

13:1E-169 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 13:1E-169 et al "Sanitary Land fill Closure and Rate Relief Fund"

LAWS OF: 1985 CHAPTER:368

BILL NO: S3347

Sponsor(s): Dalton, Costa and Contillo

Date Introduced: September 9, 1985

Committee: Assembly: -----

Senate: -----

Amended during passage: No Substituted for A4197 (not attached since identical to S3347)

Date of Passage: Assembly: September 12, 1985

Senate: September 12, 1985

Date of Approval: November 12, 1985

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate No

Fiscal Note: No

Veto Message: Yes

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

See newspaper clipping attached:

"Quick approval expected for waste-treatment bills," 9-12-85 Bergen Record.

"Kean, Demos agree on \$2.5B sewer, trash fund," 9-12-85 Atlantic City Press.

(OVER)

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New Jersey. Legislature. Senate. Energy and Environment Committee.
Public hearing on "financing of landfill closure," held
2-20-85. Trenton 1985.
(see especially pp. 68+)

SENATE, No. 3347

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 9, 1985

By Senators DALTON, COSTA and CONTILLO

(Without Reference)

AN ACT concerning the assumption by the State of certain increased costs of solid waste disposal at sanitary landfill facilities and the financing of the closure of these facilities, supplementing P. L. 1970, c. 39 (C. 13:1E-1 et seq.), and providing an appropriation therefor.

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

1 1. The Legislature finds that the ever-increasing costs of environ-
2 mentally sound solid waste disposal necessarily impose significant
3 economic burdens on local governments and residential taxpayers
4 alike and put a severe strain on the ability of municipalities to
5 meet their budgetary requirements without periodic increases in
6 local property taxes; that while the individual escrow accounts
7 that landfill owners are currently required to maintain for closure
8 were mandated to assure that sufficient funds would be available
9 upon the termination of landfills, those sanitary landfill facilities
10 approaching capacity will not have a sufficient time to generate the
11 needed revenues; that the proper disposal of solid waste and the
12 environmentally sound and proper closure of sanitary landfill
13 facilities are governmental functions affected with the public
14 interest; that the considerable escrow and closing costs required
15 to insure the proper closure of sanitary landfills have contributed
16 to these escalating disposal costs or tipping fees; and that the
17 the State shall assume a concomitant share of the financial obli-
18 gations created by these requirements.

19 The Legislature declares that it is the public policy of the State

20 of New Jersey to provide a funding source to defray the costs of
21 increases in landfill tipping fees required for closure and to provide
22 needed assistance for such closures through the issuance of
23 grants and loans to local government units to stabilize these costs
24 in an efficient and equitable manner.

25 The Legislature therefore determines that it is in the public
26 interest to establish a "Sanitary Landfill Closure and Rate Relief
27 Fund" in the Department of Environmental Protection, which
28 program shall provide State funding to make grants and loans to
29 local governments to defray the costs of increases in landfill dis-
30 posal tipping fees specifically required for closure and to finance
31 the closure of sanitary landfill facilities approaching capacity.

1 2. As used in this act:

2 "Commissioner" means the Commissioner of the Department of
3 Environmental Protection;

4 "Closing costs" or "closure" means all activities and costs
5 associated with the design, purchase, construction or maintenance
6 of all measures required by the department, pursuant to law, in
7 order to prevent, minimize or monitor pollution or health hazards
8 resulting from sanitary landfill facilities subsequent to the termi-
9 nation of operations at any portion thereof, including, but not
10 limited to, the costs of the placement of final earthen or vegetative
11 cover, and the installation of methane gas vents or monitors and
12 leachate monitoring wells or collection systems at the site of any
13 sanitary landfill facility; except that, the costs which are incurred
14 prior to the commencement of acceptance of solid waste for dis-
15 posal at any portion of a sanitary landfill facility, including, but
16 not limited to, the initial grading and installation of liners and
17 leachate collection systems, and the costs associated with the
18 normal operations of a sanitary landfill facility, including, but
19 not limited to, the placement of daily and intermediate cover and
20 the construction of on-going environmental improvements, shall
21 not be included as closing costs. Any such activities which will be
22 undertaken subsequent to the cessation of acceptance of solid
23 waste for disposal at the sanitary landfill facility shall be con-
24 sidered closure activities;

25 "Department" means the Department of Environmental Pro-
26 tection;

27 "Local government unit" means any county or municipality, or
28 any agency, instrumentality, authority or corporation of any county
29 or municipality, including, but not limited to, sewerage, utility and
30 improvement authorities, or any public body having local or
31 regional jurisdiction over solid waste disposal, including, but not

32 limited to, solid waste management districts, or any political sub-
33 division of the State, authority or agency authorized pursuant to
34 law to own or operate sanitary landfill facilities or to provide for
35 the environmentally sound disposal of solid waste;

36 "Owner or operator" means and includes, in addition to the
37 usual meanings thereof, every owner of record of any interest in
38 land whereon a sanitary landfill facility is or has been located;
39 any operator of a sanitary landfill facility; and any person or
40 corporation which owns a majority interest in any other corpora-
41 tion which is the owner or operator of any sanitary landfill facility.
42 The foregoing also includes any local government unit which is the
43 owner or operator of any sanitary landfill facility or which is
44 required in the utilization of any facility to pay any portion of
45 closure costs through the payment of rates and charges for the
46 disposal of solid waste at any sanitary landfill facility;

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

1 3. a. The "Sanitary Landfill Closure and Rate Relief Fund"
2 (hereinafter referred to as the "fund") is established as a special
3 account in the Department of Environmental Protection. The fund
4 shall be administered by the department, and shall be the depository
5 of all moneys appropriated to the fund by the Legislature pur-
6 suant to section 9 of this act or any subsequent act for the purpose
7 of making State grants or loans to local government units to defray
8 costs of increases in landfill disposal tipping fees specifically re-
9 quired for closure and to finance the closure of sanitary landfill
10 facilities approaching capacity. Moneys in the fund are specifically
11 dedicated to making grants or loans to local government units for
12 eligible closure projects as provided in section 5 of this act, and
13 shall not be expended except in accordance with appropriations
14 from the fund made pursuant to law. An act appropriating moneys
15 from the fund shall identify the particular project or projects to
16 be funded, and shall specify the terms and conditions of each grant
17 or loan.

18 b. Project grants shall be for the local government unit's portion
19 of the closure cost, and grants shall be made only for projects
20 which meet the eligibility requirements set forth in section 5 of
21 this act.

22 c. The interest rate of loans made to local government units
23 from the fund shall not exceed 50% of the average interest rate

24 of the Bond Buyer Municipal Bond Index for bonds available for
25 purchase during the last 26 weeks preceding the date of the ap-
26 proval of the loan by the department. All principal and interest
27 payments on loans made from the fund shall be repaid by the local
28 government units into the fund and shall be deposited into the fund
29 in accordance with the terms of a written loan agreement. The
30 terms of the loan agreement shall be approved by the State
31 Treasurer.

32 d. When a federal agency pays part of the cost of a project, the
33 cost of the project shall be computed after deducting the federal
34 contribution.

1 4. a. Application and preliminary plans for closure project
2 grants and loans shall be filed with the commissioner. The com-
3 missioner shall develop a priority system for landfill closure
4 projects which shall establish ranking criteria and funding policies
5 for the projects. With respect to the ranking criteria for these
6 projects, priority shall be given to the owners and operators of
7 sanitary landfill facilities in the following order:

8 (1) Those owners or operators of sanitary landfill facilities who
9 have received, for a period of at least six months, solid waste from
10 sources out-of-state;

11 (2) Those owners or operators of sanitary landfill facilities who
12 are local government units; and

13 (3) Any other owners or operators of sanitary landfill facilities.

14 b. The commissioner shall set forth a project priority list for
15 closure project grants and loans in accordance with the ranking
16 criteria established pursuant to subsection a. of this section. Eligi-
17 bility of an owner or operator of a sanitary landfill facility for a
18 grant or loan for a closure project to be included on the project
19 priority list shall be determined in accordance with the provisions of
20 section 5 of this act. The project priority list shall include for each
21 landfill closure project the date each project is scheduled to be
22 certified by the department as ready for funding and shall be in
23 conformance with applicable provisions of State law.

1 5. a. The commissioner shall apply the criteria set forth in this
2 section in determining the eligibility of owners and operators of
3 sanitary landfill facilities for grants or loans to pay the closure
4 costs of landfill closure projects. No owner or operator of a
5 sanitary landfill facility shall be eligible for a grant or loan under
6 this act prior to the submission for approval to the department of
7 a financial plan for closure as required by section 8 of this act.

8 b. Where the Board of Public Utilities has issued an order
9 increasing the rates and charges for solid waste disposal on the

10 relevant tariff filed with and approved by the board for the solid
11 waste disposal operations of a sanitary landfill facility and where
12 this increase, or a portion thereof, is allocated specifically in the
13 tariff for the closure costs of the sanitary landfill facility, and
14 where the facility has accepted for final disposal out-of-state solid
15 waste prior to October 1, 1984, any local government unit which
16 is required to pay a portion of the closure costs through payment
17 of rates or charges for disposal of solid waste at the facility shall
18 be eligible to apply for a grant for the payment of a portion of
19 the closure costs, to the extent that the closure costs would have
20 been borne by the out-of-state solid waste generators who had
21 previously, but no longer, utilized the facility.

22 c. Where the Board of Public Utilities has issued an order
23 increasing the rates and charges for solid waste disposal on the
24 relevant tariff filed with and approved by the board for the solid
25 waste disposal operations of a sanitary landfill facility and where
26 this increase, or a portion thereof, is specifically allocated in the
27 tariff for the closure costs of the facility, any local government
28 unit which is required to pay any portion of the closure costs
29 through the payment of rates or charges for disposal of solid waste
30 at the facility shall be eligible to apply for a loan for the payment
31 of a portion of the closure costs.

32 d. Upon the final approval by the Board of Public Utilities of
33 increases in the solid waste disposal tariff with respect to a sani-
34 tary landfill facility, as set forth in this section, the board shall
35 file with the department a copy of the order increasing the solid
36 waste tariff, including the projected amounts thereof specifically
37 allocated for closure costs to be generated from local government
38 units required to pay a portion of the closure costs through the
39 payments of rates or charges for the disposal of solid waste at the
40 sanitary landfill facility and the proportionate amounts thereof
41 specifically allocated for closure costs which would have been
42 generated from the out-of-state solid waste generators who had
43 previously, but no longer, utilized the facility.

44 e. Where the Board of Public Utilities has not issued an order
45 increasing the rates or charges for solid waste disposal on the
46 relative tariff with respect to solid waste disposal operations of
47 a sanitary landfill facility, or, where the Board of Public Utilities
48 does not exercise rate setting jurisdiction or has denied a request
49 for an order increasing the rates or charges for solid waste dis-
50 posal on the relative tariff with respect to solid waste disposal
51 operations of a sanitary landfill facility, any owner or operator
52 thereof shall be eligible to apply for a loan to pay closure costs

53 of the sanitary landfill facility if the commissioner determines that
54 funds currently available in the escrow account established for the
55 facility pursuant to P. L. 1981, c. 306 (C. 13:1E-100 et seq.), or
56 otherwise legally available from the owner or operator thereof, are
57 inadequate to cover the required closure costs for the sanitary
58 landfill facility.

1 6. The commissioner shall annually provide the Legislature with
2 the project priority list for the awarding of grants and loans from
3 the "Sanitary Landfill Closure and Rate Relief Fund" for specific
4-5 eligible closure projects, as provided in section 5 of this act, and
6 the terms and conditions of each grant or loan. No grant or loan
7 shall be awarded except upon specific project appropriation, in-
8 cluding the terms and conditions of the grant or loan, by the
9 Legislature.

1 7. The commissioner shall, pursuant to the provisions of the
2 "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1
3 et seq.), adopt rules governing the awarding and use of loans and
4 grants including, but not limited to, procedures for the submission
5 of applications, standards for the evaluation of applications, re-
6 quirements for the reporting by the recipients of the expenditure
7 of funds, and any limitations, restrictions or requirements con-
8 cerning the use of a loan or grant as the commissioner may pre-
9 scribe.

1 8. It shall remain the continuing responsibility of the owner or
2 operator of every sanitary landfill facility to insure that the rates
3 or charges received at the facility, whether or not these rates or
4 charges are subject to the jurisdiction of the Board of Public
5 Utilities pursuant to P. L. 1970, c. 40 (C. 48:13A-1 et seq.), will
6 provide sufficient revenues for all costs, including closure costs,
7 likely to be incurred by the facility. In order to insure the integrity
8 of financial planning for closure, the owner or operator of every
9 sanitary landfill facility, whether or not the rates or charges re-
10 ceived by the facility are subject to the jurisdiction of the Board
11 of Public Utilities, shall submit for approval to the department
12 and, where relevant, the board, a financial plan addressing all
13 aspects of closure. The owner or operator of every existing sani-
14 tary landfill facility for which a registration statement and engi-
15 neering design has been filed with, and approved by, the department
16 prior to June 1, 1985 shall submit a financial plan for closure within
17 180 days of the effective date of this act, except that the depart-
18 ment, or the board, as the case may be, may grant an extension of
19 up to 180 days, if sufficient reason exists to grant the extension.
20 The owner or operator of every new sanitary landfill facility for

21 which a registration statement and engineering statement has been
22 filed with the department subsequent to June 1, 1985 shall submit
23 for approval to the department and, where relevant, the board,
24 a financial plan for closure prior to commencement of operations,
25 except that the department, or the board, as the case may be, may
26 grant an extension of up to 180 days, if sufficient reason exists to
27 grant the extension.

1 9. There is appropriated from the General Fund to the Sanitary
2 Landfill Closure and Rate Relief Fund established by section 3 of
3 this act, the sum of \$30,000,000.00 to effectuate the purposes of
4 this act.

1 10. This act shall take effect immediately.

STATEMENT

This bill would establish a "Sanitary Landfill Closure and Rate Relief Fund" in the Department of Environmental Protection as the depository of the \$30 million appropriated by the Legislature to the fund pursuant to section 9 of the act. The moneys in the fund would be used to provide grants and loans to local government units to defray the costs of increases in landfill disposal tipping fees specifically allocated by the Board of Public Utilities for closing costs or closure and to finance the closure of sanitary landfill facilities approaching capacity.

The moneys in the "Sanitary Landfill Closure and Rate Relief Fund" are specifically dedicated for eligible closure projects and cannot be expended except in accordance with specific appropriations from the fund made by the Legislature. Each such appropriation shall identify the particular eligible closure project or projects to be funded with these moneys.

The Commissioner of Environmental Protection shall develop a project priority list for eligible closure projects. Eligible projects would be ranked and given priority according to the following criteria: (1) sanitary landfill facilities which have received, for a period of at least six months, out-of-state solid waste; (2) sanitary landfills owned and operated by local governments; and (3) all other sanitary landfill facilities. Closure projects for sanitary landfill facilities proposed by local governments would be eligible for funding under the act in accordance with certain specified eligibility criteria, including provisions that: (1) the BPU has issued an order increasing solid waste disposal tipping fees at a landfill which has accepted out-of-state solid waste prior to October 1, 1984 and a portion of that increase is specifically allocated for

closure costs, and the local government unit which is required to pay a portion of the closure costs through the increase in disposal tipping fees must assume the closure costs which would have been borne by the out-of-state solid waste generators who had previously, but no longer, utilized the facility; (2) the BPU has issued an order increasing solid waste disposal tipping fees at a landfill and a portion of that increase is specifically allocated for closure costs, and the local government unit is required to pay a portion of the closure costs through the increase in disposal tipping fees; or (3) the commissioner determines that funds currently available in the escrow account established for the facility pursuant to P. L. 1981, c. 306 (C. 13:1E-100 et seq.), or otherwise legally available from the owner or operator thereof, are insufficient to cover the required closure costs for the sanitary landfill facility, in instances where the BPU has not ordered a rate increase.

The bill further requires that the owner or operator of every existing or new sanitary landfill facility shall submit for approval to the department a financial plan for closure in order to qualify for funding from the "Sanitary Landfill Closure and Rate Relief Fund."

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The moneys in the "Sanitary Landfill Closure and Rate Relief Fund" are specifically dedicated for eligible closure projects and cannot be expended except in accordance with specific appropriations from the fund made by the Legislature. Each such appropriation shall identify the particular eligible closure project or projects to be funded with these moneys.

The Commissioner of Environmental Protection shall develop a project priority list for eligible closure projects. Eligible projects would be ranked and given priority according to the following criteria: (1) sanitary landfill facilities which have received, for a period of at least six months, out-of-state solid waste; (2) sanitary landfills owned and operated by local governments; and (3) all other sanitary landfill facilities. Closure projects for sanitary landfill facilities proposed by local governments would be eligible for funding under the act in accordance with certain specified eligibility criteria, including provisions that: (1) the BPU has issued an order increasing solid waste disposal tipping fees at a landfill which has accepted out-of-state solid waste prior to October 1, 1984 and a portion of that increase is specifically allocated for

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closure costs, and the local government unit which is required to pay a portion of the closure costs through the increase in disposal tipping fees must assume the closure costs which would have been borne by the out-of-state solid waste generators who had previously, but no longer, utilized the facility; (2) the BPU has issued an order increasing solid waste disposal tipping fees at a landfill and a portion of that increase is specifically allocated for closure costs, and the local government unit is required to pay a portion of the closure costs through the increase in disposal tipping fees; or (3) the commissioner determines that funds currently available in the escrow account established for the facility pursuant to P. L. 1981, c. 306 (C. 13:1E-100 et seq.), or otherwise legally available from the owner or operator thereof, are insufficient to cover the required closure costs for the sanitary landfill facility, in instances where the BPU has not ordered a rate increase.

The bill further requires that the owner or operator of every existing or new sanitary landfill facility shall submit for approval to the department a financial plan for closure in order to qualify for funding from the "Sanitary Landfill Closure and Rate Relief Fund."



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OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

Contact: CARL GOLDEN
609-292-8956

TRENTON, N.J. 08625

Release: MON., NOV. 18, 1985

Governor Thomas H. Kean has signed legislation to establish a method to finance the closing of unsafe or at-capacity sanitary landfills, after first reducing the appropriation in the bill to \$8 million to carry the program through the current fiscal year.

The legislation, S-3347, was sponsored by Senator Daniel Dalton, D-Camden, and is the final component of the 10-bill Environmental Trust Fund legislative package signed into law by the Governor in September.

The bill originally appropriated \$30 million to finance the closure program, but was reduced to \$8 million by the Governor to cover closing costs at two landfills in Burlington County --- the Parklands landfill and the L & D landfill.

The Governor said he would wait until the results of a study currently underway by the State Department of Environmental Protection concerning landfill closures before approving the allocation of additional monies.

The legislation provides that money in the State fund be allocated as grants or loans to local governing bodies to defray the cost of landfill closure, or to owners and operators of landfills which have already reached capacity and have been closed.

The funds would be limited to eligible projects and can only be spent in accordance with specific legislative approval.

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STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

November 12, 1985

SENATE BILL NO. 3347

To the Senate:

Pursuant to Article V, Section 1, Paragraph 15 of the Constitution, I am appending to Senate Bill No. 3347 at the time of signing it, this statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect.

This bill establishes within the Department of Environmental Protection a "Sanitary Landfill Closure and Rate Relief Fund," which would be capitalized with a \$30 million General Fund appropriation. Generally, all monies within the fund would be used for grants and loans to (1) local governments for defraying those portions of increases in solid waste disposal fees which are specifically allocated by the New Jersey Board of Public Utilities (BPU) for future closure costs of operational sanitary landfill facilities, and (2) owners or operators of those facilities for financing the closure of landfills which have already reached capacity and have been closed.

Specifically, the monies in the Sanitary Landfill Closure and Rate Relief Fund would be dedicated for "eligible" closure projects and could only be expended in accordance with project-specific appropriations thereof by the Legislature. Any acts appropriating monies from the fund would be required to specify the particular projects to be funded and the terms and conditions of each grant or loan. The annual interest rates on all loans made from the fund could not exceed fifty-percent of the average interest rate for all municipal bonds issued during the last twenty-six weeks preceding the approval of the loans by the Department of Environmental Protection. All principal and interest payments on loans would be repayable to the fund for future re-appropriation by the Legislature as "second generation" landfill closure loans.

The Department of Environmental Protection would be required to annually provide the Legislature with a recommended project priority list for the awarding of grants and loans from the fund for eligible landfill closure projects. The list, which would be subject to variation by the Legislature, would also include the recommended terms and conditions for all grants and loans. In order to be eligible for assistance from the fund, all landfill owners or operators would be required to submit to the department for its

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approval a comprehensive financial plan which details all aspects of their respective closure plans.

All eligible landfill closure projects would be given priority for funding as follows: (1) sanitary landfill facilities owned and operated by local governments, which have received out-of-state solid waste for at least six months; (2) all other landfills owned and operated by local governments, and (3) landfills owned and operated by private entities. Landfill closure projects would qualify for grants or loans in accordance with the following eligibility criteria: (1) grants would be issued to local governments for those landfill closure costs apportionable to out-of-state solid waste haulers who are no longer using the subject landfill, which the local governments are therefore responsible for paying either directly as landfill owners and operators, or indirectly as landfill users, through increased solid waste disposal tariffs; (2) below market-rate loans would be issued to local governments for all other closure costs - those apportionable to in-state solid waste; and (3) below market-rate loans would be issued to owners and operators of private landfills for the closure costs of their facilities.

The grant-loan program established in this bill for the closure of sanitary landfills is a component of the ten-bill "compromise" package recently passed by the Legislature for implementation of the New Jersey Environmental Trust program that I announced in my 1985 State-of-the-State message. As I have repeatedly stated during the past nine months, this "pioneer" Trust program will provide more local governments with low-interest financing for their landfill closure, resource recovery and wastewater treatment projects on a much faster, and therefore, correspondingly cheaper basis, than local governments could finance independently through the open public credit markets. By enabling local governments to finance their environmental projects through the innovative financing alternatives available through the Trust program, the state will be accomplishing real and meaningful property tax and user-fee relief for our local citizenry. Without the financing benefits of this nationally acclaimed program, local governments would have been forced to pass their otherwise higher project financing costs through to the local taxpayers. For these reasons, I congratulate the Legislature for approving a workable compromise

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after three years of discussion on this issue. Any further delay would have postponed this critically important environmental program for another year, as the required state bond acts would not have been enacted in time to be approved by the voters at the November, 1985 general election.

I am also pleased that the compromise legislation passed by the Legislature is substantially similar in effect to the bills which I had originally proposed for implementation of the Trust program. Significantly, the legislation includes a "Trust" revolving loan program for wastewater treatment projects - one with a cost-saving "leverage financing" component which I have proposed since the beginning of my term as Governor. Also, through increases in the total state contribution for the wastewater treatment and resource recovery components of \$40 million and \$10 million, respectively, the funding capacity of the compromise program in these components is projected to equal that of my original proposed program. Although I believe that the compromise program should undergo certain technical adjustments in order to preserve the operational integrity of the Trust, I am confident that after further consultation with the Legislature these few remaining issues will also be resolved through amendatory legislation.

I am concerned, however, that the compromise program entails a new \$30 million General Fund appropriation for capitalization of the landfill closure component. This unanticipated cash expenditure, which would further reduce the state's projected ending balance for FY 86, contrasts with my proposed funding scenario to capitalize the landfill closure component with \$50 million in state general obligation bond proceeds. With the inclusion of minor appropriations measures pending in the Legislature which I expect to approve, the state's projected FY 86 "surplus" is already approximately 20% below the minimum "2% of budget" level recommended by the State Treasurer.

The above budgetary concerns notwithstanding, there appears to be a general consensus in the Legislature regarding the critical need for this component of the environmental trust program, which is designed to help local governments underwrite their increasing expenses for landfill closures. This need is evidenced by the fact that virtually all of the local governments which utilize private landfills are faced with major tariff increases awarded by the

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New Jersey Board of Public Utilities (BPU) for closure-related costs; and that local governments which own their own landfills also face substantial closure expenses as they terminate their facilities. Over three-hundred landfills have been shut-down - but not necessarily environmentally closed - during the past several years, and most of the remaining landfill space (11 operational landfills) is either already under court order to close or will be exhausted within two years. Regardless of whether local governments own their own landfills or use private facilities, without state financing assistance they will be forced to underwrite their rising closure expenses through increased property taxes.

The Department of Environmental Protection is presently in the process of developing a comprehensive "state landfill closure plan" which will more accurately identify New Jersey's future landfill closure needs. The plan, which should be completed within the next eight to ten months, will establish a projected time-schedule for necessary landfill closure projects. This "needs" schedule will also project the future funding levels for the landfill closure program which would be sufficient to address the "current" landfill closure needs of all local governments in the ensuing fiscal years. As was acknowledged by the Legislature during discussions regarding landfill closure, once this cost-impact study has been thoroughly reviewed it will be appropriate to begin considering the alternative state sources of stable funding which would be necessary to actually provide financing assistance to all local governments for their respective landfill closure expenses.

Through the operational framework established in this bill - which I am pleased is substantially similar in effect to my original proposed landfill closure component - the state could equitably distribute any state funds available in the future for assisting local governments in financing their landfill closure projects. Significantly, those provisions of this program which establish eligibility and priority criteria for evaluating loan and grant requests are identical to the comparable provisions of my original proposed program.

The Department of Environmental Protection has only begun to identify the needed landfill closure projects which local governments will in the future be required to pay for, either directly as landfill owners, or indirectly through

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increased tariffs as private landfill users. There are, however, certain specific instances where there are current and compelling needs. The most prominent examples of the State's "current" landfill closure dilemma involve the Parklands and L&D landfills in Burlington County, and the Kinsley landfill in Gloucester County. Those seventeen Burlington County municipalities which utilize the privately owned Parklands landfill have been burdened with a recent four-fold increase in that facility's solid waste disposal tariff - 90% of which the BPU allocated for closure costs. Also, this tariff increase will impact upon the nineteen Burlington County municipalities which currently utilize the L&D landfill when that landfill closes in March 1986 and they begin utilizing Parklands. Since the Burlington County Superior Court had ordered Parklands landfill closed by January 1988, the BPU approved an "interim" tariff increase (pending final review) at Parklands which was sufficient to completely underwrite the substantial closure costs of that landfill over the remaining two years that it would be in operation. I believe that there is an inherent inequity in requiring these New Jersey municipalities - over a two-year period - to bear the brunt of paying for closure of a landfill which has been in operation for over thirty years. This is particularly unfair because approximately 50% of the solid waste disposed of at Parklands in recent years is actually apportionable to Philadelphia communities which (since only December 1984) have been prohibited from utilizing the landfill.

Prior to the BPU's final review of Kinsley landfill's rate request, the identical situation essentially existed for the forty-nine Camden, Gloucester and Salem County municipalities which utilize this privately owned landfill in Gloucester County. In response to Kinsley's request for an 800% tariff increase, the BPU had initially awarded an "interim" 229% increase - 95% of which was allocated for closure costs. Upon final review, however, the BPU determined that the Kinsley owners had in fact already collected sufficient closure funds, and it awarded a final rate increase of only approximately 40%. More importantly, the BPU ordered Kinsley to make retroactive refunds to the affected municipalities and trash disposal companies using the facility, to reflect the reduced tariff. As a result of the BPU's careful review of the history of Kinsley's tariff structure, these New Jersey municipalities not be

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required to exclusively pay (twice) for closure of a landfill which has been in operation for over twenty-five years - 60% of the trash at which is apportionable to Pennsylvania communities which (only recently) are no longer utilizing the facility.

In response to a steady dwindling of available landfill space across the state, New Jersey has been rigorously attempting through the courts to ban the disposal of out-of-state solid waste within our borders. For environmental reasons I fully agree with our state court decisions which prohibit the disposal of out-of-state trash at the above-mentioned three landfills - one of my highest priorities for the upcoming four years is to ensure that New Jersey preserves its capacity to provide adequate and safe trash disposal services for our state citizenry. However, I also recognize and regret the inequitable by-product that Pennsylvania residents will therefore avoid contributing their proportionate share of the closure costs for these facilities.

The Department of Environmental Protection has advised that a minimum of \$8 million is required to effectively address the current inequities at the Parklands and L&D landfills. As stated earlier, the department is currently analyzing the state's other aggregate landfill closure needs and their projected costs. Pending completion of that study, I believe that the landfill closure component of the Trust program should be capitalized for this fiscal year at a level sufficient to provide the above-mentioned thirty-six municipalities which are or will be utilizing Parklands landfill with grants and loans for their proportions of the closure costs of these landfills (payable through increased solid waste disposal tariffs) which are apportionable to Pennsylvania residents. Absent financial assistance from the state, these New Jersey municipalities would be forced to pass their increased landfill closure expenses through to the local taxpayers.

I am therefore reducing the FY 86 General Fund appropriation for the landfill closure component to \$8 million. This funding level is the absolute maximum which the state can afford during this fiscal year in order to preserve the fiscal integrity of its already reduced "mandated surplus."

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Accordingly, the appropriation is reduced to \$8 million as follows:

Page 9, Section 9, Line 3: Delete "\$30,000,000.00" and Insert "\$8,000,000.00"

Respectfully,
/s/ Thomas H. Kean
GOVERNOR

[seal]

Attest:

/s/ W. Cary Edwards
Chief Counsel