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# ***Committee Meeting***

of

## **ASSEMBLY SOLID AND HAZARDOUS WASTE COMMITTEE**

**ASSEMBLY BILL Nos. 515, 516, 517, 518, and 519**

*(Issues dealing with solid waste management and disposal)*

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

**DATE:** February 3, 1998  
10:00 a.m.

### **MEMBERS OF COMMITTEE PRESENT:**

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



### **ALSO PRESENT:**

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

Thea M. Sheridan  
*Assembly Majority  
Committee Aide*

Yollette Ross  
*Assembly Democratic  
Committee Aide*

***Meeting Recorded and Transcribed by  
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Hearing Unit, State House Annex, PO 068, Trenton, New Jersey***

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**ASSEMBLYMAN JOHN E. ROONEY (Chair):** Good morning, anyone wishing to testify today should sign up on the sheets at the end of the desks, I believe. They are over on my right, your left.

We are still missing Connie, I see.

We are waiting for Assemblywoman Myers to arrive. I'm going to give her until 10:15, and then we are going to get started. Anyone wanting to take a break before that, fine.

Assemblywoman Myers has arrived, so we are going to get started a little bit earlier, earlier than I said previously.

First thing we are going to do is have a roll call, please.

MR. MATIOSKA (Committee Aide): Assemblyman Steele?

ASSEMBLYMAN STEELE: Here.

MR. MATIOSKA: Assemblyman Jones?

ASSEMBLYMAN JONES: Present.

MR. MATIOSKA: Assemblywoman Myers?

ASSEMBLYWOMAN MYERS: Here.

MR. MATIOSKA: Assemblyman Cottrell?

ASSEMBLYMAN COTTRELL: Here.

MR. MATIOSKA: Assemblyman Chatzidakis?

ASSEMBLYMAN CHATZIDAKIS: Present.

MR. MATIOSKA: Assemblyman Biondi.

ASSEMBLYMAN BIONDI: Here.

MR. MATIOSKA: Assemblyman Rooney.

ASSEMBLYMAN ROONEY: Here.

ASSEMBLYMAN ROONEY: I want to welcome everybody to the first meeting of the newly formed Solid and Hazardous Waste Committee. Just to give everyone a little bit of an overview, what I'd like to do is kind of take you down memory lane a little bit. I think most of you know the scenario here. In, I guess it was, May of 1994 the Supreme Court declared in favor of *Carbone vs. Clarkstown, New York*, which said that flow control was unconstitutional. At that time there was some question only by the State of New Jersey, I believe, as to whether it applied to New Jersey. Everyone else knew that it did, and here we are three years later and we are now saying that, yes, flow control is unconstitutional. The laws that we have on the books are unconstitutional, and they have to change.

I think most of us are saying that as per prediction by some of us back in May, if we didn't do something in the interim, there would be major problems in the industry and some chaos. I believe that is happening as we speak. So I believe that our mission here is to get a solution to the problem as quickly as possible. That's why I had this meeting earlier than our normally scheduled meeting, which was postponed. So I want to get to the problem as quickly as possible to have solutions out on the table.

What I'm doing is more or less asking the Committee-- I have five bills that have been in for approximately two and a half years to deal with this problem. They may not be the best solution. They may not be the final solution that we are talking about, but they are a solution. They're a solution that says that basically the State of New Jersey created this problem, which I firmly believe in my heart and I believe everybody out there knows that, that the State of New Jersey created this problem. They forced us into the situation

with flow control back in the early '80s. Actually, the Solid Waste Management Act wasn't all that bad in the '70s, but it got convoluted in the '80s and went down the wrong path.

Since they created it, I believe that the State of New Jersey has a responsibility to be a big part of the solution. I'm saying that we have a statewide problem and that it should go that way. I don't believe, as certain people have in the past, that the counties are out on their own and should take care of this on their own because that kind of thinking will put certain counties in jeopardy of defaulting on bonds and other situations.

So having said that my bills are on the table. I want to discuss them individually. I want to have some discussion through the Committee, but what I'm asking the Committee to do is, if you have a problem with these -- I am not a timid person. I can take criticism, and I don't believe that I have all the answers. If you have a better solution put it on the table, but do it as quickly as possible. As I said, we are going to solve this problem. I would love to see this problem solved before June of this year.

I'd like to see these bills, or any bills, go out of Committee, hopefully by April to get it to the Appropriations Committee -- which normally meets in this room -- and make sure that we have a solution that at least we are going to put on the Senate.

I have talked to Senator McNamara, he said that he had no problem with having me do the lead on this. I believe some of the people in this room were at that meeting so that he would take whatever lead we had from this Committee and from the Assembly side, and then he would work with us. There are no joint meetings planned. We had offered that to Senator

McNamara, but he said no and that he felt that we could do better doing this on our own.

I want to get into some of the issues, but I also want to get some input from my Committee. I want to have the opportunity to introduce the Committee members to you and also put their input on the record. I'm going to start with Assemblyman Pete Biondi, who is the Vice-Chairman of this Committee, and I will invite Pete to say a word of whatever.

Pete, it's up to you.

ASSEMBLYMAN BIONDI: I'm trying to get my mike on.

ASSEMBLYMAN ROONEY: Red means on.

ASSEMBLYMAN BIONDI: The red is not lighting. (referring to PA microphone) I'll speak loudly.

Thank you, Chairman.

ASSEMBLYMAN ROONEY: Try it again.

ASSEMBLYMAN BIONDI: There it is.

Thank you, Chairman. This is my first year here, but I have just come from spending four years as a Freeholder in Somerset County, and I agree with what the Chairman has said. It was a State mandate, and there are many counties out there with millions of dollars in debt service. I think we need to find a solution and we need to find it quickly. So I'm here to listen, I'm here to offer some input, and hopefully we can resolve this in a very expeditious way.

Thank you.

ASSEMBLYMAN ROONEY: Mel Cottrell.

ASSEMBLYMAN COTTRELL: I represent most of Monmouth and Burlington County, and I do have a problem with one of these bills, 519. I don't think it's right that we pay taxes in Ocean County and other counties for our landfills and then ask us to pay for somebody else. It's like double taxation in the counties that I represent. So I will be looking into this more, and I will be fighting it a little bit harder.

ASSEMBLYMAN ROONEY: Mel, for you I have a deal, (laughter) and I will discuss that as we go along. We intend to try and bring as many counties as possible into this situation and for the landfill counties who have been benefiting at the low rate for many years. In fact, Burlington County was the lowest rate, and it stayed at \$49 a ton.

There is a sheet, and I want to thank Waste Management Associates, Ed Cornell, for providing this through the industry, with the pre- and post-flow control numbers -- what they were last year prior to flow control being declared unconstitutional and what they are today. So Burlington and Ocean and some of those counties do have no debt or low debt and have had low costs for a long time.

What we hope to do-- There is some cost associated with the landfill, and those are closure costs. What we would like to do is, if we establish a fund with a statewide participation in that fund that landfill closure costs would be included. In other words, those counties would no longer have to worry about their landfill closure costs. It would be financed through the fund; therefore, you would benefit. So if I can bring you back to the table that way, Mel.



ASSEMBLYMAN COTTRELL: Well, maybe. I have to talk to my people, but I'll tell you we payed taxes on our landfill once, and the county had put a lot of money into it. It's just like paying double taxes down where we are, so I have a stand on that until you can prove me different.

ASSEMBLYMAN ROONEY: Okay, we'll keep that in mind and we'll work with you.

I want to go to the other side of the aisle, Assemblyman Jones.

ASSEMBLYMAN JONES: Thank you, Mr. Chairman. Let me just take this opportunity to share with you my gratitude for just being able to be a part of this, certainly, laudable endeavor in this Committee that I believe will be a cutting edge Committee in this particular industry.

Let me also congratulate you and commend you on your vigilant efforts to put forth legislation before the State that I believe, again, is cutting edge legislation and legislation that will obviously have to begin to embrace the concerns of all the people in the State of New Jersey. Being a part of a Committee like this and its maiden voyage to try to right some of the wrongs, certainly, is a gallant testament to any person that would be serving in the Legislature and has an obligation to serve for the people of this state.

Let me just share with you, not specifically, some of the concerns that I have about the bills. As we all know both on this side of the aisle and your side of the aisle and the people that are in the audience today, there is no one piece of legislation that has a panacea that it will correct all the wrongs that exist in this particular industry. But I believe with the conscience efforts of the involvement of the members of this Committee, regardless of partisan

views and partisan politics, we are all here for a mission, and that mission is to satisfy the people of New Jersey.

I believe that myself and certainly my colleague, Assemblyman Steele, shares in that view and that policy and are looking to work with you in a bipartisan way to make sure that the people of the State of New Jersey are made whole with respect to this industry and those that do business in this industry are not harmed and put in harm's way.

We would like to be perceived as a business-friendly state and allowing people to come in and participate in the field of competitive business, and that is, the holistic responsibility that we have as legislators, we have as people, and that's a moral right that we sort of want to preserve for the people of this state.

In closing and without any further adieu, I certainly again want to reiterate my enthusiasm for being a part of such a well-rounded Committee, a Committee whose focus is sharply in the interest of the people of this State of New Jersey and look forward to serving with the members of the Committee regardless of partisan politics because I think we are all here for the right reasons.

Thank you.

ASSEMBLYMAN ROONEY: Thank you, Assemblyman.

I'm going to go back to the other side of the aisle, Connie Myers.

ASSEMBLYWOMAN MYERS: Thank you, Mr. Chairman. I, too, commend you for having this hearing and putting your bills on the table for discussion. As everyone knows, this Committee discussed some options last session for resolving the problems of post-*Carbone* and post-waste flow. The

proposal that was on the table last session was to have each county craft its own solution, which was not a terribly unreasonable solution, except for a couple of counties like Warren, which I represent, and Union which entered into interdistrict agreements with other counties, and therefore, county solutions were not viable for those two counties.

As a result, I sponsored legislation that would have the State offer support, particularly in those counties. Another part of my legislation would address my concern that we not try to bail out the debt -- the total debt -- that may be outstanding statewide. There are opportunities in a market environment for efficiencies, for cost savings, and I'm pleased, Mr. Chairman, that you have incorporated those principles into your bills and support the concept of mitigating that debt before we try to move ahead in giving support to counties that do take steps in good faith to solve the problem.

Lastly, I guess I'd like to commend all of the parties in this situation. It's been a very rough year, but I know the facility operators, the haulers, the elected officials at the local levels have all worked diligently over the last year to find solutions that everyone could live with.

ASSEMBLYMAN ROONEY: Thank you.

Reverend Steele.

ASSEMBLYMAN STEELE: Thank you, Mr. Chairman. I'd like to thank you for calling this special meeting, and certainly it is something that has impacted the state as well as our counties. I am certainly glad to hear that you have a commitment that the State has an obligation as well as making sure that the counties are not bailed out.

Particularly, we have a situation in Passaic County and as we have throughout this state, and we are prepared to work hard and endless hours. I think this Committee might be the example for the State of bipartisan commitment because certainly this is not a party issue. This is an issue that needs to be resolved.

ASSEMBLYMAN ROONEY: Thank you.

And Mr. Chatzidakis -- Assemblyman.

ASSEMBLYMAN CHATZIDAKIS: Thank you, Mr. Chairman. As you know we have quite a few discussions on what we are talking about today. I do agree the State did create some of this, but I think the counties and their elected officials did also compound some of these issues. As you know, I was a former Burlington County Freeholder and represent most of Burlington County, parts of Atlantic, Camden County, so I do have varied interest. But I do believe we can work to a solution to help everyone in the state. Clearly, this problem affects all levels of government, local, county, and the State government.

This is one of the few issues really where I don't hear of partisan politics ever mentioned. It's clearly a problem for the state and everybody, all the people here. I think we all have the responsibility and duty to solve what we can. Maybe it can't be done overnight, we make some mistakes, but clearly we should move in the right direction.

Thank you.

ASSEMBLYMAN ROONEY: Thank you.

ASSEMBLYMAN CHATZIDAKIS: May I suggest that all our meetings should be at 10:00 in the morning. (laughter)

ASSEMBLYMAN ROONEY: I have a conflict, I think you have a conflict. We will have some problems with that.

Getting back to the five bills that I posted today-- These bills have been in for about two and a half years. From the first time that I was one of the plaintiffs on *Carbone II*, I said that if you are going to destroy a system or if you are going to do away with a system, you should at least have some alternatives.

Again, I said these are two and a half years old. There are other alternatives out there. The one thing that I would like to say is, on the bill that deals with putting the municipalities in charge -- saying the municipalities in charge of garbage and they are the ones that either have to commit, we are actually pushing towards doing away with residential contracts. I've spoken to some of the industry people, and I agree that we are going to amend that out of the bill. What the municipalities will do is, when they are in charge of garbage, it must be a conscience decision on their part that they have full responsibility up until the point that they give it to someone else.

Currently there are three ways of collecting your garbage. No. 1 is municipal collection through your DPW. No. 2 is a municipal contract where you contract with an outside scavenger. The third way is a residential contract where the town says, "We don't want any part of the garbage, you go out and contract with so-and-so." In some cases, those municipalities will go out to bid and say one contractor will service the entire town and then refer them for all of the billing, etc., to the resident.

What we intend to do is have the municipality make that as a conscience decision, put it into an ordinance form, and we'll deal with that as

we go along saying that this is the way that we want to collect and dispose of our garbage. We'll put that down and say either it's municipal collection, municipal contract, or residential contract. So that's one of the first things that we should clarify.

Secondly, on the bill that deals with the debt, my original bill said we would charge so many dollars per ton. I was saying like \$10 a ton for 20 years, \$20 a ton for 10 years would probably pay the entire debt. At that time we were looking at \$1.67 billion in debt and then taking out whatever was left after calling the bonds. It came in the numbers that I had from Pete Marwick (phonetic spelling), who was my local auditors at the time. They figured it out that it would be about \$1.2 billion, the entire debt, and that's how we came up with these numbers. Again, it was just guesstimating. That's why Beth Gates is here today, and we're going to put her on the spot in a little while.

Before I say that, what has happened in this interim period? In fact, prior to that, we were having a problem with the tonnage disappearing. There was diversion of tonnage; whether it was alleged or real, tonnage went down. So the industry has come up with a proposal -- I have no problem with the financial end of it -- saying that we report our revenues to the State-- They report all their revenues to the State, why not just put a tax on the revenues that we collect or that we have?

So that to me is an interesting proposition, and I would put it into one of the bills. There is no problem. I would substitute that in a heartbeat, and I've asked staff to do that on the substitute. What they're saying is put a tax on all phases, collection, disposal, etc. That might be a 6 percent to a 10

percent tax. Again, this is going to depend on what we determine is needed by what we hear from the Division of Local Government Services.

So those are some of the things that have to be determined by the Committee. What we need to do is identify the problem. I am a management major, so you are going to hear that a lot from me, identify the problem and then come up with a solution. Then how we apply that solution to the problem is another phase of what this Committee is going to have to do. We can easily say this is the debt, and this is a tax that we can apply to that debt. How we get it there is something else entirely.

What I'll do is just throw out some examples and do over the counties-- We can say Mercer County, right here, has a debt out there, and prior to calling the bonds that debt was about \$280 million for an incinerator that was never built, no shovel in the ground or whatever. They called the bonds and still have a debt out there, and I believe it's in excess of a \$100 million, which again Beth Gates will clarify that.

We have Passaic County which has, I think, \$98 million with their incinerator which was blown up by Governor Florio, I believe. (laughter) They were suing the State for about \$21 million. So again there is a debt out there for something that wasn't built.

Hudson County, another example, had \$140 million worth of debt. Again, they never built anything, and they have probably left about \$40 million worth of debt. That's a specific problem that we are going to have to face.

There is another situation that has been brought to my attention. In fact, the industry bill put a solution into that for the Gloucester County

situation where you have private debt. Wheelabrator has a debt. Do we take care of that debt because it was for public purposes? So those are situations that we are going to have address, and we're going to have understand them.

Again, it's not going to be easy. Again, I'm glad to hear the bipartisan approach, because as you can tell by the counties that we mentioned, these are bipartisan problems that we've got. So we're going to have our work cut out for us. I think we are going to have to do it a piece at a time. What I had originally intended was five separate bills to deal with each piece of the puzzle.

The first thing that I think we have to get off the table is that fact that the municipalities are in charge. So we should put that as one of the first priorities, craft that in such a way that we can say, "Okay, that's it," because it sends a message, the counties that are out there right now say that you are going to pay the EIC to us by this new economic flow control.

Flow control may be gone, but economic flow control is out there. I've seen numbers in my own home county of Bergen -- I'll give you a good example. The rate now for tipping -- you've got to understand it was \$101.88 last year. The tipping rate now is \$52 a ton, and they are telling me that they want an EIC from me of \$28 and change a ton, so now you're up to \$80. But they're also telling me that they are going to go my 1993 tonnage numbers, prior to my having curbside recycling, prior to my losing some major industry in my town. They are also telling me that since we don't have a way of collecting this fee -- this new EIC, whatever they want to call it; they are calling it a user charge-- They are saying that they don't have a way to collect it from the commercial and industrial people in my town. They are going to charge



me. They are going to charge the Borough of Northvale -- I'm sorry I put that hat on real quick, the Mayor's hat.

They are going to charge the Borough of Northvale for the tonnage, EIC, of my commercial and industrial people. Now, residential garbage I have 2000 tons a year which they are going to charge me the \$28. Now they are going to charge me for 3000 tons that the commercial industrial people supposedly generated.

So, in other words, if you break that down just on the numbers, I'm going to pay \$52 a ton plus \$28 for my garbage, my 2000 tons, and then I'm going to pay another \$28 for 2000 tons of commercial, plus another \$14 for the extra 1000 tons. I'm already up higher than I was pre the new law -- or the court decision. These are the things that are happening out there, and I just want everybody to understand we've got to get a quick solution because this cannot go on. We can't be paying more money after flow control is gone than what we were paying before. That is absolutely impossible.

The elimination of flow control should give every one of our municipalities property tax relief. Understand that this is going to be property tax relief, and I don't have any problem whatsoever saying that we are going to put a tax on garbage because in the long run the local property taxes will go down. So that's my intent. I'm laying it out in the table for everyone to look at and tell me if you have a better idea.

I've been in this solid waste area. I was a Commissioner at the BCUA for five years when we sited an incinerator. So I know what it is to go through that process. Luckily we didn't build it.

Connie is right, the incinerator counties are the ones. It's not only the two that you mentioned, it's all five incinerator counties. I know Union does have a different situation. They are in a process of a sale.

What I want to do is--

I saw your hand up, LeRoy. Go ahead.

ASSEMBLYMAN JONES: I was trying to get a sense of structure, Mr. Chairman. I think your overview sort of lends the foundation to what we ultimately want to discuss. I have some questions that perhaps were developed as you were talking. Just so we can get a feel of what the structure is going to be today so that we can frame out those questions appropriately. Perhaps we can talk about that and then get to hearing from some of the subject matter experts.

ASSEMBLYMAN ROONEY: What I wanted to do-- Beth Gates will be the first speaker. I want Beth to come up, and I had called her several weeks ago when I first knew that I was going to Chair this Committee and told her what I would be looking for. What we really need to know is what is the total debt in the state. What we also need to know is what the annual debt service is; how much are the counties paying on an annual basis for this; what the balance of the debt is when the bonds are called.

And also what I'd like to know is, what's the asset value? That is going to be important because if a county has a facility-- Like in Bergen, we have \$119 million or \$118 million worth of debt; that facility may only be worth \$60 million. So once the bonds are gone or called, they got a \$60 million facility that can be sold, so the State would only have to help us with half of that amount.

So these are the kinds of things we want to know. Also, we want to know, which JB Hanauer brought up to me, is that some of these are at higher interest rates. Perhaps the State could look at a situation where we would call the existing bonds refinanced, so that's another thing. We want to really get a pretty good handle on this to get it going, but I think the first thing I want to do, beyond this hearing, is to look at putting the municipality in charge, getting the word out as to what we are doing. The fact that we are looking for a statewide solution we may not have everybody on board. I'll work on Mel. (laughter) I'm going to be tenacious in this. I have been on the issue for the last three years, and I'm going to stay on it.

Beth, want to come on up.

ASSEMBLYMAN COTTRELL: Chairman, let me tell you one thing.

ASSEMBLYMAN ROONEY: Yes.

ASSEMBLYMAN COTTRELL: This is my territory that I represent. I also represent (indiscernible) that I'm not a bad guy, but 65 percent of my town alone is in the Pinelands. Now, if you're willing to pay me so many dollars towards the taxes in my town and unemployment in Ocean County and the Pinelands to preserve the water for North Jersey, I would be very well happy to accept that kind of money in my town, in my county.

ASSEMBLYMAN ROONEY: We'll talk.

ASSEMBLYMAN COTTRELL: No, wait a minute. Remember, you had this-- We are rated at 100 percent, and you know up north there are a lot of towns and a lot of cities that are not rated at 100 percent.

A \$120,000 home, \$150,000 home in my district pays \$6000 taxes. We pay through the nose for everything. So we have a feeling, too, we are being double taxed on a lot of things. We have no benefits from a lot things from the cities, and the railroad doesn't come out our way, and we have thousands and thousands of people who would like to have that railroad. So they're asking us to pay all the bills, and then we're paying ours, too.

ASSEMBLYMAN ROONEY: We'll discuss that issue, but one thing I want to say is my town right now is at 95 percent of ratio, and I'm fighting with the State right now on one sale in my town that if the State does not yield -- and this is the appeal that we are going at -- I could be at 70 percent on the basis of one sale in my town. So these are the kinds of things that I think we have to correct also, but not right now.

Before Beth gets up I just want to point to this chart again, courtesy of Waste Management Association, Ed Cornell. The chart there shows New Jersey and you can see we are the highest. We were the highest and this goes back to 1995. We are at approximately at \$96 a ton while the rest of the country was at somewhere around \$36 or \$38 a ton.

So this is where we've been, and we want to go to close to \$36 or maybe \$40 to \$50 ton, which is the real world of garbage. That's what it should be costing and that's what I hope the revision of this legislation will result in lower garbage cost, lower property taxes. So we have this. Again, we'll have some other graphics through the Committee hearings.

Beth, thank you very much for coming. It's all yours.

**BETH GATES:** Thank you. Are you telling me I've entered the real world of garbage?

ASSEMBLYMAN ROONEY: The real world of garbage.  
(laughter)

MS. GATES: Good afternoon -- good morning it still is.

ASSEMBLYMAN ROONEY: It's still morning.

MS. GATES: Mr. Chairman and members of the Committee, thank you for the invitation to testify. You've asked both the Departments of Treasury and the Department of Community Affairs to be here today; however, the Department of Community Affairs is the responsible agency for local government authority budgets and to the extent that information is available, within the State agency, I believe I will be able to address most of your questions either today or in providing follow-up information to the Committee.

I would like to bring you up to date on the size and nature of the outstanding solid waste debt in New Jersey issued in large measure for the purpose of developing and constructing New Jersey's county-based solid waste systems. Our records show that approximately \$1.9 billion was issued for the development and construction of solid waste systems. Today, \$1.6 billion is outstanding including long-term bonds, project notes, and State zero interest loans.

The Solid Waste Management Act allowed counties to designate a responsible solid waste management agency. Four counties, Burlington, Monmouth, Ocean, and Somerset, retained solid waste responsibilities. Two counties, Camden and Warren, created pollution control financing authorities for the purpose of financing and operating systems. Four counties, Hudson, Mercer, Cumberland, and Gloucester, utilize improvement authorities, and the

remaining 11 financed and operate solid waste systems through utilities authorities.

Your Exhibit A -- if you will turn to it -- describes the 21 counties, the agency that they use, the facility type, landfill, transfer station, or resource recovery facility. The final column is the facility owner. You'll note down on the page next to Ocean County I've noted private landfill. Yesterday I discovered, I believe, the name of the corporations, Ocean County Landfill, Inc. Is that right, Frank? (affirmative response)

The Division of Local Government Services to the Local Finance Board is the agency responsible for assuring the fiscal stability of the State's local government units, specifically the local authority fiscal control law, and N.J.S.A. 40A:5a requires that the Local Finance Board impose financial plans upon an authority to assure that debt service obligations are met.

Exhibit B describes by county the amount of debt originally issued, the amount that is currently outstanding, and whether or not any credit enhancements support the debt. You've seen numbers out of the Division most recently with debt outstanding in about 1.534. I want you know that this one here is all inclusive. For example, Passaic County's number now includes 14 million, approximately, in notes. This is because Passaic County has to embark at some point on a refinancing where the role and notes into the long-term debt structure.

Hudson County is another good one to look at. This number of 139,780 includes a new project financing that the county is about to embark on. It's a prefunding of landfill space. I think Burlington County may seem somewhat high to some of you, but it includes construction of a cocompacting

facility. So it's truly reflective -- this list is truly reflective of solid waste debt that's outstanding.

Exhibit C depicts the 1998 debt service requirements and a per ton charge required to raise debt service based on historic tonnage data. There is a correction that needs to be made on this chart. The column that says total tons 1996 is really -- it's not accurate, and let me tell you why. Some of the counties have been before the Local Finance Board recently and have estimated, based on the current market scenario, what they expect their tonnage to be in the coming year. So in certain cases that number is on this chart, and again I apologize the column is not appropriately headed. This is an attempt to accurately reflect either where they think they will be or where they have been historically in the past couple of years.

We do not have 1997 numbers. I can tell you that in many counties November and December tonnages fell off. So this is what we have to work with at this point in time. So based on those total numbers -- total tonnage numbers -- that you see and you see the column that describes 1998 debt service requirements you get a feel for what portion of a rate would need to be charged in that county to cover that year's debt service.

Now, the debt service numbers-- The annual debt service numbers are likely to change because several counties are still contemplating refunding scenarios to smooth annual debt service requirements. For example, Camden has a serious spike in 1999 that must be dealt with, it is burdensome.

I'm jumping around somewhat here. A discussion of credit enhancements. Two county authorities have outstanding debt entirely unenhanced. That is neither insured nor protected by a county guaranty or

deficiency agreement. Three county authorities have only portions of the debt enhanced with either insurance and or deficiency agreements. Obviously the most secure are the three general obligation issues and the seven issues backed by the county. Three county authorities purchased bond insurance. Finally, Gloucester County improvement authority debt is in part backed by a letter of credit agreement between SES, Gloucester, and Fuji Bank.

The outstanding debt number also includes amounts loaned to counties from the 1985 Resource Recovery Bond Act, but the annual debt service numbers, the \$141 million does not include repayments for the State loans. Each county has or is in the process of renegotiating the loan agreements with the State for up to a five-year deferral of payment.

You will see what was loaned out to each county by the State and what is currently outstanding on Exhibit *D* in your packet: \$122.5 loaned; \$117.7 million out; and the Legislature appropriated \$43 million by way of a bond drawdown legislation, which has not been paid out to these three counties.

Since November, eight county solid waste agencies have appeared before the Local Finance Board pursuant to the local authorities' fiscal control law. Financial plans have been imposed in several of the counties to assure that sufficient revenue is collected for debt service obligations. It should say Exhibit *E* provides a summary of the Local Finance Board's action. Of course, we have been working with the counties since last summer to prepare them for the eventual loss of waste flow. The eight counties listed on your exhibit have been before the board since November.



Over the past several months you will probably be -- over the next several months, excuse me -- you will probably be presented with a variety of programs designed to address what is commonly referred to as stranded debt. The term stranded debt grew out of the utility industry and refers to either physical plant rendered useless or too expensive to retrofit or industry changes in energy production and delivery.

New Jersey's disposal capacity is quite valuable, and, Mr. Chairman, earlier you said that you would like to know what the assets are worth. I suspect that given what I'm seeing from the private sector in terms of really trying to negotiate rates down-- What I'm hearing from the industry generally I think these assets are worth quite a bit more than everyone is willing to accept in this point in time. Disposal capacity is a valuable commodity, and you understand that given what is going on nationally.

ASSEMBLYMAN ROONEY: And in our sister state, New York.

MS. GATES: That notwithstanding, there will be an element of stranded debt. It's that portion of the debt which cannot be covered in a competitive pricing structure. You saw on the chart that the debt levels on a per ton basis, in some counties, are significantly high. We are all grasping to understand what that number is; although, some are eager to guess in order to structure a response.

However, I will say it is a moving target at this point and it is getting smaller. Anecdotally I'm not going to name the county, but if you asked me eight weeks ago what I thought the per ton stranded number would be -- and I'm thinking of a specific county -- I would have told you upwards in

\$12 to \$13 a ton. If you ask me today, I would tell you it's closer to \$6 or \$7, so I think the number is changing.

The State has been working hard to determine the size of the stranded debt and part of that process involves audits. Twelve counties, and you see which counties they are on Exhibit *F*, have asked to participate in the State's partnership agreement program and must undergo an audit in order to take advantage of State funds provided by the Legislature. Two audits have been completed, three are in progress, and the schedule for the remaining is fairly aggressive through the summer.

As you will note, solid waste disposal is and has been a public and private sector partnership. The stranded debt component will also not be readily apparent until the counties complete negotiations with their private sector partners. Counties are actively involved in negotiating with private sector owners and operators to keep the systems intact and profitable.

Tip fees have come down dramatically as you can see on the attached Exhibit *G*, which describes the peak rate as of November 12, two days after the court decision, and reflects a rate as of January 12, 1998. The statewide average reduction is approximately 26 percent but in some counties upward of 40 percent. Prices, however, still need to shape out both at disposal and at collection. Residential customers are waiting to feel the benefit of rate reductions.

This initial round of rate reduction is a first reaction to the November 10 court decision in an effort to maintain volume. In many cases, deposits into debt service funds are being subsidized by withdrawals from other

reserve accounts. We will not know how much debt is stranded until county vendor negotiations play out a little bit more.

The analysis of stranded debt is also not limited to simple auditing procedure, but at a fundamental level, we are trying to understand the manner in which authorities are operating, trying to understand staffing patterns, whether the private sector is more efficient, and the relationships between the county authorities and the private sector vendors.

To that end we met with each of the 22 solid waste districts and our meetings are ongoing. What is slowing the process, however, is litigation. Since -- well, right before *Atlantic Coast* there were some matters entered, but now there are currently 19 matters pending in State and Federal courts over a variety of issues from the authority to assess environmental investment charges to contracts law issues to DEP regulatory authority.

As you proceed with hearings, you may be confronted with terms that have specific meanings with respect to debt issuance, and for your convenience, I have attached a glossary of terms as you are bombarded with this terminology. During your review of solid waste financing, and Assemblywoman Myers already touched on this, you may want to consider issues of the impact of intradistrict agreements and the issue of cross-county rate subsidization that is revenue generated from one county supporting the debt of another.

On Friday I picked up copies of your proposed Committee Substitutes, and I will be reviewing them and get comments back to you and to the rest of the members of the Committee, of course, through the Chair.

In summary, I hope that you find this background material helpful, and I would be very happy to answer any questions that you have to the best of my ability. If I'm not able to provide you with the information immediately today, I will certainly get it back to you.

ASSEMBLYMAN ROONEY: Okay. On your Exhibit *F*, Partnership Agreement Programs, the State funds that you talk about, how much is that? Is that through Connie's bill from last year, the 20-some-odd million?

MS. GATES: The Partnership Agreement Program is funded through a \$20 million appropriation that the Legislature included in the budget. The budget language associated with it requires audits.

ASSEMBLYMAN ROONEY: So the \$20 million is really not a lot.

Let's see, the total debt service, what is the annual debt service? Do you know that? Could we have a number on that?

MS. GATES: On your Exhibit *C*, the first number column, 1998 debt service, a couple of anomalies on this. In Warren County and in Gloucester County that is the landfill portion of the debt service. In both cases the documents require direct contribution from the incinerator owner for the resource recovery component of that debt.

For example, in Warren's case the actual debt service on an annual basis for both components is \$10.5 million. In the case of Gloucester County it's up about \$9 million. But again Gloucester, SES Gloucester, remits payments directly to the trustee for the incinerator bonds.

So on an annual basis it's \$141.9 million that will be appropriated in 1998 for debts service coverage. But remember that there are several bond refundings that are being contemplated to smooth debt service requirements, so as the year progresses I believe that this number will change.

ASSEMBLYMAN ROONEY: There have been some planned amendments that have come through with these EICs, on that both you and DEP have approved, from what I understand. So what I said earlier, basically, is contrary to what you have been approving. Because what is happening, as you approve these, the litigation then stacks up. Every approval that you've sent out there has created more litigation. These EICs are a big problem, especially when other counties are doing the same thing that Bergen is telling me as a municipal official that I have to go out and collect the debt from somebody that I've never collected anything from, not their garbage nor anything else except their taxes -- commercial and industrial people out there. That's a real problem. This user charge is -- and I understand that is the basis for other counties, too.

I can't understand how anybody would approve this, whether it be DEP or local government services telling a municipality that they have got to go out and tax everybody in the town to pay for the commercial industrial people's user charge on garbage. It makes no sense.

MS. GATES: Well, actually, five counties have approached the Local Finance Board and have received approval for what has been coined an environmental investment charge, or debt service coverage assessments. In one county it is being litigated, and that is in Passaic.

All of the counties are handling it somewhat differently. Cape May, as you know, is involved in weighing. Burlington County solid waste utility is an interesting scenario. They have 36 of their 40 municipalities already signed up under contract with a rate implied in the contract of some \$50.45, I believe it is. Their application on the residential side, which makes up approximately one-half of their tonnage, was merely a simple bifurcation of the rates. So that debt service component was already built into the \$50.45 that's being charged.

The commercials will not be assessed back to the municipalities as in the case of Passaic and Cape May. Honestly, Passaic originally contemplated doing it that way, but the Local Finance Board did not support that.

ASSEMBLYMAN ROONEY: Glad to hear it because Bergen proposed it and they told everyone-- And they presented it to the Board of Freeholders that way. The Freeholders I don't think will go for it, but that's what their user charge is about right now. I keep telling them I don't want a user charge, I want a nonuser charge because I'm not a user of your system. I've been out of -- just for everyone's record -- I've been out of the state since July 4 of last year when we declared our independence in my town of the State system. We've been paying lower tipping fees from then until now and enjoying it, and we've been putting the money in the bank waiting for a nonuser charge. I have no problem with paying the debt and my portion of the debt for my county, but I'm not going to pay this other nonsense that they are talking about.

I think LeRoy had his hand up.

ASSEMBLYMAN JONES: Thank you, Mr. Chairman.  
Welcome, Director.

MS. GATES: How are you?

ASSEMBLYMAN JONES: I'm just fine. How are you doing?

MS. GATES: Good, thank you.

ASSEMBLYMAN JONES: Good.

Let me just thank you for a very insightful overview. I don't know that now begins to be the most appropriate time to discuss the intricacies of the industry with you because I have a feeling that we will be requiring your input on a more regular basis. The only observations that I do want to touch on were specific to one of the charts and just try and get a sense of -- particularly chart *C*, I think it is. My copy is sort of faded away, so I think it's *C* where there seems to be some issue with respect to the fifth column after the total tons 1996.

What we're doing here, I guess, to develop a sense of debt portion of the rate, is establish some relationship between the total tons in 1996 verses 1998 debt service. You indicated that this column is somewhat in error, and I don't want to sort of focus on the error but perhaps just get a flavor for what we should be seeing in this column and whether or not we'll get some update that perhaps gives us a better flavor or a more accurate picture of the debt portion of the rate.

I'm not quite sure, and maybe you need to just let me know -- I don't remember hearing it -- whether or not it was your feeling that rate could be adjusted drastically or slightly or what have you?

MS. GATES: This chart is intended primarily to give you a feel for the range of the problem, if you will. For example, Ocean County their debt is payed off, I believe, in three years hence. Of the rate they were charging, \$2 of that was required to cover the debt service on those outstanding bonds.

ASSEMBLYMAN JONES: Right.

MS. GATES: To make a comparison, Passaic is -- kind of sticks out there. But Passaic anticipates undergoing a refunding, so as I stated earlier, this annual debt service obligation for 1998, as soon as this litigation is cleared up, is likely to change dramatically. If everything stayed the same from this point of time, Passaic's portion of the rate that needs to go to debt is significantly higher.

ASSEMBLYMAN JONES: Right.

MS. GATES: Warren County is another good example. Their waste base, if you will, is so small and they were relying on waste from Hunterdon and Somerset counties that if they were to be out there on their own covering this debt service, that is the amount of a rate on a per ton basis that would be required to come up with sufficient funds annually to pay that debt.

So the chart is merely an attempt to give you a flavor of the range of the problem. And, yes, as soon as I can get a better feel for tonnage numbers, I can update this information.

ASSEMBLYMAN JONES: Okay, I'd appreciate that, through the Chair, naturally.



And, through the Chair, there has been several comments about calling the outstanding bonds that we have out there. I was just curious -- only from the standpoint of just being somewhat familiar with bond structurings -- whether or not there are indeed callable features in the debt that is issued by counties.

In other words, has it been clearly established that all of these bonds have callable features?

MS. GATES: The answer to that is that I'm sure that some do. I don't have access to that information readily. But a lot of the debt that's out there has already been refunded once, and of course, there would be tax considerations on future refundings. But I'm sure sending the debt out there does have call provision.

ASSEMBLYMAN ROONEY: I believe there may be someone to testify to that later.

Mr. Antonellis, is he here? From JB Hanauer.

Oh, I'm sorry, I need a new prescription, I think. (referring to eye glasses)

You can come up later and deal with the question.

So that has been something that I've been concerned with is how much is callable and how much is not.

ASSEMBLYMAN JONES: I would imagine that would obviously have some impact in what we would be attempting to put forth from a legislative remedy.

Lastly, Director, your Division is certainly responsible for insuring that municipal budgets are in on time and county budgets that they are

structured properly and accurately and all that good stuff. Mostly what municipalities and counties are trying to establish with most of their budgets in these trying times are some opportunities to pass on property tax relief to the many, many residents. Property tax relief is something that this Legislature has discussed on numerous occasions.

I'd like to hear from you what the Division's position would be with respect to this panel's attempt to achieve some aspect of property tax reduction through this legislation in terms of any opinions you may have and any recommendations you might feel a need to provide us with. Any observations as it pertains to our approach to capture some essence of property tax reduction from a realistic standpoint.

MS. GATES: I would be happy to work with you and provide my input on that issue as you go forward.

ASSEMBLYMAN JONES: At this juncture are you prepared to discuss the Division's viewpoint or vision as it pertains to capturing property tax relief in this legislation?

MS. GATES: Not-- No, I'm not with respect to this legislation. I'm not at that point yet. But I do want to make one comment that I am sensitive to the issue. A lot of municipalities want to immediately take advantage of huge reductions in disposal costs. My dilemma is this, that I have to work in the environment that I'm in today, and given that environment, and given the Local Finance Board's responsibility to ensure that debt service is taken care of, and given the remedies available to the board to me--

In a Local Finance notice that is about to go out to municipalities, relative to their 1998 budget document and State aid issues and the like, I am

going to be including a little blurb on solid waste and that in essence telling them in today's environment debt service has to be covered so be cautious at this point in time to the extent that you are greatly reducing your line items for solid waste disposal. Because what we don't want to see are huge emergency appropriations at the end of the year for underbudgeted accounts. That only hurts the municipality next year as you are so painfully aware.

ASSEMBLYMAN JONES: Thank you.

Thank you, Mr. Chairman.

Thank you, Director.

ASSEMBLYMAN ROONEY: Thank you.

Anyone else have any questions for Beth?

Yes, Connie.

ASSEMBLYWOMAN MYERS: I have a question, and I'm not sure if it should be for Beth or not. I know that many of the counties have gotten down to negotiations with vendors as one of their final steps, and there is a phrase that keeps popping up in the solid waste bills that I don't understand. So maybe it's an inappropriate time to ask. And if Beth is not the appropriate one to answer--

ASSEMBLYMAN ROONEY: Someone will have the answer.

ASSEMBLYWOMAN MYERS: --then maybe you can.

Mitigation shall not include any reduction in the rate of return on equity anticipated by a qualified vendor.

ASSEMBLYMAN ROONEY: That's too fine a point to get into right now. That's in the Substitute language which we haven't agreed to yet.

That is something that was put to us by the industry. It's not our language, that's theirs.

ASSEMBLYWOMAN MYERS: Maybe that can explain it.

ASSEMBLYMAN ROONEY: I think we have-- This is the Solid Waste Competition Transition Act, whatever. A qualified vendor defines the Union County Utilities Authority or the Wheelabrator facility.

ASSEMBLYWOMAN MYERS: I know what a qualified vendor is.

ASSEMBLYMAN ROONEY: There are certain things in here that have had thrown some red flags out there, which we will deal with. This is not on the table right now. It's not part of it, it's for discussion only. We'll get onto that. I think we have to make some changes on that. It might be a little prejudicial.

Algis, you pointed it out to me on this qualified vendor issue.

MR. MATIOSKA: The way the bill defines the term qualified vendor it applied to those two entities alone, yes.

ASSEMBLYMAN ROONEY: Yes, and that's a problem.

ASSEMBLYWOMAN MYERS: I don't want to imply I'm objecting it. I don't understand it. I don't know what it means.

ASSEMBLYMAN ROONEY: That's okay, neither did I when it first came up, and we're working on it, so it's not in the bill yet. It's for discussion and we'll cover that.

What we're trying to get is kind of a general description right now. We'll get into specifics on that. That's probably a little bit too specific for this.

It probably won't wind up in the final version of the bill. That's what I'm trying to say.

ASSEMBLYMAN CHATZIDAKIS: Mr. Chairman.

ASSEMBLYMAN ROONEY: Yes.

ASSEMBLYMAN CHATZIDAKIS: We're all talking about property tax relief, you know it's a very important issue to all of us. However, in my opinion, property tax relief is not shifting the burden from one segment of the state to the other. I'm extremely concerned that we haven't talked about the cost associated other than the interest and bonding cost. I've seen many of these counties have -- I don't want to begrudge any improvement authorities -- but sometimes they are known for not operating as most efficiently as we would like.

I think before we do anything we have to look at the other side of the cost of disposal in this state and the operating expenses. I think that would be very important before we start shifting burdens from one part of the state to the other. I think that should be as important than anything we discuss in the future.

ASSEMBLYMAN ROONEY: I agree with you, and I think if we go down the path of more or less looking at the debt, putting the municipalities in charge of the garbage for one thing, getting a revenue source to pay off the debt, I think we are going to see some of these improvement authorities, or utility authorities, going out of business. At least in my county that looks like where it's going.

I believe the solid waste portion right now is pretty close to on its way out, and the county has already been looking for a private vendor to take

over the wastewater facility. So a lot of these utility authorities may just fold up, and it may not be a bad thing. (laughter) We've had a lot of problems through that, and this has been the cause for a lot of this -- the cause of a lot of our problems.

If we weren't paying \$100 a ton in a lot of these counties that we have a competitive way of doing away with our solid waste, or disposing of our solid waste, we wouldn't be at this table at this time because there wouldn't have been any challenges to the system. But I guess people got greedy.

Anyone else have any questions for Director Gates?

I keep saying Beth because I've known you too long, Beth.

ASSEMBLYMAN COTTRELL: Chairman, I just want you to look at one thing. We closed our landfill and we payed for it and it's payed off. It cost us about \$3.5 million, nobody paid it, we paid it, the taxpayers of Jackson Township.

Let me tell you something, you are forced-- I just saw some figures here. Mr. Chairman, you charged me 6 percent a ton in my town, but we have private people to pick up our garbage. It will go about, right now, not counting (indiscernible) at 525 in my town and 18,000 approved (indiscernible) we're running right around a quarter of a million dollars just in our town. Know where I'm going to put (indiscernible) out in my town, out in the Pinelands. They're not going to pay it.

That happened before.

ASSEMBLYMAN ROONEY: Well, no, I don't think that is going to happen because the solid waste cost of disposal has gone down tremendously across the state. I think it's going to happen-- We're going to

get low cost of disposal, but what we've got to do is have low cost disposal across the state, not in just specific counties.

You've had the benefit--

ASSEMBLYMAN COTTRELL: But not at our expense though. That's what you're looking at.

ASSEMBLYMAN ROONEY: But, again, this was a statewide program. Don't forget Bergen County--

ASSEMBLYMAN COTTRELL: So is the Pinelands.

ASSEMBLYMAN ROONEY: Let me explain something. Bergen County took the garbage from New York, and South Jersey took the garbage from Pennsylvania for many, many years. If it wasn't for people using our low-cost landfills for disposal, we'd still have room in Bergen County for our garbage because there is no way in hell we would have filled it to that extreme.

We even have a situation where the State has directed Hudson County to use part of Bergen County. We can't use it. The State closed our landfills. We had this disposal -- we had low-cost disposal for many, many years. We were forced into the situation. The State created this nightmare. The State has to do it. If you have a problem with it, vote against it. I don't have a problem with that. I'm not going to get into the details--

ASSEMBLYMAN COTTRELL: Let me tell them to stop building in one area or another. Nobody has responsibility for the (indiscernible) landfill. Have you ever heard of it? It cost us \$16 million. I mean, nobody in the state paid for that, but they told us we had to take the chemical waste.

ASSEMBLYMAN ROONEY: Mel, I would love to be able to bring my garbage down to Burlington County or to Ocean County landfills at the

kind of rates that you've been paying, \$63. I'm not allowed into your county. The same thing, I'm not allowed into Burlington at \$48 a ton.

This is what has happened, you've benefited from low cost of garbage for many, many years, and you've prohibited everybody else from coming in to your particular landfill. We had ours closed. We were paying \$30 a ton when I sat as a Commissioner for the first time in the Bergen County Utilities Authority. I loved it at \$30 a ton, real cheap. Then February of 1988 -- just happened after I was off the board-- I have a 10-yard Dumpster sitting in my driveway. That 10-yard Dumpster was for construction debris that I was doing -- working on my house. Mike Carter calls me up and says, "John, if you give me that Dumpster today it's \$350, I'll take it to the landfill. If you give it to me Monday it's \$1350." That was the difference. That's what happened to us in Bergen County one fell swoop over one weekend in February of 1988. That's what happened.

You never had that experience, but we've been paying those costs. From \$135 it dropped to \$125. It's been at \$101.88, and this is what we've been doing-- It's been a part of my tax rate in Bergen County and my municipality. I've had to put up with it. A statewide solution is the way to go. I believe we have a consensus here this is the way to do it. We've been trying to minimize it as much as possible, and we're looking at maybe a 6 percent tax. That was what my idea was, a 6 percent tax on garbage. Six percent is nothing compared to what we could spend in these counties.

We've got one county here that has-- We're talking about debt portion of rate, Warren county \$77.99. These are impossible things. We have to take care of the Warren Counties, we have to take care of the other counties



that have this. We can't say that we're parochial, so parochial that we say the hell with the rest of the state, my town is not going to go up 6 percent in garbage cost.

I'll hear it, I'll let you speak as much as you want, but understand right now we're going to have a solution. I believe it should be a statewide solution, and I think this Committee will agree that it should be a statewide solution.

ASSEMBLYMAN JONES: Mr. Chairman.

ASSEMBLYMAN ROONEY: Yes.

ASSEMBLYMAN JONES: Point of order. This is indeed a very passionate issue certainly on your part, on Assemblyman Cottrell's part. I believe that this is a very spirited first meeting. (laughter) I believe that we have individuals here that are willing to testify. I think--

ASSEMBLYMAN ROONEY: Yes.

ASSEMBLYMAN JONES: --certainly everybody has an opinion with respect to this. I don't know that we'll be able to work out whatever differences we all have, because I certainly have mine, too. I believe that in the interest of moving the issue along and being able to garner as much discussion and input as we can, I think we can begin to touch on some of the things that certainly you're attempting to champion, Assemblyman Cottrell is attempting to champion, and we can all put together again a piece of legislation that-- And forget the aisle that exists between Republicans and Democrats. Let's erase the aisle, and let's just try to frame out what we have to do on behalf of the residents of this state, the people that have to do business in this state. That becomes a piece of collective and collaborative legislation that may not

necessarily be a panacea, but something that we can begin to talk about taking some very, very important first steps.

So, in as much as we're all very impassioned, I think it's perhaps the best approach to begin to get more testimony, get more discussion, understand what the issues are, go back and begin to put those together, marry those in a piece of legislation, and move forward.

ASSEMBLYMAN ROONEY: Thank you, Assemblyman Jones, for bringing us back to reality.

Anyone have any questions for Director Gates at this time?

ASSEMBLYMAN CHATZIDAKIS: Not of the Director.

MS. GATES: Thank you very much.

ASSEMBLYMAN ROONEY: Thank you for coming, and we'll be talking to you a lot in the near future.

You had a question.

ASSEMBLYMAN CHATZIDAKIS: If I just may say, as you keep saying the State created this mess and here the State is again trying to solve the mess it created, I'm a little concerned about, perhaps, acting a little too quickly. Perhaps we ought to let the private free enterprise market forces get to work here a little bit. Let things shake out a little bit. I'm a little concerned that if we did create the problem, which that is another issue, that we're going to try to solve a problem created -- I don't know, we may create another set of problems.

ASSEMBLYMAN ROONEY: Assemblyman Chatzidakis, I don't think you've quite been here long enough to learn what Trenton time is really

all about. By the time we get this legislation to the Governor's desk, it will be quite a bit of time for the market forces to act.

ASSEMBLYMAN CHATZIDAKIS: Well, I was responding to your June deadline.

ASSEMBLYMAN ROONEY: That's for us, for here, for this Committee. It still has to get to the floor. I'd like to see this at the Appropriations Committee sometime in April or May. That would be what I'd like to see. What's going to happen may be two different things.

I'm under the gun by the Speaker. He wants a solution. He wants us to work diligently for the best solution. If anyone has a better solution, put it on the table. I don't have any problems with somebody saying, "John, I think this is better than what you've got." But I don't think I want to hear that I don't like what you've got and I'm not going to support it.

ASSEMBLYMAN CHATZIDAKIS: I'm not saying that.

ASSEMBLYMAN ROONEY: No, I didn't say you are. Larry, please.

Let's get to the rest of the testimony. First, I would like to hear from Bill Harrison from the Pinelands Commission.

Bill.

Just so you know, I'll be calling David Pringle, from the Environmental Federation, next and Charles Garrod, doesn't have an organization. That will be the next two speakers, just so you're aware of it

**WILLIAM HARRISON:** Bill Harrison from the Pinelands Commission. The Commission does not have a specific position on the bills or the proposed substitutes. As such, we have two areas of concern. One, the

Commission's regulations have always limited solid waste facilities within the Pinelands and limited waste coming from North Jersey to the Pinelands, and we hope that nothing in these bills would in any way negate those long-standing regulations.

The second area, which is not something that Assemblyman Cottrell just brought up, is many landfills in the Pinelands were closed for a variety of reasons, but all relating to there being the Pinelands sandy soils not being the best place to locate landfills. A lot of those landfills have not been properly closed as Jackson's was, and a lot of the Pinelands municipalities do not have the financial wherewithal to properly close their landfills. If the Committee is coming up with any solution dealing with stranded investments, that is an issue we would like you to look at.

Thank you.

ASSEMBLYMAN ROONEY: Thank you.

Does anyone have any questions? (no response)

Next is David Pringle, New Jersey Environmental Federation.

**DAVID PRINGLE:** Thank you, Mr. Chairman.

Again, my name is David Pringle. I am the Campaign Director for the New Jersey Environmental Federation. We are the State's largest environmental group. We have 90,000 individual members and an additional 70 member groups. We are also a part of a coalition of statewide and local grassroots groups committed to working with a committee to address this issue in a way that develops a pro-jobs, pro-taxpayer, and pro-health, and pro-environment solution to this situation.

To date, unfortunately, we are disturbed that all of the major solutions offered up, whether it be at the local, county, or State level, are to varying degrees what we view as a taxpayer bailout of an economically and environmentally failing incinerator industry. We urge the Committee to look beyond the county verses county, Burlington verses Bergen, counties with debt verses counties without debt debate. We don't even need to be having that debate, at least until we explore numerous other funding options to deal with instead.

Most importantly, before we look to Joe taxpayer to pay off this debt, we should be looking to those who profit from the current situations, specifically the incinerator operators and those investors who know they were taking risk and making investments, but nonetheless, made those investments.

We urge the Committee to go slow in their approach in two specific areas. Again, we should be looking to taxpayers last, not first, to fund this situation, and, two, that the Committee cannot afford to delink solid waste financing from solid waste management.

In fact, this is a tremendous opportunity to not just figure out how we should finance the solid waste systems in New Jersey, but also revisit how we manage solid waste overall. In fact, if we do that, we have a tremendous opportunity to reform solid waste policy in New Jersey, to increase jobs, depending on your perspective, either cut taxes further than deregulation would occur or to cut taxes as opposed to increasing taxes, while at the same time protecting public health and the environment.

The coalition urges the Committee in their perspective and to be able to do this to reclaim garbage as a natural resource. Now, the incinerator

industry likes to call themselves a waste-to-energy or trash-to-steam or even better resource recovery facilities, but in fact that is a misnomer. There are many better ways to recover resources that garbage represent than to burn them for energy. If, in fact, this was such a great technology, we would have been burning trash to produce electricity a lot longer than the last five years.

To that end our coalition is measuring any solution to this situation through three principles in descending order. First, the incinerator industry in New Jersey needs to be shut down. The second, it should be replaced with a go-back-to-basics plan, the three *R*'s plus *C*: Reduce, Reuse, Recycle, and Compost. Finally, there should not be a taxpayer bailout of the incinerator industry.

To accomplish those three goals two questions immediately arise. How are we going to handle our solid waste if we are not burning it? And how do we pay off the debt? So let me explore that a little bit further. Assemblyman Rooney has a bill in, A-535, that over a three-year period would call for a 75 percent reduction in the solid waste stream, with incineration not as an option, through source reduction, reused composting, recycling in a preferred hierarchy, with the bailing, shredding, and compaction of the remaining solid waste in a sanitary municipal solid waste landfill as a last alternative.

If we did that, the remaining trash wouldn't be burnable in the first place so incineration would not be an option. We would create more jobs because recycling in the alternatives create more jobs than incineration. Finally, incineration competes directly with recycling. Incinerators need to be at a certain temperature to combust efficiently. That requires things that are

very burnable like paper. Despite the incinerator industries' denial, recycling and incineration are not compatible if you are going to do good recycling.

Finally, there are goals as good as New Jersey's recycling program is and, in fact, it is much better than virtually any other state. We can and need to do better. Rhode Island, for example, has a 70 percent recycling law.

Finally, just strictly on the emissions standards. Doctors say there are no safe level of emissions of dioxin, of lead, of mercury, of heavy metals, and carcinogens that we all know come out of incinerators. We can put some control measures on to minimize those emissions, but we cannot eliminate those types of emissions from incinerators. In a state that is the most densely populated and most heavily industrialized-- The Union, Essex, the Camden incinerators, in particular, are in highly densely populated areas. The Warren County incinerator, since its beginning -- cancer rate has increased in Warren County downwind from the incinerator. We cannot afford incineration in New Jersey financially or environmentally.

We have a fish consumption advisory for certain types of fish, both freshwater and saltwater, in New Jersey, because of mercury contamination. Incinerators are one of the two larger sources of mercury pollution in this state. We cannot afford any new emissions of mercury; that means the incinerator industry needs to be shut down.

Finally, on natural resources we will conserve water and energy if we end incineration and move to these alternatives.

Now, if we are going to shut down the incinerators, how do we pay for it? Again, before we gouge the taxpayers, we should be looking at alternatives like the folks that sold us the bad bill of goods in the first place,

the incinerator industry and those who invested in something that they knew had risk.

In addition, I believe it is premature that the State assume solid waste liabilities of the counties and approval authorities. At this time the extent of liabilities, if any, have not been legally resolved. Such resolution is presently underway through litigation in State and Federal courts. There are at least 10 cases I know of in this instance. In such litigation, counties will be able to raise affirmative defenses, such as force majeure, to minimize their liability.

We're concerned that by assuming liability before such liability is in fact firmly established by the courts, the effect will be an unnecessary bailout of counties -- excuse me -- and unnecessary bailout not of counties, but of bondholders and facility operators who will see their rights effectively expanded from those that they bargain for. The economic viability of solid waste incineration depends on the viability and enforceability of State policies providing an adequate flow of waste to the facilities.

It was first recognized that the tipping fee at such facilities would be higher than alternatives open to waste carters; therefore, reliability -- excuse me -- the reliable revenue stream would only be assured if the State was able to assure dependable and reliable flows of waste in sufficient quantity to generate revenue. Therefore, the fundamental premise was that the State would effect policies to direct flow to the incinerator facilities and that those policies would be enforceable.

Where a facility or industry cannot compete on a purely economic basis in an unregulated market and requires underlying State intervention and



enforcement to ensure that there are customers to provide the necessary cash flow, sophisticated investors and private industry participants should recognize that there is always the possibility that the underlying State policies could be found to be legally unenforceable, as is the case we have before us.

Analysis and anticipation of what can go wrong and the likelihood of it going wrong is part of the risk analysis that should go into any private party's decision to invest or participate in such industries. We're not talking about Joe taxpayer investing in municipal bonds here. We are talking about sophisticated Wall Street investors investing in revenue bonds that they did, or should of known, were risky investments.

The contracts in these matters involve hundreds of pages, and in most contracts of this kind there are force majeure provisions that relieve liability of parties to perform when factors beyond their control make their performance impossible. The contracts and investments in this industry were premised on the ability of the State to develop and enforce waste flow orders that would supply the necessary source of solid waste so that the tip fees, which were over and above competitive levels, could be maintained in the full anticipated revenue generated. However, a factor beyond the control of the parties was the determination, again, in the Federal courts, that such policies were unconstitutional burden of interstate commerce and therefore unenforceable.

We believe that this development creates affirmative defenses to the counties. Such defenses can and should be asserted by the counties in any contract litigation against them and should be settled before we decide how to

handle this debt. Again, it is not stranded until it is paid for, and we are not there yet.

Similarly, investors who loan money for these facilities in most cases invest it in revenue bonds where it was established by State law that there would be no collateral or security over and above the revenues produced by the facility to be constructed. Such revenue bonds typically have interest rates higher than general obligation bonds to reflect their higher risk and may, in addition, be covered by private insurance, which of course was paid for in the course of financing.

At this time, it is premature to indemnify counties' improvement authorities and other public bodies that may have entered into such contracts. While we understand the legislative concern that these bodies should not be hung out to dry -- so to speak -- the extent of liability has at this time not been established. We are aware, again, of at least 10 actions in State and Federal courts involving these matters. We're concerned that the State indemnification will unfavorably impact the ability of the public bodies to assert their defenses to such litigation.

Before any indemnification is considered, this litigation should be largely allowed to run its course. Indemnification will unfavorably impact the citizens of New Jersey in two ways. First, there will be the creation of liabilities beyond those that presently exist in law. This will result in a bail out of investors and solid waste operators and not relief to the county bodies. For example, knowledge that there is a State indemnification will unfavorably affect the ability of or desire of the county bodies to negotiate reasonable or fair settlements or to raise affirmative defenses of impossibility.

Second, from an environmentalist point of view -- is perhaps even more important. Such after the fact, indemnification will have the directional effect of keeping facilities operating that are not economically viable and which may otherwise close on the basis of economics and the inability to attract additional investment for the risks involved. The result will be a long-term taxpayer finance subsidy of an industry that is now economically, as well as environmentally, discredited. Therefore, we feel that the economic indemnification at this time represents poor policy for both the environment and our citizens' pocketbooks.

We therefore oppose A-519 until the court situation runs its course, investors and incinerators pay their fair share. We are glad to hear the Committee is interested in taking a look at refinancing and auditing; minimally that will lower the debt. An additional positive aspect of shutting down the incinerators will be the options to retool or to, minimum, sell the assets of the incinerator which could provide further revenue to handle the debt.

As an alternative to 519 we look to the Committee to explore improving, again, the three *R*'s plus *C*. Again, Assemblyman Rooney's bill, A-535, provides a good starting point to begin that mandating within three years a reduction of 75 percent of solid waste tonnage based on 1990 numbers, including a 55 percent reduction in municipal solid waste tonnage. This legislation also includes over time that there will be no exports of garbage out of New Jersey and will end our reliance on incineration.

In conclusion, we have in New Jersey now the opportunity to become self-sufficient, to create jobs, to maximize property tax cuts, while doing a better job protecting our health and environment. However, we will

not achieve that if we look to taxpayers before those profiting from the current system and if we delink solid waste debt from solid waste management.

I appreciate the time and attention the Committee has given me and look forward to working with the Committee on developing a pro-jobs, pro-taxpayer, pro-health, pro-environment solution to this situation. We will be issuing a report shortly. I'm hoping it will ready for the next Committee hearing, which I believe is Tuesday the 10th. I'm not sure if it will ready by then. If it's not, it will certainly be ready by the next hearing dealing in providing some facts to the rhetoric I supplied today, and I look forward to sharing that with the Committee.

ASSEMBLYMAN ROONEY: Thank you, David.

Any questions?

ASSEMBLYMAN JONES: Can we have copies of his testimony?

ASSEMBLYMAN ROONEY: Yes.

I have some problems with some of the things, but I'm going to call Mr. Antonellis after the next speaker to talk about the bond issue. That's why I held him off until your testimony. We've discussed this over the phone, and one of the problems I have is that if-- Four out of the five of the incinerators that we are talking about are county guaranteed bonds. So if they default, the county has a problem with that, they are going to have to pay for it.

If any of our counties start defaulting on bonds, we're going to have a major problem with the State because it's a domino effect. The State rating is going to then be suspect, and I am not in that industry, haven't got

the slightest clue as to the real world of that, but I'm going to have Mr. Antonellis come up later from JB Hanauer to address that particular issue.

MR. PRINGLE: Which is the one that you refer to that is not county backed?

ASSEMBLYMAN ROONEY: I believe the Warren County one does not have county guaranty.

MR. PRINGLE: At least--

ASSEMBLYMAN ROONEY: That's from the statement by Beth Gates today.

MR. PRINGLE: For most of the counties it's been a series. Some of them have been revenued back, some of them are county backed, and in many instances they have more than one issue. So I think there is more than just Warren that has that situation. That's the research that we are doing and we'll provide that to you.

ASSEMBLYMAN ROONEY: One of the things I do agree with you, David, is on the issue-- This is the ongoing issue and the ongoing questions about whether they are safe or not, and I address that to the representative of the DEP. I had spoken to Thea Sheridan, our partisan representative, about looking into that with our Committee to find out if incinerators, in fact, do contribute to the amount of mercury in the environment, etc. I asked DEP to get started on that particular issue as of today, as we speak, and we will address that at another Committee Meeting.

As far as the recycling and my bill that I had put in, we have an immediate crisis right now. If we don't come up with a statewide solution, the

counties are going to continue with the solution that they have, which is unacceptable to many of us. That's where we're at.

A three-year situation on recycling, whatever, is not going for the short term. We need to come up with our short-term solution as quickly as possible. Long term, we can talk about my bill. Also, I'll take other suggestions from other members of the Committee.

Anyone else have any comments or questions at this time?

MR. PRINGLE: Can I just add one comment?

ASSEMBLYMAN ROONEY: Yes.

MR. PRINGLE: First of all, I neglected to mention that Salem County is proposing a new garbage incinerator. It's already been approved by the Solid Waste Advisory Committee in Salem County last week. Union County is asking for municipalities, including my hometown of Cranford, to sign on to a 20-year incinerator contract.

So I understand the Committee's desire to move and deal with the financial issue now. What I'm saying is that we can't afford to delink the two. Let's move forward on the finances but keep the management with it.

ASSEMBLYMAN ROONEY: We have our differences, David. We'll keep talking, and just for your information, I will be attending a seminar at the end of this month on the Salem County situation. I don't know if you've gotten an invitation because I did ask them to call you.

MR. PRINGLE: Not as of yet.

ASSEMBLYMAN ROONEY: Okay, but I did ask that a member of the Environmental Federation be at the same conference that I'll be at to discuss that Salem County incinerator.

MR. PRINGLE: I will also forward to the Committee an EPA report released last year that documents that incineration is one of the two largest sources of mercury pollution.

ASSEMBLYMAN ROONEY: Share that with me, too.

I said Mr. Charles Garrod would be next.

Mr. Garrod, who do you represent please? Or are you representing yourself?

**CHARLES GARROD:** I'm representing myself, Mr. Chairman.

My name is Charles Garrod, it's G-A-R-R-O-D. I live in Piscataway, in Middlesex County. I want to thank Assemblyman Rooney for providing this forum. It's an ongoing version of *General Hospital's* waste flow control. Maybe five years from now we'll still be talking about it, maybe not.

Ten years as a solid waste consultant. I served as a Freeholder in Middlesex County as Director one year, a county that was able to cope with its solid waste problem many years ago. I listened to Ms. Gates and your recounting the various debt numbers, and I was amazed at the difference of the numbers and looking at another form that somebody had of the various variations of how you measure debt. I'm not an accountant, maybe some of you aren't. It is very difficult to understand how each municipality or each county or how the State then looks back on them through what they are now calling some kind of audits and participate in the partnership -- how they are truly measuring their debt. Do we really know what the debt is?

We know that the bond market -- excuse me -- the mortgage market is in good shape right now. A lot of home owners are taking advantage and refinancing at lower interest rates and, therefore, recasting their debt,

sometimes over a longer period of time with a much lower payment or the same type, but still a low payment because of low interest.

We didn't hear a single source in government talk about how can I recast all our debts taking advantage of good markets. I looked at some of the numbers that I had and I looked at the population. I just picked the five counties that have stranded debt. When I think of the term stranded debt when it's spoken by political people, I think of political speak as this is a way we got to figure out how to tax everybody. I know it sounds cynical, but that's how I see it.

Of the five counties that seem to have the most problems with their incinerator debt, or their lack of incinerator, but still a debt, they represent about 20 some percent of the total population. So if you start talking about how can we bail out these counties, what we're going to say is how can we take 70 percent of the population of the State of New Jersey and ask them to bail out -- perhaps even generously, say 30 percent of the population. Is that right? Is it better to find a penicillin for the counties that are sick rather than infect everybody?

Because governments were involved in building these incinerators, it was never a thought about productivity or efficiency. This was about bonding attorneys, bonding fees, favorite engineers, and how many people can I put on payroll, I can fit in each building. Some counties said I didn't mind that I could tack on additional fees because I wanted to have all kinds of wonderful, feel-good environmental programs, and I'll just tack that on the tipping fee. All of a sudden the tipping fees went-- Your county is one of them, \$114, \$141, I forgot what it was at its highest.



ASSEMBLYMAN ROONEY: One hundred thirty-five.

MR. GARROD: It was absolutely amazing how many bodies were employed that generated that number.

Middlesex County lowered our tipping fee to \$44 and tacked on another \$4.27 for feel-good programs. It's still a decent amount. When I hear that somebody is talking about Burlington County who has bragged for years how low their tipping fee was and how efficient their operation is and now we are talking about stranded debt, it's scary. It's something for you to look at to see where does true stranded debt-- That's just an ongoing debt in government.

As you can see my comments are not technical. I really see this leading towards something that is bothersome to me because I am involved in economic development in my county. I see this as bad business. When the meeting started, Assemblyman Jones said something about a business-friendly state. Assemblywoman Myers talked about deficiencies and cost savings.

All that concept is now fading away of trying to make New Jersey competitive. What we're doing is we're economically punishing everybody by taking this cost and adding it to the operational cost. Everything we do in this state of every single person that lives and works in this state is going to take on burdens, it's not right. It's just not right.

I have one final comment. It's amazing to me that in this state in New Jersey when you look at the numbers and the recycling -- the previous speaker from the association talked about recycling as a concept and problems -- but it's amazing to me in New Jersey where we had a 60 percent goal set for recycling and people are saying, "I recycle 74 percent of my garbage" and the

garbage numbers keep going up. It's magic. We're growing garbage. Look at the numbers. Look at the true debt. Look to see who should be paying. If you make a bad business decision -- if you make a bad business decision -- why should everybody else have to be punished for that?

Mercer County has all of these millions in debt and they didn't put a brick on the ground. How could they have spent all that money with not a brick on the ground? They are the poster boy of how money should not be done, how government shouldn't be involved in such things. Look at who should be punished, not everybody else, people who make bad decisions.

Thanks.

ASSEMBLYMAN ROONEY: Mr. Garrod, I appreciate your comments, and I think I brought that up at the beginning as a typical example of what we do. Right now the overview is there is a debt outstanding, total debt, there is revenue source to do it. There are possible solutions. How we get from here to there, that's something that's going to have to be determined at a later date. Whether we actually pay off a debt such as you just illustrated is going to be something down the line.

What I'm trying to do is get the legitimate debt payed for. The counties that were forced into the incinerators -- and they were -- they were forced, dragged, kicking and screaming to put in the incinerators because the only-- I've had this argument with DEP for years. They kept saying, "We never said you had to build an incinerator." I was there when we submitted any other plan but an incinerator, it was rejected in hand. We were told you better put it in as an incinerator or it's never going to get accepted.

That's what happened. These counties have that problem now. We've got to resolve the problem. It's getting too late.

ASSEMBLYMAN JONES: Mr. Chairman.

ASSEMBLYMAN ROONEY: Yes, Assemblyman Jones.

ASSEMBLYMAN JONES: Through you, Mr. Chairman, I was just curious whether the witness had any business recommendation for the Committee.

ASSEMBLYMAN ROONEY: As a consultant for the industry, that's a good question.

MR. GARROD: Well, I just want you to think on this. Union County, that ran around with the Chicken Little attitude and how their entire county was going to collapse, got into a room with businesspeople and said, "Could you operate my operation?" and its fee went down to \$50. Shouldn't that kind of approach be looked at? Let's get the people who are boxed in with friends and relatives and say let's look at this in a business sense.

I don't have any direct comment on how you solve that problem because I know it's a county-by-county problem. It is not a State problem yet. It may ultimately, as Assemblyman Rooney says, is a State problem. But right now this is a problem to look at on a case-by-case basis until you really know is it being operated efficiently. Let's get the dead wood, and whatever is, off the payroll. Let's see if a private operator can operate this-- If you get a true operating cost, somebody needs to have their debt recasted, somebody needs to have some kind of help. That's down the road decision when you know the facts.

Right now you have everybody running around saying, "Please help me." I look at and I just heard your comment, and I want to say five counties build incinerators, 17 counties -- well, there is a couple of other incinerators -- 15 counties didn't. Did the 15 counties go to jail? Did they hold guns to the people who build incinerators? I don't think so. What happened was people said, "Let's build incinerators. We're government, we can pass it along." What happened to the other counties that didn't?

ASSEMBLYMAN JONES: So, Mr. Garrod, is all that to say that you don't have a recommendation at this juncture?

MR. GARROD: I didn't come this morning, sir, to make a-- I came to share my comments on how I look at it as a system that went bad. In my business, when I'm called upon to give advice, I do a lot different focusing on solutions.

ASSEMBLYMAN JONES: Maybe we need to cut the testimony before we get to the billable-hour conversation. (laughter)

MR. GARROD: Maybe.

ASSEMBLYMAN ROONEY: Thank you, Mr. Garrod, but one thing to take as a parting information: Those counties that didn't build the incinerator were in litigation for many, many years, including my own in Bergen. So that's what happened to them. It wasn't all that simple.

Mr. Antonellis from JB Hanauer.

I think I placed you properly in the order.

**JOHN ANTONELLIS:** Perhaps so, Chairman.

Good morning, Chairman Rooney and Committee members. I feel obligated before I proceed with a discussion of the restructuring the debt,

which is an important component of possibly lowering the overall cost to the taxpayer, to address Dave Pringle's comment earlier-- We are not involved -- our firm was not involved, in the underwriting, so I can say this without any bias. When an investor makes an investment based on law, which is legal, based on good faith and that changes, I think you've got to be cautious about how you comment whether or not you should maintain that obligation.

We all enter into contracts that we particularly don't like. If right now tipping fees were going to be \$150 a ton, right now we wouldn't be sitting here. It happened in our industry with "oops" with the generation of electricity. So I caution any comments where you want to look at obligations that were entered in under contracts and in good faith that you just want to throw out the window. Truly, I would not comment about the environmental aspects of this legislation. I don't know it, we're not qualified as you mention.

So I would caution any comments about that with regard to a lack of understanding of what impact it has on the state, on the municipalities, on the authorities, and that state's ratings. Because you might win the battle, but you lose the war, and the taxpayer will eventually have to deal with that. So I'd like to just clarify that with Mr. Pringle.

The question was brought up before which I think is an important consideration in this puzzle. Beth Gates had mentioned that there is approximately a billion and half of outstanding debt of various types: county guaranteed, insured, and so forth. Of that billion and a half approximately \$600 million is what is referred to as unenhanced debt secured strictly by the tipping fees generated from these authorities. That debt, okay, was issued under certain contracts -- flow control contracts. It came out of a time when

interest rates were rather high. That \$600 million probably represents about 60 percent of the debt service of the outstanding billion and a half, which is a significant number when you consider it's still only probably 40 percent of the total debt. So refinancing that debt is very important.

The options that exist under refinancing that debt are kind of convoluted because it's very legal and I don't even understand it. I can use a couple of examples. Union County is probably the best example to use. It was just addressed here that this gentleman had mentioned that Union County sat down with its vendor and is trying to address privatization of this facility and moving forward to basically lower the overall cost to the taxpayers.

The redemption of their outstanding debt will occur as a result of what they refer to as a change in the law or the contract, the service agreement, between the operator and the authority. You have three types of options that exist under calling bonds. You have your special redemption provisions, you have your optional call provisions, and then you have your sinking fund provisions. The provisions -- and, of course, refinancing is an option that we want to consider.

The special redemption provisions are one that are going to come into play in a particular case with Union County. Once Union County changes, if they are able to move forward this financing plan-- An opinion was put out by a law firm of Dakotas with regard to a material notice on the intention to redeem this outstanding debt, and they identified the ability of the authority to redeem this debt because they were changing the contract between the operator and the authority, and therefore, they felt legally they had the right to issue new bonds which would be secured by whatever it's going to be,

which would be at lower debt interest cost and refund or corral in all the outstanding debt immediately. That's what we referred to as a special redemption provisions.

Trust me, that doesn't make bondholders happy, but in light of the situation and individuals who bought these securities, whether it was initially when law existed or after the law existed, they are going to be more than pleased to have that debt retired and the problem resolved. So that is one option that you have to consider in any one of these particular projects. Will changes in law promote changes in the service agreements between the operator and the facility and the authority to promote a restructuring or calling of that debt? That's the first thing.

Beth also mentioned about refinancing the debt. The 1986 tax laws put a lot of restrictions on how we can refinance debt in municipal market. The introduction of AMT as far as private purpose bonds -- quasi public purpose bonds -- put a limitation on refinancing. You cannot refinance AMT debt. There was some exclusions under the 1986 tax laws, but this was not anticipated.

The other thing is if you did a refunding issue, in other words if you sold the bond issue and then you use those proceeds from that bond issue to refund another bond issue, you have more restrictions on that debt, too. This happens to represent most of the debt that is outstanding, AMT or refunding bonds. Hudson County is a prime example. Their (indiscernible) they have outstanding, which was strictly revenue debt -- tipping fee debt -- is a refunding bond issue. That legally cannot be refunded without, as Beth

mentioned, possible tax considerations which must be considered because the net affect may be still to lower that overall debt.

What I strongly suggest to the Committee here and what our firm has been trying to do as this process has developed is to continue to have our analysts and the rating agencies and our in-house counsel review these options to evaluate whether or not EIC charges are legal are not. Chairman Rooney mentioned about EIC charges and the ongoing process which is going on right now with each county that it applies for. Well, the state of Minnesota, the Supreme Court there just approved EIC, it upheld an EIC charge. I don't know what format it's in, but I'm sure that in any format it could be rewritten to accommodate what needs to be done here. Lawyers have a funny way of being able to do that.

The other thing we're concerned about -- it's not only the debt outstanding -- just the unenhanced revenue debt, the implications of any legislation on the authorities, the counties, and the State of New Jersey in terms of what credit implication it has. As I mentioned earlier you can win the battle, but you may lose the war. And if it's going to have a negative implication on the credit ratings of any of these authorities and municipalities, it is very difficult to support that legislation, so you have to really look ahead in that area.

So we are strongly suggesting that we will continue to provide feedback to the Committee with regard to those considerations, any legal advice that we can. We strongly suggest that each individual authorities' counsel review the options to retire that debt through special redemptions, refinancing, or any other options that might exist. We also strongly suggest



that the Committee consider any feedback that we get from the rating agencies as to what legislations' impact will have on the counties.

ASSEMBLYMAN ROONEY: Thank you very much.

Any questions from the Committee?

Don't go away.

ASSEMBLYMAN BIONDI: Through the Chair, I was going to ask the Director this question before, but the Chairman said you would probably know or be able to get the answer. We're talking about restructuring the finance. I'd like to know what the current interest rate on the bonds to the respective counties are currently.

MR. ANTONELLIS: Okay. The component that we have to address there is approximately \$600 million of debt that's just revenue debt. The interest rate on that is probably well over 7 percent or 7.25 percent.

Just to give you an idea of where we are in the State of New Jersey right now, which enjoys a very good credit rating across the board because of the role of Local Finance Board, okay -- is right now 30-year Jersey bonds, triple A rate, it would come around 5 percent, 5 percent to 5.25 percent.

We have worked with one authority where we've given them some restructuring ideas we say do qualify for refinancing, and we can save them probably -- the industry -- true financing could save about a half a million dollars a year on debt service. So it's very important to consider these options.

There are other players, and I got to say that I'm a little bit surprised that through this whole process that very few investment banking firms that underwrite these loans have been participating. Quite frankly, they should be here. They carry a wealth of information that they could provide as

advice to this Committee so that it's not necessary to kindly continue reconvene to address whether or not these things could be done. So we have encouraged several players to participate as this progresses and we'll make sure they're here. But it's well over 7 percent.

ASSEMBLYMAN ROONEY: Connie, you had a question.

ASSEMBLYWOMAN MYERS: Have you had an opportunity to review the bills that are on the table today?

MR. ANTONELLIS: We have not. The last piece of legislation we looked at, the proposal was the one sponsored by waste management. I understand after conversation with Chairman Rooney our analysts will be reviewing the five pieces of legislation. We looked at them in the past--

ASSEMBLYMAN ROONEY: The Substitute.

MR. ANTONELLIS: And we will look at any amendments, and so forth, and we will get back with comments on that.

ASSEMBLYWOMAN MYERS: So then your comments today have no relationship whatsoever to this proposed package?

MR. ANTONELLIS: Not to the legislation per se, no, ma'am. To the outline of foundation which has been the same since this process begun, yes. Statewide surcharges seems to be a better and more politically acceptable approach. And I know that the comment was made that why should some counties bare the burden. This is not a big burden, it's just a little bit more complicated problem.

ASSEMBLYWOMAN MYERS: But I thought I heard you say that if we pass a law, we must be careful of the impact that just passing that

law will have on some of the ongoing negotiations and restructuring and refinancing that are occurring.

MR. ANTONELLIS: No, ma'am. I said that any legislation passed has to be considered to the credit implications, not the negotiations between the authority. You're going to have to allow flexibility to allow those negotiations going on. These authorities that are going to the Local Finance Board for an EIC charge, they are going because they don't have any options other than do that right now. They have to pursue that because there is nothing else that guides them where to go.

ASSEMBLYWOMAN MYERS: Yes, but isn't the view of a statewide surcharge the end of EICs and the end of negotiations?

MR. ANTONELLIS: Yes, it is. I believe it's in part, but I think it's difficult sometimes to work that into a negotiation. Like right now with Union County's situation is, how do they work into what the EIC charge will be? The rating agencies are very concerned about an EIC charge that is collected at the county level. How do you track it? How do you collect it? How do you ensure that it continues to go toward the debt service on the bonds, so while -- that cash flow mechanism is an important part of making sure that you got a credit structured that is going to pass with the rating agencies or, at least, to receive the benefits of what you're trying to do.

ASSEMBLYWOMAN MYERS: Thank you.

ASSEMBLYMAN ROONEY: LeRoy, do you have a question?

ASSEMBLYMAN JONES: Yes.

ASSEMBLYMAN ROONEY: Yes, go ahead.

ASSEMBLYMAN JONES: Just to dovetail on your response to Assemblywoman Myers with respect to the EIC and how it's tracked and assuring that it's ultimately applied to debt service: Isn't that something as simple as capturing that in a piece of legislation to ensure that all collections from that source specifically are applied and ensuring that, one, the legislative process and, two, the monitoring of the agency that is responsible for those counties and those authorities, and that being the Division of Local Government Services, and ultimately its board that sets its policy, and that being the Local Finance Board?

MR. ANTONELLIS: Yes, it is as simple as that to a certain extent. The ranges, of course, we'll look at a piece of legislation and say, "Okay, how clearly does this define that process?" Then they are going to say, "Let's watch it for a couple of years, it won't have an immediate impact." Because like everything that we probably do from a legislative standpoint is we have to see how it plays out. We support a State EIC charge. We think it's a cleaner, less costly way to handle the problem in the state. Having the counties to have to monitor this and provide the information and also the waste stations that have been posed in the past in order to handle it that way just continue to inflate this process costwise.

So, yes it is easy, but that's why you want to keep it simple. We suggested quite some time ago -- and I believe this was a recommendation also of Dave Pringle's group -- was a statewide agency. We suggested perhaps using New Jersey Wastewater Treatment Trust. Their powers were expanded to include solid waste purposes. So there are options to keep it simple and also to assess it.

Again, as Chairman Rooney said, here at 6 percent or 7 percent, or \$6 or \$7 per ton charge, or if you base it on the revenues is not a huge burden to solve this problem.

ASSEMBLYMAN JONES: You had mentioned there had been some implications with respect to some of the debt alternatives or debt arrangements that tied itself to the 1986 tax law. Can you just revisit that for me?

MR. ANTONELLIS: Okay. Refinancing of the outstanding \$600 million or the billion and a half.

ASSEMBLYMAN JONES: Right.

MR. ANTONELLIS: And I'm not going to say the billion and a half because I don't have a handle on the other \$900 million in terms of their debt cost, because it is considerably lower because it was issued by counties, and they typically carry better ratings, and so forth.

ASSEMBLYMAN JONES: Right.

MR. ANTONELLIS: But to refinance that debt or just to lower the cost of that debt, you have to look at what options are available to you legally. As I mentioned, you have special redemption. There is a change in the laws, so therefore, we can proceed with this type of refinancing, sell some new bonds at lower debt, and call in the old higher-costing debt. That's a provision that probably exists. It is, of course, like I said the basis for the Union County solution.

The other option, of course, is if you can't do that. If you cannot call in the bonds through special redemption because things haven't changed materially enough to warrant that or it wasn't structured originally, then you

have to say, okay, what else can I do? I can refinance it. Well, if it's AMT debt or if it's a refunding bond -- this issue was actually a refunding bond -- I'm restricted to refinancing that, I can't do a refinancing under the '86 tax laws.

Beth had mentioned that option may exist if we pay some taxes. I don't have any concept of what that is. We have to talk a little further about it. Our bankers, our analysts, would be happy to work in advising that if that's an option to do with regard to the AMT refunding debt.

The third one, of course, as I mentioned, under that is a straight refinancing like all municipalities do because the debt qualifies it for that. Unfortunately, there is only one authority in Camden County with one maturity actually that has that option. Atlantic County has that option. Camden County actually did a refinancing on one of their maturities on the outstanding bond issues that they have; that is their incinerator debt. That is not county guaranteed, but it is revenue debt secured by tipping fees.

So it's available in a very small way for them, definitely available for Atlantic County, and with regard to the county guaranty debt, again that would have to be looked at more closely as far as what options prevent there.

ASSEMBLYMAN ROONEY: Assemblyman Jones.

ASSEMBLYMAN JONES: Thank you.

One of the concerns that I have -- and I raised this with Director Gates, and it was whether or not the bonds that have been issued by various counties have the necessary special provisions within its-- Well, we can use the special provisions towards taking advantage of some of the options that you have shared with us.

As you know, bond structures can vary depending on who the work group is, what the concerns are, what the ultimate goal is, and once you put all that into a pot and stir it, the end result is a bond issue that the county will have to live with through its maturity or during the times that you use special provisions to perhaps restructure it.

Getting to the point is that some bonds may not have, because of its structure, the ability to restructure, refinance, refund, or do anything with. I don't know that we've gone through the necessary due diligence exercises to determine specifically what the conditions are that exist amongst the 21 municipalities and their aggregate debt that we ultimately have to deal with.

Mr. Chairman, I don't know if you have that intelligence in terms of the data that says what the specific structure that exists per county so that we know what options we can apply in the event that as we deal with each county from a very parochial standpoint. I think that is a key as we continue to explore these debt alternatives without knowing the specific structure, without knowing the options that we have available, and I think that's where we need to begin to rely on specific subject matter experts to go in and analyze and perhaps maybe it's a department or agency like that of Director Gates where we have to analyze the specificity of the structure so we can completely understand exactly what we are working with as we try to remedy some of what we have before us now.

ASSEMBLYMAN ROONEY: I think Director Gates had given us pretty much what we had asked for. We have the overall debt, we have the annual debt service.

ASSEMBLYMAN JONES: Yes, she has given us that, Mr. Chairman, and we certainly appreciate that. But what I'm talking about are the legal arrangements that counties have entered in, and the gentleman understands exactly what I'm talking about. What we have there on paper merely what the total obligation is per county and what the annual debt service payment is toward that total obligation. What we don't see are the conditions that have been built into those debt arrangements. Those are very specific, those are very legal, those are very finite issues and conditions that we may not as a Committee have the--

We do not enjoy, or may not enjoy, the responsibility to break those agreements without violating some conditions of local bond law and perhaps some impact with respect to the 1986 tax law. So that is where we have to begin to look very close into those arrangements such that we clearly understand what options we have before us, what legal remedies, perhaps that may exist, perhaps what amendments that have to be made to local bond laws so that perhaps we can get a more holistic remedy to this issue of debt.

MR. ANTONELLIS: The suggestion there, Assemblyman, is I would dissect the outstanding debt and identify, again as I mentioned, that of the billion and a half that's outstanding probably about 600 million is the high-cost debt.

ASSEMBLYMAN JONES: Right.

MR. ANTONELLIS: And the other county guarantied or insured debt, well, it should be addressed. Perhaps, it would take much longer to evaluate on each deal what you can do there. I would stay focused on the



\$600 million, because as I mentioned, I believe that represents about 60 percent of the total debt.

So here is 40 percent of the outstanding debt, the 60 percent of the debt service. I think-- And because of the time constraints and the intent to focus on this problem, I would look at that debt, and I think that probably revs in a significant savings. The other stuff can be looked at down the road, but immediately I think that's what needs to be addressed, and that can be done very quickly.

ASSEMBLYMAN JONES: Right.

MR. ANTONELLIS: Very quickly.

ASSEMBLYMAN JONES: And I think that, perhaps, should be our approach to this because, again, we are not clear as to what we're dealing with and what arrangements have been made in counties that if we weren't there to be a part of those arrangements, and certainly we don't know.

ASSEMBLYMAN ROONEY: Can you get that for us, or would that be through Beth Gates?

MR. ANTONELLIS: That's going to probably be through individual bond counsel of each authority.

ASSEMBLYMAN ROONEY: Okay, we can get that through the Director's office. Why don't we just make that note.

Connie, you had a question also.

ASSEMBLYWOMAN MYERS: Is the Treasurer testifying today?

ASSEMBLYMAN ROONEY: No.

ASSEMBLYWOMAN MYERS: Okay. I just wanted to make sure that Assemblyman Jones understood that there is a current process going on

in the administration as a result of the bond language that adopted my proposal to provide State monies to counties for stranded debt. Warren County, which I represent, was the second county to go through the audits that are required to qualify for any State assistance, and I can assure you the administration, the DEP, Attorney General, the Governor's Office, the Treasurer, and DCA are putting magnifying glasses on all aspects of authority debt, and as a result, they have not assisted any counties yet.

Warren County is in a critical position and is hoping to be able to access that debt before they have to worry about bankruptcy or default, which is a matter of months away. But there are 12 counties statewide, that is in your packet given to you by Director Gates, which have applied for this audit process which hopefully will wind up in the next month or two, and then we should have a real good picture of exactly what are the critical problems in each county.

ASSEMBLYMAN JONES: Assemblywoman, I thank you for that because I think that's essentially what I'm talking about. Perhaps those audits would probably focus on some of the specificity that exists amongst these bond agreements and the bond structures that exist in the counties. Perhaps -- I'm not quite sure how much an OS would tell us about the structure and some of the legal arrangements that find themselves wrapped into or weaved into the structure, but perhaps that's an option for some of us-- Those are publicly issued documents.

ASSEMBLYMAN ROONEY: Just for the record, Passaic County has a more imminent problem because, I believe, their debt comes due next month and--

ASSEMBLYMAN STEELE: March 1.

ASSEMBLYMAN ROONEY: Right. And they are short. They are about half the way there for the debt, so something is going to have to happen so that's why we are trying to bring this thing to at least to get something for discussion and also to show people out there that we are trying to come up with a solution and make it as quick as possible, because there are problems out there. There are major problems out there with many of these counties, and I don't want to see any county ever say they are going to default. That's the worst-case scenario as far as I'm concerned.

Does anyone else have any questions for Mr. Antonellis? (negative response)

Hopefully we will see you back here again.

Thank you very much.

MR. ANTONELLIS: Thank you.

ASSEMBLYMAN ROONEY: As a great segue -- you had said that some of the county counsel should be in -- Robert Millenky, Camden County counsel, is the next on the agenda. So we will hear about some incinerator situations, I believe.

**R O B E R T   G.   M I L L E N K Y   E S Q.:** Assemblyman Rooney, Committee members, thank you very much for this opportunity to appear before you.

Assemblyman, I think that your efforts designed to find a solution to this problem and recognizing this problem as a statewide problem is an important and very, very noteworthy step. I think we are finally moving in the correct direction. We're finally moving towards a solution that says this is a

system that was generated by State action long ago, as you have so often said, and it's a system now which has developed a problem. It is a system now which must be fixed.

Assemblyman, we read with great interest the provisions in Assembly Bill No. 519, which would suggest that a \$10 per ton municipal levy might be instituted. We also read with interest the other provisions of your bill package, which would essentially place the burdens and the planning upon each municipality for how solid waste is handled.

We would like to suggest to you, sir, that perhaps it would make sense to reserve and to preserve the current system so that indeed solid waste is administered on a countywide level. We think that by doing that we alleviate some very, very serious problems for the smaller communities, communities which frankly we don't believe are equipped to either do the necessary planning or are equipped to deal with the outside vendor population in a way that can produce solid economic benefits for their communities.

Moving also to the issue of the \$10 surcharge, we believe that -- and I know that you addressed this initially -- that has the potential to being somewhat regressive. We believe that it has the potential of having a very severe impact on someone who generates minimal waste but, nonetheless, lives within a municipality, pays the local property taxes, and sees those local property taxes as embodying the additional \$10 fee.

We believe also, and we recognize, that your bills would provide the opportunity to impose certain fees and certain levies on particular generators of trash. We don't believe that fully solves the problem. We believe, however, that if we move back to your initial approach, which is

statewide solution, and we look currently at the very fact that right now we are facing -- or I shouldn't say facing -- but we were looking forward to a surplus within this state, we are at a juncture where we could look to the general revenues of this state as the basis for providing the necessary funds to create the solution to the stranded debt situation which currently exists. To not look at those funds would be to miss, I think, a very, very significant opportunity. It's an opportunity which, I think, is fundamentally based in fairness because the situation was created statewide and because, as you have so often indicated, those counties which indeed build incinerators or otherwise created substantial debt within their counties acted at the behest of the State, and it is this time, this juncture, where there must be a solution and that solution should come from the general revenues of the state. It's fair, it's equitable, and in saying that, I would suggest to you that we recognize that there is a problem associated with ongoing negotiations with private vendors as solutions to current tipping fee situations occur, and there is the concurrent need for a long-term solution.

We would suggest, perhaps, the establishment, at least at this juncture, of some interim funding situation whereby the State provides the opportunity and the mechanisms as it did with a small amount of \$20 million to provide bailouts, if you will, funding streams, if you will -- I think the name is unimportant -- but provides the mechanism to handle upcoming debt problems. If that is accomplished, we avoid any of the problems associated with the negative implications, certainly, of a failure of one county or another to pay its outstanding debt.

While that is in place, perhaps on a temporary or interim basis, a longer-term solution is sought. I would reiterate to you that longer-term solution should be a solution derived from the general revenues, and it should be a solution that ultimately seeks to assist each one of the counties that is in distress and provides for the funding of the outstanding debt.

Assemblyman, thank you very much.

ASSEMBLYMAN ROONEY: Thank you.

The one thing as I had said early on that the \$10 a ton was no longer on the table. The industry proposal, I have no problem with that. I think that would be a better way because one of the problems we've had is with division of tonnage. We can never figure out how many tons they really are. The industry had come up with a proposal that says -- one of them -- you look at the revenues of the industry which are reported annually, but they also have to report or they could report on a monthly basis without any problem. It would result in about anywhere from 6 percent to 10 percent tax on collection and disposal, which is the revenue source that's on the table now.

If somebody has a better idea, fine. As far as the municipality being in charge, I have no problem with them electing to have the county do it. But I don't like it the other way around where the county tells me I've got to bring my garbage to them or they are going out on what's called now the competitive bid, as in *Harvey vs. Harvey* situation, saying that because I went to competitively bid this and I have a price of \$80 a ton, you have to bring it here even though you may have a price of \$50 a ton.

So those are the kinds of things-- As far as I'm concerned, municipalities have got to make a choice. We are the ones that are dealing

with it now on a regular basis regardless of whether we do the municipal collection, the contract, or whatever. It's still our responsibility to make that choice, and that's all I'm asking for is a choice.

MR. MILLENKY: Assemblyman, I would only suggest that if in fact each municipality is out there making a number of separate choices, it can leave what in essence are the weaker municipalities more vulnerable to a higher price structure and there can be created a certain unfairness which does, I think, in the final analysis no one any good.

ASSEMBLYMAN ROONEY: Sounds like you don't have faith in our local officials, I think. (laughter) I have more faith in the local official than I have at the county level in most cases. I happen to be one and that's where I'm coming from. I find that most of my colleagues-- I've been meeting with the League of Municipalities on this. They are very aware of the problem, and I think they are going to look for the best deal possible for the municipalities.

So we may have some difference, but you're free to make your comments. Anybody at the table has said they have a solution, let's do it. We may come up with something as far as this funding source or whatever and put it onto the Appropriations Committee, and that's really where it's going to be hot and heavily debated. They have the option of changing anything we do here.

The other parts of the bill which are purely dealings with the solid waste issue that they don't have that option, but they do in the funding and how we do that. So whatever we do here has to go before the Appropriations Committee, in this very room, and they could do something totally different.

MR. MILLENKY: Assemblyman, if I could pose a question to you. Do you believe that there is any viable opportunity within the Appropriations Committee or by virtue of a recommendation from the Committee to suggest that the way to fund this stranded debt is not by assessing localities, whether they be municipalities, whether they be counties through EIC, but rather that the funding take place at the State level through general revenues? The Camden County certainly advocates that.

ASSEMBLYMAN ROONEY: There is a possibility, but I think you read in the papers recently that we have a court decision that says we may have to put \$312 million more into our special needs districts in the education system, and I happen to sit on the Education Committee. I really picked two doozies of committees this year. (laughter)

You're free to suggest, but I doubt it's going to go too far with-- We're looking at mandates, again, from the court, so I don't know where that's going. It still has to be heard by New Jersey Supreme Court. It's only been the superior court -- actually, I guess U.S. court decision -- so we're-- No, it's a superior court decision, right now, so I don't know where that's going. Again, the Appropriations Committee will make that determination. They have the last word.

Yes, LeRoy.

ASSEMBLYMAN JONES: Thank you. Just with respect to your last question. I believe that we do enjoy the privilege of crafting the appropriate language in the statement that could possibly accent and communicate that to any other committee that this legislation would be ultimately referred to. By that mechanism, they would at least have the



sentiment of that is the majority of this Committee in its statement. That can be in the form of the sponsor statement, or there can be, if need be, a minority statement attached to the bill expressing those kinds of sentiments or any sentiment that we care to express.

What I wanted to ask you about -- sorry, I hope that answers your question.

ASSEMBLYMAN ROONEY: LeRoy, I hate to interrupt, but it just came to my mind that actually in the industry solution, part of the money is coming from this tax and part of the money is coming from the general revenue. So that's in there already.

MR. MILLENKY: Excuse me, part of it is coming from?

ASSEMBLYMAN ROONEY: From this tax on the revenues and also part is coming from the General Fund. That's the way the proposal is now. We haven't gotten-- I really would prefer not to get into details of any specific legislation. The only reason I posted those was to have a general discussion on the bills and to have this Committee to say, "John, we think your ideas stink and we have better ideas, or let's go with it." That's for another meeting.

The next meeting, by the way, is not going to deal with this issue. Just so everybody knows that next week is much too soon for anybody to come in with the kind of input that I'm asking.

So, LeRoy, with that it mind you can finish. I'm sorry I interrupted. I normally don't do that.

ASSEMBLYMAN JONES: John, you are always a gentleman, and I certainly appreciate that.

ASSEMBLYMAN ROONEY: Thank you.

ASSEMBLYMAN JONES: You had mentioned a \$10 per ton municipal levy.

MR. MILLENKY: I think the Assemblyman indicated that it's no longer in place and on the table.

ASSEMBLYMAN ROONEY: That's off the table.

ASSEMBLYMAN JONES: I was just curious as to what your thoughts were on that. I mean, in as much as it's off the table, but just trying to establish a vision on this.

MR. MILLENKY: Assemblyman, I think any charge that is local in nature and is based upon some local generation of waste is not the appropriate solution. Camden County believes that the appropriate solution comes from the appropriate negotiation with vendors who are operating facilities, such as incinerators, and then with the State's infusion of the necessary capital to pick up any of the stranded debt. That is where the solution lies, not on some local imposition of a tax which penalizes local individuals whose counties abided by State regulation initially and undertook what turns out to be a burden that can't be met.

ASSEMBLYMAN JONES: Okay, thank you.

ASSEMBLYMAN ROONEY: Anyone else have any questions?  
(negative response)

MR. MILLENKY: Thank you, Mr. Chairman.

ASSEMBLYMAN ROONEY: Thank you, sir.

We'll get to the industry people now, stay with the incinerators.

Paula Soos and Frazier Russell, you're going to come up together.

You signed up together. This is Integrated Waste Services Association.

Paula is with Ogden, and Frazier is with Wheelabrator.

We're only going to get Paula.

**PAULA SOOS:** Good morning, Mr. Chair and Committee members, my name is Paula Soos, and I'm the Director of Government Relations for Ogden Energy Group, and Frazier Russell is with Wheelabrator Environmental Systems.

We are here today to speak briefly on behalf of the Integrated Waste Services Association, which is our national trade group which has member companies either owning or operating waste to energy facilities in New Jersey, which include American Refuel and Foster Wheeler powers systems.

We've been working with the stakeholder coalition, which includes NSWMA, over the last several months in an effort to identify a legislative solution to the issue of solid waste management. While we are still in the process of reviewing the bills, we are very encouraged by the approach taken by Chairman Rooney. We applaud provisions of the legislation seeking to retire stranded debt of all State solid waste facilities, which are part of county plans, as well as provisions to untangle the web of solid waste pricing regulations.

We are also heartened to see that the Chairman shares our sense of urgency that is necessary for resolution of the issues and problems now facing the people of New Jersey. Finally, we are hopeful that this Committee

can swiftly put forth a comprehensive and important mix of initiatives, which if passed into law will result in a stable marketplace offering lower prices overall to consumers of disposal services.

Thank you for the opportunity to testify.

ASSEMBLYMAN ROONEY: Any questions?

Yes, LeRoy.

ASSEMBLYMAN JONES: Can you just repeat your name and affiliation.

MS. SOOS: Sure. My name is Paula Soos, and I work for Ogden Energy Group. I'm here today representing the waste to energy association, which is the Integrated Waste Services Association.

ASSEMBLYMAN JONES: Okay. You mention stranded debt. That's a very big part of what we're dealing with today. I was just curious whether there have been any industry estimates as to what the stranded debt may total in this state?

MS. SOOS: I can't speak on behalf of the industry. On behalf of Ogden all I can say is that we are in the process right now of having discussions with both of our client communities, Union and Warren, so that number right now is a moving target.

ASSEMBLYMAN JONES: Okay. The other young lady seemed to have some interest in the question.

**FRAZIER W. RUSSELL:** We defer to the numbers given by the Director this morning. She probably has the best estimate statewide about standing debt.

ASSEMBLYMAN ROONEY: Does anyone else have any questions?

Larry.

ASSEMBLYMAN CHATZIDAKIS: Mr. Chairman, if we could have copies of all of this testimony.

MS. SOOS: I'll type it up. (laughter)

ASSEMBLYMAN ROONEY: You're gonna make her work.

MS. SOOS: Thank you.

ASSEMBLYMAN ROONEY: How is you're typing, Paula?

We'll go to Edward Cornell, Waste Management Associates.

We'll do George Lohman first. If you want to come up together that's all right, too. And Steve Changaris from NSWMA.

Again, Ed, thanks for your suppling our poster board back here, and this also was compliments of Ed.

Anyone else needing any of this? (referring to handouts)

**EDWARD M. CORNELL:** My pleasure. If there is anything else we can do for you just let us know.

ASSEMBLYMAN JONES: Can we have the poster board? (laughter)

MR. CORNELL: Pardon me.

ASSEMBLYMAN JONES: We can have that.

MR. CORNELL: You can have it for the length of the discussion. (laughter) I'd like to have it back at the end of it. It may be too old when I get it back.

**STEVEN G. CHANGARIS:** He wants it back so he can recycle it.

ASSEMBLYMAN ROONEY: We have recycled that often enough. Since August of 1995.

MR. CORNELL: You're welcome to that, Assemblyman, if you wish to have it in the Committee to refer to.

ASSEMBLYMAN ROONEY: Okay.

**GEORGE LOHMAN:** Mr. Chairman, members of the Committee, my name is George Lohman. I'm the Chairman of the New Jersey Chapter NSWMA. It's a trade group representing New Jersey private solid waste industry. I'm also a part owner and General Manager of a regional New Jersey-based solid waste company in northeastern Bergen County.

Today, however, I'm here on behalf of the United Solid Waste Industry Coalition, a group of collective solid waste interest much larger than just a New Jersey chapter. This Coalition continues to work with the Integrated Waste Services Association, operators of New Jersey waste and energy facilities, and the Waste Management Association of New Jersey, nonmembers solid waste companies, local government associations, members of the bond community, and other interested parties all in an effort to help transition New Jersey from a flow control, noncompetitive waste management system to a new system based on open markets and competition.

For more than the last 15 months, our group and elected public officials around New Jersey with solid waste responsibilities have been struggling to fashion a consensus solution in New Jersey's solid waste crisis. Today, we believe, we are closer to a solution than ever before and that under

your leadership this Committee has all the pieces necessary to solve New Jersey's solid waste puzzle.

The proposed Assembly Committee Substitutes for Assembly Bills No. 515, 516, 517, 518, and 519 are substantial, and you are to be commended for moving forward such an ambitious undertaking. Our Coalition is studying these bills carefully at this time, and we'll feed back to you any of our specific concerns once we have had more time to analyze all of the provisions of the various bills.

At the Coalition's emergency meeting held yesterday, to prep for this meeting, the group asked that I represent brief remarks to you and the Committee. Overall the review of these bills at our meeting was positive. Broadly our Coalition supports legislation that seeks to open up the New Jersey solid waste system and to help make it look like systems found in the vast majority of their sister states around the nation.

The first goal of any revised system should be to establish new rules of the game which are well thought out and fair. Principles of open act system, markets, and fair competition between waste providers, public or private, should be top priority.

The second goal of a new or revised system should be to identify costs which are unrecoverable as a result of transitioning the system for one that is totally controlled and noncompetitive to one that is based on open market forces.

Regarding unrecoverable transition cost State aid revenues up to 50 percent of the total needed and revenues generated from hauling operations at a rate of between 6 percent and 10 percent, we believe, will make for a

strong and stable source of funding to offset mitigated and unrecoverable costs of New Jersey's old system. Having access to these funding sources should hold the economic interest of counties and implementing agencies harmless from debt incurred under flow control.

Counties and implementing agencies will then be able to make new decisions about how to structure future solid waste operations relieved of unrecoverable debt burdens incurred under flow control. Our work to date on this issue of requiring New Jersey's solid waste system to be based on competitive bidding for disposal shows that this concept will not be acceptable to county or municipal government.

Local governments already have the authority to enter into interlocal service agreements for solid waste services between themselves. Since this is already a prerogative of local government, we propose that in those instances where local governments choose to arrange solid waste services via interlocal agreement that communities involved and considering these kinds of arrangements be empowered to negotiate similar arrangements with private solid waste sources providers of the same services.

Mr. Chairman, there are many provisions within these measures that I am sure we will touch on in future discussions. Suffice it here today that we applaud your good efforts, your willingness to work with us as an effective group in New Jersey's ongoing, yet unsettled, solid waste saga. Soon we hope your Committee will be in a position to release a consolidated version of these bills where most parties to this issue will be satisfied and New Jersey's solid waste system will be primed for reform and guided in the future by solid waste policies and principles of choice, competition, and market forces.



Thank you.

ASSEMBLYMAN ROONEY: Thank you, George, I really appreciate it.

Ed, next.

MR. CORNELL: No thanks, he speaks for the Coalition which we are a part of.

ASSEMBLYMAN ROONEY: Steve-- For the Coalition.

We really appreciate it, and I did attend some of those meetings that you had, and I believe Mayor Matacera was hosting those meetings just up the road a piece in that little bitty community there. I appreciate that.

Also I believe, Paul, you are representing League of Municipalities on this issue also, solid waste. I've been meeting with the League and with the individuals there.

Paul, do you have any position from the League at this point?

**MAYOR PAUL J. MATACERA:** (speaking from audience) At this time, Assemblyman, the League is taking your five bill proposals under review. We are also reviewing the proposal as we put forth by the industry. We, too, are very supportive of the effort that you are putting forth. There is lots of good things in that bill, and there are some questions and concerns we have on government services and things like that. As we formulate those comments, sir, we will get back to you.

ASSEMBLYMAN ROONEY: Fine, and I really appreciate that. I did see in the last League magazine that they did support a statewide solution, and that was already confirmed by the board, I believe. So I will be looking forward to working with the League.

So that's the testimony. Anyone else that hadn't signed up?

ASSEMBLYMAN JONES: I have a question.

ASSEMBLYMAN ROONEY: Yes, I'm sorry, LeRoy.

ASSEMBLYMAN JONES: That's okay. Thank you very much for that very enlightening testimony. What I'm interested in hearing you talk about is the revenue tax that obviously you seem to be supportive of. I'd just like to understand what kind of revenue -- statewide revenues -- perhaps you might be able to speak about or specific to your own concerns.

Normally industry seems to frown on the *T* word. Anytime there is a tax you guys don't want to pay it. I don't like paying income tax, sales tax, or anything like that, but I'm bound by law to do that. So I'd just like to understand what your sense of that tax is and how your industry sort of grapples with this issue now of embracing a tax.

MR. LOHMAN: Well, the goal of this industry has been for the last 20 years to get and establish an open market, and this industry really has taken the bull by the horns and put up the money to fight the lawsuits that it took to bring us to *Carbone* decision, which every resident of this State will benefit from. That is all to get an open market.

Now, it just seems very strange to me that rates that were \$100 a ton two months ago are now at \$50 a ton and everybody is able to provide that same service. So there is a lot of money out there, and I think it proves our point that an open market will bring the prices down, and that's the thinking behind our process.

ASSEMBLYMAN JONES: Well, tell me about the tax. Did I miss something?

MR. LOHMAN: What the reason is for the tax?

ASSEMBLYMAN JONES: How does your industry just-- I certainly believe it is a very laudable gesture on your part just to be supportive of a tax.

ASSEMBLYMAN ROONEY: LeRoy, the explanation is that they are collecting it, they are not just going to pay it. They are going to pass it on to the municipalities that they serve. It's faster.

MR. LOHMAN: It's just strictly a vehicle to accomplish what has to be accomplished here, to get the stranded debt out of the way.

ASSEMBLYMAN JONES: That's what I'm trying to understand here.

MR. CORNELL: Assemblyman, if you went through what this industry went through for the past 20 years, passing through the entire disposal on your bills to your customers of the 6 percent tax is a welcome relief. It's not really something that is being added on, it's being something that is being reduced.

MR. CHANGARIS: It's also the vehicle for which to collect it. Right now we have 22 solid waste management plans in 22 separate districts. One county may be pursuing a market participant doctrine, and it could be theoretically an open market, but another county may profess to have a flow control ordinance under *Harvey*. So a collector that has a transfer station in a neighboring county can't go into that county. This is a way to assure a stable source of funding to pay off a mitigated debt.

The assumption that there is tens of thousands of businesses throughout the state, there are hundreds of thousands of trash receptacles, and

the vehicles that the State have imposed on the industry in the past have not achieved a high efficiency of collecting revenue through those sources. So we focused on the utility assessment on the hauling companies as the one vehicle that is a clean, crisp place to go to yield these dollars that will pay these mitigated costs, and we anticipate in that process that those mitigated costs will be truly beneficial to the taxpayer.

All the things that you questioned before about the mechanism, about the legalities of the different bonding documents and what can be done, and the refinancing would all be done under the concept of this transition petition supervised by Beth Gates or the Division of the Local Government pursuant to the terms in the legislation. So there is a vehicle there -- a statutorily provided vehicle -- to review those costs to provide for their mitigation and then to yield a number that is just that which is unrecoverable. Then, as Assemblyman Rooney launched in the initial draft, a State matchup to 50 percent plus revenues generated from faller revenue.

I'll steal a line from Ed from previous meetings. It's not a new tax. That tax bill is already in the trash can. It's just changing the way that it's collected. It's still there because you're paying-- Under flow control you are able to extract that tax when the waste was directed to the transfer station or the waste energy facility or the landfill. So it's a much cleaner, simpler-- There are going to have to be county enforcement programs where trash is tracked to collect these EICs.

You heard the gentleman from JB Hanauer suggest that enforcement at the local level of EICs presents a problem. We've relieved that.

It's going to be much more tactical for the State to go retrieve those dollars from the collection companies operating in the state.

ASSEMBLYMAN JONES: I would be interested to know what the total revenue number is just as an industry.

MR. CORNELL: What the bonded indebtedness is?

ASSEMBLYMAN ROONEY: LeRoy, it coincides to about \$1.4 billion.

ASSEMBLYMAN JONES: About the same as the debt.

MR. CORNELL: Up until now we have been talking about \$1.7 million, which was the original figure given to Senator McNamara's Committee back in 1995 at his committee meeting. We've been using that as a basis. Before that we were using John Rooney's advice from the Division on Local Government Services, which was \$1.4 billion and had \$250 million-- It reduced it down to \$1.2 billion. We've never really known--

ASSEMBLYMAN ROONEY: Ed, we're talking about the revenues -- the industry revenues -- \$1.4 billion, I believe.

MR. CORNELL: We have--

ASSEMBLYMAN ROONEY: That's reported every April, and I've got a request in right now for Local Government Services to get that number to us as soon as it comes in. You'll have last year's numbers as soon-- But we also want to get this new number, try to get it by county--

MR. CORNELL: Okay.

ASSEMBLYMAN ROONEY: --so that everybody knows what's being generated in their county and what the tax is going to be.

This was at the request of Senator McNamara when I had a meeting with him and the industry in his office, and we went over that, so we'll be sharing all of that with you. I mean, there is a lot of data that's going to be coming to us very shortly so--

MR. LOHMAN: That's why the spread between 6 percent and 10 percent because we have not been able to get an accurate figure.

ASSEMBLYMAN JONES: Okay. And lastly, we have been talking about the benefits that this would have to the property tax payers. Do we have an estimated property tax reduction figure that we might be comfortable with sharing with the Committee?

MR. LOHMAN: Not at this time, no.

ASSEMBLYMAN JONES: So we don't know whether we are talking about--

MR. CORNELL: We don't know the dollar figures yet.

ASSEMBLYMAN JONES: Okay.

MR. LOHMAN: And until the stranded debt number is resolved-- And I think that's an important issue that we need to clarify to the difference between total debt and stranded debt.

ASSEMBLYMAN JONES: Right.

MR. LOHMAN: And I think that's really where we need to focus.

ASSEMBLYMAN ROONEY: Yes, that's a big difference. Plus that fact that when we get the numbers by county-- Because even once we get the numbers from last year, we won't be able to tell because we don't know what revenue has come in from which county by previous numbers. We've never asked for this before, so it won't be until April, probably May, before we

have the actual numbers by county, and if we could figure the percentage on top of that, then we can go back to the use figures and figure out what the tipping fee is and put them all together. It's going to be a little bit of an involved process, but we will have that information.

I've started the requests, and that's why I wanted to get started today. Like you know next week we have a very short meeting. There is no way we could hold this kind of a hearing next week.

ASSEMBLYMAN JONES: Right.

ASSEMBLYMAN ROONEY: And I want to stay as long as we can to get all the information on the table.

I know Mel has a question.

ASSEMBLYMAN JONES: Yes, I'm done.

ASSEMBLYMAN ROONEY: Okay, let me go to Mel.

ASSEMBLYMAN COTTRELL: Mr. Chairman, through you, I would like to ask a question.

ASSEMBLYMAN ROONEY: Go right ahead.

ASSEMBLYMAN COTTRELL: You said there would be a tax reduction and no tax.

ASSEMBLYMAN ROONEY: In certain counties, Mel.

ASSEMBLYMAN COTTRELL: What?

ASSEMBLYMAN ROONEY: In certain counties.

ASSEMBLYMAN COTTRELL: Let me tell you one thing. When the people pay -- the taxpayer pays one way or another. There is no such thing as a tax deduction. It's transferring the money from one lawyer to another one to collect it. Am I correct, or am I wrong?

So don't tell me that we're looking a tax deduction when we're not. When you put it on in certain areas and certain municipalities where they side (indiscernible) An example of myself, I pay \$63 every quarter, so if they added on 6 percent, 7 percent, I'm still paying it one way or another.

So that's a (indiscernible) tax deduction.

MR LOHMAN: I believe in the majority of counties throughout the state -- and I can't say that's going to apply to every county-- The majority of the counties will see a reduction even with the assessment in place.

ASSEMBLYMAN COTTRELL: We won't, we'll see an increase.

ASSEMBLYMAN ROONEY: Thank you.

Anyone else have any questions for these witnesses? (no response)

Hearing none, anybody else that hadn't signed up that may wanted to testify that we missed?

MR. CORNELL: You're through with us, right?

ASSEMBLYMAN ROONEY: Yes, thank you.

Hearing none, I just want to look over the Committee agenda. Next week we have a short meeting which will be from 10:30 to 12:00, and then the budget hearing will be after that. There is a Committee Meeting on the 26. What I'd like to do is have any comments, any alternatives, come to me between now and the 26, and if there are none, what we'd like to do is get started at least in concept as to what we agree, where we are going.

The first thing is on the municipalities being charged. I'd like to see that bill separately, either voted up or voted down, and then we'll have to go from there. But I'd like that to be one item on the agenda and then go from there.



As far as any other comments that I see come in we'll incorporate them. If anybody needs me I'll be giving you my number at home, my unlisted number, which also rings into my business office, so there is no problem. This is not the legislative office, so you will be able to track me down anywhere.

ASSEMBLYMAN JONES: Can we have that number now?

ASSEMBLYMAN ROONEY: No, not for public-- (laughter)  
Although probably most of the press has it anyway.

Anyone else? (no response)

So I'll call this meeting adjourned.

**(MEETING CONCLUDED)**