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# *Public Hearing*

before

## SENATE ENVIRONMENT COMMITTEE

Senate Committee Substitute for Bill No. 1861  
*"Electronic Waste Producer Responsibility Act"*

Senate Committee Substitute for Bill No. 2578  
*"Preservation of Landfill Space Act"*

Senate Committee Substitute for Bill No. 2615  
*"Recycling Enhancement Act"*

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**LOCATION:** Committee Room 16  
State House Annex  
Trenton, New Jersey

**DATE:** August 18, 2005  
10:00 a.m.

**MEMBER OF COMMITTEE PRESENT:**

Senator Bob Smith, Chair



**ALSO PRESENT:**

Judith L. Horowitz  
Algis P. Matioska  
*Office of Legislative Services*  
*Committee Aides*

Kevil Duhon  
*Senate Majority*  
*Committee Aide*

Brian Alpert  
*Senate Republican*  
*Committee Aide*

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

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**SENATOR BOB SMITH (Chair):** All right, would everyone take a seat? And would, also, everyone, if they have a conversation, take it outside?

Great.

If there are any other slips for people who want to testify, just quietly bring them up to Algis, and we'll make sure you have a chance to speak today.

Let me welcome everybody to the Summer meeting of the Senate Environment Committee. It is our tradition to meet in the summertime, because it's a good chance to flesh out some issues. For anyone who has a high stress level today, there is no intention of releasing any bills today. We're here solely to make certain that these three very important pieces of legislation and the recycling efforts of our State get a thorough review, examination. And when we ultimately do release bills, or attempt to put this legislation before both houses, the bills are in the best possible conditions they can be in.

One of them has already had a hearing. That's the Preservation of Landfill Space bill. And we're going to have another hearing on it today and on the Committee Substitute. In most cases, these bills are Committee substitutes. So if you do have testimony today, make sure you're talking about the right bill so that-- We don't want to bring out, to anyone's chagrin, that they're talking about an old version of a bill.

And that being said, we're recording everything that everybody says, so don't use any dirty words. It is summertime, and people are on different schedules, but the Senators who are not here today are going to

have a chance to review your comments in detail, because we are taking a stenographic record and that will be shared with everyone.

The plan for today's activities-- We're going to first have the New Jersey Department of Environmental Protection report to us on the status of recycling in New Jersey and, perhaps, a few comments about these bills.

We're then going to take the bills in the following order: We're going to do the Preservation of Landfill Space, 2578, first. We'll get everybody's testimony on that. Then, secondly, we're going to get the Electronic Waste Producer Responsibility Act, 1861. And then, thirdly, the Recycling Enhancement Act. I know some people would like to talk about all three at the same time. The only problem with that is that Senators, when they review this transcript -- it's a little easier for them to digest it if we do it one at a time.

So that all being said, let me ask that Gary Sondermeyer, from the New Jersey Department of Environmental Protection, come forward and tell us about where we stand with regard to recycling in the State of New Jersey.

Mr. Sondermeyer, if you would, identify yourself for the record.

**GARY SONDERMEYER:** Am I on? (affirmative response)

Good morning, Mr. Chairman. Thank you very much for the opportunity to testify this morning.

My name is Gary Sondermeyer. I'm Commissioner Campbell's Chief of Staff at the New Jersey Department of Environmental Protection. With me are Frank Coolick, our Assistant Director for Solid and Hazardous Waste Regulation; and Guy Watson, who's our Chief of the Bureau of

Recycling and Planning. Again, we greatly appreciate the holding of the hearing today, to highlight the need to reinvigorate recycling in the State of New Jersey. We also appreciate the opportunity to offer our very strong support for the three bills that will be discussed later in today's proceeding.

I would like, as you had noted, to begin with a very brief overview of the state of recycling in New Jersey, to be followed by testimony later on each of the individual bills.

Each of the bills enacted today do certainly support the draft statewide solid waste plan that Commissioner Campbell has directed the Department to put out. We've had a number of hearings on it, and I'm sure we'll all be talking about it in greater detail later.

Back in 1987, New Jersey was the first state in the nation to enact a law mandating recycling of various materials throughout the state. And over the next decade after enactment, New Jersey was seen as the national leader, and a world-recognized leader in recycling.

However, since the mid-1990s we've seen a steady drop in recycling rates across the state. In 1995, as a State, we achieved a 45 percent recycling rate for the municipal solid waste stream. By 2003, we've seen this rate drop to only 33 percent.

We believe that the decline is due to many factors. There's no single factor that can be pointed to as a primary one. I'd just like to list a few that we believe are contributing factors to this decline: A lack of sufficient domestic, especially local, demand for some recycled materials such as plastics to ensure that recycling is economically feasible; a lack of accountability in the manufacturing and packaging of our products to enhance the product's recyclability and reduce its adverse impact on the

environment once its useful life is over and the product is to be disposed of; a significant drop in recycling promotion and education all across all levels of government and, most importantly, in our schools; a significant lack of financial support from the State to our local governments to support recycling; and what goes hand-in-hand with this is a lack of full-time, dedicated coordinators at the local level to constantly work with local schools, businesses, and others to expand recycling. And if I had to choose one that I think is the most significant of the variables, this is it -- the lack of that dedicated, local, gadfly advocate to beat the bushes to increase recycling. With the loss of the historic funding for recycling at the local level, we've seen municipal employees take on two, three, four, five different responsibilities, including this. And there just was not the ability for them to dedicate their activities to increasing recycling throughout their various communities. And, finally, a lack of credible enforcement of municipal recycling ordinances at the local level, and a lack of focus on recycling enforcement by county and State government.

Whatever, again -- what the specific reasons are for the decline, there are many very sound public policy reasons, we believe, for the Legislature to take action to reinvigorate recycling at this time. For example, New Jersey residents and businesses recycled approximately 600,000 tons of ferrous metals in 2003. This has had the effect of saving some 3 million tons of natural resources used to produce new steel. Likewise, about 650,000 tons of paper was recycled at the same time, and over 9 million trees were saved.

In 2003, recycling reduced the air emissions and water pollutant discharges across the state by an estimated 150,000 tons. In fact,

after transportation and power generation, recycling represents the third largest source of greenhouse gas emissions savings.

Furthermore, the energy savings in the manufacturing process using recycled materials versus virgin resources is staggering. Over 86 trillion BTUs -- the equivalent of 700 million gallons of gasoline -- were saved in 2003 due to our recycling efforts. These savings and environmental and energy benefits would have been significantly higher if we were even moderately close to our level of 45 percent recycling in 1995. They're based on the rates in 2003, of 33 percent.

Beyond environmental and energy savings, there are valid economic reasons for reinvigorating our recycling rates. Over 2,000 businesses in this state, including two steel mills, a dozen paper mills, approximately 50 iron and nonferrous foundries, over 20 Class A bottles and cans recycling centers, and hundreds of other Class B, construction demolition debris; Class C, composting; and Class D, universal waste recycling centers exist because of the recycling that occurs in our state.

Over 27,000 private-sector jobs exist at this time due to recycling. And we estimate that at least another 7,000 can be added if we can achieve our historic goals of reaching a 50 percent municipal waste stream and 60 percent total waste stream recycling rate.

With that, I just wanted to give a very quick characterization of where we are in the state of recycling.

And, Mr. Chairman, at your request we'll come back if that's okay, to give testimony on each of the individual bills, unless you would like me to do that at this time.

SENATOR SMITH: Since we have everybody up, and since you're the government, why don't we have you talk about all three of them?

MR. SONDERMEYER: Terrific. Thank you very much for the opportunity.

The package of bills under discussion, we feel, offer a very comprehensive approach towards reviving New Jersey's national prominence in recycling. S-2615, or the Recycling Enhancement Act, will restore funding to support State and local recycling efforts. This bill will reinstitute a new, stable source of assistance to our local governments for their recycling efforts and get dedicated recycling coordinators back in our communities to infuse local advocacy in recycling which, to some extent, we have sadly lost.

At the present time, there is only about \$3.5 million available for recycling grants to the municipalities, through the Clean Communities Fund, thanks really to the leadership position that our Legislature did take back, I believe, in December of 2002, in allowing a portion of the Clean Communities moneys to go towards recycling. While this has been a step in the right direction, this level of funding is far less than is necessary and ranks New Jersey about 25th nationally in support for recycling, in spite of the fact that we have established recycling goals that are second to none in this country.

As proposed, this bill will provide at least \$18 million annually to municipalities to reinvigorate recycling at the local level. It would also restore the moneys allocated from Clean Communities back to local governments exclusively for litter abatement efforts, which we strongly support.

Additionally, the bill would sunset the existing Solid Waste Services Tax, but simultaneously provide approximately \$9 million to the counties to continue and enhance the critical programs they've run so well over time in Household Hazardous Waste collection, recycling education and promotion, and the enforcement of recycling mandates. It must also be noted that the tax would capture not only the increasing amount of waste entering the state from New York City that lands in our disposal facilities, but it would also capture the waste being transported to the largely unregulated rail-based transfer facilities that we are seeing proliferate around our state.

Finally, the bill would provide \$3 million for the State for program management, statewide educational programs, and local recycling coordinator training, as well as recycling research and markets development. As you may know, historically, under the former recycling tax, the State loaned out over \$23 million to New Jersey businesses to help them expand; and provided much-needed funding for recycled plastics research, which led to eight patents for new products from recycled plastic materials.

Also, the bill would end a long-standing tax inequity that has existed in the State. Since 1985, the Solid Waste Services Tax has been only collected at the regional landfills in the state, but not at other solid waste disposal and transfer facilities, including the five mass-burn incineration facilities that operate around New Jersey. However, under the existing State law, the proceeds are then distributed statewide, based on waste generation, which pretty roughly tracks our population on a county-by-county basis. As noted previously, S-2651 sunsets the Services Tax and applies the new, \$3-per-ton surcharge on all solid waste, thus increasing the

available pool of funding and grant money dedicated to recycling by more than 500 percent.

While the grant moneys provided to local governments will enhance recycling, S-2651 also will provide indirect incentives to recycling. By placing this assessment on all solid waste disposed or transferred for disposal in the state, public and private parties will look to reduce costs by taking steps to reduce the amount of solid waste that is collected and, ultimately, disposed of.

The Department also strongly supports S-2578, the Preservation of Landfill Space Act. Unlike some other components of the solid waste stream, such as paper and glass, the use of plastics is increasing in the manufacturing sector. However, for a variety of reasons, the demand for recycled plastic has not kept pace with the amount of material being produced and, subsequently, disposed of.

As I mentioned earlier, recycling reduces greenhouse gas emissions, particularly through the energy savings associated with manufacturing using recycled, as opposed to virgin, raw materials. This is especially true for plastic, which, on average, saves nearly 1.5 metric tons of carbon equivalents for every ton of recycled plastic.

Within the plastic container stream, over 90 percent is either Number 1 PET or Number 2 HDPE. PET's main application is in beverage containers, and HDPE can be found in skin- and hair-care products packaging, as well as various household cleaning product packaging.

Within the beverage container recycling realm, we have seen these numbers nationally, as well as in New Jersey, go down in recent years. This is not due to decreases in residential recycling efforts, necessarily, but

rather are the result of changes in consumption patterns for beverages. It has been recently reported that over one-half of all beverages are consumed out of the home, away from the convenience of curbside recycling programs.

The Department has been taking vigorous steps to reverse this trend in the state, most notably through our Recycling Sweep that was conducted in northern New Jersey -- in Hudson County -- this past May and June. In that particular sweep, we conducted about 1,220 inspections in cooperation with Hudson County and the Hudson County Improvement Authority. We found a 70 percent -- 78 percent, excuse me, compliance rate. We also found that 104 municipalities were doing no -- facilities, not municipalities -- facilities were doing no recycling at all. Certainly, this is an unacceptable finding.

We also plan to develop and advance partnerships that establish user-friendly beverage container recycling opportunities in places like convenience stores, schools, movie theaters, and other public places. As an example, in the practice-what-you-preach realm of things, at State government we're working actively with New Jersey Transit to increase the number of recycling programs across the state at mass transit stations.

This bill, simply put, is a producer responsibility act. By requiring the inclusion of post-consumer plastic in the packaging applications indicated, we will be adding another ally in our efforts to increase recycling in the state. A significant and increasing amount of these plastics are being exported annually, and the jobs and associated economic activity that local markets could provide are being exported, as well. The product manufacturers and the packing manufacturers will have to work

with government to increase the supply of post-consumer material. And we certainly do need their help.

Furthermore, what post-consumer plastics processing capacity currently exists in the United States is threatened by the increasing export of these materials, simply because domestic product and packaging manufacturers have not made the necessary commitment to use this raw material. We believe that the increasing requirements for use of post-consumer plastics is appropriate, and sends a very strong signal to business that their investments in processing capacity will not be jeopardized and that increases in capacity investment are warranted.

As this Committee is certainly aware, this proposal is similar, yet significantly more visionary, than requirements currently in place in the state of California. For over a decade, certain plastic container manufacturers and product producers have been required to achieve and maintain a minimum 25 percent post-consumer content for the containers they use. S-2578 will take the next logical step, and increase the range of products and, therefore, packaging that would be subject to these requirements.

It has been adequately demonstrated, especially in the beverage container realm, that the inclusion of post-consumer content is technologically feasible and cost-effective. In fact, the single largest beverage producer in the world reports that it has achieved a 10 percent post-consumer content level in its plastic packaging used in the United States market. Representatives of the plastic industry have indicated to Department staff that they can report no reason why this proposal cannot work from a technological standpoint.

The issue then becomes one of increasing the supply of post-consumer PET and HDPE to meet the requirements within this bill. For that, visionary public policy of this sort is needed, and the sponsor is to be commended for the vision evident in S-2578.

Lastly, the Department would like to offer its support for S-1861, the Electronic Waste Producer Responsibility Act. According to July 2005 testimony from the United States Government Accounting Office, over 100 million computers, monitors, and televisions become obsolete in the US each year, and that this amount is growing. The GAO also estimates that 20 million televisions become obsolete each year, a number that is expected to increase as CRT technology is replaced by new technologies, such as plasma screens. Based on the above, we would estimate that for New Jersey, this would mean that approximately 2.4 million computers and monitors, and 600,000 televisions become obsolete each year.

Using United States Environmental Protection Agency estimates that computer monitors and older TV cathode ray picture tubes contain an average of four pounds of lead, we would estimate that 12 million pounds of lead are disposed of each year, primarily at New Jersey and out-of-state landfills. In addition, these devices contain chromium, cadmium, mercury, beryllium, nickel, zinc, and brominated flame retardants. The newer, flat panel monitors do not use leaded glass, but require other toxic chemicals, such as mercury, to operate efficiently.

According to the USEPA, only 9 percent of the electronics generated were recycled in 2000, nationally. The vast majority of these devices end up in our disposal system. The landfilling of electronics raises a

concern about potential leaching of the above noted toxic substances that are detrimental to public health and the environment. The potential for those devices to make their way into our five mass-burn incinerators also exists and taxes the capabilities of our air pollution control equipment. Given the above, the Department strongly favors the establishment of a system to provide for the environmentally sound collection and recycling of electronic devices.

The financial burden of ensuring the safe and proper end-of-life handling of these materials should not be borne by local governments, which have been bearing considerable costs for some time. In fact, between 2000 and 2004, 11 counties have used \$1.8 million in Solid Waste Services Tax grants for e-waste collection/recycling programs.

The DEP has been working with manufacturers, recyclers, retailers, distributors, governments at all levels, and other stakeholders involved with this issue for several years, through a national dialogue. Although that dialogue did not lead to a national program for the end-of-life management of these products, it did raise the awareness significantly of the need for legislation such as S1861.

We believe that the draft legislation strikes the appropriate checks and balances of a workable program. Manufacturers are provided the flexibility to design industry-wide plans which will address funding mechanisms and management logistics. The DEP serves in a plan review and approval mode to ensure the development and implementation of equitable, well-balanced programs.

It is imperative that the link between the manufacturers and waste management is focused. Shifting the financial responsibility for

proper end-of-life management to the manufacturers should ensure that design standards would be geared towards increasingly more cost-effective recycling of these products. Finally, the requirement to phase out those toxic constituents can only benefit environmental quality for the future.

In closing, I do thank you for the opportunity to testify today. And on behalf of Commissioner Campbell and the DEP, we applaud the sponsor's leadership in crafting this package of bills. We understand that many voices will be heard today, and offer our commitment to work with the sponsors and all involved constituencies toward fine-tuning legislation that restores New Jersey to its proper place as the national leader in recycling.

At this time, Mr. Chairman, we'd be very happy to answer any questions, unless you'd like us to come back later.

SENATOR SMITH: No, Mr. Sondermeyer, I think you've put together a very fine basis for policy reasons to do these bills.

And let me thank Mr. Coolick and Mr. Watson for being present.

I'd ask that the three of you stay for the entire hearing. There may be some issues where we do need your input. At this point, I'd ask you to find a chair -- find a space to make yourselves comfortable.

MR. SONDERMEYER: Thank you very much.

SENATOR SMITH: By the way, if you'd like, why don't you just come on over here? We have vacant seats. There's no extra charge.  
(laughter)

And you know what? The prerogative of the Chair-- A number of people have put in slips where they've indicated they want to speak on

all three bills. And I'm beginning to think it's a little crazy and probably inefficient to have people come up, sit down, come up, sit down, come up, sit down. And Senators can figure it out. I mean, we can read it and figure it out.

So I think I'm going to change my earlier direction, which was instead of doing each three bills-- If you want to talk about the three bills, we'll let you. On the other hand, if you want to just do one-- We're going to call them one at a time. But while you're up, if you want to get your comments on the other two, it's all right.

Why don't we start with the Preservation of Landfill Space Act? And I lost my slip.

Mike Egenton, from the New Jersey State Chamber of Commerce. If you'd come forward, Mike.

**M I C H A E L E G E N T O N:** Thank you, Mr. Chairman. Good morning.

And thank you for inviting the State Chamber to offer our views on the legislation for the Committee today.

The State Chamber recognizes the importance in meeting the challenge to boost New Jersey's municipal trash recycling rate from 33 to 50 percent. We also recognize the need to jumpstart recycling, and our trade association is committed to working with DEP and other stakeholders towards education and outreach to meet this important goal. To that end, the State Chamber led the way in organizing a coalition of interests to assist in reinvigorating recycling.

Chairman, I handed out, to the Committee, three items. One item is a document through the State Chamber Board of Directors. It's

called our Platform for Progress. Its focus is specifically on environment. And as you see, I highlighted the section dealing with recycling. I also gave you the breakdown on our reinvigorating recycling work groups through DEP. We met, held our first initial meeting, on June 29 at the DEP in the public hearing room, to a standing-room-only crowd. I was personally impressed with the innovative measures that Burlington and Middlesex counties were implementing and with defined, recognizable achievements of such companies such as PSE&G and Anheuser-Busch. Certainly, one of the goals of the private sector will be a sharing of best practices, so other businesses can learn and mirror the practices and procedures from the leaders of the business community.

The other piece that I handed out, Chairman, was our monthly newsletter, highlighting Commissioner Campbell, entitled *Business Asked to Join State Recycling Efforts*. So as you can see, we're taking it very seriously in reaching out to our membership.

The State Chamber also commends the Department's efforts to work with schools, New Jersey Transit, movie theaters, recreational facilities, convenience stores, and others to work on ways to encourage recycling.

With regard to the coalition -- just as a status update. We've achieved our initial goals of energizing key stakeholders, and more are learning about it and joining every day, and getting several great ideas, and identifying other individuals and organizations to reach out to. We intend to focus on this initiative over the next few months so that we can have an agenda before the end of the year that will help us advance our recycling efforts, statewide.

DEP is finalizing coordination with the perspective chairs for the work groups, Mr. Chairman. You have the breakdown. I'm going to be working closely with the business sector.

Our intent is to reconvene, in early Fall, the development action plan, set priorities, identify implementation strategies, and set schedules. Already, several of our local regional chambers of commerce are holding a recycling forum. I was just on the Web last night, and the Somerset County Business Partnership -- which is actually the Somerset County Chamber -- is holding a recycling forum on September 16. So they're getting the word out on the importance of reinvigorating recycling.

There are other groups that you may hear from today that are also doing outreach. I know I received a sample letter that Bill Dressel, from the League of Municipalities, sent out to the mayors, talking about this important issue, as well.

We have an aggressive schedule, and there is significant work ahead. This is a unique opportunity for a variety of interests to come together and achieve significant improvements in our statewide recycling numbers.

Chairman, I recognize that you have three specific bills on the agenda here, today. And I'm going to defer the -- S-2578 and S-1861 to the specifics. We are a member of the-- S-2578 has a coalition, and you'll hear from them. And we share some of the concerns that they have for that piece of legislation.

On S-2615-- This bill would add the \$3 per ton surcharge. We understand that 60 percent of the funds collected would go back to the municipalities or counties to fund recycling programs. We would just

recommend that the Department, along with you, Chairman, and OLS conduct a detailed analysis of the potential impact on the business community if the proposed surcharge were implemented.

Just from a little historical perspective, Chairman, for years this Chamber has worked in conjunction with DEP on solid waste and recycling issues. We supported the Clean Communities Act, which was signed into law on December 20, 2002.

In 1985, the State Legislature passed, and Governor Kean signed into law, that tax on companies that produce litter-generating products. The bill reauthorizes a user fee on the production of litter-generating products to furnish continued support for the Clean Communities program and to provide recycling grants to counties and municipalities. And we commend that program. We're very supportive of it. Our Chamber President, Joan Verplanck, sits on the Clean Communities Council.

However, Chairman, the State Chamber believes that so-called *bottle bills* are inconvenient for consumers, a logistical nightmare for our retail partners, and a significant cost burden to bottlers. Consumers overwhelmingly prefer the convenience of comprehensive, curbside recycling programs, which are far less costly to operate than forced deposit programs. Efforts to repeal existing bottle laws are underway in Hawaii and Massachusetts.

SENATOR SMITH: Mike, you understand, there's no deposit program in this bill.

MR. EGENTON: No, I know. But since a lot of the initiatives that are going on are, sort of, a potluck of different initiatives, I sort of want

to heed caution, because I know you were around, Chairman, when we looked at a bottle bill back in the '80s and early '90s. And I just wanted to throw that out there.

SENATOR SMITH: Except I don't want to raise the bloody flag. This is not a deposit bill bill.

MR. EGENTON: I know. But I just thought I would take the opportunity to tell you what our historical position on the bottle bill -- and our precedent in supporting the Clean Communities Act.

Finally, Chairman, on a personal note, I was in a bagel shop the other day. And as I was done having my bagel and water in the plastic container, I walked over to the garbage receptacle looking for the proper one for the bottle container, and there was only one garbage can. So I think we need to improve what's going on out there.

I strongly believe, though, a major focus in achieving better recycling rates must start with the individual, the consumer, the jogger with the water bottle, the school child with a plastic container.

Chairman, if you randomly polled the common citizen, whether they think recycling is the law or just voluntary, most will respond that they believe it's voluntary. We hope, through the reinvigorating recycling coalition, to conduct a grassroots campaign to improve, educate, and assist in improving New Jersey's rates.

Thank you, Chairman, for the opportunity to express our views.

SENATOR SMITH: Thank you, Mike.

Mr. David Brogan, NJBIA.

Oh, I'm sorry. David, I'm going to ask you to sit for one second.

I understand that Assemblyman Barnes has arrived.

Is Assemblyman Barnes here?

**A S S E M B L Y M A N P E T E R J. B A R N E S J R.:** Yes.

Thank you very much.

**SENATOR SMITH:** Assemblyman Barnes, why don't you keep that seat, because that's a great seat? All you have to do is flip on the microphone. (referring to PA microphone)

Assemblyman Barnes is the sponsor of the Electronics Waste bill on the Assembly side. He was kind enough to come down today. And I'm sure he'd like to say a few words about it.

Assemblyman Barnes.

**ASSEMBLYMAN BARNES:** Thank you very much.

I appreciate the opportunity. And thank you for having the hearing.

My interest in this bill was based on just casual observations in my town and my district, where I noticed -- driving around, I'd see TVs and electronic equipment on the curb for pickup. And based on my inquiry of -- they would just end up in a landfill. Now, most of this e-waste contains what is described as hazardous waste -- lead, mercury, chromium, cadmium, and so on.

And in my inquiry in connection with the overall problem of who's responsible for the end use of the product, I found out the taxpayers were. And, therefore, I introduced the bill, which is quite broad. And I recognize that. And I also recognize that there have been other bills on e-waste that have been emasculated in the process and, by the end result was

-- really didn't address and confront the issue of how we handle the e-waste problem.

And it really is-- It's a gigantic problem in our society, with the advent of all kinds of new e-waste coming on the product stream. And therefore, there's a big turnover of equipment, and what to do with it, and who's responsible for the end use.

I'm looking forward to a very spirited and balanced discussion on the bill. I appreciate the opportunity to be here today.

One thing I would say about this bill -- that I have sent, prior to introducing the bill -- I have sent it to every town in my district. And every town council reviewed it, approved the bill. And also the Middlesex County recycling folks looked at it. They thought it was a good bill. They all recognize that there are areas where we can sit down with the manufacturer and other people who are involved in the process to come out with a workable product. And I recognize, also, that, by my research, that really is a national problem.

But I think that if we don't-- They're afraid to -- reluctant to handle the problem on the national level. I think that we have to start the ball rolling here on the local level and see how this thing can be managed where it's a balanced approach, from the person that -- the individuals or the entities that are responsible for manufacturing these products, in my opinion, should bear some responsibility for the end use.

So I appreciate the opportunity to be here, Senator and Chairman. And I also appreciate someone of your stature, and background, and concern in environmental matters to be the co-sponsor in the Senate --

thank you very much -- or the sponsor in the Senate. Thank you very much.

SENATOR SMITH: And, Assemblyman, let me thank you for your leadership on this very serious issue. And let me say thank you for coming down today. It's tough to take a day in August and come down and do this. And we do appreciate your leadership.

ASSEMBLYMAN BARNES: It shows our concern in the area.  
Thank you.

SENATOR SMITH: Absolutely. Thank you.

I understand that Mr. Brogan is part of a panel that would like to come up, which is the Plastics Recycling Coalition: Mr. Brogan, I think it's David Farr (phonetic spelling), Laurie Ehlbeck -- make sure I'm saying it properly.

I'm sorry, Dennis Griesing. Griesing (indicating pronunciation), I'm sorry. Apologies for any mispronunciations.

Mr. Griesing, Mr. Rosario, Mr. Formica, Mr. Benckiser, Barbara McConnell -- I can say that properly -- and the various associations.

We'll do it in that order. Let's get that Coalition together.

I guess, Mr. Griesing, you're The Soap and Detergent Association. Maybe you can take the lead-off.

**DENNIS GRIESING:** Yes, sir.

SENATOR SMITH: Yes, sir.

MR. GRIESING: It's a pleasure to be back.

SENATOR SMITH: Always welcome.

And we're going to do it again in the Fall, so we'll see you in the Fall.

MR. GRIESING: Mr. Chairman, members of the Committee, staff, my name is Dennis Griesing. I'm Vice President of Government Affairs for The Soap and Detergent Association. We are a national--

SENATOR SMITH: Is the microphone on?

MR. GRIESING: Mr. Chairman, my name is Dennis Griesing. I am the Vice President of Government Affairs for The Soap and Detergent Association, a national trade association representing the manufacturers of soaps, detergents, cleaning products. We estimate that our membership represents 95 percent of that market. I have had, as part of my portfolio for the last 16 years, packaging issues. It is from that base of experience that I appear here, today.

SDA's members have demonstrated their commitment to environmentally responsible packaging for over 15 years. They are also the primary purchasers of recycled PET and HDPE resins used in rigid plastic package container production. They have been leaders in innovations, such as source reduction and the inclusion of post-consumer resins, in RPPCs. This is the base of our experience.

After reviewing the Committee Substitute, we continue to find it inherently flawed. And by proposing a 15-year-old mechanism, that is packaging standards mandates, we find it simply blinds the evolution of the recycled resin markets in the United States. Today's recycled resin markets are constrained by supply, not demand. The focus of any recycling legislation should be to increase supply. The benefits and rationale are part of our testimony.

In addition, by mandating a 35 percent minimum recycled content in all RPPCs--

SENATOR SMITH: Let me stop you there, for one second.

The bill mandates a 25 percent minimum in the first periods.

MR. GRIESING: I understand.

SENATOR SMITH: Ten years from now, it will go up to 35.

MR. GRIESING: That's where we're going.

SENATOR SMITH: Right. I know. But we want to be accurate. The mandate is 25 percent if -- when it's passed.

MR. GRIESING: This would have the affect of ironically sending more material to New Jersey's landfills than is necessary. The necessary inner and outer virgin layers of material used in our detergent bottles, which are produced through a process called coextrusion -- where you use three layers of material -- are already at required standards, with a result that additional material would only be added to a RPPC to meet the standard. This is not a-- This would not be a substitution. It would be an addition. We believe this is bad solid waste policy, because you would be mandating us to make a heavier container than is necessary.

We have followed, for the last 15 years, the EPA solid waste hierarchy, which we think is critically important. And that first step in that hierarchy is reduce, and that's what we've been focused, principally, on over the last 15 years.

Moreover, we find the market mechanism of the bill to be faulty. It assumes that by mandating a recycled content standard for all RPPCs sold in the state, that this will increase the markets for New Jersey recycled resins, thereby diverting them from the state's landfills. This is an unrealistic expectation, however. There is no reasonably calculable benefit for New Jersey landfills, since the recycled resins used by our members are

purchased in national materials markets by their packaging suppliers. Post-consumer resin, PCR, comes from suppliers as far away as Alabama, North Carolina, and British Columbia. These are used because they are dependable, in terms of quality and supply.

The recycled resins market for packaging grade material, again, is supply constrained. Consequently, the mandated use of increased levels of PCR, that is the core of this bill, would leave packaging manufacturers without the PCR they need to comply with the law, under the supply constraint environment in which we operate. The impact would fall especially hard on small businesses who are less able to compete on price with larger counterparts. In short, the bill would both induce inadequate supply and force higher prices. Neither circumstance is good for the future of recycled resins.

Recycled resins are always more costly than their virgin counterparts. As the price differential increases, PCR becomes less attractive as a material in all applications, not only packaging. The goal should be to increase supply, not demand, thereby lowering the price differential and making PCR more attractive as a material.

Plastics recycling is not a dump-and-grind business. The market's growth over the last 20 years is based on increased process sophistication and integrity. As a result, the resulting PCR streams can be used with greater surety and confidence in a cost-competitive materials market. We find, therefore, the legislation is a threat, not a help, to the future of recycled markets.

Let's look at program costs. The bill proposes to require all product and packaging manufacturers to provide the Department a

certification of compliance on an annual basis. Further, those impacted industries are to be charged fees covering the full cost of their compliance activities. In California, the cost of running its program is about a million dollars a year. That's a budgetary fact. In the end then, product and packaging manufacturers will pay higher prices for the resins -- recycled resins -- pay the cost of the program's enforcement, as well as incur their own internal costs for administration. This is a multi-million dollar cost issue. And it's not necessary. It is difficult to conceive of a more onerous or costly program with such minimal prospect for affecting the materials that go to the landfills here in New Jersey.

Even if you were to replicate, in every comma and apostrophe, the California regimen, you can't escape the compliance cost that would be imposed on New Jersey's businesses and the State.

Plastic containers are less than 9 -- .9 percent of New Jersey's solid waste. According to the 2002 Material Specific Recycling Rates report, that's the number. Some fraction of these are RPPCs. That wasn't clear. I couldn't extract that number from the report. But we start with nine-tenths of a percent, and some fraction of that is actually RPPCs. And you're asking them to develop a market and sustain a market for recycled resins. We're not sure the horse can carry that much plastic.

In summary, in our view, based on over 16 years of experience, the bill will not divert material from New Jersey's landfills, neither will-- However-- But it will, however, divert significant State and industry resources for enforcement and compliance purposes; it will impose, even with a complete replication of the California system, millions of dollars cost.

And it stands, in some sense-- It stands to force New Jersey packaging manufacturers to produce marginal and unacceptable containers.

In reading the bill, we found-- I think there's an equivocation or some language that needs to be cleaned up. Because some definitions talk about setting a standard for the manufactured containers in New Jersey. And then, later on, there's an exemption. So we're not sure quite which way you want to go.

SENATOR SMITH: Well, we'd appreciate your comments in writing on where you think the language needs to be cleaned up. If you'd send that to us, we'd appreciate it.

MR. GRIESING: Mr. Chairman, I would prefer not to spend time perfecting a bill which we sincerely believe is faulty, and work with you on looking at ways on how we can increase--

SENATOR SMITH: Then don't send a letter. Not a problem.  
(laughter)

I think our next speaker is Mr. Rosario.

**STEPHEN ROSARIO:** Yes.

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

My name is Steve Rosario. I am the Northeast Regional Director for the American Plastics Council. We are a national trade association, representing the plastics industry in New Jersey and around the country.

Just to give you a sense of who we are, here in New Jersey, we represent about 1,100 facilities employing 45,000-plus employees, ranking New Jersey 11th in the nation; with \$11 billion in shipments, ranking New

Jersey eighth in the nation. So we have a sizable presence, here in New Jersey, with about 200 facilities that would be impacted on the packaging and/or container side of this.

While we are not opposed to the use of post-consumer resin, or what we call PCR, we are opposed to across-the-board arbitrary mandates, which this bill would induce. The bill does not, in any way, recognize, nor have any basis in, polymeric science, the limits of technological feasibility, or current economic market realities. And you heard a little bit about that from my colleague, Dennis. Therefore, we don't believe that this bill will do anything to -- as New Jersey likes to say -- reinvigorate recycling or even save landfill space. But it will have a dire impact, or serious impact on the dislocation of markets and on the companies that would be required to comply with this.

You heard DEP talk about PET and HDPE as well-established. And there are well-established markets for both of those plastics. The issue is that, right now, there is greater demand than there is supply. And if New Jersey were really interested in reinvigorating recycling, you've got to address the supply issue. Because if you don't, what will happen is that you will be simply stealing from Paul to pay Peter. You will shift the PET resin from these well-established markets, and they will be sucked up by the requirements of this bill, thereby dislocating these markets where PET is currently going into. So it is really important that New Jersey get serious about the supply issue. And the same thing holds true for HDPE. I think we also heard DEP say -- and I think it substantiates my comment -- that this will do nothing for recycling -- is that this is a producer responsibility issue. And that also will have some serious impacts on our industry.

In terms of some of the other issues that need to be addressed, as it relates to plastics-- And we have to remember, a plastic is not a plastic, is not a plastic. We are dealing here with polymer science. And we have schools that graduate polymer engineers. These are people whose experience and expertise are way beyond my level of technical capability. That means that you just can't mix one or the other or play around with formulas. Because once you start doing that, you then begin to impact three major components that go into any product, whether it's packaging containers, your car bumper. And that is that it's got to be safe. That is the number one requirement for any product. Number two: It's got to do what you want it to do -- its performance. And, number three, it's got to be cost-effective. You can have the greatest product in the world, but if no one is going to buy it, you really don't have a business.

Another issue -- and Dennis alluded to it earlier, and DEP did as well -- are the Asian markets. We are in a global economy, and that's almost so cliché-ish to say. But the truth is that much of the plastic -- PCR is going overseas. We have absolutely no control over that. And we are in a very competitive market. And the Asian markets -- primarily China and India are acting like a vacuum cleaner, scooping up whatever is out there.

In terms of reinvigorating recycling -- and it shouldn't be just plastics. Obviously, we have worked in the recycling arena. And I've been in this position for 14 years, so I've been dealing with solid waste and plastics recycling for that long. And my colleague Guy Watson, I think, has been there just as long, if not longer. We really need to look at the infrastructure for collection, handling, and processing. Because once you do that, you then increase your supply, and you won't have the intense

competition between the various markets, but will have the ability to service as many markets as possible, including the container market.

And much is being done. We don't want you to think that we in the plastics industry are not doing anything. There is much PCR that is going into many different products. But the percentage is based on a lot of these technological issues and technical issues, which are very real. And, obviously-- If you wanted to speak to one of our polymer engineers, we could provide that to the Committee to walk you through some of that.

The last item I would like to address, and then I will close, is that the reason why we, as an industry-- And we call ourselves the American Plastics Council, because this is an American industry. It was invented here, in America. But we are in intense competition around the world. But we are still competitive. And we have a competitive edge because we are innovative, we are creative, and we have an ability to respond to market changes faster than our competitors. They cannot do that.

By having these kinds of arbitrary mandates, you will impede the innovation, the creativity, and the ability to, in essence, out-compete our competitors. And when you look at the companies that will be required to fulfill these mandates-- Everyone thinks of the big companies. And when I just mentioned some of the 200 that you have here in New Jersey-- Let me give you some examples: Alcan Packaging, 100 employees; B&W (phonetic spelling) Plastics, seven employees; C&K Plastics, 80; CMI Plastics, 50; Container Manufacturing, 40; Engineer Plastics, 18. So we're not talking about these huge companies that are going to be able to go out

into the market and simply snap their fingers and get this PCR. They're going to have to compete. And you'll hear some real-life examples.

So, in closing, we would hope that the State of New Jersey would work with industry -- not with this legislation, but through the DEP and through their program, in terms of reinvigorating recycling through increasing the current infrastructure of collection, processing, and handling to achieve your goals.

Thank you very much for the opportunity to be here this morning.

SENATOR SMITH: Mr. Rosario.

MR. ROSARIO: Yes.

SENATOR SMITH: The American Plastics Association is a national trade organization, correct?

MR. ROSARIO: Yes, that's correct.

SENATOR SMITH: Would you describe for me your experience in California?

MR. ROSARIO: I cannot answer that question, because as I mentioned, I am the Director of the Northeast Region, so states like New Jersey and New York keep me quite busy. But let me--

SENATOR SMITH: I understand. But let me then ask a favor, and that is, would you have the appropriate person in the American Plastics Association send a letter to us describing your experience in California. This legislation has been in effect there for a number of years. I'd like to know if the dire predictions that you just put on the table have occurred in California. That's 10 percent of the American population that's now following this law. And it seems to me that the state is still standing. So I'd

appreciate some actual experience and some actual information from your Association about their California experience, with regard to this plastics legislation. That would be helpful, rather than predictions about Armageddon. All right?

MR. ROSARIO: Let me respond in two ways, if I may, Senator.

Certainly, we can provide you with whatever information that we can find. And I will do that. I will speak with my counterpart out West. But I think the second issue, which is just as important is, we all talk about California. But in the time since California adopted its law, not one state -- that's, what, 16 years -- has adopted the law. I think that is somewhat indicative of maybe there are some real issues that California, with a budget of about \$115 billion, may be able to do certain things that other states would prefer not to. But, again, we will get you whatever information we can.

SENATOR SMITH: We appreciate it.

The fact that other states-- There are, as I understand it, three states that have more progressive plastics legislation: California, Oregon -- and was it Washington -- was the third?

Whatever--

MR. MATIOSKA (Committee Aide): Wisconsin.

SENATOR SMITH: Wisconsin.

But the moral in that story is that because other states haven't adopted it doesn't mean it's not the right thing to do. New Jersey is one of the environmental leaders in the country. And if it's the right thing, we really want it to be here. The fact that other states don't have it may just

mean that the industry may have better lobbyists in those other states than they did in California. (laughter)

MR. ROSARIO: I will let my counterparts know that.

SENATOR SMITH: Let me thank you for your comments.

Mr. Tittel, from the Sierra Club, will try to do a little point-counterpoint.

Is Mr. Tittel in the room?

MR. ROSARIO: Thank you very much.

SENATOR SMITH: You bet. Thank you.

And if you get that letter to me, I really would appreciate it. I'd like to know what the California experience was.

Would somebody open the door and see if Mr. Tittel is out in the hallway having a smoke? (laughter)

Mr. Tittel, from the Sierra Club.

**J E F F T I T T E L:** Thank you.

I'm here, today, testifying on behalf of our 24,000 members in New Jersey. But, more importantly, I think I'm here because these are three bills that help move New Jersey forward.

Over the last number of years, our recycling policies and programs have turned to garbage. Where instead of doing what we should be doing, we're just transporting everything either to incinerators or out of state. And because of that, we hear the complaints because of trucks on our highways that smell. In Lambertville, one of those trucks went out of control and killed a woman running a video store. We have problems all over the state where people are fighting trash trains, or you get this whole

concept of these trash-to-train transfer stations popping up, going around our laws.

And I think what it really means is that we really have to start paying more attention to garbage. We really need to pay more attention to recycling. The drop in numbers in recycling in the state, over the last 10 years or so, not only, I think, hurts us environmentally, but also hurts us financially.

Back when garbage was over a hundred dollars a ton, towns really worked hard on recycling. There were a lot of programs from the State and from the counties to make it happen. People went around and kind of helped enforce because it was a big shock to your property taxes. And even though the tipping fees have dropped, they could go back up. No one's-- Look what's happened to gasoline. No one knows what's going to happen five or 10 years from now, as other states may start running out of landfills or it becomes very expensive to transport. Those fees may go up, and it could be a big shock to many of our homeowners, already who pay high property taxes.

Just the loss in tonnage -- where we were to where we are today -- is about 1.7 million tons a year. That equates to just under a \$50 tipping fee, and you can round that a little higher or a little lower, depending where. That's \$85 million a year that our property taxes are paying for, that we could actually save if we meet those same recycling rates. Actually, probably more, because there's more people living in New Jersey, more homes.

So we think that these bills, as a package, are very important. We believe that plastics in particular -- unless we come up with a way of

getting more recycled plastics into consumer products -- that we just keep throwing them away. And it's a lot of wasted energy, it's a lot of wasted oil at a time with oil prices high. We use so much oil per ton of plastics. And by trying to recycle more plastics, and requiring that there's a certain amount of recycled plastic in products, that will help, I think, save energy, as well as save natural resources.

Electronics -- the same way. I mean, when we throw out a computer, it could be up to 10 pounds of lead in some of the older computers. We should not be throwing that type of hazardous material into landfills.

So, for us, we think that, as a whole, these bills are good. Bringing back-- Having the tax on the tipping fee to try to fund recycling programs-- Education is so important. When we had the resources, and people were going out there, and we had recycling coordinators in every town really having the resources to do their job, we saw recycling rates go up. And I think it's really critical, one, for property taxes; two, for natural resources. And we need to start going that way for the future. We need to start changing how we handle solid waste again, in New Jersey. Because if we don't, I think we're going to pay the price long-term. I mean, many counties don't even recycle plastics anymore. I know Hunterdon County doesn't, because there's no market. And so I think we need to try to encourage the use of recycled plastics to help create that market.

One other final thought, which is that in the -- I don't remember, sorry -- in the Recycling Enhancement bill, S-2615. How I read it about how it would sunset if we passed the bottle bill-- I know a bottle bill isn't on our horizon, even though we do support one. I think that sun-

setting for that provision should be taken out, because I think it just works as a poison pill.

Anyway, just to include -- to close, I think that we really need to do more if we want to protect the environment. And we really want to stop these trash trains and other problems that we have.

SENATOR SMITH: Thank you, Mr. Tittel.

Let me ask Mike Formica, from Q-Pak; Reckitt Benckiser; and Barbara McConnell to come forward, from Coke.

**A S S E M B L Y W O M A N B A R B A R A W. M c C O N N E L L:**  
Thank you, Mr. Chairman, guests, members of the Committee.

Thank you for the opportunity to speak on Senate Bill 2578. I'm very pleased to represent the Coca-Cola Company, as well as The Soap and Detergent Association on this legislation.

As many of you know, for the past 30 years, as a former member of the State Legislature, President of the New Jersey Food Council, Secretary of Commerce, and an advocate of business, I have worked very closely with the food and beverage industry, the packaging industry, and State officials on the issues of solid waste, recycling, and litter cleanup. Currently, I serve on the Clean Communities Council and have been a strong supporter, as well as my clients at the Association of New Jersey Recyclers.

I view this legislation as anti-business and as a bold departure from the public policy New Jersey established in the 1980s, with respect to their partnership with business on solid waste solutions, recycling, and litter cleanup.

In the '80s, as you know, New Jersey was faced with a critical problem as to how they would deal with the problems of solid waste and plastic packaging -- was being targeted as being the cause -- even though it represented the fraction of the waste stream. There was legislation to ban plastic containers, legislation to ban plastic shopping bags, legislation to require plastic manufacturers to put symbols and codes, and even legislation to require recycled content. All of these proposals were rejected by the Legislature as being piecemeal, ineffective, anti-business, and costly to the consumer.

Instead, New Jersey put together, as you know, one of the most comprehensive curbside recycling programs in the country, a program known as the gold standard of the nation, as well as a Clean Communities program that provides funding, voluntarily, by industry and the packaging industry that accumulates \$12 million to \$19 million a year to go back to municipalities and counties for litter cleanup. Today, \$4 million of that money is contributed to the recycling program. Industry has done its part and will continue to do its part.

All of this was accomplished by one of the strongest and most impressive coalitions I have ever witnessed; a coalition that included the New Jersey Grocery Industry, restaurants, bars, taverns, soft drink industry, beer industry, consumer product manufacturers, the packaging industry, paper, glass, aluminum, plastic, tobacco; as well as other industry sectors, including the Conference of Mayors, municipal recyclers, labor unions, and environmentalists. What they recommended -- instead of bans on plastics and targeting plastics -- was a program that would enable New Jersey to forge partnerships with business in developing new markets, new materials,

new product design, recycling research, and industry recycling facilities; not mandates, not a solution that targeted one packaging material or one industry sector.

And here we are, in 2005, considering S-2578, legislation that once again targets the beverage industry and the plastics industry, the very industries that have been leaders in research, packaging technology, and the Federal recycling call to arms of reduce, reuse, and recycle.

The plastic industry alone spent billions of dollars -- much of it right here in New Jersey, at Rutgers University -- to develop new technologies and uses for recycling plastic. The Coca-Cola Company has been a leader in contributing billions of dollars in research technology and a commitment to making their containers a closed-loop container.

SENATOR SMITH: Ms. McConnell, let me ask you a question. You represent Coke, yes?

ASSEMBLYWOMAN McCONNELL: Coca-Cola.

SENATOR SMITH: Doesn't Coke now meet the 10 percent recycled content requirement?

ASSEMBLYWOMAN McCONNELL: Coca-Cola has a policy and a vision -- certainly a policy and a goal of using 10 percent recycling in their content. But there's a caveat.

SENATOR SMITH: I thought they already did. Aren't they at the 10 percent now?

ASSEMBLYWOMAN McCONNELL: They do what they can.

But there is a caveat, Senator. If the price is price-competitive, if there is availability, sustainability, and it does not increase the cost to the consumer.

SENATOR SMITH: All right. Let me ask a question.

ASSEMBLYWOMAN McCONNELL: So, we may do--

SENATOR SMITH: Hold on one second. Let me ask a question of DEP.

Where does Coke stand on this?

G U Y W A T S O N: Where does Coke stand?

SENATOR SMITH: Coca-Cola, yes.

There was a-- One of the opening comments from Mr. Sondermeyer was that a -- and it wasn't -- the company wasn't named, but I understood it to be Coca-Cola--

MR. SONDERMEYER: Yes.

SENATOR SMITH: --that they had already adopted the 10 percent standard. Am I wrong in that?

MR. WATSON: That's my understanding -- is that they have adopted and achieved a 10 percent recycling content for the bottles that are produced for Coke for the U.S. market. Now, that's not to say that 10 percent is produced at all of their different bottling plants. But if you take the sum total of all the units of beverages that they ship in the U.S., it is my understanding that they have achieved that 10 percent post-consumer content.

SENATOR SMITH: All right.

So the question back to Ms. McConnell-- If your client has adopted that standard, and that's what they're selling in the United States of America, why shouldn't the other beverage suppliers -- Pepsi and everybody else -- be held to the same standard?

ASSEMBLYWOMAN McCONNELL: Senator, the message that I'm trying to convey here is that the State of New Jersey has always worked in partnership to provide incentives to business to do research and product development, new technologies, and to get involved in recycling.

Yes, Coke has made that commitment. Yes, Coca-Cola is a leader. And, yes, Coca-Cola may be achieving 10 percent at the current time. That doesn't mean all of the industry, or in all of the markets. Businesses do not like mandates, because it disrupts and skews the market. It depends on price, and availability, and sustainability. You mandate this across the board, you'll see consumer costs increase. Coca-Cola is a leader in recycling, and in research, and product development, and we will continue to be.

If I may continue, the plastic and beverage industry has been an industry that has, perhaps, done the most to find new uses for recycled plastics where, today, the demand probably outweighs the supply.

So on behalf of my clients, the Coca-Cola Company and Soap and Detergents, we oppose this legislation. First, the bill would provide no benefit to New Jersey's recycling programs, nor will it reduce landfill space. Second, the bill would interfere with the marketplace by artificially creating a high value on the use of recovered plastics in beverage containers and rigid plastic. And, third, the legislation would misdirect manufacturers' limited resources.

What we need to do is to ask ourselves why New Jersey's recycling rates are down. And I think Gary Sondermeyer and DEP have certainly raised some of those issues, and I concur with that. Why are recycling rates down? Is it because we have stopped educating and

promoting the fact that recycling is important and that it is the law? Is it because we need to improve our collection system? Are we collecting, separating, and yet still putting the materials in a landfill? Are we teaching our children? Do we provide adequate and properly sized bins in public places and in our schools? Are we providing a simple and consistent message?

According to a meeting recently held at DEP, with numerous recyclers and stakeholders, these are questions and concerns that were raised by the recycling community. At that meeting, no mention was made that we need to mandate recycling content in plastic containers to improve our recycling rates and reduce space in our landfills. I believe that's where we need to focus our attention.

And, Mr. Chairman, I urge you to reconsider this legislation.

SENATOR SMITH: Thank you, Ms. McConnell.

Mr. Pisack, from Reckitt Benckiser.

**MICHAEL PISACK:** Very good.

Good morning.

Thank you for this opportunity to speak in front of this Committee.

Reckitt Benckiser Incorporated is a manufacturer and marketer of household products such as Lysol disinfectants and cleaners, Woolite fabric wash, and Electrasol automatic dish washing detergents. Our North America headquarters is in Parsippany, New Jersey. And we have a research facility in Montvale, New Jersey, and a manufacturing facility in Hillsborough, New Jersey. We employ over 700 people in the state at these locations. And we use and depend on rigid plastics to deliver our products

to our customers. We also manufacture some of our own bottles, here in New Jersey.

We appreciate the concern expressed in this legislation regarding the preservation of landfill space capacity. However, this legislation proposes an action that is not feasible, due to the limitations of technology and supply of recycled materials.

It is true that the technology exists to produce plastic packaging using recycled materials. However, not all products can be packed in containers using recycled materials. All products react differently in their containers -- to their container packaging, partially contaminating each other and jeopardizing the container's structural integrity.

Increasing the levels of post-consumer resins, or PCR, makes rigid packaging become less rigid. Critical dimension specifications, such as the product closure sections of the bottles, are more difficult to achieve and maintain while keeping the bottle -- while getting -- in keeping the bottle leak-free.

Container strength is sacrificed calling for a more virgin resin to maintain sufficient top-load strength and resist stress cracking. Adding more PCR to the mix adds more weakened polymer to the container. Companies must ensure that their products have long-term compatibility with their packaging in ensuring that the integrity of the product and the packaging is maintained through the product's life on store shelves and in consumers' homes and businesses.

More PCR also results in increased yellowing of bottles. The diminished aesthetic quality of the bottle is compensated by adding more colored resin. Then, after all the initial costs of time -- cost and time of re-

engineering and retooling equipment, the speed-- As the PCR increases, the speed of bottle production decreases by 25 to 45 percent in its cycle time in order to maintain acceptable quality levels. This drives up energy costs and production efficiencies down to noncompetitive levels.

Another major impediment to the feasibility of this proposal is a lack of sufficient supply of recycled materials. There's simply not enough recycled materials available to implement this proposal. There's not enough infrastructure to handle more capacity without considerable investments in the municipalities.

Exports of current quantities of plastic are 25 percent. This export market is sporadic. And purchasers attain qualities -- and their quantities are greatly -- they range greatly. So in order for companies to increase their use of recycled materials in product packaging, there has to be a reliable, stable supply of materials for this purchase.

Therefore, we encourage you not to move forward with this legislation.

SENATOR SMITH: Thank you, Mr. Pisack.

Mr. Formica, from Q-Pak Corp.

**MICHAEL FORMICA:** Yes, hello.

My name is Michael Formica, President of the Q-Pak Corporation. And, again, I'd like to thank everybody for letting me speak today.

I'm a plastic bottle manufacturer. We're located in Newark, New Jersey. We're in an Urban Economic Zone. It's a union shop, and we have, like, 27 employees.

When I make a product-- I make a plastic bottle. It's a generic bottle. I don't sell it for one specific product. I sell it to a lot of different people. And they package a lot of different chemicals in it from consumer to commercial, from very hazardous to inert ingredients. And I have no control over that. But over the years, I've developed a knowledge of what I have to buy. And I buy a very specific plastic that resists stress cracking. And by that I mean, when you put a certain chemical in a bottle, and you put it in an August heat in a box, and you stack it, and it gets warm, the pressure on that container -- something could fail. In the old days, if I tried a different resin, I had catastrophic events: damage, failures all over the country. One year, my supplier sent in the wrong resin, and it cost them about \$100,000 to clean up the mess. And it wasn't the whole load that went out, it was just partial that we used. And then we saw right away. But enough got out into the marketplace. And I lost customers. It's taken me years to gain confidence back.

Like I said, when I buy material today, I am so nervous about getting contaminated material, the wrong density, the wrong melt index, that I cannot see myself putting in a post-consumer regrind and feeling comfortable that I would keep my business. I just don't see it.

I heard somebody mentioning trucking being a problem. If I had to put post-consumer recycling in my product -- if I could do it, and I don't think I can, I could have the bottles fluorinated. I'd have to send them -- truck loads every day -- to Pennsylvania, where they'd be treated by gas, come back to my customers, the weights would be heavier. I don't know if I'd be confident, but the cost would put me-- I don't think I could sell to these people anymore.

I don't have enough money to change the equipment that I have. I don't make enough of a profit. It would cost millions for me to change the equipment I have to co-extrusion equipment. I don't know if that was mentioned before. There are companies -- big companies -- that have equipment that have multiple heads, and they could put a layer of high-density virgin material-- They could put post-consumer recycling in the middle, and they could put some other material in the inside if they want. I don't have any equipment like that. And to buy one machine could be \$600,000, \$700,000, \$800,000. There's no way I could justify spending that kind of money to keep my business going in this economic environment that we have in the state. So I am really very concerned about this, as it affects my business.

Also it was mentioned keeping things in spec. Over the years, we've had things come up in litigation. The first thing they do is check the cap, check the bottle, make sure it's in the spec. If I have to add things to my resin, I can't maintain quality like that. But I know that I buy the same material over, and over, and over again. I have a chance. We're talking about 20,000 of an inch sometimes -- the T dimension -- S dimension. It's too critical. And I don't have a shop with guys with white coats on, checking everything. We struggle every day to do business and try to make a living. And I feel this bill would really greatly jeopardize my employees and my business that I've worked -- since 1968 I've been in Newark.

I'm not a member of any association. I got a copy of your bill from one of my brokers, and I read it. And I got very concerned, and very upset, and very worried. And I would like this to be looked at in a different light. There's a marketplace, there's a way-- From what I understand, you

can get rid of-- There isn't enough recycled material that we need right now. So, to me, it makes more logic to collect. My town collects bottles. We've been doing it for years. It's all gotten rid of. I think that's maybe where we should work. Get the material, have millions of pounds left over, then worry about getting rid of it. Don't try to get rid of it before we have it. That's the way I see it.

SENATOR SMITH: We appreciate your comments.

MR. FORMICA: Thank you.

SENATOR SMITH: Next witness is Mr. Pringle, from the New Jersey Environmental Federation.

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

Again, my name is David Pringle. I'm the Campaign Director for the New Jersey Environmental Federation. We have 70,000 individual members, and additional 100-member groups. And we've been working on solid waste issues in New Jersey for 20 years.

I'm very pleased to-- I'd like to thank DEP for their opening comments. I thought they were very strong and compelling in documenting why we need these three bills. And we support all three of them.

New Jersey used to have one of the strongest solid waste programs in the country, especially around recycling. Our recycling rate peaked, I believe, at around 61 percent in the late '90s, and has dropped precipitously since then, primarily because the State had stopped adequately funding and educating around recycling. The Recycling Funding bill, in particular, will go a very long way to address that problem.

And I'd like to focus most of my testimony on that bill. This bill is important enough. It's actually-- Even though we haven't talked a

lot about solid waste in the last 10 years in New Jersey, this bill is one of the most important bills on our questionnaire in our endorsement process this year.

And while the Senate is not up, I've been very positively -- received very strong, positive response from Democrats, Republicans, incumbents and challengers in support of that. And while it's one thing to say in theory -- I'd rather them be saying that than not. So I'm glad we're getting the ball rolling, even though I'd prefer to be doing some other things on an August summer day. It's my daughter's birthday.

This bill, in its current form, is very fair. Even back in the '90s, when the original recycling bill -- tax -- expired, there was a majority of the Legislature that supported a recycling tax. However, there were about three different factions of what kind of recycling tax, and we couldn't get to the necessary votes. Some wanted to extend incineration, some didn't. Some wanted to expand the pie, some didn't. Some wanted to divvy up the pie differently. There's no perfect answer here, but I think this bill strikes a very strong balance in expanding the pie, providing the funding we need to subsidize recycling where it's necessary, to provide property tax relief, and to provide the education that's necessary.

I'm not surprised, but it's a joke that the industry would come here and suggest that \$4 million out of the Clean Communities Program is adequate to fund recycling. You just have to look at the record for the last 10 years and know how inadequate that is. And the sad fact of the matter is, while we like Clean Communities, in concept, the reason we have that today is because industry was afraid of a bottle bill in the 1980s and hoodwinked folks into moving that legislation, which was certainly better

than nothing, but pales in comparison to a bottle bill. So I'm glad this Committee is looking into this issue today and looking to move forward.

In terms of the Electronic Waste bill, we are also very supportive of that. Heavy metals, in particular, is a huge problem in our solid waste stream, whether they're going up a smoke stack or ending up in a landfill. Removing electronic waste removes a huge source of heavy metals. And we very much support the legislation.

I also think it is very noteworthy about how innovative that legislation is. It is not prescriptive. It gives tremendous flexibility to industry and puts the onus where it should be, on the folks that are manufacturing the products. So we are very supportive of that bill for those reasons.

One other point on that is, around the heavy metals, not only is it a problem that these things are ending up in our landfills and incinerators, and ending up in the environment, but the resources that are devastated to extract those metals from the first place -- in the original mining. The more we're recycling these products, the less we're going to have to do raw or mining, which is incredibly devastating to the environment, especially out in the West, with cyanide, and the acidic streams, and blowing off mountain tops, and filling in valleys. So the more we're recycling and reusing our products, the more we can really preserve and extend the life of our natural resources.

I've previously testified on the plastics bill, so I'm not going to belabor that, only to note that we do support the Committee Substitute. I'm sure it will come as no surprise that we like 50 percent, more than 25 ratcheting up to 35 percent. But if that's what it takes to move the

legislation, so be it. We're also noting that there are a couple of new aspects to the Committee Substitute that we like, particularly extending to beverage containers and also the points around requiring -- or having a 45 percent recycling rate, or having some defined standards around what's the definition of *reusable* and the like.

Recycling used to be motherhood and apple pie. But in the last 10 years, it's kind of become the mother we put in the old-folks home and forgot about. So we're very pleased that this Committee is looking at this issue now, and urge us to keep our enterprise and continue moving forward, and thank Guy for being a voice in the wilderness all these years.

Thank you.

SENATOR SMITH: Thank you, Mr. Pringle.

A number of associations have asked to come up as a panel. We have Mr. Santoro, from the Retail Merchants; Mr. Brogan, from BIA; Mr. Thorp, from the American Beverage Association; and Laurie Ehlbeck, from the Food Council.

We need to pull up one more chair.

The ladies get the chair first. That's the rule. (laughter)

**R I C H A R D S A N T O R O:** Good morning, Mr. Chairman, Assemblyman Barnes, members of the Department.

Thank you for this opportunity to express the concerns of the retail community.

My name is Richard Santoro. I'm President of the New Jersey Retail Merchants Association. We represent over 3,500 retail locations in the State of New Jersey.

Just very briefly, I'd like to maybe speak to some of the previous statements that have been made and kind of demonstrate how those arguments or concerns would -- what it would mean for retailers in New Jersey.

Particularly, I'd like to speak to the safety and durability of what having a mandated recycled material content would mean for retailers in New Jersey, as the previous two gentlemen stated. There's the potential that, in stores, materials that are contained in certain packaging could potentially leak, leading to safety hazards, both in the store -- for employees and for consumer, both in the store and when they take those products home.

I think another concern with product integrity -- more on the consumer product side -- is what happens when certain sensitive products are put into a container that is made from materials that previously contained household products, other types of chemicals, which could lead to contamination of those products, again leading to safety issues for consumers, liability concerns for retailers.

Also, as currently stated in the bill, some of these standards would need to be in place by January of '06. I ask that you consider how long it takes to clear products off the shelf for a retailer. Oftentimes, there's products on the shelf for up to years -- products in the pipeline, product creation time frames, where there are products being created now that won't hit shelves for another year from now. Those containers are likely already made and won't be able to adhere to those standards, again posing certain liabilities and fines for retailers in New Jersey.

But, most importantly, I think everyone that's come up here and spoke today has focused on education and just how important education is on this issue, regardless of whether they're opposed or in support of the bill.

I think it's clear that New Jersey was previously, and in some cases continues to be, a leader across the country, based not on mandates. The things that we've done in the past were not mandates but were partnerships. And we'd like to see those partnerships continue to be reestablished, for those programs to be enhanced and maybe reevaluated to ensure that once those containers are in the hands of the consumer, that the proper thing is done with those containers.

Again, thank you.

SENATOR SMITH: Thank you.

**DAVID BROGAN:** Hi, my name is David Brogan. I'm testifying on behalf of the 24,000 members of the New Jersey Business and Industry Association.

NJBIA is committed to working with the DEP and the Legislature towards increasing recycling rates. NJBIA members have established internal policies to promote recycling.

As for the plastics bill-- Actually, the three bills, in general, would be extremely costly and burdensome for industry. The plastics bill-- I support -- we support and are a member of the coalition, the Plastics Coalition. Mr. Rosario mentioned a number of issues that are very important in the fact that it is only the 2 percent of the waste stream.

The constituency of the plastics, the structural integrity of the plastics is also an issue, and the process -- the manufacturing process is of major concern to our members.

With regard to the Electronic Waste bill, we would like to work with the sponsors. But it appears that the way the bill is set up, it would create a bureaucratic nightmare. It mentions plans being developed by the manufacturers, which include importers, exporters, manufacturers, resellers -- retailers, and all--

SENATOR SMITH: Let me stop you there for a second.

We do a lot of environmental bills. And, generally, what the industry says is, "Don't tell us how to do it. Let us tell you how to do it." The bill says that each manufacturer would have the opportunity to tell us how they'd like to do it. What would you prefer in the alternative?

MR. BROGAN: That's something we'd have to look into.

SENATOR SMITH: You know what? On this one, we really tried to construct a bill that was very industry-friendly, where you, the manufacturer, would decide the best way for you to accomplish the ultimate goal. I'll take the criticism that you don't want a bureaucratic nightmare, wherein you suggest the solution. But the burden is on you to tell us what you actually want. Don't just criticize, tell us how to solve the problem.

MR. BROGAN: We'll work on that. That's not a--

SENATOR SMITH: All right.

MR. BROGAN: We have no problem working with you on that. It just appeared as though you'd have thousands of plans flooding into DEP with several people looking at them. And then--

SENATOR SMITH: Well, let me ask DEP.

Are you anticipating thousands of plans coming into your office?

MR. SONDERMEYER: No.

In fact, Mr. Chairman, what we would anticipate is that the industry would work together and come up with a plan that would be feasible for the State of New Jersey. We do have some historic experience in this, where we did, some years ago -- in the Dry Cell Battery Management Act, where we asked industry to come up with a way of doing a reverse distribution system. And to the best of our knowledge, they came up with a very good system that we endorsed and implemented. And it's been in place for many years.

SENATOR SMITH: The philosophy in this bill was to be very, very industry-friendly. So if you don't like it, you've got to tell us what the alternative is.

ASSEMBLYMAN BARNES: Mr. Chairman, if I may.

SENATOR SMITH: Yes, sir.

ASSEMBLYMAN BARNES: That was a very critical part of the bill -- that rather than bureaucracy -- that you're criticizing -- telling industry what to do. We're leaving the door open for industry to come and tell the so-called *bureaucracy* what they want to do. I think it's pretty balanced.

And I'm not saying that it's not a difficult problem, but it's really a problem that we definitely have to solve. Because, in my mind-- I don't know whether you heard my opening remarks. This is one of the real crises facing America -- what we do with all our debris that we throw out.

And I think industry has to assume a responsibility for the end use of the product. They're making--

My comment to them -- the ones that criticize -- is they're making -- the industry is making billions and billions of dollars. They're not millionaires that are involved in this industry, they're zillionaires. And they ought to be able to come up with enough information. We put a man on the moon, we certainly can come up with some of the money that these industries are making to create a system that would work for the so-called *bureaucracy* you're talking about, and the industry, and certainly the general public.

MR. BROGAN: I appreciate that, Assemblyman.

As I read the bill, again, it appeared as though you would have multiple plans coming in. Again, the DEP would be ultimately approving those plans.

The companies that we represent-- We represent a large majority of small companies. These aren't multi-million dollar companies. They're not zillion dollar companies. So, for them, it would just be very cumbersome. And, as I said, we will go back to our membership and work with you.

I would just ask that -- keep in mind that in doing business in New Jersey, there are a lot of different factors that go into working here: insurance costs, fuel costs, shipping costs, utilities and, again, the regulatory burden. And if you could just keep that in mind, we could work in cooperation and do these things with business, not at the expense of business. That's all I was asking.

Thank you.

SENATOR SMITH: Thank you, Mr. Brogan.

Ms. Ehlbeck.

**L A U R I E E H L B E C K, E S Q.:** Good morning.

My name is Laurie Ehlbeck of the New Jersey Food Council. We're a business association that represents supermarkets, independent grocers, convenience stores, and food manufacturers. I appreciate the opportunity to be here today.

I'd like to express the New Jersey Food Council's opposition to this legislation. Our members are concerned that passage of this bill will have a negative impact on the retail food industry in New Jersey and actually do little to save landfill space.

Presently, recycled plastics are being utilized in well-established and diverse markets. A mandate such as this could result in the diversion of this material without actually increasing the supply.

But of particular concern to the Food Council is the possible impact this could have on our smaller, private-label manufacturers. New Jersey consumers rely on private-label brands as a more affordable option while shopping. Changes in specifications, alterations to current machinery, purchase of new equipment, combined with the decreased efficiency due to a higher percentage of recycled plastic in the resin, could all have the potential to increase the cost of the product.

These manufacturing facilities are regional and much smaller than those of the larger brand name products and are less able to absorb the increased costs. Our consumers will no longer have the lower-priced, private-label option.

Additionally, concerns about compromised durability and stability raise serious questions about safety issues to both the retailer and consumer, as well as liability issues. The determination about the percentage of recycled plastic to be used to provide a safe and cost-efficient product should be determined at the industry level, taking into consideration many factors and not dictated by New Jersey law.

Thank you for the opportunity to talk to you today. I'll be happy to answer any questions.

SENATOR SMITH: Thank you.

And Mr. Santoro.

MR. SANTORO: I'd be happy to speak again, Mr. Chairman, but I've already made my comments.

SENATOR SMITH: Oh, I'm sorry. I got the slips mixed up.

**D A V I D T H O R P:** Mr. Chairman, I'm David Thorp, with the American Beverage Association, in Washington, D.C.

The American Beverage Association is the national trade association for America's non-alcoholic refreshment beverage industry. Formally the National Soft Drink Association, we represent hundreds of beverage producers, distributors, and franchise companies across the country, including here in New Jersey.

I think a lot of the comments have already been made that I want to make, so I just want to take a few minutes and summarize, I think, what's been covered.

This measure would not encourage additional recycling in New Jersey, nor promote citizen participation or involvement in recycling. We

believe it's inflexible, inefficient in the mandate, carrying with it complex reporting and enforcement requirements for both government and business.

This kind of legislation will not produce good environmental outcomes. But what it will do is require New Jersey businesses and State agencies to commit limited resources to implement a complicated system, making it more expensive to live and work here.

As has been mentioned, New Jersey has taken an active role in encouraging recycling. However, this legislation would send New Jersey down a different path, imposing a costly bureaucratic mandate on business in a misguided attempt to improve the environment.

As was mentioned, the industry already supports recycling in the state as a member of the Clean Communities board and other efforts to increase recycling in the state.

Under this proposal, our industry would be required to ensure that in just a few months time, every plastic bottle used for beverages sold in New Jersey contain 10 percent recycled content. This includes plastic beverage containers such as the PET bottles for soft drinks, which is the single largest category; also juices, and waters, and teas in PET -- but also milk, water, and juices in the HDPE, and other beverages in the low-density resins.

With the exception of PET, we're not aware of any other resins which the FDA has approved for use of post-consumer plastic in beverage bottles. This means that a large number of beverage packages for milk, water, and juice will be unable to comply with the law. Even for our PET bottles, complying with a mandatory minimum content standard for one state is difficult to ensure. While Coke and Pepsi, as has been mentioned,

have set voluntary corporate goals for the use of 10 percent post-consumer resin in PET bottles, this commitment has meant significant effort to identify sources of material and verify its quality and availability. Expanding that requirement to all plastic beverage bottles, even in the next several years, would be very difficult to accomplish.

While we're concerned with the difficulty of implementing the bill, we're also-- I think it's important to consider whether this is even an appropriate recycling policy for New Jersey, which we strongly believe it is not.

First, the bill would provide no benefit for New Jersey recycling programs. Minimum content legislation -- it's designed to increase demand for recovered materials, yet demand for recovered plastics is already high. What is needed are programs to increase the supply of recovered materials from homes and businesses. This bill does nothing for these recovering programs. And, further, it is likely that most material, to meet the minimum content requirements, will come from states other than New Jersey since the materials will be drawn from sources close to the processing and production facilities, which are located around the country.

SENATOR SMITH: Let me stop you for one second.

MR. THORP: Yes.

SENATOR SMITH: You really want to put this bill in the context of the other two bills. Hopefully, we're going to get New Jersey's recycling rate back up to what it was from the 33 to the 45 percent, see more local recycling with the use of it, hopefully a new revenue source, and get you a much bigger supply from New Jersey. So don't just look at it in the context of just this bill. I mean, I think your comment about supply is

one that we're concerned about, but we're going to see to it that the recycling in New Jersey gets dramatically improved.

MR. THORP: Second, Mr. Chairman, the bill would interfere with the marketplace, which was mentioned earlier, by artificially creating a high value on the use of recovered plastics in beverage containers. In many cases, it may be more efficient to utilize these recovered materials for other products such as clothing or carpeting instead of beverage containers.

Third, this legislation misdirects limited resources. As was mentioned, plastic containers, in New Jersey, makes up less than 1 percent of all the solid waste. The beverage containers, alone, are just a fraction of that 1 percent. So there's no justification for raising consumer prices for such a small part of the solid waste problem.

As was already noted, this kind of demand-side policy is out of step with the need to increase the supply of all materials, not just plastic, but paper, plastics, glass, and metals. And this is where the efforts should be focused, on all those products.

Finally, the bill, as was mentioned, is bureaucratic. California was mentioned, which is a cost -- is burdensome to the consumer and the industry.

So, with that, I thank you, Mr. Chairman.

SENATOR SMITH: Thank you for your comments.

Mr. Mike Pisauero, from the New Jersey Environmental Lobby.

**M I C H A E L L. P I S A U R O:** Thank you very much, Mr. Chairman, for having these hearings.

Assemblyman, thank you very much for co-sponsoring the bill.

ASSEMBLYMAN BARNES: I'm the sponsor in the Assembly.

MR. PISAURO: Excuse me?

ASSEMBLYMAN BARNES: I am the sponsor in the Assembly.

MR. PISAURO: My apologies.

I'm going to talk, in general, about all three bills.

I think this is a good first step, along with the DEP's stakeholder meetings, in reinvigorating our solid waste and recycling plans.

You've heard quite a bit about the need to increase supply, and we need to. We need to increase the amount of recycling and reduce the amount of waste, in general, that goes into our landfills, because we are dealing with finite resources. There's only so much land that we have left in the state and in the country in which we can have landfills. We only have so much raw materials at our disposal. And there's only so much energy. Energy costs are increasing, and the price of gasoline -- I think recent newspaper articles have said -- has hit records each and every day for the last week. Recycling is more efficient than using raw materials.

The creation of a market-- One of the complaints, from the industry, is that there is not a supply. Well, if you create a greater demand, it increases the values of these materials, and will help create innovative strategies by industry to obtain this supply.

As to the electronic recycling, there are four states already that have plans for the recycling of electronic materials. Also, the European Union has a directive requiring it. It is something that we absolutely must do. It not only saves resources, but removes hazardous materials from our environment. I would suggest -- and maybe one of the things the sponsors should consider in that bill -- is to make the State a leader in a procurement that the preferred materials -- computers, monitors that have been reused,

recycled, or that are products that are designed to be easily recycled. I think one of the comments that I-- In my research, I've noted that the cost to strip down a computer into its component parts for recycling is extremely expensive. But if manufacturers design the products to be easily recycled, that will reduce the cost.

So if the State steps in and says, "We are going to prefer materials and products that are designed to be recycled easily, or are made of recycled materials," that will, again, help create the market and reduce the overall cost of the recycling of the material.

ASSEMBLYMAN BARNES: Prefer would not be a good, strong enough word in any legislation from, at least, my point of view. It would have to be pretty--

MR. PISAURO: Required.

ASSEMBLYMAN BARNES: --mandated, in very strong language, or don't put it in at all.

You say, "I prefer it," then they won't do it.

MR. PISAURO: The New Jersey Environmental Lobby has no problem with requiring it. (laughter)

Again, we have real issues. And I think these three bills, with the DEP's program and the stakeholder meetings, are steps into solving them.

I'd like to thank the sponsors for these bills.

SENATOR SMITH: Thank you.

And lastly on this bill, Mr. Al DuBois, from the city of Clifton.

Mr. DuBois, I think you had indicated the desire to testify on the three bills. So if you want to just take all three and go for it--

**A L F R E D J. D u B O I S:** Okay.

And I also have copies that I can distribute.

**SENATOR SMITH:** Absolutely. If you'll bring them up here, we'll distribute them to everybody.

While you're doing that, Mr. DuBois, are you here as a representative of the city of Clifton?

**MR. DuBOIS:** Yes.

**SENATOR SMITH:** Okay.

**MR. DuBOIS:** The city of Clifton has already made public comment at various meetings against the draft solid waste management plan, specifically to the \$3-per-ton tax that was included in that plan. And on May 17, we adopted a resolution, which we have attached. The resolution, of 10- to 12-point concrete solutions, and a resolution on plastic recycling that we had adopted in the year 2000, forwarded to various State agencies and, once again, forwarded it when we went to the public hearing. And we're forwarding it here, again. So we'd like, for the record, all these comments to be placed in and reviewed.

Thank you.

**SENATOR SMITH:** I note that your-- With regard to the electronics waste disposal, Clifton is in favor of that legislation, correct?

**MR. DuBOIS:** Actually, yes. I'll start with that.

From what we read -- and I reviewed the updated version. I had downloaded a version from May 17. But the way that's worded, the city supports this legislation, which will place the burden of discarded electronic waste from the taxpayers of New Jersey to the producers of

electronic products, and keeps this material from entering -- contaminating our air, land, and water.

It seems to be done perfectly, as recycling should have developed. You buy a product. You, as a consumer, are responsible for it. However government got involved to the point we are at now, is what Clifton is somewhat opposing -- not completely. We still understand that government is needed to get what's -- to find actual solutions to our problems -- but to a point. And then it should be back to industry.

So, from what we've read, we support it completely. And there were quotes in there that said no costs to the consumers when they're returning a product. We support that type of legislation. Currently, right now, we have a drop-off site at our recycling yard for electronics. We don't charge them anything. And we have some markets in the state--

ASSEMBLYMAN BARNES: What do you do with it?

MR. DuBOIS: We're marketing them to certified markets in the state who provide a dumpster and provide the service. And they're charging a fairly decent price. So we're taking it out of the recycling grant money we're receiving. We're taking it out of recycling revenues we're receiving to pay for that. But we're pulling out at least--

ASSEMBLYMAN BARNES: Yes, but the people you sell it to -- what are they doing with it?

MR. DuBOIS: They're recycling it. They're extracting the parts and all the-- And they are certified by the State.

However, this would even be better. It would eliminate our portion. Plus, there are a lot going to the dumps, and illegally dumped, and out there that's getting into the waste stream. So, that, we support.

ASSEMBLYMAN BARNES: The problem is getting-- The problem that I see, from my point of view -- and I've looked into it in my district -- is that people are not taking it from their house to these disposals. They're putting it out on the curb, being picked up, and then going into the landfill.

This is the reason for my getting involved in this bill. I see it out on the street -- TVs and all the electronic waste. And for whatever reason, there might be somebody that's moving from their -- out of their home and going to another place. And they take all the paint and all the information -- stuff that's been gathered in their home down through the years, and take it to the disposal. But on a day-to-day basis, my experience -- personal experience is that people just put it out on the curb, and the garbage guys come down, and they pick it up, and they throw it in, and they take it to the incinerator.

MR. DuBOIS: And I believe the legislation states that even if it's dropped -- once it's at a facility, they can reject that load, which is good.

ASSEMBLYMAN BARNES: The problem that I see, sir, is that you have to have an effective program to get it from the ultimate use -- consumer -- from there to a recycling -- a total program that's going to recycle and prevent it from going into the landfill. That's where they're going.

MR. DuBOIS: We had a word -- it's *ideal*. And if you're allowing the manufacturers to come up with some solutions, I think that's great.

ASSEMBLYMAN BARNES: Well, yes, it's great. But therein lies the problem of how we're going to do it.

But I'm sorry. Go ahead, please.

MR. DuBOIS: As far as bill S-2615-- The city of Clifton opposes this bill for the following reasons: In our town, we have approximately 35,000 tons of solid waste. The \$3-per-ton tax would be costing us \$105,000 to pay on our municipal solid waste. We also have commercial, industrial, and institutional establishments that go through the private sector for their materials to be collected. There's about 25,000 tons estimated. It's very hard to figure out exactly now, because all waste is diverted. And we don't have a county that's able to coordinate it. But based on what we were able to gather, we're figuring about 25,000 tons. At another \$3, that's \$75,000.

So Clifton residents and businesses will be paying about \$180,000 into this tax. We know that, based on what we would be doing as a municipality, our \$105,000-- And what we figured out from the State's own figures -- that their \$34 million revenues that they would be generating--

SENATOR SMITH: All right. Let me just-- We're actually reading your comments. You gave them to us with enough time to look at them.

As I understand, the major objection to the recycling tax is that Clifton would be a net loser in the process.

MR. DuBOIS: Yes.

SENATOR SMITH: Okay. In the bill, just so you know, there is language that says whenever a municipality operates a municipal service system for solid waste collection, pursuant to the law, or provides for regular solid waste collection service pursuant to the local public contracts law, the

amount of grant moneys received by the municipality shall not be less than the annual amount of recycling tax paid by the municipality. In other words, you're going to get it all back. There's no net loss.

MR. DuBOIS: All right. So that's not specifically-- We read it as -- if only our municipality was collecting it, on a municipal level.

SENATOR SMITH: Well, who--

MR. DuBOIS: We contract out. We pay for a private hauler to-- So would we be getting the same amount back if we're paying for a private--

SENATOR SMITH: You're covered. It also says--

MR. DuBOIS: So we would basically be getting about \$105,000 back.

SENATOR SMITH: You'd be getting back whatever was collected in the municipality, as I understand it.

Am I correct in that, gentlemen?

**F R A N K C O O L I C K:** Yes, at least. The guarantee is on--

SENATOR SMITH: And you may get more.

MR. COOLICK: Yes. And all things considered, it should be more, because, overall--

MR. DuBOIS: All right. So we submit a tonnage grant for so much, and there's so much payback-- And say it was to be about \$70,000. They would, in turn, look at what we're paying -- as far as our tonnage -- what we paid into the grant and fine us \$105,000. There wouldn't be any more.

SENATOR SMITH: No, it could be more.

Gentlemen, if you would, clarify that.

MR. COOLICK: For example, Al, what did Clifton get for your 2002 grant? Do you recall the amount of money it was?

MR. DuBOIS: We get around \$60,000 right now.

MR. COOLICK: Sixty thousand.

MR. DuBOIS: Between 60 and 65.

MR. WATSON: All things considered, irrespective of the guarantee, the overall pie here is going to increase by 500 percent. So if everybody performs at the same level, regardless of the guarantee, Clifton would get about \$300,000 under this new scheme. So I wouldn't worry too much about your \$100,000, because it appears as though you would get well more than that.

MR. DuBOIS: Where would those moneys come from then? If you're collecting \$34 million -- just hear me out -- \$34 million. You take 60 percent of that -- is going to the municipalities -- you're talking about \$20 million.

MR. WATSON: Right.

MR. DuBOIS: All right. Twenty-one counties -- you figure a million for a county.

MR. WATSON: No, not necessarily.

MR. DuBOIS: All right, so we go a little more or less. But where are we going to be getting-- The moneys will be there? I mean, just based on what we were figuring, we can't see how we're going to get any more than what we're putting into it.

MR. COOLICK: Just so you understand, we're giving out \$3.5 million this year. If we were to give out close to \$20 million, that means that generally -- if the towns were just doing what they did today, they

would get five times what they're getting today. That's what Guy is trying to tell you.

MR. DuBOIS: All right.

MR. WATSON: So if you got \$60,000 before, \$300,000 would be--

MR. DuBOIS: That would be great. And I'm glad you're saying that here. (laughter)

MR. COOLICK: Well, this is only a hearing. I'm not--

MR. DuBOIS: Okay. All right. Well, that would be fine. (laughter)

SENATOR SMITH: You sound like a New Jersey politician.

MR. DuBOIS: All right. So until that's straightened out, I'll go to section three here.

What we did oppose also was the way moneys -- and this now may affect our personal pie. But even though you're going to give us so much money to accomplish a task, with all the education and enforcement we've done in the town -- which has been--

SENATOR SMITH: Right.

MR. DuBOIS: And I guess they can vouch for that.

Percentages -- high percentages does not necessarily mean declining solid waste tonnages. Even though you get a lot of -- on that end-- This doesn't drop, for some reason. So, ultimately, the goal in the bill keeps talking about -- we have a landfill crisis, and we need to solve some of the problems. So even though we may be able to get better reporting, there's probably recycling going on right now that I'm not getting all the documentation for.

SENATOR SMITH: Right.

MR. DuBOIS: But it's happening.

SENATOR SMITH: Right.

MR. DuBOIS: So I improve my reporting. The figures show higher -- does not mean we've increased the actual overall recycling.

SENATOR SMITH: It probably means that you get more money, number one.

MR. DuBOIS: Well, okay.

SENATOR SMITH: But, number two, not every town is as progressive as Clifton. Not every town has a person with designated recycling responsibilities. And I don't know if you do this as your full-time job. But one of the points of having the recycling effort, and the recycling revenues, again, is to make sure that in every town there's somebody who is out there every day, looking for a way to recycle more materials in that town.

So we don't think it's just a matter of you're going to get better reporting. We think you're going to get higher tonnages, because you're going to have an active participant at the local level who is looking for more ways to recycle, going out and educating the businesses and the citizens in that community. So that's why we think there will be higher tonnages. But the net that you want to report back to your Clifton elected officials is that there is no circumstance under which Clifton will ever get less money. In fact, the chances are they're going to do significantly better under this bill.

MR. DuBOIS: That's very good.

However, the overall-- We're left with all this material. And as we've heard from some of the panelists today-- Do we have the markets for

this? Now, the way the old structure was-- There was 40 percent allotted to the business community from the tax to work on innovative ideas so that we, as coordinators-- Once we collect the material, we have markets. There's no money allotted, in the new legislation, for business or private industry. And that hurts.

What we'll talk about later in the plastic packaging is that we could help businesses, as they're working with convenience stores, to a point, as far as collection. But they're not working on the marketing end. We're not helping our mills out. We've lost mills in the state. We lost one in Clifton not too long ago. They went under because of the energy costs.

So what we're concerned about is-- And if we're going to get that much, that's great. But maybe there should be a portion allotted to the private industry, as it was before, with specific guidelines, oversight, working for the businesses and residents of New Jersey, specifically. How do we deal with our problems of collecting this and creating new markets, not only for recycling -- but we're talking about composting and also concepts of reuse.

And the \$3 tax -- although it will be-- Some of the moneys will be taken and used for Household Hazardous Waste. We feel that a better system would be, down the line, looking at placing taxes on all the materials that are considered Household Hazardous Waste, and then taking that tax and building a fund, and then using that as the method of solving the Household Hazardous Waste in a specific area. They've done that with tires. And although we're not getting money back right now in our county, maybe someday we will. But we looked at that as being a better solution. So that's for that bill.

And then as far as legislation 2578, regarding the plastics-- We would like this legislation revised a little bit and look at our plastic resolution in the back, here, that we adopted five years ago, in handling the plastic dilemmas.

First of all, the current legislation implies that the burden of collecting the rigid plastic containers would be placed on the municipalities. Again-- So now, even though we're going to be increasing our recycling tonnage, that burden of collecting that is going to be on us to hire, to buy the trucks, the manpower, and all that's involved. If plastics is not paying, we're going to have a problem marketing it, thereby adding additional costs to the taxpayers.

Clifton's resolutions and solution places the responsibility on the manufacturer and supermarket, and gives the consumer a choice for environmental stewardship and cost-consciousness when utilizing rigid plastic containers.

Now, you mentioned-- I mostly heard of containers or beverage bottles. Are we talking also about yogurt containers and all the food containers? We're not talking about any of those. So we're talking about a very insignificant amount of the waste stream. There's a lot of containers out there. I mean, there's a lot of bottles.

SENATOR SMITH: We don't disagree. The longest journey begins with the first step.

MR. DuBOIS: Okay. All right. As long as we're clear on that.

So what we would like is legislation, however it is, or whatever we have to do-- A uniform system should be implemented nationally -- if there's any way -- that eliminates all other types of plastic bottles and

containers from supermarkets except for Number 1 PET and Number 2 HDPE. That would now make it a lot easier to collect it and market it, because all they would have to worry about separating is those types. Most of the other types are being discarded anyway or, sometimes, utilized in areas for research and development. But primarily-- And we could have that. If you go to a supermarket-- We do educational tours. Every item could be a Number 1 or 2.

As far as the technical things talked about earlier-- I'm not sure about how much percentages and all that.

Nearly all bleach and detergent bottles are made from rigid plastic containers. Now, these items could be reused nearly a hundred times before it was necessary to recycle them. And the State needs to work with the product manufacturers and the supermarkets, through tax incentive low-interest loans and grants to develop reusable types of packaging, such as buying items in bulk, refillable bleach and detergent bottles, which would reduce rates. If you bring your bottle back, you get a reduced rate. Some supermarkets, right now, given an incentive to consumers of \$.02 on every bag that is reused. Here, now, you use it a hundred times, you're saving. You don't need to worry about the rate. You're saving on the environment.

There should be grants and tax incentives for reusable, and refillable, and recycled packaging. The State should implement discretionary surcharges to discourage the use of single-use food and beverage containers wherever practical and applicable. Refillable packaging truly saves natural resources by using the item over and over again until it needs to be recycled. Also, reusable and refillable packaging saves energy by

not having to collect, transport, and process the item over and over again, which creates a significant portion of a byproduct waste in that process. And, additionally, refillables cut down on greenhouse gas emissions, thereby reducing and preserving the ozone layer.

Thank you.

SENATOR SMITH: We appreciate you taking time out of your day to come down and testify.

Thank you.

MR. DuBOIS: Thank you.

SENATOR SMITH: That is the last witness signed up for the plastics bill. Let us to go the Electronic Waste bill.

Christina Meo and Carlos Cardoso, from Hewlett-Packard.

This is S-1861.

**C H R I S T I N A M E O:** Good morning, Mr. Chairman and Assemblyman Barnes.

My name is Christina Meo. I work at Holt, Mulroy and Germann. And we represent Hewlett-Packard.

Carlos Cardoso, from HP, is here today. Carlos serves as State Government Affairs Manager for the Eastern United States for HP. And he's here to provide some comments on the Committee Substitute for S-1861.

**C A R L O S C A R D O S O:** Good morning, Chairman Smith, members of the Committee, and Assemblyman Barnes.

My name is Carlos Cardoso. And on behalf of Hewlett-Packard Company, I appreciate the opportunity to provide comments and suggestions for S-1861, for recycling of consumer electronic devices.

I might also add that we appreciate your leadership in looking at this important issue.

In my testimony, I provide background on HP's recycling experience and HP's recommendation for this bill. In the attachments to my testimony, we provide, one, detailed comments of the bill; and, two, a copy of HP's model CRT device recycling act.

S-1861 represents a good first step in providing New Jersey with an environmentally sound and cost-effective recycling system. And I'm pleased to participate in moving this process forward.

By way of background, HP is a global technology solutions provider to consumers, businesses, and institutions. The company's offerings span IT infrastructure, global services, business, home computing, and printing. HP and a strategic partner, Noranda Recycling, operate state-of-the-art facilities in Sacramento, California; Nashville, Tennessee; and Ontario, Canada, together recycling approximately four million pounds of computer-related electronics per month in an environmentally sound manner. On a global basis, HP has recycled 600 million pounds of electronic material in the last 17 years.

On June 30--

SENATOR SMITH: Let me -- if I might interrupt you for just one second, Mr. Cardoso.

MR. CARDOSO: Sure.

SENATOR SMITH: The facilities, the recycling facilities in California, Tennessee, and Ontario, are they money makers?

MR. CARDOSO: At this point in time, it's just about breaking even.

SENATOR SMITH: Okay, thank you.

Sorry to interrupt.

MR. CARDOSO: And if that's different, I will let you know.

SENATOR SMITH: Please.

MR. CARDOSO: On June 30, 2004, HP announced it's aggressive goal of recycling one billion pounds of electronic material by 2007. We will achieve this goal by--

SENATOR SMITH: Let me interrupt one more time.

MR. CARDOSO: Sure.

SENATOR SMITH: That may be the reason why your stock took a jump -- a blue stock jump. (laughter) It's very progressive. We appreciate that.

MR. CARDOSO: Thank you for noticing.

SENATOR SMITH: And in that next sentence that you're about to read to us about e-coupon, what's an e-coupon?

MR. CARDOSO: It's a program that we have within the company where you can essentially-- Let's just say that a printer of yours has died and you want to get rid of it. You call the company. You pay a fee for return. They actually send you a UPS pickup label, and then they give you a coupon toward buying a new product that covers the cost that you originally paid.

SENATOR SMITH: You almost had me excited there for a minute. (laughter) All right.

MR. CARDOSO: But we have other great programs, that's just one of them.

SENATOR SMITH: Go ahead.

MR. CARDOSO: We will achieve this goal by expanding our e-coupon programs and increasing community-based take-back events, such as our recent joint effort with Office Depot. During the Summer of 2004, HP partnered with Office Depot stores nationwide to provide convenient recycling for consumers. During this pilot, consumers could drop off three specified electronics products at any Office Depot store throughout the U.S. The program was a great success, collecting over 10 million pounds of material in just six weeks.

It demonstrated dramatically that consumers would willingly recycle unwanted electronic equipment through retail drop-off locations. Based upon our experience with recycling programs around the world, we believe that an approach that provides flexibility to manufacturers will result in an effective, fair, and low-cost solution for managing electronic waste.

In addition to our recycling efforts, HP has an active design for an environment program. Under this program, HP design teams worked to reduce the environmental impact of HP products by making them more recyclable, integrating recycled content into new products, and improving energy efficiency, and undertaking other initiatives.

In terms of recommendations, HP's approach to electronic recycling, the Product Stewardship Solution, is based on implementing a market-driven system for recycling CRT containing computer monitors and TV CRT devices. As described more fully in this first attachment, the approach requires manufacturers to take responsibility for the recycling of a specified amount of CRT devices, either by implementing a recycling program, or to cover the specified amount, or by assuming financial

responsibility for the amount. It places limited responsibility on retailers, state governments, and avoids the creations of new fees. It provides funds to local governments for CRT device collection, consolidation, and recycling.

Although HP supports the concept of producer responsibility, which forms the basis of both S-1861 and HP's approach, we do have some concerns with S-1861. Number one, the scope is overly broad, including electronic products from computer monitors to televisions, computer central processing units, and anything with a circuit board and a video display device. It is not consistently limited to electronic products from households. We recommend the scope be limited to cathode ray tube devices with a screen size greater than nine inches from households.

SENATOR SMITH: Why?

MR. CARDOSO: We think the message here is to start out with the product that is of the most concern at this time, and then revisiting it and expanding it later.

SENATOR SMITH: Why-- I don't get that.

MR. CARDOSO: The CRT seems to be, right now, the one that gets the most conversation because of the lead in the panel, the glass panel. So we're saying concentrate on that. Let's not go all the way to toaster ovens. Let's start with CRTs that include televisions and then revisit that and move it.

SENATOR SMITH: Well, let me ask you, the comment that you have in here was that it was not consistently limited to electronics products from households. You're not saying that electronic products in businesses should be excluded, right?

MR. CARDOSO: No, no, no. No.

SENATOR SMITH: All right. Well, you know what? It would be very helpful if you would send to us -- and I don't know if it's in here later on, we just received it -- a list of what you think the -- and specifically name the products.

MR. CARDOSO: I will do that. I will do that.

SENATOR SMITH: And if you would, separate it into what products you think shouldn't be included and reasons why.

MR. CARDOSO: Yes.

SENATOR SMITH: Okay.

MR. CARDOSO: The bill requires sorting of electronic products by producer. Such sorting is time consuming, expensive, inefficient, and unnecessary. We support an approach that is based more on the equivalent share concept that eliminates the need for brand sorting.

The bill requires every producer, regardless of its size, to run a collection and recycling system. Again, this lack of flexibility will produce redundancies and inefficiencies, driving up the overall system costs. Our suggestion here is to allow producers to choose whether to provide a recycling program, such as HP's, or to pay the State the reasonable costs of collecting, consolidating, and recycling the equivalent share.

SENATOR SMITH: I don't know how much you know about New Jersey, but we just did a -- in fact, it was Senator Sweeney's bill -- a mercury switch bill, where we provided a financial incentive to the recyclers to collect the mercury switches, and they would then turn in their invoice and they would get reimbursed for it. Is that a system that you're suggesting here, where there would be another entity -- maybe these local

recycling companies or county recycling organizations that would, in effect, give you an invoice for everything they collected?

MR. CARDOSO: Yes. I'm not sure if the answer is yes or no. What we're supporting is -- and actually I will state it in a couple of sentences -- is more like the Maryland bill.

SENATOR SMITH: What is that?

MR. CARDOSO: The Maryland bill -- what they did is they passed a bill where you opt into setting up a recycling program, or if you choose, because of your business model or whatever the case may be, not to do a recycling program, you pay a fee to the state. That's what we're saying.

SENATOR SMITH: Then the fee to the state, is that a flat fee or is it based on the number of collected--

MR. CARDOSO: The way Maryland did it, it was a flat fee. But it was -- I would say it was chosen arbitrarily. I think the better component there would be to figure out what the cost of recycling would be and make that the fee to cover the cost.

SENATOR SMITH: Thank you for your comment.

MR. CARDOSO: We support an approach that simplifies the recycling system and permits manufacturers and consumers broad flexibility. Manufacturers have options for how they meet their recycling obligations, and consumers have options of how they return their electronic products. The flexibility reduces costs for manufacturers and, ultimately, consumers.

Recently, as I mentioned, Maryland passed an electronic waste bill that encompasses flexibility and options. The bill--

SENATOR SMITH: Can I interrupt just one more second?

MR. CARDOSO: Sure.

SENATOR SMITH: The bill that you're making comments on -- is it the Substitute or the original?

MR. CARDOSO: It's the Substitute.

SENATOR SMITH: It is the Substitute. All right.

MR. CARDOSO: The bill passed with the support of many in the industry, environmental groups and, in Maryland, Department of the Environment.

As New Jersey decides to proceed with the development of electronics recycling legislation, HP looks forward to working with you and other interested parties to draft legislation that brings manufacturers and other stakeholders together into the recycling process.

Lastly, let me just add that while -- by no means do I consider myself an expert on this. I would be more than happy to provide any technical resources from HP to any of the Committee members, your office staff members, etc., to answer any technical questions or any specific detailed process questions that I may not be able to answer here today.

So with that, thank you very much.

SENATOR SMITH: Well, we do appreciate your comments, and we also appreciate having some of the experience of Hewlett-Packard in this area to look at, and hopefully, to rely on.

I would ask that you exchange your cards, not only with the Committee Aide, but also with the DEP. And the one thing that I'd ask the DEP to take a look at is the ones-- In effect, the way our bill is right now, the manufacturers come up with a plan and submit it to the DEP. But

you're saying you'd like to have, as one of the options, a separate program for manufacturers where they could pay the State, or some fund, an amount of money to carry it out. I'd like to at least explore that, as that may have some opportunities.

MR. COOLICK: Yes. We don't disagree with that. We think the existing legislation would allow that to happen.

SENATOR SMITH: Anyway.

MR. COOLICK: If the manufacturers wanted to get together and say, "We're going to pay somebody," even maybe a separate party, which is commonly referred to as a TPO, "this amount of money to recycle our market share of waste," that would be a plan to us that would be approvable. So we think a lot--

SENATOR SMITH: Okay. That flexibility is already in the bill, in your opinion?

MR. COOLICK: We think so, yes.

MR. CARDOSO: I would be happy to exchange cards to share our model bill as well, and we can have conversations. And I can bring some of the folks forward to have that conversation with you.

SENATOR SMITH: Right. And also share with the Office of Legislative Services as well, please? Okay?

MR. CARDOSO: Will do.

SENATOR SMITH: We thank you for--

ASSEMBLYMAN BARNES: Mr. Chairman?

SENATOR SMITH: Yes, sir.

ASSEMBLYMAN BARNES: If I may?

SENATOR SMITH: Mr. Assemblyman.

ASSEMBLYMAN BARNES: I look at the e-waste bill in two points: One to alert the manufacturer that they're producing a product that contains items that are detrimental to the environment; and two, that being the case, to come up with a plan that is effective, that captures all the products that your company is producing. And, in my very humble opinion and curbstone advice and information, is that you're not recapturing. You might have that coupon program, you may have the drop-off, which I don't think is going to work, because I see it in reality. When I drive around a county with 700,000 or 800,000 people, they're putting it on the curb. And that -- if you have a television or a computer that you've had for X number of years -- a great big heavy thing -- you're not going to -- in my opinion, some will -- but you have to come up with a plan that is going to capture that. Because a person is not going to pick up this great big TV, or whatever product that you're producing that has these elements in it, they're not going to carry it to the Best Buy store. They're going to pull it out to the curb to let the disposal guys take care of it, and it's going to go in the landfill.

And in my opinion, until the industry comes up with a plan that is approved by the DEP here in the State, really the essence of the bill, that will recapture what the product -- going to recapture the product that you're producing. And all the others -- the coupon, and call on the phone, and everything -- in my opinion, is not working. And that's the reason that I got involved in this bill.

MR. CARDOSO: Yes. But, again, the e-coupon is a marketing program that we have that helps our customers if they have -- are brand loyal to HP. For example, in our printers, we have a lot of loyalty to the

brand, that they get a little bit of a break. And bottom line, they don't pay any extra for having sent the product. But that's not the only program that we have. And we're actually here saying that in concept we do support producer responsibility. We do. That's what we're saying. We're only saying is that we're adding some things that will help reduce the cost of the program, such as, for example, rather than for every manufacturer to get back their own brand, let's do a one-time, two-time count. Figure out what the pounds are and each manufacturer gets a -- it makes it a lot easier. So I'm getting some nods over here. So that's what we're saying. So we're applauding you on the producer responsibility. We are on that side.

ASSEMBLYMAN BARNES: But therein lies the crux of the bill. What is that going to be? What is the producer going to come up with that shows they're a responsible citizen? That's the key. Because I don't know if you've traveled in the states where you get a nickel back on the can or the bottle? And you'd be amazed how many you just see thrown out in the street. So can you imagine lugging a great computer or TV? You don't want to bring back 10 bottles to the store to get a nickel on it. That's the mentality that we're facing.

MR. CARDOSO: Yes, I agree. I think the theme of what we're bringing forward too is, let's build as much flexibility as possible. Because we're not the only ones. Dell has a program where they use their nonprofits -- the nonprofits as kind of the collecting points. So let's build flexibility into the program so that we can try and do it the best way we can and in a most inexpensive way.

SENATOR SMITH: Okay. We appreciate your comments and your offer to help.

MR. CARDOSO: Thank you.

MS. MEO: Thank you.

Next is Steve -- and Steve, I can't read your last name.

**S T E V E N C H A N G A R I S:** Changaris.

SENATOR SMITH: Changaris, from the New Jersey Chapter of the New Jersey (*sic*) Solid-Waste Management Association.

MR. CHANGARIS: That's why I left my business card. It must have become disassociated with the slip.

Thank you, Senator.

SENATOR SMITH: Okay.

MR. CHANGARIS: I thank you, Mr. Chairman, Assemblyman, for letting the New Jersey Chapter of the National Solid-Waste Management Association offer some remarks. NSWMA, for the members of the Committee, is the National Solid-Waste Management Association. I work for the solid waste companies, landfill operators, waste energy operators, recyclers, and the collectors -- the people actually out in the street every day collecting the material.

First, we're only going to comment on S-1861 and S-2615. I just have a couple of quick talking points, and then we can get off the chair, because you've had a very long day. The talking points that I've been able to get my members to sign off on are as follows: The customers, our customers, the citizens, communities, and businesses of the State of New Jersey, are not in a position to afford this new \$3 per ton tax on the essential service we provide to protect the environment and the public health. And in following up on your point about how do you offer a solution if there's no money, I'll go further to a second point that we're all

sort of in agreement on -- is that New Jersey has a mandatory recycling statute. We believe -- and I can speak from my experience in the Northeast, because I started out in New Jersey. I cover the whole Northeast for the industry. New Jersey is a national leader in recycling and has a wonderful infrastructure to divert and increase the diversion of materials, that would otherwise be waste, into recycling and reuse programs.

We believe the key here, however, is not new taxes or more taxes, but rather a more uniform and systematic enforcement of the current mandatory recycling laws. Several counties have excellent programs. They're following through with the intent of the law in getting it done.

Another point that they wanted me to work into this bill, it was -- New Jersey is struggling still in paying off massive stranded debt from the pre-Carbone era. And that's sucking off a lot of -- excuse me, draining a lot of resources from the Treasury. And as that ebbs and as the market principles continue to be infused into the solid waste system, we hope more of those dollars may become available to help. That's one source of possible funding where it could be helpful to these programs.

The other talking point here is, the industry has been under a lot of pressure lately to offer cost-efficient, economic, and environmentally secure service. There's a whole host of factors that go into that equation. The cost for fuel of our industry is very -- highly sensitive to fuel. In the last six months alone, our costs for fuel have gone up in excess of 40 percent, and we don't see any end in sight where the fuel costs are going to settle. We're also struggling with the increase cost of insurance, labor, and equipment.

On the actual mechanisms for the collection of the \$3 per ton fee, we see problems with the dual approach and how facilities and collectors will be required to collect this tax. The increase of the tip fee at waste facilities will cause ripple effects. And you've heard a lot of the same kind of discussion. And Senator, I'll leave you and your judgment. To us, they're serious. Whether this Legislature wants to pierce that veil and go there, that's fine. But these ripple effects that I'll describe -- waste is highly market sensitive, and waste will go where it's cheaper. There's a clause in the bill where "We shall charge it, but we may pass it through." So there's going to be economic issues in the marketplace, not only for the facility operators, but for the host communities, because it will affect waste flows. The tax will--

SENATOR SMITH: If you're concerned that the waste would be sent out of state and that--

MR. CHANGARIS: If I might, I'll get to that. That was my very next line.

SENATOR SMITH: Okay. Well, let me--

MR. CHANGARIS: The tax will cause more waste to be directly exported out of state.

SENATOR SMITH: Why?

MR. CHANGARIS: Because it's a price-sensitive market, and if there was a very porous border -- we have access to New York and to Pennsylvania -- waste will go straight across the border. Now, I also understand that there's mechanisms in the bill that when the collectors do that, that they will have to submit a \$3 per ton charge on that.

SENATOR SMITH: Yes, they're going to get caught too.

MR. CHANGARIS: I understand that.

SENATOR SMITH: Everybody pays.

MR. CHANGARIS: But the difference is, if you're a stationary facility-- I think the best way for me to describe it -- and my friends at the DEP, if I can call them my friends at the DEP, I hope I can, have heard me say over the years -- the solid waste stream is not a pipeline. It's not an electrical conduit. It's not a cable. It's on trucks. It's porous. I'm not here to disparage my industry, but it hurts the good guys. That's all I'm going to say on that subject.

The other issue, and it really is more specific on the collectors, there's no fair way to apportion. Well, it's very easy at a scaled facility to say, "Well, okay, you're going to pay \$3 a ton," if we can attract the waste there. It's much more difficult for us to apportion a \$3 per ton tax fairly. No matter what method you use that's reasonable in this day and age, that apportionment is going to mean some of our customers are underpaying the tax and other customers are overpaying the tax.

SENATOR SMITH: You got me on that one. If everybody's paying per ton, how is it that some are paying less?

MR. CHANGARIS: Sir, we do not know the weight of a six yard container. We do not know the weight of the container. We can use a conversion methodology, but it's a very clumsy tool. Because one day the waste could be heavy and wet, another day it could be light. Now, on an aggregated basis, it might all work out.

SENATOR SMITH: All right. Let me stop you for one second. On the point of escape, the comment was that the good guys will pay and the bad guys won't. Is there any way for the bad guys to get around this?

MR. SONDERMEYER: Certainly there should be nobody getting around it. The way that the bill, I think -- very purposely was intended to cast the broadest net possible and to catch stuff coming in, stuff going out, and to be applicable (indiscernible).

SENATOR SMITH: Yes. You can't collect refuse in New Jersey without a license, right? So every company that does this has a license.

MR. WATSON: And at 2.50 a gallon of diesel, or whatever it is, how far are you going to drive, and what does the average garbage truck get, about six miles to the gallon? How far are you going to drive to save \$3?

MR. CHANGARIS: The reality check here is they do drive. We're dealing with thousands and thousands of tons, and we're also dealing with the fact that New Jersey's facilities are limited and scarce, and we are close to out-of-state facilities. We can argue these points, sir. But this is just as I see--

SENATOR SMITH: No, no, no. But you know what? If you make the point, you got to be able to back it up.

MR. CHANGARIS: I will, but--

SENATOR SMITH: Here's what I want you to do. I want you to, on that point, I want you to send us a letter and give me a practical, cost-it-out example where that would happen.

MR. CHANGARIS: Okay.

SENATOR SMITH: All right?

MR. CHANGARIS: Again, sir, yes, I'll respond. I'll respond to the question the best I can.

SENATOR SMITH: Right. Good.

MR. CHANGARIS: The other issue that I wanted to make in this is that we don't see any reason in this bill why there is a differentiation between land-based transfer stations that are State licensed and regulated, and unlicensed, unregulated facilities at rail stations. That the position of the State should be to tax all facilities the same. And I also understand that the structure of the bill is that you will catch it on the collector side, but we're not looking at that. We're looking at it that we operate a transfer station--

SENATOR SMITH: Yes, I think you may have missed something. No?

MR. CHANGARIS: No, I--

SENATOR SMITH: Go ahead.

MR. COOLICK: The issue is whether or not the railroads are facilities and whether they would be covered. Because as you may be aware, Senator, there's a Federal exemption. So we have operating requirements placed on the railroads, but we are unsure of the ability to call them a facility and, therefore, have the tax collected at the railroad facility, because of the Federal exemption. So the bill now taxes the way it's going to the railroad facility.

SENATOR SMITH: Right.

MR. COOLICK: Because we're unsure of our ability to collect it at the facility.

SENATOR SMITH: Right. So we're catching the waste. The problem is, is that you have Federal preemption on railroad facilities.

MR. CHANGARIS: All right. Well, sir, I can go down that path a little bit. I have this analytical personality. I can get lost in the weeds with you. I tend to do better in other discussion formats, but that's not a-- Just in terms of what the industry sees, you're treating land-based facilities differently. And that while you're saying you're getting it from the collector in that situation, it's, again, a very similar stream. Our facilities are all state regulated, permitted, host fees, scales. These other facilities, we don't know what's going on in there.

SENATOR SMITH: I want you to talk to your Congressman and your U.S. Senator.

MR. CHANGARIS: Well, sir, we certainly have, and there's some material in the kit that I dropped off on it. We are very much-- But I think the position the industry would prefer to see the State take is a bright line that recognizes that facility as a waste station, therefore subject to tax.

SENATOR SMITH: If we could do it, I'm sure we would. We just don't think we can do it.

MR. CHANGARIS: Well, we argue--

SENATOR SMITH: In fact, do you know what? You guys have lawyers?

MR. CHANGARIS: We have lawyers.

SENATOR SMITH: Give us a brief.

MR. CHANGARIS: Okay.

SENATOR SMITH: Give us a brief that shows us the authority for us to do that.

MR. CHANGARIS: And I can speak it out -- it's in the talking part. I got waylaid here. It says, "Rail-based sites are not integrally related

to railroads and, therefore, are fully subject to state and local control and not qualified for the State preemption.” We believe that the State of New Jersey is fundamentally misreading that law. We also believe that the state of Massachusetts is reading it correctly, because they’re holding that state and local rules do apply.

SENATOR SMITH: Can you have your lawyer give us a brief?

MR. CHANGARIS: We certainly will.

SENATOR SMITH: We’d appreciate it.

MR. CHANGARIS: And hopefully, the State will join us in our brief.

The last point that I’d like to make on the recycling enhance bill is, the industry believes that the Legislature, before it considers any new tax on New Jersey waste consumers -- again, the citizens, communities and businesses -- under a well-intentioned effort to promote recycling, you should first see that a thorough review is done to determine the cost-effectiveness of the current programs that you have. And that if you use the EPA’s full cost accounting method, we believe that there would be significant savings in the current operations that could be used to promote education and enforcement, and the other things that would really be helpful to recycling.

And I really think that the enforcement issue with the generator is -- it has not been talked very much about here. You create a tax, it sustains, it goes on forever. You create an enforcement program, you raise the bar. You get the level of activity and it self-sustains without the burdensome onus of a tax. And it means enforcement. And my guys will

provide the service, but they need to be able to work with their customers under a reasonable expectation of enforcement.

And switching over to the e-waste bill in Section VII, Section VI in the first draft, we believe that the burden to prevent the disposal of e-waste has to be placed squarely on the consumer. And the remainder of Section VII should be deleted. We're not aware that -- any other state having passed or proposed a similar bill that would place the burden of this on the solid waste collector or the disposal location, as contained in the bill.

Also, from a regulated entity perspective, the language in Section VII would be impossible to comply with and still collect trash and operate solid waste landfill and restructured recovery facilities in New Jersey. While the efforts to divert items from waste disposal are ongoing and growing, we believe that once the item is placed in the trash stream, broken, it's virtually impossible at times for a solid waste collector to distinguish, or the facility operator to determine, if the load contains the waste. Again, generate a responsibility. Get it out at the front, it's not our problem.

Again, if you go back in the history of solid waste, if you go back to record, generator responsibility is a very key element of all that. I would like to -- you mentioned that -- last, that the bill does provide the collector language, to the effect that the collector shall not knowingly collect, and the disposal facility shall not knowingly accept, electronic waste. *Knowingly* for us, as a regulated entity, as an industry, doesn't provide regulatory compliance protection. And it doesn't provide comfort to the disposal location, and we feel that there would be a wide range of

possible actions in that it's not a comfort level that my guys can be satisfied with.

Everyone associated with the solid waste industry knows that these materials enter the stream. And once they enter the stream, it's very difficult to determine -- like such as a plastic item -- there's no real way to determine whether that plastic came from a household item like a shelf, a case, or a child's toy.

Those are the sum of the comments we have. We want to work with you. We really -- I want to be very clear that the waste industry recycles. We do a lot of municipal recycling contracts. We have a lot of investment in infrastructure. We have relationships with the customers. We have the trucks on the road. We would like very much to be able to work with them in a reasonably enforced model to say, "Okay, guys, you got to procure this service. Let's work together, set up the programs, and get them going." But we need the support, with the generator, to go into the marketplace and procure the service.

SENATOR SMITH: Great.

MR. CHANGARIS: Thank you.

SENATOR SMITH: And I hope you'll send those two requests that I had said.

MR. CHANGARIS: I will.

Thank you very much, Senator.

SENATOR SMITH: Next is Abigail Caplovitz, from New Jersey PIRG.

ASSEMBLYMAN BARNES: I have to leave, but thank you very much for the opportunity.

SENATOR SMITH: Thank you for coming down and thank you for your leadership, Assemblyman.

ASSEMBLYMAN BARNES: Thank you.

**ABIGAIL CAPLOVITZ:** Hi. Good afternoon, Chairman Smith and the Committee. I really appreciate this opportunity to speak to this very important bill. It's very comprehensive, and we congratulate you all on putting together and looking at this legislation. I'm going to have to submit my written comments later because I didn't have the Substitute ahead of time, and there were a few changes to it that I will speak to, that I will submit my written comments after.

You heard the DEP speak in their wonderful opening comments about the significant waste stream, that is electronic waste, and all the hazardous materials that are contained in it. This is an enormous and growing problem. The DEPA, in 2004, noted that the electronic waste stream is growing three times faster than the municipal waste stream, given the explosion of consumer electronic products that are being constantly innovated and sold all over the place. There's no reason to expect that pattern to change. In fact, it will probably accelerate. So the time is now for comprehensive and statewide action, and again we celebrate your efforts in this regard.

The key parts of this bill that we can support wholeheartedly, unsurprisingly perhaps for a consumer organization, is the producer is paying for this process. Also, the bill, as designed, will reduce the toxicity of the waste through the mandated product redesign. We appreciate that critical information is given to recyclers in a timely fashion on how do you disassemble and maximize the reuse of these, and to consumers about what

these products contain and what to do with them. We think that that level of information sharing is extremely important.

We also really appreciate that you have recognized that exporting this waste to particular countries is a dangerous and bad idea. We appreciate that notation in there. I'll briefly address each of these.

The producer pay requirement creates a very powerful incentive for producers to design the products for their recycling ability. This is extremely important. Having consumers pay for this does not touch that issue. If they build into the design of their products the end cycle use of them, we can really increase the efficiency and decrease the cost of the recycling. Similarly, currently, as you've heard, the only current recycling programs are done locally and at the county level, and are funded by taxpayer dollars. There is no reason that this should be. Property taxes are high enough, as I know you are all very well aware, and there is no reason to keep this burden where it currently is. So we strongly endorse this producer pay principle and look forward to working with you to keep it strong.

We also appreciate the mandated product redesign. As I'm sure you're aware, the European Union has already required the phaseout of various chemicals in these products, various heavy metals by, I believe it's 2006. There's no reason why if these manufacturers are already complying with such a directive -- because it's the same manufacturers selling to the European market as sell to the New Jersey market -- there's no reason why New Jersey can't benefit from these same innovations. And we appreciate this language which helps make sure that we will be marketed the safest products that they already manufactured on a commercial scale.

The targeted export ban -- I just call to your attention that Green Peace came out with a report yesterday on the recycling of electronic waste as currently done in India and China. The findings of the contamination and exposure to workers there are quite compelling and disturbing, and it is very important to make sure that this electronic recycling, as it occurs, occurs in ways that don't simply transfer the problem from our sanitary landfills to the workers and the recycling facilities.

The few comments that I'd like to make in light of the Committee Substitute are the following: We note that the definition of *covered products* has narrowed considerably. We recognize the initial definition was extremely broad. However, we're not prepared at this moment to endorse this narrower definition. We appreciate that you challenged the HP representative to give you a list and try to justify why not to include things. We will try to give you a similar list to show you what should be involved--

SENATOR SMITH: Please. Great.

MS. CAPLOVITZ: --because we really do think that it's important to get this definition right.

Secondly, we are concerned that the targeted consumer awareness goal of 85 percent has been removed. Obviously, this program only works if people are aware of it. And while the DEP, in the revised bill, is given the ability to review and approve the polling and the methodology and the rest, we would like to see that there is, nonetheless, a specific high standard for awareness that must be achieved. Because all -- the most wonderful plans in the world do not work if people don't know to participate.

SENATOR SMITH: We don't disagree with the concept. Our problem was that it was a little squishy. We weren't quite sure how you measure it and how you guarantee that that happens. If you have any suggestions on that, when you give us your written comments, we'd appreciate your putting it in.

MS. CAPLOVITZ: Absolutely. I will offer you some language.

A third concern we had -- and this comes up. It was mentioned by the DEP how current enforcement is very low, at the local level, of the existing mandatory law. You heard the solid waste representative speak to that as well. I note that you took all of the liability provisions out in this revised bill. In the original bill there was a private right of action that enabled people to enforce this bill. It's not here in this revised bill, as far as I could see.

SENATOR SMITH: That's not ringing much in a bell. We'll look at that. That's not ringing a bell with us, but we'll check that out.

MS. CAPLOVITZ: Yes. We just really believe that--

SENATOR SMITH: I think that was in the Barnes bill. It was never in the original Senate bill, correct?

MS. CAPLOVITZ: I downloaded-- Okay. If that's true and I stand corrected, then I'm sorry. But the bill copied--

SENATOR SMITH: Listen, you may be right, too.

MS. CAPLOVITZ: Okay.

SENATOR SMITH: This is called metamorphosis.

MS. CAPLOVITZ: Fair enough.

SENATOR SMITH: We're working our way toward a final product, but we appreciate the comment.

MS. CAPLOVITZ: Yes. The bottom line is, we strongly encourage citizen enforcement opportunities, because the DEP has limited resources and limited ability to enforce compliance. And compliance has already been demonstrated to be a significant issue.

Oh, and we would also like to suggest that you consider including specific recycling goals for amounts to be recycled, and to consider adding incentives to reuse products rather than recycle them in other fashion. It's my understanding that New York City is currently considering an ordinance that would, for example, enable producers to count twice any item that they use towards their mandatory recycling goal. So they get a bonus, essentially, if they can have a product be reused by someone rather than taken apart. We urge you to consider such things.

And again, I will submit language to you for your consideration.

SENATOR SMITH: We appreciate it.

MS. CAPLOVITZ: And again, we celebrate that you're doing this. We really appreciate it, and thank you very much for your time and this opportunity.

SENATOR SMITH: Thank you, Ms. Caplovitz.

David Thompson, Electronic Manufacturers Coalition,  
Panasonic.

Yes, sir.

**DAVID A. THOMPSON:** Mr. Chairman, members of the Committee, my name is David Thompson, Director of Corporate Environmental Department, Panasonic Corporation of North American, headquartered in Secaucus, New Jersey; and resident of Ramsey, New Jersey.

I'm here today on behalf of the Electronic Manufacturers Coalition for Responsible Recycling. We're very pleased to have the opportunity to be here and make comments on this particular bill, S-1861. We are a coalition that consists of 16 major manufacturers and marketers of consumer, commercial, industrial electronic products. Many of us are proud to call New Jersey home to our North American headquarters and other business unit operations, including IBM, JVC, LG Electronics, Panasonic, Philips, Sharp, Sony -- mentioned in here -- where we collectively employ several thousand people. Many of my colleagues would have liked to have been here today but, unfortunately, this being a vacation season, they were not able to do so.

With respect to Panasonic, I'd like to say that we have long been involved in this particular issue of collecting and recycling products. We first got involved when New Jersey -- and I know Mr. Sondermeyer stated this earlier -- passed its Battery Recycling Law. And we did lead a coalition of companies to put together a recycling program and implement that in the State of New Jersey, as well as across the country. I'd like to talk a little bit about that later.

We also are an Energy Star Partner of the Year for consumer electronics products. We've won that award seven consecutive years. We are a member of the EPA Wastewise program and have won the Electronics Products Recycling Challenge Partner of the Year award three consecutive years. At our Secaucus, New Jersey, facility -- I was listening to people talk about recycling in New Jersey earlier -- we are now recycling between 80 and 90 percent of the waste that we generate. With respect to electronics products in particular, we have sponsored almost 900 collection recycling

events around the country in conjunction with other manufacturers, such as JVC and Sharp and Sony. We have collected probably about 20 million pounds of electronic products.

And finally, again additionally, we have worked with an electronic product recycler in Pennsylvania, and with the New Jersey DEP starting in early 1992, I think it was, to obtain -- and I'm going to struggle here for the language -- a variance to send old CRT products to this recycler and have them disassembled and managed. And I'm very pleased to tell you that this recycler, over time, has developed a recycling process for CRT glass, returning it to our CRT glass manufacturer, and we now have, depending on the model, between 15 and 20 percent post-consumer CRT recycled glass content in our new televisions.

And finally, there's been some discussion about designing products so that they're more environmentally conscious. We are spending, as a corporation, probably in excess of \$100 to \$125 million a year, over the last several years, to redesign electronic products so that they can be more easily recycled, as well as eliminate certain hazardous materials from those products. Namely, the materials of concern that have been listed here, I think, the RoHS chemicals from the European restriction of hazardous substances, a directive -- cadmium, hexavalent, and chromium, mercury, lead, and bromide flame retardants. In fact, our Panasonic branded products will be compliant with the RoHS standard across the world as of this year, well in advance of the deadline.

We have come to express our opposition to S-1861, based on a number of concerns, and then offer our own suggestions on how we would like to try to address this particular issue. First, we believe that S-1861, as

it's written and conceived, would disadvantage North American electronic product manufacturers. And the reason I say that is we have done a lot of research through our own collection programs and determined that the average age of a television is about 17 years old when it's discarded into the waste stream, and the average age of a computer monitor is about 11 years old. When you consider this and also consider the fact that there are many, many, many new manufacturers coming into the North American market, particularly from China, I think you can begin to see this problem.

According to an article in the--

SENATOR SMITH: Hold on one second.

MR. THOMPSON: Yes.

SENATOR SMITH: Let me ask the question about the competition issue. Suppose you had TVs made in China and then sold in New Jersey, wouldn't they be subject to the same requirements for a disposal plan?

MR. COOLICK: Yes, it would, but I think David's trying to make a point that since their TV would not be disposed of or recycled for another, on the TV side of things, 15 years or so, they would have no cost for a large (indiscernible) of time. Whereas the companies currently doing business and have the historic waste out there now would be at a disadvantage, because this bill would mandate that they take care of that stuff starting now. Whereas the new companies just starting up wouldn't have a financial obligation until maybe 15 years off into the future.

SENATOR SMITH: It's an issue.

MR. COOLICK: It's an issue, yes.

SENATOR SMITH: Okay. Thank you for bringing that to our attention.

MR. THOMPSON: When you look at the details, you'll see, I believe Mr. Chairman, that there is a significant number of manufacturers who will enjoy a competitive advantage based on the fact that they are a new market entrant with no waste stream share, if you will. The bill seems to be based on the requirement that one collect back its own -- a manufacturer collect back its own products. These companies would not have, as Mr. Coolick said, a waste stream share and would essentially have a competitive advantage.

When you look at how the bill addresses orphan products, I think it double exacerbates that problem because the bill would make one share of the orphan responsibility-- It would base one share of the orphan responsibility on one's current waste stream share. So historical legacy manufacturers would have responsibility for not only their own products, but for orphan products. Whereas, the newcomers to the market would not have any financial responsibility for addressing that particular problem. And we believe that these numbers are going to be significant when you look at the details. So we believe--

SENATOR SMITH: Do we need a two-tiered system? One where if you're a manufacturer that's been in business for whatever number of years, you're treated in one fashion; but if you're a relatively new company with no history, that perhaps at the point of sale there needs some collection for these costs.

MR. THOMPSON: I think it's a very interesting idea, and it's something that should be discussed. I'm not sure of the answer right off the top of my head.

SENATOR SMITH: Well, you posed a great problem. You've got to come up with a great solution. (laughter)

MR. THOMPSON: Well, I'm going to suggest something. We think, as a coalition, that one's responsibility should be based on one's current sales. That solves a lot of problems.

SENATOR SMITH: Is there any way to evaluate the orphans?

MR. THOMPSON: Yes, there is.

Let me go on, and I think this will come out in a little bit--

SENATOR SMITH: All right. Go ahead.

MR. THOMPSON: --in terms of what the conflicts and the problem is.

SENATOR SMITH: Sorry to interrupt.

MR. THOMPSON: The bill would also require brand sorting. And I think that the representative from HP addressed that question. But I wanted to point out that in Minnesota, Hennepin County has been collecting about a million people -- suburban Minneapolis, parts of Minneapolis -- they have been collecting electronic products for almost 13 years, since 1992. And in the last six months of 2004, they did a brand sort, and they looked at 17,134 televisions and 11,920 computer monitors. They found 281 brands of televisions and 458 brands of computer monitors. And while some manufacturers -- us being one of them, we have about a 7 percent share of the waste stream -- have more significant shares.

If you look at the details of this brand sort, there were 258 out of 281 TV brands that had less than 1 percent waste stream share; and 438 computer monitor brands out of 458 that had less than 1 percent share. So I guess I'd like to say that there is a fairly significant brand sorting challenge before us. We talked a little bit -- I think the gentleman from HP talked a little bit about a representative share where we would do periodic sorts and determine representative shares. And while I think that's something that can be worked out maybe in theory, I would like to see sorts done very often to capture the new market entrants and their products entering the waste stream. So I still think you have a fundamental challenge that is burdensome and costly for whoever -- whether it's the manufacturer or the retailer or the recycler or the municipality -- manages this waste stream.

We also believe that the multiple programs that would likely result from this approach would be confusing to, I think, the DEP, the manufacturers, the consumers, the retailers, and local governments.

Mr. Sondermeyer, when he spoke earlier, talked about a battery recycling program. When I was -- Panasonic is a battery manufacturer. When that law was put into place, we had about a 40 percent share of the nickel cadmium battery market. One of our competitors, Sanyo, also had about a 40 percent share of the nickel cadmium battery market, and we listened to what our customers-- We sold most of our batteries to people like Black & Decker and AT&T and Motorola, whoever it may be that use these batteries in their products. We listened to them and developed a program that all manufacturers could participate in. It took a long time to establish that program. We started it in 1994. I think we had about 50 companies that participated. We're up to 330 today, and the rate of

participation grew very, very gradual. So from our perspective, there were significant enforcement issues, where we believe -- and even believe continuing today -- that there are several battery manufacturers and battery products that are not paying to participate in this mandated system and are getting the free rides. And we're very concerned about that.

But in this particular case, you don't have two companies that have large market shares in the CRT business or the computer monitor business or the television business. The industry leaders -- particularly Dell Computer and HP -- are talking about systems where manufacturers develop their own programs. So our leaders are not attempting to bring us together into a system. We're talking about each manufacturer figuring out what's best for that manufacturer and working with the DEP to get programs approved. And I believe that what will happen is that manufacturers who have larger shares will want to develop their own programs, and then manufacturers who have the smaller shares will want to try to band together to have a collective program. And I'm not certain who is going to coordinate that program, unless perhaps the DEP does it.

So I see some pretty significant, I think, implementation and enforcement challenges that we're all going to face as manufacturers, as regulators, as retailers, and citizens of New Jersey to implement the program that we want to collect and recycle electronic products.

Our coalition has favored an advanced recycling fee approach. That approach was legislated in California, and there was some discussion earlier about how California had developed a RPPC program, I think it was, and a plastics recycling program. And that has not been duplicated, I believe, in any other state. The California electronic product ARF system

has not been duplicated here. So I'm not certain that there's the political will to--

SENATOR SMITH: What do they collect in California?

MR. THOMPSON: They collect a fee on -- they call it *covered electronic devices*, which consists of a CRT, cathode ray tube, a CRT device, or a video display device that contains a -- if it has a screen size of four inches, measured diagonally. So right now, they're collecting fees on CRT computer monitors and televisions. They're collecting fees on LCD computer monitors.

SENATOR SMITH: Right.

MR. THOMPSON: They're collecting fees on -- then they began to collect fees-- They did begin to collect fees on July 1 on LCD televisions and plasma TVs. And the fee ranges from \$6, \$8 to \$10, depending on the screen size.

SENATOR SMITH: Six--

MR. THOMPSON: Eight or \$10.

SENATOR SMITH: And that covers their costs?

MR. THOMPSON: You will find that it more than covers the cost, I believe. I think it will be double what they need to run this recycling program.

SENATOR SMITH: Is that because there's a resale payoff at the end? It seems awfully cheap.

MR. THOMPSON: The situation that we now face -- and this could change over time -- is that there are probably -- and I'd like to reserve the right to correct this if I find out that I've misspoken -- but I think there's going to be about three times, or more, a level of new TV and

computer monitor sales compared to what people throw away. So you can assess a lower fee on a current sale to cover a smaller amount of what people throw away. And if that ratio changes and recycling costs don't come down, then the fee would have to be adjusted upward.

SENATOR SMITH: A fee set by regulation, rather than statute?

MR. THOMPSON: Yes. Yes. Yes, it is. The Integrated Waste Management Board has the ability to change that fee. So we have supported, in advance, the recycling fee approach. And I must tell you that no other state thus far -- and we have worked at it over the last two years -- has adopted this approach. But we think a visible fee to the consumer sends a very powerful educational message. We've talked a lot about education.

We also think that a visible fee cannot be marked up as the product moves through distribution. So if you internalize the cost of recycling and it costs \$10 at the manufacturer level -- let's say, \$3 or whatever that is -- it will be marked up as it moves through distribution and then taxed finally. So the fee system is often portrayed as more expensive, but I'm not certain that it is, when you look at the economics of how the industry works. We think the fee system eliminates competitive disadvantages associated with systems based on waste stream share. We think it creates one system so you don't have several competing systems you're going to have to deal with. It eliminates brand sorting. It eliminates the orphan problem. And I think it would be easier to enforce than to take back models, when you start looking into the details of how the industry is structured across the world.

We've prepared a white paper on why we believe this is the correct approach. We have model legislation contained in the white paper. We also have a set of design incentives that are contained in that white paper because people will say that the fee system lets the manufacturers off the hook for design changes. We are not here to say that we should not be responsible for environmental design. We think if that's our main goal, that we can play better than anyone else in this process. And we agreed in California to accept chemical restrictions on products, and are now working to implement those restrictions for products sold in the United States.

Finally, though, like I said, I understand that this has run into political difficulty. We do support it, but it's something that hasn't been overwhelmingly received, let's say. So we are now working with the Council of State Governments, the Eastern Regional Council, and the Northeast Recycling Council, of which New Jersey is a member, to develop what we hope will be a regional model for collecting electronic products, which would be based on a manufacturer or first-seller fee. And we would recommend that this Committee please take a look at those efforts and evaluate what emerges from NRC, hopefully this Fall, as a potential way to address the issue of collecting and recycling electronic products in the State of New Jersey.

So having said that, I'd like to conclude my remarks. Thank you for the opportunity to be here, and I will look forward to trying to work with you -- Mr. Chairman, and members of the Committee, and DEP -- to develop and establish a recycling system for electronic products in the State of New Jersey.

SENATOR SMITH: Mr. Thompson, thank you very much for your comments. They're very, very helpful.

We have signed up, for this, David Brogan and Rich Santoro and Laurie Ehlbeck. You guys that have already been up before, let me ask you to limit it only to something we haven't heard before. All right?

Thank you, Mr. Thompson.

MR. SANTORO: Good afternoon, Mr. Chairman. Thank you again for this opportunity. I did not speak on this bill, previously, for that purpose, and I will now only focus on this bill.

Again, my name is Richard Santoro. I'm President of the New Jersey Retail Merchants Association. I'd like to express some of our concerns with this bill.

First of all, the retail community has also been engaged in the discussion over collection, recycling, and end-of-use management of electronic products. We've also participated in the Northeast Recycling Council, the Council of State Government regional meetings, and we certainly will continue to do so.

One thing I would like to talk about and address that was just mentioned is the ARF -- the advanced recovery fee. And certainly, the previous gentleman seemed to speak of how retailers are involved in the process, but we're not supportive of an advanced recovery fee for a whole host of reasons. We're not, certainly, trying to abdicate our responsibility. In fact, we welcome a producer responsibility bill. As manufacturers, retailers have their own private label products -- Best Buy, Circuit City. So we are manufacturers as well as retailers, and we are willing to take on our responsibility as producers and contend that an advanced recovery fee is not

a way of taking on responsibility. It is clearly a way of abdicating responsibility, because the costs are now pushed off solely onto the consumer, and there's no incentive for the manufacturer to ensure that those products are more environmentally friendly and contain more environmentally friendly components.

SENATOR SMITH: So just for the record, you are in favor of the producers being involved financially with the recycling process?

MR. SANTORO: Yes.

SENATOR SMITH: Okay.

MR. SANTORO: We do have two slight concerns with this bill, that I would like to raise, that prohibit us from supporting it at this time, and that goes really more to language -- kind of some technical issues. Specifically, in Section IV-E of the bill, it talks about how "a manufacturer that fails to submit an electronic waste management plan shall be prohibited from selling products in the state." We support that. The concern is that in Section VI-B of the Substitute it says that "a retailer may not offer products for sale." If they're offered by a manufacturer that's not in compliance, the difficulty, again, for retailers -- not as manufacturers, but as retailers -- we don't know if that manufacturer is giving us a product that is in compliance, particularly some of the smaller retailers like a Mrs. G's or some of the regional chains. We have no way of knowing that product or that manufacturer is supplying a product that is in compliance. Again, that's Section VI-B.

SENATOR SMITH: Next.

MR. SANTORO: And then, actually going back to the definition of manufacturer, there is a concern under Item 4. These are

manufacturers defined as someone who imports or exports covered electronic products into the state. Again, as a retailer, simply importing a product should not deem a retailer as a manufacturer. So if we get a shipment and it's coming from out of state, out of country, and the retailer is deemed as the importer of record, they're going to be declared a manufacturer under the bill, which we think is clearly not the intent. And we contend it would be very difficult for a retailer, who is, again, not manufacturing those products -- have no idea of what the content of those products is -- to be responsible for them.

SENATOR SMITH: We'll take a look at it.

MR. SANTORO: Thank you.

Again, to close, we have been active in the dialogue. We have participated in some of the regional meetings -- actually prefer a regional, and even better, a national approach that avoids complex, and a patchwork, approach or solution to the problem. We are promoting a solution that is simple and effective to implement, that will be cost-effective for retailers and consumer friendly, so that the consumers know the details of the product and ensure the products are, in fact, recycled at their end of life.

SENATOR SMITH: Thank you.

MR. SANTORO: Thank you.

SENATOR SMITH: David Brogan? David, do you have anything new to add? (negative response from audience)

Okay. We appreciate that.

Laurie, nothing new to add? (negative response from audience)

Mike Pisaro, anything new to add? (negative response from audience)

Okay. That concludes the witnesses who signed up for that bill.  
And our last bill is the revitalization of recycling.

And we'll start with Mr. Frank Brill.

Mr. Brill, I think you have a number of witnesses you'd like to bring up.

**F R A N K B R I L L:** Yes, sir.

**SENATOR SMITH:** And as a goal, we're going to try to finish up by 2:00. So everybody should try and adjust-- What time is it anyway? One-fifteen. So we have 45 minutes left. Everybody, hopefully, can adjust their comments accordingly.

**MR. BRILL:** Am I on?

**SENATOR SMITH:** Mr. Brill, you're on.

**MR. BRILL:** Thank you. Thank you, Mr. Chairman.

I'd like to start, if you wouldn't mind, with a quick, personal anecdote. I think it applies to a lot of us here in the room. I remember some -- close to 20 years ago -- at the beginning of recycling, and the heyday of recycling, and the activism, and the educational effort -- in the presence of my then school-age children, I tried to throw a Coke bottle into a trash can in my kitchen. And the horror that that evoked in the faces of my children is something I'll never forget. I'm still trying to make amends.

**SENATOR SMITH:** Changes your life.

**MR. BRILL:** It's changed my life. And that being the case, I'm glad to be here today representing a group -- Association of New Jersey Recyclers -- who I'm sure never had to learn that lesson and have been, for the past 20 years, the real drivers of recycling in New Jersey. They are the folks at the municipal and county level, who are the professional recycling

coordinators who run the programs in those locations; and also private sector recycling businesses in glass and paper and metals, who also are the folks responsible for the success, so far in New Jersey, of recycling.

Rather than me talk about it, it's best you hear their own personal situations, and why they are in full support of this bill, and why we thank you very much for sponsoring the bill.

The first person I'd like to introduce is a gentleman who is a recycling consultant, and author, and educator; and has been involved in recycling programs in New Jersey since the very beginning, and that's Wayne DeFeo.

**WAYNE D e F E O:** Good afternoon, Mr. Chairman. It's a pleasure to be here again. It's like old home week talking about recycling, yet again, on redux. I have a few comments I want to make very briefly, and we will get you out of here by 2:00, I promise, if I can.

I have just a few things I heard earlier on the bill that I wanted to make corrections to. There was some testimony made on other bills that you have introduced on the Committee and talking about the impact on markets. Well, if that doesn't argue for this bill, I don't know what does. One of the elements of S-2615 is to help towns and counties reinvigorate their recycling programs so that we can collect more materials. I heard concerns that there weren't markets for things. Right now, we can't keep material in the country. So I don't see that as an issue. There is a huge demand, but there is a problem. And that problem is one of being able to get counties and towns the help they need to move the programs forward.

We heard some complaints from others about paying the tax that's being proposed here -- the \$3. Bear in mind that Pennsylvania

charges more, and you will hear actually from Pennsylvania. We issued a visa to one of their counterparts in recycling to come over and talk about their fund. Seeing as we pay a lot into it, the least we could do is have them pay to come back and talk to us.

You've heard that it would be difficult to assess against individuals. Well, I pay an individual rate for garbage out of my house, and the cost to me, per year, would be about \$4, if this tax goes through. It's a nominal charge. How would that be assessed? You've heard questions and concerns about how to assess customers on a six-yard container or a 90-gallon can. Well, the same way I'm assessed to pay for my garbage today. It's an allocated cost based on a formula. And there's no reason that that wouldn't go forward.

Is it absolutely perfect as a means of measurement? No. But there are very few things that are absolutely perfect. It would be equitable, and as long as the formula is applied fairly, it is even across the board. That's the way it's been done in this industry since I worked as a deputy director, and it's the way it's been done before that.

Is it the cost of doing business in New Jersey? Of course it is. But it is a tax that I can control. I, as the generator, can actually decide how much of this tax I want to pay by simply not generating solid waste, by converting more to recycling.

And that's all I'm going to say for right now, and introduce, if I may -- through your graces -- Barbara Fiedler, who is the Vice President of ANJR, and she's going to speak on behalf of the Association.

**BARBARA FIEDLER:** Good afternoon, Mr. Chairman and members of the Committee. As Wayne said, my name is Barbara Fiedler,

and I am Vice President of the Association of New Jersey Recyclers. I'm here today to add strong support to this bill, S-2615.

Since the adoption of the Recycling Act in 1987, New Jersey residents, businesses, and institutions have paved the way as leaders in recycling. New Jersey set an ambitious recycling goal of 50 percent of all municipal solid waste and 60 percent of total solid waste in 1992, further placing our great state in a leadership role in recycling. The original act included a tax on solid waste with proceeds dedicated to a recycling fund that helped to finance county and municipal recycling programs, equipment, educational outreach, and new market development. The overall effort propelled the State's recycling goals to 45 percent of municipal solid waste by 1995 and 61 percent of total solid waste in 1997.

In 1996, the recycling fund was allowed to expire. Since then, recycling totals have dropped every year. And I know Mr. Sondermeyer has referred to these numbers before, but they do bear repeating. By 2002, New Jersey was recycling only 33 percent of MSW and 53 percent of total solid waste. We must reverse this trend. To accomplish this task, we must provide economic incentives and financial assistance to our local governments. S-2615 helps us to accomplish this goal.

The benefits of recycling are clear. There are 2,000 recycling businesses in New Jersey, providing 27,000 jobs, with 5.9 billion in annual sales. Reauthorizing the fund should create an additional 7,000 jobs when we reach the 50 percent MSW recycling goal. Recycling saves enough energy to fuel 1.3 million cars. If MSW recycling reaches 50 percent, greenhouse gas emissions will be reduced by 8 million metric tons. This is equal to the emissions from 1.7 million cars. In addition, 7,777 metric tons

of water pollutants will be prevented and 117,000 metric tons of air pollutants will be prevented.

Senators, thank you for your efforts in this important legislation. You are to be commended for thinking about the welfare of New Jersey's residents. Reauthorizing the recycling fund will benefit all of New Jersey's residents today and in the future.

SENATOR SMITH: Thank you.

MR. BRILL: Mr. Chairman, I'd like now to call Jean Clark, who I think is familiar to all of us here. Jean was a pioneer in recycling in the state -- was involved in the original, one of the first municipal programs in Montclair, and has been active in legislative issues benefiting recycling over the years.

While Jean is coming up, I'll also tell you that Peter Marcalus was here earlier and had to leave -- from Marcal Paper, one of the major private sector paper recycling businesses -- and he's in full support of the bill.

SENATOR SMITH: Thank you.

Ms. Clark.

**J E A N C L A R K:** My name is Jean Clark. I was the Vice Chairman of the first DEP Advisory Committee on Recycling, which was asked to draft a recycling plan for New Jersey in 1980.

Now, 25 years later, it's necessary to ask, what needs to be done in order for New Jersey to achieve the maximum benefits from its pioneering recycling program? As I think about this, I realize that the basic principles, which we outlined back then, are very simple and haven't changed. They were the foundation for the first Recycling Act of 1981, as

well as the Mandatory Recycling Act, which followed in 1987. They are: That markets determine which materials have economic value and are recyclable; that generators of those materials have to be persuaded to segregate them from the trash for transport to the market; and that the municipality should determine the type of collection system best suited to its needs.

Both previous pieces of recycling legislation rely heavily on carrots and sticks as the implementation tools. The stakes were: One, the rising solid waste disposal cost made greater by the addition of the recycling tax; two, the State's ability to control waste flow; and then three, the 1987 legislation making recycling mandatory. The biggest carrots were given to municipalities in the form of recycling tonnage grants, as well as the savings in solid waste disposal costs due to the removal of the recyclables. That worked pretty well until 1995, when recycling tonnages reached 60 percent of the total waste stream and 45 percent of the municipal waste stream. And that put the State's recycling goals, 65 percent -- actually Commissioner Shinn did that -- of total waste and 50 percent of MSW, in sight.

But then in 1996, the Legislature allowed the recycling taxes to sunset. And in 1998, the courts ruled that State control of waste flow was illegal. Both actions worked to reduce the sting of the stick and the effectiveness of the carrot. Recycling has been in a downward slide ever since. The recycling rate for MSW has now gone to 33 percent. In order to bring it back, we need to reinforce both carrots and sticks. The Recycling Enhancement Act is intended to do just that. One, it reinstates a sufficient surcharge on disposal costs to act as a stick, while providing both

municipalities and counties with the funds needed to assist them in conducting successful programs.

Two, education and PR are a critical tool in convincing generators of the benefits, both financial and environmental, of recycling. Education is also required in order to give residents the practical information they need to participate in recycling programs. The municipal tonnage grant program provides the necessary funds to do this.

Three, in 1987, the Legislature affirmed that recycling was not only an important, but a necessary part of a solid waste management strategy. It made recycling mandatory. The fact that we are losing ground now means that the Legislature must reaffirm the importance of recycling by restoring funding so that municipalities and counties can provide the education and enforcement programs necessary to achieve the stated goals. This bill does provide the tools that have worked in the past and that will do so again, if and when the Legislature makes it available.

SENATOR SMITH: Thank you, Ms. Clark.

MR. BRILL: Mr. Chairman, next we have Alice Tempel, from South Plainfield.

SENATOR SMITH: I know Alice well. Welcome.

**A L I C E S. T E M P E L:** Good afternoon, Chairman Smith and members of the Committee. My name is Alice Tempel. I have served as the Recycling Coordinator for the Borough of South Plainfield since 1991. I helped develop the Borough's recycling program starting in 1986, and I've seen our recycling rates increase steadily and then decrease after the last recycling tax sunsetted in 1996.

I support the proposed legislation to reinstate a recycling tax. I see this as part of a renewed commitment by the State to focus on recycling and waste reduction as a cornerstone of New Jersey's solid waste management strategy. In South Plainfield, the cost of our recycling program has doubled in the last five years, but the size of our tonnage grant has decreased. The amount of solid waste disposed of continues to increase, but the tonnage of materials collected for recycling decreased last year.

In the 1990s, the South Plainfield Recycling Commission used grant funds to conduct innovative public outreach programs. We ran recycling contests for school children, and we gave awards to the person who collected the most soda bottles or aluminum cans. We held an effective Cut It and Leave It lawn-care campaign, where we worked with local lawnmower shops to give a rebate to people who wanted to buy mulching blades or mulching mowers. We hired a graphic artist to produce an eye-catching brochure. We can't afford these nonessential activities any more.

Recent public opinion polls showed the average citizen's perception of recycling has changed since the Mandatory Recycling Act was adopted in 1987. Consumers seem to be placing convenience above environmental concern. We need new strategies if we're going to fend off a new solid waste crisis.

In South Plainfield, I would like to be in a position to develop an enforcement program in the residential sector. I'd like to be able to improve outreach to our commercial sector. But there's no room in my budget to hire somebody to work on these projects.

From a broader perspective, the State should be encouraging recycling because it benefits the economy and the environment. The funds generated by the proposed tax would enable the DEP to develop a communications campaign, beyond the municipal means, that would help the municipalities to meet their recycling goals. At a time when the State is adopting a new solid waste management plan that reemphasizes the role of recycling, it's especially appropriate to take this opportunity to provide the means to implement new initiatives. Reauthorizing the recycling fund will benefit all of New Jersey's municipalities.

Senators, thank you for your work on this important legislation. Thank you for thinking about the quality of life of New Jersey's citizens. Thank you for the opportunity to express my municipality's support through this bill.

SENATOR SMITH: Thank you, Ms. Tempel.

MR. BRILL: The next person we'd ask to speak is John Frederick, who is with the Professional Recyclers of Pennsylvania. The reason we've asked John to come across the river, as Wayne said earlier, is because of Pennsylvania's experience, which I think is relevant here. They have a \$5 recycling tax.

And as John is coming up and as Alice is departing, I want to say as successful as Alice's program is -- and she said why it could be even better with the tax -- I want to tell you that there's a lot of other municipal recyclers in towns where there are such budgetary constraints that those recyclers don't get to do anywhere near as much as Alice does. They're given lots of other duties and their responsibilities are unrelated to recycling, and that's another reason why we really need the tax.

SENATOR SMITH: Frank, before John gets started, the municipalities need some communication. They misunderstand the legislation. In fact, the one gentleman -- who was in a little earlier from Clifton, who I thought did a very nice job -- they didn't understand that they were going to be held harmless on costs and that there would be incentives. It would be very worthwhile for your group to reach out to the municipalities -- Mr. Dressel, Mr. Sera (phonetic spelling), some of the mayors -- to let them know what's in the bill, why it's important that they get back on. Because they -- it's a misunderstanding.

MR. BRILL: Thank you. We'll make that a priority.

SENATOR SMITH: I appreciate it, yes.

I'm sorry to interrupt you, John.

**JOHN FREDERICK:** That's okay.

In the interest of brevity, I'll abbreviate my remarks. You have some expanded comments in the handout I gave you.

Thanks again for the opportunity to speak to you. The Professional Recyclers of Pennsylvania is a sister organization of ANJR, and represents more than a thousand recycling programs through our 450 members. We are Pennsylvania's affiliate to the National Recycling Coalition and, like New Jersey, we are part of the Northeast Recycling Council.

There are many reasons that we're appreciative of the opportunity to talk with the Committee today, but the most noteworthy is because recycling in our two states is intimately intertwined. For the purposes of today's discussion, it's important to understand that a sound recycling infrastructure in one state is beneficial to all of its neighbors, both

environmentally and economically. Industrial users of recycled products and materials may be close to a thousand in two states together, and they need a steady supply of consistently good quality materials. These businesses have invested in recycling and did so under the assumption that the raw materials they needed would be available for the long term at reasonable prices and close to home. I think some of our prior testifiers have certainly passed on that sentiment.

In Pennsylvania, our grant investments have brought returns of more than five-to-one by any standard of measurement. The recycling industry now employs more than 81,000 Pennsylvanians, accounts for \$18 billion -- that's billion with a *B* -- in annual sales receipts in the Commonwealth, and more than 400 private sector manufacturers have invested in technologies and processes that utilized recycled feedstocks.

In New Jersey, these numbers have already been stated before, but there are 2,000 businesses employing 27,000 people and 850 million in payroll, which is a significant number. So this isn't just about environmental benefits. It's about a sound investment to the State of New Jersey.

Pennsylvania and New Jersey initially followed very similar paths. In fact, I think our legislation emulated yours, quite frankly, instituting similar curbside collection mandates and grant funding to support local programs. We, in Pennsylvania, were fortunate to have our recycling fee extended several times, providing significant and relatively consistent funding. We're optimistic that current pending legislation extending the fee another 10 years will be passed by our legislature in the next six months.

Just an aside here, by the way, the Pennsylvania Waste Industries Association is actually supportive of reauthorization of that fee. They're not very excited about the other fees that we add, but they are supportive of that fee because they've seen it as being of valuable assistance to their industry.

Although Pennsylvania has had continual funding since '88, increasing demands for funds of dwindling fund balance and inflationary pressures have made it more and more difficult for communities and counties to secure the funding that was typical in the early '90s. So despite our funding, even Pennsylvania struggled to adequately support local programs. During these tough times, we know the communities unable to fill the financial void have found it difficult to replace obsolete equipment, add new elements to their programs, and continue adequate education outreach.

Though the economic benefits have been substantial in both states, local communities must absorb the cost of collection and processing in both good market times and bad. Two major grant programs help local governments underwrite these costs in Pennsylvania: One funds capital costs and the other is a performance-based grant that comes with no strings attached in Pennsylvania. Our organization would prefer a requirement that performance grants be reinvested into recycling programs. The successful recycling communities already do this, but many less successful communities use it for unrelated programs.

When you renew your funding, we hope that you'll require your incentive grant money to be spent on the enhancement of recycling and waste reduction programs. Such a requirement in Pennsylvania would

make sure that all these grant dollars go to recycling, and New Jersey should learn from that one flaw in our legislation. Even with grant funding, communities and private sector companies have invested hundreds of millions of dollars in recycling activities and infrastructure in both states, so this grant support for recycling leverages significant local and private sector investments. Without funding, these investments are endangered and the quality and the quantity of material will be impacted. Without a steady stream of high quality materials, such investments are less likely to give the anticipated return on investment. Turning our backs on recycling then, at this point, would seriously jeopardize that investment and undermine the substantial economic and environmental benefits that recycling has brought.

As we so often say, when we're discussing the future of recycling and composting in Pennsylvania, much has been done, yet much remains. Part of the solid waste management puzzle is put together, but there are definitely some pieces missing. We hope that, and we are optimistic, the general provisions of this legislation will help New Jersey come closer to putting together their own puzzle, helping the entire Northeast make the transition to an environmentally sustainable economic development model.

Thanks.

SENATOR SMITH: Thank you, Mr. Frederick.

MR. BRILL: We're getting close to the end, Mr. Chairman.

We have two folks now coming up one at a time, representing two of the counties in New Jersey. Isaac Manning will be our first speaker, from Burlington County's OTC Program, a very successful program. Isaac

will be followed by Fran Metzger, from Monmouth County. And we'd like to ask both Isaac and Fran to be aware of the time constraints as they're going along.

SENATOR SMITH: We appreciate that.

**I S A A C F. M A N N I N G:** Good afternoon. Thank you for allowing me the opportunity to testify today, Senator Smith and the Committee. My name is Isaac Manning, and I am the Director of Recycling for the Occupational Training Center of Burlington County, which is a private, non-profit agency that provides employment and training services to individuals with disabilities.

The OTC has been the contract operator for the Burlington County Recycling Program since 1982. So certainly, we have been there as pioneers in the program. And our program actually filled a niche that historically wasn't addressed by the private sector. Today, our nationally recognized program employs 150 people who perform the collection and processing of recyclable materials for over 150,000 households in Burlington County.

The program thereby serves two vital needs for our residents, recycling and the employment of individuals with disabilities. While doing so, we've achieved the highest county recycling rate in New Jersey and one of the lowest costs per household for recycling. This efficiency is strong testimony to the effectiveness of regionalized service.

Our service area continues to increase as the population of Burlington County grows along with the resident participation in our program. Now more than ever, the continued success of our demonstrably successful program is in need of additional funding to support our

operations. We therefore urge the Assembly to pass the New Jersey Recycling Enhancement Act.

Thank you.

SENATOR SMITH: Thank you, Mr. Manning.

MR. BRILL: Our final speaker will be Fran Metzger, from Monmouth County. While Fran is making progress -- is here, already -- I also want to mention that we have a letter we'll enter into the record of support from Cumberland County Improvement Authority.

SENATOR SMITH: And by the way, let me do a second comment. The Association of Counties -- the county recyclers need to talk to them. We received a letter today, it was very noncommittal. So we need the counties to be talked to as well.

Go ahead.

**F R A N M E T Z G E R:** I'm Fran Metzger, Monmouth County Recycling Coordinator. I just don't want to reiterate every positive thing that you've heard already, but we do support this bill of S-2615. And we are especially supportive of the elimination of the Solid Waste Services Tax.

And thank you.

SENATOR SMITH: Thank you.

MR. BRILL: Well, we met the request for brevity.

SENATOR SMITH: You did great.

MR. BRILL: I just would ask if Wayne could just give a quick quote here.

MR. DeFEO: Two seconds -- well, maybe a little more. I don't think I've been able to give two seconds. I just want to close by again thanking you for taking the time to do this bill and this hearing, and

emphasize for the record that we know, and everyone out here knows, that this is not a new tax. We are talking about reauthorizing something that has already existed and is needed. And we're talking about reauthorizing at a rate that is basically adjusted for inflation over the past 20 years. It's not really that much new money. I would also stress that it would capture out-of-state waste coming into New Jersey. This is what John Frederick mentioned that they're funding -- we contribute heavily towards from New Jersey. It seems only fair if you're going to use our facilities there should be some incentive to not do so.

And the most important thing I want to stress again is controllability. Some of our large corporate members of ANJR and some of the large corporations I have the pleasure of working with -- one in particular, and I won't name them today, but has a recycling rate of over 90 percent. So they have pretty much done all you could ask anyone to do to control their waste stream. And this is the kind of incentive we want to give all corporate, municipal, and private generators.

And I thank you very much for your time today.

SENATOR SMITH: Thank you, Wayne, and thank you, Mr. Brill.

MR. BRILL: Thank you.

SENATOR SMITH: Mr. Steve Wymbbs, Executive Director, Cumberland County Improvement.

**S T E V E N R. W Y M B S:** Thank you, Chairman.

I want to first thank everyone for allowing us the time to testify today and for your time, and to commend you on the grasp that you have

demonstrated, by the wording of this bill, in accepting the totality of this issue.

I won't comment on all of the details and specifics that are included in the bill, that there will be time for that at a later date. However, there are a couple of philosophical issues that I'd like to bring up. I've been arguing for the last 10 years of sunseting the Solid Waste Services Tax, and I greatly appreciate the equity that this bill now promotes in the State of New Jersey. However, the Solid Waste Services Tax under this bill does not sunset for the first 12 months of the enactment of the bill. I recognize there are administrative aspects of the need for that. I would only then ask that, as the bill ratchets up percentages of recycling, that it may also consider ratcheting up the dollar value and not assess the full \$3 per ton initially, so that those 11 landfill counties in the State of New Jersey are not double taxed in those first 12 months. I'm not necessarily arguing about the totality of the \$3, but if we can get there over a period of time it would ease those landfill counties and the burdens on double taxation for at least the first year.

I would also ask you to consider another portion of the bill that distributes some of the money based on solid waste generated. In heavily populated communities, those communities will receive funds that may not be based on performance standards. I would like you to consider some more performance-based standard aspects of the bill. Twenty-five percent of the allocated funds for the bill go against solid waste generation, not performance-based standards. Rural communities in southern New Jersey would not necessarily benefit from that distribution pattern. While Isaac--

SENATOR SMITH: You just rang Senator Sweeney's bell.  
(laughter)

Go ahead.

MR. WYMBS: Senator Sweeney and I have gone around and around on numerous occasions. I don't expect to ring his bell on that one, however.

The necessity of an immediate increase -- of even the departments admittal of five times the amount of money going to communities over and above what they are already getting -- may be a little bit of a hit, in the initial stages, that's too heavy on the 11 landfill counties that are now collecting the Solid Waste Services Tax. So I would ask that the possibility of that be ratcheted.

SENATOR SMITH: That might be the place where you could do at least that one-year transition.

MR. WYMBS: Exactly.

While Isaac and I may argue over who is the number one recycling county in the State of New Jersey, there are municipalities and counties that are maintaining programs. The Cumberland County Improvement Authority invests hundreds and hundreds of thousands of dollars yearly into maintaining what is probably one of, if not, the best recycling programs in the State of New Jersey, along with implementing over a millions dollars worth of grant programs back to non-taxing agencies in the last three years to promote recycling and recyclable materials. We also maintain the number one Clean Communities program in the state. We also do that with the lowest tipping fee in the State of New Jersey, and

we're very, very proud of that. That low tipping fee is \$12 less than our nearest competitor.

And I understand Mr. Changaris's issue of waste going over the borders, but it works in reverse when market conditions allow it. And I will tell you that we get waste from not just out of district, but out of state. So that -- the totality of that \$3 a ton is not necessarily something that will be of concern in the long run, but again, the double taxation in the initial stages is something that we would be concerned with.

I not only sit here as the Executive Director of the Cumberland County Improvement Authority, I am also the International Director of the New Jersey Chapter of the Solid Waste Management Association, who is behind the efforts of this bill in all concepts, will be commenting separately on some of the specifics. I'm also the Chairman of the New Jersey Solid Waste Advisory Council, and we have been arguing and debating these issues for the last number of years. So from all of those entities who now support this bill, I thank you very, very much for your time and your grasp of the issues.

SENATOR SMITH: Thank you so much. Thank you.

Patrick Ryan, New Jersey Clean Communities Council.

**PATRICK RYAN:** Thank you, Mr. Chairman. I'll be quite brief and end the long day. I'm Patrick Ryan. I'm the Chairman of the Hopewell Valley Community Bank, but I'm here today in my capacity as the President of the New Jersey Clean Communities Council, and we're here to give our hardest endorsement to the recycling enhancement act -- S-2615 -- which we are discussing.

In a nutshell, I would just like to endorse Mr. Sondermeyer's comments today. The two points most important to us are clearly the fact that the recycling program in this state needs to have a substantial, a steady, and reliable cash flow in order to restore it to its former situation and to move it on forward. We endorse the bill on this part. We also make the observation that this will also have a benefit to the Clean Community effort throughout the state, in that it will restore \$4 million, which is currently diverted from litter tax money, to the recycling program. This will certainly be a large help to all the counties in the state. It will be helpful to our organization, the Clean Communities Council, that we operate a wide range of litter abatement and litter education programs across the state, which should make New Jersey really a model for the rest of the United States.

In summary, the combination of a steady, reliable, independent cash flow for recycling along with the restoration of the Clean Communities litter tax money -- in fact, two litter programs -- can only make New Jersey a cleaner and more livable state.

Thank you very much, Mr. Chairman.

SENATOR SMITH: Thank you so much.

Mr. Brogan, anything you want to add? (no response)

Ms. Ehlbeck, from the Food Council, anything you want to add?

Well, let me just check, while she's coming up, is Mr. Pasaro still here? (no response) Okay. I think he got his comments in earlier.

You're the anchor person.

MS. EHLBECK: Oh, great. Okay, again, I'm Laurie Ehlbeck with the New Jersey Food Council. Okay. The Food Council has a long and productive history of working side by side with DEP on solid waste issues. New Jersey Food Council has championed the Clean Communities Act, supported the litter tax, and helped advance the State's Solid Waste Management Plan, particularly in promoting anti-litter and recycling programs. We hope to continue this good faith relationship, and we work to facilitate the mutual goals of DEP and industry without creating a burden on business.

That being said, the New Jersey Food Council generally opposes any additional taxes on New Jersey businesses. We agree that it's important to provide for a stable source of assistance for recycling enhancement. The New Jersey Food Council is encouraged by DEP's proposal to sunset the current \$1.50 solid waste service fee. Our members do understand that the elimination of this fee, coupled with an increased recycling effort, will somewhat decrease the burden of an additional tax on New Jersey businesses.

It should be noted that New Jersey Food Council businesses pay almost 50 percent of this tax. If you look at the cost to individual Food Council businesses, each store pays anywhere from \$5,500 to \$7,200 annually. And we respectfully request that the retail food industry be exempt from this additional tax.

SENATOR SMITH: What-- (laughter) Where did that \$7,000 figure come from? Where's the \$7,000--

MS. EHLBECK: In the litter tax. I mean, in the service fee.

SENATOR SMITH: And that's the average per--

MS. EHLBECK: No. The average is somewhere between-- We pay anywhere from 5,500 to 7,200.

SENATOR SMITH: Per--

MS. EHLBECK: Per individual store.

SENATOR SMITH: --food establishment?

MS. EHLBECK: Yes.

SENATOR SMITH: Okay, thank you.

MS. EHLBECK: Additionally, we'd like to request that a portion of the moneys be invested in creating a food waste composting program. Food waste is a byproduct of the retail food business, but the capacity to support a formidable composting program is difficult, since there's only one operational food waste compost station in New Jersey. We believe that DEP should work to advance the success of this lone compost station with technological support, guidance, encouragement, and a spirit of compliance before new markets evolve.

This commitment will send a clear message to companies rich in food waste product that the Department is willing to spearhead a course of action for getting this organic waste out of the solid waste stream. With this leadership, stakeholders, generators, haulers, and other interested composters can begin to develop and expand a food waste composting model. The Food Council will be happy to be at the table to evaluate, advise, and offer expertise to a proactive Department of Environmental Protection program.

And that's all I have to say today, if anybody has any questions.

SENATOR SMITH: We appreciate your comments, and we appreciate everyone's comments -- coming down on an August summer day and taking time out of your schedule.

We haven't gotten the transcript yet, but the submissions today look to be about an inch-and-a-half thick. And let me tell you, we'll take each and every one of your comments under advisement. This is all very serious legislation, and we're going to do it the right way. And we appreciate you taking the time to give us your ideas and your input.

With that being said, the meeting is adjourned.

And thank you again.

**(HEARING CONCLUDED)**