resting on rails were personal rather than real property because removable without material injury to the structure on which they rested. Material injury was therein defined as irreparable or serious physical damage to the freehold.

S1858 embodies a comprehensive and detailed definition of real and personal property which, hopefully, will provide clear guidelines to members of the assessment community. Under the terms of the Act, real property is defined as all land and improvements thereon including personal property unless such personal property satisfies the following three part test:

1. The personal property can be removed without material injury to the real property; and
2. the personal property can be removed without material injury to the personal property itself; and
3. the personal property is not ordinarily intended to be affixed permanently to real property.

A different test applies to personal property which is machinery, apparatus or equipment. If such machinery, apparatus or equipment is not functionally essential to a structure within which the property is located or to which it is affixed and the personal property is not itself a structure then it remains personal property exempt from local property taxation. The purpose of this section is to prevent the taxation as real property of machinery and equipment used in the manufacturing process which is unrelated to the support or operation of the building in which it is housed unless such equipment is of such proportions as to constitute a structure itself.

Last, but not least, a tank having a capacity of more than 30,000 gallons is automatically deemed to be real property. The act is silent as to whether tanks having smaller capacities are thereby deemed to be personal property; however, this issue should not be of great significance in terms of real property ratables.

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RECYCLING BY THE SEA & BEYOND

(Continued from Page 8)

"Through a telephone conversation with John Holotik," Italiano said, "we received some information we may find useful to our recycling program, which is in its developmental stage."

The Avalon DPW keeps the community informed about recycling schedules and developments through television charts and fliers, calendars and stickers from the Cape May County Municipal Utilities Authority.

"We have everything people need to know about the program at the public works office," Holotik said. "All they have to do is call or come by if they have questions or problems."

The borough also operates a program for local schools explaining the reasons for recycling and how students can get involved.

Local businesses also benefit from the program.

Bill Keller, manager of the Princeton Bar and Grill, said the borough picks up glass and cardboard from the establishment as often as needed.

"It's a good community effort to have businesses involved," he said. "It helps out the borough and it keeps people working."

It also increases the volume of goods recycled, a factor the state considers when awarding recycling grants to municipalities.

The borough has applied for a state grant worth nearly \$200,000. Ray Seliger, borough DPW administrator who is currently on sick leave, worked for months on the grant, Holotik said.

"The amount of money awarded by the state depends on the tonnage of goods we recycle," Seliger said. "The more we recycle, the better chance we have of receiving a large amount."

Since last January, the borough has recycled 49 tons of newsprint; 25 tons of glass; 1.4 tons of aluminum; 63 tons of

light iron (refrigerators and other bulk trash items); 49 tons of cardboard; and nearly 90 tons of brush.

Holotik said any funding received from the state will be used to increase storage space at the public works yard, purchase new transport vehicles and hire additional staff for the program.

Since borough council authorized an ordinance earlier this year mandating

recycling throughout the borough, Holotik said community response has been nearly perfect.

"People have been so enthusiastic that they call us if we happen to miss one of their pickups," he said. "I'd say we have almost 100 percent participation, which is great because it helps us save money and possibly receive more when we apply for state grants."

DELEGATES ADOPT 13 RESOLUTIONS AT ANNUAL BUSINESS MEETING

(Continued from Page 14)

RESOLVED, by the New Jersey State League of Municipalities, in conference assembled, that the Council on Affordable Housing be urged to abandon this arbitrary and capricious percentage limitation; and be it further

RESOLVED, that copies of this resolution be forwarded to the Governor of New Jersey and all members of the New Jersey Senate and General Assembly, and to the Chairman of the Council on Affordable Housing.

Resolution No. 4

STATE FUNDING FOR MANDATED SERVICES OR PROGRAMS

WHEREAS, state mandated services and programs represent a consistently mounting municipal problem; and

WHEREAS, these costly and numerous mandates force municipalities to address a host of state priorities before — and often at the expense of — priorities determined at the local level; and

WHEREAS, the Legislature uses mandates to pass the political costs associated with raising new revenues to pay for new programs on to the local elected official; and

WHEREAS, this process breeds and encourages fiscal irresponsibility at the state level of government; now therefore be it

RESOLVED, by the New Jersey State League of Municipalities, in conference assembled, that the members of the New Jersey State Senate and General Assembly are hereby urged to approve ACR-97, which provides for a constitutional amendment to require the state to provide for any mandated service or program which requires municipal action; and be it further

WHAT IS REAL PROPERTY?

(Continued from Page 10)

Lastly, and of critical importance to those municipalities which are presently involved in property tax appeal challenging the assessability of tax farms and oil refineries, the act retroactive in that it is applicable to any proceeding pending in any court or county tax board on the date of enactment.

In summary, S1858 represents landmark legislation which is intended to restore sanity to an area of assessment administration which has been the subject of passionate debate. Hopefully, the guidelines set forth will assist assessors in their statutory duties and provide a definition of real property which more closely conforms to the common understanding of that term.



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Attorneys-at-Law

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JOHN E. TRAFFORD, *Executive Director*

WILLIAM G. DRESSEL, JR., *Asst. Executive Director*

"STATE AID":

HOW MUCH IS OURS?

Soon after the 1988-89 State Budget was released, it was announced that the Governor earmarked \$5.8 billion dollars in "state aid." This news caught us by complete surprise, for we thought we "finally got our fair share." Our joy soon turned to disappointment, however, when we discovered that the budget co-mingles approximately \$517 million in, so-called, state aid to municipalities with the vast sum of school and other aid to arrive at the total \$5.8 billion in "state aid."

The direct aid municipalities receive appears in the following forms:

- \$158.7 in business personal property tax replacement.
- \$70 million for distressed cities.
- \$50 million in State Revenue Sharing
- \$65.2 million in reimbursements for senior and disabled citizens and veterans property tax exemptions.
- \$40.3 million for urban aid municipalities.
- \$30 million in Municipal Purposes Tax Assistance (MPTAF)
- \$25.8 million for Safe and Clean Neighborhoods
- \$25 million for expanded police services
- \$22 million for housing
- \$18.4 million in lieu of property taxes
- \$8 million for fire services
- \$3 million for neighborhood services
- \$518,000 for aid to depressed rural centers

While even some of these programs can be questioned as being direct municipal aid, this total constitutes just 9 percent of the \$5.8 billion "package."

In spite of the fact that \$517 million in State aid is inadequate, the State has gone a step further and has once again "skimmed" substantial portions of two major sources of revenue: The Public Utilities Gross Receipts and

Franchise Tax and the MPTAF. These revenues are intended to be for municipal use only. (Since 1981 the State has amassed over \$1 billion from the utility taxes.) In fiscal year 1989, the State should collect \$825 million in utility taxes and the State will retain \$140 million of this (plus \$250,000 for the administrative cost of collecting the tax). Municipalities are denied 17 percent of this deserved revenue.

An additional \$70 million will be in the MPTAF (see above), all of which should also go to municipalities. The State, however, will retain over \$40 million of this — a startling 57 percent!

To recap what is actually included in Governor Kean's "\$5.8 billion for state aid," remember:

- only \$517 million can be considered direct "municipal aid."
- \$140 million in Gross Receipt and Franchise Tax monies plus \$40 from MPTAF — \$180 MILLION IN DESERVED MUNICIPAL REVENUE IS BEING DENIED.

Even in time of prosperity, local governments are confronted with unwarranted budget reductions. Where's the equity? Has the State forgotten that municipalities collectively are the State?

Now is the time to act — communicate your concerns to members of the Senate and Assembly Appropriations Committees who are presently reviewing the Governor's budget.

Contact the League office for further information.

DRAFT COPY FOR YOUR REVIEW

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EDWARD G. ROSENBLUM

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KENDRA GOLDEN
N. Y. & N. J. BAR

August 17, 1988

Director John R. Baldwin
Division of Taxation
50 Barrack Street
CN 269
Trenton, New Jersey 08646

Re: Proposed Rules
N.J.A.C. 18:12-10.1 through 10.5

Dear Director Baldwin:

Pursuant to your request at our conference held on July 22nd, I am submitting herewith comments on behalf of the Association of Municipal Assessors of New Jersey, the New Jersey State League of Municipalities and West Deptford Township regarding the proposed rules governing the application of L. 1986 c. 117 ("Chapter 117").

1. Legislative History.

As we indicated at the meeting, we believe that the preamble inaccurately interprets the legislative intent in enacting Chapter 117. Although we agree that the Legislature has enacted a number of statutes designed to promote capital investment by business enterprises in New Jersey, unlike those statutes, Chapter 117 was enacted in direct response to what the Legislature perceived to be an alarming trend in recent Tax Court decisions misapplying the rule laid down in Bayonne v. Port Jersey Corp., 7 N.J. 367 (1979) with the result that many categories of property traditionally and historically treated as real property for assessment purposes were declared to be personalty and, therefore, nonassessable. See Stem Bros. v. Alexandria Tp., 6 N.J. Tax 537 (1984) and Lawrence Assoc. v. Lawrence Tp., 5 N.J. Tax 481 (1983). As Governor Kean stated in his conditional veto message:

"This bill is a response to certain recent court decisions that may result in the exemption from local property taxation of certain industrial property that has long been taxed locally."

With the benefit of hindsight, we now know that the Legislature's concern in this regard was entirely appropriate. In Chevron U.S.A. Inc. v. Perth Amboy, 9 N.J. Tax 205 (1987) which involved a contested assessment on a major oil refinery, the Tax Court sitting en banc unequivocally held that, absent the enactment of Chapter 117, the entire refinery would have been declared to be personalty and removed in its entirety from the tax rolls:

"In sum, even though Chevron's refinery could be removed without material injury to itself or the real property, this Court finds that the machinery, equipment and process units implicated in Chevron's refinery are ordinarily intended to be affixed permanently to real property pursuant to c. 117." At p. 244.

Bearing in mind the true legislative policy underlying Chapter 117, we believe that the promulgation of rules by the Division of Taxation liberally interpreting Chapter 117 in order to promote a policy designed to stimulate and foster capital investment by business enterprises in New Jersey is totally unwarranted.

2. Proposed Regulations.

Chapter 117 provides that personal property is taxable as real property unless the personal property is so affixed that it cannot be removed without material injury either to itself or the freehold, and the personal property is ordinarily intended to be affixed permanently to real property.

Under Part "b" of the statute a different test is laid down with respect to machinery, apparatus and equipment which is affixed to real property. The statute says that such machinery, apparatus or equipment is taxable as real estate unless it is "neither functionally essential to a structure the personal property is within or to which the personal property is affixed nor constitutes a structure itself."

We turn now to the proposed regulations.

18:12-10.2, which defines real property, provides in Section (b) that machinery, apparatus or equipment which is real property under the "(a)" test is nonetheless deemed to be personal property if it is neither functionally essential to a structure it is located within nor constitutes a structure itself. This proposed regulation proceeds from the unfounded assumption that parts (a) and (b) of Chapter 117 are conjunctive; they clearly are not. Machinery, apparatus and equipment are not governed by or subject to the test laid down in part (a); rather their assessability is strictly controlled by the two-part test set

forth in paragraph (b). Simply put, machinery, apparatus and equipment is personalty unless it is functionally essential to a structure it is within or constitutes a structure itself and the question of material injury and intent to affix permanently is immaterial. Thus, the definitions of the terms "functionally essential" and "structure" take on crucial significance.

The proposed regulations define "structure" as any assemblage of buildings or construction materials fixed in place for the primary purpose of supporting, sheltering, containing or enclosing persons or property. The definition goes on to say that the term "structure" does not include machinery, apparatus or equipment which the structure is designed to hold in place, shelter, contain or enclose, nor does it include any item of machinery, apparatus or equipment used in the manufacturing process.

Since the word "structure" is only used in the part (b) test which governs the taxability of machinery, apparatus and equipment, the internal inconsistency of the proposed definition is inescapable. First, to define "structure" as an assemblage of buildings or construction materials is an obvious non sequitur since to our knowledge no machinery, apparatus or equipment is fabricated from these materials. Second, excluded from the definition of structure is machinery, apparatus or equipment enclosed by a structure or used in the manufacturing process. If Chapter 117 employs the term "structure" for the exclusive purpose of determining when machinery, apparatus or equipment is taxable as real property and if machinery, apparatus and equipment are generically excluded from the definition of structure, then we are left with the obvious conclusion that the proposed definition is self-defeating and in direct conflict with the express language of Chapter 117.

We would urge the adoption of the following definition of "structure" in place of that proposed by the Division.

"Structure" means machinery, apparatus or equipment which, by virtue of its size, manner of construction or other characteristics constitutes an improvement to real property and thus loses its character as personalty.

The term "functionally essential" is similarly employed only in part (b) of Chapter 117 and thus is confined in its application to the class of property consisting of machinery, apparatus and equipment. The proposed definition, however, provides:

'Functionally essential' refers to machinery, apparatus or equipment and any other property necessary for the habitability of the structure, including, but not limited to, such items as air conditioning and heating equipment or apparatus, lighting and bathroom fixtures,

elevators, escalators, electrical wiring, plumbing, etc.

Nowhere in the statute is mention made of "other property". Thus, the expansion of the classes of property covered represents an unwarranted departure from the express language and unmistakable intent of Chapter 117.

The second flaw in this definition concerns the use of the words "necessary for the habitability of the structure". This represents an unduly narrow and restrictive construction of the statutory language. If habitability is the test, is a walk-in freezer in a restaurant essential to the habitability of the building? Are seats affixed to the floor of a movie theatre essential to the habitability of the theatre? Although the freezer and the seats are clearly functionally essential to the buildings themselves in the examples given above, under the proposed definition they would probably be declared personalty. Moreover, there may be other situations where machinery, apparatus or equipment is so integrated into the structure of a building that it would be physically inseparable without material injury; yet under the proposed definition of "functionally essential" such items would nevertheless qualify as personalty.

In light of the foregoing, we propose the following definition which we believe is more in harmony with the evident intent.

"Functionally essential" means the machinery, apparatus or equipment is either:

- (a) so physically integrated with or affixed to the structure in which it is housed or to which it is attached as not to be removable without material injury; or
- (b) necessary for the habitability of the structure; or
- (c) necessary to the purpose for which the structure was erected and ordinarily intended to remain permanently affixed.

3. List of Illustrative Items.

The list of examples of personal property contains many items which are in gray area. For instance, tellers' counters in a bank, seating booths in a restaurant and bowling lanes may or may not represent personal property, depending upon the facts; and the cases have so held. As such, we believe it is unwise to attempt to list in these regulations by specific category items which are real or personal property. First of all, in the obvious case, the list is superfluous. Secondly, with respect to those items as to which there is uncertainty, each case will turn upon its own facts. On balance, we believe that the inclusion of

such a list will do more harm than good.

If you need any clarification of the above, please feel free to call upon me.

Very truly yours,

EDWARD G. ROSENBLUM

EGRsd

cc: William Dressel, Assistant
Executive Director
Robert W. Pastor, President
The Association of Municipal Assessors of N.J.
Kenneth DiMuzio, Esq.
Saul Wolfe, Esq.
Gerald White, Business Administrator of
West Deptford Township
Mr. William Birchall, Tax Assessor
Mr. Walt Kosul, Tax Assessor

58X

The towns in Gloucester County are against Assembly Bill #300, and as President of the Gloucester County Assessors' Association, I am here today to strongly recommend that this bill not be taken out of Committee.

It has been only a little over a year since the Assembly and the Senate enacted a Tank Bill that was primarily enacted to keep assessment in industry at a status quo. The Assessors of Gloucester County have held to the status quo agreement. Home owners should not be faced with this continous threat of tax increases.

In Greenwich Township, Assembly Bill #300 will not encourage more jobs because taxes are not a reason for industry to locate here. We've had the lowest taxes in the County for the past 25 to 30 years and the only thing that has happened is a continous reduction in jobs because of automation, not taxes.

With the threat of chemicals in our water supply and poor air quality, the only steps taken by the State Assembly and Senate should be to leave the present tax bill passed in 1986 alone and insure that future problems and cost be shared by the homeowner and industry as they are now.

Frank P. Leone

CONCERN OVER LOSS OF EMPLOYMENT BECAUSE OF CURRENT TAX RULES IS UNFOUNDED !!!!!!!!!!!!!!!

UNEMPLOYMENT FIGURES OF STATE OF NEW JERSEY FOR YEARS 1980 thru 1987 ARE AS FOLLOWS:

<u>YEAR</u>	<u>RATE</u>
1980	7.2
1981	7.3
1982	9.0
1983	7.8
1984	6.2
1985	5.7
1986	5.0
1987	4.0
1988	3.9

Seasonally adjusted for month of August.

UNEMPLOYMENT FIGURES SEASONALLY ADJUSTED FOR THE MONTH OF AUGUST FOR STATE OF NEW JERSEY, PENNSYLVANIA AND NATIONALLY ARE:

NEW JERSEY	3.9%
PENNSYLVANIA	4.5%
NATIONALLY	5.6%

THE ABOVE DATA INDICATES THAT EMPLOYMENT IS GOING UP AND NOT DOWN. IT ALSO SHOWS AN INCREASE IN EMPLOYMENT SINCE THE LAST CHANGE TO THE TAX LAWS IN 1986.

RECENTLY IN MOST LOCAL NEWS PAPERS THERE WAS AN ARTICLE WHICH RELATED FEAR THAT NEW JERSEY WOULD NOT HAVE A WORKFORCE SUFFICIENT TO COVER ALL THE AVAILABLE JOBS IN THE EARLY 1990'S.

Statistics were obtained from the Dept. of Labor, state of New Jersey on 9/26/88

BECAUSE OF CURRENT TAX RULES IS
 OF JERSEY FOR YEAR 1987 THIS

CONCERN OVER LOSS OF
 UNFOUNDED

UNEMPLOYMENT FIGURES OF
 1987 ARE AS FOLLOWS:

YEAR	RATE
1987	7.2
1986	7.3
1985	7.0
1984	7.8
1983	8.2
1982	8.7
1981	9.0
1980	8.0
1979	7.9

FOR MONTHS FOR THE MONTH
 AND NATIONALLY

UNEMPLOYMENT FIGURES
 FOR NEW JERSEY
 PENNSYLVANIA 4.8%
 NATIONALLY 5.2%

UNEMPLOYMENT IS GOING
 DOWN SINCE THE
 THERE WAS AN AREA IN WHICH
 WOULD NOT HAVE A WORKING
 IN THE EARLY 1980s

THE ABOVE DATA INDICATES
 IT ALSO SHOWS AN INCREASE
 THE TAX IN 1987
 RECENTLY IN MOST LOCAL
 RELATED REAR THAT NEW
 TO COVER ALL THE AVAILABLE

TO: ASSEMBLY ECONOMIC DEVELOPMENT, AGRICULTURE, AND
TOURISM COMMITTEE

FROM: KENNETH A. DIMUZIO, ESQ.
ATTORNEY, GREENWICH TWP., GLOUCESTER COUNTY, N.J.

RE: STATEMENT IN OPPOSITION TO A-300 a/k/a
"THE MANUFACTURING RETENTION AND EQUITABLE
TAXATION ACT"

DATE: SEPTEMBER 27, 1988

INTRODUCTION

On behalf of Greenwich Township, I offer the above preliminary, cursory comments regarding our opposition to A-300. Given the short notice of the hearing, a more extensive analysis could not be undertaken.

SUMMARY

The Act does the following:

- A. Creates exemptions for personal property used in manufacturing or processing similar to a law in Pennsylvania.
- B. Creates exemptions for tanks used directly in manufacturing or processing.
- C. Admittedly will cause a reduction in revenues.
- D. Creates a fund which is intended to help municipalities recover their losses.

CRITICISM OF A-300

- A. The motive for the bill - it will attract and retain industry - will not be served by the bill.
 - 1. Industry has already left NJ and the reasons were unrelated to taxes.
 - a. Tough environmental and health regulations;
 - b. Poor productivity;
 - c. Increased foreign competition (e.g. cheap Labor);
 - d. oil crisis;
 - 2. No proof A-300 will overcome disincentives.
 - a. Middle Atlantic States suffered losses similar to NJ despite manufacturers' exclusion.
 - 3. Proposed cure (exclude tax on manufacturers) is worse than disease (losing industry) because the shift in tax burden is too painful for majority of residents (especially senior citizens in established industrialized municipalities).
 - 4. Municipalities not as favorable to industry.
 - a. Manufacturing less appealing than "clean"

service industries (the trend);

b. Public not as favorable.

5. Reduces appeal to site new plants.

a. Why would municipality invite problematical

industries which pay less taxes?

1. SARA, TCPA, etc.

B. Fundamental fairness issue.

1. Why should dwellings be subjected to tax while large structures are exempt?

2. Why should residential taxpayers, especially senior citizens, subsidize industry?

3. Why favor old industrial taxpayers over trend setting service industries when the market is bringing the latter to NJ.

C. The "fund" will not work.

1. The State has not kept its promises in the past.

2. Section 5 of the Act provides for payment of either \$15,000,000 OR an amount computed by the Director. It does not say whichever figure is less or more. Also, the director's determination is final. It gives the director

too much discretion.

3. Substitute funds are woefully inadequate.

CONCLUSION

A-300 will not achieve its goal at an acceptable price. Any incremental attraction to industry is far outweighed by the painful shift in the tax burden to residential property owners, especially senior citizens. The ephemeral, state controlled substitute fund will be inadequate. The Director has too much discretion in assessing and allocating the fund.

RE: THE NEED TO AMEND THE BUSINESS PERSONAL PROPERTY TAX LAW
AND REAL PROPERTY TAX LAW IN NEW JERSEY

DATE: NOVEMBER 18, 1985

PREPARED BY: KENNETH A. DIMUZIO, ESQ.

GREENWICH TOWNSHIP ATTORNEY

GLOUCESTER COUNTY, N.J.

The adoption of the Business Personal Property Tax Act in 1966 was intended to motivate industry to move into N.J. by reducing real estate taxation of such property. The 1977 amendment to the law eliminated taxation of such property acquired after January 1, 1977. The following demonstrates that the act, as amended, is a failure. Today it serves only to penalize municipalities by effecting a reduction in the industrial tax base. As a result, there is an unconscionable shift in the tax burden to residential property owners.

(Oct. 6, 7, 8, + 9, 1985)

A recent four-part series in the Gloucester County Times reported:

1. Since 1965, the work force at the Du Pont plant in Greenwich Township declined from 2000 to 250.
2. Since 1983, 400 companies have closed or left the state.
3. Since 1980, more than 100 oil refineries have closed in the United States.
4. Mobil Oil Corp.'s Paulsboro plant is one of 5 major oil refineries remaining in New Jersey. Since 1980 its work force declined from 1450 to 1100. A further reduction of 200 is planned.
5. A plan to rebuild the Paulsboro Mobil refinery was scrapped in the 1970's because of the turmoil in the Middle East.
6. The oil shortage in the 1970's and the building of smaller, more fuel efficient cars has cast a financial shadow on the oil refinery industry.
7. Nationwide the value of refineries has declined

- because there is less demand for refineries.
8. Adjacent to the refinery in Paulsboro is Mobil's Research and Development Corp. The Research Center is not suffering from the industry's refinery closings and has experienced a minimal cutback of 20 employees in the past few years.
 9. Hercules Inc., a chemical manufacturing plant in Greenwich Township, opened in 1954. Employment peaked in 1966 at 180; today, 54 are employed. Since 1970 production has been shrinking. The plant manager blames tough federal and state environmental regulations which do not restrict foreign competition.
 10. Also, the recent worldwide strength of the dollar has permitted foreign competition to hurt American companies.
 11. Many foreign firms receive government subsidies which help keep production costs low.
 12. Hercules has 32 plants, some in Europe and Mexico. The plant manager explained: "If we don't (open foreign plants), somebody else will....We're in this to make money".
 13. The Greenwich Du Pont plant is the only one producing nitric acid in the eastern U.S. If the market shrinks, the plant will shut down.
 14. In 1961, Monsanto Co. built a plant in Logan Township. Employment reductions through attrition are planned because of increased foreign and domestic competition.
 15. In 1962 Shell Chemical Co. built its plant in West Deptford Township. It almost closed in 1983 due to increased domestic competition and poor productivity. The manager explained that the oil and chemical industry must become more efficient to absorb anticipated strict environmental regulations.

The preceding article closes with a comment from the Shell plant manager: the current shakeout of the oil and chemical plants, the increase in foreign competition, the rise in unemployment, and the increase in environmental regulations may have been brought on by the industry itself. "We may be seeing the impact of not being as productive as we should have been."

Better era forecast for chemical firms

By The Associated Press

ATLANTIC CITY — Members of New Jersey's troubled chemical industry on Tuesday heard words of hope from an economic expert, and were urged by the state's environmental commissioner to do their best to allay concerns of the public.

Speaking at the Chemical Industry Council of New Jersey's second annual conference, Dr. Robert D. Anderson, chemical industry's economic analyst, said the summer period is the beginning of the recovery in industry now long as well as gradually.

Anderson said the industry's recovery is being helped by the state's investment in the chemical industry. He said that while the industry is still in a state of transition, the state's investment in the industry is helping to bring about a better era for chemical firms.

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PSE&G's rate plan stalled

ATLANTIC CITY — The state Department of Energy and Public Utilities on Tuesday said it has stalled PSE&G's rate plan. The department said it has no power to approve the plan until it has received more information from the utility.

The department said it has no power to approve the plan until it has received more information from the utility.

67X

GOP pushes for

By The Associated Press

TRENTON — A group of Republican senators have launched a campaign to flood Gov. Thomas H. Kean with postcards urging him to oust Chief Justice Robert N. Wilentz, a Democrat whose term on the state Supreme Court expires this summer.

The seven senators have mailed a letter to between 8,000 and 9,000 GOP activists and elected officials, urging them to fill out enclosed postcards to

lobby Kean to name "a qualified Republican to replace Democrat Wilentz ..." Sen. Gerald Cardinale, R-Bergen, said Tuesday.

"Democrat governors have systematically appointed Democrats to the Supreme Court," the senators' two-page letter says. "The court's policies naturally have reflected Democrat ideology."

"It is only fair and just that a Republican governor should appoint Republicans when the Democrats' terms expire. If Gov. Kean names

Better era forecast for chemical firms

By The Associated Press

ATLANTIC CITY — Members of New Jersey's troubled chemical industry on Tuesday heard words of hope from an economic expert, and were urged by the state environmental commissioner to stop being so suspicious of regulatory officials.

Speaking at the Chemical Industry Council of New Jersey's second annual meeting, Myron Foveaux of the Chemical Manufacturers Association said the somewhat painful restructuring of the petrochemical industry now going on will eventually

have its rewards.

Foveaux said he believes New Jersey rates "moderately well" for new investment by the chemical industry. But, he said, tough state environmental and health laws diminish the state's attractiveness to investors.

Later, Richard Dewling, head of the state Department of Environmental Protection, picked up on the convention's theme, "Building New Partnerships."

"In order to build partnerships, you've got to have trust," Dewling said before he addressed the meeting, which drew about 15 people.

Friendly negotiations between industry officials and state regulators frequently sour when it becomes clear that the manufacturer faces a penalty for his action, the environmental commissioner said.

"There seems to be a corporate aversion to using the word 'penalty,'" Dewling said. "I think we have to get over that hump."

Foveaux, trained in chemical engineering and business administration, said 1982 was the worst year for the industry in New Jersey. At that time, there were 970 chemical plants in the state, 48,000 chemical production workers, and a total of 92,000 employees.

He said plant closings — part of the restructuring he discussed — have relieved some of the industry's problems of over-production.

But, Foveaux said, the situation may have been over-corrected and there will be shortages of some petrochemicals in two to three years.

"It should be clear the situation is not as gloomy as it sounds," he said.

PSE&G's rate plan slashed

TRENTON (AP) — The state Department of Energy has recommended that Public Service Electric & Gas Co. receive only a fraction of its \$403 million rate increase request, saying that the utility has no guarantee that the unit will produce power at the projected capacity.

The department has recommended that the utility receive no more than \$46 million of its pending request.

In testimony submitted Monday to an administrative law judge in Newark, Bharat C. Patel, director of planning and engineering for the DOE, said, "PSE&G has applied for the larg-

Gloucester
County Times
5-21-86

SCHEDULE B

NATIONAL ECONOMIC CHANGES AFFECTING INDUSTRIAL TAXPAYERS

The following material is contained in the February, 1986 summary, Technology and Structural Unemployment: Reemploying Displaced Adults, prepared by the Office of Technology Assessment under the direction of the United States Congress.

1. Between January 1979 and January 1984, 11.5 million workers lost jobs due to plant closings or relocation, abolition of a position or a shift, or slack work.
2. The occupational group most at risk is concentrated in manufacturing, and indeed, manufacturing workers experienced job losses far out of proportion to their numbers.
3. The Middle Atlantic area, which includes New Jersey, had "more than their share" of lost manufacturing jobs.
4. Manufacturing industries, because they make a product that can be consumed far from its place of origin, are especially vulnerable to foreign competition. And indeed, half the loss of jobs due to displacement in 1979-83 were in manufacturing, which accounts for less than 20 percent of employment.
5. The present inequal trade balance between the United States and other nations, resulting from stiff international competition, is partially responsible for the numerous jobs lost in the past few years. Manufacturing employment is particularly vulnerable to displacement resulting from increased international competition. Products can be made in one location and shipped to another, replacing labor in the consuming country.

NATIONAL ECONOMIC CHALLENGES AND POLICY RESPONSES

The following material is contained in the February 1988 summary, Technology and Employment, prepared by the Office of Technology Assessment, U.S. Congress.

Between January 1987 and January 1988, 11.5 million jobs were lost due to the substitution of a position...

The occupational groups in manufacturing, and information processing, and job losses far out of proportion to their numbers.

The Middle Atlantic and New England states had more than their share of job losses in manufacturing...

Manufacturing industries that can be scanned for associated vulnerability to job displacement in 1977-1987, which were less than 10 percent...

The present industrial States and other nations competition, is particularly severe in the case of job losses, particularly in the increased international in one location and another, the country...

UNC STAR-LEDGER/ EAGLETON POLL

FOR RELEASE: SUNDAY, MARCH 16, 1986
RELEASE: SL/EP11-3 (EP61-3)

CONTACT: BOB CARTER,
MICHAEL DELLI CARPINI OR
CLIFF ZUKIN

RELEASE INFORMATION

A story based on the survey findings presented in this release and background memo will appear in Sunday's Star-Ledger. Other newspapers may also use this information in their Sunday editions. Electronic media may release after 6:00 p.m. Saturday, March 15. We ask users to properly attribute this copyrighted information to the "Star-Ledger/Eagleton Poll."

NEW JERSEY RESIDENTS TO PUBLIC OFFICIALS: SPEND MORE BUT TAX US LESS

JOB RATINGS UP OVER 1 YEAR AGO FOR ALL OFFICIALS AND INSTITUTIONS: PRESIDENT, GOVERNOR, STATE LEGISLATURE AND STATE SUPREME COURT

Most New Jerseyans continue to feel their state and local taxes are too high, and that they don't get their money's worth for those taxes. Despite this feeling, however, lopsided majorities also remain in favor of maintaining or increasing government spending for a wide range of programs, according to the latest Star-Ledger/Eagleton Poll.

The survey, conducted with 600 residents between February 17 and 23, also finds that New Jerseyans continue to feel more positively about prominent officials and institutions. The President, Governor, State Legislature and Supreme Court all receive higher job performance ratings than they did at a comparable time in 1985. And the 1985 ratings were themselves an improvement over those given in 1984.

The poll offers both discouraging and encouraging news on the question of how New Jerseyans feel about their tax burden. On the one hand, a clear majority of the public continues to believe that their taxes are too high, and that they do not

-more-

ATTENTION RADIO STATIONS: Audio is available after 6:00 p.m. on Saturday,
March 15 from (201) 932-3605 (Rutgers Feature Phone).

THE STATE UNIVERSITY OF NEW JERSEY
RUTGERS

Eagleton Institute of Politics • New Brunswick • New Jersey 08901 • 201 932-2210

70X

get their money's worth from the taxes they pay. On the other hand, however, the survey also shows the trend toward relatively less dissatisfaction over taxes has continued.

Currently, 58 percent feel their state and local taxes are too high, down from 64 percent five years ago. In addition, 61 percent of the public now say they "pay too much" in taxes for what they get, outnumbering those who feel they "get their money's worth" by a 2-to-1 margin. However, in 1977 those who said they paid too much outnumbered those who didn't by more than 5-to-1. Change from the cynical view of the late 1970s was first seen in a 1980 survey, which found two-thirds feeling they paid too much compared to the one-fourth who felt they got their money's worth.

The public's continuing view that taxes are too high does not, however, result in a desire for cuts in government spending. In fact, a majority of state residents were in favor of spending more on six of the dozen programs asked about. Four-fifths want to see additional funds for toxic waste cleanup and three-quarters want more spent on programs for the elderly. Over 60 percent favor increased funding for programs to protect the environment and aid to the poor, while about 55 percent endorse additional spending on streets and highways and on public grade and high schools.

On none of the 12 services asked about did a greater portion of the public favor spending less rather than more money. Of the remaining services, just under one-half--about 45 percent--favored spending more on public transportation, higher education and police protection. Between 35 and 40 percent supported additional funding for industrial growth and development or on prisons. "Tourism" ranked at the bottom of the list, with only one in four feeling more should be spent to promote the Garden State.

Bob Carter, associate director of the Poll, commented, "There are two messages in these figures. First, they demonstrate the public's deep concern and strong

-more-

feelings about toxic wastes and environmental protection. Second, they suggest that the state's good economic health over the last few years has led to a somewhat more generous mood among the public."

Poll officials said the generally positive climate in the state is also reflected in very high, and in some cases record levels of approval that public officials get from New Jersey residents. Fully 8-in-10 feel that Tom Kean is doing an "excellent" or "good" job as Governor, up from 67 percent in April of last year and from 57 percent in April of 1984. Kean continues to be more popular than Ronald Reagan, whose 69 percent positive job performance rating also represents an increase of just over 20 points since 1984. In addition, the New Jersey Legislature gets more positive marks of "excellent" or "good" than negative ones of "only fair" or "poor" by a margin of 47 to 39 percent. The New Jersey Supreme Court is viewed more favorably than unfavorably by a margin of 41 to 33 percent, with the remainder expressing no opinion.

A statewide survey taken 5 years ago asked about 11 of the 12 services included in the 1986 sampling. A comparison of the two surveys shows increased support for three and decreased support for three others, while support for the remaining five has changed little since 1981. There has been about a 10 percentage point increase in public support for additional government spending on "environmental programs," "programs for the poor," and "streets and highways" over the last five years.

The current survey finds little change over this same time period in preferences for spending on "programs for the elderly," "public grade schools and high schools," "public colleges and universities," "prisons," and "tourism."

The survey found less support now than five years ago for increased spending on public transportation, police protection and industrial development. In 1986, forty-five percent of the state's residents say more should be spent on public transportation, down from 58 percent in 1981; 43 percent feel more should be spent

-more-

on police forces compared to 55 percent five years ago; and only 38 percent say more needs to be spent for industrial growth and development, down 7 points from 1981.

About these figures Carter said, "There are some specific factors or changed conditions which may help to account for changes in support for more spending in these areas. For example, NJ Transit was still relatively new five years ago, and the real improvements in the state's public transportation system which have occurred were not yet apparent in 1981. Also, we know from other Star-Ledger/Eagleton surveys that public perceptions of crime as a serious problem in New Jersey have declined significantly in recent years." Assessing the general attitude of the public towards government spending, he said, "It is important to keep in mind that all of these programs and services are for the most part things the public thinks are important for government to provide. Thus, even in those areas where support for more spending has declined, the shift does not reflect a desire to reduce spending but rather to maintain it at current levels."

Governor Kean's 80 percent approval rating is a slight improvement over his very high 76 percent showing in August, 1985. While his support is strongest among Republicans, with 83 percent giving a positive assessment--including 41 percent saying he is doing an "excellent" job, the Governor's popularity continues to be very broad based with 81 percent of Democrats and 76 percent of Independents giving him positive ratings as well. President Reagan's 69 percent approval rating is also the highest he has received in New Jersey in recent years, and is up from 58 percent in August, 1985. Unlike Kean, however, Reagan is much less popular among Democrats (48 percent "excellent" or "good") than among Independents (70 percent positive) or Republicans (92 percent positive).

WIKI DIAI-KIYU/ EAGLETON POLL

BACKGROUND MEMO--RELEASE SL/EP11-3 (EP61-3), SUNDAY, MARCH 16, 1986

The latest Star-Ledger/Eagleton Poll was conducted between February 17 and 23, 1986, when a random sample of New Jerseyans, (18 years and older) was interviewed by telephone. Figures presented for the total sample of 600 have a sampling error of ± 4 percent at a 95 percent confidence interval. Sampling error is the probable difference in results between interviewing everyone in a population versus a scientific sample taken from that population. Sampling error does not take into account the possible sources of error inherent in any study of public opinion. The questions and figures referred to in this release are as follows:

"Do you think the state and local taxes you pay are too high, too low, or about right? (IF "TOO HIGH": Would you say much too high, or only somewhat too high?)"

	<u>Much too high</u>	<u>Somewhat too high</u>	<u>About right</u>	<u>Too low</u>	<u>Do not pay</u>	<u>Don't know</u>	<u>Total</u>	<u>(n)</u>
February 1986	27%	31%	38%	1%	--	3%	100%	(600)
February 1981	34	30	31	0	2	3	100	(1002)

"Do you think you get your money's worth for the state and local taxes you pay, or do you think you pay too much for what you get?"

	<u>Get money's worth</u>	<u>Pay too much</u>	<u>No Opinion</u>	<u>Total</u>	<u>(n)</u>
February 1986	32%	61%	7%	100%	(600)
October-November 1984	29	64	7	100	(500)
June 1980	25	67	9	101	(1005)
May 1977	15	80	5	100	(1005)

"As you know, most of the money government spends comes from the taxes you and others pay. For each of the following, please tell me whether you think state and local government here in New Jersey should be spending more, less, or about the same as now."

	<u>More</u>	<u>Same</u>	<u>Less</u>	<u>Don't know</u>	<u>Total</u>	<u>(n)</u>
<u>Toxic Waste Cleanup</u>						
--February 1986	79%	15%	5%	1%	100%	(600)
<u>Programs for Elderly</u>						
--February 1986	75	21	3	2	101	(600)
--February 1981	72	22	3	2	99	(1003)
<u>Environmental Programs</u>						
--February 1986	62	27	6	5	100	(600)
--February 1981	53	32	9	6	100	(1003)
<u>Programs for Poor</u>						
--February 1986	62	29	6	3	100	(600)
--February 1981	50	31	14	5	100	(1003)
<u>Streets & Highways</u>						
--February 1986	56	35	8	1	100	(599)
--February 1981	44	44	9	3	100	(1003)
<u>Public Grade & High Schools</u>						
--February 1986	54	37	6	3	100	(600)
--February 1981	52	36	8	4	100	(1003)
<u>Public Transportation</u>						
--February 1986	45	40	11	4	100	(600)
--February 1981	58	28	9	6	101	(1003)
<u>Public Colleges & Universities</u>						
--February 1986	44	44	8	4	100	(600)
--February 1981	45	37	11	7	100	(1003)
<u>Police Forces</u>						
--February 1986	43	47	8	3	101	(600)
--February 1981	55	36	6	3	100	(1003)
<u>Industrial Growth & Development</u>						
--February 1986	38	44	14	5	101	(600)
--February 1981	45	30	19	6	100	(1003)
<u>Prisons</u>						
--February 1986	35	38	19	8	100	(600)
--February 1981	36	35	15	13	99	(1003)
<u>Tourism</u>						
--February 1986	24	53	19	4	100	(600)
--February 1981	26	42	24	8	100	(1002)

"How would you rate the job Tom Kean is doing as Governor--excellent, good, only fair or poor?"

	<u>Excellent</u>	<u>Good</u>	<u>Only fair</u>	<u>Poor</u>	<u>Don't know</u>	<u>Total</u>	<u>(n)</u>
February 1986	27%	53%	14%	4%	3%	101%	(600)
August 1985	22	54	20	2	3	101	(800)
April-May 1985	24	43	24	3	5	99	(1000)
April 1984	13	44	31	5	8	101	(805)
<u>1986 Party</u>							
--Democrat	23	58	15	2	3	101	(179)
--Independent	19	57	17	5	2	100	(232)
--Republican	41	42	11	4	2	100	(180)

"How would you rate the job the New Jersey Supreme Court is doing--excellent, good, only fair or poor?"

	<u>Excellent</u>	<u>Good</u>	<u>Only fair</u>	<u>Poor</u>	<u>Don't know</u>	<u>Total</u>	<u>(n)</u>
February 1986	4%	37%	27%	6%	26%	100%	(600)
April-May 1985	3	34	31	7	25	100	(999)
April 1984	4	26	30	8	32	100	(805)

"How would you rate the job the New Jersey State Legislature is doing--excellent, good, only fair or poor?"

	<u>Excellent</u>	<u>Good</u>	<u>Only fair</u>	<u>Poor</u>	<u>Don't know</u>	<u>Total</u>	<u>(n)</u>
February 1986	4%	43%	32%	7%	15%	101%	(600)
August 1985	5	40	37	6	13	101	(800)
April-May 1985	2	41	37	6	14	100	(500)
April 1984	3	28	45	8	16	100	(805)
<u>1986 Party</u>							
--Democrat	4	46	30	9	12	101	(179)
--Independent	3	38	35	6	19	101	(232)
--Republican	6	45	32	5	12	100	(180)

"How would you rate the job Ronald Reagan is doing as president--excellent, good, only fair or poor?"

	<u>Excellent</u>	<u>Good</u>	<u>Only fair</u>	<u>Poor</u>	<u>Don't know</u>	<u>Total</u>	<u>(n)</u>
February 1986	23%	46%	19%	9%	3%	100%	(600)
August 1985	19	39	25	14	3	100	(800)
April-May 1985	15	40	26	16	3	100	(1000)
April 1984	12	35	37	15	2	101	(804)
October 1983	11	38	36	14	1	100	(804)
<u>1986 Party</u>							
--Democrat	13	35	31	17	3	99	(179)
--Independent	14	56	20	6	4	100	(232)
--Republican	47	45	5	2	0	99	(180)

**COMPARISON OF EMPLOYMENT FOR
MANUFACTURING / NONMANUFACTURING
BUSINESS IN GLOUCESTER COUNTY AND
NEW JERSEY**

GLOUCESTER COUNTY

	<u>1974</u>	<u>1985</u>	<u>% 1974</u>	<u>% 1985</u>
Manufacturing	14,524	14,893	41%	29%
Nonmanufacturing	21,166	35,606	59%	71%

NEW JERSEY

	<u>1974</u>	<u>1985</u>	<u>% 1974</u>	<u>% 1985</u>
Manufacturing	893,703	726,847	36%	26%
Nonmanufacturing	1,484,446	2,086,167	64%	74%
TOTAL	<u>2,324,649</u>	<u>2,813,014</u>		

NEW JERSEY'S
MAJOR INDUSTRIES

Ranked by Annual Employment Growth
1982 to 1984

RANK	INDUSTRY	SIC	1982 EMPLOY.	1984 EMPLOY.	ANNUAL GROWTH EMPLOYM
1	Building Contractor	15	25,166	34,534	17.1
2	Credit Agencies	61	16,175	21,128	14.3
3	Water Transp.	44	13,330	17,307	13.9
4	Business Services	73	162,419	210,185	13.8
5	Special Trade Cont.	17	68,898	86,383	12.0
6	Contract Construc.	16	18,615	23,127	11.5
7	Social Services	83	25,419	31,120	10.6
8	Hotels	70	53,788	64,156	9.2
9	Auto Repair	75	20,113	23,928	9.1
10	Bldg. Materials	52	15,179	17,843	8.4
11	Motor Freight	42	56,349	66,229	8.4
12	Furniture	57	20,034	23,367	8.0
13	Education Serv	82	23,444	27,226	7.8
14	Wholesale-Durables	50	129,483	148,408	7.1
15	Legal Services	81	20,755	23,774	7.0
16	Rest.&Bars	58	145,228	165,286	6.7
17	Real Estate	65	27,004	30,683	6.6
18	Wholesale-nondur	51	86,246	97,984	6.6
19	Food Stores	54	87,352	98,977	6.4
20	Auto Deal/Service	55	48,007	54,376	6.4
21	Ins. Agents	64	17,970	20,257	6.2
22	Personal Ser.	72	29,670	32,992	5.4
23	Loc.Passenger	41	16,967	18,735	5.1
***** ALL INDUSTRIES *****			2,563,900	2,830,700	5.1
24	Apparel Stores	56	40,835	44,985	5.0
25	Rubber/Plastics	30	35,686	38,792	4.3
26	Printing	27	57,950	62,806	4.1
27	Health Serv	80	181,106	195,252	3.8
28	Misc.Retail	59	69,007	73,672	3.3
29	Paper	26	29,967	31,957	3.3
30	Banking	60	45,761	48,533	3.0
31	Elec.Equip	36	88,458	93,510	2.8
32	Gen.Merchand	53	71,652	75,365	2.6
33	Utilities	49	26,898	28,032	2.1
34	Communications	48	58,023	59,268	1.1
35	Misc. Mfg.	39	23,092	23,581	1.1
36	Food	20	47,041	47,470	0.5
37	Primary Metals	33	21,326	21,334	.0
38	Misc. Service	89	40,058	40,042	.0
39	Amus.& Recre	79	31,450	31,166	-0.5
40	Apparel	23	52,497	51,075	-1.4
41	Stone/Clay/Glass	32	26,715	25,965	-1.4
42	Fab.Metals	34	52,221	50,620	-1.5
43	Chemicals	28	124,074	120,203	-1.6
44	Ins. Carriers	63	51,926	50,075	-1.8
45	Instruments	38	35,485	32,796	-3.9
46	Machinery	35	64,040	58,617	-4.3
47	Transp.Equipment	37	23,608	15,723	-18.4

GLoucester County
DISTRIBUTION OF EMPLOYMENT
BY INDUSTRY

1981 Ind. Industry	SIC	1982 EMPLOY	1984 EMPLOY	Annual Growth ('82-'84)	Percent Distribution 1984
-----COUNTY TOTAL-----					
		46,269	50,177	4.1%	100.0%
1 Health Services	80	3,553	3,738	2.5%	7.4%
2 Restaurant & Dns	58	2,710	3,337	7.1%	6.6%
3 Elec. Equipment	36	2,651	3,019	6.7%	6.0%
4 Petroleum	29	3,238	2,611	-19.2%	5.2%
5 Gen. Merchand Stores	53	2,644	2,350	-9.7%	4.7%
6 Special Trade Contr	17	1,575	2,203	17.5%	4.4%
7 Wholesale-Durables	50	1,599	2,179	16.7%	4.3%
8 Mining	---	2,202	2,177	-0.6%	4.3%
9 Food Stores	54	1,940	2,135	4.7%	4.3%
10 Business Services	73	1,678	2,064	10.9%	4.1%
11 Auto Deal/Service	55	1,253	1,619	13.6%	3.2%
12 Wholesale-Merch.	51	1,532	1,568	1.2%	3.1%
13 Misc. Retail Stores	57	1,471	1,474	0.1%	2.9%
14 Fab. Metals	34	1,432	1,387	-2.3%	2.8%
15 Food	20	807	1,273	19.8%	2.5%
16 Chemicals	28	1,383	1,266	-4.3%	2.5%
17 Machinery	35	990	1,034	2.2%	2.1%
18 Printing	27	949	1,029	4.1%	2.1%
19 Motor Freight	42	912	899	-0.7%	1.8%
20 Apparel	23	619	831	15.8%	1.7%
21 Banking	40	842	820	-1.3%	1.6%
22 Apparel Stores	56	727	779	3.4%	1.6%
23 Communication	48	653	758	9.2%	1.5%
24 Building Contractor	15	446	683	23.7%	1.4%
25 Social Serv	83	552	676	10.7%	1.3%
26 Personal Services	72	376	607	23.8%	1.2%
27 Bldg. Materials	52	365	489	15.7%	1.0%
28 Misc. Service	89	413	422	1.1%	0.8%
29 Rubber/Plastics	30	375	415	5.2%	0.8%
30 Furniture Stores	57	276	376	15.7%	0.8%
31 Misc. Mfg.	37	477	378	-12.8%	0.8%
32 Real Estate	65	507	345	-17.5%	0.7%
33 Amus. & Recre	79	435	333	-14.5%	0.7%
34 Utilities	49	358	326	-4.6%	0.6%
35 Ins. Agents	64	257	302	8.4%	0.6%
36 Auto Repair	75	280	302	3.9%	0.6%
37 Primary Metals	33	237	294	11.3%	0.6%
38 Misc Repair	76	215	282	14.5%	0.6%
39 Loc. Passenger Trans	41	194	271	18.3%	0.5%
40 Legal Service	81	236	268	6.6%	0.5%
41 Transp. Equipment	37	164	262	26.3%	0.5%
42 Stone/Clay/Glass	32	249	254	1.1%	0.5%
43 Textile	22	262	236	-5.1%	0.5%
44 Credit Agencies	61	192	225	8.3%	0.4%
45 Education Serv	82	147	210	19.6%	0.4%
46 Instruments	38	279	207	-16.7%	0.4%
47 Hotels	70	187	197	2.1%	0.4%
48 Contract Construct.	16	133	183	17.2%	0.4%
49 Ins. Carriers	63	139	173	11.6%	0.3%
50 Tran. Services	47	109	141	13.6%	0.3%
51 Furniture	25	99	126	12.7%	0.3%
52 Membership Org.	86	113	112	-0.3%	0.2%
53 Water Trans.	44	111	110	-0.3%	0.2%
54 Paper	26	91	107	8.3%	0.2%
55 Motion Pictures	78	55	102	36.0%	0.2%
56 Lumber	24	66	91	17.4%	0.2%
57 Pipelines	46	33	33	-3.4%	0.1%
58 Private Households	88	22	23	2.2%	.0%
59 Leather	31	8	13	29.1%	.0%
60 Air Transp.	45	14	11	-10.0%	.0%
61 Sec. Drivers	62	8	10	11.8%	.0%
62 Comb. R.E. & Insur	66	5	5	-3.4%	.0%
63 Agriculture	---	2	4	41.4%	.0%
64 Museum/Art	84	0	0	0.0%	0.0%
65 Holding & Other	67	0	0	0.0%	0.0%
66 Tobacco	21	0	0	0.0%	0.0%

Source: H. J. Dep't of Labor
Division of Planning & Research
Covered Employment Statistics

COVERED EMPLOYMENT TRENDS IN GLOUCESTER COUNTY, 1976-1982
(Number of Jobs - September)

	1976	1977	1978	1979	1980	1981	1982	Number Change 1976 - 1982	% Change 1976 - 1982
Major Industry Groups									
Manufacturing Industry	14,199	13,303	14,893	15,009	15,883	15,104	14,585	386	2.7 %
Wholesale Trade	2,479	2,598	2,408	2,849	2,764	3,482	3,187	708	28.6
Retail Trade	10,216	10,406	11,272	11,082	11,059	11,767	11,730	1,514	14.8
Transportation	1,413	1,308	1,439	1,587	1,513	1,528	1,393	- 20	- 1.4
Communications & Utilities	794	867	894	912	1,011	1,004	994	200	25.2
Small Services and Amuse.	5,862	6,491	7,135	7,254	7,332	7,592	8,295	2,433	41.5
Fin., Ins., and Real Estate	1,519	1,809	1,730	1,751	1,868	1,976	1,943	424	27.9
Construction Contract	1,953	2,283	2,610	2,557	2,250	2,235	2,258	305	15.6
Mining, Agricult. and Other	271	283	1,788	2,065	2,303	2,123	2,150	• 362	• 20.2
**Total Private Sector	38,706	39,155	44,169	45,066	45,983	46,811	46,535	6,312	15.7
Mfg. Major Groups									
Food and Kindred Products	861	845	955	1,657	1,104	860	940	79	9.2
Tobacco Manufacturing	--	--	--	--	--	--	--	--	--
Textile Mill Products	154	239	310	--	243	66	--	- 154	--
Apparel & Needle Products	884	816	910	930	914	841	692	- 192	21.7
Lumber & Wood Products	79	94	126	126	83	118	65	- 14	- 17.7
Furniture & Fixtures	--	116	85	101	115	106	106	106	--
Paper & Allied Products	--	--	--	--	66	79	--	--	--
Printing & Publishing	533	574	766	924	893	877	953	420	78.8
Chemical & Allied Products	1,616	1,574	1,630	1,497	1,309	1,275	1,371	- 245	15.2
Petroleum & Coal Products	3,113	3,099	3,101	3,235	3,274	3,236	3,221	108	3.5
Rubber & Misc. Plastics	357	230	476	549	476	611	401	44	12.3
Leather Industry	--	--	--	--	--	--	--	--	--
Stone, Glass & Ceramics	343	261	290	323	347	281	246	- 97	28.3
Primary Metal Products	207	229	259	286	273	258	--	- 207	--
Fabricated Metal Products	1,282	1,182	1,527	1,538	1,595	1,577	1,452	170	13.3
Machinery (Except Elec.)	496	607	763	956	1,005	926	971	475	95.8
Elec. Goods & Mach.	2,933	2,868	3,089	2,668	3,316	3,006	2,627	- 306	- 10.4
Automobile Industry	199	--	--	--	--	--	--	--	--
Aircraft Industry	--	--	--	--	--	--	--	--	--
Shipbuilding Industry	--	--	--	--	--	--	--	--	--
Miscellaneous Vehicles	--	--	--	--	--	--	--	--	--
Instruments & Clocks	76	--	135	278	284	293	295	219	288.2
Miscellaneous Small Goods	995	179	248	308	488	610	485	- 510	- 51.3
**Total	14,199	13,294	14,498	15,009	15,883	15,355	14,583	386	2.7

* Comparison is for period 1978-1982 since unemployment compensation for agricultural workers prior to Jan. 1, 1978 was subject to more limited definition.
** Totals include some items not shown in detail in order to prevent disclosure of employer's identity.

SOURCE: 12

WORCESTER COUNTY EMPLOYMENT PROJECTIONS
(in thousands)

SECTOR	/ BEA* /		1990	2000	COMMENTS
	1967	1980			
Agriculture	3.1	3.0	2.9	2.8	Agriculture will continue to be an important part of the County's economic base, but, as the County experiences increased development, a slight decline can be expected
Construction	2.3	3.3	4.6	5.9	Construction in the County is highly dependent on single family unit development, which is expected to regain its growth rate when the economy improves. Therefore, a long run upward trend is anticipated.
Non-Durable Manufacturing	8.3	8.2	8.5	8.6	The past trend is erratic, but with very little net change for the period. Slight growth at a rate that is lower than population growth is expected.
Durable Manufacturing	4.8	7.5	8.8	10.1	Past trends have shown significant growth in the County, contrary to regional and national trends. Continued growth is expected, although at a somewhat lower rate.
Transportation and Utilities	1.8	2.8	3.5	5.2	Recent past trends have shown transportation to be relatively healthy and growing; utilities have been erratic but show positive change. Continued growth is expected.
Wholesale Trade	1.9	3.2	4.2	5.3	Continued growth is expected, influenced by significant growth in population and retail trade.
Retail Trade	6.5	12.9	16.4	19.9	Substantial growth has been experienced, due in part to the development of Deptford Mall during this period. Growth is expected to continue, at a slightly lower rate, as new housing developments require new shopping facilities.
Finance	1.1	2.2	3.2	4.2	Continued growth is expected as the County experiences population and employment growth.
Services	5.6	10.0	14.5	19.2	The expansion of services is highly influenced by population growth and affluence. The County has experienced major growth in this sector, which should continue to expand as the County continues to grow in population and employment.
Fed. Civil	.4	.5	.6	.7	Slight growth is expected-only enough to minimally serve a growing population.
Fed. Military	1.1	.7	.7	.8	Little change in this sector is anticipated
State Local Gov't	6.1	9.0	10.2	10.2	Similar to the Federal-Civilian sector, only enough growth to minimally serve a growing population is anticipated.
TOTAL	43.0	63.3	78.1	93.7	

* U.S. Bureau of Economic Analysis

SOURCE: 17

Table V-14

81X

Reforming the Business Personal Property Tax

by Kenneth A. DiMuzio, Esq.
Municipal Attorney, Township of Greenwich
(Gloucester)

LIKE a thief in the night, the "business personal property exemption" is stealing ever larger segments of the municipal tax base at an alarming rate. Furthermore, the theft is occurring at a time when municipalities are suffering drastic reductions in other revenue sources. A crisis is looming calling for legislative reform.

Statement of the Problem

All real estate is subject to municipal taxation unless declared exempt.¹ The "business personal property tax" enacted in 1966 exempted machinery and equipment which could be removed from property without "material injury" to the real estate.² In 1977, the business personal property tax was terminated for such property acquired or brought into the state after January 1, 1977.³ The "exemption," however, remains.

Recent tax court decisions have broadened the exemption to a degree that threatens the fiscal stability of municipalities. Given increasing costs of government and reduction in sources of revenue, a municipality has two options: increase the tax burden of residential

property owners or seek legislative reform modifying the "exemption" for business machinery and equipment.

Origination of the Crisis

The crisis began in 1979, 13 years after adoption of the business personal

"Like a thief in the night, the 'business personal property exemption' is stealing ever larger segments of the municipal tax base at an alarming rate."

property tax. To understand the genesis of the crisis, however, a brief review of the tax statutes as interpreted in New Jersey court cases is necessary.

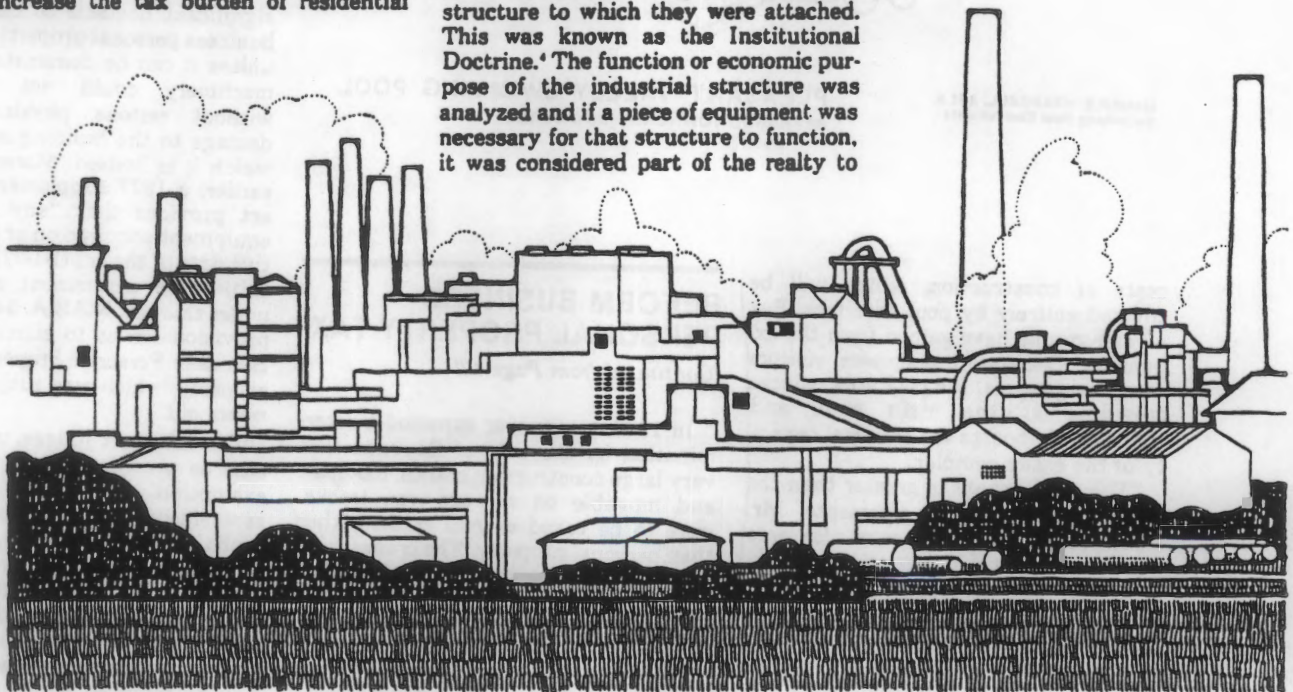
Under N.J.S.A. 54:4-1 municipalities are authorized to tax real and personal property which are not expressly exempt from taxation. For municipal tax purposes, real estate included machinery and equipment which were essential for the completeness of the structure to which they were attached. This was known as the Institutional Doctrine.⁴ The function or economic purpose of the industrial structure was analyzed and if a piece of equipment was necessary for that structure to function, it was considered part of the realty to

which it was attached. Thus, in the *National Lead Co.* case the appellate court concluded that certain heavy machinery and equipment, although removable without actual physical injury to the real estate or to the equipment itself, was nevertheless to be treated for tax purposes as realty.⁵ This case was decided in 1975.

Although the court applied the Institutional Doctrine to real estate tax issues after 1966, a statute was adopted in 1966 which influenced later court decisions — the "Business Personal Property Tax Act."⁶ In this act, the State of New Jersey preempted the tax on business personal property. As a result, municipalities were no longer authorized to tax business personal property, but assessors were still to determine what kinds of "personal property" actually became part of the realty and, therefore, "fixtures" subject to taxation by the municipality. Under this new statute, the only way such property could be taxed by the municipality was if it were:

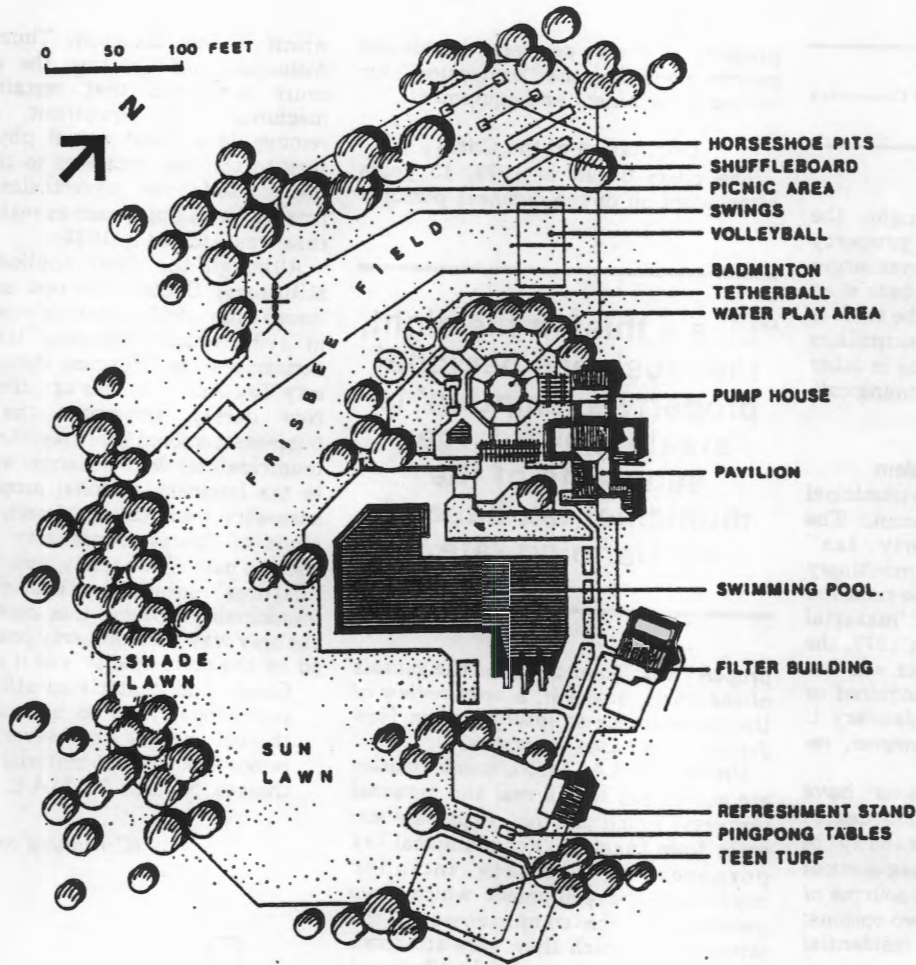
Goods and chattels so affixed to real property as to become part thereof and not to be severable or removable without material injury thereto. N.J.S.A.54: 11A-2.

(Continued on Page 32)



POOLING RESOURCES — KEY TO SUMMER FUN IN BERNARDS TOWNSHIP

(Continued from Page 31)



MAURICE WRANGELL, ASLA.
Swimming Pool Consultants

PLEASANT VALLEY SWIMMING POOL BERNARDS TOWNSHIP, NEW JERSEY

costs of construction, which will be covered entirely by pool user fees. But all age groups have gained from the expansion. Because it disperses visitors over a larger area, the play area reduces crowding at the main pool, and significantly boosts the practical capacity of the entire complex.

"The total benefit is greater than the sum of the parts," comments Mr. Wrangell, "because the water play area works in concert with the original facility to add both versatility and efficiency to the over-all design." The people of Bernards Township sense a less tangible benefit as well: the feeling of community pride that grows from a group effort well done.

REFORM BUSINESS PERSONAL PROPERTY TAX

(Continued from Page 12)

In 1979, a taxpayer appealed a determination by the City of Bayonne that very large construction cranes, mounted and movable on railroad-type tracks, were to be taxed as real estate rather than personal property. The cranes were huge, each approximately 50 feet wide and standing approximately 170 feet above the rail. They weighed approximately 1,000,000 pounds each.

The N.J. Supreme Court in *City of Bayonne v. Port Jersey Corporation*,

decided this issue in favor of the taxpayer. As a result, municipalities have been faced with a significant loss in real estate revenues. In deciding the case, the Supreme Court stated that the test to determine whether a particular piece of property was real estate or personal property was the test stated in the mentioned statute:

Whether removal or severance of particular goods or chattel will result in material injury to the realty.

The court decided this phrase meant that chattels (personal property) became fixtures (real estate) only if their removal would do irreparable or serious physical injury or damage to the freehold (structure and land).⁹ In so doing, the Supreme Court rejected the earlier Institutional Doctrine which looked to the purpose of the heavy machinery and equipment as it was incorporated into the structure. The Court indicated that the functional or economic injury was not the test any longer but rather *physical injury to the structure of freehold was the test.*⁹

In its opinion, the Supreme Court reviewed the legislative policy behind the 1986 amendment to the tax statutes creating the Business Personal Property Tax. It noted that the purpose of the new law was to decrease the tax burden on industry in order to attract new industry to New Jersey.¹⁰ This reduction was effected by removal of the burden of local property taxation from machinery and equipment used in business. The court indicated it gave great weight to this legislative aim in reaching its conclusion that the huge cranes were not subject to local taxation.¹¹

The *City of Bayonne* case creates a significant obstacle to classification of business personal property as real estate unless it can be demonstrated that the machinery could not be removed without serious physical injury or damage to the building or structure in which it is housed. Moreover, as noted earlier, a 1977 supplement to the 1966 act provides that "any machinery or equipment acquired on or after the effective date of the act (1-1-77) should not be subject to assessment and taxation" under this act. N.J.S.A. 54:11A-3.1. This provision serves to eliminate the State Business Personal Property Tax as old property (which was subject to the tax) wears out.

The tax court judges, using the crane case as precedent, have broadened the exemption to effect reductions in assessments for shopping malls,¹² asphalt plants,¹³ banks,¹⁴ and above ground and below ground storage tanks.¹⁵ Recently, the extent of the exemption reached absurd heights: the wood in a bowling alley is no longer considered real estate; instead, because it may be removed without "material in-

the trend of the case law is not municipalities will be left with foundations as the only business ratable.

The reform must center upon the source of the Supreme Court exemption — elimination of the "material injury" test under the business personal property tax and restoration of the traditional Fixtures Doctrine.

Impact of the Material Injury Test on Ratables

Before analyzing the various justifications for legislative reform of the "material injury" test, a glimpse at future ramifications of the failure to act is in order. Applying the test to storage tanks alone, one refinery has claimed a \$10 million reduction in its \$81 million assessment.¹⁷ Overall, the refinery seeks a reduction to a \$21-\$27 million assessment.¹⁸

The Mobil Oil Company in Greenwich Township (Gloucester County) has appealed its \$145.7 million assessment, based in part on the business personal property issue. Should the tax court award a 50 percent reduction in the assessment (less than the company is seeking), the following revenue will be lost: \$220,800/yr. — Greenwich Township, \$565,800/yr. — Board of Education, and \$593,400 — Gloucester County. If the appeal is successful, other municipalities will be called upon to fund the deficit suffered by the county.

In addition, the ripple effect of successful appeals cannot be underestimated. Other business and industrial property owners will file similar appeals encouraged by such precedents as the removable bowling alley. Perhaps only then will all municipalities feel the true impact of the "material injury" test — a test causing untold material injury to municipal revenue and the residential taxpayers who will be called upon to fund the shortfall!

The time to act is now. And the justifications supporting the call for reform are many.

Justification for Legislative Reform

The law must be changed because:

1. "Material injury" is obsolete as a test for exemption.
2. "Material injury" exemptions discriminate against residential property owners.
3. The 1966 act creating the exemption failed to achieve legislative aims that motivated its adoption.
4. Municipalities need to preserve current revenue sources to prevent an unconscionable shift in the tax burden to the residential property owner.

The Test is Obsolete.

The 1966 introduction of the material injury test was made without antici-

ped the trend of the case law is not municipalities will be left with foundations as the only business ratable. The reform must center upon the source of the Supreme Court exemption — elimination of the "material injury" test under the business personal property tax and restoration of the traditional Fixtures Doctrine. Before analyzing the various justifications for legislative reform of the "material injury" test, a glimpse at future ramifications of the failure to act is in order. Applying the test to storage tanks alone, one refinery has claimed a \$10 million reduction in its \$81 million assessment.¹⁷ Overall, the refinery seeks a reduction to a \$21-\$27 million assessment.¹⁸ The Mobil Oil Company in Greenwich Township (Gloucester County) has appealed its \$145.7 million assessment, based in part on the business personal property issue. Should the tax court award a 50 percent reduction in the assessment (less than the company is seeking), the following revenue will be lost: \$220,800/yr. — Greenwich Township, \$565,800/yr. — Board of Education, and \$593,400 — Gloucester County. If the appeal is successful, other municipalities will be called upon to fund the deficit suffered by the county. In addition, the ripple effect of successful appeals cannot be underestimated. Other business and industrial property owners will file similar appeals encouraged by such precedents as the removable bowling alley. Perhaps only then will all municipalities feel the true impact of the "material injury" test — a test causing untold material injury to municipal revenue and the residential taxpayers who will be called upon to fund the shortfall! *The time to act is now.* And the justifications supporting the call for reform are many. **Justification for Legislative Reform** The law must be changed because: 1. "Material injury" is obsolete as a test for exemption. 2. "Material injury" exemptions discriminate against residential property owners. 3. The 1966 act creating the exemption failed to achieve legislative aims that motivated its adoption. 4. Municipalities need to preserve current revenue sources to prevent an unconscionable shift in the tax burden to the residential property owner. **The Test is Obsolete.** The 1966 introduction of the material injury test was made without antici-

The Test is Discriminatory.

Technology has not only rendered the test an anachronism. Technology may be uniformly applied to residential as well as industrial property to satisfy the "material injury" test. But the residential property owner is not entitled to the "business personal property exemption." Hence, industrial storage tanks larger than homes are exempt from tax because they may be removed without damaging the real estate. When asked why the same reasoning could not be applied to a residential home, an oil refinery tax expert quipped, "It's different because the State of New Jersey created business personal property. Otherwise there is no difference."¹⁹

Unlike the taxpaying homeowner, industry not only enjoys the advantage of passing its tax bill on to the purchaser of its product — its product is made by tax exempt property! This blatant discrimination is indefensible. Moreover, the inequitable distribution of the tax burden is not mitigated by assumed

The Exemption Did Not Work.

The exemption of business personal property was supposed to create a fiscal climate that would attract industry to New Jersey.²¹ The 1966 act has failed miserably. Since 1983 alone, 400 companies have closed or left the state.²² Since 1965, the work force at the DuPont plant in Greenwich Township (Gloucester County) declined from 2,000 to 250.²³ In 1966, Hercules, Inc., another Greenwich plant, had peak employment of 180 workers; today, 54 are employed.²⁴ Only five oil refineries remain in New Jersey.²⁵ Congressional studies document the loss of heavy manufacturing jobs in the Northeast and a shift to a service-oriented economy.²⁶

According to industry representatives, industry left due to: the 1970's oil crisis; the building of smaller, fuel efficient cars; tough federal and state environmental regulations; poor productivity and increased domestic and foreign competition.²⁷ Municipal taxes were not cited as a reason for the exodus of industry.

Today we are about to shift the lion's share of the tax burden to the residential taxpayer under the guise of an antiquated exemption that never realized its goal of inducing industry to enter the state. Nor has the exemption prevented industry's exit by its favorable treatment of business personal property.

The Climate Has Changed: 1986 vs. 1966

In 1966 the business property exemption was considered necessary to attract industry to New Jersey. In 1986, according to a recent poll,²⁸ a clear majority of New Jersey residents complained that

(Continued on Page 34)

524 — Where Are You?

Of the 567 municipalities in New Jersey, last year only 43 entered the annual Municipal Public Information Contest, a joint effort of the League, Rutgers and the N.J. Municipal Management Association.

For 1986, the 25th year of the contest, we encourage all municipalities to be a part of the competition. We know many municipalities have newsletters, annual reports, calendars, special reports, etc. in an effort to foster positive public relations.

Details of how to enter the contest will be in the June issue of the magazine. Also spiffy red, white and blue brochures outlining the rules will be mailed within the next two months. We'll be looking for your entry.



84X

REFORM BUSINESS PERSONAL PROPERTY TAX

(Continued from Page 33)

taxes were too high. Nevertheless, these same residents favored an increase in spending for programs to protect the environment. Only 38 percent of the residents polled wished to have more public funds spent on industrial growth and development — down seven points from a 1981 poll.

The climate has clearly changed. Current voters will not tolerate perpetuation of a business property exemption that shifts the tax burden to the homeowner — a burden the clear majority of residents already feel is too onerous!

The status quo must be preserved to protect residential taxpayers.

At no time in history have municipalities suffered such drastic increases in costs (e.g., liability insurance and solid waste disposal). Unfortunately, these costs arise at a time of unprecedented reductions in revenue sources (i.e., losses of \$16.5 million due to AT&T divestiture, potential loss of \$225 million in Federal Aid and potential loss of \$165 million in Franchise Gross Receipts monies). Municipalities simply cannot tolerate any further expansion of the business personal proper-

ty exemption which further reduces municipal revenues.

For reasons already stated, the windfall being generated by the "material injury" test unfairly shifts the tax burden to the residential taxpayer. That burden will be unbearable if the status quo is not preserved by elimination of the "material injury test" as the basis for the exemption.



The Reform Measure: Senate Bill 1858.

Reform legislation is neither complex nor novel. It simply restores the traditional law of fixtures to the field of taxation of real and personal property. Senate Bill 1858 proposes a simple amendment to the tax laws to achieve this result. The amendment, in pertinent part, reads:

Real property taxable under this chapter shall mean all land and im-

provements thereon and shall include personal property which is: (1) annexed to the real property or an appurtenance thereto; (2) appropriated to the use or purposes of that part of the real property to which the personal property is annexed; and (3) intended by the party making the annexation to be a permanent accession to the freehold.

The amendment will impose no new tax on business or industry. To the contrary, it will merely retain the status quo by eliminating the basis upon which recent Tax Court decisions are expanding the business property "exemption" so as to create windfalls for business and industry.

Armed with justifications for reform, representatives of municipal and county government and boards of education should immediately deluge local legislators with the demand that Senate Bill 1858 be enacted without delay. Perpetuation of "material injury" exemptions will mortally wound municipal budgets beyond reasonable repair. Healing will occur at the expense of the residential property owner. This amendment provides the least painful remedy by providing a solution as old as the law of fixtures.

FOOTNOTES

1. N.J.S.A. 54:4-1 *et seq.*
2. N.J.S.A. 54:11A-2
3. N.J.S.A. 54:11A-3.1
4. *National Lead Co. v. Borough of Sayreville*, 132 N.J. Super. 30, 331 A.2d 633 (App. Div. 1975).
5. *Id.*
6. N.J.S.A. 54:11A-1 *et seq.*
7. 79 N.J. 367, 399 A.2d 649 (1979).
8. *Id.* at _____, 399 A.2d at 654.
9. *Id.*
10. *Id.* at _____, 399 A.2d at 654.
11. *Id.* at _____, 399 A.2d at 656.
12. *Lawrence Associates v. Lawrence Township*, 5 N.J. Tax 481 (1983).
13. *Sta-Seal, Inc. v. Director, Division of Taxation*, 5 N.J. Tax 257 (1983), 6 N.J. Tax 345 (App. Div. 1984), *certif. den.*, 97 N.J. 644 (1984).
14. *Bostian v. Franklin State Bank*, 1 N.J. Tax 270, *aff'd* 2 N.J. Tax 391 (1980).
15. *Stem Brothers, Inc. v. Alexandria Township*, 6 N.J. Tax 537 (1984).
16. *Minetto v. Borough of Northvale*, 7 N.J. Tax 293 (1985).
17. *The Gloucester County Times*, March 18, 1986, p. A-1.
18. *Ibid.* at A-2.
19. N.J.A.C. 5:23-2.22
20. *The Gloucester County Times*, March 18, 1986, p. A-2.
21. 79 N.J. at _____, 399 A.2d 654.
22. "Our Aging Riverfront," *The Gloucester County Times*, 4-part series, October 6, 7, 8, and 9, 1985.
23. *Ibid.*
24. *Ibid.*
25. *Ibid.*
26. "Technology and Structural Unemployment: Reemploying Displaced Adults," *Office of Technology Assessment*, United States Congress, February, 1986.
27. See note 19, *supra*.
28. *The Star-Ledger*, Eagleton Poll, 3/16/86 Release SLJEP 11-3 (EP61-3).

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TAXING DISTRICT	AVERAGE HOUSE ASSESS 'T	NUMBER OF DWELLINGS	NET TAX INCREASE HOUSEHOLD.	AGGREGATE TAX INCREASE
CLAYTON	44,900.00	1,684	\$37.80	151,223.20
DEPTFORD	42,000.00	6,468	\$92.40	597,643.20
E. GREENWICH	66,800.00	1,210	\$82.16	99,413.60
ELK	49,200.00	950	\$44.28	42,066.00
FRANKLIN	27,700.00	3,865	\$49.86	192,708.90
GLASSBORO	38,200.00	2,771	\$106.96	296,386.16
GREENWICH	44,100.00	1,659	\$299.83	497,500.92
HARRISON	71,900.00	862	\$0.00	0.00
LOGAN	37,100.00	1,263	\$144.69	182,743.47
MANTUA	61,900.00	2,517	\$86.66	218,123.22
MCINROE	53,200.00	5,835	\$0.00	0.00
NAT'L PARK	42,700.00	1,014	\$42.70	43,297.80
NEWFIELD	39,000.00	466	\$148.20	69,061.20
PAULSBORO	23,600.00	1,944	\$0.00	0.00
PITMAN	48,400.00	2,792	\$96.80	270,265.60
S. HARRISON	77,000.00	328	\$123.20	40,409.60
SWEDESBORO	31,900.00	553	\$89.32	49,393.96
WASHINGTON	46,500.00	8,992	\$74.40	669,004.80
WENONAH	77,000.00	748	\$69.30	51,836.40
W. DEPTFORD	50,600.00	4,625	\$359.26	1,661,577.50
WESTVILLE	28,200.00	1,368	\$93.06	127,306.08
WOODBURY	49,700.00	2,887	\$89.46	258,271.02
W'BY HGTS	43,200.00	994	\$125.28	124,528.32
WOOLWICH	40,600.00	250	\$105.56	26,390.00
				5,669,150.95

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CHAPTER 2

Air Pollution

- **Statutory Provisions**
 - Air Pollution Control Act (1954), N.J.S.A. 26:2C-1 et seq.*
 - Air Pollution Emergency Control Act (1967), N.J.S.A. 26:2C-26 et seq.*
- **Administrative Rules**
 - Bureau of Air Pollution Control, N.J.A.C. 7:27-1.1 et seq.*
 - Rules of Practice and Procedure of the Bureau of Air Pollution Control, N.J.A.C. 7:27A-1.1 et seq.*
 - Sampling and Analytical Procedures, N.J.A.C. 7:27B-1.1 et seq.*
- **Lead Decisions**
 - State Dept. of Health v. Owens-Corning Fiberglas Corp., 100 N.J. Super. 366 (App. Div. 1968), aff'd o.b. 53 N.J. 248 (1969)*
 - Consolidation Coal Corp., et al. v. Kandle, et al., 105 N.J. Super. 104 (App. Div. 1969), aff'd o.b. 54 N.J. 11 (1969)*
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 - Clean Air Act, as amended, 42 U.S.C. §7401 et seq.*
- **Journal Articles**
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 - Moran, "Air Pollution Control Act and Its Administration," 9 *Rutgers L. Rev.* 640 (1955).
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 - Bolbach, "Land Use Controls Under The Clean Air Act," 6 *Seton Hall L. Rev.* 413 (1975).

CHAPTER 4

Coastal Area

- **Statutory Provisions**
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Shore Protection Bond Act of 1983, L.1983, c.356
- **Administrative Rules**
Coastal Area Review Board, N.J.A.C. 7:7D-1.1 et seq.
CAFRA Rules and Regulations, N.J.A.C. 7:7D-2.1 et seq.
Coastal Resource and Development Policies, N.J.A.C. 7:7E-1.1 et seq.
- **Lead Decisions**
Toms River Affiliates v. Dept. of Env. Prot., 140 N.J. Super. 135 (App. Div. 1976), cert. den. 71 N.J. 345 (1976)
Public Interest Research Group v. State, 152 N.J. Super. 191 (App. Div. 1977), cert. den. 75 N.J. 538 (1977)
Crema v. N.J. Dept. of Env. Prot., 94 N.J. 286 (1983)
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- **Federal Statutes**
Coastal Zone Management Act of 1972, as amended, 16 U.S.C. § 1451 et seq.
- **Journal Articles**
Note, Jaffee, "State Citizens Rights Respecting Greatwater Resource Allocation: From Rome to New Jersey," 25 *Rutgers L. Rev.* 571 (1971).
- **Cross References**
Beach Access, Chapter 3; Tidelands, Chapter 23.

CHAPTER 10

Flood Control

- **Statutory Provisions**

- State Flood Control Facilities Act, N.J.S.A. 58:16A-1 et seq.*

- Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.*

- County Flood Control Financing Law, N.J.S.A. 40:23-34 et seq.*

- Emergency Flood Control Bond Act, L.1978, c.78*

- **Administrative Rules**

- Water Supply and Flood Plain Management, N.J.A.C. 7:13-1.1 et seq.*

- Floodway and Flood Hazard Area Delineation, N.J.A.C. 7:20-6.1 et seq.*

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- **Lead Decisions**

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- **Federal Statutes**

- Federal Flood Control, 33 U.S.C. §701 et seq.*

- National Flood Insurance, 42 U.S.C. §4001 et seq.*

- **Cross-References**

- Zoning—Land Use, Chapter 27.*

CHAPTER 11

Hackensack Meadowlands

- **Statutory Provisions**
Hackensack Meadowlands Reclamation and Development Act, N.J.S.A. 13:17-1 et seq.
New Jersey Sports and Exposition Authority Law, N.J.S.A. 5:10-1 et seq.
- **Administrative Rules**
Hackensack Meadowlands Development Commission Administrative Rules, N.J.A.C. 19:3-1.1 et seq.
New Jersey Sports and Exposition Authority Administrative Rules, N.J.A.C. 19:20-1.1 et seq.
- **Lead Decisions**
Meadowlands Reg. Redevelopment Agency v. State, 63 N.J. 35 (1973), appeal dismissed 414 U.S. 991, 94 S.Ct. 343, 38 L.Ed.2d 230 (1973)
N.J. Sports & Exposition Authority v. McCrane, 61 N.J. 1 (1972)
In re Sports Complex Hackensack Meadowlands, 62 N.J. 248 (1973), cert. den. 414 U.S. 989, 94 S.Ct. 291, 38 L.Ed.2d 228 (1973)
- **Cross References**
Solid Waste, Chapter 22; Tidelands, Chapter 23.

CHAPTER 12

Hazardous Waste

- **Statutory Provisions**
 - Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq.*
 - Major Hazardous Waste Facilities Siting Act, N.J.S.A. 13:1E-49 et seq.*
 - Environmental Cleanup Responsibility Act, N.J.S.A. 13:1K-6 et seq.*
 - Worker and Community Right to Know Act, N.J.S.A. 34:5A-1 et seq.*
 - Hazardous Discharge Bond Act, L.1981, c.275*
- **Administrative Rules**
 - Discharge of Petroleum and Other Hazardous Substances, N.J.A.C. 7:1E-1.1 et seq.*
 - Hazardous Waste Management, N.J.A.C. 7:14A-4.1 et seq., 7:26-1.4 et seq.*
 - Interim Environmental Cleanup Responsibility Act Regulations, N.J.A.C. 7:1-3.1 et seq.*
- **Lead Decisions**
 - Lansco, Inc. v. Dept. of Env. Prot. of N.J., 145 N.J. Super. 433 (App. Div. 1976)*
 - State v. Exxon Corporation, 151 N.J. Super. 464 (Ch. Div. 1977)*
 - N.J. Dept. of Env. Prot. v. Ventron Corp., 94 N.J. 473 (1983)*
 - GATX Term. Corp. v. Env. Prot. Dept., 86 N.J. 46 (1981)*
- **Federal Statutes**
 - Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 et seq.*
 - Hazardous Substance Response Revenue Act of 1980, 26 U.S.C. §4611 et seq.*
 - Resource Conservation and Recovery Act of 1976, 42 U.S.C. §6901 et seq.*
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- **Cross References**
 - Solid Waste, Chapter 22; Water Quality, Chapter 24.

CHAPTER 15

Noise

- **Statutory Provisions**
Noise Control Act of 1971, N.J.S.A. 13:1G-1 et seq.
- **Administrative Rules**
Noise Control, N.J.A.C. 7:29-1.1 et seq.
Noise Determination, N.J.A.C. 7:29B-1.1 et seq.
- **Lead Decisions**
Benton v. Kernan, 130 N.J. Eq. 193 (E. & A. 1941)
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Malhame v. Bor. of Demarest, 162 N.J. Super. 248 (Law Div. 1978), appeal dismissed
174 N.J. Super. 28 (App. Div. 1980)
- **Federal Statutes**
Noise Control Act of 1972; Quiet Communities Act of 1978, 42 U.S.C. § 4901 et seq.

CHAPTER 19

Pinelands

- **Statutory Provisions**
Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq.
- **Administrative Rules**
Pinelands Comprehensive Management Plan, N.J.A.C. 7:50-1.1 et seq.
- **Lead Decisions**
N.J. Builders Assn. v. Byrne, 80 N.J. 469 (1979)
Ocean Acres, Inc. v. State, 168 N.J. Super. 597 (App. Div. 1979), *cert. den.* 81 N.J. 352 (1979)
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- **Federal Statutes**
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- **Journal Articles**
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- **Cross References**
Water Quality, Chapter 24; Water Supply, Chapter 25; Zoning—Land Use, Chapter 27.

CHAPTER 20

Sewerage

- **Statutory Provisions**

Sewerage Authorities Law, N.J.S.A. 40:14A-1 et seq.

Municipal and County Utilities Authorities Law, N.J.S.A. 40:14B-1 et seq.

The Realty Improvement Sewerage and Facilities Act (1954), N.J.S.A. 58:11-23 et seq.

Passaic Valley Sewerage District, N.J.S.A. 58:14-1 et seq.

- **Administrative Rules**

Sewer Systems and Wastewater Treatment Plants, N.J.A.C. 7:9-1.1 et seq.

Water Pollution Control Act, N.J.A.C. 7:14

State Financial Assistance For Public Sanitary Sewage Collection Systems, N.J.A.C. 7:16-1.1 et seq.

Construction Grants For Wastewater Treatment Facilities, N.J.A.C. 7:22-1.1 et seq.

- **Lead Decisions**

White Birch Realty Corp. v. Gloucester Twp. Municipal Utilities Authority, 80 N.J. 165 (1979)

Birchwood Lakes Colony Club v. Medford Lakes, 90 N.J. 582 (1982)

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- **Journal Articles**

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- **Cross References**

Hazardous Waste, Chapter 12; Water Quality, Chapter 24; Water Supply, Chapter 25.

CHAPTER 21

Soil Erosion

- **Statutory Provisions**
 - Soil Conservation Statutes, N.J.S.A. 4:24-1 et seq.*
 - Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.*
- **Administrative Rules**
 - State Soil Conservation Committee, N.J.A.C. 2:90-1.1 et seq.*
- **Lead Decisions**
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- **Federal Statutes**
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- **Cross References**
 - Farmland Preservation, Chapter 8; Flood Control, Chapter 10; Zoning—Land Use, Chapter 27.*

CHAPTER 22

Solid Waste

- **Statutory Provisions**

Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.

Recycling Act, N.J.S.A. 13:1E-92 et seq.

Sanitary Landfill Facility Closure and Contingency Fund Act, N.J.S.A. 13:1E-100 et seq.

Waste Control Act, N.J.S.A. 13:11-1 et seq.

Solid Waste Utility Control Act of 1970, N.J.S.A. 48:13A-1 et seq.

- **Administrative Rules**

Solid Waste Administration, N.J.A.C. 7:26-1 et seq.

Bureau of Solid Waste Management: Procedural Rules, N.J.A.C. 7:1-6.1 et seq.

- **Lead Decisions**

So. Ocean Landfill v. Mayor and Council of Twp. of Ocean, 64 N.J. 190 (1974)

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- **Federal Statutes**

Resource Conservation and Recovery Act of 1976; Solid Waste Disposal Act, as amended, 42 U.S.C. § 6901 et seq.

- **Journal Articles**

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- **Cross References**

Hazardous Waste, Chapter 12; Water Quality, Chapter 24.

CHAPTER 23

Tidelands

- **Statutory Provisions**
 - Riparian Land Statutes, N.J.S.A. 12:3-1 et seq.*
 - Meadowland Riparian Statutes, N.J.S.A. 13:1B-13 et seq.*
 - School Fund Statutes, N.J.S.A. 18A:56-1 et seq.*
 - Water-Front Development Statutes, N.J.S.A. 12:5-1 et seq.*
 - Beaches and Harbors Bond Act of 1977, L.1977, c.208*
- **Administrative Rules**
 - Waterfront Development Permits, N.J.A.C. 7:7-2.1 et seq.*
 - Coastal Resource and Development Policies, N.J.A.C. 7:7E-1.1 et seq.*
- **Lead Decisions**
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- **Federal Statutes**
 - Deepwater Port Act of 1973, 33 U.S.C. § 1501 et seq.*
 - Outer Continental Shelf Lands Act, 43 U.S.C. § 1331 et seq.*
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- **Cross References**
 - Beach Access, Chapter 3; Coastal Area, Chapter 4; Hackensack Meadowlands, Chapter 11; Wetlands, Chapter 26.

CHAPTER 24

Water Quality

- **Statutory Provisions**
 - Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.*
 - Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq.*
 - Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq.*
- **Administrative Rules**
 - Water Pollution Control Act, N.J.A.C. 7:9-1.1 et seq.*
 - Safe Drinking Water Act, N.J.A.C. 7:10-1.1 et seq.*
 - Water Pollution Control Act, N.J.A.C. 7:14-1.1 et seq.*
 - The New Jersey Pollution Discharge Elimination System (NJPDES), N.J.A.C. 7:14A-1.1 et seq.*
- **Lead Decisions**
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- **Journal Articles**
 - Hanks, "The Law of Water in New Jersey," 22 *Rutgers L. Rev.* 621 (Summer 1968)
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- **Cross References**
 - Hazardous Waste, Chapter 12; Sewerage, Chapter 20; Water Supply, Chapter 25

CHAPTER 25

Water Supply

- **Statutory Provisions**

Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.

New Jersey Water Supply Authority Act, N.J.S.A. 58:1B-1 et seq.

Water Supply Bond Act of 1981, L.1981, c.261.

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Safe Dam Act, N.J.S.A. 58:4-8.1 et seq.

North and South Jersey Water Supply Districts, N.J.S.A. 58:5-1 et seq.

- **Administrative Rules**

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Delaware and Raritan Canal, N.J.A.C. 7:11-1.1 et seq.

Sealing of Abandoned Wells, N.J.A.C. 7:9-9.1 et seq.

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- **Lead Decisions**

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Armstrong v. Francis Corp., 20 N.J. 320 (1956)

State of New Jersey v. East Shores, Inc., 164 N.J. Super. 530 (App. Div. 1979)

- **Journal Articles**

Hanks, "The Law of Water in New Jersey," 22 *Rutgers L. Rev.* 621 (1968).

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- **Cross References**

Water Quality, Chapter 24.

CHAPTER 26

Wetlands

- **Statutory Provisions**
The Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq.
- **Administrative Rules**
Wetlands Management, N.J.A.C. 7:7A-1.1 et seq.
Coastal Resource and Development Policies, N.J.A.C. 7:7E-1.1 et seq.
- **Lead Decisions**
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- **Federal Statutes**
Coastal Zone Management Act of 1972, 16 U.S.C. § 1451 et seq.
Federal Water Pollution Control Act, 33 U.S.C. § 1344 [§ 404-Permits for dredged or fill material]
- **Journal Articles**
Biunno, Note, "Environmental Law—Wetlands Filling Restrictions Do Not Constitute a Compensable 'Taking' Within the Meaning of The Fifth Amendment," 4 Seton Hall L. Rev. 662 (1973).
- **Cross References**
Coastal Area, Chapter 4; Tidelands, Chapter 23; Zoning—Land Use, Chapter 27.

CHAPTER 27

Zoning—Land Use

- **Statutory Provisions**
Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.
- **Lead Decisions**
Morris County Land Improvement Co. v. Parsippany-Troy Hills Twp., 40 N.J. 539 (1962)
So. Burlington County N.A.A.C.P. v. Twp. of Mt. Laurel, 67 N.J. 151 (1975), *appeal dismissed*, 423 U.S. 808, 96 S.Ct. 18, 46 L. Ed.2d 28 (1975)
Capture Realty v. Bd. of Adj. of Elmwood Pk., 126 N.J. Super. 200 (Law Div. 1973), *aff'd* 133 N.J. Super. 216 (App. Div. 1975)
Oakwood at Madison, Inc. v. Twp. of Madison, 72 N.J. 481 (1977)
Sheerr v. Evesham Twp., 184 N.J. Super. 11 (Law Div. 1982)
So. Burlington County N.A.A.C.P. v. Mt. Laurel Twp., 92 N.J. 158 (1983)
- **Journal Articles**
Hall, "The Judicial Role in Land-Use Regulation," 100 *N.J.L.J.* 505 (1977).
Goldshore, "Representing Citizen Groups in Local Land Use Disputes," 93 *N.J. Lawyer* 42 (Fall 1980), *Appendix* 65.
Goldshore and Wolf, "Mt. Laurel II: Environmental Significance," 104 *N.J. Lawyer* 31 (Summer 1983), *Appendix* 73.
- **Cross References**
Coastal Area, Chapter 4; Farmland Preservation, Chapter 8; Hackensack Meadowlands, Chapter 11; Pinelands, Chapter 19; Wetlands, Chapter 26.

TESTIMONY CONCERNING ASSEMBLY BILL No. 300
BEFORE THE ASSEMBLY ECONOMIC GROWTH, AGRICULTURE AND TOURISM COMMITTEE
BY SETH I. DAVENPORT, ESQ.¹

Manufacturing jobs have been disappearing from New Jersey at an alarming rate. Since 1979, New Jersey lost more than 100,000 factory jobs and nearly 1,000 manufacturing plants. In 1986, employment in the manufacturing sector declined to 684,262, with another precipitous decline of 2.5% (18,000) in 1987. Those are the lowest levels since 1940. Responding to those alarming statistics, Borden Putman, Commissioner of the Department of Commerce and Economic Development cautioned that since manufacturing jobs generate more than twice as many jobs in the service sector, the state must stop the manufacturing job drain in order to maintain New Jersey's growth and reputation in a service sector.

While many factors will often influence a corporations decision to either locate or stay in New Jersey, real property taxes is one of the most important inasmuch as it is one of the only factors that will vary from state to state. Recognizing this, our Legislature has, for over twenty years, sought to stimulate capital investment in the manufacturing sector of this state by excluding from taxation personal property used in business.

HISTORY

Prior to 1966, real property and tangible personal property (except for household goods and personal effects) was taxed at the local level, at the general rate of the municipality. Thus, the category into which property fell, for the most part, was of no concern. Unfortunately, that system had too many undesirable results for businesses. Viewing industry as an important commodity

¹ An attorney with the law firm of Garippa & Trevenen, Esqs., which concentrates its practice in the area of State and local taxation throughout New Jersey, New York and Pennsylvania.

in our State's economy, Governor Richard Hughes established a committee to review local property taxation.

In 1965, the Governor's Committee on Local Property Taxation submitted its report calling for a change in the system of taxation. The report stated:

[The present tax system] . . . has been a deterrent to business growth and activity because its application and its computation has been unpredictable in many cases. The businessman often does not know what his community will require from him by way of taxes in any given year and this uncertainty, in many respects, is even worse than the magnitude of the tax burden itself.

* * * *

The proposed tax on machinery and equipment, for example, would be levied on a State level. This would eliminate the difficulties caused by local administration as well as the use of such a tax as a competitive factor between municipalities. This replacement tax should also be more acceptable to most of the business community because it is geared to a fixed State rate rather than tied to the shifting general tax rate of each municipality. . . This should enable New Jersey to compete more effectively with our neighbors for new industry. Since industrial and manufacturing concerns generally have greater freedom in the selection of plant locations than do, commercial businesses, such an improvement in the tax structure is necessary if we are to increase New Jersey's attractiveness to such businesses.

In 1966, following the recommendations of that report, the legislature enacted the "Business Personal Property Tax Act" (BPPTA), L. 1966, c.136. N.J.S.A. 54:11A-1 et seq. The new Act took the taxation of business personal property out of the hands of the municipal assessor and deposited it with the State. All personal property used in business would now be uniformly assessed at the State level. The Committee's report made abundantly clear that the purpose of such a change was to attract new industry to New Jersey and to retain those already here.

In promulgating regulations for the interpretation and implementation of the BPPTA, the then Director of the Division of Taxation declared:

This program was designed to provide replacement tax revenues as a substitute for the varied tax burdens imposed by municipalities in the form of local personal property taxes.

Thus, beginning in 1968, the business personal property tax became State administered. This law was instrumental on placing New Jersey business in a position comparable with New York, Pennsylvania and Delaware, where business personal property was not taxable.

Re-emphasizing the purpose of the BPPTA as set forth above, the Legislature, in 1977, enacted an amendment thereto which provided:

"Any machinery or equipment acquired on or after the effective date of this act, [January 1, 1977] shall not be subject to assessment and taxation."

The statement which accompanied that bill unequivocally declared that such an amendment was intended to make capital investment in New Jersey more attractive. In 1981, the above exclusion was further broadened by an amendment which provided for the exclusion of machinery and equipment not only acquired after January 1, 1977, but also brought into this State after that date. L.1981, c.397. Most recently, a bill has been voted favorable out of the Assembly abolishing all tax on business personal property acquired or brought into this State before January 1, 1977.

In 1979 our Supreme Court was called upon to interpret the legislative intent underlying the BPPTA. In *City of Bayonne v. Port Jersey Corporation*, 79 N.J. 367 (1979), the Supreme Court set forth the test to determine whether an item is business personal property or not. Under that test, an item was business personal property if it was used in business and its removal would not cause "material injury" to the real estate. "Material injury" was define as "irreparable or serious physical injury or damage to the freehold."

Over the years, many municipalities alleged that the cost of removal and the damage incurred to the personal property in the removal process were issues to be considered. In a relatively recent case², however, the tax court unequivocally declared that "the time and effort required to... [remove the

² Decided prior to the passage of P.L. 1986 c.117.

personal property] is not important nor is the extent of damage likely to occur to the personalty." *Minetto v. Borough of Northvale*, 7 N.J. Tax 293, 302 (Tax Ct. 1985) affirmed 210 N.J. Super. 312 (App.Div. 1986). Thus, pursuant to that case, one needed only be concerned with the extent of damage to the freehold during the removal of the item alleged to be business personal property, the extent of damage to the item itself or the cost of its removal was irrelevant. See also, *Sta-Seal, Inc. v. Director, Div. of Taxation*, 5 N.J. Tax 272 (Tax Ct. 1983) affirmed 6 N.J. Tax 345 (App. Div. 1983) and *Stem Bros., Inc. v. Alexandria Tp.*, 6 N.J. Tax 537 (Tax Ct. 1984).

The interpretation accorded the BPPTA by the foregoing line of cases had created a rather attractive atmosphere for industry in New Jersey . Indeed, that was the specific intent of the Legislature when it enacted the aforesaid legislation. It was conceded that municipalities would lose a certain amount of revenue; that was a contemplated result. The attraction of new industry and the retention of already existing industry seemed to be a more important long range goal for both the State and the municipalities. The State administrations during the periods of those amendments recognized that New Jersey sat centrally located amongst the most industrially competitive states in the nation.

PENNSYLVANIA EXPERIENCE

In a similar vein, Pennsylvania enacted a form of legislation which has become known at the "manufacturers exclusion." The pertinent portion of that statute reads as follows:

"Machinery, tools, appliances and other equipment contained in any mill, mine, manufactory ar industrial establishment shall not be considered as included as a part of the real estate in determining the value of such mill, mine, manufactory an industrial establishment." [72 P.S. 5020-20(a)]

That was an amendment to the law which was in effect in 1953. Under the law prior to 1953 all machinery and equipment which necessarily constituted an integral part of the industrial establishment was assessed as realty.

The legislative purpose of the 1953 amendment was articulated by the Pennsylvania Supreme Court in the seminal case on this issue, *Jones & Laughlin Tax Assessment Case*, 405 Pa. 421 (1961). The Court said:

The intention of the Legislature was clearly to abolish the tax on all parts of the machinery by removing machinery from real estate taxation, and with good reason. Today most states and communities in this country are engaged in a fight to encourage new industry to move into that state or community and to retain the industries they already have... Therefore, it is self-evident from a study of the history of tax legislation in Pennsylvania that the object to be obtained by the 1953 amendment was to provide tax relief for Pennsylvania industries by removing all integrated machinery, tools, appliances, and other equipment from real estate tax.

With that in mind, the Court held that:

.... under that statute involved, improvements, whether fast or loose, which are used directly in manufacturing the products that the establishment is intended to produce and are necessary to and integral parts of the manufacturing process and are used solely for effectuating that purpose, are excluded from real estate assessment and taxation.

Under that test it was not important how the property was constructed, but whether it was used in the manufacturing process. Indeed, the emphasis was on the use to which the manufacturer was putting the property, resulting in a true manufacturers exclusion. The issues of moveability and "irreparable" or "serious" physical harm is irrelevant.

THE NEW LAW IN NEW JERSEY

In October, 1986, Governor Kean signed into Law what has become known as Chapter 117. The impetus to that law was the preservation of what certain municipalities felt was the "status quo". It was contended that if one was to

extend the Tax Court's reasoning in the *Stem Bros.* case, large oil storage tanks would not be taxable as real property. Historically, those large oil storage tanks were treated by the local assessor as real property. Fearful of the possible loss in revenue, certain South Jersey municipalities beseeched the support of the League of Municipalities. Proposals were made to the legislature to change the existing law and to enact a bill which would assuredly maintain the "status quo". Indeed, the specific intent of the bill (now Chapter 117) was to keep large oil storage tanks on the tax rolls. In fact, the proposed bill was nicknamed the "tank tax law". Unfortunately, experience has found that to be a misnomer.

Apprehensive of the possible pendulum effect of the proposed bill, other manufacturers throughout the state were assured by the legislative sponsors of Chapter 117 and the Division of Taxation that the new law would not affect them. It was declared to these concerned manufacturers that new law was to maintain the "status quo".

While the full effects of Chapter 117 have yet to be felt, troubling abuses of that law have been shocking our industrial community. Municipal assessors and tax counsel have seized upon the innate ambiguities of that statute and are attempting to now bring onto the tax rolls millions of dollars of machinery and equipment that had historically not been taxed. Property that was never anticipated to be covered by the new law is now being thrust upon the tax rolls. What had been promised to maintain the "status quo" has been turned into a windfall center for municipalities.

At a time when manufacturers are trying to cope with the crippling effects of our State's strict new environmental regulations, another blow to their fiscal well-being in this State could and is having the effect of turning them away. Our sister states have much more favorable real estate tax climates for

industry. With all else being equal, why with Chapter 117 held to their throats should they locate, or even stay for that fact, in New Jersey?

CALL FOR NEW JERSEY MANUFACTURERS EXCLUSION

If Pennsylvania's tax exclusion for manufacturers is made applicable in New Jersey, property that was once viewed as business personal property in New Jersey would, in some instances, now be taxable. The storage tanks in the *Stem Bros.* case and the bowling lanes in the *Minetto* case would appear to be examples.

The equity of the manufacturers exclusion law has served Pennsylvania well. It is certainly arguable that the better tax climate could mean the difference between an industry locating in the eastern portion of Pennsylvania or the western portion of New Jersey. The state creating the more attractive industrial climate will reap the benefits associated therewith.

There is a real concern in the New Jersey industrial community over L. 1986, c.117. At a time when our sister states are becoming more and more attractive to these industries, New Jersey seems to be turning them away. What is called for is new legislation; legislation much like that in Pennsylvania that would reaffirm our commitment to the industrial community while having a minimal impact on other ratables throughout this State. Assembly Bill #300 would do just that. It would exclude from taxation those items of business personal property which are an integral part of the manufacturing process. Items used for purely storage would, of course, be taxable. Likewise, the land and buildings of an industrial establishment would be taxable, just like it always was. There would be no special treatment or "tax breaks" in that respect. Industry would be expected to pay their fair share of real estate tax on their land and buildings just like the residential property owner. And just like the

residential property owner, industry would not pay tax on their machinery and equipment. What is more equitable than that?

Clearly, manufacturing would not be the only sector of New Jersey's economy to reap the benefits of A. 300. History has shown us that with manufacturing comes many relatively high paying jobs, as well as the support industries that would service the manufacturing operations. At a time when our State is experiencing a modest amount of prosperity, it is vitally important that we not forget what industry brought us here--manufacturing. As was recently said about our national economic recovery, "we have to keep moving forward without killing off the engine," or in this case, the machine.

STATEMENT TO THE
ASSEMBLY COMMITTEE

ON
ECONOMIC GROWTH, AGRICULTURE & TOURISM

By
William E. Birchall, Jr., CTA
Assessor
Hainesport & Lumberton Townships, Burlington County
Co-Chairman
Legislative Committee
Association of Municipal Assessors of New Jersey

September 27, 1988

Chairman Collins and members of the Assembly Economic Growth, Agriculture and Tourism Committee.

I am William E. Birchall, Jr., Assessor of Hainesport & Lumberton Townships, Burlington County and one of the Co-chairman of the Legislative Committee of the Association of Municipal Assessors of New Jersey. It is primarily in this last capacity that I appear before you today to express my Association's opposition to Assembly No. 300.

The history of the personalty v realty question which led up to this present proposal is somewhat lengthy but I would like, as briefly as possible, to point out a few of the steps for the benefit of the Committee.

Prior to 1966, most personal property was assessed by the local Assessor along with real property. Chapter 138 removed all but the telephone and telegraph personal property from local assessment and transferred the responsibility to the Division of Taxation. Chapter 4, Laws of 1977 exempted from the business personal property tax any personal property acquired on or after January 1, 1977.

Since 1977 much attention has been given to the realty v personalty question by all involved in the taxation process, the property owners, the authorities and the courts.

Two court cases are worthy of discussion here. In the first, Lawrence Associates v Lawrence Township (5NJ Tax 481) the court held, in part, that "all lighting fixtures for general illumination as well as toilets and free standing sinks" are personal property rather than real property. The second case, Stem Brothers v Alexandria Township (6 NJ Tax 537) concluded that even though a 150,000 gallon tank had to be cut up with a torch to be removed it did not suffer "serious physical damage" and therefore was personal property.

These examples of the erosion of the municipal tax base were part of the basis for supporting the legislation which eventually became c. 117, Laws of 1986. Chapter 117 modified the tests for determination of personalty v realty to provide what many feel is a more logical test upon which to base the determination, that of ordinary intent of affixing to real property.

That the intent of c 117 has had a impact on the judicial process can be clearly demonstrated in the case of Chevron U.S.A., Inc. v City of Perth Amboy (9 NJ Tax 205) in which the court, sitting en banc, concluded that "even though the property at the oil company's refinery could be removed without material injury to itself or to the real property to which it was affixed, the machinery, equipment and process units were ordinarily intended to be fixed permanently to the real property and, therefore, the refinery was taxable as real property."

Similarly, in the case of NYT Cable TV v Audubon Borough (9 NJ Tax 359), the Court concluded that a cable TV tower is not "personal property used in business" but is taxable as an improvement to real property because it was ordinarily intended to be affixed permanently to the real property.

The effect of the proposal contained in A 300 would be to seriously undermine the provisions of c 117 by removing much of the normally permanent equipment from the definitions of real property contained in c. 117. For example, in the Chevron case mentioned earlier, the permanently affixed equipment used in the processing of the products of the refinery would be declared personal property resulting in a substantial revenue loss to the City of Perth Amboy and, therefore, a substantially increased burden on the remaining taxpayers of that city. Much of that burden would be on the residential property owners who, as most other voting homeowners in the state, already bear one of the highest per capita tax burdens in the nation. I might add that a similar devastating impact would be felt in the communities of West Deptford and Logan Township and Greenwich Township right here in Gloucester County.

The proposed legislation expresses a need to promote the economy of New Jersey as the basis for changing existing statutes. I am concerned that A 300 would encourage industrial development at the expense of those who would be employed by those industries who would, because of the shift in the property tax burden, be less able to afford to live in New Jersey.

A recent article in the Newark Star Ledger included a reference to an alleged abuse of c. 117 at the Ford Motor Co. facility in Edison. In the time since c. 117 was enacted every reference to abuse of this law that I have personally heard has related to the Ford facility. I submit to you that one abuse or alleged abuse does not justify the far-reaching drastic proposal contained in A 300.

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The Assessors of New Jersey are charged by the Legislature with the responsibility for equitable assessment for all types of real property. The Members of the Association of Municipal Assessors of New Jersey, an affiliate of the New Jersey State League of Municipalities, are committed to that goal and believe strongly that enactment of A 300 would be a disservice to the residents and voters of New Jersey.

Thank you for allowing this expression of our concern on this Bill.

**Public Hearing on A-300
Manufacturing Retention and
Equitable Taxation Act**

**Assembly Economic Growth, Agriculture
and Tourism Committee
Gibbstown Volunteer Fire Company
Gibbstown, N.J.
September 27, 1988**

**Mr. John B. Dalton
HLR Service Corporation
Hoffmann-La Roche, Inc.
Nutley, N.J.**

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Good afternoon Chairman Collins and members of the Assembly Economic Growth, Agriculture and Tourism Committee. My name is John Dalton and I represent Hoffmann-La Roche Inc., one of the world's leading health care companies. I am here today to speak in support of Assembly Bill A-300, the Manufacturing Retention and Equitable Taxation Act.

Hoffmann-La Roche with headquarters in Nutley in Essex County, is widely known for original research and development, and has been responsible for numerous important medicines useful in the fight against mental illness, infectious diseases, tuberculosis, cancer, cardiovascular disease and skin disorders. A leader in biotechnology, Roche was the first company to produce Interferon for clinical trials through recombinant DNA technology. Roche provides health care professionals with a wide range of medical products and services, including diagnostic test systems, radiopharmaceuticals, clinical laboratory services, and specialty chemicals. A pioneer in the field of pure bulk synthetic vitamins, Roche supplies the food, pharmaceutical and agricultural industries with food additives and animal health products.

We believe A-300 must be enacted into law to clarify the confusion which exists among tax assessors as a result of the passage of Chapter 117 of the Laws of 1986. We believe this 1986 law resulted in an unfair and inequitable real estate tax on cogeneration equipment installed in a new building at our Clifton, New Jersey site. In planning this new cogeneration facility prior to the enactment of Chapter 117 Laws of 1986, we had projected our 1987 tax liability at \$37,500. Because they included our cogeneration equipment as part of the valuation of this new facility, the Clifton assessor's projection of the tax liability was \$256,500, an increase over our projection of almost 700%. Following several months of meetings and review of our assessment, we finally agreed to a 1987 tax of \$98,743 and a 1988 tax of \$118,500, far in excess of what we had anticipated when planning the facility.

We believe that it was the intention of the legislature, as stated by one of the sponsors of legislation which led to Chapter 117, that the equipment in our new facility was clearly within the exclusionary language of the new

statute and therefore not subject to real estate taxation by the municipality. In fact the building which houses our cogeneration equipment was specifically designed with a break-away glass front for removal of the turbine engines and associated equipment, in the event repairs or replacement become necessary. I have attached a letter sent by Senator Raymond J. Zane, sponsor of Senate Bill 1858 of 1986, which addresses this issue.

We urge you to pass A-300 to underscore the state policy favoring the development of cogeneration with all the energy advantages it provides. We believe A-300 would also clarify state policy concerning the taxation of process machinery and equipment used in the manufacturing of products in New Jersey.

Thank you for holding this public hearing and for considering our position. We urge you to vote for A-300.

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H O F F M A N N - L A R O C H E , I N C .

• Tax Impact of New Jersey Chapter 117, Laws of 1986

Cogeneration Facility - Clifton portion of Nutley/Clifton Site

- HLR Projected Real Estate Valuation.....\$ 1,900,000
 - Tax liability at 1987 rates.....\$ 37,500
- Clifton Tax Assessor's Valuation of Building and Cogeneration Equipment.....\$13,000,000
- Clifton Tax Projection.....\$ 256,500

• Final Agreement reached between HLR and Clifton Tax Authorities

- 1987 Valuation.....\$ 5,000,000
 - Tax.....\$ 98,743
- 1988 Valuation.....\$ 6,000,000
 - Tax.....\$ 118,500
- 1989 - Property Subject to Revaluation



NEW JERSEY SENATE

RAYMOND J. ZANE

SENATOR, 3RD DISTRICT

ASSISTANT MAJORITY LEADER

70 EUCLID STREET, 2ND FLOOR

WOODBURY, NEW JERSEY 08096-4626

609-848-1102

Anthony J. Iannarone, Esq.
Assistant Vice President and
Associate General Counsel
Hoffman-La Roche Inc.
340 Kingsland Street
Nutley, New Jersey

Dear Mr. Iannarone:

I was happy to have the opportunity recently to discuss with Jack Dalton of your company the issue regarding the taxation of your new cogeneration plant in Clifton. As the sponsor of Senate bill No. 1858 relating to personal property used in business, it appears to me that, as described by Jack Dalton, the equipment in your plant is clearly within the exclusionary language of this new statute and not subject to real estate taxation by the municipality.

I base this conclusion primarily on the fact that the generator sets and related equipment were specifically designed to be removable and replaceable, as well as on the fact that none of the equipment is functionally essential to the building in which it is housed. It strikes me that this is precisely the type of situation which was intended by the legislature to be excluded from local real estate taxation. Certainly that was my intent.

Moreover, we have a clear state policy favoring the development of cogeneration with all the energy advantages it provides. Accordingly, I would appreciate you continuing to keep me advised on the situation with your plant, since, if necessary, I am willing to consider clarifying legislation or legislation specific to cogeneration equipment.

Respectfully,

RAYMOND J. ZANE
Senator, District 3

RJZ/ab

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I am willing to consider
specific to cooperation

Respectfully,

[Handwritten signature]
[Illegible typed name]

11/15/54



New Jersey Society for Environmental,
Economic Development

28 West State Street
Suite #1100
Trenton, NJ 08608
(609) 695-7007

STATEMENT OF
THE NEW JERSEY SOCIETY FOR ENVIRONMENTAL, ECONOMIC DEVELOPMENT
(NJ SEED)
IN SUPPORT OF A-300
TO THE
ASSEMBLY ECONOMIC GROWTH, AGRICULTURE AND TOURISM COMMITTEE
GIBBSTOWN, NEW JERSEY
SEPTEMBER 27, 1988

Mr. Chairman, members of the Economic Growth, Agriculture and Tourism Committee I am Greg DeLozier representing NJ SEED. New Jersey SEED is a coalition of our state's leading business and labor organizations dedicated to a balanced and growing New Jersey economy that provides good quality, stable jobs for its citizens.

We are here to stress the united support of business and labor for passage of A-300.

In order to meet competition from neighboring states as well as foreign countries, New Jersey must reassert its position as a strong manufacturing state. Instead of seeking ways to drive manufacturing from our state, as the broad interpretation of Chapter 117 can do, we must find ways to attract more manufacturing to New Jersey.

Last year, NJ SEED took a careful look at New Jersey's manufacturing condition. The report that resulted is submitted with our statement for your review as you consider A-300. We hope you will take the time to read this study. Permit me, however, to share with you the concluding paragraph of the report.

"in spite of problems New Jersey is a very desirable location for business engaged in manufacturing. New Jersey is centrally located in the nation's greatest market concentration, has an outstanding transportation network, a varied business support infrastructure and a highly skilled labor force. Business, labor, and government must become more sensitive to retaining the state's present manufacturers while developing an aggressive marketing program to attract those specific manufacturing enterprises best suited to New Jersey."

Passage of A-300 would give much needed tax stability to many of New Jersey's manufacturing firms who are constantly competing with neighboring states and international companies.

In its 1988 Public Issues Agenda, NJ SEED states that it "supports enactment of legislation (A-300) to establish a provision in the tax laws that would prohibit manufacturing equipment from being taxed as real property. As

a result of the law enacted in 1986 (Chapter 117) some overzealous local tax assessors are taxing business personal property as real estate. It has been stated that the power to tax is the power to destroy and that is clearly the case with Chapter 117. In order to retain and attract manufacturing, A-300 must be enacted without delay."

Mr. Chairman, business and labor stand together in calling on this Committee to release A-300 for a vote by the Assembly.

Thank you.

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New Jersey Society for Environmental,
Economic Development

28 West State Street
Suite #1100
Trenton, NJ 08608
(609) 695-7007

Manufacturing in NEW JERSEYTODAY

The manufacturing sector in New Jersey has steadily declined for the past two decades. The decline in manufacturing has been a national trend; however, New Jersey's manufacturing sector has dropped at a much faster rate than the nation's. Numerous studies discuss the probable reasons for New Jersey's particular decline. This report represents a preliminary compilation of many of these studies and the results of personal interviews.

Industries shut their doors for a variety of reasons ranging from tough competition, costs, obsolescence, shifting markets, taxes, and stringent environmental laws to the quality of life experienced by high-ranking executives. (Swigart, Richard P., Executive Director, NaCOR, Managing Plant Closings and Occupational Readjustment: An Employer's Guidebook.) Of course, there are many more causes for closure, but these appear to be the most common. These problems are in no way unique to New Jersey, but one particular problem is that New Jersey industries tend to re-invest and attract investment much less than counterpart industries in other states. Generally, if a plant is to experience high productivity, it must invest and re-invest significant amounts of capital. Unfortunately, this is not the case with New Jersey's industries. For some time, the minimal investment strategies worked. However, with time, this plan of action caused a sufficient number of industries to close their door permanently. The decrease began with the less productive industries dropping out of the competition, thereby increasing the average industrial productivity in the State. (Broner, Dr. Adam, personal interview, 6/87). With higher productivity, wages increased directly as they did from 1985 to 1987; from \$9.05/hr. in 1985 to \$10.41/hr. in May 1987. (NJ Dept. of Labor, personal interview, 7/87). This in-

Since the dollar dropped, New Jersey has not taken advantage of the available world markets which need and want to buy American products. (Economic Policy Council and the Office of Economic Policy, 1st entry, 18th Annual Report, 1986, p.59) New Jersey's largest export through the Port Authority of New York and New Jersey in 1985 was waste paper, followed by plastic materials and textile waste. (The Port Authority of New York and New Jersey, Soecial World Trade Issue: NY/NJ 1985, o. 17). Although some steps have been taken to expand the type of exports from New Jersey, it has been a slow process.

It appears that stringent environmental laws have also affected the status of business in New Jersey. Industries have been closing up altogether or moving out of New Jersey. When an industry looks to relocate to the State, very strict environmental laws, cumbersome regulations and regulatory delays may dissuade them. However, measuring the real effects of this is difficult.

Today, out of the five areas with the highest growth in manufacturing, two of those have actually experienced a recent decrease in growth: Monmouth-Ocean (down 1%). (Economic Policy Council and the Office of Economic Policy, 2nd entry, The Economic Report of the Governor 1986, pp. 14-17). Why are these areas diminishing in growth? The costs of doing business in New Jersey are high. New Jersey real estate, for lease or purchase, is among the costliest in the nation.

Taxes are yet another cause for manufacturing decline; out of the 50 states, there are only 20 states with higher taxes than those in New Jersey. (The Grant Thornton Study: General Manufacturing Climate, 1985).

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According to the Grant-Thornton Study, the list continues: state debt is ranked 39th; Wages, 34th; Changes in Wages, 40th, Unionization, 29th; HS Educated Adults, 25th; Man-Hours Lost, 27th, Energy Costs, 43rd; and Environmental Control 32nd. These figures show where New Jersey ranks low.

However, one tenth of all corporate research and development expenditures in the United States are made in New Jersey. One tenth of all U.S. patents go to New Jersey inventors. New Jersey has the best proximity to the world's greatest market concentration: The Boston Washington Corridor. The most highly developed transportation in the country is here. "New Jersey also has more doctors, hospital beds, classrooms, students, financial institutions, square feet devoted to the arts, other professionals, and international presence than any other state in the nation." (NJ Investment Mission 1979, Investment in NJ, U.S.A.).

New Jersey ranks very high in some areas, such as 11th in Voc-Ed Enrollment; HS Educated Adults, 25th; Value added, 15th; Hours Worked, 11th; and Population Density, 1st.

New Jersey also has several other recognizable areas which are not mentioned in the Grant-Thornton Study. The New Jersey shore has 120 miles of coastline. There are 230 marinas and boat basins 1,344 thousand miles of trout streams, 800 lakes and ponds, and 100 rivers and creeks. For the sportsman, there are 200 golf courses and 11 popular ski areas. New Jersey has 567 cities. Newark and Jersey City rank low in total crime: 18 and 73, respectively, out of the 100 largest cities in the United States. (The Port Authority of New York and New Jersey, A Great

Place to Manufacture). There are 60 museums and 400 libraries. New Jersey also has 5 universities and 22 four-year colleges. Numerous sports teams play in the Meadowlands, including the Jets, the Devils, the Giants and the Nets. Thoroughbred and standardbred racing also have a home in the Meadowlands as well as four other tracks in New Jersey. For other forms of entertainment, many people

frequent Great Adventure Safari Park, the Atlantic City Casinos, or one of the 50 symphony and chamber music groups. Several attractions for music lovers include the State Opera and Ballet, and the Garden State Arts Festival. New Jersey has over 100,000 qualified teaching professionals in the public school system. (NJ Investment Mission).

For the business community, New Jersey has much to offer. New Jersey has nearly 32 thousand miles of railroad track and overseas access through 200 agents representing 275 ports in 111 countries. (NJ Investment Mission). New Jersey's principal seaport, the Port Newark/Elizabeth Complex, has the largest container facility in the world, handling more than three times the tonnage of Los Angeles-American's second largest port. (Prior, James T., Executive Editor, "International Trade: Reverse Investment", NJ Business, September 1986, p. 45).

Newark International Airport represents a \$715 million investment by the Port Authority of New York and New Jersey. It has parking facilities for 10,000 cars and ready access to other airports, highways, and railroads. New Jersey is located in the center of the world's greatest market concentration. 60 million persons with buying power of \$300 billion live in the Corridor. Wall Street, with 40% of the nation's bank deposits and regarded as the financial capital of the world, is just across the Hudson River. With this most efficient business infrastructure, 90 of the nation's 100 largest companies are located in New Jersey. (NJ Investment Mission).

There have recently been some attempts at helping New Jersey's industries. The New Jersey Bell Business Retention Program, a dual effort between New Jersey Bell and the State of New Jersey, has tried to assist industries by targeting those which are having problems staying afloat by getting both the local and state governments involved.

(New Jersey Bell, The New Jersey Municipal Business Retention and Expansion Program: A Partnership Between the State of New Jersey and New Jersey Bell). Another program, sponsored by the New Jersey Division of International Trade, has been helping smaller businesses and industries show their wares and make overseas connections. The Division provides free consultation and export trade

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leads through trade shows around the world. (Prior, James T., p.50). These programs do help. Yet, there is much more which still needs to be done to save New Jersey's manufacturing sector.

New Jersey's assets must be marketed to appropriate industries. Not every industry will be interested in what New Jersey has to offer; however, one angle would be to target high-tech companies. Very few high-tech companies locate in non metro areas. (PSG&E, The Site Selection Decision, New Technology and Research Industry, New Jersey's Position, Summary Report, March 1, 1983). New Jersey, as a whole, is a vast metro area. Many of these industries would like to locate in New York City. Since the costs to manufacture in New York City outweigh the costs to manufacture in New Jersey, high-tech firms could very easily become interested in New Jersey. (The Port Authority of New York and New Jersey, Economic Development Department, personal interview, 6/87). This type of company would also be looking to locate where there is already an existing pool of scientific and technical personnel. Considering that New Jersey has the third largest amount of patents a year, New Jersey seems to cover every base for high-tech industries, including the availability of housing, a great cultural climate, and recreational facilities. Also for the manufacturer, New Jersey has foreign and domestic production transportation resources, trade zones, information systems, quality education facilities, support services, and specialized shops. New Jersey would be a gold mine for any industries concerned with these factors. (PSE&G, 1983).

Industries which need to be near their markets would benefit greatly from locating in New Jersey, such as those which produce inexpensive products, where distribution costs must not exceed the cost of the product itself. Specialized industries that would benefit from being directly in the center of 40% of the nation's market. Those industries with more concern for quality than cost competitiveness could be attracted to New Jersey, as they are the industries which would not mind paying somewhat higher land and labor costs in return for a better quality product and ready access to markets. (The Port Authority of New York and New Jersey, 6/87).

In spite of problems New Jersey is a very desirable location for businesses engaged in manufacturing. New Jersey is centrally located in the nation's greatest market concentration, has an outstanding transportation network, a varied business support infrastructure and a highly skilled labor force. Business, labor, and government must become more sensitive to retaining the state's present manufacturers while developing an aggressive marketing program to attract those specific manufacturing enterprises best suited to New Jersey.

Prepared by: Beth Cox
NJ SEED Intern



TESTIMONY ON A-300

PRESENTED TO THE ASSEMBLY ECONOMIC GROWTH,
AGRICULTURE AND TOURISM COMMITTEE

ON BEHALF OF THE CHEMICAL INDUSTRY COUNCIL OF NEW JERSEY

SEPTEMBER 27, 1988

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS KEVIN DONAHUE, ASSOCIATE DIRECTOR OF THE NEW JERSEY CHEMICAL INDUSTRY COUNCIL, AND I AM HERE TO PRESENT TESTIMONY ON A-300 ON BEHALF OF OUR EXECUTIVE DIRECTOR HAL BOZARTH.

THE CIC/NJ IS A STATEWIDE TRADE ASSOCIATION REPRESENTING 90 MEMBER COMPANIES IN THE CHEMICAL AND ALLIED PROCESS INDUSTRIES. FOR YOUR INFORMATION, THE INDUSTRY EMPLOYES APPROXIMATELY 95,000 WORKERS AND HAS A SALES VALUE OF \$14 BILLION PER YEAR. THIS PLACES NEW JERSEY'S CHEMICAL AND ALLIED PROCESS INDUSTRIES SECOND IN THE NATION BEHIND TEXAS AND AHEAD OF LOUISIANA. AS RECENTLY AS EIGHT YEARS AGO OUR EMPLOYMENT FIGURES INDICATED THAT THERE WERE 120,000 EMPLOYEES IN NEW JERSEY. SUCH A DRAMATIC LOSS IS OF GRAVE CONCERN TO OUR MEMBERSHIP.

OUR INDUSTRY FULLY SUPPORTS A-300, AND WE APPLAUD ASSEMBLYMAN KAMIN FOR ITS INTRODUCTION.

I WILL LEAVE THE TECHNICAL ASPECTS OF THIS LEGISLATION TO THE DEPARTMENT OF COMMERCE, ENERGY AND ECONOMIC DEVELOPMENT AND THE NEW JERSEY STATE CHAMBER OF COMMERCE. THESE GROUPS HAVE TAKEN THE LEAD ON THIS ISSUE AND IT IS APPROPRIATE THAT THE CIC/NJ SUPPORT THEM.

LET ME NOW DISCUSS OUR SEGMENT OF THE MANUFACTURING COMMUNITY. OUR MEMBERS IN NEW JERSEY ARE IN A CONTINUING STRUGGLE FOR THEIR VERY EXISTENCE. IN THE HEIGHT OF NEW JERSEY'S ECONOMIC RECOVERY, OUR MEMBERS CONTINUE TO LOSE EMPLOYMENT AND CLOSE FACILITIES.

SOME WOULD SAY THOSE FACTS ARE NOT IMPORTANT. SERVICE AREA JOBS HAVE PICKED UP THE SLACK. WE DISAGREE. SERVICE JOBS WILL NEVER REPLACE THE HIGH PAYING MANUFACTURING JOBS OUR WORKERS ARE LOSING.

IRONICALLY, NEW JERSEY'S PRESENT ECONOMIC PROSPERITY HAS BEEN BUILT ON THE MANUFACTURING SECTOR. FOR EVERY MANUFACTURING JOB 4 OR 5 OTHER DOWN STREAM SUPPORTIVE JOBS ARE CREATED. FOR EVERY JOB WE LOSE, THE AFTER SHOCK CAN BE FELT IN OTHER, NON-MANUFACTURING AREAS.

SOMETHING MUST BE DONE TO STOP THE BLOOD LETTING. A-300 IS A STEP IN THE RIGHT DIRECTION.

A-300 WOULD STOP THE ANIMUS BETWEEN MUNICIPALITIES AND MANUFACTURERS. THE TAXATION OF BUSINESS PERSONAL PROPERTY MUST BE DRIVEN BY A UNIFORM POLICY DECIDED BY THE LEGISLATURE. IT MUST BE FAIR AND EQUITABLE AND APPLIED EVENLY ACROSS THE BOARD. MANUFACTURERS SHOULD NOT BE LOOKED AT AS A "CASH COW" BY THE TOWNS IN WHICH THEY LIVE.

NOTWITHSTANDING THE RECENT REGULATORY PROPOSAL BY THE DIVISION OF TAXATION, A-300 WILL PROVIDE GUIDANCE AS TO HOW BUSINESS PERSONAL PROPERTY WILL BE ASSESSED. WE APPLAUD SUCH DIRECTION AND GUIDANCE.

IN ADDITION, A-300 WILL REDEFINE THE WAY ON WHICH CO-GENERATION FACILITIES WILL BE TAXED. THE CIC/NJ ALSO SUPPORTS THIS MEASURE AS AN INCENTIVE TO HELP MANUFACTURERS LOWER THE COST OF DOING BUSINESS IN NEW JERSEY.

IN FACT, JUST DOWN THE ROAD FROM WHERE WE ARE SPEAKING TODAY, A CIC/NJ MEMBER HAS RECEIVED APPROVAL TO SET IN PLACE A CO-GENERATION FACILITY. BFGOODRICH IN PEDRICKTOWN HAS ENTERED INTO A 30 YEAR CONTRACT WITH ATLANTIC ELECTRIC TO PROVIDE THE UTILITY WITH 106 MEGAWATTS OF CAPACITY. THE GOODRICH FACILITY WILL USE NATURAL GAS TO PROVIDE ELECTRICITY AND STEAM FOR THEIR PLANT AND WILL SELL THE EXCESS POWER TO ATLANTIC ELECTRIC. IN FACT, ENOUGH POWER WILL BE PROVIDED TO THE UTILITY TO SUPPLY 124,000 HOMES WITH ELECTRICITY. THE SAVINGS TO THIS ENERGY INTENSIVE FACILITY IS ENORMOUS. SO LARGE, IN FACT, TO ENSURE GOODRICH THE OPPORTUNITY TO REMAIN COMPETITIVE HERE IN OUR STATE. WE THINK SUCH OPPORTUNITIES NEED TO BE INCREASED AND SUPPORTED.

RARELY IN NEW JERSEY DOES INDUSTRY HAVE THE OPPORTUNITY TO SUPPORT LEGISLATION THAT IS AIMED AT HELPING THIS VITAL SECTOR OF THE ECONOMY. NO LONGER SHOULD MANUFACTURERS BE AT THE MERCY OF TAX ASSESSORS WHO DECIDE TO CHANGE THE LONG STANDING PRACTICE OF HOW

BUSINESS PERSONAL PROPERTY IS TAXED. NO LONGER SHOULD NEW JERSEY MANUFACTURERS BE FORCED TO CLOSE THEIR PLANTS BECAUSE OF EXORBITANT UTILITY COSTS. NO LONGER SHOULD MANUFACTURER BE TREATED AS SECOND CLASS EMPLOYERS.

PLEASE HELP US SAVE THESE BELEAGUERED EMPLOYEES BY RELEASING A-300. THANK YOU FOR THE OPPORTUNITY TO ADDRESS THE COMMITTEE.

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TESTIMONY

ON

ASSEMBLY BILL A-300

BEFORE THE ASSEMBLY ECONOMIC DEVELOPMENT,

AGRICULTURE AND TOURISM COMMITTEE

SEPTEMBER 27, 1988

Presented by:

James E. Benton
Executive Director
New Jersey Petroleum Council

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Mr. Chairman, members of the Committee, my name is James Benton. I am Executive Director of the New Jersey Petroleum Council, a trade association representing the major oil companies engaged in refining, marketing and transportation in New Jersey.

At the outset I wish to thank the Chairman and the members of the Committee for their willingness to review the issues raised by Assembly bill 300, "The Manufacturing Retention and Equitable Taxation Act."

New Jersey is a major state in regards to petroleum refining, marketing, and transportation. Last year 3.6 billion gallons of gasoline and 725 million gallons of heating oil were sold to New Jersey consumers. Our state ranks third in the nation in petroleum consumption and ninth in oil refining. New Jersey is also the Northeastern home to petroleum marketing and transportation operations, as well as a major location for East Coast refineries.

The New Jersey Petroleum Council offered testimony in the development of Chapter 117 in the Legislature and followed the legislation to its conclusion on signature into law by Governor Kean. We believe the enactment of Chapter 117 was to address several specific purposes. First, to continue the state's policy of attempting to foster a fiscal climate in New Jersey that would be attractive to economic growth and continued prosperity by maintaining a consistent and uniform system of tax classification. Second, to specifically classify storage tanks with capacities in excess of 30,000 gallons as real property. Third, to authorize the Director of the Division of Taxation to adopt rules and

regulations necessary to administer the provisions of this act.

Assembly bill 300 expresses in the clearest terms possible the intention of the Legislature to stimulate a state tax policy which fosters capital investment by business enterprises in New Jersey. The New Jersey Petroleum Council, as participants in the business community in New Jersey, support a clear state tax policy. We encourage clarity and consistency in developing a sound, fiscal climate that would contribute to the attraction of business and industry.

To date, unpredictable results at the local level and disparate rates have often acted to discourage economic expansion and fostered increase litigation. The state tax litigation is very costly and time consuming for businesses. The net effect is to discourage investments in the state and even adversely impact the viability of continuing manufacturing operations here in New Jersey.

The majority of the members of the New Jersey General Assembly have joined with Assembly sponsor Richard Kamin to introduce Assembly 300. The primary focus of this legislation is to further clarify that the policy of this state is to establish a manufacturers exclusion from the taxation of all business personal property, similar to laws which exist in Pennsylvania and other states. This would create certain reasonable incentives for manufacturing interests to exist and thrive. Further, A-300 provides a test which is far more easily discernable, consistent and uniform.

Assembly 300 does not reopen the question of storage tanks

with a capacity of more than 30,000 gallons. They are, and will continue to be, deemed to be real property.

Most tanks are used for storage and as such will be continued to be taxed as real property if they are larger than 30,000 gallons. Yet in an effort to build support, opponents of A-300 would have one believe that this is an exemption or a tax break. These claims are erroneous and should be dismissed.

History has shown that New Jersey and its economy have benefitted from a strong manufacturing base which participates in our state economy. Confusion with respect to the classification of certain real and personal property for local property tax purposes does not benefit either the municipality or the manufacturer. New Jersey tax policy should not utilize the litigation mechanism for resolving local property tax assessments. Consistent statutory definitions should provide guidelines which distinguish real from personal property under state law and eliminate the confusion and litigation which serves no interest.

The members of the New Jersey Petroleum Council support Assemblyman Richard Kamin in his efforts to introduce and secure passage of A-300.

Thank you very much for this opportunity to add our names to those supporting his effort. We would be happy to respond to any questions you may have on this issue.



UNION COUNTY BOARD OF TAXATION

271 NORTH BROAD STREET
ELIZABETH, NEW JERSEY 07207

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October 11, 1988

Honorable Jack Collins
Member, General Assembly
State of New Jersey
Trenton, New Jersey

Dear Assemblyman Collins;

The Economic Growth, Agriculture and Tourism Committee, of which you are Chairman, held a public hearing on Assembly Bill 300, on September 27, 1988. As you know, I had the opportunity to give testimony, and I stated my opposition to this proposed legislation. At the lateness of the hour, and in consideration of other speakers, all that I wanted to present to the Committee, was not forthcoming. This letter serves as an addendum to that testimony.

A-300 has a noble purpose, the retention of jobs. Who can find fault with that? The loss of manufacturing jobs cannot be denied. This phenomena is not unique to New Jersey. This concern is expressed throughout the United States. It is the result of our global economy and the actions of multi-national companies. Favorable taxation would have a beneficial impact on manufacturing facilities. However, it is necessary to examine all the criteria a company would consider before locating in, expanding in, or leaving New Jersey, and the economic forces that prevail.

To run a profitable operation, a company looks for a suitable location; an adequate work force that is in the surrounding area, or can find affordable housing there; the quality of life for it's employees; supporting infrastructure; and a favorable business climate. New Jersey cannot compete with low wage countries in low skill jobs, nor should we try. We are committed to raising the level of education and job skills of our citizens and we should never waiver from that goal. A reduction of the property tax will not accomplish the long range

objectives of this great State. Property taxation is not a major concern to business, if it was, business would certainly be more vocal with it's objections. New Jersey has a positive image in the eyes of industry. I think our employment statistics and the various surveys speak for themselves.

A selective reduction of business property tax could well have an overall negative impact in New Jersey. The location or expansion of a manufacturing company will be decided at a local level. The municipal planning board and the municipal governing body will decide the fate of the applicant. The contribution to the ratable base and the resulting tax dollars are of major concern to these officials. I have grave reservations on the expansion of the manufacturing base if the impact on the ratable base is not looked upon favorably by these local officials. If a fair level of taxation and revenue is not there, the welcome mat will not be out.

This Bill seeks to amend Chapter 117 of the laws of 1986. This law should be examined in the proper perspective. Chapter 117 came into being for two basic reasons. The first is that the Legislature had never provided for the proper definition of real property. It had no need to because real and personal property were assessed at the same local rate, by the municipal assessor. This was changed in 1966, but the definition of real property was left to the Courts. The Court by it's decisions had eroded the tax base of many municipalities. The Chevron appeal against Perth Amboy, and the Stem Brothers appeal in Alexandria Township e served as a catalyst for legislative intervention. Chapter 117 is the result of many hours of effort by all concerned. Industry and government had full representation. The legislative intent was to provide a proper definition of real property, and to assess and tax those items that fall within the definition. There was full and adequate deliberation of the language used in the Bill. Rules and regulations for the implementation are still pending in the Division of Taxation.

To keep with the spirit of this proposed legislation, to encourage jobs, the Legislature should examine and be receptive to the S.L.E.R.P. Commission recommendations. The proposed changes will have the direct result of reducing the level of property taxation by over \$1,000,000,000.00. Manufacturing as well as all other property taxpayers will benefit from this. The ability to pay and overall fairness is the foundation of the Commission's suggestions. Business had a major role in the deliberations of this Commission.

A-300 provides for a \$15,000,000.00 fund to offset the losses a municipality might incur. This amount would be subject to the budget and appropriation process. History speaks for itself when it comes to the funding relationships between the State and it's subdivisions. The level of State support to the schools, counties, and municipalities is inadequate. State agencies and operations are funded by the local property tax base. In the new

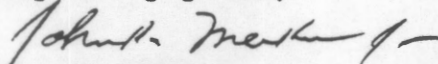
budget for 1988-1989, the level of spending is \$500,000,000.00 higher than the revenue. The \$15,000,000.00 fund would be in jeopardy if cuts were made in State spending..

The direct impact in Union County would be catastrophic if lost revenues are not replaced. Some of our municipalities are highly industrialized and much would be lost in the ratable base. I would estimate that the \$15,000,000.00, included in this Bill could be spent in this county alone.

There was testimony from a witness from Ford Motor Company. He expressed his concern for the assessment on the assembly plant in Edison Township. This assessment is under appeal in the Tax Court. If the Assessor has made a mistake, the judicial process should be allowed to function. In any event, your committee could ask this assessor to appear before you and testify as to his assessing practices.

In closing, I thank you and the members of your committee for the opportunity to testify on this important legislation. If you are contemplating further hearings, I would like to extend the hospitality of Union County to you.

Very truly yours,


John K. Meeker, Jr.
Tax Administrator
Union County

budget for 1988-1989. The level of spending is \$15,000,000.00 higher than the revenue of \$15,000,000.00 fund would be in jeopardy if cuts were made in the spending.

The impact of the budget cuts would be estimated at \$15,000,000.00. The impact of the cuts would be estimated at \$15,000,000.00. The impact of the cuts would be estimated at \$15,000,000.00.

In closing, I thank you for the opportunity to testify and for the hospitality of Union County. I would like to see you again.

Very truly yours,
John A. ...
John A. ...
Tax Administrator
Union County