
Committee Meeting

of

SENATE ENVIRONMENT AND ENERGY COMMITTEE

*“The Committee will hear testimony from the public
on potential revisions to the Electronic Waste Management Act”*

Senate Bill No. 2973

“Revises electronic waste recycling laws”

LOCATION: Committee Room 10
State House Annex
Trenton, New Jersey

DATE: July 20, 2015
12:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Bob Smith, Chair
Senator Linda R. Greenstein, Vice Chair
Senator Christopher “Kip” Bateman
Senator Samuel D. Thompson



ALSO PRESENT:

Judith L. Horowitz
Michael R. Molimock
*Office of Legislative Services
Committee Aides*

Kevil Duhon
*Senate Majority
Committee Aide*

Brian Ahrens
*Senate Republican
Committee Aide*

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



BOB SMITH
Chairman

LINDA R. GREENSTEIN
Vice-Chairwoman

RICHARD J. CODEY
CHRISTOPHER "KIP" BATEMAN
SAMUEL D. THOMPSON

JUDITH L. HOROWITZ
Office of Legislative Services
Committee Aide
(609) 847-3855
(609) 292-0561 fax

MICHAEL MOLIMOCK
Office of Legislative Services
Committee Aide
(609) 847-3855
(609) 292-0561 fax

New Jersey State Legislature

SENATE ENVIRONMENT
AND ENERGY COMMITTEE
STATE HOUSE ANNEX
PO BOX 068
TRENTON NJ 08625-0068

COMMITTEE NOTICE

TO: MEMBERS OF THE SENATE ENVIRONMENT AND ENERGY COMMITTEE

FROM: SENATOR BOB SMITH, CHAIRMAN

SUBJECT: COMMITTEE MEETING - JULY 20, 2015

The public may address comments and questions to Judith L. Horowitz or Michael R. Molimock, Committee Aides, or make bill status and scheduling inquiries to Pamela Petrone, Secretary, at (609)847-3855, fax (609)292-0561, or e-mail: OLSAideSEN@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.

The Senate Environment and Energy Committee will meet on Monday, July 20, 2015, at 12:00 PM in Committee Room 10, 3rd Floor, State House Annex, Trenton, New Jersey.

The committee will hear testimony from the public on potential revisions to the Electronic Waste Management Act.

FOR DISCUSSION ONLY:

S-2973 (SCS) Revises electronic waste recycling laws.
Smith, B/
Bateman/Greenstein/
Codey

Issued 7/13/15

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SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2973

STATE OF NEW JERSEY
216th LEGISLATURE

ADOPTED JUNE 15, 2015

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Senator RICHARD J. CODEY

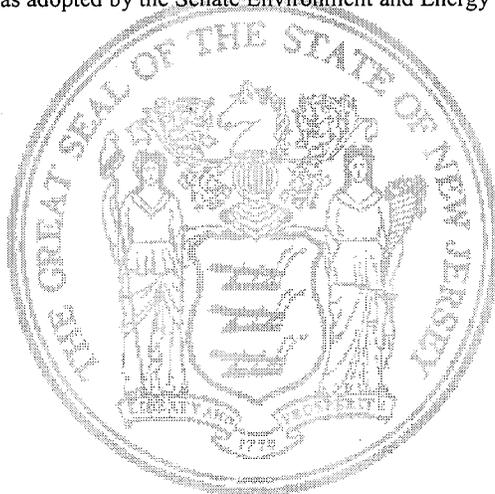
District 27 (Essex and Morris)

SYNOPSIS

Revises electronic waste recycling laws.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Environment and Energy Committee.



1 AN ACT concerning electronic waste recycling, amending and
2 supplementing P.L.2007, c.347, and repealing various parts of
3 the statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.2007, c.347 (C.13:1E-99.94) is amended to
9 read as follows:

10 1. Sections 1 through 21 of P.L.2007, c.347 (C.13:1E-99.94
11 et seq.) and section **[3** of P.L.2008, c.130 (C.13:1E-99.96a)] 10 of
12 P.L. , c. (C.) (pending before the Legislature as this bill) shall
13 be known and may be cited as the "Electronic Waste Management
14 Act."

15 (cf: P.L.2008, c.130, s.21)

16
17 2. Section 2 of P.L.2007, c.347 (C.13:1E-99.95) is amended to
18 read as follows:

19 2. As used in sections 1 through 21 of P.L.2007,
20 c.347 (C.13:1E-99.94 et seq.) and section **[3** of P.L.2008,
21 c.130 (C.13:1E-99.96a)] 10 of P.L. , c. (
22 pending before the Legislature as this bill):

23 "Authorized recycler" means a person who: (1) engages in the
24 manual or mechanical separation of covered electronic devices to
25 recover components and commodities contained therein for the
26 purpose of re-use or recycling; or (2) changes the physical or
27 chemical composition of a covered electronic device by
28 deconstructing, size reduction, crushing, cutting, sawing,
29 compacting, shredding, or refining for the purpose of segregating
30 components, and for the purpose of recovering or recycling those
31 components, and who arranges for the transport of those
32 components to an end user.

33 "Brand" means symbols, words, or marks that identify a covered
34 electronic device, rather than any of its components.

35 "Business concern" means any corporation, association, firm,
36 partnership, sole proprietorship, trust or other form of commercial
37 organization. "Business concern" shall not include a small business
38 enterprise.

39 "Cathode ray tube" means a vacuum tube or picture tube used to
40 convert an electronic signal into a visual image.

41 "Computer" means an electronic, magnetic, optical,
42 electrochemical, or other high-speed data processing device
43 performing logical, arithmetic, or storage function, and may include
44 both a computer central processing unit and a monitor, but the term
45 shall not include an automated typewriter or typesetter, a portable

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

Matter underlined thus is new matter.

1 handheld calculator, a portable digital assistant, or other similar
2 device.

3 "Consumer" means a person, State entity, school district, or local
4 government unit who purchases a covered electronic device in a
5 transaction that is a retail sale. "Consumer" shall not include any
6 business concern purchasing covered electronic devices.

7 "Covered electronic device" means a desktop or personal
8 computer, computer monitor, portable computer, printer, fax
9 machine, or television sold to a consumer. A "covered electronic
10 device" shall not include any of the following: (1) an electronic
11 device that is a part of a motor vehicle or any component part of a
12 motor vehicle assembled by, or for, a vehicle manufacturer or
13 franchised dealer, including replacement parts for use in a motor
14 vehicle; (2) an electronic device that is functionally or physically a
15 part of a larger piece of equipment designed and intended for use in
16 an industrial, commercial, or medical setting, including diagnostic,
17 monitoring, or control equipment; (3) an electronic device that is
18 contained within a clothes washer, clothes dryer, refrigerator,
19 refrigerator and freezer, microwave oven, conventional oven or
20 range, dishwasher, room air conditioner, dehumidifier, or air
21 purifier; or (4) a telephone of any type unless it contains a video
22 display area greater than four inches measured diagonally.

23 "Department" means the Department of Environmental
24 Protection.

25 "Local government unit" means any county or municipality, or
26 any agency, instrumentality, authority or corporation of any county
27 or municipality, including, but not limited to, sewerage, utilities and
28 improvement authorities, or any other political subdivision of the
29 State.

30 "Manufacturer" means any person: (1) who manufactures or
31 manufactured covered electronic devices under a brand that it owns
32 or owned or is or was licensed to use, other than a license to
33 manufacture covered electronic devices for delivery exclusively to
34 or at the order of the licensor; (2) who sells or sold covered
35 electronic devices manufactured by others under a brand that the
36 seller owns or owned or is or was licensed to use, other than a
37 license to manufacture covered electronic devices for delivery
38 exclusively to or at the order of the licensor; (3) who manufactures
39 or manufactured covered electronic devices without affixing a
40 brand; (4) who manufactures or manufactured covered electronic
41 devices to which the person affixes or affixed a brand that the
42 person neither owns or owned nor is or was licensed to use; (5) for
43 whose account covered electronic devices manufactured outside the
44 United States are or were imported into the United States, provided
45 however, if, at the time such covered electronic devices are or were
46 imported into the United States, another person has registered as the
47 manufacturer of the brand of the covered electronic devices

1 pursuant to subsection b. of section 9 of P.L.2007, c.347 (C.13:1E-
2 99.102), then paragraph (5) of this definition shall not apply; or (6)
3 a person who assumes the obligations and responsibilities for any
4 manufacturer pursuant to paragraphs (1) through (5) of this
5 definition.

6 "Market share" means a **television** manufacturer's national
7 sales of **televvisions** covered electronic devices expressed as a
8 percentage of the total **weight** sales of all **television**
9 manufacturers' national sales of covered electronic devices, based
10 on the best available public data.

11 "Market share in weight" means the total weight of covered
12 electronic devices for which an individual manufacturer is
13 responsible to collect, transport, and recycle, as provided pursuant
14 to subsection a. of section 12 of P.L.2007, c.347 (C.13:1E-99.105).

15 "Monitor" means a separate video display component of a
16 computer, whether sold separately or together with a computer
17 central processing unit and computer box, and includes a cathode
18 ray tube, liquid crystal display, gas plasma, digital light processing,
19 or other image projection technology, greater than four inches
20 measured diagonally, and its case, interior wires and circuitry, cable
21 to the central processing unit, and power cord.

22 "Obligation" means: **[(1)]** the **return** market share in weight,
23 identified for an individual manufacturer, as **[determined by the**
24 **department]** provided pursuant to subsection a. of section 12 of
25 P.L.2007, c.347 (C.13:1E-99.105) **];** or (2) the market share,
26 identified for an individual television manufacturer, as determined
27 by the department pursuant to subsection c. of section 3 of
28 P.L.2007, c.347 (C.13:1E-99.96)].

29 "Orphan device" means a covered electronic device for which no
30 manufacturer can be identified, or for which the original
31 manufacturer no longer exists.

32 "Person" means an individual, trust firm, joint stock company,
33 business concern, and corporation, including, but not limited to, a
34 government department, partnership, limited liability company, or
35 association.

36 "Portable computer" means a computer and video display greater
37 than four inches in size that can be carried as one unit by an
38 individual, including a laptop computer.

39 "Program year" means a full calendar year beginning on or after
40 January 1, 2011.

41 "Purchase" means the taking, by sale, of title in exchange for
42 consideration.

43 "Recycling" means any process by which materials which would
44 otherwise become solid waste are collected, separated or processed
45 and returned to the economic mainstream in the form of raw
46 materials or products. "Recycling" shall not include energy

1 recovery or energy generation by means of incinerating electronic
2 waste whether apart or in combination with other wastes.

3 "Registrant" means a manufacturer of covered electronic devices
4 that is in full compliance with the requirements of this act.

5 "Retail sales" means the sale of covered electronic devices
6 through sales outlets, via the Internet, mail order, or other means,
7 whether or not the retailer has a physical presence in this State.

8 "Retailer" means a person who owns or operates a business that
9 sells new covered electronic devices in this State by any means to a
10 consumer.

11 **["Return share" means the proportion of covered electronic**
12 **devices for which an individual manufacturer is responsible to**
13 **collect, transport, and recycle, as determined by the department**
14 **pursuant to subsection a. of section 12 of P.L.2007, c.347 (C.13:1E-**
15 **99.105).**

16 "Return share in weight" means the total weight of covered
17 electronic devices for which an individual manufacturer is
18 responsible to collect, transport, and recycle, as determined by the
19 department pursuant to subsection a. of section 12 of P.L.2007,
20 c.347 (C.13:1E-99.105).**】**

21 "Sale" or "sell" means any transfer for consideration of title,
22 including, but not limited to, transactions conducted through sales
23 outlets, catalogs, or the Internet, or any other, similar electronic
24 means, and excluding leases.

25 "Small business enterprise" means any business which has its
26 principal place of business in this State, is independently owned and
27 operated, and employs the equivalent of fewer than 50 full-time
28 employees.

29 "Television" means a stand-alone display system containing a
30 cathode ray tube or any other type of display primarily intended to
31 receive video programming via broadcast, having a viewable area
32 greater than four inches measured diagonally, able to adhere to
33 standard consumer video formats and having the capability of
34 selecting different broadcast channels and support sound capability.

35 "Video display" means an output surface having a viewable area
36 greater than four inches when measured diagonally that displays
37 moving graphical images or a visual representation of image
38 sequences or pictures, showing a number of quickly changing
39 images on a screen in fast succession to create the illusion of
40 motion, including, if applicable, a device that is an integral part of
41 the display and cannot be easily removed from the display by the
42 consumer that produces the moving image on the screen. A "video
43 display" typically uses a cathode ray tube, liquid crystal display, gas
44 plasma, digital light processing, or other image projection
45 technology.

46 (cf: P.L.2012, c.79, s.11)

1 3. Section 9 of P.L.2007, c.347 (C.13:1E-99.102) is amended
2 to read as follows:

3 9. a. (1) By January 30, ~~2012~~ 2016 , and by each January
4 30 thereafter, the department shall:

5 (a) ~~have completed an auditable, statistically valid sampling of~~
6 covered electronic devices collected from consumers in this State
7 during the previous program year. The sampling information
8 collected shall consist of a list of brands of covered electronic
9 devices and the weight of covered electronic devices that are
10 identified for each brand. The department's sampling shall be
11 conducted in accordance with a procedure established by the
12 department and may be conducted by a third-party organization
13 including an authorized recycler, to be determined by the
14 department. The department may, at its discretion, be present at the
15 sampling and may audit the methodology and the results of the
16 third-party organization. The costs associated with the sampling
17 shall be recovered from the fees paid by manufacturers to the
18 department] determine the market share for each manufacturer of
19 covered electronic devices; and

20 (b) determine the total weight of covered electronic devices,
21 including orphan devices, collected from consumers in this State
22 during the previous program year.

23 (2) ~~If a manufacturer or group of manufacturers conducts its~~
24 own sampling of covered electronic devices, the manufacturer or
25 group of manufacturers shall submit a report to the department
26 annually by March 1, beginning the year after the program is
27 initiated. The report shall include:

28 (a) the results of an auditable, statistically valid sampling of
29 covered electronic devices collected from consumers in this State
30 by the manufacturer or group of manufacturers during the previous
31 program year. The sampling information reported shall consist of a
32 list of brands of covered electronic devices and the weight of
33 covered electronic devices that are identified for each brand; and

34 (b) the total weight of covered electronic devices, including
35 orphan devices, collected from consumers in this State by the
36 manufacturer or group of manufacturers during the previous
37 program year and documentation verifying collection and recycling
38 of such devices.] ~~(Deleted by amendment, P.L. _____, c. _____)~~
39 (pending before the Legislature as this bill)

40 b. By February 1, 2010, and each January 1 thereafter, each
41 manufacturer of covered electronic devices offered for sale for
42 delivery in this State shall register with the department and pay a
43 registration fee of \$5,000. Any manufacturer to whom the
44 department provides notification of a ~~return share and return share~~
45 in weight] market share pursuant to subsection a. of section 12 of
46 P.L.2007, c.347 (C.13:1E-99.105) and who has not previously filed
47 a registration shall file a registration with the department within 30

1 days of receiving such notification from the department. Each
2 manufacturer's registration and renewal shall include a list of all of
3 the manufacturer's brands of covered electronic devices.

4 **【The provisions of this section shall not apply to any**
5 **manufacturer or retailer of televisions offered for sale for delivery**
6 **in this State.】**

7 c. If less than 100 covered electronic devices are sold by a
8 manufacturer in the previous program year, the department shall not
9 require a manufacturer to pay the registration fee or registration
10 renewal fee, as appropriate, in the subsequent year, pursuant to
11 subsection b. of this section.

12 (cf: P.L.2012, c.79, s.4)

13

14 4. Section 10 of P.L.2007, c.347 (C.13:1E-99.103) is amended
15 to read as follows:

16 10. a. **【By June 1, 2010, each】** Each manufacturer to whom the
17 department provides **【, by April 2, 2010, a return】** a market share
18 **【in weight】** that is greater than zero shall submit a plan to the
19 department to collect, transport, and recycle covered electronic
20 devices.

21 b. Each manufacturer to whom the department provides **【, by**
22 **February 15, 2012 or】** by February 15 of any year **【thereafter】**, a
23 **【return share in weight】** market share that is greater than zero shall,
24 by March 15 of that year, comply with the requirements of
25 subsection a. of this section.

26 c. An individual manufacturer submitting a plan pursuant to
27 subsection a. of this section shall collect, transport, and recycle its
28 **【return】** market share in weight.

29 d. A group of manufacturers jointly submitting a plan pursuant
30 to subsection a. of this section shall collect, transport, and recycle
31 the sum of the obligations of each participating manufacturer.

32 e. Every plan shall be filed with a manufacturer's annual
33 registration, and shall include:

34 (1) Methods that will be used to collect the covered electronic
35 devices including proposed collection services;

36 (2) The processes and methods that will be used to recycle
37 recovered covered electronic devices including a description of the
38 recycling processes that will be used, including the name and
39 location of all authorized recyclers to be directly utilized by the
40 plan;

41 (3) The processes and methods that will be used to recycle
42 recovered covered electronic devices which originated from
43 transactions between business concerns;

44 (4) The methods that will be used to provide convenient
45 collection of covered electronic devices, especially used televisions,
46 for residents in cities of the first class and cities of the second class
47 having a population of more than 70,000;

1 (5) Means that will be utilized to publicize the collection
2 services, including specification of a website or toll-free telephone
3 number that provides information about the manufacturer's program
4 in sufficient detail to allow consumers to learn how to return their
5 covered electronic devices for recycling; and

6 [(5)] (6) The intention of the registrant to fulfill its obligation
7 through operation of its own plan, either individually, by contract
8 with for-profit or not-for-profit corporations, or local government
9 units, or with other manufacturers.

10 The department shall hold confidential any information obtained
11 pursuant to this subsection when shown by a manufacturer that the
12 information, if made public, would divulge competitive business
13 information, methods or processes entitled to protection as trade
14 secrets of the manufacturer.

15 Recovered covered electronic devices shall not be sent to prisons
16 for recycling either directly or through intermediaries and nothing
17 in this section shall be construed to allow for the recycling of
18 covered electronic devices by prisoners. Any person committed to a
19 jail, prison, or other institution for the detention of persons charged
20 with or convicted of an offense shall be disqualified from engaging
21 in the manual or mechanical separation of covered electronic
22 devices to recover components and commodities contained therein
23 for the purpose of re-use or recycling.

24 By January 1, 2011, each manufacturer or group of
25 manufacturers required to submit a plan, pursuant to subsection a.
26 of this section, shall commence its covered electronic device
27 recycling program to implement and finance the collection,
28 transportation, and recycling of covered electronic devices [other
29 than televisions]. The covered electronic device recycling program
30 shall accept all types and all brands of used covered electronic
31 devices, including orphan devices.

32 f. Each manufacturer's plan or plan jointly submitted by a
33 group of manufacturers shall be reviewed to determine its
34 compliance with subsection e. of this section and approved by the
35 department. The department may reject the plan, in whole or in
36 part, and may impose additional requirements as a condition of
37 approval.

38 g. If a manufacturer fails to comply with all the conditions and
39 terms of an approved plan, the manufacturer shall be prohibited
40 from selling or offering for sale in this State a covered electronic
41 device.

42 h. Manufacturers that collect, transport, and recycle covered
43 electronic devices in excess of their obligation may sell credits to
44 another registrant or apply that excess to the following year's
45 recycling obligation; provided that no more than 25 percent of a
46 manufacturer's obligation for any program year may be met with
47 credits generated in a prior program year. No manufacturer or

1 group of manufacturers, as the case may be, may cease
2 implementing its plan required pursuant to subsection e. of this
3 section and approved by the department, during any program year
4 by using credits.

5 i. (Deleted by amendment, P.L.2008, c.130)

6 j. (Deleted by amendment, P.L.2008, c.130)

7 k. Nothing in this act is intended to exempt any person from
8 liability the person would otherwise have under applicable law.

9 l. **【The provisions of this section shall not apply to any**
10 **manufacturer or retailer of televisions offered for sale for delivery**
11 **in this State.】** (Deleted by amendment, P.L. , c.) (pending
12 before the Legislature as this bill)

13 m. A registered manufacturer shall inform the department, in
14 writing, as soon as it becomes aware that it will cease selling
15 covered electronic devices in the State.

16 (cf: P.L.2012, c.79, s.5)

17

18 5. Section 12 of P.L.2007, c.347 (C.13:1E-99.105) is amended
19 to read as follows:

20 12. a. (1) The department shall determine the **【return share】**
21 market share for each program year for each manufacturer **【by**
22 **dividing the weight of covered electronic devices identified for each**
23 **manufacturer by the total weight of covered electronic devices**
24 **identified for all manufacturers. For the first program year, the**
25 **return share of covered electronic devices identified for each**
26 **manufacturer shall be based on the best available public return**
27 **share data from the United States, including data from other states,**
28 **for covered electronic devices from consumers. For the second and**
29 **each subsequent program year, the return share of covered**
30 **electronic devices identified for each manufacturer shall be based**
31 **on the most recent samplings of covered electronic devices**
32 **conducted in this State pursuant to subsection a. of section 9 of**
33 **P.L.2007, c.347 (C.13:1E-99.102)】** based upon publicly available
34 data .

35 (2) The department shall determine the **【return share in weight】**
36 estimated market share in weight for each program year for each
37 manufacturer for whom a **【return share】** market share is determined
38 pursuant to paragraph (1) of this subsection by multiplying the
39 **【return share】** market share for each such manufacturer by the total
40 weight in pounds of covered electronic devices, including orphan
41 devices, collected from consumers the previous program year plus
42 an additional amount expected to be collected in the next program
43 year to be determined by the department based upon retail sales of
44 covered electronic devices in the preceding program year. **【For the**
45 **first program year, the total weight in pounds of covered electronic**
46 **devices shall be based on the best available public weight data from**
47 **the United States, including data from other states, for covered**

1 electronic devices from consumers. For the second and each
2 subsequent program year, the total weight in pounds of covered
3 electronic devices shall be based on the total weight of covered
4 electronic devices, including orphan devices, determined by the
5 department pursuant to subsection a. of section 9 of P.L.2007,
6 c.347 (C.13:1E-99.102).】

7 (3) 【By April 2, 2011, the】 The department shall provide each
8 manufacturer for whom a 【return】 market share is determined
9 pursuant to paragraph (1) of this subsection with its 【return】 market
10 share and 【its return】 an estimate of its market share in weight 【for
11 the first program year. Annually thereafter,】 by February 15 【,
12 beginning in 2013, the department shall provide each manufacturer
13 for whom a return share is determined pursuant to paragraph (1) of
14 this subsection with its return share and its return share_in weight
15 for the second and subsequent program years】 annually for the
16 program year. A manufacturer shall be responsible for its market
17 share in weight for the program year. Should the total weight in
18 pounds collected in any program year exceed the estimated
19 collection amount, each manufacturer shall be responsible for its
20 proportionate share so that the manufacturer's obligation shall be its
21 market share in weight based upon the actual weight of covered
22 electronic devices collected in the program year .

23 b. (Deleted by amendment, P.L.2008, c.130)

24 c. (1) The department shall ensure that 【at least one】
25 sufficient numbers and locations of electronics collection
26 【opportunity is】 opportunities are available in each county
27 throughout the State and in such a manner as to be convenient, to
28 the maximum extent practicable and feasible, to all consumers in
29 the county.

30 (2) The department shall ensure that collection sites do not place
31 unreasonable limits on the number of covered electronic devices
32 permitted for drop-off by consumers.

33 d. (1) Beginning on January 1, 2011, the department shall
34 maintain a list of registrants and the brands reported in each
35 manufacturer's registration, and post the list on the department's
36 Internet website that is updated at least once a month.

37 (2) The department shall organize and coordinate public
38 education and outreach.

39 e. 【The department shall prepare a plan every three years that:
40 (1) establishes per-capita collection and recycling goals; and (2)
41 identifies any necessary State actions to expand collection
42 opportunities to achieve the per-capita collection and recycling
43 goals. The plan shall be posted on the department's Internet website
44 and submitted, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
45 19.1), to the Legislature.】 (Deleted by amendment, P.L. . c.)
46 (pending before the Legislature as this bill)

1 f. The department shall prepare an annual report, which shall
2 be posted on the department's Internet website and submitted,
3 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
4 Legislature.

5 The annual report shall include the following:

6 (1) The total weight of covered electronic devices collected in
7 the State the previous calendar year;

8 (2) **Progress toward achieving the overall annual total recovery**
9 **and recycling goals described in the plan prepared pursuant to**
10 **subsection e. of this section ;**

11 (3) A complete listing of all collection sites for covered
12 electronic devices operating in the State in the prior calendar year,
13 the parties that operated them, and the amount of material by weight
14 collected at each site; and

15 **[(4) An evaluation of the effectiveness of the education and**
16 **outreach program; and**

17 (5) An evaluation of the existing collection and processing
18 **infrastructure]** (3) A complete listing of all authorized recyclers
19 recycling covered electronic devices pursuant to this section and the
20 amount of material by weight recycled annually.

21 g. (Deleted by amendment, P.L.2012, c.79).

22 h. **[The provisions of this section shall not apply to any**
23 **manufacturer or retailer of televisions offered for sale for delivery**
24 **in this State.]** (Deleted by amendment, P.L. , c.) (pending before
25 the Legislature as this bill)

26 (cf: P.L.2012, c.79, s.6)

27
28 6. Section 17 of P.L.2007, c.347 (C.13:1E-99.110) is amended
29 to read as follows:

30 17. a. (Deleted by amendment, P.L.2012, c.79)

31 b. (Deleted by amendment, P.L.2012, c.79)

32 c. (Deleted by amendment, P.L.2012, c.79)

33 d. The "Electronic Waste Management Act," P.L.2007, c.347
34 (C.13:1E-99.94 et seq.), and any rule or regulation adopted pursuant
35 thereto, shall be enforced by the department and may be enforced
36 by every certified local health agency, as the case may be.
37 Whenever the commissioner finds that a person has violated any
38 provision of P.L.2007, c.347, or any rule or regulation adopted
39 pursuant thereto, the commissioner may:

40 (1) issue an order, in accordance with subsection e. of this
41 section, requiring the person found to be in violation to comply;

42 (2) bring a civil action in accordance with subsection f. of this
43 section;

44 (3) levy a civil administrative penalty in accordance with
45 subsection g. of this section; or

46 (4) bring an action for a civil penalty in accordance with
47 subsection h. of this section.

1 e. Whenever, on the basis of available information, the
2 commissioner finds that a person has violated any provision of
3 P.L.2007, c.347, or any rule or regulation adopted thereto, the
4 commissioner may issue an administrative enforcement order: (1)
5 specifying the provision or provisions of P.L.2007, c.347, or the
6 rule or regulation, of which the person is in violation; (2) citing the
7 action which constituted the violation; (3) requiring compliance
8 with the provision or provisions violated; and (4) providing notice
9 to the person of the right to a hearing on the matters contained in
10 the administrative enforcement order. The ordered party shall have
11 35 days from receipt of the order within which to deliver to the
12 commissioner a written request for a hearing. An order shall be
13 effective upon receipt and any person to whom such order is
14 directed shall comply with the order immediately. A request for
15 hearing shall not automatically stay the effect of the order.

16 f. The commissioner is authorized to, and a certified local
17 health agency may, institute a civil action in Superior Court for
18 appropriate relief from any violation of the provisions of P.L.2007,
19 c.347, or any rule or regulation adopted thereof. Such relief may
20 include, singly or in combination:

21 (1) a temporary or permanent injunction;

22 (2) recovery of reasonable costs of any investigation or
23 inspection which led to the discovery of the violation, and for the
24 reasonable costs of preparing and bringing a civil action
25 commenced under this subsection;

26 (3) recovery of reasonable costs incurred by the State in
27 removing, correcting, or terminating the adverse effects resulting
28 from any violation of the provisions of P.L.2007, c.347, or any rule
29 or regulation adopted pursuant thereto, for which a civil action has
30 been commenced and brought under this subsection;

31 (4) recovery of compensatory damages caused by a violation of
32 the provisions of P.L.2007, c.347, or any rule or regulation adopted,
33 for which a civil action has been commenced and brought under this
34 subsection. Assessments under this subsection shall be paid to the
35 State Treasurer, or to the certified local health agency, as the case
36 may be, except that compensatory damages may be paid by specific
37 order of the court to any persons who have been aggrieved by the
38 violation. If a proceeding is instituted by a certified local health
39 agency, notice thereof shall be served upon the commissioner in the
40 same manner as if the commissioner were a named party to the
41 action or proceeding. The department may intervene as a matter of
42 right in any proceeding brought by a certified local health agency.

43 g. (1) Except as authorized otherwise in paragraph (2) of this
44 subsection, the commissioner is authorized to assess a civil
45 administrative penalty of not less than \$500 nor more than \$1,000
46 for each violation, provided that each day during which the

1 violation continues shall constitute an additional, separate and
2 distinct offense.

3 (2) For any violation of section ~~【3,】~~ 7, 8, 10 or 11 of P.L.2007,
4 c.347 ~~【C.13:1E-99.96,】~~ C.13:1E-99.100, C.13:1E-99.101,
5 C.13:1E-99.103, or C.13:1E-99.104) or subsection a. or b. of
6 section 6, subsection b. of section 9, or subsection a. of section 15
7 of P.L.2007, c.347 (C.13:1E-99.99, C.13:1E-99.102, C.13:1E-
8 99.108), the commissioner is authorized to assess a civil
9 administrative penalty not to exceed \$25,000 for each day during
10 which a violation continues. In assessing a civil administrative
11 penalty, the commissioner shall consider the severity of the
12 violation, the measures taken to prevent further violations, and
13 whether the penalty will maintain an appropriate deterrent.

14 Prior to assessment of a civil administrative penalty, the person
15 committing the violation shall be notified by certified mail or
16 personal service that the penalty is being assessed. The notice shall
17 identify the section of the statute, rule, regulation, or order violated;
18 recite the facts alleged to constitute a violation; state the basis for
19 the amount of the civil administrative penalties to be assessed; and
20 affirm the rights of the alleged violator to a hearing. The ordered
21 party shall have 35 days from receipt of the notice within which to
22 deliver to the commissioner a written request for a hearing. After
23 the hearing and upon finding that a violation has occurred, the
24 commissioner may issue a final order after assessing the amount of
25 the fine specified in the notice. If no hearing is requested, the
26 notice shall become a final order after the expiration of the 35-day
27 period. Payment of the assessment is due when a final order is
28 issued or the notice becomes a final order. The authority to levy an
29 administrative order is in addition to all other enforcement
30 provisions in P.L.2007, c.347, and the payment of any assessment
31 shall not be deemed to affect the availability of any other
32 enforcement provisions in connection with the violation for which
33 the assessment is levied. The department may compromise any
34 civil administrative penalty assessed under this section in an
35 amount and with conditions the department determines appropriate.

36 h. A person who violates any provision of P.L.2007, c.347, or
37 any rule or regulation adopted pursuant thereto, or an administrative
38 order issued pursuant to subsection e. of this section, or a court
39 order issued pursuant to subsection f. of this section, or who fails to
40 pay a civil administrative penalty in full pursuant to subsection g. of
41 this section, or who knowingly makes any false or misleading
42 statement on any application, record, report, or other document
43 required to be submitted to the department, shall be subject, upon
44 order of a court, to a civil penalty not to exceed \$25,000 per day of
45 the violation, and each day during which the violation continues
46 shall constitute an additional, separate, and distinct offense. Any
47 civil penalty imposed pursuant to this subsection may be collected

1 with costs in a summary proceeding pursuant to the "Penalty
2 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.),
3 or may be collected in a civil action commenced by a certified local
4 health agency, or the commissioner, as the case may be. In addition
5 to any penalties, costs or interest charges, the Superior Court, or the
6 municipal court as the case may be, may assess against the violator
7 the amount of economic benefit accruing to the violator from the
8 violation.

9 i. As used in this section, "certified local health agency" shall
10 have the same meaning as set forth in section 3 of P.L.1977, c.443
11 (C.26:3A2-23).

12 j. Violations of the act include, but are not limited to:

13 (1) the sale of a new covered electronic device by any person
14 that is not in full compliance with the provisions of this act;

15 (2) the use of a qualified collection program to recycle covered
16 electronic devices not discarded within the State, or region as
17 provided in section 19 of P.L.2007, c.347 (C.13:1E-99.112);

18 (3) the knowing failure to report or accurately report any data
19 required to be reported to the department pursuant to this act;

20 (4) the non-payment of any fee required pursuant to this act;

21 (5) failure to register **I**, pursuant to subsection a. of section 3 of
22 P.L.2007, c.347 (C.13:1E-99.96) or **I** pursuant to subsection b. of
23 section 9 of P.L.2007, c.347 (C.13:1E-99.102);

24 (6) failure to submit or implement a plan pursuant to section **I3**
25 or **I** 10 of P.L.2007, c.347 (**I**C.13:1E-99.96 or **I** C.13:1E-99.103);
26 and

27 (7) failure to comply with any provision of section 16 of
28 P.L.2007, c.347 (C.13:1E-99.109).

29 (cf: P.L.2012, c.79, s.9)

30
31 7. Section 18 of P.L.2007, c.347 (C.13:1E-99.111) is amended
32 to read as follows:

33 18. a. (1) The department shall adopt, pursuant to the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
35 seq.), rules and regulations as are necessary to effectuate the
36 purposes of P.L.2007, c.347 (C.13:1E-99.94 et al.) **I**and section 3 of
37 P.L.2008, c.130 (C.13:1E-99.96a) **I** and section 10 of P.L. ,
38 c. (C.) pending before the Legislature as this bill .

39 (2) The department shall adopt rules and regulations, in
40 accordance with the provisions of section 8 of P.L.2007, c.347
41 (C.13:1E-99.101), that prohibit a new covered electronic device
42 from being sold or offered for sale in this State if the covered
43 electronic device is prohibited from being sold or offered for sale in
44 the European Union on and after its date of manufacture, to the
45 extent that Directive 2002/95/EC, adopted by the European
46 Parliament and the Council of the European Union on January 27,
47 2003, and as amended thereafter by the Commission of European

1 Communities, prohibits that sale due to the presence of certain
2 heavy metals.

3 (a) The department shall exclude from the rules and regulations
4 the sale of a new covered electronic device that contains a substance
5 that is used to comply with the consumer, health, or safety
6 requirements that are required by the Underwriters Laboratories or
7 federal or State law.

8 (b) In adopting rules and regulations pursuant to this subsection,
9 the department may not require the manufacture or sale of a new
10 covered electronic device that is different than, or otherwise not
11 prohibited by, the European Union under Directive 2002/95/EC,
12 adopted by the European Parliament and the Council of the
13 European Union on January 27, 2003. The department shall use, in
14 addition to any other information deemed relevant by the
15 department, the published decisions of the Technical Adaptation
16 Committee and European Union member states that interpret the
17 requirements of Directive 2002/95/EC.

18 b. The department may, in accordance with a fee schedule
19 adopted as a rule or regulation pursuant to the provisions of the
20 "Administrative Procedure Act," establish and charge reasonable
21 fees for any of the services to be performed in connection with this
22 act, which shall cover the full costs incurred by the department for
23 the review of plans and for other costs incurred by the department
24 for implementation of this act.

25 (cf: P.L.2008, c.130, s.15)

26

27 8. Section 19 of P.L.2007, c.347 (C.13:1E-99.112) is amended
28 to read as follows:

29 19. The department is authorized to participate in the
30 establishment and implementation of a regional, multi-state
31 organization or compact that is consistent with the requirements of
32 P.L.2007, c.347 (C.13:1E-99.94 et al.) **and section 3 of P.L.2008,**
33 **c.130 (C.13:1E-99.96a)] and section 10 of P.L. , c. (C.)**
34 **(pending before the Legislature as this bill).**

35 (cf: P.L.2008, c.130, s.16)

36

37 9. Section 20 of P.L.2007, c.347 (C.13:1E-99.113) is amended
38 to read as follows:

39 20. The provisions of P.L.2007, c.347 (C.13:1E-99.94 et al.)
40 **and section 3 of P.L.2008, c.130 (C.13:1E-99.96a)] and section 10**
41 **of P.L. , c. (C.) (pending before the Legislature as this bill)** are
42 intended to govern all aspects of the collection and recycling of
43 covered electronic devices as those terms are defined in section 2 of
44 P.L.2007, c.347 (C.13:1E-99.95). Upon a determination by the
45 Department of Environmental Protection of an equivalent national
46 program to collect or recycle covered electronic devices, the
47 Commissioner of Environmental Protection shall notify, in writing,

1 the Governor, the President of the Senate and the Speaker of the
2 General Assembly, and the members of the Senate Environment
3 Committee and the Assembly Environment and Solid Waste
4 Committee, or their successors, of this determination.

5 The provisions of this act shall expire 60 days after the date of
6 the notification required pursuant to this section or within the
7 timeframe provided by federal law, as appropriate.

8 The department shall provide notice in the New Jersey Register
9 of any determination made pursuant to this section, and shall take
10 any administrative action necessary in order to implement the
11 national program.

12 (cf: P.L.2008, c.130, s.17)

13

14 10. (New section) a. By February 1, 2016, and annually
15 thereafter, the operator of every collection location identified in
16 each manufacturer's plan submitted pursuant to section 10 of
17 P.L.2007, c.347 (C.13:1E-99.103) shall identify the total weight of
18 covered electronic devices collected in the prior calendar year at
19 each collection location.

20 b. By February 1, 2016, and annually thereafter, every
21 authorized recycler identified in each manufacturer's plan submitted
22 pursuant to section 10 of P.L.2007, c.347 (C.13:1E-99.103) shall
23 identify the total weight of covered electronic devices delivered in
24 the prior calendar year for recycling at the authorized recycler.

25

26 11. Section 3 of P.L.2007, c.347 (C.13:1E-99.96) and section 3
27 of P.L.2008, c.130 (C.13:1E-99.96a) are repealed.

28

29 12. This act shall take effect immediately.

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SENATOR BOB SMITH (Chair): Welcome to the most interesting Committee in the entire Legislature -- either house.

Today we're having our third hearing on electronic waste. We have a program that's been in effect for a reasonable amount of time; it's starting to falter a little bit, and we're trying to find ways to fix it, reform it, make it better.

Because this is the third hearing-- And, by the way, everything you say is being recorded, so no dirty words today, all right? (laughter) It will be down for posterity. This is it. It's already been released from Committee; today we're going to listen to what everybody has to say. And if we think there's a need to amend it, we'll amend it on the floor. But this is the moment.

Now, if you want to read a statement, don't come up. You can give the statement to the Committee Aides, and we promise we'll read them. If you want to talk to us and explain what the issues are in your own words, rather than reading something, we would like to hear it. We would also appreciate it if you would not be over repetitive. You can say, "I identify with the remarks of Mr. So-and-So, but here's another issue you need to think about." So let's try and be focused, and--

All right. And what we're also going to do for our members -- I asked -- Mike or Kevil? -- Mike to summarize all of the written input that we've received so far. So we're passing around a memo that describes the summary of that information.

Okay, and with that in mind, let's hear from you.

Before we hear from you, to make it official, let's take the roll.

MR. MOLIMOCK (Committee Aide): Senator Thompson.

SENATOR THOMPSON: Here.

MR. MOLIMOCK: Senator Bateman.

SENATOR BATEMAN: Here.

MR. MOLIMOCK: Senator Smith.

SENATOR SMITH: Here.

And we understand that Senator Greenstein is on her way.

All right. First, let's have Mike Egerton and Matt Karmel from the New Jersey State Chamber of Commerce, for seeking amendments.

MICHAEL EGENTON: Thank you, Chairman Smith.

For the record, Mike Egerton, Senior Vice President, New Jersey State Chamber of Commerce. And obviously we appreciate the opportunity to provide our input on Senate Bill 2973, which seeks to revise the electronic waste recycling law.

Chairman, I'm joined here today by Matt Karmel, an attorney at the law firm of Riker Danzig, who will discuss the draft legislation. He won't read the testimony; he'll talk from the heart and mind.

SENATOR SMITH: Right. You were kind enough to give us a copy.

MR. EGENTON: Kind enough to give you a copy.

I just want to explain my invitation to Matt. Usually when we have legislative issues that are an impact or have an interest from the business community perspective, we have an environment energy task force within the Chamber. And from time to time we invite our guests down to provide input. So with that, I'll keep it short, and I'll hand it over to Matt.

MATTHEW A. KARME L, Esq.: Good afternoon.

I wanted to speak about market share, and the definition of market share contained in the proposed legislation.

My reading of the proposed legislation is that the market share is not defined as to what metric is being used for calculating market share. I know the current New Jersey Department of Environmental Protection regulations define market share in terms of number of units sold, but there are many different options for calculating market share: units or revenue or weight. And I think it begs a discussion as to which one of those is most closely tied to the cost of recycling, and most accurately reflects what the obligation of the recycler should be.

SENATOR SMITH: So what do you think is the best way to define it, and why?

MR. KARMEL: Well, I would say that weight is most likely the best way to define it, because that seems to cut a lot of the differences among different covered electronic devices out. You have-- the possibilities, as I said, are units, or value, but those-- I mean, if you're dealing with a large TV, or a smaller computer, or things like that, the units and the value don't necessarily capture something that is uniform across the base. But weight captures that a little more.

SENATOR SMITH: Okay.

MR. KARMEL: And so, that was my comment regarding market share.

I also wanted to note that the legislation ties the obligation to market share, as you all know. And one of the important things is the provision of the legislation that allows the DEP to increase the market share -- or estimate, I apologize, the market share based on the prior year, and

then based on an additional amount that is based on the previous year's retail sales. And there is a lot of room there for the DEP to determine what the proper method is. And we would, again, want to make sure that the method that is chosen for estimating that additional amount of recycling to be collected covers the amount to be recycled; but also is a good estimate -- uses good methodologies so that the manufacturers and the retailers who have certain obligations under this legislation would not have to rush at the end of the year to comply with an increase or a decrease in their recycling obligation. That is, we want to make sure that the estimate is as close to what's actually collected as possible because of the provision in the current law that allows the DEP to increase -- or automatically, actually, increases the obligation to what the actual amount collected is.

SENATOR SMITH: Okay. Any other comments?

MR. KARMEL: No, those are my only comments.

SENATOR SMITH: Thank you for participating today.

Frank Brill--

SENATOR THOMPSON: Before he leaves--

SENATOR SMITH: Oh, Sam -- Senator Thompson.

SENATOR THOMPSON: Of course, you're speaking about trying to calculate market share based on sales. Now, when we speak of *based on sales* -- and again we're probably talking about in-state sales. But I'm wondering about online sales -- that is, Internet purchases and so on -- which today can be substantial. So is there some way this is considered Internet sales into New Jersey versus in-state sales?

MR. KARMEL: So my reading of the legislation is that the market share does not limit or distinguish between in-state or out-of-state sales.

SENATOR THOMPSON: Well, the question is, will DEP have any way of knowing what out-of-state Internet sales are being made into New Jersey to put that into the formula? That's what I'm asking here.

MR. KARMEL: I'm not sure. I know that--

SENATOR THOMPSON: It might be a further complication.

MR. KARMEL: Yes, and I know that other states that have adopted a weight market share or other market shares have had trouble with the data that they've collected, and access to data. It's difficult to measure all these different things because it's not necessarily easily available.

SENATOR THOMPSON: Thank you.

SENATOR SMITH: Thank you.

Frank Brill, the Association of New Jersey Recyclers.

Mr. Brill.

FRANK BRILL: Thank you, Mr. Chairman.

The Association of New Jersey Recyclers represents not only county and municipal recyclers -- the folks who run the programs at that level -- but also the private industry as well.

We find ourselves in this situation, with this Bill, in a little bit of an awkward position. We know that the private recyclers would like something more ambitious than what you have in front of you in this Bill. And we don't disagree with that approach. In fact, in an ideal world, we would think that's what you should be doing.

However, we know this isn't an ideal world, and we also know from what the Chairman has said in previous meetings -- if I'm not misstating you, Mr. Chairman -- that your reading is: What the DEP would go along with is pretty much what you have in this Bill right here. We would rather have a bill that has a chance of getting through and signed by the Governor than something that's going to make a valorous effort, but fall short. We've seen plenty of those efforts so far.

SENATOR SMITH: That's a fair statement, Frank.

MR. BRILL: Thank you.

With that being said, we have submitted testimony to you with a number of different amendments that we think, while not fixing the problem, is going to be a good start on fixing the problem. And basically, there's just two points there: one is on changing the dates for the submission of the manufacturer's plan, so that the county-- It would just work better. Right now, there's a mismatch in the time that this plan is submitted to DEP and when the county knows that they can go out for bids on their contracts. This will tighten that up a bit.

The other thing is it clarifies that the manufacturer's plans will have to incorporate collection centers all over the state. One of the problems that has been represented to us, so far, is that sometimes the manufacturers will rely on a large population growth area, and when they get enough material from that county they think their obligation is satisfied. And they may not have done anything in one of the more rural areas. So this will make sure that everybody -- all residents of the state have an equal opportunity to have their electronic waste collected and recycled.

SENATOR SMITH: Describe that -- would you please describe that a little further? I'm not quite sure I understand.

MR. BRILL: Yes. We're asking now that the manufacturer's plans list all the places, all the recycling centers. So when DEP reviews that plan it will see whether it's sufficient, whether every part of the state is being captured -- so it's fair for everybody across the board. Right now the problem is that sometimes they meet their obligation, from the manufacturer's point of view, and then they stop. They might meet it in one area of the state where there is a heavy population, and the rural areas get shortchanged.

SENATOR SMITH: Got it.

MR. BRILL: So there are two main parts. And, like I said, you have that there; we submitted the testimony to you.

SENATOR SMITH: Thank you.

MR. BRILL: Thank you.

SENATOR SMITH: Any questions for Mr. Brill? (no response)

If not--

MR. BRILL: Thank you.

SENATOR SMITH: --our next witness is Walter Alcorn from the Consumer Electronics Association.

Mr. Alcorn.

WALTER L. ALCORN: Thank you very much, Mr. Chairman.

I have notes, but I'm not going to read from them. I just want to make sure I don't forget the main points.

SENATOR SMITH: Good.

MR. ALCORN: My name is Walter Alcorn; I'm with the Consumer Electronics Association. I appreciate the opportunity to be here and address this.

Also, in addition to CEA, we represent consumer electronic manufacturers, retailers. We have several folks here from CEA companies; we have Samsung, we have Dell -- I think one or two of those may have signed up as well. We also have Panasonic, Barnes and Noble, and JVC. So these are all New Jersey employers, and we appreciate the opportunity to talk today about this law and potential changes to it.

We have -- we took your challenge from the last hearing and we went back and had extensive internal discussions about what could be a viable and -- basically a path forward that the industry could support. And what we submitted to you is a little bit different. This is basically a path forward that focuses on the material of greatest concern in the recycling stream -- which, at this point, is cathode ray tubes. And what we're suggesting is that instead of having a program that focuses on mandating recycling of products that actually are not significant problems -- if any problem at all in recycling, in terms of the economics of that recycling -- that the law really should focus on the products that need help. And clearly, in this case, it's cathode ray tubes. That's what dominates the weight of covered electronic devices coming in.

SENATOR SMITH: So what's your suggestion for the CRTs?

MR. ALCORN: Our suggestion is that the law be modified to set a target that is an estimate of how many CRTs are coming into the stream each year. So basically you'd look at last year's weights coming in; and then you would set the target accordingly, based on the CRT portion.

SENATOR SMITH: Yes, but what about the gazillions of CRTs that are out there -- the legacy CRTs?

MR. ALCORN: Well, those would be captured in the target; that's the idea.

SENATOR SMITH: Okay.

MR. ALCORN: So it would be actual -- how much is coming in would be the basis for the target-- CRTs -- how much CRT weight is coming in. And so then the Department would do the analysis, collect the data, and then set the target accordingly.

So we think-- This is a new step for us; this is new approach. And, you know, we get it that we're all kind of feeling our way through this.

SENATOR SMITH: Yes.

MR. ALCORN: But we think that this would be an opportunity to focus the mandate on items that need help the most and, frankly, could sort of set a new direction I think for (indiscernible) producer responsibility measures in general.

SENATOR SMITH: Have you talked to the DEP about this idea?

MR. ALCORN: Informally, yes we have.

SENATOR SMITH: What was their reaction, informally?

MR. ALCORN: Their reaction is, "Oh, we've talked about that internally as well." So they are aware of it; they didn't say, "Great idea," "Bad idea." They said, "Yes, this is another way to do it."

SENATOR SMITH: Okay. Walter, one other question.

MR. ALCORN: Yes.

SENATOR SMITH: Is it the position of the Consumer Electronics Association that, but for the CRTs, there really isn't a problem with the electronic waste recycling?

MR. ALCORN: At this point, yes.

SENATOR SMITH: Okay. We appreciate you-- Anything else you wanted to add?

MR. ALCORN: Yes. I would just encourage everybody to look at the rest of our suggested amendments. I put comments in there. There are a few more, but the biggest thing we wanted to do, frankly, was to bring this idea forward. And, frankly, we would hope that we would have an opportunity to have some more discussion, perhaps outside of this forum, with other stakeholders in order to see what might be -- where there might be some areas of agreement.

SENATOR SMITH: There is a legislative session on Thursday; electronic waste will not be on it. There's a chance that we might have a session in August -- God forbid, but there's a chance.

SENATOR BATEMAN: There's one scheduled.

SENATOR SMITH: There is one scheduled. I don't think electronic waste will be on it.

In September, it could be there. And we are going to take your comments under serious -- everybody's comments under serious consideration and come up with amendments. So if the Consumer Electronics Association wants to work with the recyclers and get a little peace and harmony in the valley, where you can jointly agree on some amendments to the legislation, that would make every member of this Committee happy. We do not take pleasure in having war in our business

communities; we want to have peace, and we want to have a better electronic recycling program.

So the ball's in your court to do that -- to see if you can make some peace in the valley and come up with some joint recommendations.

MR. ALCORN: Okay; I appreciate that. And we certainly-- Well, I think it was the Retail Merchants Association that had the idea of some stakeholder process for the summer. So we'll also work with them as well.

SENATOR SMITH: Right. And you don't need us for that.

MR. ALCORN: Okay.

SENATOR SMITH: You can do that and talk amongst yourselves, okay?

MR. ALCORN: Okay. All right, thank you.

SENATOR SMITH: Thank you very much.

David Thompson, Panasonic, opposed, no need to testify; Fran Valluzzo, Dell, opposed. And you haven't hit the button saying "no need to testify." Did you want to testify?

F R A N V A L L U Z Z O: (off mike) I have some brief comments. I am submitting a statement, Mr. Chair.

SENATOR SMITH: Okay.

MR. VALLUZZO: Thank you, Mr. Chairman.

I'm Fran Valluzzo representing Dell. And we are delighted to be able to make some comments on Senate substitute for Senate Bill 2973.

I'm just going to briefly comment that we're supporting the CEA amendments that have been submitted, especially the one that Mr. Alcorn just described. And we agree that that is a good approach. And we

are also -- we have sold televisions in the past; we sell computer monitors -- still do. And we are still committed to collecting anything with a cathode ray tube in it as part of our responsibility. So there's no change in that with regard to Dell.

I also wanted to comment on just one other thing that we are going to propose -- that we would like to propose. And I apologize if this was not submitted; I could not get approval in time to submit it last month.

It's a fairly simple amendment, and I attached it to the testimony that I provided. The amendment requires -- allows manufacturers to use one of two different options to determine their sales data for use in creating their market-share number. The law currently states that you use national sales data extrapolated by the population of New Jersey, divided by the U.S. population. What we're suggesting is that you can use that method or, if you can produce sales data directly -- in-state sales data-- And I would say that it would include Internet sales as well. So it would be any sales of Dell equipment -- Dell products into the State of New Jersey by whatever method. That sales data-- We have a process by which we can determine those on a state-by-state basis much more accurately than just using the population formula.

So we would offer that as a clarifying amendment. I don't think it's controversial, but a number of states already do this. There are about six states -- actually, about 10 states that either allow the option, or require the use of sales data from state-specific sales data.

SENATOR SMITH: That would include Internet sales as well?

MR. VALLUZZO: Absolutely, yes. It would include all sales, whether it's in stores, directly from Dell by phone or Internet, or Internet sales through Amazon, or anything else.

So that was the main thing I wanted to-- And I also would like just to comment that we think this Bill is an improvement over the original Senate Bill 2973 in a number of areas. And I want to sort of qualify it as opposed, but there's not a middle ground there, Mr. Chairman. So I would say we're opposed but we think it's a workable solution. It's a good starting point, and we agree with the changes that have been made up to now. And we support the recommendations of CEA and others to continue to improve it.

And we look forward to continuing to work with you on the process to make it a better bill.

SENATOR SMITH: Okay. The clock, however, does run out in September.

MR. VALLUZZO: Understood.

SENATOR SMITH: Okay.

Thank you, Fran Valluzzo.

Chris Massaro, Monmouth Wire and Computer Recycling, opposed.

CHRISTOPHER MASSARO: Good morning, Chairman and the Environmental Committee. Thank you.

My name is Chris from Monmouth Wire and Computer Recycling. We're a Class D facility in Tinton Falls, New Jersey. We primarily recycle from towns and municipalities within Monmouth County, some in Ocean County, and some in Mercer County.

We recognized there being a problem with the law back in 2011, where we had a tremendous backflow of CRT television units at our warehouse -- so much so that we didn't have a home for them, no one wanted to take them; our warehouse was a mess; and the DEP inspects us once a month as a Class D facility, so we were in violation at that point.

It all comes down to one of the companies we used to recycle CRTs -- was named Eco International in upstate New York. They shut us off at that point and we didn't have a home. And they owed us \$13,000, which we haven't collected or never will.

We started using a different company the next year, in 2012. The name of that company is 5R Processors out of Wisconsin. They serviced us for about two years; we were able to move material. And it just so happens that they disappeared; they owe me \$50,000, and I can't get a hold of anyone in that company.

Another company we used to recycle the televisions was MPC in Philadelphia. MPC was based out of Philadelphia; we delivered loads to them two or three times a week. They were recently caught with 138 trailers full of CRT glass spread throughout Minnesota.

The spirit of the law is great. We want to keep the electronics out of landfills, and I think we're doing so. But we need a sustainable program. The Bill, in its current situation here, the way it's written, doesn't create a sustainable program for us.

SENATOR SMITH: Why not?

MR. MASSARO: I'm getting there, Senator.

SENATOR SMITH: Okay, go ahead.

MR. MASSARO: We have seen our subsidies that we receive from our middlemen and conglomerates go from 15 cents to 2 cents a pound, where it costs us -- the boots on the ground; we're doing the physical labor and the work -- about 7 cents a pound to get it in the door and ship it to a recycler.

We've gone from paying the townships to charging the townships. And I know that the Monmouth County bid is up next year, and half of the towns are at no-cost, no-charge right now; but all of the towns we serve are going to be charged next year.

The Bill isn't in a good spot right now because we need a few more things, a few more amendments to it. We need the DEP to regulate the program. They need a bigger role within the law, and regulating the program, performing the checks and balances needed in order to ensure that the material that we say we are recycling or we say we are collecting is actually collected and being recycled.

Secondly, we need a level playing field amongst all recyclers, in and out of state. We're required to pay \$7,000 a year in annual fees as a Class D facility, pay for inspections once a month -- I think that's \$300 or \$400 per trip -- and we would like to see that across the board for in-state and out-of-state recyclers.

And we're asking for a fair level of pricing here. We're not asking for price-fixing, but we can have comparisons throughout the other states and what the rates are. And we can compare the New Jersey waste stream with the out-of-state waste stream and come up with a solution -- a fair and level playing field across the board.

Now, we're New Jersey employers too. Granted, we might not employ as many as a Panasonic or a big television manufacturer would, but we're employers too. Bottom line is, we've had to lay off people because we're in a bad financial standpoint now, basically, in regards to this program. We don't want to see estimates, you know, control the program. We need real data to make this happen. Estimates aren't good; it's just going to create more problems, going forward.

Electronic waste stream is one of the biggest in the country. It's expanding at 17 percent annually, and globally it's 93 million tons per year. And I have news for you: Once the CRTs die off and they don't come in anymore, we're stuck with LCD TVs. And before 2009, all LCD TVs had a backlit display in them, which are CCFLs -- mercury fluorescent tubes. So if we don't get it right this time, we're not--

We need a sustainable program; we have to get this law right this time, going forward.

That's all I have to say.

SENATOR SMITH: Thank you, Chris.

MR. MASSARO: Thank you.

SENATOR SMITH: Allen Weston, New Jersey Association of Counties, in favor.

A L L E N A. W E S T O N: Thank you, Mr. Chairman and members of the Committee.

My name is Allen Weston, Legislative Director with the New Jersey Association of Counties. We have submitted written testimony, so in the interest of time I'll defer mostly to that, but there are a couple of points that I just wanted to build on very briefly.

We'd like to thank the Committee and the sponsors, of course, for their attention to this very important matter. We remain supportive of the proposal as written because we believe it addresses the number one issue from the county level, in that it attempts to remove the weight cap under which manufacturers are responsible for the costs associated with the programs.

It is a priority for counties to continue to provide our residents with a convenient collection program, where an unlimited number of devices are collected and passed on to our vendors at no cost to the taxpayer. However, we do recognize that in order to carry out this mission there needs to be a pool of vendors who are willing to participate in such programs. And, unfortunately, the recent events in Somerset County indicate that that pool of vendors is shrinking.

As the Committee is likely aware, Somerset County is currently operating under a gentleman's agreement with their vendor, as their vendor who was awarded the contract subsequently refused to sign said contract due to the uncertainty surrounding the State's e-waste situation.

So based upon that recent chain of events in Somerset County, we hope that that brings a renewed sense of urgency to the Legislature as a whole, and in moving this issue. And we certainly think that the Bill, as written, is a good step in the right direction.

SENATOR SMITH: Thank you, Mr. Weston.

Jim Entwistle, Newtech Recycling, in favor.

J A M E S M. E N T W I S T L E: Mr. Chairman and Committee, thank you again for your level of interest with this program.

I submitted multiple testimony, multiple suggestions to make this law work, long term. Our goal is to do our job as employers in the state. We want to employ people, we don't want to lay people off. We want to get paid a fair and reasonable rate, and it really comes down to the simplicity of that.

Our approach, throughout this process, is to make it all work. We want the State to control the law -- that's our goal. We want the DEP to control the way the law is set up, and oversee it, and manage it that way. Our biggest concern -- or, my biggest concern, moving forward, is that there's no mechanism in place to bill the vendors. We're much in favor of the market share; we love the unlimited portion of the law. That's why we're in favor of it. But there's no mechanism, so there's nothing that is guiding us on how we can bill the manufacturers. You know, we currently have some contracts with some manufacturer groups and manufacturers directly. But when it changes over to an unlimited, and we collect beyond what we are contracted for, what is in place for me to get paid at that point?

And, right now, the way the Bill stands--

SENATOR SMITH: Jim, stop for one second.

MR. ENTWISTLE: Yes, sir.

SENATOR SMITH: I'd like to hear the answer to that question.

The Consumer Electronics Association -- Walter. What's the solution to that problem?

MR. ALCORN: Thank you for calling me back, Mr. Chairman.

We, frankly, think the solution to that problem is to remove that provision entirely. Because, frankly, what that does is it creates a

private entitlement in the law -- or at least implies that anybody who decides they want to go collect this stuff is entitled to be paid by another company. And we don't like that idea. We actually would like to see market forces be used so that, frankly, manufacturers and manufacturing programs can work with whoever they want on mutual, agreeable terms and conditions. So that's our proposed approach.

SENATOR SMITH: Yes, but what about the situation-- Suppose all your recyclers are all collecting more than anybody ever anticipated. How do they get paid?

MR. ALCORN: Well, our suggestion, again, is what I suggested earlier -- which is the DEP basically calculates how many CRTs by weight were collected during the previous year, and that be the target for the subsequent year. And so, theoretically, that should mean that the target matches.

SENATOR SMITH: But suppose it doesn't work? That's theoretical; suppose it doesn't work, and more CRTs are collected. How do these guys and gals get paid?

MR. ALCORN: Well, frankly, I think we have enough years of data that we can actually know the weight of CRTs that are coming in. I think that data are available now. And, frankly, we're nervous about any sort of, frankly, blank check that would make it difficult for our companies to plan and budget.

SENATOR SMITH: What if the DEP -- I'm just making this up as I go along -- what if the DEP, quarterly, received reports of the recycling in the state, and it's clear that, on a quarterly basis, more is being collected than anybody anticipated? Would your industry have a problem

with a post-assessment? In other words, it's clear that the numbers are going up, and we should collect more to cover the costs. How would the industry feel about that?

MR. ALCORN: Well, you know, we'd have to talk about that. But there might be a somewhat technical way to deal with that, where maybe the obligation is added on to the next year. So, you know, if--

SENATOR SMITH: It's hard to tell people to operate at a loss. Hard to do business that way.

MR. ALCORN: Well, that's true of our companies too. I mean, the TV industry is-- I mean, I've been hearing about layoffs; we've had layoffs in our industry, in New Jersey, as well. So, I mean, I understand the struggles. We--

SENATOR SMITH: See, the problem is, is the suggestion you have is that the true-up--

MR. ALCORN: Right.

SENATOR SMITH: --occurs a year later. What if the true-up occurred 90 days later?

Why don't you take that back to your Association and see if that's something that could fly.

MR. ALCORN: We'd have to talk about that.

SENATOR SMITH: Would you?

MR. ALCORN: Yes, we will.

SENATOR SMITH: All right.

Sorry to-- And, by the way, stick around, because you might get called back up again. (laughter)

MR. ALCORN: All right; I'll be right there.

SENATOR SMITH: All right.

Jim.

MR. ENTWISTLE: Yes, those are -- those were some interesting comments.

The bottom line is that when you put a provision in the law, like you have in your proposed amendment of unlimited, I know that the manufacturers are incredibly uncomfortable with that.

We want to collect the material; we want to do what we do. The challenge is that the only way we're going to do it is if we're going to get paid to do it. And we need that mechanism in place to make it all work. And that's what we need in place.

There's hedging going on about it and, you know, we need answers. You know, I'm--

SENATOR SMITH: Yes. Who do you get paid from now?

MR. ENTWISTLE: I get paid from a manufacturer group; and some of those manufacturers are represented in this room. Panasonic is one of the manufacturers; there are some other manufacturers.

SENATOR SMITH: So what do you do -- do you submit a bill to them?

MR. ENTWISTLE: Yes, we do.

SENATOR SMITH: Okay.

MR. ENTWISTLE: Yes. Actually, the way it worked previously, Senator, is that one of the groups that I represent has given me counties that I can cover, with very specific weights -- meaning that I cannot exceed those weights, or go and collect in any other counties and expect to get paid from that manufacturer group. It is very cut-and-dry in

my contract. That is not what I want to do; that's why I have had to reject business from Middlesex County -- your county -- because they were interested in doing business with us.

I am the vendor in Somerset County that did not sign the -- my most recent contract, because I can't. Because I don't know what next year is going to look like. I don't know if I'm going to get the support. By me testifying, there's a very good possibility I won't get support from those manufacturers, realistically. So I'm concerned; I'm concerned about what the future looks like for Newtech; I'm concerned about what the future looks like for the industry. We're one of the largest collectors; I collect from five counties: Somerset, Union, Mercer, Hunterdon, and Warren counties. We have a great reputation, but in order for us to keep going, we need to get paid a fair and reasonable rate. And we need a mechanism in place to do that. And it exists.

SENATOR SMITH: And what did you think about the idea of a true-up every 90 days?

MR. ENTWISTLE: Well, I don't know if that's necessary, right? If you have an unlimited portion in the law that you already have written in, what difference does an *up* make? I'm a big believer that you don't need the plans, you don't need budgets, you don't need 80 forecasts. This is an unlimited-based law, is what you've presented to us.

SENATOR SMITH: Okay.

MR. ENTWISTLE: My issue is that, if I do over-collect, Senator, how am I going to get paid and what am I going to get paid? Because I want to do my job, and so do the other recyclers. We want to collect, and that's our biggest issue.

And I thank you so much for the opportunity. And then the out-of-state recyclers -- if we can level the playing field with them too that would be great. You know, we feel that they should pay the same fees that I pay with the DEP; it just makes sense. It's just a-- And I know the DEP is in favor of that, because I've spoken to them off-the-record as well.

Thank you so much for the time, again.

SENATOR SMITH: Thank you for your comments.

Any questions for Mr. Entwistle? (no response)

MR. ENTWISTLE: Thank you.

SENATOR SMITH: Okay.

Matt -- is it Mincieli? (indicating pronunciation) -- and Kevin Callahan, Technet and CompTIA. Opposed; however, "we'd like it amended."

K E V I N C A L L A H A N: Hi, good afternoon, Chairman Smith, members of the Committee.

My name is Kevin Callahan; and I'm the Director of Government Affairs for the Computing Technology Industry Association, known as CompTIA, as Chairman Smith mentioned. I'm here today to provide some of our perspective on Senate Bill 2973 in its current form.

Just to give you a little background on who CompTIA is: We represent about 2,000 information technology companies of all sizes, from small to large, serving the commercial and public sectors. You have my written testimony and statements with some suggested language, so I'll just touch on a few of the key points that we wanted to raise today.

Primarily, we are concerned with the unfair financial responsibility that would be placed on the IT industry. You know, we had

some discussions about CRT televisions and the collections made by the TV industry, but we're concerned with the combination of covered electronic devices -- which would include a lot of the IT products like computers and laptops -- that, including TVs in that calculation for manufacturers' targets--

SENATOR SMITH: Yes, I don't understand. CompTIA is not a manufacturer, is it?

MR. CALLAHAN: No. I'm sorry, we're a trade association--

SENATOR SMITH: You're a trade association.

MR. CALLAHAN: --representing 2,000 information technology companies. We include--

SENATOR SMITH: But manufacturers or non-manufacturers?

MR. CALLAHAN: We include consumer electronics manufacturers -- yes, sir; IT hardware manufacturers--

SENATOR SMITH: Well, if you took those out of the mix are the rest of your constituents concerned?

MR. CALLAHAN: Yes. We also have IT consulting and sourcing companies as well, government contractors--

SENATOR SMITH: Why would they be concerned?

MR. CALLAHAN: Why would they be concerned?

SENATOR SMITH: Not the manufacturers; forget the manufacturers for a second.

MR. CALLAHAN: Sure.

SENATOR SMITH: But the non-manufacturing members -- why would they be concerned?

MR. CALLAHAN: I think I'm more speaking here on behalf of some of our manufacturing members.

SENATOR SMITH: Okay, thank you.

MR. CALLAHAN: Sorry about the confusion there.

SENATOR SMITH: That's all right.

MR. CALLAHAN: So that would be our first point -- was to clarify in the Bill that TV targets and IT targets must be made separate. And so we had some suggested language that touched on that point in our comments.

The second area that we are concerned with in the Bill is the proposed expansion of CEDs to include printers and fax machines. Again, we feel this is targeting an area that is IT products when -- as some of the discussion here has yielded today, and according to data that we've seen across the country -- is that focus is really on CRT glass collection from TVs. Certainly, CRT monitors for computers are being collected, and we have a responsibility to recover that. But expanding the product scope to include other IT products -- we feel that would provide an additional burden to our members.

We have some suggested language--

SENATOR SMITH: The manufacturing members.

MR. CALLAHAN: Our manufacturing members, yes sir. I apologize.

And then finally, we have a suggestion to touch on the return share versus market share. We believe, for the IT product manufacturers and their target collections, that the return share approach is more fair in this particular case in New Jersey.

SENATOR SMITH: Thank you for your comments.

Matt.

MATTHEW MINCIELI: Chairman Smith, through you, and the members, thank you for the opportunity to testify.

My name is Matt Mincieli; I'm the Northeast Region Executive Director for TechNet. TechNet is a member association made up of over 70 of the nation's leading tech companies, including many IT manufacturing companies. There is some overlap between Kevin and my membership, but we do have many different members as well.

SENATOR SMITH: All right, for the non-manufacturing members -- let's try to do that bright line again -- are you representing the concerns of the manufacturing members versus the non-manufacturing members?

MR. MINCIELI: I'm here representing the manufacturing members.

SENATOR SMITH: Got it; go ahead.

MR. MINCIELI: Of specific concern to those members -- it's unclear whether Senate Bill 2973 proposes to continue to set targets for the TV and the IT industries separately, as the practice is under the current law. We think it is critical to clarify in the Bill that TV targets and targets for collecting other covered electronic devices must be calculated separately in order to avoid shifting the burden from the TVs to the IT industry.

This is especially critical because the Bill, currently, proposes to add only IT devices as CEDs. Thus, calculating targets as one group would therefore assign the IT industry a disproportionately large market share of the materials, that's now dominated by TVs needing processing.

So along with CompTIA, we did offer -- submit language that would clarify -- depending on the intent of the Bill, would clarify the language and keep those separate.

SENATOR SMITH: Thank you for your comments.

MR. MINCIELI: Thank you.

SENATOR SMITH: John Martorano Jr., Magnum Computer Recycling, in opposition.

JOHN MARTORANO Jr.: Good afternoon, everyone.

I have a lot of testimony I was prepared to read. There is an article in a national trade paper that we all received this past weekend that clearly shows, not only in New Jersey but nationally, that the manufacturers are playing recyclers against each other and pushing the cost of recycling to pennies, versus the 28 cents to 32 cents that we first started to get paid back in 2011 when this law took place.

My situation is a little bit different. I'm here with three colleagues; we are all Class D recyclers, and started this mission, on this legislation, back in April 2013. Since then, you've helped -- and we appreciate that -- but it doesn't go far enough. It's a good start, but without the plans being eliminated, and a vehicle where I can deal straight with a manufacturer, I will continue to lay off, I'll continue to charge my generators -- and this will never change.

Back in 2013 I was at a stakeholder's meeting in Pennsylvania. And a representative, who represents several manufacturers -- the company is in this room today, but that person is not -- told me, after she read an article in the *Cape May Herald*, that if I continued to be vocal into what's

going on, I will find it very difficult to do business in this state and that they would not support my programs.

We've come to an agreement, and I was asked -- I was told, "Stop talking to the newspapers." I gave her my remarks, and she offered me a contract. I believe the contract was for 3 cents for me to collect, ship, stack, wrap, and ship the product to another recycler out of state -- who, my colleague Chris Massaro has already told you, has gone out of business.

Since then, three of the manufacturer's national, non-legacy recyclers who I'm forced to do business with have gone out of business and have been busted for stockpiling glass. That same manufacturer rep -- who is in this room today -- sent me a contract this year for a million pounds.

When we started the ball rolling with this testimony, I got a phone call from -- I'm sorry, I got an e-mail from someone else in that organization saying they were cutting me off. Because they were notified by our DEP that I was no longer servicing the counties that I solicited on that manufacturer's form that I was going to continue to recycle for. One of those counties is in this building right now.

I solicited the DEP for proof of where this e-mail was generated from, and I solicited my three counties to rebut what this manufacturer's rep was using to cancel my contract. The manufacturer's rep still hasn't answered me, and the DEP had no proof; no one knew what they were talking about.

Since then, they gave me another contract -- for a half-a-million pounds. They cut a half-a-million pounds out of my network and told me I can't service Camden County -- which is the county my facility is located in.

You know the best part? I still don't have either one of those contracts with their signatures on it. What contract am I operating on? The plans are screwed up; it makes no sense. It makes no sense.

I do have one contract with a national, non-legacy recycler for several million pounds at 2 cents a pound for me to go out and collect. They will not support me, who is supported by the DEP, for the entire recycling of the product. They're only paying me to do the hauling -- do all the horse work -- and then send that product somewhere else, out of the state, to be recycled.

That particular recycler who gives me 2 cents-- I understand that at one of our meetings, through ANJR or ANJHHWC, that they have 45 percent of the weight coming out of this state. That would be 26 million pounds leaving the state, supporting jobs in other states. I believe that, at the low end, if it's 18 cents -- if they're getting the 18 cents, because I'm only getting 2 -- it is about \$4.6 million.

So don't tell me jobs are being canceled by manufacturers. Jobs are being forced out of the state, money is being forced out of the state because of the way the plans are run now.

Without the DEP here in this building supporting -- they don't have to price regulate. But they know what it costs to get rid of glass; they know what it costs for me to send my truck out, send the truck back, demanufacture the TV, and to dispose of the glass properly. DEP has that number. The DEP has our numbers; every month we need to report. You want a report quarterly? Force the manufacturers to do it monthly, and watch their heads explode. We do it monthly, the counties do it monthly.

Our numbers are flawless, and it's been that way since I've been a Class D for eight years.

I can't continue to operate the way I am. Come the end of this year I, like Jim, will be letting my counties know I'm out. Because they're the ones footing the bill; they're the ones paying us -- not the manufacturers. It makes no sense.

I implore you: Without help, without the DEP sitting down and working out true costs, and with these manufacturers still in control of these plans, if today's my last hurrah, I won't be in business at the end of the year.

Thank you.

SENATOR SMITH: Thank you for your comments.

Diana Vigilante, ANJHHWC. So you're going to have to tell us, first, what that means, Diana.

DIANA E. VIGILANTE: I just wanted-- I'm here representing the Association of New Jersey Hazardous Waste Coordinators (*sic*).

SENATOR SMITH: Okay.

MS. VIGILANTE: And we submitted a letter with a markup of our revisions to the Bill. I just wanted to make sure you're in receipt of that, and you take those into consideration.

SENATOR SMITH: We are.

MS. VIGILANTE: Okay.

May I go on and give you a personal perspective?

SENATOR SMITH: Yes.

MS. VIGILANTE: Coming from Somerset County?

SENATOR SMITH: Sure.

MS. VIGILANTE: In March, we went out to bid for a vendor for our new e-waste program. We got a contractor. Come the last week of June, the contractor decided he wasn't going to sign the contract, which starts July 1. He has only weight obligation for Somerset County through December 2015. My contract is a year contract. He cannot commit to additional dates that he doesn't have; I understand that.

In Somerset County, we have one County collection site. Our 21 municipalities do not run e-waste programs; everyone comes to the County program.

We are currently out to bid for a new contract and a new vendor. If I do not get bids come July 30, the County has no option but to issue a press release to the residents of Somerset County that we will be closing down our programs come September 1.

That's the personal perspective from Somerset County. Thank you for listening.

SENATOR SMITH: We appreciate your coming down, Diana.

MS. VIGILANTE: Thank you.

SENATOR SMITH: John Purves, Class D recycling facilities, suggested changes.

Mr. Purves.

JOHN R. PURVES, Esq. : Thank you, Chairman.

Senators of the Committee, I represent a number of Class D recycling facilities; I have for many, many years, both as a legal representative, but also as an environmental consultant in terms of the development and expansion of these facilities.

I have not provided individual testimony this time; I did, I think, at the very first Committee hearing you had earlier this year.

I have worked with some of my clients, who are here today -- who we've heard from already, in terms of their testimony. I won't go into details about a lot of the minutia of the Bill and so on, but I just want to emphasize a couple of points.

One is, I think the aim of this legislation, years ago, was to get electronic waste out of landfills and incinerators, out of disposal facilities. We've done a very good job of that, mostly because county governments, local municipal governments have developed very effective programs to collect electronic waste. We work with electronic recyclers; this material moves back into the marketplace.

In the early years, manufacturers paid the responsible amount for the take-back of this electronic waste. I don't want to go into the numbers of what they were before, but it was free and convenient -- as the legislation desired -- to municipal and county governments, to the consumers.

Today we have free and convenient -- to the manufacturers; that's what we have. They are paying a penny, two pennies per pound for this. This is essentially free and convenient to the manufacturers.

I think what we have to decide is, do we want to continue to have electronic waste out of disposal facilities? Who needs to pay for that? Who do we want to charge? Right now, the direction we have, the current status-- And it started in 2013; we talked to the DEP in 2014, it became widely known then. I think we presented this to the Legislature this year. I think we now know that manufacturers are not paying very much for this;

as a result, counties are doing one of two things: Counties are paying a lot of the money for the free and convenient to the manufacturers.

Secondly, we're now seeing a trend where counties and municipal governments are going to stop the programs. That's the trend, that's what's happening, that will continue. So we have to decide: Who do we want to have to pay for the proper taking back of this electronic waste back into the system?

The second point is, I think we're seeing a lot of problems with national companies that are not properly handling this material. I think we do need a mechanism for the DEP to authorize recyclers that collect this material so that we know that this material is going to the proper sources. I think we need to register out-of-state facilities. We can decide, we can discuss how they're charged -- whether it's equalized with Class D facilities. But I think we need a mechanism for authorizing out-of-state recyclers as well, so that we aren't part of the problem, nationally, with some of these firms that are not doing it properly.

Okay, that's my testimony.

SENATOR SMITH: It was very short and to the point.

Our last witness signed up is John White, in favor, from LogTech, LLC.

Mr. White.

J O H N L. W H I T E: Mr. Chairman, distinguished Committee members, my name is John White. I'm the owner of LogTech, a Veteran-Owned Small Business, Class D recycler in the State of New Jersey. And we service 32 townships within Ocean, Monmouth, and Middlesex counties.

I've submitted my testimony.

First of all, let me state that I will keep my comments short because you've heard my colleagues, and I agree with the points that Magnum, Newtech, and Monmouth Wire have made today.

But I'd like to summarize this opportunity -- or take this opportunity to summarize my company's perspective and relate it back to my testimony that I submitted. And in doing so, I'd like to talk about four impact areas, three of which are directly involved in my company.

The economic impacts: First of all, to run a certified recycling business in this state is an expensive proposition. It costs us quite a bit of money between our certifications and our Class D registrations; \$21,000 alone, annually, to the New Jersey Department of Environmental Protection. Another \$6,000 to \$7,000 for certifications to be R2, RIOS, or e-Steward certified. And the Federal regulations and the State regulations are increasing all the time, to where now we have to have dual certifications. If you are R2 you must have at least one or more other certifications, like ISO 14001 and OHSAS 18001 -- which my company is all three certified. We have to pay for these certifications on an annual basis.

The insurances to run a Class D -- just to give you an idea of the workman's compensation increases: I went from \$1.18 per \$100 of payroll to \$10.16 per \$100 of payroll -- almost a five-time increase -- just last year.

My point being is, it is expensive to do this line of work correctly. And that's what you want, is you want to ensure that your residents' materials -- the data is secured, the data is destroyed, it's not breached, and that the hazardous materials are not getting into the landfill and make it to the grave. I cannot do that at 2 cents cost per pound. My

profit-loss statements for the last 18 months have me over a negative income of \$300,000. If you take 2 cents cost-per-pound, and you multiply it by 2 million pounds that I get from a broker -- that's \$40,000. Now, I know you're thinking, "Well you have commodity trade-in value." Commodity markets have been down since fuel prices have been down. But even in the better market -- let's estimate that as \$135,000; coupled with the \$40,000 I got, it's \$175,000. It doesn't cover my certifications, my insurance, my fleet, etc., etc., to operate a business.

So all we are asking for is fair compensation for the boots-on-the-ground work that we do. We do the heavy lifting, we do the collections, we do the processing, we do the packaging, we do the shipping. A fair price is all we're asking for.

As a result -- my second impact area -- as a result of our financial problems over the last 18 months, I've had to significantly make some tough decisions regarding my workforce. And these were not easy decisions. Right now, I'm making a trade -- whether I do some more reductions or do I drop health care for my employees. And I refuse to drop their health care.

So I'm sitting in front of this Committee today saying, "The compensation has to be there." I've laid off eight people since last fall. I've had to reduce my workforce for three employees down to 30 hours a week, and I'm barely making that 30 hours, because they have to have 30 hours in order to keep their healthcare benefits. It's a tough situation, and it's getting worse. So the second impact is on the employment and job impact side of it.

The final impact is on certifications themselves, and I've already addressed the costs. I think we really need to look at leveling the playing here. I have no problem with out-of-state companies coming in, as long as they're meeting the same criteria that I have to meet to work in this state. I think we have a dual criteria, and we have an opportunity right now, with these revisions, to level that playing field. So that if an out-of-state comes in, they're paying the same price as I'm paying to the New Jersey DEP. They're under the same criteria for certification, audits, etc.

We have quarterly enforcements. New Jersey DEP can walk in at any time during that quarter and inspect my facility. I think we should level the playing field with anybody else who is coming in, and not make it tougher on the businesses that are operating within this state.

Finally, I think there's an impact that none of us have talked about today, but I certainly want to represent my company here in my testimony in saying that -- and that's the community side of this. We have a lot of community awareness events that we do, supporting our clients, such as Fall Fest in New Egypt, Jackson Day, Toms River Seafood Fest. These are things that we get out there and we make the community aware of the importance of electronics recycling. In addition to that, my company is involved with educational programs. Little Egg Harbor -- on an annual basis, we go down and educate 3rd grades. We created a Sponge Bob movie to accomplish that. We take a disassembled computer down there and we show them the value of the materials in it, and why we want to recover that material to lessen the impact on the environment from a mining perspective.

We also do donation programs. Our donation programs, our PC2 Compete program -- we work with community leaders to give recycled electronics to disadvantaged families to kind of bridge the digital divide. In addition to that, we have a donation program, called *PC2 Compete*, where we'll donate computers that have been refurbished to schools; we did four of those to a science lab in Toms River. And finally, we work with Purple Heart Home, a veteran organization that's in collaboration with Home Depot, to modify homes for handicapped -- to make them handicapped-accessible for our veterans returning. And we've made a goal from our company to put a computer -- a recycled computer in every one of those houses. And I'm happy today to say that we've done that.

My point here being that the community is going to be impacted if my company closes down. And I am sitting today, very honestly -- I even brought my profit and loss statements with me -- to say if something doesn't change, I will be out of business at the end of this year. And not only is it a loss for my employees, our company, and all the investment that we made, but we cannot continue doing business the way it is happening today. And also, the community will be at a loss, I believe.

So in closing, I'd just like to say that at LogTech we are dedicated and care about people, our communities, and the environment. And we hopefully would like to think that you will support the revisions and changes that we've made to the law.

With that, that's the end of my testimony.

SENATOR SMITH: Thank you for your comments.

Any questions for Mr. White?

SENATOR BATEMAN: No, thank you.

SENATOR SMITH: All right. So Mr. White, you were the last witness.

The plan for this legislation -- when the court stenographer (*sic*) finishes the transcript, we're going to send it to the DEP. We're going to set up a meeting with the DEP in August. If any member of this Committee wants to be part of that meeting, just let Kevil know and you will be invited to it. And then we're going to sit down with the DEP and go over all these issues, and see if we can find a way to make the Bill even better than it is.

And then the plan is, whenever the next Senate session is -- September, October -- we're going to try to put up a-- We'll do a second reading; we'll amend it on second reading, if there are amendments necessary. And then we'll try to get it passed on the Senate side.

So that's the plan.

Everybody have a great summer. Stay cool.

(MEETING CONCLUDED)