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PUBLIC HEARING
before
ASSEMBLY ENVIRONMENTAL QUALITY COMMITTEE
on
ASSEMBLY BILLS 2698, 2699, 2700, 2701
"Hazardous Waste Financing Package"

August 25, 1986
Freeholders Meeting Room
Burlington County Office Building
Mount Holly, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman John O. Bennett, Chairman
Assemblyman Robert W. Singer, Vice Chairman
Assemblyman Robert C. Shinn, Jr.

ALSO PRESENT:

Mark O. Smith
Office of Legislative Services
Aide, Assembly Environmental
Quality Committee

* * * * *

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





JOHN O. BENNETT
Chairman
BERT W. SINGER
De-Chairman
MICHAEL A. DONOVAN
MARK J. GARGIULO
BERT C. SHINN, JR.
JOHN M. BAER
BERT G. SMITH

New Jersey State Legislature

ASSEMBLY ENVIRONMENTAL QUALITY COMMITTEE

STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08625
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M E M O R A N D U M

July 18, 1986

TO: ASSEMBLY COMMITTEE ON ENVIRONMENTAL QUALITY
FROM: ASSEMBLYMAN JOHN O. BENNETT
SUBJECT: PUBLIC HEARINGS - July 29, 1986 and August 25, 1986

The Assembly Committee on Environmental Quality will hold two public hearings:

Monday, July 28, 1986, 10:00 A.M. in the Town Council Chambers at Kearny Town Hall, Kearny, Hudson County.

Monday, August 25, 1986, 10:00 A.M. in the Freeholders meeting Room, Burlington County Office Building, 49 Rancocas Road, Mount Holly, Burlington County.

The subject of the public hearings will be the Hazardous Waste Financing Package. Please be prepared to consider the following bills:

<u>A-2698</u> Bennett	Increases the rate of the Spill fund tax.
<u>A-2699</u> Bennett	Directs the Legislature to annually appropriate \$50 million from General Fund to "Hazardous Discharge Site Cleanup Fund."
<u>A-2700</u> Bennett	Raises the Corporation Business Tax from 9% to 9 1/2%.
<u>A-2701</u> Bennett	Authorizes \$200,000,000 in State bonds for hazardous discharge site cleanup.

(Persons wishing to testify at the public hearing should contact Mark O. Smith, Committee Aide, at (609) 292-7676.)

ASSEMBLY, No. 2698
STATE OF NEW JERSEY

INTRODUCED MAY 22, 1986

By Assemblyman BENNETT

AN ACT to amend the "Spill Compensation and Control Act,"
approved January 6, 1977 (P. L. 1976, c. 141).

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

1 1. Section 9 of P. L. 1976, c. 141 (C. 58:10-23.11h) is amended
2 to read as follows:

3 9. a. There is hereby levied upon each owner or operator of one
4 or more major facilities a tax to insure compensation for cleanup
5 costs and damages associated with any discharge of hazardous
6 substances to be paid by the transferee; provided, however, that
7 in the case of a major facility which operates as a public storage
8 terminal for hazardous substances owned by others, the owner of
9 the hazardous substance transferred to such major facility or his
10 authorized agent shall be considered to be the transferee or trans-
11 feror, as the case may be, for the purposes of this section and shall
12 be deemed to be a taxpayer for purposes of this act. Where such
13 person has failed to file a return or pay the tax imposed by this
14 act within 60 days after the due date thereof, the director shall
15 forthwith take appropriate steps to collect same from the owner of
16 the hazardous substance. In the event the director is not suc-
17 cessful in collecting said tax then on notice to the owner or operator
18 of the public storage terminal of said fact said owner or operator
19 shall not release any hazardous substance owned by the taxpayer.
20 The director may forthwith proceed to satisfy any tax liability of
21 the taxpayer by seizing, selling or otherwise disposing of said haz-
22 ardous substance to satisfy the taxpayer's tax liability and to take
23 any further steps permitted by law for its collection. For the pur-

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

Matter printed in italics thus is new matter.

24 poses of this act public storage terminal shall mean a public or
 25 privately owned major facility operated for public use which is
 26 used for the storage or transfer of hazardous substances. The tax
 27 shall be measured by the number of barrels or the fair market
 28 value, as the case may be, of hazardous substances transferred to
 29 the major facility, provided, however, that the same barrel, in-
 30 cluding any products derived therefrom, subject to multiple trans-
 31 fers from or between major facilities shall be taxed only once at
 32 the point of the first transfer.

33 When a hazardous substance other than petroleum which has not
 34 been previously taxed is transferred from a major in-State facility
 35 to a facility which is not a major facility, the transferor shall be
 36 liable for tax payment for said transfer.

37 b. The tax shall be ~~[\$0.01]~~ \$0.02 per barrel transferred and in
 38 the case of the transfer of hazardous substances other than
 39 petroleum or petroleum products, the tax shall be the greater of
 40 ~~[\$0.01]~~ \$0.02 per barrel or ~~[0.4%]~~ 0.8% of the fair market value
 41 of the product, [until the balance in the fund equals or exceeds
 42 \$50,000,000.00]; provided, however, that with respect to transfers
 43 of hazardous substances other than petroleum or petroleum prod-
 44 ucts which are or contain any precious metals to be recycled, re-
 45 fined, or rerefined in this State, or which are transferred into this
 46 State subsequent to being recycled, refined or rerefined, the tax
 47 shall be ~~[\$0.01]~~ \$0.02 per barrel of the hazardous substance. For
 48 the purposes of this section, "precious metals" means gold, silver,
 49 osmium, platinum, palladium, iridium, rhodium, ruthenium and
 50 copper. [In each fiscal year following any year in which the bal-
 51 ance of the fund equals or exceeds \$50,000,000.00, no tax shall be
 52 levied unless (1) the current balance in the fund is less than
 53 \$40,000,000.00 or (2) pending claims against the fund exceed 50%
 54 of the existing balance of the fund. The provisions of the fore-
 55 going notwithstanding, should claims paid from or pending against
 56 the fund not exceed \$5,000,000.00 within three years after the tax
 57 is first levied, the tax shall be \$0.01 per barrel transferred or 0.4%
 58 of the fair market value of the product, as the case may be, until
 59 the balance in the fund equals or exceeds \$30,000,000.00, and there-
 60 after shall not be levied unless: (1) the current balance in the
 61 fund is less than \$30,000,000.00 or (2) pending claims against the
 62 fund exceed 50% of the existing balance of the fund. In the event
 63 of either such occurrence and upon certification thereof by the
 64 State Treasurer, the director shall within 10 days of the date of
 65 such certification relevy the excise tax, which shall take effect on

66 the first day of the month following such levy. With respect to
 67 the tax imposed upon the transfer of hazardous substances which
 68 are other than petroleum or petroleum products, if the revenues
 69 from such tax exceed \$7,000,000.00 during any calendar year, such
 70 excess shall be refunded or credited to the taxpayers who paid
 71 such tax during the calendar year. The refund or credit shall be
 72 based upon the amount of taxes paid by each taxpayer on trans-
 73 fers of hazardous substances which are other than petroleum or
 74 petroleum products for the calendar year in proportion to all
 75 taxes paid by all taxpayers on such transfers during said year;
 76 provided, however, that if at the end of the calendar year the
 77 increased tax rate as authorized by this subsection or subsection i.
 78 is in effect, no refund or credit shall be allowed for such calendar
 79 year; and further, provided that no refund or credit shall be
 80 allowed for a calendar year if by reason of such refund or credit a
 81 condition would occur which would authorize the imposition of the
 82 tax at the higher rate authorized in this subsection or subsection i.
 83 However, a partial refund or credit shall be allowed to the extent
 84 that such a condition would not occur. In the event of a major dis-
 85 charge or series of discharges resulting in reasonable claims
 86 against the fund exceeding the existing balance of the fund, the
 87 tax shall be levied as follows:

88 (1) On petroleum or petroleum products, at the rate of ~~[\$0.04]~~
 89 \$0.05 per barrel transferred, until the revenue produced by such
 90 increased rate equals 150% of the total dollar amount of all pend-
 91 ing reasonable claims resulting from the discharge of petroleum
 92 or petroleum products; provided, however, that such rate may be
 93 set at less than ~~[\$0.04]~~ \$0.05 per barrel transferred if the ad-
 94 ministrator determines that the revenue produced by such lower
 95 rate will be sufficient to pay outstanding reasonable claims against
 96 the fund within one year of such levy; and

97 (2) On hazardous substances other than petroleum or petroleum
 98 products, at the rate of the greater of ~~[\$0.04]~~ \$0.05 per barrel
 99 transferred or ~~[0.5%]~~ 1.0% of the fair market value of such haz-
 100 ardous substance, until the revenue produced by such increased
 101 rate equals 150% of the total dollar amount of all pending reason-
 102 able claims resulting from the discharge of hazardous substances
 103 other than petroleum or petroleum products; provided, however,
 104 that with respect to transfers of hazardous substances other than
 105 petroleum or petroleum products which are or contain any precious
 106 metals to be recycled, refined, or rerefined in this State, or which
 107 are transferred into this State subsequent to being recycled, re-

108 fined, or rerefined, the tax shall be \$0.04 per barrel of the hazardous
 109 substances; and provided further, however, that any such increased
 110 tax rate on hazardous substances other than petroleum or petro-
 111 leum products may be set at less than \$0.04 per barrel transferred,
 112 or 0.8% of the fair market value of the hazardous substance, as
 113 the case may be, if the administrator determines that the revenue
 114 produced by such lower rate shall be sufficient to pay outstanding
 115 reasonable claims against the fund within one year of such levy.】

116 Interest received on moneys in the fund shall be credited to the
 117 fund. 【Should the fund exceed \$36,000,000.00 or \$50,000,000.00, as
 118 herein provided, as a result of such interest, the commissioner
 119 shall report to the Legislature and the Governor concerning the
 120 options for the use of such interest.】

121 c. (1) Every taxpayer and owner or operator of a public storage
 122 terminal for hazardous substances shall on or before the twentieth
 123 day of the month following the close of each tax period render a
 124 return under oath to the director on such forms as may be pre-
 125 scribed by the director indicating the number of barrels of hazar-
 126 dous substances transferred and where appropriate, the fair
 127 market value of the hazardous substances transferred to or from
 128 the major facility, and at said time the taxpayer shall pay the full
 129 amount of the tax due.

130 (2) Every taxpayer or owner or operator of a major facility or
 131 vessel which transfers a hazardous substance, as defined in this
 132 act, and who is subject to the tax under subsection a. shall within
 133 20 days after the first such transfer in any fiscal year register with
 134 the director on such form as shall be prescribed by him.

135 d. If a return required by this act is not filed, or if a return when
 136 filed is incorrect or insufficient in the opinion of the director, the
 137 amount of tax due shall be determined by the director from such
 138 information as may be available. Notice of such determination
 139 shall be given to the taxpayer liable for the payment of the tax.
 140 Such determination shall finally and irrevocably fix the tax unless
 141 the person against whom it is assessed, within 30 days after re-
 142 ceiving notice of such determination, shall apply to the director
 143 for a hearing, or unless the director on his own motion shall re-
 144 determine the same. After such hearing the director shall give
 145 notice of his determination to the person to whom the tax is
 146 assessed.

147 e. Any taxpayer who shall fail to file his return when due or to
 148 pay any tax when the same becomes due, as herein provided, shall
 149 be subject to such penalties and interest as provided in the "State

150 Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the Re-
 151 vised Statutes. If the Division of Taxation determines that the
 152 failure to comply with any provision of this section was excusable
 153 under the circumstances, it may remit such part or all of the pen-
 154 alty as shall be appropriate under such circumstances.

155 f. (1) Any person failing to file a return, failing to pay the tax,
 156 or filing or causing to be filed, or making or causing to be made,
 157 or giving or causing to be given any return, certificate, affidavit,
 158 representation, information, testimony or statement required or
 159 authorized by this act, or rules or regulations adopted hereunder
 160 which is willfully false, or failing to keep any records required
 161 by this act or rules and regulations adopted hereunder, shall, in
 162 addition to any other penalties herein or elsewhere prescribed, be
 163 guilty of a crime of the fourth degree.

164 (2) The certificate of the director to the effect that a tax has not
 165 been paid, that a return has not been filed, that information has
 166 not been supplied or that inaccurate information has been supplied
 167 pursuant to the provisions of this act or rules or regulations
 168 adopted hereunder shall be presumptive evidence thereof.

169 g. In addition to the other powers granted to the director in
 170 this section, he is hereby authorized and empowered:

171 (1) To delegate to any officer or employee of his division such of
 172 his powers and duties as he may deem necessary to carry out
 173 efficiently the provisions of this section, and the person or persons
 174 to whom such power has been delegated shall possess and may
 175 exercise all of said powers and perform all of the duties delegated
 176 by the director;

177 (2) To prescribe and distribute all necessary forms for the im-
 178 plementation of this section.

179 h. The tax imposed by this act shall be governed in all respects
 180 by the provisions of the "State Tax Uniform Procedure Law,"
 181 Subtitle 9 of Title 54 of the Revised Statutes, except only to the
 182 extent that a specific provision of this act may be in conflict
 183 therewith.

184 [i. Notwithstanding any other provisions of this section, *upon a*
 185 *request from the administrator*, the Treasurer may order the
 186 director to levy the tax on all hazardous substances other than
 187 petroleum or petroleum products at a specified rate greater than
 188 \$0.01 per barrel or 0.4% of the fair market value of the product, as
 189 the case may be, but in no event to exceed \$0.04 per barrel with
 190 respect to transfers of hazardous substances other than petroleum
 191 or petroleum products which are or contain any precious metals

192 to be recycled, refined or rerefined in this State, or which are trans-
 193 ferred into this State subsequent to being recycled, refined or re-
 194 refined, or the greater of \$0.04 per barrel or 0.6% of the fair
 195 market value of the product with respect to transfers of any other
 196 hazardous substances other than petroleum or petroleum prod-
 197 ucts, if and as long as the administrator determines the following:

198 (1) That pending, reasonable claims against the fund for hazar-
 199 dous substances other than petroleum or petroleum products ex-
 200 ceed 70% of the existing balance of the fund, and

201 (2) That the sum of the claims paid by the fund on behalf of
 202 discharges or removals of hazardous substances other than petro-
 203 leum or petroleum products plus pending, reasonable claims
 204 against the fund on behalf of discharges of hazardous substances
 205 other than petroleum is equal to or greater than 70% of all claims
 206 paid by the fund plus all pending, reasonable claims against the
 207 fund.

208 The provisions of this subsection shall not preclude the impo-
 209 sition of the tax at the higher rate authorized under subsection b.
 210 of this section.】

1 2. This act shall take effect 90 days following enactment, but
 2 the Department of Environmental Protection and the Department
 3 of the Treasury shall take all actions necessary prior to the effec-
 4 tive date of this act to implement the provisions of this act on
 5 the effective date thereof.

STATEMENT

This bill doubles the rate of the tax on petroleum and non-petroleum hazardous substances imposed by the "Spill Compensation and Control Act," P. L. 1977, c. 141. This bill would increase the tax on petroleum from \$0.01 per barrel to \$0.02 per barrel, and would increase the tax on non-petroleum hazardous substances from the greater of \$0.01 per barrel or 0.4% of fair market value to the greater of \$0.02 per barrel or 0.8% of fair market value.

This bill would also double the rates of the "accelerator" provisions of the act, which automatically increase the base rates of the tax when claims against the Spill Fund exceed the balance of the fund. This bill also removes the existing \$50,000,000.00 "cap" on the Spill Fund.

HAZARDOUS WASTE (Cleanup)

Increases the rate of the Spill Fund tax.

ASSEMBLY, No. 2699
STATE OF NEW JERSEY

INTRODUCED MAY 22, 1986

By Assemblyman BENNETT

AN ACT concerning the funding of hazardous discharge cleanup
and amending P. L. 1985, c. 247.

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

1 1. Section 1 of P. L. 1985, c. 247, (C. 58:10-23.34) is amended to
2 read as follows:

3 1. a. There is established in the Department of Environmental
4 Protection a fund to be known as the "Hazardous Discharge Site
5 Cleanup Fund." All interest earned on moneys in the fund shall be
6 credited to the fund. Moneys in the fund shall be used by the De-
7 partment of Environmental Protection for the purposes of prepar-
8 ing feasibility studies, engineering designs, and undertaking other
9 work necessary to the cleanup or mitigation of hazardous discharge
10 sites in this State included on the National Priorities List of
11 hazardous discharge sites adopted by the federal Environmental
12 Protection Agency pursuant to the "Comprehensive Environmental
13 Response, Compensation, and Liability Act of 1980," Pub. L. 96-510
14 (42 U. S. C. § 9601 et seq.) or other hazardous discharge sites
15 approved by the department.

16 b. Any moneys received by the department from the federal
17 government or from responsible parties as reimbursement for costs
18 incurred by the department in connection with the cleanup of a
19 hazardous discharge site on the federal National Priorities List
20 shall be deposited *in the fund* by the department for additional haz-
21 ardous discharge cleanup activities.

22 c. *The Legislature shall annually appropriate \$50,000,000.00 from*
23 *the General Fund to the department to be deposited in the "Haz-*
24 *ardous Discharge Site Cleanup Fund."*

1 2. This act shall take effect immediately.

Matter printed in italics thus is new matter.

STATEMENT

This bill amends the legislation which established the "Hazardous Discharge Site Cleanup Fund" to provide for an annual appropriation from the General Fund to the fund in the amount of \$50,000,000.00. The "annualization" of this appropriation is designed to introduce predictability into the funding of hazardous discharge cleanup.

HAZARDOUS WASTE (CLEANUP)

Directs the Legislature to annually appropriate \$50 million from General Fund to "Hazardous Discharge Site Cleanup Fund."

ASSEMBLY, No. 2700

STATE OF NEW JERSEY

INTRODUCED MAY 22, 1986

By Assemblyman BENNETT

AN ACT to increase the corporation business tax and amending
P. L. 1945, c. 162.

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

1 1. Section 5 of P. L. 1945, c. 162 (C. 54:10A-5) is amended to
2 read as follows:

3 5. The franchise tax to be annually assessed to and paid by each
4 taxpayer shall be the sum of the amount computed under subsec-
5 tion (a) hereof, or in the alternative to the amount computed under
6 subsection (a) hereof, the amount computed under subsection (f)
7 hereof, and the amount computed under subsection (c) *and sub-*
8 *section (g) hereof:*

9 (a) That portion of its entire net worth as may be allocable to
10 this State as provided in section 6, multiplied by the following
11 rates: 2 mill per dollar on the first \$100,000,000.00 of allocated
12 net worth; $\frac{1}{10}$ of a mill per dollar on the second \$100,000,000.00;
13 $\frac{1}{10}$ of a mill per dollar on the third \$100,000,000.00; and $\frac{2}{10}$ of a
14 mill per dollar on all amounts of allocated net worth in excess of
15 \$300,000,000.00; provided, however, that with respect to reports
16 covering accounting or privilege periods set forth below, the rate
17 shall be that percentage of the rate set forth in this subsection for
18 the appropriate year:

Accounting or Privilege
Periods Beginning on or
After:

The Percentage of the Rate
to be Imposed Shall Be:

19 April 1, 1983	75%
20 July 1, 1984	50%
21 July 1, 1985	25%
22 July 1, 1986	0

23 (b) (Deleted by amendment, P. L. 1968, c. 250, s. 2.)

Matter printed in italics thus is new matter.

24 (c) $3\frac{1}{4}\%$ of its entire net income or such portion thereof as may
 25 be allocable to this State as provided in section 6; provided, how-
 26 ever, that with respect to reports covering accounting or privilege
 27 periods or parts thereof ending after December 31, 1967, the rate
 28 shall be $4\frac{1}{4}\%$; and that with respect to reports covering account-
 29 ing or privilege periods or parts thereof ending after December 31,
 30 1971, the rate shall be $5\frac{1}{2}\%$; and that with respect to reports cov-
 31 ering accounting or privilege periods or parts thereof ending after
 32 December 31, 1974, the rate shall be $7\frac{1}{2}\%$; and that with respect
 33 to reports covering accounting or privilege periods or parts thereof
 34 ending after December 31, 1979, the rate shall be 9%.

35 (d) Provided, however, that the franchise tax to be annually
 36 assessed to and paid by any investment company or real estate
 37 investment trust, which has elected to report as such and has filed
 38 its return in the form and within the time provided in this act and
 39 the rules and regulations promulgated in connection therewith,
 40 shall, in the case of an investment company, be measured by 25%
 41 of its entire net income and 25% of its entire net worth, and in the
 42 case of a real estate investment trust, by 4% of its entire net in-
 43 come and 15% of its entire net worth, at the rates hereinbefore
 44 set forth for the computation of tax on net income and net worth,
 45 respectively, but in no case less than \$250.00, and further provided,
 46 however, that the franchise tax to be annually assessed to and paid
 47 by a regulated investment company which for a period covered by
 48 its report satisfies the requirements of Chapter 1, Subchapter M,
 49 Part I, Section 852 (a) of the federal Internal Revenue Code shall
 50 be \$250.00.

51 (e) The tax assessed to any taxpayer pursuant to this section
 52 shall not be less than \$25.00 in the case of a domestic corporation,
 53 \$50.00 in the case of a foreign corporation, or \$250.00 in the case
 54 of an investment company or regulated investment company.

55 (f) In lieu of the portion of the tax based on net worth and to
 56 be computed under subsection (a) of this section, any taxpayer,
 57 the value of whose total assets everywhere, less reasonable reserves
 58 for depreciation, as of the close of the period covered by its report,
 59 amounts to less than \$150,000.00, may elect to pay the tax shown
 60 in a table which shall be promulgated by the director.

61 (g) *.5% of its entire net income or such portion thereof as may*
 62 *be allocable to this State as provided in section 6 of P. L. 1945, c.*
 63 *162 (C. 54:10A-6). No tax revenues shall be collected pursuant to*
 64 *this subsection after January 1, 1992.*

1 2. This act shall take effect immediately, and shall apply to
 2 accounting or privilege periods beginning on or after December
 3 31, 1986.

STATEMENT

This bill would increase the rate of the tax on net income imposed pursuant to the "Corporation Business Tax Act (1945)," from the current rate of 9% to 9.5%. It is estimated that the tax imposed by this bill would generate approximately \$50,000.000.00 per year.

HAZARDOUS WASTE (CLEANUP)

Raises the Corporation Business Tax from 9% to 9½%.

ASSEMBLY, No. 2701
STATE OF NEW JERSEY

INTRODUCED MAY 22, 1986

By Assemblyman BENNETT

AN ACT authorizing the creation of a debt of the State of New Jersey by issuance of bonds of the State in the sum of \$200,000,000.00 to provide moneys for the identification, cleanup and removal of hazardous discharges; providing ways and means to pay the interest on the debt and also to pay and discharge the principal thereof; providing for the submission of this act to the people at the general election; and making an appropriation.

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

1 1. This act shall be known and may be cited as the "Hazardous
2 Discharge Bond Act of 1986."

1 2. The Legislature finds and declares that the improper, irre-
2 sponsible, and often illegal discharge of hazardous substances
3 presents a grave threat to the public health and safety, and to the
4 environment, that the dangers posed by these discharges can be
5 minimized only by prompt identification, cleanup and removal of
6 these hazardous discharges, that existing funding sources are not
7 adequate to finance these identification, cleanup and removal op-
8 erations, and that it is therefore in the best interests of all citizens
9 of this State to provide a funding mechanism to finance the prompt
10 identification, efficient cleanup and removal of discharges of haz-
11 ardous substances.

1 3. As used in this act:

2 a. "Cost" means the interest or discount on bonds; cost of issu-
3 ance of bonds; the cost of inspection, appraisal, legal, financial,
4 and other professional services, estimates, and advice; and the

5 cost of organizational, administrative and other work and services,
6 including salaries, supplies, equipment, and materials necessary to
7 administer this act;

8 b. "Hazardous discharge" means the actual or imminent release,
9 spill, leak, emission or dumping of any hazardous substance into
10 the environment which represents a threat to the public health and
11 safety of the environment;

12 c. "Hazardous substances" means those elements and com-
13 pounds, including petroleum products, which are defined as such by
14 the New Jersey Department of Environmental Protection, after
15 public hearing, and which shall be consistent to the maximum extent
16 possible with, and which shall include, the list of hazardous sub-
17 stances adopted by the federal Environmental Protection Agency
18 pursuant to section 311 of the "Federal Water Pollution Control
19 Act Amendments of 1972," Pub. L. 92-500 (33 U. S. C. § 1321), as
20 amended by the "Clean Water Act of 1977," Pub. L. 95-217 (33
21 U. S. C. § 1251 et seq.), the list of toxic pollutants designated by
22 Congress or the Environmental Protection Agency pursuant to
23 section 307 of the former act (33 U. S. C. § 1317) and, to the extent
24 they are not otherwise included, any substance defined as hazardous
25 pursuant to section 101 of the "Comprehensive Environmental
26 Response, Compensation, and Liability Act of 1980," Pub. L. 96-510
27 (42 U. S. C. § 9601 et seq.); except that sewage and sewage sludge
28 shall not be considered as hazardous substances for the purpose
29 of this act.

1 4. The Commissioner of the Department of Environmental Pro-
2 tection shall adopt, pursuant to law, rules and regulations neces-
3 sary to carry out the provisions of this act. The commissioner
4 shall review and consider the findings and recommendations of the
5 New Jersey Commission on Capital Budgeting and Planning in the
6 administration of the provisions of this act.

1 5. Bonds of the State of New Jersey are authorized to be issued
2 in the aggregate principal amount of \$200,000,000.00 for the pur-
3 pose of financing the cost of identification, cleanup and removal of
4 hazardous discharges.

1 6. The bonds authorized under this act shall be serial bonds, term
2 bonds, or a combination thereof, and shall be known as "Hazardous
3 Discharge Bonds." These bonds shall be issued from time to time
4 as the issuing officials herein named shall determine, and may be
5 issued in coupon form, fully-registered form or book-entry form.
6 These bonds may be made subject to redemption prior to maturity
7 and shall mature and be paid not later than 35 years from the
8 dates of their issuance.

1 7. The Governor, the State Treasurer and the Director of the
 2 Division of Budget and Accounting in the Department of the
 2A Treasury, or any two of these officials, herein referred to as "the
 3 issuing officials," are authorized to carry out the provisions of this
 4 act relating to the issuance of bonds, and shall determine all mat-
 5 ters in connection therewith, subject to the provisions of this act.
 6 If an issuing official is absent from the State or incapable of acting
 7 for any reason, the powers and duties of that issuing official shall
 8 be exercised and performed by the person authorized by law to act
 9 in an official capacity in the place of that issuing official.

1 8. Bonds issued in accordance with the provisions of this act
 2 shall be direct obligations of the State of New Jersey, and the faith
 3 and credit of the State are pledged for the payment of the interest
 4 thereon when due and for the payment of the principal thereof at
 5 maturity. The principal of and interest on the bonds shall be
 6 exempt from taxation by the State or by any county, municipality
 7 or other taxing district of the State.

1 9. The bonds shall be signed in the name of the State by means
 2 of the manual or facsimile signature of the Governor under the
 3 Great Seal of the State, which seal may be by facsimile or by way
 4 of any other form of reproduction on the bonds, and attested by
 5 the manual or facsimile signature of the Secretary of State, or an
 6 assistant Secretary of State, and shall be countersigned by the
 7 facsimile signature of the Director of the Division of Budget and
 8 Accounting in the Department of the Treasury and may be man-
 9 ually authenticated by an authenticating agent or bond registrar,
 10 as the issuing officials shall determine. Interest coupons, if any,
 11 attached to the bonds shall be signed by the facsimile signature of
 12 the director. The bonds may be issued notwithstanding that an
 13 issuing official signing them or whose manual or facsimile signature
 14 appears thereon has ceased to hold office at the time of issuance,
 15 or at the time of the delivery of the bonds to the purchaser thereof.

1 10. a. The bonds shall recite that they are issued for the pur-
 2 poses set forth in section 5 of this act, that they are issued pursuant
 3 to this act, that this act was submitted to the people of the State at
 4 the general election held in the month of November, 1985, and that
 5 this act was approved by a majority of the legally qualified voters
 6 of the State voting thereon at the election. This recital shall be
 7 conclusive evidence of the validity of the bonds and of the authority
 8 of the State to issue them. Any bonds containing this recital shall,
 9 in any suit, action or proceeding involving their validity, be con-
 10 clusively deemed to be fully authorized by this act and to have been
 11 issued, sold, executed and delivered in conformity herewith and

12 with all other provisions of laws applicable hereto, and shall be
13 incontestable for any cause.

14 b. The bonds shall be issued in such denominations and in such
15 form or forms, whether coupon, fully-registered or book-entry and
16 with or without provisions for the interchangeability thereof, as
17 may be determined by the issuing officials.

1 11. When the bonds are issued from time to time, the bonds of
2 each issue shall constitute a separate series to be designated by
3 the issuing officials. Each series of bonds shall bear such rate or
4 rates of interest as may be determined by the issuing officials, which
5 interest shall be payable semiannually; except that the first and
6 last interest periods may be longer or shorter, in order that inter-
7 vening seminannual payments may be at convenient dates.

1 12. The bonds shall be issued and sold at such price or prices and
2 under such terms, conditions and regulations as the issuing officials
3 may prescribe, after notice of the sale, published at least once in
4 at least three newspapers published in this State, and at least once
5 in a publication carrying municipal bond notices and devoted pri-
6 marily to financial news, published in this State or in the city of
7 New York, the first notice to appear at least five days prior to the
8 day of bidding. The notice of sale may contain a provision to the
9 effect that any bid in pursuance thereof may be rejected. In the
10 event of rejection or of failure to receive any acceptable bid, the
11 issuing officials, at any time within 90 days from the date of the
12 advertised sale, may sell the bonds at a private sale at such price
13 or prices and under such terms and conditions as the issuing officials
14 may prescribe. The issuing officials may sell all or part of the bonds
15 of any series as issued to any State fund or to the federal govern-
16 ment or any agency thereof, at a private sale, without advertise-
17 ment.

1 13. Until permanent bonds are prepared, the issuing officials may
2 issue temporary bonds in such form and with such privileges as to
3 their registration and exchange for permanent bonds as may be
4 determined by the issuing officials.

1 14. The proceeds from the sale of the bonds shall be paid to the
2 State Treasurer, to be held thereby in a separate fund, which shall
3 be known as the "Hazardous Discharge Fund of 1966." The pro-
4 ceeds of this fund shall be deposited in such depositories as may be
5 selected by the State Treasurer to the credit of the fund.

1 15. a. The moneys in the "Hazardous Discharge Fund of 1966"
2 are specifically dedicated and shall be applied to the cost of the
3 purposes set forth in section 5 of this act, and all such moneys are
4 appropriated for those purposes, and no such moneys shall be ex-

5 pending for those purposes, except as otherwise authorized in this
 6 act, without the specific appropriation thereof by the Legislature,
 7 but bonds may be issued as herein provided, notwithstanding that
 8 the Legislature has not adopted an act making a specific appro-
 9 priation of any of the moneys.

10 b. At any time prior to the issuance and sale of bonds under this
 11 act, the State Treasurer is authorized to transfer from available
 12 money in any fund of the treasury of the State to the credit of the
 13 "Hazardous Discharge Fund of 1986," such sums as he may deem
 14 necessary. The sum so transferred shall be returned to the same
 15 fund of the treasury by the State Treasurer from the proceeds of
 16 the sale of the first issue of bonds.

17 c. Pending their application to the purposes provided in this act,
 18 the moneys in the "Hazardous Discharge Fund of 1986" may be
 19 invested and reinvested as are other trust funds in the custody of
 20 the State Treasurer, in the manner provided by law. Net earnings
 21 received from the investment or deposit of the fund shall be paid
 22 into the General Fund.

1 16. If any coupon bond, coupon or registered bond is lost, mutil-
 2 ated or destroyed, a new bond or coupon shall be executed and
 3 delivered of like tenor, in substitution for the lost, mutilated or
 4 destroyed bond or coupon, upon the owner furnishing to the issuing
 5 officials such evidence satisfactory to them of the loss, mutilation
 6 or destruction of the bond or coupon, the ownership thereof and
 7 the security, indemnity and reimbursement for expenses connected
 8 therewith, as the issuing officials may require.

1 17. The accrued interest received upon the sale of the bonds shall
 2 be applied to the discharge of a like amount of interest upon the
 3 bonds when due. Any expense incurred by the issuing officials for
 4 advertising, engraving, printing, clerical, authenticating, register-
 5 ing, legal or other services necessary to carry out the duties im-
 6 posed upon them by the provisions of this act shall be paid from
 7 the proceeds of the sale of the bonds by the State Treasurer, upon
 8 the warrant of the Director of the Division of Budget and Account-
 9 ing in the Department of the Treasury, in the same manner as other
 10 obligations of the State are paid.

1 18. Bonds of each series issued hereunder shall mature, including
 2 any sinking fund redemptions, not later than the 35th year from
 3 the date of issue of such series, and in such amounts as shall be
 4 determined by the issuing officials. The issuing officials may re-
 5 serve to the State by appropriate provision in the bonds of any
 6 series the power to redeem any of the bonds prior to maturity at
 7 such price or prices and upon such terms and conditions as may

1 19. The issuing officials may at any time and from time to time
 2 issue refunding bonds for the purpose of refunding in whole or in
 3 part an equal principal amount of the bonds of any series issued
 4 and outstanding thereunder, which by their terms are subject to
 5 redemption prior to maturity, provided the refunding bonds shall
 6 mature at any time or times not later than the latest maturity date
 7 of that series, and the aggregate amount of interest to be paid on
 8 the refunding bonds, plus the premium, if any, to be paid on the
 9 bonds refunded, shall not exceed the aggregate amount of interest
 10 which would be paid on the bonds refunded if the bonds were not so
 11 refunded. Refunding bonds shall constitute direct obligations of
 12 the State of New Jersey, and the faith and credit of the State are
 13 pledged for the payment of the principal thereof and the interest
 14 thereon. The proceeds received from the sale of refunding bonds
 15 shall be held in trust and applied to the payment of the bonds re-
 16 funded thereby. Refunding bonds shall be entitled to all the bene-
 17 fits of this act and subject to all its limitations except as to the
 18 maturities thereof and to the extent herein otherwise expressly
 19 provided.

1 20. To provide funds to meet the interest and principal payment
 2 requirements for the bonds issued under this act and outstanding
 3 there is appropriated in the order following:

4 a. Revenue derived from the collection of taxes under the "Sales
 5 and Use Tax Act," P. L. 1934, c. 30 (C. 54:32B-1 et seq.), or so
 6 much thereof as may be required; and

7 b. If, at any time, funds necessary to meet the interest and prin-
 8 cipal payments on outstanding bonds issued under this act, are
 9 insufficient or not available, there shall be assessed, levied and
 10 collected annually in each of the municipalities of the counties of
 11 this State, a tax on the real and personal property upon which
 12 municipal taxes are or shall be assessed, levied and collected, suffi-
 13 cient to meet the interest on all outstanding bonds issued here-
 14 under and on the bonds proposed to be issued under this act in the
 15 calendar year in which the tax is to be raised and for the payment
 16 of bonds falling due in the year following the year for which the
 17 tax is levied. The tax shall be assessed, levied and collected in the
 18 same manner and at the same time as other taxes upon real and
 19 personal property. The governing body of each municipality shall
 20 pay to the treasurer of the county in which the municipality is
 21 located, on or before December 15 in each year, the amount of tax
 22 herein directed to be assessed and levied, and the county treasurer
 23 shall pay the amount of the tax to the State Treasurer on or be-
 24 fore December 20 in each year.

25 If on or before December 31 in any year, the issuing officials, by
 26 resolution, determine that there are moneys in the General Fund
 27 beyond the needs of the State, sufficient to meet the principal of
 28 bonds falling due and all interest payable in the ensuing calendar
 29 year, the issuing officials shall file the resolution in the office of the
 30 State Treasurer, whereupon the State Treasurer shall transfer
 31 the moneys to a separate fund to be designated by him, and shall
 32 pay the principal and interest out of the fund as the same shall
 33 become due and payable, and the other sources of payment of the
 34 principal and interest provided for in this section shall not then
 35 be available, and the receipts for the year from the tax specified
 36 in subsection b. of this section shall be considered part of the
 37 General Fund, available for general purposes.

1 21. Should the State Treasurer, by December 31 of any year,
 2 deem it necessary, because of the insufficiency of funds collected
 3 from the sources of revenues as provided in this act, to meet the
 4 interest and principal payments for the year after the ensuing year,
 5 then the State Treasurer shall certify to the Director of the Divi-
 6 sion of Budget and Accounting in the Department of the Treasury
 7 the amount necessary to be raised by taxation for those purposes,
 8 which is to be assessed, levied and collected for and in the ensuing
 9 calendar year. The director shall, on or before March 1 following,
 10 calculate the amount in dollars to be assessed, levied and collected
 11 in each county as herein set forth. This calculation shall be based
 12 upon the corrected assessed valuation of each county for the year
 13 preceding the year in which the tax is to be assessed, but the tax
 14 shall be assessed, levied and collected upon the assessed valuation
 15 of the year in which the tax is assessed and levied. The director
 16 shall certify the amount to the county board of taxation and the
 17 treasurer of each county. The county board of taxation shall in-
 18 clude the proper amount in the current tax levy of the several
 19 taxing districts of the county in proportion to the ratables as as-
 20 certained for the current year.

1 22. For the purpose of complying with the provisions of the State
 2 Constitution, this act shall be submitted to the people at the general
 3 election to be held in the month of November, 1986. To inform the
 4 people of the contents of this act, it shall be the duty of the Secre-
 5 tary of State, after this section takes effect, and at least 15 days
 6 prior to the election, to publish this act in at least 10 newspapers
 7 published in this State and to notify the clerk of each county of
 8 this State of the passage of this act; and the clerks respectively,
 9 in accordance with the instructions of the Secretary of State, shall
 10 have each of the ballots printed as follows:

- 11 If you approve of the act entitled below, make a cross (X), plus
 12 (+) or check (✓) mark in the square opposite the word "Yes."
 13 If you disapprove of the act entitled below, make a cross (X),
 14 plus (+) or check (✓) mark in the square opposite the word "No."
 15 If voting machines are used, a vote of "Yes" or "No" shall be
 16 equivalent to these markings respectively.

	Yes.	<p>HAZARDOUS DISCHARGE BOND ACT OF 1986</p> <p>Should the "Hazardous Discharge Bond Act of 1986" which authorizes the State to issue bonds in the amount of \$200,000,000.00 for the purpose of financing the cost of identification, cleanup and removal of hazardous discharges, providing ways and means to pay the interest on the debt and also to pay and discharge the principal thereof be approved?</p>
	No.	<p>INTERPRETIVE STATEMENT</p> <p>Approval of this act would authorize the sale of \$200,000,000.00 in bonds to be used to identify, cleanup and remove hazardous discharges.</p>

- 17 The fact and date of the approval or passage of this act, as the
 18 case may be, may be inserted in the appropriate place after the
 19 title in the ballot. No other requirements of law as to notice or
 20 procedure, except as herein provided, need be adhered to.

- 21 The votes cast for and against the approval of this act, by ballot
 22 or voting machine, shall be counted and the result thereof returned
 23 by the election officer, and a canvass of the election had in the same
 24 manner as is provided for by law in the case of the election of a
 25 Governor, and the approval or disapproval of this act so deter-
 26 mined shall be declared in the same manner as the result of an
 27 election for a Governor, and if there is a majority of all votes cast
 28 for and against it at the election in favor of the approval of this
 29 act then all the provisions of this act not made effective thereto-
 30 fore shall take effect forthwith.

- 1 23. There is appropriated the sum of \$5,000.00 to the Department
 2 of State for expenses in connection with the publication of notice
 3 pursuant to section 22 of this act.

- 1 24. The Commissioner of Environmental Protection shall submit
 2 to the State Treasurer and the New Jersey Commission on Capital
 3 Budgeting and Planning with the Department of Environmental
 4 Protection's annual budget request a plan for the expenditure of
 5 funds from the "Hazardous Discharge Fund of 1986" for the up-
 6 coming fiscal year. This plan shall include the following informa-

7 tion: a performance evaluation of the expenditures made from the
 8 fund to date; a description of programs planned during the up-
 9 coming fiscal year; a copy of the regulations in force governing
 10 the operations of programs that are financed, in part or in whole,
 11 by funds from the "Hazardous Discharge Fund of 1986;" and an
 12 estimate of expenditures for the upcoming fiscal year.

1 25. Immediately following the submission to the Legislature of
 2 the Governor's annual budget message, the Commissioner of En-
 3 vironmental Protection shall submit to the General Assembly
 4 Agriculture and Environment Committee, the Senate Energy and
 5 Environment Committee, or their successors, and the Subcommittee
 6 on Transfers of the Joint Appropriations Committee, or its suc-
 7 cessor, a copy of the plan called for under section 24 of this act,
 8 together with such changes therein as may have been required by
 9 the Governor's budget message.

1 26. No less than 30 days prior to entering into any contract,
 2 lease, obligation, or agreement to effectuate the purposes of this
 3 act, the Commissioner of Environmental Protection shall report to
 4 and consult with the Subcommittee on Transfers of the Joint Ap-
 5 propriations Committee, or its successor.

1 27. This section and sections 22 and 23 of this act shall take effect
 2 immediately and the remainder of the act shall take effect as pro-
 3 vided in section 22.

STATEMENT

This bill authorizes the issuance of State bonds in the sum of \$200,000,000.00, the proceeds of which are to be used to identify, cleanup and remove hazardous discharges.

HAZARDOUS WASTE (CLEANUP)

Authorizes \$200,000,000.00 in State bonds for hazardous discharge site cleanup.

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* * * * *

mjz: 1-69
di: 70-86

4-7-86 10:00 AM

ASSEMBLYMAN JOHN O. BENNETT (Chairman): I would like to call this public hearing to order. I apologize for my lateness. I am coming off of vacation and I am not used to work hours, so I have to readjust my time from vacation time.

I would like to thank my colleague, Assemblyman Shinn, for setting up these facilities and having this very beautiful board room made available to us. As has been history as we have traveled around the State conducting different hearings on this particular subject matter -- we have had hearings in the northern and central parts of the State, and today we are in the southern part of the State -- we on the Committee have all had an opportunity to meet with many different people.

What I would like to do is call on Assemblyman Shinn first so he can give a welcome to Burlington County to you who are here today. Assemblyman Shinn?

ASSEMBLYMAN SHINN: I would like to thank you for bringing this hearing down to us, Mr. Chairman, and I welcome everyone to Burlington County. We have ordered nice weather for you, and we hope you enjoy your stay here.

ASSEMBLYMAN BENNETT: Thank you very much, Bob. As my Vice Chairman, I welcome a new addition to the Committee this year, Assemblyman Bob Singer. Bob is here on my far left. He is from Ocean County, and has been a welcome addition to the Assembly Environmental Quality Committee.

As all of you in this room are quite aware, I'm sure, this is a continuation of our hearings with respect to the hazardous waste funding cleanup package. This package, which has moved through the Senate under the leadership of Senator Dalton, has been in this Committee. During the course of the summer, we have taken the Committee meetings on the road to afford maximum public input on what many of us in the Legislature consider to be the number one problem facing us, and that is, how do we come up with sufficient dollars to fund this incredible problem, this incredibly expensive problem?

When we began this series, Senator Dalton and I said we were not married to the specific proposals of the package, but that we challenged those who felt the package, as it was presented, was inappropriate, to come up with alternatives and to come up with suggestions. That has been the pattern of the history as we have gone around the State during the last few months.

It is with a great deal of pleasure that I would like to introduce a colleague of ours in the Legislature, a colleague who has been a leader since his arrival on the scene in January, 1980 in the environmental field, an individual who originally served in the Legislature in the freshmen class of '79 with me, then moved to the Senate, where, for the past several years, he has been Chairman of the Energy and Environmental Committee in the New Jersey Senate. Without further ado, I would like to introduce a good friend of mine, a leading environmentalist, Senator Daniel J. Dalton, from the Fourth District.

S E N A T O R D A N I E L J. D A L T O N: Thank you very much. Mr. Chairman, members of the Committee: I am pleased to be here today to express my support for the hazardous waste cleanup financing package, which you, Mr. Chairman, are sponsoring in the Assembly, and which is the subject of today's public hearing.

As you indicated, I, as well as Senators Contillo and Lesniak, are sponsoring similar legislation in the Senate. The legislative package will, if enacted, put our cleanup program on a sound financial basis for the years 1987 through 1991. The package would provide approximately \$120 million per year for five years from three sources: Fifty million dollars per year by raising the corporate business tax rate from 9% to 9.5%; \$30 million per year from doubling the existing rates of the Spill Fund tax on oil and chemicals; and, \$40 million per year from a \$200 million State general obligation bond issue.

This package would raise \$400 million of the \$600 million from direct business taxes. Business and industry profited from the poor disposal practices of the past, and it is, therefore, appropriate that they now pay a major share of the costs of remedying the problem caused by those poor disposal practices.

In this light, it is important to remember that in the last 10 years, only about one-third of our State cleanup money came from direct business taxes; \$88 million from the Spill Fund tax, as opposed to \$250 million from bonds and general appropriation. Our package would redress this imbalance.

Since you, Mr. Chairman, and I began working on this package, we have been working with representatives of business and industry to try to raise industry's share of cleanup funding in a way which would have the least impact on the State's business climate. One alternative which we have been exploring would involve using, for hazardous waste cleanup, the increased State business tax revenues which New Jersey stands to receive because of changes in the Federal tax law. New Jersey's corporate business tax piggybacks the Federal corporate tax, and if the Federal basis increases, the New Jersey corporation business tax will generate increased revenues without raising the existing rate.

One of the sticking points to date with this proposal has been determining the amount of the increased tax -- that revenue which New Jersey will receive. I was pleased, therefore, to see that Governor Kean has announced that New Jersey's corporate tax revenues will increase by at least \$50 million due to the pending tax reform bill. I would hope then that the Governor would join us in dedicating at least \$60 million from the General Fund for cleanup, using the Federal windfall tax revenues to finance this dedication.

If this financing package is to be in place for next year, we must move these bills through the Legislature by the

third week in September so that the bond issue can be put on the ballot this November. We are running out of time, so this Committee, which has acted responsibly, must move with great haste. We must convince the Governor of the need for him to join us in supporting this initiative.

I should note that if the Governor does not want to use the Federal windfall for hazardous waste cleanup, then I will continue to call for increasing the corporate business tax by a half a percent.

According to DEP's best projections, between 1987 and 1992 we will need to spend \$1.5 billion on hazardous waste cleanup. Of this amount, about \$650 million must come from State sources; on the average, about \$130 million per year for the five-year period. At present, we do not have anything close to that amount. We have \$100 million in 1981 hazardous discharge bond funds, about \$50 million left from the 1985 \$150 million General Fund appropriation, and \$12 million to \$15 million per year from the Spill Fund, tax on oils and chemicals. Much of this will be spent between now and the fall of '87. Therefore, if we do not take action now to establish a long-term funding source, we will be facing the most costly phase of the cleanup program with no money in our checking account.

The moment of truth for our cleanup effort will come in late 1987, when we are scheduled to begin the actual cleanup, construction, and engineering of our hazardous waste sites. At that point, we will need a steady and secure source of State cleanup funds. If we do not have our financing mechanism in place by then, our well-crafted cleanup plans will not make it off the drawing board and, indeed, will become an embarrassment if we don't have the money to turn them into a reality.

The legislative package which you are considering today will ensure that the well-designed plans will be turned into well-designed cleanup projects.

I want to applaud this Committee, and the Chairman, for the amount of work and the amount of time you have dedicated to this issue. I urge the Committee to consider and vote on these bills as soon as possible.

Thank you very much, Mr. Chairman and members of the Committee.

ASSEMBLYMAN BENNETT: Thank you, Senator. Are there any members of the Committee who have any questions of Senator Dalton? (negative response) Thank you very much for being with us today, Dan.

SENATOR DALTON: Thank you.

ASSEMBLYMAN BENNETT: And for all the effort and work you have been doing for even longer than this Committee has been dealing with this issue.

I would like to ask the Commissioner of the Department of Environmental Protection if he would come forward. It has been a great pleasure working with Commissioner Dewling this year. As a new Commissioner and as a new Chairman, we have had the opportunity to cut some of our new areas together. It is always a pleasure to have you here, Commissioner, and I thank you very much for your appearance before this Committee.

COMMISSIONER RICHARD T. DEWLING: Thank you, Mr. Bennett. I have with me this morning John Gaston, Assistant Commissioner for Hazardous Waste. Let me begin by saying I want to commend you, as well as the members of your Committee, and Senator Dalton, for the efforts you have made to move the hazardous waste financing issue forward.

We agree with you that the action in the package of bills which are under review today is essential this year so that cash is available to continue the program in '87, but we figure the big years are going to be for construction.

DEP has a need and, very honestly, since this is the only show in town, I am here to support the bill package that has been presented, that they will provide adequate revenues over the five-year period which we outlined previously.

I would like to have John Gaston -- before we go into greater detail -- go through the process of where we are. I think you have seen in the past six months that we have made tremendous strides in our commitment to follow through with this process. There is no question that the impact of the Federal delays has caused a delay in our operation. So, let me have John go through some of the issues, and then I will be back to present some ideas and options to you.

A S S T. C O M M I S S I O N E R J O H N G A S T O N: We have handed out a series of materials that have been used for some time now, and which serve as the basis upon which we have made our forecast of needs for the hazardous waste program.

The universe of sites that we considered in putting together our set of needs is some 1,150 sites that were on a master list which was produced a couple of years ago. We have gone through what we consider to be a rational process, which has surfaced a total of 228 sites that we are planning to deal with in the fiscal context of this hazardous waste discussion that has taken place over the last several months. Ninety-nine are already on the Superfund. Actually, it is 97, but we are not changing that 99. We had one deletion and one put on hold. We expect that over the next five years we will add, probably, 25 more sites, and we will add them at the rate of five per year.

In addition, there are some 54 projects that have been scheduled on our non-NPL list that are, in one form or another, being dealt with. We expect that over the next several years we will add 10 per year, or a total of 50 sites.

So, in formulating our plan we used the number 228 as the number to be targeted for public management and public refunding in the five-year period.

Overviewing the scheduling and spending, the cleanup program consists of actually three areas: The Superfund Program, the Non-NPL Program, and we have included some \$15

million a year for water supplies. I think everyone here realizes that one of the most traumatic aspects of the hazardous waste business is when your well becomes impacted. So, we are building that into our projection of need.

In formulating our plan, estimates of time required to complete the various phases of the program have been assigned on an average basis. We have also made some projections regarding the number of sites and the percentage of success we're getting, or are going to experience in getting responsible parties to step forward voluntarily to deal with the problem.

We have used the five-year planning horizon, as described in Exhibit II. There are some uncertainties we are going to face in dealing with this, not the least of which is that operations and maintenance down the road have not been factored into our assessment. But, we are not trying to bite off more than we can chew or understand at this point in time.

With respect to the Federal Superfund, we tried to come up with a conservative estimate of how successful we are going to be in getting Federal dollars to come to New Jersey. For purposes of our analysis here, only 60% of what is eligible for Superfund will be obtained by New Jersey on the schedule that we needed. So, that will mean that we will continue what has been happening here in 1986. We will be pre-funding the Federal government to keep our projects moving forward.

Enforcement and cost recovery: Everyone, not the least of which is the Department, is interested in getting as many dollars back from responsible parties as possible. We are anticipating that a third of the 228 cases that we have slotted for progress will be dealt with under the responsible pre-funded mode, or cost recovery mode.

As I mentioned, water line replacements of \$15 million a year are going to be provided. This is one of the quickest and most dramatic benefits that can evolve from the program.

Lastly, the long-term O&M provided for here is not incorporated in our projections, so from year six through year question mark, that financing has not been spoken for.

Exhibit III gives you the raw numbers. The State cost over the five-year period is some \$642 million, broken down as follows: \$363 million at NPL sites; \$204 million at non-NPL sites; and, we budgeted \$74 million for water lines, which is 41% of the total \$1.5 billion program costs we are estimating.

The Federal government and private parties have each been budgeted for \$450 million, or an average of about \$90 million per year during the five-year period, for a total cost of slightly more than \$1.5 billion. Significantly, as it relates to the deliberations of this Committee, the second and third years of the five-year plan require more dollars than are required next year, this year now, or in the last two years of the process.

You should also be aware that the constitutionality of the Spill Act's treble damages provision is being challenged. In the event that these challenges are successful, we are going to have to qualify what we consider to be reasonable success in the responsible party mode. We have used the treble damages requirement to promote decision-making and action, and if it is not available to us and we have to go to some kind of pre-enforcement review with lengthy administrative hearings, we are likely to experience some of the delays we have experienced under the permit system, where the administrative procedures process would have to be exhausted up-front.

So, our success in the responsible party area, which is indicated above -- approximately 29% of the dollars will be furnished through this mode -- is dependent on our successful defense of the treble damages assault that is taking place in the courts at this time.

Senator Dalton reviewed the various ways to fund the program and the package before you, so we need not do that. We

would say, however, that the \$100 million in bond authority, which was signed into law earlier this year freeing up the 1981 bond act, is something that has to be enacted by the voters in November. And, assuming that it is enacted, we do continue the Spill Fund, and that the package that has been under review by this Committee is enacted, we will have adequate dollars to meet our needs on a continuing basis between now and 1991.

Now, one of the questions that has been asked on more than one occasion and which deserves some attention in the context of your hearing today is, how well are we doing with responsible parties? We do have some information which we have compiled. This is attached to the package we have handed out, Exhibit IV, and gives you a brief overview of what we have done this year and the dollars that we have either received or received commitments to have spent.

The numbers show that in the NPL mode we were able to enter into agreements with two companies totaling \$7 million in the first half of the year. In the non-NPL mode, we have agreements with six sites or multi-site situations totaling \$7.2 million. Then, when you look at ECRA, there is a very long list of successes, where we have entered into consent agreements or had cleanup initiated, or in some instances moved along, for a total of some \$88 million in the first seven months of this year. We do not believe that this total reflects the recently announced Allied merger agreement, which totaled some \$19 million. So, the ECRA process has been producing financial commitments on the part of business and industry to clean up sites.

COMMISSIONER DEWLING: Let me just mention to you-- Basically, I want to lend support, also, to Senate Bill 1815, which was sponsored by Senators Contillo, Dalton, and Costa. This bill establishes the Divisions of Hazardous Waste Management and Hazardous Site Mitigation, which are primarily responsible for the overseeing of the performance of the

cleanup program. Our strong support of this piece of legislation acknowledges the need for legislative oversight in the conduct of this important program.

Also, there is an option suggesting several amendments which could enhance the Department's authority to carry out an effective hazardous waste management program. Before discussing this, let me just discuss some amendments which I think are important.

We see three basic opportunities to have polluters pay for hazardous waste problems. One is a cost prevention program. A cost prevention program, obviously, is very critical to us in the sense that ACOs -- Administrative Consent Orders -- are signed where the responsible party pays all the costs. The Department strongly supports cost prevention activities because they provide a mechanism to conserve public funds for situations where public health is an imminent risk, for sites where there is no responsible party, or where the responsible party is unable or unwilling to take timely and appropriate action.

John just mentioned the ECRA cases. I think just two cases themselves -- RCA and Allied -- signal \$56 million of commitment by the private sector, and I think that is significant.

The important thing here is that there is somewhat of a dichotomy between the State and the Federal government. The Federal government is requesting that the Superfund list be expanded. What is the expectation if the Superfund list is expanded? Putting sites on the Superfund list makes people expect that something is going to happen. Correct. In the Federal role, there is no commitment by the Federal government to follow through with the cleanup of a site if it goes on the list. We in the State of New Jersey are committed, once we put a site on the list, to follow through with the process.

What we have said to EPA is, "If we are unsuccessful

in getting private party cleanup, either through the regulatory mode or through the ECRA approach, then why just add them to the list for the sake of adding them to the list?" We want to make sure that the sites are cleaned up, but putting a site on the list does not guarantee it is going to be cleaned up. It raises an expectation that it will. You have to follow the Superfund process, which we all know is very cumbersome, and many of the sites we are dealing with here, with the ECRA closings, would be potential sites to go on the Superfund list.

Also in Exhibit IV, John gave you many sites that could potentially be on the Superfund list on the next round. We will be increasing the Superfund list by at least five per year. EPA is asking us to increase it by 20 per year. Now, we think we have identified all of the sites in the State of New Jersey that require that type of elevation. However, if we find sites, we are not going to be afraid of adding them to the Superfund list, but remember that EPA has the right -- the unilateral right -- to add sites to the Superfund list even if we don't recommend them.

So, the expectation is going to be different. We feel that we can accommodate and clean up those sites, and they don't have to be on the Superfund list. We can clean up those sites either through the ECRA program on a preventative mode-- If I look at the candidates for the next increase in Superfund sites, in all likelihood they will be some of the landfills that are out there -- municipal landfills -- which means that the responsible party is the municipality, which means you pay 50%. So, recognize that those are the issues.

The other area is an act to publicly fund a remedial action through cost recovery actions. The cost recovery philosophy is an act that we perform after public funds have been spent. The Department seeks to identify those responsible for the contamination or pollution and to pursue the recovery at basically three times the cost of the actual cleanup. As

John mentioned before, the constitutionality of this is in question right now.

We have some suggested options to get responsible parties to deal with the cleanup -- and the same companies come in all the time -- and to give the responsible parties the ability to go back and get treble damages. If we have 10 responsible parties and only five are willing to sign up for taking the action, give them the ability to go back against the five recalcitrant industries to get treble damages, not just the State or the Federal sides.

The third area where the polluter pays occurs in the prevention of hazardous waste problems through the Hazardous Waste Regulatory Program. This is a new initiative that we are just throwing out to you as an option, which we feel has the potential for improving the way we operate. The Regulatory Program seeks to prevent the release and otherwise obviate the need to correct problems before they are actually created. This strategy contrasts to the Public Remediation Program, where dollars are actually spent prior to being recovered. The cost of the Hazardous Waste Regulatory Program was approximately \$10 million in Fiscal Year 1986. This is about 2% of the cleanup costs which you are planning over the next five-year period.

Through the State hazardous enabling legislation, and the delegated Federal RCRA Program, New Jersey has one of the strongest programs in the nation. If I may return to bill S-1815, we believe that certain amendments to this legislation would materially improve our ability to administer the program. First, we are requesting an amendment to provide the authority for the new Hazardous Waste Regulatory Program to cover the costs of administering the program and to prevent the future expenditures of public resources. We envision developing graduated fees for hazardous waste generators, transporters, and treatment, storage, and/or disposal

facilities to support Hazardous Waste Regulatory Programs. Such fees would transfer the burden of funding the program to those elements in the private sector that create the need for the program. This is a recommendation that we have often heard from the Legislature: Make those who pollute pay.

Considering the extent of public moneys necessary for hazardous remediation under the State program in the next five years -- \$642 million -- and the cost effectiveness of prevention, the establishment of a fee program for the Hazardous Waste Management Program is reasonable, necessary, and clearly in the public interest. We are also suggesting changes to S-1815 which would clarify the relationship of the definition of hazardous discharge and the development of the hazardous management gain with existing statutes.

We recommend your favorable actions on these amendments which appear in Exhibit V in the attachment we have just handed out.

I would also like to bring out another issue for your attention. We have encountered delays in undertaking remedial action at several sites because of our inability to obtain access to adjoining properties. For example, fencing and tacking at the GEM site in Gloucester Township were delayed because we were unable to obtain permission from adjacent landowners to perform work on their properties. At the Burnt Fly Bog site, remedial work has also been delayed because we have been unable to get the consent of neighboring property owners. Therefore, the Department will be asking the Legislature for authority to enter upon or conduct work on properties adjacent to hazardous waste sites for the purpose of investigating and remedying the hazards posed by these sites.

In addition, we will be asking for the authority to condemn land where a hazardous waste discharge has occurred, if necessary to perform remediation. The best example of the situation is GEM, where we have been unable to acquire property in order to properly remediate the site.

Let me just mention to you some of the frustrations we feel in trying to deal with this program. I think the public has a right to share these frustrations. We have one situation now where we have a homeowner-- In fact, I got a D- on my report card from the Environmental Federation. If I had to score myself on this one, I would probably give myself an F. Here you have a homeowner who has been drinking bottled water and basically has been showering at a local school for over a year. What is preventing that water supply from going in? Under the Federal Superfund, they cannot pay for the water line, primarily because the water line would then become the property of the Water Authority, which would then get some future financial benefit from that water system as additional hookups came in. They would have to pay back the Federal Superfund the fair share of what that water line system would cost.

Now, trying to apportion that at this time is very difficult. Therefore, the inability of the Federal system to process that application is real. The next option was, DEP would put the water line in. In essence what we do is give the water line to the utility. We say, "It's yours." But now we have amendments in the new tax code, specifically 118(b), which say, "If a water utility is to receive a water system, that is income and capital improvement to that system, and they are going to have to pay taxes on it."

So now the water utility would not enter into an agreement with us to build the water line. Here is this poor person-- Granted, an immediate public threat is not there because they are drinking bottled water and they are taking a shower two miles down the road, but that is not a solution to the problem. What I am saying is, the frustrations of these types of little glitches are causing unbelievable havoc in moving ahead with this program. I cannot blame the public for getting totally ticked off at the inability of government --

and I mean that big "G" and little "g" -- to move ahead with that.

Lone Pine: We are still, after eight months of putting a full court press into this, unable to provide moneys to the Federal government to move ahead because of their insistence that they cannot give us interest on \$15 million to \$18 million. We are finally at the point now where they are ready to go out for design and construction, and you will probably beat me at this on the legislation next year, as you did last year. I will probably be giving them the money without interest in order to move ahead with that project. I have no choice. Either I am in the cleanup business or I am in the fiscal business. And, if you want to move ahead with these cleanups, we are going to have to take certain gambles.

So, if you are chided later on for saying we lost a certain amount of interest, what is the impact of what you lost in terms of construction costs? What is the impact in terms of the credibility of moving ahead with this program?

The issue I mentioned before is the dichotomy between EPA's need to expand the list by legislative mandate and our concern that simply expanding the list does not improve cleanup. It doesn't enhance cleanup. Our objective is to get cleanup. Any site we put on the list, we will put on the list after we are sure that we can no longer get cleanup through the regulatory process, by some administrative consent order, or by some other process first. If we fail on that, then most certainly let's put it on the Superfund list. But I think we in this room all agree that many of the sites on the Superfund list now should not have been there in the first place.

ASSEMBLYMAN BENNETT: I agree.

COMMISSIONER DEWLING: We have cleaned up, you know-- One site that I can point to is Krysovaty Farm, which was relatively simply. That cost over \$5 million. That was putting a water line in, removing several hundred drums, and

basically removing a couple of hundred cubic yards of dirt. Simple.

The PJP Landfill, the frustrations of PJP Landfill: We spent \$21 million of State money to clean up that area. It is now completely cleaned up in the sense that it is repackaged. There is no longer the smoldering of fires. But, if you listened to the public up there, their concern was that the State didn't take action; the Federal government didn't take action. That fire burning-- There was no basis under the legal process to take emergency action because of any pollutants in the air. We took emergency action on the basis of the decrease in visibility from the smoke. We then deemed that a public health risk in the sense of PATH trains colliding or cars on the Pulasky Skyway colliding. That was the basis for us committing to clean up the site. Now we have to go through the process of having a feasibility study done to determine whether or not EPA would have come up with the same conclusion we came up with, in order to get our money back.

If you had not provided us with the money, we would not have been able to take that step of committing the contract. Of the \$150 million that was given to us by the Legislature a year ago this past June, we now have \$30 million left. We have yet to touch the \$100 million in the bond issue. My guess would be that if Long Pine kicks in, whenever, which we expect in the next month or so, that will be another 15 to 20 we have to tie aside, so we will be kicking into the \$100 million bond issue this calendar year.

I think the other thing that is probably the biggest concern I have is, we will be finishing up, this year, a commitment we made that we will have all the feasibility studies started by the end of this EPA fiscal year, which is by the end of September. What that says is that the need for design and construction -- that we will be in such a mode that these things will roll in, and that we will probably meet the

commitment we talked about of 15 to 20 of these sites being cleaned up and in the operation and maintenance mode. With each year, more of these will be folding in. Without question, we will probably have more sites than any other state. We will probably have at least half the sites around the country that will be in that mode. So, I still think that our program will be more aggressive than any other state's program.

Three or four years from now, some of the other states will start picking up the momentum. New York State is now just going through a \$1 billion bond issue to keep the momentum moving on their program, and they will start catching up with it in two to three years. But the fact that all of our feasibility studies will be out this year-- We did advance fund Region II EPA to remediate and do the additional feasibility studies, so with the exception of maybe one out of the 99, we feel confident that we will have issued and started all the feasibility studies this year.

The one last point I want to make is, I recognize that the hazardous waste problem is a very sensitive issue in your hometowns and in your home counties, but it is extremely frustrating when you have legislators who act irresponsibly when you try to deal with this problem. If we have to pick it up, we have to put it down someplace. If we are going to solve the problem in New Jersey, we have to have sites to bring this to. Every time we come up with a site to bring it to if we are faced with local legislators trying to put in bills to oppose it, or trying to get at DEP's operating money to get even, I think that is acting irresponsibly and, without any question, we will never solve the environmental problems in the State of New Jersey.

The Federal government is now saying that unless the states have their own sites to dispose of wastes in the next three years, they will not get Federal Superfund dollars. So, the Federal government is now putting the burden back on the

states. Without sites, it is only a matter of time before Ohio, New York, and South Carolina -- the old Jim Dooley-- He is no longer going to say, "Come on down." He is going to say, "We've had it, folks." The problem is going to be real. We have to dispose of this material. Any time you use new technology to try to solve a problem, everybody says, "Well, it is not proven technology." We don't have all the guarantees. We don't have all the answers. I think our most primary concern is to protect public health.

I think the focus we are talking about here is putting in municipal water supply systems where there is that type of concern. We are not going to take the temporary stage of putting in carbon filters on somebody's house because, very honestly, we tried that, and the counties failed us. Some of the counties that said they would watch the filters, and they would test the filters, failed to do so. So, we cannot be out there with someone else testing it, with people having their homes tested with the filters on once every couple of months, and the county saying, "We're sorry. We didn't have the money, so we couldn't test them."

I think governments together fail in something like that. So, we are looking, very significantly, at moving ahead aggressively on the water supply line system, which would eliminate the need of: How clean is clean, when might it be bad, how long do you have to monitor it for? Those are unanswerable questions which you can never answer.

I will be happy to answer any questions you may have.

ASSEMBLYMAN BENNETT: Commissioner, several points first, before I go into questions. One, with respect to the disposal of hazardous waste, I think the position of this Committee has been relatively clear. We have, under several Chairmen, been rather outspoken in support of the Hazardous Waste Siting Commission and, in fact, the bills that have been posted with respect to site specifics-- The present battery

that has been put forward has not been posted for consideration either in this Committee or in the Senate Committee. To my knowledge, there is no present move by either this Chairman or the Chairman of the Senate Committee to entertain the site specifics on legislation.

I am somewhat concerned that as we move ahead with the process-- Quite frankly, that is not an easy position for me to entertain, as two of the proposed sites happen to be in my district. But I think that if we entertain the philosophy of "Not In My Back Yard" too far, we will find that we will have it in everyone's back yard.

The mechanisms as to how that is carried out must continue to enjoy a widespread public support. I think on the Hazardous Waste Siting Commission, while we continue to see public support there, we may have other examples where we may not have the widespread public support, and where we move outside of the Siting Commission's realm. But that is subject matter for another day.

One of the concerns that keeps coming back is that if New Jersey moves ahead and we establish a position of locating a hazardous waste facility within our State, how can we assure that we will not become a facility utilized by other states? I'm interested in how you say this burden will now-- EPA is going to place the burden on each state that it must have a place to dispose of hazardous waste in order to get Superfund dollars. I didn't realize that was part of either of the proposed Superfund laws. Is that in the legislation?

COMMISSIONER DEWLING: It mirror images the low-level radioactive waste criteria. You have to have a compact and/or your own process.

ASSEMBLYMAN BENNETT: Okay. It does permit that if we compact it we can get by the ICC, the same as low level?

COMMISSIONER DEWLING: That's right.

ASSEMBLYMAN BENNETT: Okay. Maybe we should be looking into that because, to my knowledge, we have not looked into compacting with anyone.

COMMISSIONER DEWLING: We haven't even started. This just came out in the new amendments. If we are as lucky as we were in low-level radiation to have Washington, DC in our compact-- I don't know of any site except the Quadrangle of the Pentagon that we could consider.

ASSEMBLYMAN BENNETT: They have applied for permission to be in our compact. As you know, they have not been accepted. They may become a customer, as opposed to being a voting member. I, for one, will fight any efforts to join in any compact with Maryland and Delaware, and will let them hang out to dry, as far as I am concerned. But, if Connecticut is anxious, then we will sit down with them. We seem to have a working relationship there.

I am concerned that we move ahead and establish a facility, not that we become a compact and, therefore, have other problems.

Today's subject matter, though, more than the disposal, is finances. An ambitious cleanup operation in the State of New Jersey obviously needs money. We have talked about your support of this package and the fact that it is the only package in town. Quite frankly, we are running out of time, as you are well aware. As Senator Dalton said, in order to take certain steps, very definitive positive actions must be taken within the next three weeks. There has been much discussion, first of all, directed towards the Spill Fund as to what impact a doubling of the Spill Fund would have on present taxpayers, and how many dollars would be necessary if we lowered the threshold as to the storage capabilities and if we switched it from a transfer on the first transfer. In fact, these questions, I think, were originally posed to the administrator of the Spill Fund in your Department by Senator

Dalton's Committee. Then there was a follow-up letter from Senator Dalton and myself trying to ascertain what impact some of the proposed amendments might have on the ability to raise moneys, since the bottom line, I think, legislatively, is that we are after certain moneys to meet your program. At the same time, we are trying to be fair to see that we have an equitable package in place which is going to spread the burden amongst the businesses involved, the general public, and those best able to have it spread out, so that we will not have any one specific faction bearing the total responsibility for a problem that must, in and of itself, be shared by all.

One of the proposed suggestions was lowering the threshold, and I'm wondering if at this point we are able to ascertain what impact that may have. Instead of doubling the Spill Fund, if we lowered the storage capability limits and kept the same tax in place, how would that impact financially on it?

I have been following the memos back and forth, but the last that I am aware of is the one that suggested that a work committee be set up; however, that was back in July.

COMMISSIONER DEWLING: On August 20 we sent a letter back.

ASSEMBLYMAN BENNETT: August what?

COMMISSIONER DEWLING: On August 20 we sent a letter back which commented on the three options: the expansion, the DOT expansion, and the equitable portion based on chemistry.

ASSEMBLYMAN BENNETT: Oh. Unfortunately, that hasn't made it to here yet. Maybe you could, rather expeditiously, just let us know, particularly on the storage. I mean, that was the first amendment.

Dan, do you have that answer yet? (Senator Dalton indicates no.) Okay, I don't know where it went then.

ASST. COMMISSIONER GASTON: It was sent to Senators Dalton, Costa, Contillo, and Gormley in response to the letter you had sent--

ASSEMBLYMAN BENNETT: June 3. Yeah, his letter went June 3.

ASST. COMMISSIONER GASTON: To Dave Mack.

ASSEMBLYMAN BENNETT: Specifically dealing with the definition of what a major facility is. There have been discussions that the capacity threshold should be lowered from 50,000 gallons to 5,000 gallons. I don't think there is anything magic about 5,000 gallons, but that was the figure that had been originally discussed. Whether it should be 10,000 or 25,000, I don't know, but the impact that that would have on raising the funds is, in fact, significant.

I met with Director Baldwin on it. There is no listing, except now, through the development, hopefully, of the Right to Know legislation-- That has the limits, but in a range. So, there is nobody able to tell us how many tanks--

ASST. COMMISSIONER GASTON: Are out there.

ASSEMBLYMAN BENNETT: (continuing) --there are out there that will meet this criteria. So, it makes it rather difficult. The time has now come for us to come up with what we are going to have to do. That is why we are trying to reach out in every direction we can to see what data you may be able to supply to us to help us to make these decisions because we are running out of time.

ASST. COMMISSIONER GASTON: The air program allows us to get some data on tanks of 10,000 gallons per day or larger. We are estimating that if we were working with that as a threshold, we would have between 4,000 and 5,000 taxpayers.

ASSEMBLYMAN BENNETT: Four and five thousand?

ASST. COMMISSIONER GASTON: Four and five thousand, yes.

ASSEMBLYMAN BENNETT: We now have 230, I think, or something like that.

ASST. COMMISSIONER GASTON: That is from APEDS data. I guess at some point in time, a level of about 2,000 taxpayers

had been considered kind of a transition point as to the number you would want to follow. So, this is about double that number, if you had a 10,000 gallon threshold.

ASSEMBLYMAN BENNETT: Wait a minute. I am not looking for a magic number as to how many taxpayers there are. However, I am looking for a magic number of money.

ASST. COMMISSIONER GASTON: Well, I understand that. The process of translating all of this information into dollars is not exactly the most perfect process involved.

ASSEMBLYMAN BENNETT: I understand that.

ASST. COMMISSIONER GASTON: What we have been trying to do, in conjunction with some of the interest groups on the outside, is draw upon our existing data bases. What I am saying is, we kind of made the first step in the right direction in this regard to get an idea of a data base and the size of the data base in terms of taxpayers. That has to be balled up with looking at individual data to aggregate it into some kind of an estimate.

So, the proper response to your question is, we have made a little bit of progress, realizing that we are not going to be able to get very much from Taxation -- very much more from Taxation -- other than a pleasant conversation with them.

ASSEMBLYMAN BENNETT: See, where it is difficult to us, though-- We put together a package that, for all practical purposes-- Let's use round figures just for the sake of argument. We look to the Spill Fund to produce an additional \$15 million.

ASST. COMMISSIONER GASTON: Plus or minus.

ASSEMBLYMAN BENNETT: Plus or minus a million here or there. Okay. Now, the obvious way, which looks very simple, is if it is producing \$15 million now, if you double it it will produce an additional \$15 million. Arguments have been made in front of this Committee, and legitimately so I might add, that that is not an equitable way of moving toward that end, and

that expanding the base-- That is all paid, from my understanding, from 200 specific taxpayers. The base should be expanded and perhaps there should be a limit, or a cap placed on it because of the situations where you have some companies in this State which have a large capacity of storage on the first-time transfer, but their end product may not be hazardous waste whatsoever. You may have other companies in this State where there are staggering capacity levels but where the companies are not first-time transferees and, therefore, they pay no tax.

The issues were raised and we, obviously, at the Committee level, have to reach out in both the Senate and the Assembly to the various departments and say, "How about some input as to what your thoughts are?" I have been kind of thinking that that is what has been done. But, the day of reckoning is coming, if it is not here already. I mean, not today, but September 11 is the end of this Committee being able to entertain much action if we expect something to take place in time to be on the ballot this year. If we don't have it now, when might we be able to know what that data will be? If we can't do it, maybe we should say we can't do it.

COMMISSIONER DEWLING: Well, the present basis, as I understand it, is about 260, right?

ASSEMBLYMAN BENNETT: Correct; that is my understanding.

COMMISSIONER DEWLING: What we did here under Sub-chapter 8 of our Code 727-- Under that, all New Jersey storage tanks having a capacity of 10,000 gallons or more of substances other than water -- all right? -- require certain air pollution devices and permits. Now, there is another chapter, Chapter 16, that establishes similar requirements for tanks storing 2,000 gallons or greater of volatile organics. So, there are two subheadings here.

Consequently, that system, our APED System, our air pollution system, furnishes us with a general basis to project an increase in taxpayers. All right? What we are saying now is, you could possibly have anywhere from 4,000 to 5,000 taxpayers out there. But, the Bureau of Taxation says, on some of these gallon ranges of up to 10,000 gallons, that multi-revenue may only be on the order of \$25.00 to \$50.00. So, the question here is, if you have a universe of 10,000 out there, it is not manageable. Then the question is, what is the cutoff? It is somewhat of an arbitrary cutoff, but I think it is clear that the universe out there is bigger than 260, if we want to expand that universe.

ASSEMBLYMAN BENNETT: I've heard that for seven years.

COMMISSIONER DEWLING: But the issue here is, I don't think we are in a position now to make a recommendation to you, any more than you are in a position to look at how the cut is, or to try to work with Taxation on how much money might come in. In our discussions with Taxation, they were very nervous about the possibility of having a universe of 10,000 out there with all these management requirements and hurdles they have to overcome.

ASSEMBLYMAN BENNETT: But, they have no data presently to even be able to justify that 260, in fact, includes every single facility that it should. They have no way of knowing that. The only way that a taxpayer gets to that situation is if he voluntarily files his return. There is no cross check whatsoever done now. I mean, that is what they just told me. There has never been enforcement action taken against a taxpayer for not paying. Now, hopefully, we are going to be able, through both LUST and Right to Know, to supply the data necessary. If we are not, we may have to make some small changes in the present formats of the questions to be able to get the data specific enough so that people will then be able to cross check. But, for nine years we have been operating with them not having--

Forget the names; I am even beyond that. I don't even care about the specific names. It is almost irrelevant to me. I want to be able to ascertain that if I establish a universe, that the universe is paying, whatever that universe is.

COMMISSIONER DEWLING: Well, when we look at PRPs on Superfund sites, we have a heck of a lot more than 260, so obviously, you know, it is not just the big guys. The responsible parties on many of the sites exceed 260 responsible parties.

ASSEMBLYMAN BENNETT: Obviously.

COMMISSIONER DEWLING: Including such unexpected groups as airlines and things like that, and newspapers. We got rid of some of the printing inks and things, you know, along those lines.

The only universe we have to deal with here is if we have tanks that are storing more than 2,000 gallons of some volatile organic. We make the cross assumption -- maybe it is a quantum leap -- that they are then dealing with waste streams or with products that could logically bring an income, but we don't know what the amount is. So the question here, I think, is, is there a universe bigger than 260? I think the answer is yes. Do we have enough refinement to come up with that universe, with the cutoff, to know what the money income might be? I don't think we do.

ASSEMBLYMAN BENNETT: Will we and, if so, when?

COMMISSIONER DEWLING: So much of it hangs on our inability to get information from the Bureau of Taxation. I mean, I don't know who is paying.

ASSEMBLYMAN BENNETT: No, I know that; I know that.

COMMISSIONER DEWLING: I try.

ASST. COMMISSIONER GASTON: John, the other side of this is, we have had people from the industrial community coming in, looking at our records, and trying to formulate some aggregation of that. We have been most helpful, at least I

think we have, in furnishing the information, and we will continue to do that. Somebody has to take it upon themselves to aggregate the information. The process, on the industrial side, has been going on for some time and, you know, later on we are going to hear from them and maybe we can hear where they stand on that process. We have been cooperative. We just have not assumed that it was our responsibility to come up with the same kind of management numbers that we have come up with on the fiscal side to deal with the problem.

But, you know, we have been working to mine these data bases that were generated for different purposes to try to produce something, and we will continue to help as much as we can in that regard.

ASSEMBLYMAN BENNETT: I am not placing blame or faulting anyone. It just continues the frustration, and the public or the taxpayers themselves are out there saying-- We are almost saying to them, "If you don't think this system is fair, you people have to be the ones to prove to us that it is not fair." I am not so sure that that burden should necessarily be placed solely upon that area.

When we turn around and admit that Taxation doesn't have available to them the data to determine what their universe of 50,000 and above is, and admittedly you don't know who is paying-- They finally have said that if you give them a list as to who should be paying, they will cross check it to see that they are paying it. We got that far.

ASST. COMMISSIONER GASTON: That's progress.

ASSEMBLYMAN BENNETT: You know, I think we have to define-- LUST will only give us those tanks that are under the ground and, obviously, that is not our only problem. The bill affects the storage capacity above ground, and our Right to Know is just within certain ranges -- right? -- of capacity, so we may have to define that a little bit more. I don't see how we can get that done in three weeks, that is if you are saying

you just go completely the other way. How about with respect to those items that should be taxed, the actual-- The storage capacity presently of those items that are being taxed includes -- let me see if I can get this right -- not everything that is under Right to Know. What we are taxing in the tanks, what is presently taxed in order to be paying into the Spill Fund, is not as broad as Right to Know. Okay.

Now, where it has been raised that we should amend the Spill Fund to include a larger number of taxpayers, and to expand the base by including those substances that under the Right to Know are included as taxable entities under the Spill Fund-- Any thought on what that would do?

COMMISSIONER DEWLING: I don't think we have any problem with that. The question here is, what is the criteria you use for your cutoff? I think we all agree that the base for taxing is there. The question is making the decision of who gets hit.

ASSEMBLYMAN BENNETT: Doesn't that decision somewhat have to deal with how many dollars -- if we expanded it to include those others, how much money that would produce?

COMMISSIONER DEWLING: That's right. I agree. I don't know how you would calculate how much it would produce. I mean, originally with the Spill Fund, when it was only getting in \$5 million to \$7 million, we sent over to Treasury, saying, "We thought these companies should be on it," and then they cross checked. Then, all of a sudden, we started getting more money.

ASSEMBLYMAN BENNETT: Right. It went from 60 to 260 over the course of the years.

COMMISSIONER DEWLING: That's right.

ASSEMBLYMAN BENNETT: Okay.

ASST. COMMISSIONER GASTON: We just know that the list is going to be much longer. It gets you into a lot more taxpayers, but the information upon which to base calculations is not there.

COMMISSIONER DEWLING: Maybe you could have something equivalent to the accelerator clause which would have-- As more taxpayers came in, there would be a deceleration option to keep it somewhat along those lines, you know, some wording in there that would allow, as the base expanded, for some deceleration on the rate. Because right now, to be honest with you, we can't--

ASSEMBLYMAN BENNETT: Yeah, but that's really not fair to those who-- I mean, if you put the increase on up front, and then as Treasury gets around to going after the people who should be added, those people in the meantime are going to be paying more than what legitimately-- I mean, I can understand why they would be upset. I think legitimately so, because they are the ones who have been complying, have been paying it. We increase the percentage, and then we say, "But when we get the other guys out there now, because we are expanding the base to pay, we'll lower yours. In the meantime, though, you have to pay the higher ones." That doesn't seem to be really fair to them, those who get hit originally.

COMMISSIONER DEWLING: Well, they get hit originally, but eventually they get purified, in a sense; in the sense that it is reduced.

ASSEMBLYMAN SHINN: Why don't we just build in an annual review and report to the Legislature by the Commissioner on the appropriateness of the rate based on dollars received?

COMMISSIONER DEWLING: I mean, it's the same way we talked about a five-year program. We know it is bigger than five years. All right?

ASSEMBLYMAN BENNETT: Right, but we have to start somewhere.

COMMISSIONER DEWLING: You've got to start somewhere. I mean, you know, this is not going to solve the problems in New Jersey totally. Under the new RCRA requirements, every RCRA site, before you go to a Part B, must go through the same

Superfund scenario for on-site and off-site, where you do feasibility studies, design, and construction, and every site is going to have to have the same equivalent of a Superfund analysis. So, you know, that is another couple hundred sites in the State that are going to be on the bandwagon of concern. Then you have the landfills out there, the 300 landfills that have been enclosed, where we have to come up with a funding program or a way of addressing those issues.

ASSEMBLYMAN BENNETT: Okay. I am taking a great deal of your time, and other members of the Committee may have some questions. Also, there are a great many people who want to comment today. I guess I continue to be frustrated. I am not faulting you specifically, or the Department, but I keep asking the questions. I go to Treasury, then they send me back to the Department, and the Department says it is Taxation. I'm not sure there is the ability within the bureaucracy to get the answers to my questions. I mean, if there is, I don't know who is going to be the one to give them to me.

COMMISSIONER DEWLING: I think our role is to provide you with what our needs are.

ASSEMBLYMAN BENNETT: Which you have.

COMMISSIONER DEWLING: Yes, I think we have done that.

ASSEMBLYMAN BENNETT: Right.

COMMISSIONER DEWLING: Now, we have looked at using our own documentation, what the potential universe of sources of funding might be.

ASSEMBLYMAN BENNETT: Correct.

COMMISSIONER DEWLING: If we use one of our own older regs -- all right? -- under the air program, we can come up with a different universe. We have not gone into the depth of knowing what kind of moneys that would bring in to us.

ASSEMBLYMAN BENNETT: Because that is a little beyond what the Department knows.

COMMISSIONER DEWLING: We could do that, but it certainly is not going to happen in the next three weeks. As Mr. Shinn mentioned before, maybe there can be some sort of provision or some sort of approach that requires an annual report to you on some of the options that were looked at for increasing the funding base. We could work with Treasury on that.

ASSEMBLYMAN BENNETT: Did you have some questions, Bob?

ASSEMBLYMAN SHINN: Yes. I noticed that some of the progress reports had radon removal. Are we still removing radon? Do we have programs that remove radon now?

COMMISSIONER DEWLING: We do have a program in the State. There are several, ones that epidemically have over \$4 million committed. The two sites are on the Superfund list. We have not removed any additional material from Montclair or Glen Ridge. Right now those drums, unfortunately, are still sitting in the streets of Montclair. EPA is now going out to redo their RAFS to focus on remediation in place. Also, they are going to reopen the temporary storage issues in the West Orange Armory, and all the other issues that became very vocal a couple of years ago.

ASSEMBLYMAN SHINN: Good. Maybe we're not removing any more, at any rate. The \$100 million that is unusable -- based on the Attorney General's opinion, I guess--

COMMISSIONER DEWLING: No, it is not unusable. We have the ability. The question here was, we had asked Treasury, "Can we commit against it, even though we are not spending?" We got an agreement that if we had to commit dollars, that I could go beyond where I am right now. In other words, I said I had about \$37 million or \$39 million left right now. If I had projects tomorrow that were \$50 million, I could commit against that bond issue -- all right? -- but they wouldn't sell the bonds until I actually had a cash flow need.

So, the issue here is to decouple these things because what we are saying is, we can't utilize that source of funding until we have used this one first. Fiscally it just doesn't give you as much flexibility.

ASSEMBLYMAN SHINN: Does the interest on that account accrue? Does that go back into the principal?

COMMISSIONER DEWLING: The bonds haven't been sold.

ASSEMBLYMAN SHINN: They haven't been sold?

COMMISSIONER DEWLING: They haven't been sold.

ASSEMBLYMAN SHINN: Is that what we do with all the temporary financing?

COMMISSIONER DEWLING: Well, we are just advance funding, using the cash that is in the \$150 million. In other words, the \$20 million project with PJP Landfill we committed to six months ago-- We took \$20 million and put it aside to pay those bills, but the cash flow-- We haven't had a cash flow of \$120 million yet on the \$150 million. Our cash flow, I'll bet, is in the range of maybe \$30 million or \$40 million; no more than that. We still have cash, so I can commit against the \$100 million without having to go sell the bonds. Treasury has given us that approval.

ASST. COMMISSIONER GASTON: Senate Bill 1814, which has been signed into law, would provide clear authority for us to be able to spend that \$100 million on our schedule, as opposed to meeting the test that is in the bond act right now that everything else is tapped out. Then we get into a lawyer's question of, what does it mean to be tapped out? The amendment would make it clear that we could, in accordance with our plan, spend it.

ASSEMBLYMAN SHINN: Was that bill in the Assembly also?

ASST. COMMISSIONER GASTON: I think it has made it through. It's been signed.

ASSEMBLYMAN SHINN: Okay.

COMMISSIONER DEWLING: But that has to go for a referendum -- be on the ballot -- hopefully with the \$200 million bond issue.

ASSEMBLYMAN BENNETT: It's all or nothing.

ASSEMBLYMAN SHINN: The last question I have is, the existing Superfund site list, is that being reviewed for inappropriate inclusions?

COMMISSIONER DEWLING: You can never get a site off.

ASSEMBLYMAN SHINN: You can forget it. Okay.

COMMISSIONER DEWLING: Well, the process-- We got one site off. We got the Freedman property off -- all right? -- which-- Once you're on, you're in. The ability to get off is more difficult than getting on; a lot more difficult. The Freedman property, I think, was the only site -- and I think I have to give credit to the Department -- where a judgment was made that it should be on the list, and we found out later, you know, after sampling, that it didn't have to be on the list. I think, you know, getting 98 out of 99 in the first screening is pretty good.

So, that was a site that didn't have to be addressed, but we still have to monitor it. But, once you are on the list, the ability to get off the list-- You have to go through the whole process of demonstrating that there is no problem. Then you have to go through a public process again. So, you just can't take them off the list.

ASST. COMMISSIONER GASTON: There was one other exception up in Bound Brook, the so-called Jamie Fine site. It was proven that there was a technical error in scoring that to get it on the list, so they removed it temporarily pending its rescoring as a broader site. It will be back again in a couple of months.

COMMISSIONER DEWLING: With a different name.

ASSEMBLYMAN BENNETT: Okay.

ASSEMBLYMAN SINGER: John, I should have two good things for the Commissioner.

COMMISSIONER DEWLING: Excuse me. We expect to add five a year to the Superfund list after we have been frustrated on the other options, you know, ECRA, RCRA, or our own privately funded cleanup.

ASSEMBLYMAN SHINN: Yeah.

ASSEMBLYMAN SINGER: In Exhibit II of your handout, "The State will spend approximately \$15 million a year on water line replacements," is that new construction?

ASST. COMMISSIONER GASTON: It is for situations where we, in concert with local health departments, identify polluted wells or well fields. It would be to provide water systems to replace them. Down in Stafford we have done that, as you probably know, and there have been other instances where we have also.

ASSEMBLYMAN SINGER: You know, I am presently working with Senator Russo and Assemblyman Doyle myself. We are quite concerned that there is no mandatory testing of wells throughout the State for resales. Home wells I'm talking about; individual wells.

COMMISSIONER DEWLING: Oh, individual wells.

ASSEMBLYMAN SINGER: We are going to be doing something in Ocean County to mandate that. But, I would think that we, as a group, should take a hard look at that statewide. You have a situation in a resale where there is no testing of a private well at all. It is not mandatory to do that. There is just the basic testing for new wells. We are looking at maybe expanding that also, testing probably 18 to the top.

COMMISSIONER DEWLING: Well, if you do the eight to 80 materials on it-- I mean--

ASSEMBLYMAN SINGER: But we are in a position where I think we are going to have to mandate it. You are just not going to get people to do it. Certainly we think for their own protection it is going to have to be done. I would think that

we might want to do that statewide. I think it is important enough to do it, and certainly with the problems we have seen in Ocean County with individual wells, it is something we better start to get a handle on.

ASST. COMMISSIONER GASTON: In the last term of the Legislature, that concept was discussed at one of the Committee meetings. The Department was very supportive of that being an ingredient in the transaction. You know, it was internalized to the transaction; information developed passed from buyer to seller. It is a good idea. You ought to know what you are getting.

ASSEMBLYMAN SINGER: The other thing I just wanted to touch on is something you mentioned that we have to sit down and talk about, and that is the 300 or so landfills throughout the State. Being the mayor of a community which just closed a landfill in recent years, we are all facing some serious problems. I know we have discussed this in the past, but I think we are going -- not today, but in the near future -- to have to sit down with you to make some hard decisions about what is going to be done with landfills.

As we discussed originally, we all know that closing a landfill is one thing, but we are going to have that problem with all of them down the road. So, you may put five on the sites -- on the Superfund list this year, but you know that eventually, through everything we want to do, all of them are going to have a problem. Let's stop kidding ourselves, and let's stop kidding the public about that. I think we are going to have to make some hard decisions and start working on that now.

ASST. COMMISSIONER GASTON: Assemblyman, we are getting some real data on some of the landfills that have been put on the site. We are doing a RAFS at Sharkey's Dump up in Morris County and Combe North and Combe South up in Morris County. We have the Brick Township Landfill on our list of

landfills to be looked at and, of course, we have the one adjacent to your site, Assemblyman, which is being looked at now.

So, the difficult part of the landfill issue has been that we did not have enough information to understand where we were going. The fact that we have gotten some of these studies under way and they are producing information is giving us a little bit of perspective with respect to suggesting where and how we might have to deal with them, particularly from a technical standpoint.

ASSEMBLYMAN SINGER: Well, our concern, again, is the fact that none of the dumps-- They were all regionalized in recent years.

ASST. COMMISSIONER GASTON: Right.

ASSEMBLYMAN SINGER: Therefore, it is not fair for any one municipality to take the total burden itself, since many areas dump into them.

COMMISSIONER DEWLING: I think, you know, so that you don't go away with a false sense of security-- I agree with the concept of having a well tested whenever you sell a house, but it seems to me that individuals should have the capability, if they so choose. That is why I have supported, this year, the County Environmental Health Act with additional funding, to get testing done. I mean, testing of a fecal coliform and hardness and alkalinity, you know, is a sanity check, but it is not really to give you any meaty information.

The issue we have to deal with here is, testing it once, if you don't find it-- When I think of Krysowaty Farm, we went in there one time and didn't find it. We went in the next time and we did find it. So, the issue is, did it pass, is it gone, is there more to come?

The question always comes up, why won't an individual spend \$100 a year to have his well tested?

ASSEMBLYMAN SINGER: It's not \$100, though. You're talking about \$300 to \$500 for the test. I mean, that is realistic. We're talking about people not knowing.

COMMISSIONER DEWLING: Yeah, but I'm saying there is a test that is called a "tox test," which is a new instrument out which gives you a general category. It doesn't tell you what compound it is, but it tells you the volatile organics, you know, a classification. That is enough of a screening test that people, on some sort of an annualized basis, for their own sanity-- You know, I would advise them to have a test something like that done. They test for coliform. It's \$100, and it is their public health that is at risk.

ASSEMBLYMAN SINGER: Well, you know, I wish you would transmit that. I sit as Secretary/Treasurer of the County Board of Health. We are in the process of looking at what tests we should mandate, and possibly your recommendation of that test might be helpful to us.

Again, I just feel that the public is not aware. You know, many people who have lived in apartments all their lives don't even know the first thing about a well. At least at the time of purchase, we should step in to make sure they are protected. And, you're right, there should be certain guidelines set up for people to understand that their wells should be tested at least yearly -- at least yearly.

COMMISSIONER DEWLING: I spoke to a real estate group last week. A guy was buying a \$500,000 house in Morris County, and he only wanted to spend 100 bucks to have his water tested. He said, "Is this guy ripping me off?" I said, "You should be spending \$2,000 to have it tested, if you really want an answer." "Oh, I don't want to spend \$2,000." You know, it's amazing how there is a priority difference on some of these issues.

ASSEMBLYMAN SINGER: Thank you.

ASSEMBLYMAN BENNETT: Commissioner, thank you very much. John, thank you for your input today. It has been a pleasure. As you know, in your capacity it's very frustrating, and sometimes it is for us here, but we will continue to try to get you the money, Commissioner, one way or the other. Even when you don't necessarily want it, we try to get it for you.

COMMISSIONER DEWLING: I am supporting it, Assemblyman.

ASSEMBLYMAN BENNETT: You certainly are.

COMMISSIONER DEWLING: There is no quivering.

ASSEMBLYMAN BENNETT: I know that.

ASSEMBLYMAN SINGER: Isn't his salary based upon that?

ASSEMBLYMAN BENNETT: No, but he may be looking for another job. (laughter)

COMMISSIONER DEWLING: Just get on with it.

ASSEMBLYMAN BENNETT: We've moving ahead. Thank you very much.

From the New Jersey Department of Commerce and Economic Development, we have Assistant Commissioner Henry Blekicki here today. I am sure he has some answers to a question I sent to the Commissioner on the sixth. Right?

A S S T. C O M M. H E N R Y T. B L E K I C K I: Yes. Good morning. At the last meeting of this Committee, July 29, in Kearny, I had the pleasure of testifying on behalf of the Department of Commerce and Economic Development, and to indicate our support for the efforts of this Committee to find funding for hazardous materials cleanup. However, I did testify at that time our opposition to A-2700 because we felt there would be a negative side effect to increasing the corporate business tax from 9% to 9.5%, namely, that our efforts to increase employment to create jobs in this State would be detrimentally impacted by such an increase in the corporate tax rate.

This Committee, at that time, asked if the Department of Commerce would be in a position to support the dedication of

increased taxes that would come into the State Treasury as a result of the Federal tax revisions. At that time, I said that we would be back before you prior to this hearing with an answer.

Subsequently, I did send a letter to you, which hopefully you received. It was dated the fourteenth of this month. If you haven't received it, I will give you a copy.

ASSEMBLYMAN BENNETT: I have been on vacation; Mark has been on vacation. That is very possibly why we haven't received it. Assemblyman Shinn and Assemblyman Singer have been working straight through the summer with no breaks.

ASSEMBLYMAN SHINN: My wife is watching me from the audience right now, so--

ASSEMBLYMAN BENNETT: He has to take two weeks after today.

ASST. COMMISSIONER BLEKICKI: The memo of August 14 indicated that the Department of Commerce does support the dedication of the funds that would result from the Federal tax revision for hazardous material cleanup. Subsequent to that letter, Commissioner Putnam received a letter from you which asked for the Department's position on a slightly different version of that initial suggestion, namely, that the option be to raise the corporate business tax rate from 9% to 9.5% on a temporary basis, and then for the Director of the Division of Taxation to have the option to decrease it to 9% if, in fact, there could be confirmed the additional \$50 million to \$100 million that the Director had projected would result from the Federal tax revision.

With your permission, what I would like to do is read into the record the letter which Commissioner Putnam sent to you, Mr. Chairman, with regard to that original suggestion.

ASSEMBLYMAN BENNETT: You may if you wish, but it will be part of the record.

ASST. COMMISSIONER BLEKICKI: Okay.

ASSEMBLYMAN BENNETT: If you want to just highlight it--

ASST. COMMISSIONER BLEKICKI: Basically, what we said in this letter was that while we support the dedication of the additional revenues based upon the Federal tax revision, we cannot support -- in fact, we oppose -- be it a temporary or a permanent increase in the corporate business tax from 9% to 9.5%, basically because we feel that even on a temporary basis it would send a very, very negative signal to the business community, and would be a detriment to our efforts to increase employment in the State.

During the last four and a half years, we have been successful in generating or creating 414,000 new jobs in the State of New Jersey, and we would not like to see that progress interfered with in the next year or two.

That, basically, is the sum of our correspondence to you, Mr. Chairman.

ASSEMBLYMAN BENNETT: Thank you very much. It was a very prompt response. My letter didn't go to the Commissioner until the sixth. You responded within a week, and then a follow up on that. I am pleased with the results. I think when you say we may be sending a wrong message by increasing the corporate business tax-- You have, in fact, come back with that opposition and have come up with an alternative position, one that would, in fact, guarantee that over the next five years we would have dollars available. So, I am pleased that you are supportive of that concept. I am hopeful that the Commissioner can lobby the Administration to see to it that the Administration will all feel the same way.

I thank you very much for being here today with that information.

ASST. COMMISSIONER BLEKICKI: My pleasure.

ASSEMBLYMAN BENNETT: From the Chamber of Commerce, the Executive Director, Jim Morford. Don't take that because

my introductions are getting shorter that I feel differently about the people. I am just running out of time, so I am trying to move it along a little faster.

J A M E S M O R F O R D: John, thank you for the introduction and for the promotion. I am Jim Morford, Vice President for Government Relations of the New Jersey State Chamber of Commerce. Thank you very much for conducting this hearing.

I will be very brief because much of what I wanted to say has really already been addressed. One point that I would like to make is, it is my understanding, as we are looking at this package, that the most immediate need for attention within the next three weeks is the bond issue, so that the question can reach the ballot. I appreciate the desire to put a package forward, but I recognize that the actual time constraint is on the ballot question.

ASSEMBLYMAN BENNETT: And, as you heard today, there is also-- Senator Dalton came up with possibly talking about a constitutional amendment.

MR. MORFORD: Correct.

ASSEMBLYMAN BENNETT: A constitutional amendment would also have to be something-- In fact, I am not even sure we could get that on the ballot this year.

MR. MORFORD: I think you cannot, as of August 4.

ASSEMBLYMAN BENNETT: Right. The concept would have to be one that-- The concern is breaking the package apart. There has been no feeling from the Legislature to date that there is any desire whatsoever to break the package apart, that I have found.

MR. MORFORD: And I recognize that, except I would suggest that perhaps we are in a situation where we, in fact, must, where it is more desirable to break the package apart than to do less desirable things that might happen by forcing it.

Recognizing that we probably are precluded by the August 4 deadline from a constitutional amendment, recognizing, I think all of us, that it is desirable that we move ahead with the bond issue as an important part of this total package, recognizing that some mechanism is going to be required to assure that the funds that will be coming through the Treasury -- this dedicated portion -- will be there, and will probably face a ballot next year, we would reluctantly-- We are not very excited about supporting a dedication of the Constitution, but this one does make a degree of sense because it is sunsetted and it does provide a specific dollar amount for a very important public purpose.

We were pleased to see some light beginning to be shed upon the problem of the Spill Fund this morning in your discussion with Commissioner Dewling. We only regret that the Division of Taxation isn't quite as forthcoming as we would hope they would be to help put the pieces of information together to resolve this problem.

But, let me suggest, as others may also, that the best way to approach the Spill Fund problem at this time is not to push through a bill that would double the Fund, but to put the very good minds which are available in the Legislature, in its staff, in the departments, in the Division of Taxation, and from the private sector, to work at looking at this problem. I am confident that a decision could be arrived at within a few months' time that would be a fairer tax under the Spill Fund, without going to the doubling that the current legislation proposes.

We are concerned a little bit with the DEP program. I thought that some of the Commissioner's comments this morning on the proposed amendments had some hope. I would like to look at them a little more carefully with respect to defining and detailing a program, because we have been concerned that the DEP, though it identifies sites, maybe doesn't have the best programing devices available going into a site cleanup.

We are also concerned that those site cleanups be audited, and that they be audited outside of DEP so we don't have another chemical control, and so that the public knows that its money is being spent most efficiently and most carefully.

The final point I think I would like to make, in addition to making it clear that we would support the bond issue, we would support -- with only that caveat I mentioned -- the constitutional dedication of the money for a limited period of time, and that we appreciate, Mr. Chairman, the work that you, Senator Dalton, and your colleagues have put into this package--

On the issue of the corporate tax, I was very, very gratified to hear Senator Dalton this morning embrace publicly, the concept at least, of moving toward it. I have known of your interest in looking at that approach to it. When Director Baldwin tells us that as he looks at the package that has now cleared the conference committee in the house-- We recognize that the business community in New Jersey, because we are coupled, is going to pay from \$50 million to \$100 million more into New Jersey's State Treasury as a result of the tax reform, and we think that the funds are there. The funds are probably, at this point of conference committee resolution-- I grant you that the Director cannot certify money before a law becomes a law -- a bill becomes a law, but I think we can recognize that the funds are there; the funds will be there. We don't have to send out that negative signal. In light of New York, Connecticut, and Pennsylvania at this time looking to reduce corporate taxes, we don't have to do that in New Jersey, but we would still have the money to meet this very, very important program.

I deviated from prepared notes because I wanted to comment on some of the important things that have been heard. Thank you for your indulgence. Thank you for the opportunity to speak.

ASSEMBLYMAN BENNETT: You're very welcome. Thank you for being here, Jim. The only concern I have on the Spill Fund is, I totally agree with you that you would certainly think that the minds are present and available among private industry, the departments, Taxation, and the Legislature. You said a solution could come up in a few months, but unfortunately it has been more than a few months already that we have been dealing with this. It really boils down to the fact that I think, rightly or wrongly -- and my own feeling is that it is not totally fair -- the burden has been left to the businesses themselves to prove what they have been saying. While they are now getting cooperation in one segment of government, they are not necessarily getting it in the other. I am not so sure that is a fair way of going about things.

MR. MORFORD: I agree.

ASSEMBLYMAN BENNETT: When we remove time frames that we have set up, we may end up with a situation of not being able to finalize it. So, at this point in time, I think it is critical that we keep those time frames in place, hoping that we will get-- I know what doubling does.

MR. MORFORD: Too easily perpetuates a bad situation and, indeed, makes it worse.

ASSEMBLYMAN BENNETT: Yeah. So, I think it is important that we keep the time frames in place, and yet I am totally convinced that doubling is not a fair and equitable way to go. I am convinced of that. The unfortunate thing is that we are still working on that alternative. The great minds, if you will, are working, and maybe in three weeks we will be able to come up with what the bottom line should be on that one also. I want to just--

My personal opinion continues to be that we can't deal with them individually, that the bond act should not be separate and apart from whatever general revenue raiser is going to be in place. Whether that be State dollars imposed

because of the doubling or not is what we seem to be working towards.

I'll tell you one thing, and I think it should be stated publicly: The business community in this State, rather than taking a position -- which is an easy one-- Whenever you talk about a new tax, it would be very easy for them to simply say, "We are going to oppose it and, without our help, you are really probably not going to be able to get it through. We are going to just take an opposition and walk away." That hasn't been the case. Business knows there is a crisis; they know there is a problem. They seem very committed to dealing with the cleaning up of the hazardous waste. I think there should really be commendations for the efforts. I mean, even to the degree when we were in New Orleans at a conference, of sitting down and spending hours working out details. There has been a real commitment made by the Chamber and by Business and Industry, together with the environmental interests in the State, to come to a bottom line conclusion. The chemical and petroleum interests-- And I think we're close. It is going to take some more work, but at this point it would be too easy, maybe, to say.

I can appreciate your remarks. I am not taking issue, only to say that I am certainly not ready to say bond issue only at this point.

MR. MORFORD: Mr. Chairman, I appreciate and thank you for your kind comments. I would say that during the course of this next three weeks, anything that my organization, the State Chamber or any of its members, can do to help you come to the conclusions that we need to come to-- We will work during that three weeks to see if we can get it resolved during that time frame.

ASSEMBLYMAN BENNETT: I'm sure you will. Thank you.

MR. MORFORD: Thank you, Mr. Chairman.

ASSEMBLYMAN BENNETT: I would like to call on the representatives from Business and Industry. We have Joe Gonzalez and Jim Sinclair.

J A M E S S I N C L A I R: Joe will be right here.

ASSEMBLYMAN BENNETT: Fine.

MR. SINCLAIR: Please wait just a second.

ASSEMBLYMAN BENNETT: Sure.

I have left on my list the Chemical Industry Council, the Petroleum Council, Environmental Lobby, and Doug Stewart from the public. If there are any other people who desire to make any comments or statements, please see that your name gets up here, and we will be happy to have you testify also. Okay?

MR. SINCLAIR: Mr. Chairman, my name is Jim Sinclair. I am Vice President of the New Jersey Business and Industry Association. With me is Joe Gonzalez, Senior Vice President of the Association.

The New Jersey Business and Industry Association has 11,000 members. We are the largest statewide employer Association in the United States. Many of our members will be affected by various aspects of the funding package in front of you.

You have Mr. Gonzalez's testimony from the first public hearing. That is in the record. You have a copy of my statement for the record; therefore, I am going to try to be brief and just hit some things that are very important to the Association.

We do support a comprehensive and effectively managed program of sustained public and private cleanup activity. We have said that all along. We think we need a very well-managed program. We have spent a lot of time over the last two years talking about how to fund the cleanup activities, and that funding has been very important to get the proper level into the pot for the State's share of the program; to get the portion that is not covered by the Superfund, that is not covered by private parties. I think we have that package.

We appreciate your efforts, Mr. Chairman, and the efforts of the members of the Committee who have worked on this. We appreciate Senator Dalton's dedication to coming up with a fair program. This has been something that the business community wants to get taken care of. We want to stop talking about New Jersey as a place where there are hazardous waste dumps. We want to move into the future, take care of the problem, deal with it in a logical manner, get the Siting Commission together, and get a facility to dispose of this stuff. That is something -- as an aside here -- that the business community--

When I was in the Department of Environmental Protection in 1978, the business community came in and asked the Commissioner: "Commissioner O'Hern, if there is one thing that you can do in DEP, put a process together to get us state-of-the-art disposal facilities in this State." That was in '78. This is '86, and we are still down the road. It is a slow process, but let's hope that we can put together a system that is going to work.

Let me just mention about the windfall that everybody is talking about. We support what Senator Dalton said. We think that is the way to go. The business community-- Count us in for our fair share of this cleanup activity. We think it should come out of the State budget. There is going to be a large source of additional revenue into the State budget. We think it is going to be in excess of \$400 million over the next five years. What the number is precisely, we don't know, but we know it is going to be a lot higher than that \$50-million-a-year estimate that the State has come out and said they are going to have.

We know that the money is going to be in there. It was the number one priority in the election campaign last year. It seemed to be the only thing that people were talking about. This is an opportunity to do it. We are not opposing

or saying we ought to delink from the Federal government. We want to be consistent. We supported the ACRS provisions because they linked to the Federal government. Our position is consistent. We want to cut down on the different ways of calculating things.

Therefore, if the State is going to get this so-called windfall -- which is really coming from New Jersey businesses into New Jersey government -- let's use it for the number one priority. Let's use it for the hazardous waste cleanup, but make sure that this is new revenue from New Jersey business to do that.

When we get finished with this funding package, the bulk of the money for the cleanup activity, besides the \$200 million bond issue -- and business will pay a large portion of that out of taxes -- will be coming from the business community. We have a real interest in how that program is managed and what happens to that money, that it is managed effectively and efficiently. It is our money in this; we want to see that it proceeds in a way whereby we use the money to get more for the dollar, so that we can clean up the stuff faster. If we are using the money effectively and efficiently, then we are going to be able to do more sooner.

We oppose an increase in the Spill Fund. I mean, the Spill Fund has been a learning process for me and the people in the Association who were not familiar with it, as it should have been for you. The Spill Fund is an unfair tax as it is now structured. It is unfair. Doubling it would probably make it excrescently unfair, especially considering what is happening in these other things with the Federal Superfund, how that is going to affect the petrochemical and chemical industries, and what is happening with the Federal tax law.

We support wholeheartedly looking at the possible expansion of the program, broadening it; maybe that makes sense. But I don't see the Spill Fund as those 200 and some

companies do, saying, "Oh well, you guys, you know, count you in for another \$15 million," because they are going to be in for more than that in this tax increase. I mean, they're in; they're in the program.

Let's spend the time to do it right. If you want to raise some additional revenue by broadening it, or having different substances, I think that probably makes sense -- the Spill Fund itself. And it will raise more. I know Jim Keel (phonetic spelling) from B. F. Goodrich has done a lot of work on it, and I hope you get his data. I haven't seen his data, although he has talked to me as late as last week. He is very excited about what the potential is. We need support; we need support from government.

We support the bond issue. We think you ought to move ahead with the bond issue. We think there is a program in place. I think you probably have-- You have heard from the Department of Commerce that they support using the money. If it takes getting the Governor to commit to this, I can't believe that the Governor wouldn't commit to doing this because this was the main campaign issue. Send him a letter and ask him; that is what I would say. I think you ought to be on record. I can't imagine that he would want to spend this money any way other than for hazardous waste cleanup.

Now we have solved the funding problem and we get to the point that we are really excited about, the issue that we think you really need to be in, and that is the question -- the management question. What you should have learned in this process is the same thing that we have learned in looking at it through the Senate. The information available for decision-making is atrocious, not because DEP doesn't put together telephone books full of projects, but because the real decision-making, the explaining of what this all means, is not there. We don't have a good basis.

There are a number of questions which really are not rhetorical questions. These are very important public policy questions, things we really have to explain to our membership and to the business community generally, which is paying for this. We are talking about a billion dollar program. Actually, we are talking about a billion and a half dollar program as we see it today.

ASSEMBLYMAN BENNETT: Next week it will be more.

MR. SINCLAIR: It seems that way; it keeps going up. Let me say this: We're talking about, in Washington, the Superfund program of \$8.5 billion. Is that the latest? (no response) Eight point five billion dollars. Now, New Jersey, out of the Superfund, has gotten 15%, 20%, because maybe we were a little ahead of the game in terms of being able to gear up. If you would figure that, based on the number of sites we have, based on our ability to go out and match the Federal funds, shouldn't we be getting 10% of the Superfund moneys? Shouldn't we be calculating 15% of the Superfund moneys coming into the State? That, to me, would say that we should be getting \$850 million over the next five years, instead of \$400 and some million that the sheet says.

Now, maybe there is a good reason for that. Maybe there is a good reason why we are only getting 5% of the Superfund moneys instead of 10%, or the 15% or 20% that we have gotten in the past. But what is that explanation? How do we explain that to the business community? I mean, that is disconcerting.

That is just one aspect of the data collection process. How the money is spent, how DEP spends the money is of real concern. We think there should be some evaluation mechanism built in. We think that part of this legislation should be an evaluation mechanism. We're throwing out a number of a million dollars a year, not because that is the right number, but because it sounds impressive and it is only a small

fraction of what is going to be spent. There should be an independent evaluation process that looks at how the money is being spent; to second-guess, really, to help the Department to think through the process.

Right now in the hierarchical position the way the Department is structured, you have the program going up to the Commissioner in a hierarchical manner. You can say, "Well, that is very good and people are on board," but in the last year, we have had a new Commissioner, a new Deputy Commissioner, a new Assistant Commissioner, a new Division Director, and new key project managers in this program. The oral tradition is gone in the process that, you know, people sort of know about.

We think there needs to be a way to look at this process from the outside. In effect, we're saying there should be a citizen advisory panel for this process. It should have people from industry and from environmental groups looking at the evaluation. The evaluation process should have money. The Department should have access to that money, or the Legislature, to do special studies to see if, in fact, the decision-making process is appropriate and proper. This is how you are going to get the information about how effective the program is, not having the Department come back in five years to tell you how they spent the money. That isn't a helpful way of doing this. A helpful way would be to give the Department the external support it needs.

We really think that this is the most important part of the process now, how the money is spent. We really look to you to take the step now -- now that we have solved the funding problem -- to put a process together. Joe?

J O S E P H G O N Z A L E Z: I just want to return to the one question, if I may, Mr. Chairman, that I guess has been sort of overlooked today. That is the funding and the package which you would really like to have enacted by mid-September.

If, indeed, this holds together on the Federal corp revenues, we would have that. We would have the bond moneys, both from the previous bond issue and from one, hopefully, that would be passed by the voters this year. You would have the moneys we expect from responsible parties, moneys under ECRA, which I think was vividly shown in the handout today from the Commissioner and, also, the funding we would get perhaps at a reduced amount through the years through Superfund, leaving us really with merely that one unresolved area, and that is, what to do with the Spill Fund.

It would be my feeling, since we are still talking about the State running out of money at this point -- not until perhaps September of next year -- that you might want to consider, with your leadership, perhaps with Senator Dalton, the possibility of setting up a commission, or a task force of some kind. Give it a two-month or a three-month reporting time. You know you would get that major portion of the business component; 75%, 80%, maybe 82% of it would come through the corp tax. You would still be able to plug it in prior to the next fiscal year.

One reason you wanted to do this with the corp tax was to make sure that you wouldn't be out there hanging, having a bond issue pass and not having other major revenues accompanying it after that enactment. I would think -- I may be wrong because obviously this thing, each time you think you have it solved a little bit, it kind of comes up and bites you again -- that by the end of the year there ought to be a way of setting up a mechanism whereby we could broaden this thing and perhaps bring in additional moneys without hitting the B. F. Goodriches and the other companies which, at this point, are being taxed really way beyond what their fair share is in contributing to the problem.

So, I just offer that. As you know, this thing is breaking very quickly now, with the corp tax, etc. I would

just think that since you've got that pretty well in hand, that this other thing-- You know, perhaps give it three months, but make it a priority thing for the environmental committees, and get the best people you can, out of Taxation, out of Environmental Protection, out of the corporations, out of the environmental community, to try to come up with something that is equitable that will raise more money.

ASSEMBLYMAN BENNETT: They may have already come up with that. I don't know. I gave them three months about four months ago, so there are three weeks left. I'm sure they will come up with it. But you, you know, brought up some good points.

I think it is important when we talk about a funding package that we are able to demonstrate that it is an across-the-board funding package. Therefore, a departure from Spill Fund, at this point, or to move away from Spill Fund completely, I think, would be inappropriate. I have already stated that I personally feel-- I am convinced that doubling is not an equitable way to go, and yet I am still hopeful that we are going to be able to come up with a solution, rather expeditiously.

I think it is an important commitment -- if we are asking the public to assume a portion, which we are with the bond act -- to demonstrate that those who may have a larger responsibility than others -- I am trying to say it so that it doesn't come out too one-sided -- are also going, therefore, to be contributing in that proportion. Doubling isn't necessarily fair, but we have to look at these other ones. I am hopeful we will be able to have an equitable solution. What has happened with Goodrich is just not right. I mean, it is just that simple. It's just not right.

So, we'll see if we can come up with something to make it right. I'm sure you people, who have been so helpful in the past, will continue to give the Committee and me as much input as possible.

MR. GONZALEZ: Our colleague, who kind of conceived initially the use of the corp tax moneys, is back from vacation, and we'll tell him he has a new assignment.

ASSEMBLYMAN BENNETT: Okay, fair enough. Thank you very much.

MR. GONZALEZ: Thank you.

ASSEMBLYMAN BENNETT: Are there any questions -- I'm sorry?

ASSEMBLYMAN SHINN: No. I would just like to compliment the business community because I don't think we are that far away from resolutions. A lot of it is because we don't have a gap between the environmental concerns and the business/industry position, and that is certainly an asset. I think we are seeing more responsibility from our environmental commissions and our solid waste committees by them not supporting the legislation that comes before these committees which is anti-siting. We have to get sites; we have to implement sites. If we don't, we will drown in our own refuse.

I think the business community sees that; the environmental community sees that. I am really enthusiastic that we are finally moving. You have sites in your district; I have sites in my county. I have testified before the Siting Commission, and I said, "You've got to pick one of these 11 sites. We have to have a site." We have to deal with the problem. We have to get into the technology, refine it, and get it on line.

I know John has put a tremendous effort into this ad infinitum. He had me on his Committee when I was a Freeholder. I know what he is going through. These are tough issues, almost unresolvable, but I think we are getting down to responsible positions and are biting the political bullets. I think we are going to get there.

MR. GONZALEZ: Assemblyman, I think that, you know, from the moment that John was even designated as Chairman of

this Committee, he appreciated the openness and freedom to communicate and the ideas. It has not been an adversarial relationship. It has been one where, you know, a lot of times we are being told, "Here is the way it is going to be. Come up with something else." It has been similar with the Senate Committee. I think that when you've got that free exchange of ideas, I think a lot of times you will come up with better legislation than if it is just handed down from Mount Olympus and you have to deal with it.

ASSEMBLYMAN BENNETT: We are going to know soon enough because these pieces have to go together soon. Thank you very much.

MR. GONZALEZ: Thank you.

MR. SINCLAIR: Thank you.

ASSEMBLYMAN BENNETT: The next man is the one with the answers because he has done a three-month project and is ready to tell us how we can solve all of our problems. From the Chemical Industry Council, Hal Bozarth. Oh, I'm sorry, and Jerry Mitzner. Well, you'll introduce Jerry.

H A L B O Z A R T H: Mr. Chairman, members of the Committee: Thank you for the opportunity to be here today. My name is Hal Bozarth. I represent approximately 90 members of the chemical and allied products industry in the State of New Jersey. As you will hear from the testimony, we are quite sure that we are part of the existing cleanup funding package.

With me today is Jerry Mitzner, who is the Plant Manager of two facilities here in Burlington County, the Occidental and formerly the Tenneco PBC plants. He has a story to tell you that not only rivals B. F. Goodrich and its inequity, but also makes the same point about the fact that we need to address, as this Committee has, the inequity issue.

Mr. Chairman, I have to tell you that I have watched this issue for going on seven or eight years now, and during the total time I have been involved, this today is probably the

best discussion we have had as an industry looking at the inequity question. It is really amazing to me to see a Chairman of a Committee go to the Treasurer and ask questions that may, in the long run, be helpful to an industry that obviously has had a historical public relations problem.

I commend you for that. It is something that is not done for the public relations aspect of it. It is something that should have been done years ago, and it just wasn't.

When I first started in my job with the Chemical Industry Council, there were 63 taxpayers that the Division of Taxation could find. The rate was about one-tenth of one percent fair market value on the chemical side. It has gone, through the years -- because of people's lack of ability to project the amounts of money the taxes would raise -- to the tax rate where it is now of eight-tenths of one percent.

Let me just digress for a second. The Spill Fund itself is in two parts: One is the oil companies' portion. They pay a penny a barrel. The other half is the chemical and allied products industry, and they pay a proportional share of the fair market value of their products which they use as raw materials. What that means is that the Spill Fund raises -- in a given year -- \$15 million, approximately equal on each side, again depending on the given year.

What the one bill we are discussing today does-- It raises, by doubling the Spill Fund from eight-tenths of one percent to one point six-tenths of one percent, the fair market value tax. In other words, if you have a material which you use as a raw material and it is a high value tax, it costs a lot of money -- your tax -- regardless of what type of material or what its end uses are. You are taxed at that new one point six-tenths percent tax. So, what happens is, if you have a high volume but low-cost material, chlorine for instance, you pay a relatively low Spill Fund tax. If you have a high value raw material -- as Mr. Mitzner will show you in his case --

that one point six-tenths percent is a higher multiplier, and he pays a lot of money.

Goodrich has been talked about as an example, I will just reiterate. Right now, a facility in Gloucester County, New Jersey, which has, I believe, 200 to 300 employees, pays about a half a million dollars in Spill Fund tax. It is one of the two or three largest Spill Fund taxpayers in percentage. The doubling will force it, with the additional substances already in the taxing bill, to go to \$1.1 million a year.

Now, the interesting thing about Goodrich's situation is that its process renders its raw material harmless from an environmental standpoint, so that its final product is never found to be contaminating any of the environment. Another additional interesting thing about Goodrich is, that facility in the southern part of the State has never been found to be a responsible party at any one of the 90 sites that are called Superfund sites. But here's the fellow in South Jersey who will pay over a million a year in that tax, and close to a half a million dollars in Federal Superfund tax because his tax rates will go up in that area. If the corporate business tax goes into effect in New Jersey, he will pay that amount. If he is ever found to be a responsible party at an abandoned waste site where he has contaminated something, he will pay for that. If he closes, sells, or transfers his facility and there is contamination at that facility, he will pay for that.

His basic problem in life is that he has to be competitive with his sister plants in B. F. Goodrich and also with plants around the nation that are competing other companies. That tax in New Jersey makes it almost impossible for him to compete on an equitable basis.

What I would like to pass out to the members of the Committee are some packets which show some interesting information. If you will look, I believe on the right-hand side, you will see that there is a list of companies that have

been found to be responsible parties at abandoned waste sites not only nationally, but also in New Jersey.

To summarize that data for you, that compilation of data from the Environmental Protection Agency, you will see that by volume entry weight the chemical and oil industry produced approximately 20% of all the waste that is found at Superfund sites nationally. In New Jersey it is a bit higher -- 25% to 27% -- and yet in New Jersey the taxing system is set so that the chemical and petroleum companies pay the vast majority of the existing tax, and will continue to pay an inequitable burden.

It is very easy to say that the system that is in place now should be doubled, but let me turn to Mr. Mitzner to let him tell you what his specific situation is right here in Burlington County, which is also my home County. Then we can come back and talk about some of the alternatives that were discussed so eloquently earlier this morning.

J E R R Y M I T Z N E R: Mr. Chairman, my name is Jerry Mitzner. I am the Plant Manager of the Occidental chemical plant in Burlington Township, which is just about 10 miles away from here.

Everything you heard this morning concerning B. F. Goodrich applies to us right here in Burlington County. We employ 450 people here in the plant I manage, and we have a sister plant which we just acquired from Tenneco which has another 250 people.

We have been contributors. I have now learned that we are either the largest, or one of the largest contributors to the Spill Fund. Over the years, our payment has gone from one-tenth of a percent to eight-tenths of a percent of the fair market value of our incoming raw material.

What we do is take vinyl chloride, which is a hazardous liquid under pressure, and which is produced outside of the State-- We bring it into the State and convert it into

PVC, polyvinyl chloride. That is a nonhazardous material, a completely inert material. But the way the Spill Fund is currently structured, we pay according to the fair market value of this incoming raw material. As a consequence, we are paying quite a significant amount of money for the opportunity to convert hazardous waste into nonhazardous waste.

I won't beat a dead horse because I know you have heard this before, but just suffice it to say that currently we are paying a half a million dollars in Spill Fund, and the proposal to double it would bring us well over a million dollars in Spill Fund taxes alone. We find this to be a tremendous burden on our site. We cannot pass these costs through to our customers, mainly because we are really a small cog in the big PVC industry, which is a national and, as a matter of fact, an international industry.

So, we are just burdened with this cost. We believe it is unfair because of all of the inequities that Hal has described, and which you yourself, Mr. Chairman, described earlier today. What I would like to do is just try to bring the issue home. It is right here next-door to Mount Holly because we are right here in Burlington County.

Thank you.

ASSEMBLYMAN BENNETT: Thank you.

MR. BOZARTH: Before you get into looking at the answers you are seeking which I hope I can shed some light on, you have to understand that in the Spill Fund there are two ways to get into the tax. There is a list of substances, originally entitled, "The Selective Substance Survey," and that list has about 400 substances on it. If you have one of those substances as your raw material, you are part of the way into the taxing mechanism. The other part that gets you in is, you have to have a storage capacity of 50,000 gallons.

Questions have been raised as to how to make the Spill Fund tax within the funding issue more equitable. Two of the

things we thought of are what were mentioned earlier: Increase the number of substances to be taxed, and lower the threshold. The Commissioner and his staff mentioned a 10,000 gallon storage capacity, which they have some fairly decent figures on. That would raise the number of taxpayers to 4,000. The question becomes, how much money will that bring in? The Commissioner is correct, some of those additional taxpayers would be relatively small in the quantity of money they would pay, but that is at 10,000.

It seems to us from our research -- which one of our member companies did with the help and cooperation of DEP over the last couple of months -- that there is probably no reason not to take that storage capacity figure to the 10,000 number the Commissioner was talking about, or even our original 5,000. There is no real reason not to lower it to a 2,000 gallon storage capacity. You still don't get the Mom & Pop dry-cleaners who use a hazardous substance and have hazardous waste, but you don't get into that political bind. However, you do bring in commensurately more people.

One of the interesting side benefits of lowering the threshold of storage capacity is a positive for environmental protection. One of the things that Mr. Mitzner and all of the other people with a storage capacity of 50,000 gallons have to do is have two regulated programs which interact with Environmental Protection. One is called the Discharge Prevention, Containment, and Control Plan, and the other is its analogy, the Spill Prevention Countermeasure and Containment Plan. Those plans must be in place through regulations of the DEP. The plans must be approved by the Department. Without approval of those spill and discharge prevention plans, Mr. Mitzner cannot operate his facility.

So, should Mr. Mitzner have a discharge, or should he have a spill, he has countermeasure plans in place which will take care, to a great extent, of the environmental potential

degradation. But anyone who has less than a 50,000 gallon storage capacity, but still has hazardous substances, does not do the things that Mr. Mitzner does.

Accidents happen. Employee problems, management problems, whatever it is, the potential for an accident to occur is the same at Mr. Mitzner's plant with a storage capacity which is large as it is at someone else's where there is not a large storage capacity. So, by lowering the threshold, you get an added bonus in addition to more taxpayers.

Mr. Chairman asked this question-- It is interesting to hear that Treasury now says there are 260 taxpayers. Is that correct? Did I hear that correctly?

ASSEMBLYMAN BENNETT: That is what he say, 260.

MR. BOZARTH: Two-hundred and sixty?

ASSEMBLYMAN BENNETT: Maybe 262.

MR. BOZARTH: That is very interesting. For the last couple of years we have been saying 200, and we were stretching to find out who those 200 were. I would be interested to know why the number has been increased. What activity transpired to bring in 62 new people? I don't understand that.

ASSEMBLYMAN BENNETT: It used to be 60 some.

MR. BOZARTH: Right; it used to be 63.

ASSEMBLYMAN BENNETT: (inaudible comment)

MR. BOZARTH: Could be, but you know, it's funny, because I've only heard of one of my members who has ever been audited for Spill Fund tax payments.

MR. MITZNER: And that's me.

MR. BOZARTH: And you got a refund. You got a refund, correct?

MR. MITZNER: Yes.

MR. BOZARTH: So, every month, Mr. Mitzner sits down and writes out a huge check to DEP. For the first eight or ten years of the program it was to Treasury. Treasury has never come around to check to see whether he is lying, telling the

truth, whether he gets a refund, should pay more, any of those things. So, there are an awful lot of problems.

That leads me to the problem of giving you a blanket answer on what the dollar amount is to be raised if we make these additions. If we increase the number of substances from 400 now taxed to 800 or 1,200 by the Right to Know list of hazardous substances, or to 1,800, the list of the Department of Transportation's hazardous substances, you bring in more substances to be covered. Remember, it is a tandem. You lower the threshold; you increase the substances. The question becomes one of estimates for the simple reason that the fair market value of any given substance will change on a daily basis. That is why his tax payment fluctuates on a monthly basis.

As you have also heard pointed out here today, the Right to Know surveys show a range of storage capacity. It is easy to estimate by taking the lower of the range or, in this case, the higher of the range, and use that as your figure, but you are still not going to get an exact answer. I can tell you unequivocally that by raising the tax rate-- I'm sorry, by increasing the number of substances from the existing 400 to either 800 or 1,200 and lowering the storage capacity to 5,000, I can tell you that the facts, according to the Department, show that we can take care of the gross inequities within the Spill Fund plan -- Mr. Mitzner's problem, B. F. Goodrich's problem, FMC's problem. You can solve them and make up the difference. We are positive of that.

The secondary question of whether--

ASSEMBLYMAN BENNETT: Stop right there for a second, if you don't mind. If you do those two steps, how do you solve the two inequity problems we are aware of?

MR. BOZARTH: Well, from a standpoint--

ASSEMBLYMAN BENNETT: He's still paying the same thing.

MR. BOZARTH: From a standpoint of legislation, what

could be suggested is another way for certain people to calculate their tax. In Mr. Mitzner's example, if he starts out with a hazardous material and ends up with a nonhazardous final product, you could work the language in the legislation -- so tightly draft it only to affect Mr. Mitzner, B. F. Goodrich, those people who fall into that category, and hold them at a lower tax rate. Demand that he still pay his fair share of Spill Fund -- and he is willing to do that -- but structure how the tax-- We did it for Precious Metals originally in Spill Fund. Because of the unique problems of the precious metals industry, there was a special way to calculate their tax.

So, what we would suggest is a way to calculate Mr. Mitzner's tax to bring him into line with the fairness of what everyone else is paying, and still not lose overall money in that world of \$15 million, of which now we have \$7 million.

People say to me a lot that \$7 million -- which is what our share is now -- does not sound like a lot of money for the chemical industry to be paying. Let me reemphasize that with Superfund now at a funding level of \$9.2 billion -- and that is the figure -- responsible party payments, where they exist, plus the bond money which we have contributed to, plus the new corporate business tax, it is really unfair to say that the chemical industry won't be paying its fair share unless you double. You can make a very good argument for holding the Spill Fund at its present escalated eight-tenths of one percent level, solve Mr. Mitzner's problem of the equity issue, and still have enough money to run a program, if what the other trade associations are saying is true, that this "windfall" tax, which we support as an alternative to a corporate business tax increase, brings in enough money, and still have the time, keeping the chemical and allied products industry in-- You will still have the time to address the specific dollar amounts that good research over a longer period of time will bring us.

We have done enough -- as I have said -- to show unequivocally that we can solve the gross inequities. The question is whether or not we can come up with, in time, definitive answers, and I refuse to be a party in any situation where we say there is enough money in a system that we are not absolutely sure of. We have done that in the past, and we have lived to rue the day. That is why I will, in effect, hedge on my -- or give you an equivocal answer, and say that for the gross inequity problems we can guarantee that you won't lose money out of the existing pool by expanding the number of substances to 1,200 and by going to 2,000. I will tell you unequivocally that you will bring in significant new moneys. Whether that is enough in the way of new moneys to hold the Spill Fund at eight-tenths of a percent-- In all good faith and conscience I can't guarantee that that is true at this point.

ASSEMBLYMAN SHINN: Now, the other approach that pops into my mind is, by implementing your two suggestions, and then looking at the top section of ratepayers and putting a cap, such as Social Security does-- When you reach a certain amount of dollars, you know, you stop paying Social Security. You would have to make sure that your rate base supported the cap--

MR. BOZARTH: Yes.

ASSEMBLYMAN SHINN: (continuing) --but the cap could be \$300,000, or some cap that has a threat of equity through the top ratepayers. Then, when you reach that cap, you would cease to pay taxes. You would have to make sure that you could come up with enough new ratepayers to support the dollars you would want to raise, but that may be a thought.

MR. BOZARTH: Mr. Chairman, I think that is a good idea as part of the mix. We would even be willing -- although at one time this would have been an anathema -- to have some of the moneys taken from collections from the chemical and allied industry to use them for enforcement purposes for tax collection. Originally we said that only dollars from the

Spill Fund should correctly be used to do actual cleanups, because that is what the program is in place for. But we are willing to see that there is a benefit to ourselves as taxpayers in letting some of that money go for administrative expenses for enforcement.

Parenthetically, Mr. Chairman, if I may be so bold as to make a suggestion as to why we can't find out what Treasury is doing, do what legislators do best, and that is legislate that that information will, at a minimum, go, in a confidential manner, to the Chairmen of the two Committees in the two houses. It would seem to me that then Taxation would be demanded by statute to provide information which it has hitherto not allowed anyone to have in the eight years of the program that I have been affiliated with.

It stymies us. We can't figure out, really, how much is going on in our industry because they won't tell us -- even in our industry -- what we are paying. We worked for a couple of years just to find out and make sure that all CIC members were in the process who should have been in the process. That was an arduous task. Other taxes are not kept confidential. There is no reason why this one can't be non-confidential. And even as an overriding concern, I am sure that the confidential nature of the information could be taken care of if given to you as the Chairman of this Committee and Senator Dalton as Chairman of his Committee. I see no problem.

I am at the point where, like you, Mr. Chairman, I don't care who the taxpayers are. But, I want you to know how much money is coming from how many companies, and who is not paying. Five years ago, the Department, through its last Commissioner, made a good-faith offer to Treasury, by saying: "We will give you the information we have about storage capacity so that you can double check to see whether or not you are getting all of the people in here that you should." At that point, Treasury said they didn't want the information.

So, if Treasury is now willing to at least accept the information, many kudos go to you in your efforts. This will be the first time.

It would just seem to me as a high level public policy issue, that Treasury ought to be cooperating more so that we can solve the inequitable burdens that Mr. Mitzner and other people in his circumstance face. The chemical industry, for years, has been saying, "We want to pay our fair share, but we would like the rest of the business community" -- as I see here today, and very happily so -- "willing to pay their fair share," because out of the 6,000 businesses that are found in abandoned Superfund sites, the vast majority are non-chemical companies. But, I think the business community has come a long way forward in addressing that issue and recognizing it. By the same token, we need to have rationality in the tax situation, not just have it predicated on a fair market value tax that was conceived, frankly, almost nine years ago by people who were uninformed about the problems involved in the fair market value tax.

I have said this to you privately, Mr. Chairman, the Chemical Industry Council was a part of those discussions 10 years ago. In fact, it was a suggestion of the CIC that the fair market value tax would be equitable. It has turned out to be neither fair nor equitable. We have spent the last eight years trying to redress that. We didn't know at that time. We have more information at this time, but again, that is why I say to you that we will not say absolutely unequivocally that an "X" amount of dollars will happen if you do that, until we are positively sure, until the Department says, "Yes, our research is correct."

ASSEMBLYMAN SINGER: First of all, it is nice once in a while, Hal, not to be argumentative with you and occasionally encouraged. It does happen.

Certainly, I think it is prudent to say that all of us are concerned about the fact that we are not looking to make businesses in New Jersey noncompetitive with industries around the area. An inequitable tax is something we are not looking to conceive. But I think you also understand that we are having problems -- you have seen that today -- arriving at where the money is going to come from. It is not an easy situation. I think we are aware of the sensitivity of it. I am not in favor of increasing the corporate business tax from 9% to 9.5%. I think the competitive edge that New Jersey has had in the tri-state area has been partly because of our tendency to be more pro-business than anyone else. To disrupt that at this time is something that is not in the best interest of the State.

However, I think we are going to have to take a look at the user's fee in that area again, per se. We talk about the 2,000 and what we are going to look at. We have to take a hard look at that to see where those moneys are going to come from. I am upset that we don't have the answers and that Treasury can't give us the answers. It doesn't make sense.

MR. BOZARTH: I must say that DEP was very cooperative with our people in trying to find out the limited amount of information that we have already found out.

ASSEMBLYMAN SINGER: But I would just also say-- You know, I am a freshman legislator, but to start to legislate that, you would find out about that next term. I think it might take the combined efforts of the Chairman and maybe Commissioner Dewling going to the Governor's office, and maybe asking him to intervene in the situation to help us find the information we need. That might be a prudent way to go about it.

MR. BOZARTH: And maybe for the future, an amendment to one of these bills would make that information flow on a consistent and yearly basis to the important people who have to make these decisions.

We are pleased to know that you have recognized the inequity issue. It is very important to keep the members of my Association economically viable, not only here in Burlington County, but throughout the State. It is a burden that we are willing to share, as long as the applicability is equitable in nature and not as it is now, and that is totally inequitable.

MR. MITZNER: One of the things that scares me is that at this late date there is still no other real proposal on the table to change the nature of the spill tax and try to make it more equitable. I am hopeful that before your September 11 deadline, Mr. Chairman, some changes can be made. I fear that despite the support that I have heard about today that the existing tax is unfair, that it might indeed go ahead and double. Even if it is only for a year, that year is still -- to my company -- a half a million dollars. That, in my plant, is a lot of money.

ASSEMBLYMAN BENNETT: That is a lot of money to anybody, or to any plant.

MR. MITZNER: So, I am really hopeful that a way can be found rather quickly to address the issue.

ASSEMBLYMAN BENNETT: I am always hopeful myself. I think the support for doubling-- The bill was put into place to double to try to come up with alternatives. There have been several suggestions, several ideas. Now what we have to do is explore those even further. I don't think there is support presently to go full steam ahead on doubling. I just don't think it is there. If we can't know for certain that we can get \$15 million another way, we may have to look towards coming up with-- Maybe it will be less; maybe it won't. You know, you have to move with these things.

I have met with Baldwin. He is to come back to me. I do think there is a continuing commitment that we can't walk away from Spill Fund either. We are not going to walk away from--

MR. BOZARTH: We're not asking for that.

ASSEMBLYMAN BENNETT: I just want you to understand that. It has to become part of the comprehensive package, the exact nature of which has to be worked out. I mean, there may be a difference. You know, between doubling and nothing there is a lot, too, remember.

MR. MITZNER: Thank you.

MR. BOZARTH: We will be glad to work with you, Mr. Chairman. Thank you.

ASSEMBLYMAN BENNETT: Thank you. The other half of the Spill Fund is here. I don't know, Jim, if you would like to say something. From the Petroleum Council, someone who has already testified-- If you would like to say something, you are welcome to. (negative response from audience) This hearing is being recorded, so you may just want to get your name on the tape here. Your statement is already part of the record.

O L I V E R P A P P S: My name is Oliver Papps, and I am from the New Jersey Petroleum Council. We are on the record, and I am too modest to try to improve on the statesmanlike comments of the previous speakers -- all of them.

Our concerns are well-known, and Hal's are similar. The petroleum industry has been in from day one, and we think there is an inequity that could be -- as Jim Sinclair said -- changed significantly if it were doubled. There are some real concerns on our part. We think there is some validity to the analogy of the chicken. If chicken legs are sold all the way down the line, and ultimately someone goes on a picnic and throws out a bag of garbage which has some eggshells in it, you go back and find the chicken, which is not exactly equitable.

We would like to see all the other people in that garbage bag responsible for their portion of it, too. That is all I have to say. Thank you for your time.

ASSEMBLYMAN BENNETT: Thank you. That almost leads to egg cartons, but that is another day.

From the New Jersey Environmental Lobby, Jim Lanard, Executive Director.

J A M E S L A N A R D: Mr. Chairman, Assemblyman Singer, I'm Jim Lanard with the New Jersey Environmental Lobby. We're a statewide environmental advocacy group, and we have been following this issue for a good number of years now, and have some ideas how to improve the funding mechanisms to pay for the cleanup of hazardous waste in New Jersey.

First, we'd like to congratulate Assemblyman Bennett and Senator Dalton for their work. (short interruption of hearing; witness continues) Let me congratulate you Assemblyman Bennett and your work with Senator Dalton for putting the package together, and your willingness to move forward to pay for the cleanup of hazardous waste. That is more than we can say for the Department of Environmental Protection which gave you, virtually verbatim, testimony that they gave on April 28th of this year, when they testified before Senator Dalton for the first time.

The only change in their testimony today is that they said that they would support the package that you are considering. However, they did not tell you how they were going to support that package, and between now and September 11th, which is just about two weeks, they would have to do a lot to make their support more than just hollow rhetoric, which we really believe that it is. I'm sorry to bring my cynicism here with me. I tried to listen as optimistically as I could to the Department, and I couldn't shake that cynicism.

They are going to have to twist arms. They are going to have to get the votes in the Appropriations Committee in the Assembly, they are going to have to get the Speaker of the Assembly to schedule that bill for a vote before September 11th, and they have to negotiate with Senator Russo in the

Senate, and with the Governor, all between now and September 11th.

What are they doing? We are disappointed that they weren't asked that question. Certainly correspondence from this Committee to the Commissioner would be appropriate to start asking those questions, because unless they start playing hardball and pushing this legislation, their little whisper today that they were supporting your package is a lot of rhetoric, and nothing else.

We'd like to talk about the equity issue as well, and start by our premise, as always, is to make the polluter pay. We think that the polluter must pay for the problems that they have given us. We're talking about \$3 billion in at least the next 10 years -- that's the figure that former Commissioner Hughey gave us -- and we know \$1.5 billion within the next 5 years. That's quite a legacy to be given to the citizens of New Jersey by the corporate interests that were responsible for polluting New Jersey. It's a terrible legacy.

We're very firmly opposed to what is being referred to as the windfall tax that is going to result to New Jersey's treasury as a result of Federal tax reform. The reason that we are opposed to that is that if there had been no legacy, if there had been no irresponsibility, that \$400 million -- that's the figure that we heard today -- would go into the general revenues of this State for general purposes. It would go for health purposes, it would go for education, it would go for highways, it would go for schools, it would go for aid to municipalities. It is general purpose money. That was the purpose of the corporate business tax when it was enacted; that's the purpose of Federal tax relief and how it's going to help New Jersey as a result of the corporations paying more taxes in the Federal government system, which means that in the New Jersey system they pay more.

Without the irresponsibility, we would not have a \$3 billion legacy. That money is not to be appropriated for hazardous waste fund cleanup, because it was not that purpose that that tax was enacted. The new money -- what is being referred to as windfall money -- is moneys that are deservedly to go to programs that the Federal government has cut back because of other administration decisions in Washington, D. C. We are losing Federal at an amazing rate, and now to steal from our State treasury for programs that are being cut by the Federal government and putting into hazardous waste cleanup is just as irresponsible as the polluters that made the problem in the first place.

If you want the polluter to pay, don't take money that naturally reverts to the State, but tax them additionally so that they have the incentive not to create this legacy again. It is simply inappropriate. We stand by our belief that the Corporate Business Tax should be increased from 9 to 9.5%, we believe that the windfall moneys that are so-called windfall moneys, should stay in the general treasury, as intended all along by this Legislature, for general purposes.

When we talk about the equity issue, when we talk about doubling the Spill Fund, let's have a different perspective. Assemblyman Bennett, you talked about a sense, a reading you have, that there is erosion of support for the doubling of the Corporate Business Tax. Let's talk about what that means. What we're saying is a doubling of the Corporate Business Tax is an additional 1/40th of a penny per gallon of product. One fortieth of one cent per gallon of product. That's what a doubling of the Spill Fund would do. I find it surprising that anybody would have trouble supporting 1/40th of one cent per gallon of tax to help pay for \$1.5 billion of debt that the industries have left us over the years. One fortieth of one cent, which is about, we think, \$15 million out of a \$1.5 billion debt. I think that's 1% of the cleanup costs.

We're asking for 1% from doubling the Spill Fund. When you double the Spill Fund, and you raise an additional \$15 million dollars, you are raising for New Jersey 1% of what the companies should be paying to clean up. Is that-- I can't -- I'm astounded when I hear these figures to believe that support is eroding to double that Spill Fund Tax.

But we will take that as a given, and look at the alternative, and want to tell you that we support any provision that can be developed between now and September 11th that would expand the taxpayer base, and would expand the number of chemicals to be included in the Spill Fund Tax computation, and would be delighted to see that formula make it less necessary to raise the Spill Fund Tax. But under no circumstances could we tolerate losing the doubling of the Spill Fund and not having additional revenues from the Spill Fund itself. And, we're delighted that we might be able to work with the chemical interests in this State to see a better, broader tax. But, I'm not persuaded at all that there is inequity when we're asking the Spill Fund to pay for 1% of the debt that corporations in New Jersey gave us.

Another equity argument that I'm not persuaded by is that competitors in other states aren't being asked to pay this. Of course they're not, because those states aren't cleaning up their dump sites. I'm not sure that New Jersey is, because they don't have the funding to do it, or they won't have the funding to do it, but certainly we know what it's going to cost us in New Jersey to pay. So, when we hear that Pennsylvania doesn't pay for its cleanup, or it doesn't tax its chemical industry, or some of the other states do, the answer is simple: they're not paying to clean it up. That's not an equity issue here in New Jersey. If the corporations are saying it's better in Pennsylvania because they don't cleanup their dumps, we know what's going to happen down the road; there's not going to be business in those states, because

there's going to be a polluted environment that can't sustain business. Governor Kean is quick to point out that we need a clean and healthy environment in order to have a good business community. That's what we have to pay for, and that's equitable. And to argue otherwise isn't quite fair.

You know, Assemblyman Shinn, that we do support the Hazardous Waste Facility Siting Commission. We support them and we do not support changes in the legislation, although we think that there needs to be full public involvement, and we're confident that that process will continue. Well, they hired the ICF Corporation and Roy F. Weston, and in January of 1986 they published a report that talked about how to pay for hazardous waste cleanup. And I want to just quote from that, since we all seem to think that the Commission is a good source; that they have been fair, and have had a good process, and have relied upon good experts. Let's see what they have to say about this particular issue. They devote 75 pages in this report just to this question, who should pay.

The first question they state has an answer for who pays, and is that, "It is reasonable to assume that today's hazardous substance generators bear a substantial share of responsibility for the problems relating from past practices. Today's generators bear a substantial relationship to past generators, and past polluters."

There are some very interesting figures, again when we talk about equity. Nationwide, the chemical and petroleum industries generated 71% of all regulated wastes in 1981. Nationwide, the chemical and petroleum industries generated 71% of all regulated hazardous wastes. The vast majority of these come from the large companies. One percent of the waste generators in the United State -- one percent of the waste generators -- generate 90% of the waste. It's good to have a small taxpayer base. It's related directly to hazardous waste generation. And to start arguing about broadening because of

your concerns about equity forgets about the other side of the equation that they never tell you about. And that is who's making waste, and how much. It's in here. Those are on pages 5-9, and 5-10 of this book, which is called for the record, "Analysis of New Jersey's Hazardous Discharge Site Cleanup Program". It was prepared for the New Jersey Hazardous Waste Advisory Council, which reports to the Commission, and it was dated December, 1985.

One of the chemicals that we heard about -- sort of an emotionally gripping story -- is the story about vinyl chloride, that is made into what is described as non-hazardous substances. In New Jersey, vinyl chloride is the 14th most common chemical found at Superfund sites. Vinyl chloride, a raw material, which the industry would argue would ordinarily never be found in the waste stream, because it's a raw material that we need to produce things. Vinyl chloride is the 14th most predominant chemical found at New Jersey dump sites.

So, when we question whether it's equitable for some of these companies to pay because their end products don't result in waste, we don't -- we forget about the intermediate steps and leakage at the front end that just may do that. I'm not persuaded that that tax is totally inequitable.

I'm also not persuaded that we're doing such a bad job regulating our businesses in New Jersey. According to The Garden State Report, January 1986, a study was conducted last year of manufacturing climates in the United States. New Jersey has the best business climate of all of the states in the entire Northeast region. Alexander Grant and Company of Chicago issued the study which analyzed a total of 22 different factors, including government factors, for a positive environment for business growth, and they found that New Jersey is the best state in the entire Northeast for manufacturing.

So, our taxes right now don't do so bad for our public interest and for the goal of improving economic development in New Jersey.

To talk about increasing the Corporate Business Tax -- let me go back to the Roy F. Weston Company, on page 5-63, it says, "Analysis of the surcharge" -- the increase in the Corporate Business Tax -- "is likely to show it would have little or no impact on the competitive position of most New Jersey industries when compared to the industries of other states."

We think that it's appropriate to increase the Corporate Business Tax. As I said, we don't think it's appropriate to capture that money from the windfall. We think that there is another option that you could consider for non-Superfund sites, because of the U. S. Supreme Court decision, and that is to issue special tax bonds -- industry tax bonds -- that would go -- that could be dedicated for hazardous waste cleanup, provided it is not for the Superfund. And that would shift the burden away from the citizens. I know that you're considering a \$200 million general revenue tax bond. That would mean that the citizens of New Jersey would pay three dollars for every dollar that is used for hazardous waste cleanup, and we shouldn't talk about a \$200 million general tax bond, but it's going to cost the citizens of New Jersey at least \$600 million to pay the interest back on those bonds for \$200 million. That's not good bang for the buck. And, we think that some of that money, if you don't want to appropriate all of it, should come from a special tax bond on the industries. And maybe that's a way to get around the Corporate Business Tax completely, is to raise the Corporate Tax to pay back some of the bond moneys.

I guess I just have one last comment, and that is, again from the Roy F. Weston, before I read two quotes from the Governor -- 5-68: "The use of general revenues to finance hazardous substance remedial action implies a significant shift in public policy in New Jersey." And, this Committee should understand that, along with Senator Dalton, you are considering

this shift of public policy away from the polluter pays. When you have a \$200 million tax bond from general revenues, you are asking the citizens of New Jersey to pay for what ordinarily has been paid for most of the time by different polluter pays taxes.

We want to call on Governor Kean to come behind his Commissioner of Environmental Protection right away. The Governor has some terrific rhetoric that is now time to be implemented into action. In his speech before the environmental law conference in Washington, D. C. last February '85, the Governor says, referring to Superfund, but basically referring to cleaning up of hazardous waste, "If I have to, I'll shout it from Washington's rooftops. That fund is a debt owed to the American people by private interests. Interests that earn profits by taking risks and that must shoulder the honest business' financial responsibility for those risks." That was before the gubernatorial election. I heard somebody else refer to the point that there was a lot of discussion during that campaign about cleaning up New Jersey. Here's the Governor's position. An even more recent one, which is in the Summer of '86 Amicus Journal, which is published by the Natural Resources Defense Council, the Governor says rhetorically, "How do we put the costs of cleanup where it belongs, on the polluters?" Well, Governor Kean and this Committee can answer that question quite easily by supporting your package, with some amendments or without some amendments, and pushing this legislation by September 11th. No matter what this Committee does, you must not allow yourself to get caught in DEP's inefficiency and its failure to get you the information that you've requested. I think you have the right to be angry and upset that they haven't gotten you this. I think that Assemblyman Bennett has been saying throughout the day that the day of reckoning is coming, and he is going to act notwithstanding what information the DEP get, unless they get

him some information quickly, that he will move a comprehensive package. And I think that's what you need to do.

We're delighted that it's coupled -- that all the different pieces are coupled together. We think that's the way it ought to be. And by September 11th we hope that you will act, and I have to predict that unless the Governor and the DEP Commissioner get on this right away, we're going to be at an impasse and there's going to be lots of name calling between the Legislature and the Executive Branch, which doesn't resolve this public policy question.

Thank you.

ASSEMBLYMAN BENNETT: Thank you very much.

ASSEMBLYMAN SINGER: John?

ASSEMBLYMAN BENNETT: Yes?

ASSEMBLYMAN SINGER: I've got just two comments. First of all, I must say to you that I agree in part what you're saying about the appropriation of the \$400 million. We're looking at a time right now where we couldn't find \$30 million to aid municipalities. I can't find \$50 million for shore protection, and I don't conceive the Assembly and the Senate taking the \$400 million and saying this windfall is going to be used strictly for this type of purpose. I don't think we'll win that support, and I think it'll be a very very difficult thing to do. There are too many pressing issues also that are in the State. Your points are well taken.

But again, I would say, taking your same points, I have to question when you say the rise in the Corporate Business Tax from 9 to 9.5%, since again, most business in the State, probably 98% of them, have nothing at all to do when we're talking about contributing to these waste factors.

MR. LANARD: If that's the case -- if that's the case, and it's doubly inappropriate to be taking that windfall money from the Federal government--

AN SINGER: You're not winning anything with
I didn't say I supported the \$400 million to
be with what you're saying. What I'm also saying
there are a lot of ways to look at where you can get
from. And I think to continually turn back to the
me
s in the State, which are going to be paying more taxes
the Federal level now, and say, well, we're going to tack on
another half a percent on the State anyway, it's just not
really the proper way to look at it also. I mean, you might as
well turn around then, and say, well why don't we put an
additional amount of money on gasoline tax, or why don't we put
an additional amount of money on personal income tax to pay it
also?

I think too many times we keep looking at business --
and remember, the majority of business in many counties are
small business. In my particular county, probably 92% or 95%
of businesses are three to ten people. That's the bulk of the
business. And most of them are corporations. Are we talking
about taxing them, that run a small store, that run a small
manufacturer? I think you have to also understand that, and
that's part of my concern.

I have no problem when you talk about user based
responsibility. And there's no question in anybody's mind.
But, I think also we have to take that hard look when we turn
to business all the time as the solution to everything. The
responsibility is all over. We all live in this State, and I
just kind of tell you that I don't think that's the right
direction to go to.

There may not be another source. I know everybody's
looking for a dedicated source, but I would say, just one final
thing -- because I know John wants to get the meeting underway
-- I think there's going to be a lot of problems taking that
so-called windfall money, and dedicating it all for this. I
think you're going to see a battle royal, because there's too

many other entities here looking to vie f

think that if you got a portion of it, I could get money, and I see getting a portion of it and saying that a portion of that. I can that way, but you're certainly not going to get that. I can go

MR. LANARD: I think -- just a final comment. I can go that if we all agree that the polluter should pay, we need to define who the polluter is and how they're. And my definition is that it should come from the entities that make the waste. We certainly benefit; there's a lot about it. And we pay into the Superfund as it is now, Federal level. And, we're certainly going to pay some of it here. If I had my druthers, I'd have no money coming from the general treasury. That's not reality; I understand that. So, we're going to pay some of it. But how much do you want the citizens to pay, versus how much you want business to pay. That's the question; it's open-ended, and we can't answer that today. But, when we turn to the business community to pay that, we think that that is what our definition of polluter is. And if we want to narrow that somehow, and, you know, we looked at all different formulas when we figured out a tax base for Right To Know, whether it should be corporations with greater than 10 employees -- that might address something that you're concerned with. You might look at who's paying that Right To Know Tax, by the way, as possibly a tax base for raising moneys for polluter pays cleanups.

ASSEMBLYMAN SINGER: Well, you know, you hit on something that again, we don't have the answer to. What I was talking about when Joe Gonzalez testified, who represents 11,000 business, we're talking right now we have 262 identified. You know, that's where I feel the inequity starts to go when you want to raise the Corporate Tax from 9 to 9.5%.

MR. LANARD: Well, I think it's great to expand the taxpayer base, but I also like Mr. Bozarth's suggestion that some of that money be used for enforcement. Because going

after 262 taxpayers is a little bit easier than going after 4000, or maybe it's 10,000 when you lower the threshold to the level he proposed.

ASSEMBLYMAN BENNETT: But nobody knows what -- how many taxpayers it should be now. We know how many there are, but we don't know for certainty that that's everybody, because there's no cross-check. There's no master universal list that Treasury has that they-- And there's no, like on a personal income tax, you pay your income tax, your employer submits it to the State so there can be a cross-check to see ultimately if you file or not. They don't have that with this.

MR. LANARD: It almost looks like the Committee is being set up by either the DEP or the Administration. They are dribbling out information just enough-- I mean, they came out and supported you today; you couldn't attack them for that.

ASSEMBLYMAN BENNETT: I did anyway. I was too--
(laughter)

MR. LANARD: You were toned down in order of magnitude. But, the fact that they give out a little bit of information makes it harder to look at the broader picture, and it makes it easier for them to defend themselves, especially with the media, so that when September 11th comes, you and I can both predict with a great deal of confidence you're not going to have the information you need to make the best decision. And therefore, you're going to be forced to make the second best decision, in your eyes, based on what you think is out there. Now we're just going to have to do that.

Thanks.

ASSEMBLYMAN BENNETT: Thank you very much.

It's my understanding -- trying to move this along so we stay somewhere within the time frames that we set for it -- that the people from the Belmar Environmental Committee have another speaking engagement, so that I'll call on you right now, and then I'll get, Doug, to you in just a moment. Okay? You can both come up if you like, and sit at the table.

K A T H R Y N S T A C H K O: My name is Kathryn Stachko. I represent the Belmar Environmental Commission and also the Belmar Concerned Citizens, and I am very sorry that Mr. Dewling left, because we have been involved with the Commissioner in other aspects of DEP for a very long time, and where we are now is exactly where we were three years ago. We know all the results and we have nothing else; still the contaminated environment, so nothing has really changed.

I really welcome and acknowledge you gentlemen for these bills, and I think it's-- The only thing that comes to my mind recently today is Victor Hugo's words -- I don't know whether I am even quoting him correctly -- the "idea whose time has come," because I see unity, I see bipartisan movement, which environmentalists are all striving for, because our first goal in life is the survival of our human race. And I thank you on behalf of many citizens, Assemblyman John Bennett, Dan Dalton, Lesniak, and Contillo, for getting together on this bill, and perhaps New Jersey can benefit a lot.

I've heard so much today that actually there's very little for me to say, especially when Mr. Jim Lanard came with his excellent preparation for this testimony. And I support many aspects. And also, I'd just like to add one more thing, that somehow along this line I have heard many supporters, taxpaying -- going back on tax people; ordinary men -- but I have not heard this evening -- and perhaps it is written someplace in these bills, because I have not seen the entirety of it -- the waste haulers -- the hazardous waste haulers. They have been and are such big contributors to our environment and picking up and dumping it, or whatever way, they are also responsible, because they knew what they were doing to our environment, and they still know what they are doing to our environment. Are you touching them for also paying their responsibility in one way or the other?

ASSEMBLYMAN BENNETT: There's nothing that would really impact on them at all, no. The Spill Fund only taxes on when the raw product first is utilized in the State, not after it leaves that first stop. It doesn't -- the tax doesn't get paid into the Spill Fund any longer. Only the one time, the first one in. So, none of the transporters, if you would, are specifically taxed with the exception that if they are a corporation they would come under the tax as has been discussed today on the increase on the Corporate Tax.

But if they're just regular private haulers, or non-corporate haulers, this package wouldn't impact on them at all. No. I'm not saying there shouldn't be, but to answer your question.

MS. STACHEKO: Well, I think then that, because if the taxpayers have anything to do to pay for our contaminated environment, then I feel that all the people who are taking part of it also should have their dues to pay. Because, we as citizens already have paid our price, with our health, the depreciation of our homes, and really no place to go.

And, I also want to emphasize one more thing, that industry, which stands very strong -- and I heard today one man representing 90, one man representing 60 -- well we should represent thousands of thousands of citizens throughout the State of New Jersey, that they should be responsible, not only for paying for the pollution, but for recycling of these contaminants. They should not give us anymore.

And I don't want to get emotional at this point, but it's very hard for me not to. Because, what I put out on the curb is what I am given. And they give me less and I will put out less. I don't need boxes that are bigger than my cereals; I don't need plastics that were showered on me, I enjoyed my bottles. So, what I am saying in here is, please, industry, give us less, and we'll put out less. And what they put out, they should pay for, not the citizens of New Jersey or any

other state. Because, I go to the meetings -- freeholders, solid waste, wherever we can go -- and the question is always directed to the people. To the citizens. I have to hear freeholders direct questions to businesses. When there is a recycling and if it's mandatory, businesses are not touched; it's only the people that are touched. And I think that businesses should be touched just as much as the people, and more.

But, I came here actually to praise your bill, and I'm going to end with that. I support you gentlemen. I am very happy that you are together, because through your unity you will unite us also. Thank you.

ASSEMBLYMAN BENNETT: Thank you very much.

Douglas Stewart?

D O U G L A S S T E W A R T: Doug Stewart, Citizens Living Next To Lipari Landfill, the number one toxic site, unfortunately, in the State and the country.

I wish she had gotten emotional, because as she was speaking, my juices were revving. One of the things -- this is my first public hearing of this nature -- and listening to Jim Lanard speak and Senator Dan Dalton speak, you can't help but get emotional. One of the things that wasn't even presented until this last speaker is the human element.

There's a war out there -- I hate to use that phrase -- but it's a toxic war, and we live in the battlefields. Who are the soldiers? Who are the victims? Why am I here? I'm not here out of choice, I'm here out of necessity.

My young son is two years old. He has developed a cough. I don't know -- just if you have young children -- why he's got a cough. Is it just a young thing the kid has? Or is it related to the 155 toxic chemicals that are in Lipari Landfill? It's taken me two years to fight to find out what he's breathing. What from the soil that the kids are playing with in the local park that has not been closed?

That's what you're fighting for. These bills are important, and the deadline, September 11th, is coming too fast. I agree with Mr. Lanard; DEP, EPA -- smoke screens. For two years I've worked with the Superfund Program. I have nothing but praise for our Congressional members that have fought for it, but with the stoppage of Superfund, what happens to the sites? What happens to the air monitor that I've been fighting for for my family. It gets delayed. It gets delayed. The cleanup gets delayed.

I keep hearing the word equity, or equitable, or fairness. Is it fair that so many citizens in the State of New Jersey live in uncertainty from what they're breathing and what they're drinking? That is what you're fighting for. You're not fighting for business, whether they're going to leave or not. You're fighting for human life. And I'm bitter. I'm angry. It's torn my family apart, and I'm just-- There are sites I believe that might even be worse than ours. I doubt it. And I know what they're going through. And it's not -- and I know you realize this, and you're fighting hard for us -- but you can't let anything stop you. If you do, then all those victims, those little kids, the guy that has to go-- Just imagine going down and having to take a shower two miles away. The things that you and I take for granted, it's not there in many communities, not just 99 sites, either. I believe it's more than that.

Now, was it fair, Roman Haas, Owens Illinois, CBS Records, to dump their barrels for ten years? How much did they have to pay for that? Or did they have to pay? I don't know. But let's talk about fairness. The fairness is, we need these bills, and we need them now. And when you think about whether it's fair to tax -- I mean, you've got a tough decision. I mean, there's some very eloquent speakers; they come in with their brochures, and they've done their documentation. But think of my kid and all the other kids.

That's what you're fighting for. And if you let us-- If something doesn't take place by September 11th, you fail.

The citizens are bitter; environmental issues are number one, as you know, in polls. But, we're living it. So, I support Senator Dan Dalton's efforts, and your efforts. I hope that the DEP, and EPA, and the Superfund people who appear to help really are helping.

It is emotional and I don't want to go on. I could go on, and it's been long. Please help us.

ASSEMBLYMAN BENNETT: Thank you very much. I appreciate your appearance today. Everything that's been said goes into part of the record, and I think your comments are extremely well put and well said. And I appreciate your coming.

MR. STEWART: Let's hope that they work.

ASSEMBLYMAN BENNETT: It's going to take all of us doing a lot of work together to make it work.

MR. STEWART: We'll be watching.

ASSEMBLYMAN BENNETT: Fair enough.

I don't have anyone else that's asked to testify today. I'd like to at this point close the public hearing in Mount Holly today, thank all of you that did take the time to come to appear. It is now, as the summer draws to a conclusion, so too does our work in making decisions that we have to do in the next three weeks, and many of you, I'm sure, will be working with us as we attempt to move a very comprehensive package of bills to what I also agree is the number one issue facing us in the State, and that is the cleanup of these facilities, from one end of our State to another.

So, thank you very much, and I adjourn the meeting.

(HEARING CONCLUDED)

APPENDIX

EXHIBIT I

STATUS OF CLEANUP LIST SITES

Significant Corrective Action

NPL	9%	99	SITES
Future NPL	2	25	
Non-NPL	5%	54	
Future Non-NPL	4%	50	
RCRA (non-CERCLA)	6%	76	
Enforcement	26%	296	

TOTAL	52%	600	Sites
Minor Corrective Action	38%	436	
No Corrective Action	10%	114	

GRAND TOTAL	100%	1150	Sites

PLANNING ASSUMPTIONS

- Five year planning horizon
- Superfund funding will only be available for 60% of eligible sites
- Enforcement/cost recovery will result in private financing of one-third of all NPL and non-NPL cleanups
- The State will spend approximately \$15 million /year on water line replacements
- All sites will move through investigation, design, construction phases at average rates
- Long-term operations and maintenance not considered

EXHIBIT III

SITE MITIGATION PROGRAM COSTS FY87—FY91

ALL SITES (NPL, Non—NPL, Water Supply Replacement)

(\$ millions)

	1987	1988	1989	1990	1991	TOTALS
STATE	67.1	166.6	177.5	138.5	92.7	\$642.2
FEDEFAL	79.1	166.9	123.4	65.1	21.3	\$455.8
PRIVATE	40.8	123.3	144.6	95.1	49.9	\$453.7
TOTAL	187.0	456.8	445.5	298.7	163.9	\$1,551.9

EXHIBIT IV

STATUS OF COST PREVENTION & MAJOR RESPONSIBLE PARTY ACTIONS SINCE JANUARY 1986+

NPL

Universal Oil Products	\$ 5.0 million
Hercules	\$ 2.0 million
Sub-total	<u>\$ 7.0 million</u>

NON-NPL

Southland Chemical	\$ 1.0 million
Koppers Coke	\$ 2.0 million
Jersey City Chromium:	
Diamond Shamrock	\$ 0.4 million
PPG Industries, Inc.	\$ 0.4 million
Marotta Scientific	\$ 0.5 million
Interstate Storage and Pipeline Co.	\$ 0.7 million
Rhone Poulenc	\$ 2.2 million
Sub-Total	<u>\$ 7.2 million</u>

ECRA

Ethicon, Inc.	\$ 2.5 million
Hexcel Corporation	\$ 3.0 million
Leslie, Inc.	\$ 0.1 million

ECRA

Cessna Aircraft-Arc Avionics	\$ 0.5 million
Seacoast Laboratories, Inc.	\$ 0.5 million
Rylco Rubber Products, Inc.	\$ 0.3 million
Midland Glass	\$ 0.2 million
ECO Pump Corp.	\$ 0.1 million
Gaspar Kirchner & Son, Inc.	\$ 0.1 million
Franklin Plastics Corp.	\$ 0.5 million
Amerchol Corp.	\$ 1.5 million
Northwest Bergen Fuel Tanks	\$ 0.1 million
RCA Corporation	\$37.9 million
Sinclair and Valentine	\$ 0.1 million
Nashua Corporation	\$ 0.1 million
Dura-Bond Corporation	\$ 0.5 million
Sybron Chemicals, Inc.	\$ 5.5 million
Reichart Chemicals, Inc.	\$ 3.1 million
Allied Chemical	\$ 2.0 million
Metz Metallurgical Corp.	\$ 2.0 million
Struthers-Dunn, Inc.	\$ 0.5 million
Sterling Extruder Corp.	\$ 1.1 million
National Gypsum Co.	\$ 0.5 million
Atlantic Services Co., Inc.	\$ 0.1 million
Universal Fragrance Corp.	\$ 0.1 million
Hudson Dispatch	\$ 0.1 million
News Printing Company	\$ 0.1 million
Colorguard, Inc.	\$ 0.1 million

ECRA

Mortel Co.	\$ 0.5 million
Apex Foot Health Industries, Inc.	\$ 0.3 million
Key Tech Corp.	\$ 0.5 million
Elco Corp.	\$ 0.5 million
Lear Siegler, Inc.	\$ 0.3 million
Branson, Corp.	\$ 0.1 million
Rhone-Poulenc, Inc.	\$ 1.0 million
S & J Mfg., Inc.	\$ 0.3 million
Bethlehem Steel Corp.	\$ 0.5 million
Colora Printing Inks, Inc.	\$ 0.1 million
Union Carbide Corp.	\$ 0.5 million
Paulsboro Packaging, Inc.	\$ 5.0 million
Ruesch Machine Co.	\$ 0.1 million
Tenneco Polymers, Inc.	\$ 2.5 million
Power Conversion, Inc.	\$ 1.0 million
Handi-Kup Company	\$ 0.1 million
Blocksom & Co.	\$ 0.1 million
Colorama	\$ 0.5 million
Goodall Rubber Co.	\$ 1.0 million
Federal Pacific Electric Co.	\$ 0.1 million
Hybrid Printhead Plant	\$ 0.5 million
Revlon, Inc.	\$ 1.0 million

ECRA

Consolidated Controls Corp.	\$ 1.0 million
Gaines American Molding Corp.	\$ 0.1 million
Kayser-Roth Accessories Corp.	\$ 0.1 million
Poughkeepsie Finishing Corp.	\$ 0.4 million
J. Bendix Corp.	\$ 3.7 million
Loral Packaging	\$ 0.1 million
Monarch Mirror Door	\$ 0.1 million
Pharmacaps	\$ 1.0 million
Dynamit Nobel of America	\$ 1.0 million
Plastic Specialties	\$ 0.4 million
Catalyst Technology, Inc.	\$ 0.4 million

Sub-total

\$66.0 million

TOTAL

\$102.2 million

+ Estimated costs; if actual selected remedial alternative costs differ, financial assurance will be adjusted accordingly.

EXHIBIT V

Summary of Changes to S-1815

1. Authority to Establish a Fee Schedule under the State Hazardous/Solid Waste Program.

Add a new section to S-1815 which replaces P.L. 1971, c. 461, (N.J.S.A. 13:1E-18) as follows:

"... the commissioner shall, in accordance with a fee schedule adopted by regulation, establish and charge reasonable annual fees, for any services it performs in connection with this Act. Said fees shall be deposited to the credit of the state and be deemed as part of the General State Fund. The Legislature shall annually appropriate an amount equivalent to the amount anticipated to be collected as fees under this section.

2. Definition of Hazardous Substances

Section 1, Lines 17-32 should be deleted and replaced with "by the New Jersey Spill Compensation and Control Act (P.L. 1976 c. 141)." This would allow for a more succinct reference than that presently in the bill.

3. Hazardous Discharge Site Management Program Mandates

Section 4 directs the Assistant Commissioner of Hazardous Waste Management to establish "a comprehensive Hazardous Discharge Site Management Program." Subsections (a) - (c) provides further direction and explanation as to what such a program should include.

Subsection (a), Lines 4-14 should be replaced by citing existing mandates in the New Jersey Spill Compensation and Control Act, c. 202 and c. 222. Specifically, it should read:

"The preparation and annual revision of a Hazardous Substances and Contingency Response Master Plan, pursuant to P.L. 1982, c. 222 and the formulation of a Master List, pursuant to P.L. 1982, c. 202."

Subsection (b), lines 15-18, pertaining to the "restoration of natural resources, including potable water supplies." should be amended by indicating the potable water supplies should be addressed "as appropriate." Further, the existing mandates in the New Jersey Spill Compensation and Control Act, should be cited (58:10-23.11f (3) (e)). Specifically, lines 17-18 should read:

"...and the restoration of natural resources, including, as appropriate, potable water supplies damaged by a hazardous discharge as established by and pursuant to 58:10-23.11f (3) (e)."

SENATE, No. 1815

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 27, 1986

By Senators CONTILLO, DALTON and COSTA

Referred to Committee on Energy and Environment

AN ACT establishing a Division of Hazardous ****[Discharge Site]****
****Waste**** Management ****and a Division of Hazardous Site**
Mitigation^{*} in the Department of Environmental Protection,
and supplementing P. L. 1970, c. 33.

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

1 1. As used in this act:

2 ****[a. "Division" means the Division of Hazardous Discharge Site**
3 Management established pursuant to section 2 of this act.]**

4 ****[b.]** "Hazardous discharge" means the actual or imminent re-**
5 lease, spill, leak, emission or dumping of any hazardous substance
6 into the environment which represents a threat to the public health
7 and safety or the environment;

8 ****[c.]** "Hazardous discharge site" means any site of a hazard-**
9 ous discharge in this State included on the National Priorities List
10 of hazardous discharge sites adopted by the United States Envi-
11 ronmental Protection Agency pursuant to the "Comprehensive
12 Environmental Response, Compensation, and Liability Act of
13 1980," Pub. L. 96-510 (42 U. S. C. § 9601 et seq.) or any other
14 site of a hazardous discharge approved by the department;

15 ****[d.]** "Hazardous substances" means those elements and com-**
16 pounds, including petroleum products, which are defined as such

17 ~~by the New Jersey Department of Environmental Protection~~ by the New Jersey
18 ~~after public hearing, and which shall be consistent to the maximum~~ Spill Compensati
19 ~~extent possible with, and which shall include, the list of haz-~~ and Control Act
20 ~~ardous substances adopted by the United States Environmental Protec-~~
21 ~~tion Agency pursuant to section 105 of the Comprehensive Environmen-~~ (P.L. 1976 c. 141)

ENCLOSURE: Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendment adopted May 19, 1986.

**—Senate amendments adopted June 26, 1986.

22 ~~THIS BILL AMENDS CHAPTER 100, ACT 1972, TO READ:~~
 23 ~~SECTION 100.1. The Department of Environmental Protection shall be responsible for the implementation~~
 24 ~~and coordination of all hazardous discharge site management, remediation, emergency response,~~
 25 ~~mitigation, and cleanup activities delegated by law, regulation, or executive order to the Department~~
 26 ~~of Environmental Protection, and to this end the Commissioner of the Department of Environmental Protection~~
 27 ~~shall make any intradepartmental transfers of personnel, and adopt any reorganization orders,~~
 28 ~~consistent with the appropriate provisions of the General Statutes.~~
 29 ~~SECTION 100.2. The Department of Environmental Protection shall be responsible for the implementation~~
 30 ~~and coordination of all hazardous discharge site management, remediation, emergency response,~~
 31 ~~mitigation, and cleanup activities delegated by law, regulation, or executive order to the Department~~
 32 ~~of Environmental Protection, and to this end the Commissioner of the Department of Environmental Protection~~

1 2. There is established in the Department of Environmental
 2 Protection **the** **a** Division of Hazardous **Discharge**
 3 **Site** **Waste** Management **and a Division of Hazardous Site**
 4 **Mitigation.** A Director of the Division of Hazardous Waste Manage-
 5 ment and a Director of the Division of Hazardous Site Mitigation
 6 shall each be appointed by the Commissioner of the Department of
 7 Environmental Protection, subject to the approval of the Governor,
 8 and shall serve at the pleasure of the commissioner. The **di-**
 9 **vision** **Division of Hazardous Waste Management and the Di-**
 10 **vision of Hazardous Site Mitigation** shall be under the authority
 11 of an **assistant commissioner** **Assistant Commissioner of**
 12 **Hazardous Waste Management**, who shall be appointed by the
 13 Governor with the advice and consent of the Senate. The assistant
 14 commissioner shall possess an advanced degree in environmental
 15 science or other discipline directly related to hazardous discharge
 16 site management, remediation, **emergency response,** mitiga-
 17 tion, and cleanup, and shall have demonstrated training or experi-
 18 ence in hazardous discharge site management, remediation,
 19 **emergency response,** mitigation, **and** **or** cleanup.
 20 The supervision of the **division** **Divisions of Hazardous**
 21 **Waste Management and Hazardous Site Mitigation** shall be the
 22 **assistant commissioner's** sole responsibility **of the Assistant**
 23 **Commissioner of Hazardous Waste Management**.

1 3. The **division** **Assistant Commissioner of Hazardous**
 1A **Waste Management** shall be responsible for the implementation
 2 and coordination of all hazardous discharge site management, reme-
 3 diation, **emergency response,** mitigation, and cleanup activi-
 4 ties delegated by law, regulation, or executive order to the Depart-
 5 ment of Environmental Protection, and to this end the Commis-
 6 sioner of the Department of Environmental Protection shall make
 7 any intradepartmental transfers of personnel, and adopt any
 8 reorganization orders, consistent with the appropriate provisions

9 of the "State Agency Transfer Act," P. L. 1971, c. 375 (C.
 10 52:14D-1 et seq.), as may be necessary to consolidate all haz-
 11 ardous discharge site management, remediation, ****[emergency re-**
 12 **sponse,]**** mitigation, and cleanup activities within the ****[di-**
 13 **vision]**** ****Division of Hazardous Waste Management or the Di-**
 14 **vision of Hazardous Site Mitigation**.** ***The provisions of this act**
 15 **shall not affect the titles, terms, or conditions of employment, or**
 16 **hours and salaries of present classified employees of the Department**
 17 **of Environmental Protection who are otherwise affected by this**
 18 **act.***

1 4. The ****[division]**** ****Assistant Commissioner of Hazardous**
 2 **Waste Management**** shall establish a comprehensive Hazardous
 3 Discharge Site Management program, which shall include, but need
 3A not be limited to, the following:

4 a. The preparation and annual revision of a Hazardous ~~Dis~~ Substances
 5 ~~Emergency Spill Response Plan, which shall include, but need~~
 6 ~~not be limited to, the following:~~ Contingency
 7 ~~The management, remediation, mitigation, or cleanup, or~~ Response Master
 8 ~~any combination thereof, of hazardous discharge sites, and the~~
 9 ~~restoration of natural resources, including potable water supplies,~~ Plan, pursuant
 10 ~~damaged by a hazardous discharge,~~ P.L. 1962 c.22
 11 ~~as appropriate,~~ and the formula
 12 ~~pursuant to~~ tion of a Maste
 13 ~~the NJ Spill Act~~ List, pursuant
 14 ~~to the NJ Spill Act~~

15 b. The management, remediation, mitigation, or cleanup, or P.L. 1982 c.202.
 16 any combination thereof, of hazardous discharge sites, and the
 17 restoration of natural resources, as appropriate,
 18 damaged by a hazardous discharge, pursuant to

19 ****[c. The planning for the emergency response to hazardous dis-** 58:10-23.11 f c
 20 **charges;**

21 d. The administration of the New Jersey Spill Compensation the NJ Spill A
 22 Fund established pursuant to P. L. 1976, c. 141 (C. 58:10-23.11
 23 et seq.); ******

24 ****[e.]**** ****c.**** The establishment of a public education and par-
 25 ticipation program, which shall be designed to foster general public
 26 understanding of the activities of the division, and to provide per-
 27 sons living in the immediate vicinity of a hazardous discharge site
 28 with timely information concerning the activities of the division
 29 with respect to that hazardous discharge site.

1 5. The Assistant Commissioner of ****[the Division of]**** Hazard-
 2 ous ****[Discharge]**** ****Waste**** Management shall appoint, within

3 the limits of funds appropriated or otherwise made available to the
 4 ****[division]**** *Division of Hazardous Waste Management or the*
 5 *Division of Hazardous Site Mitigation*******, any officers and employ-
 6 ees as he may deem necessary for the performance of the ****[di-**
 7 **vision's]**** *divisions'******* duties, and shall fix and determine their
 8 qualifications, responsibilities, and compensation, all without re-
 9 gard to the provisions of Title 11 of the Revised Statutes, and may
 10 retain or employ financial, scientific, and legal consultants for the
 11 provision of professional or technical assistance.

1 6. This act shall take effect immediately.

~~Establishment of the Division of Hazardous Waste Management and the~~

HAZARDOUS WASTE (Cleanup)

Establishes Division of Hazardous Waste Management and Di-
 vision of Hazardous Site Mitigation in DEP.



State of New Jersey

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

CN 821

TRENTON, NEW JERSEY 08625-0821

BORDEN R. PUTNAM
COMMISSIONER

HENRY T. BLEKICKI
ASSISTANT COMMISSIONER

August 14, 1986

The Honorable John O. Bennett
Assemblyman -- District 12
31 West Main Street
Freehold, New Jersey 07728

Dear Assemblyman Bennett:

At your most recent committee hearing in Kearny on a package of bills which are designed to fund the cleanup of the state's environment, I testified that the Department of Commerce and Economic Development was opposed to A-2700 as a means of partially financing the necessary cleanup because of the unintended negative side-effect on the state's efforts to create additional employment. I also mentioned that a possible alternative source of funding would be to dedicate, for cleanup purposes, a portion of the increased corporate business taxes that would be coming to the state because of the proposed federal tax revisions. You asked, at that time, if the Department of Commerce and Economic Development would go on record as officially supporting such a dedication, and I am pleased to report that we are now formally supporting such a funding approach. We believe that it is far more desirable for the corporate community to pay for their share of the environmental cleanup by dedicating additional business tax revenues than to raise the state corporation business tax rate from 9% to 9 1/2%.

Thank you for the courtesy extended to me during the hearing at Kearny, and we look forward to working with your committee as this package progresses through the Legislature.

Sincerely,

Henry T. Bleicki
Assistant Commissioner

HTB:smf

c: Commissioner Borden R. Putnam



STATE OF NEW JERSEY
 DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
 ONE WEST STATE STREET
 CN 820
 TRENTON, NEW JERSEY 08625-0820

BORDEN R. PUTNAM
 COMMISSIONER

August 22, 1986

Honorable John O. Bennett
 Chairman
 Assembly Environmental Quality Committee
 New Jersey State Legislature
 State House Annex, CN 068
 Trenton, New Jersey 08625

Dear Chairman Bennett:

You have asked our Department's position on one of the options which your Committee is considering for funding cleanup of hazardous waste sites, viz: raise the corporate business tax to 9.5%, but authorize the Director of Taxation to reduce the rate to 9% if he can certify that large increases in state tax revenues resulting from federal tax reform have actually materialized.

We cannot support this proposal because of the adverse affect the increased corporate business tax rate, even if short-lived, would have on attracting new investments -- and thus new jobs -- into our State.

New Jersey has been fortunate indeed in the trend of its unemployment rate the past few years. During the 1981-82 recession our unemployment rate reached as high as 9.7% -- distressingly high, but anywhere from 1 to 3 percentage points below the national averages. This was the first time in recent history that New Jersey suffered less than other states in this important indicator. As that recession ended in early 1983, New Jersey's unemployment rate declined and, in the three-year period since then, has held fairly steady in the 5% range.

Result: more of New Jersey's citizens are at work today than at any time in the State's history.

The foundation for these happy statistics is not hard to find. New jobs come from new investments, and new investments spring from new confidence in New Jersey as a place to do business.

The confidence is fed, among other things, by the moves made in the last few years to reduce the tax burden upon businesses. In 1982 the corporate net worth tax began to be phased out; in 1984 tax loss carry forward was permitted; in 1984 Urban Enterprise Zone tax benefits were approved; in 1985 unemployment compensation was overhauled with the result that in 1986, the unemployment insurance surcharge was eliminated.

The way business managers eye such moves is clearly shown in the recent history of the Grant-Thornton General Manufacturing Climates Survey. In this, executives are polled for their appraisal of the individual states in some 22 factors which can affect business success or failure, and the states are then ranked, with lower numbers more favorable than higher.

New Jersey has made the most dramatic recovery of any state, climbing in just five years from a rank of 47, just about the bottom of the heap, to 23, ahead of all surrounding states, as well as those in the heavily industrialized mid-west.

Tax reduction has had much to do with this record, as shown by New Jersey's ranking on taxes as an individual factor:

New Jersey

<u>Year</u>	<u>Tax Rank vs. Other States</u>
1979	44th
1980	42
1981	34
1982	30
1983	31
1984	33
1985	30

Our competition in surrounding states is well aware of the importance of tax restraint. In a recent survey by New York Interface Development Project, Inc., 32% of the companies moving from New York to New Jersey cited "lower taxes" as a reason.

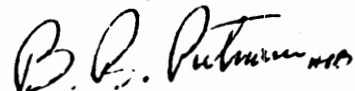
New York and Pennsylvania now have tax rates higher than New Jersey, and both states are now considering legislation to reduce these to favor economic development.

New Jersey has won significant new respect and confidence in the business community through, among other actions, attention to taxes and other factors bearing on the economic climate. Reversing course at this time by increasing the tax rate -- even for so worthwhile a cause as cleaning up hazardous waste sites -- would send a surprising, negative signal to

Honorable John O. Bennett
August 22, 1986
Page 3

the business community. The risk to future attraction of new investments and creation of new jobs is impossible to quantify, but is real. We recommend, per Assistant Commissioner Blekicki's letter to you dated August 14, 1986, copy attached, that the dedication of a portion of the increased corporate business taxes that would result from the proposed federal tax revisions would be a far more desirable funding approach than increasing the corporate business tax rate.

Sincerely,

A handwritten signature in dark ink, appearing to read "B. R. Putnam". The signature is fluid and cursive, with a small mark at the end that could be initials or a date.

BRP/fc

cc: W. T. Blekicki, Assistant Commissioner of Commerce
Norma LoSavio, Legislative Liaison, Department of Commerce

