

Committee Meeting

of

SENATE ENVIRONMENT AND ENERGY COMMITTEE

*“The committee will hear testimony from invited guests and the public
on electronic waste recycling.*

*Also, a draft bill allocating funding for open space, farmland, and historic preservation
will be distributed and committee members will have a policy discussion on that issue”*

The following bill will be considered:

Senate Bill 2424

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

DATE: February 9, 2015
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Bob Smith, Chair
Senator Linda R. Greenstein, Vice Chair
Senator Richard J. Codey
Senator Samuel D. Thompson



ALSO PRESENT:

Judith L. Horowitz
Office of Legislative Services
Committee Aide

Kevil Duhon
Senate Majority
Committee Aide

Carlos Cruz
Senate Republican
Committee Aide

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



BOB SMITH
Chairman

LINDA R. GREENSTEIN
Vice-Chairwoman

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

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

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

New Jersey State Legislature

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATE HOUSE ANNEX

PO BOX 068

TRENTON NJ 08625-0068

COMMITTEE NOTICE

TO: MEMBERS OF THE SENATE ENVIRONMENT AND ENERGY COMMITTEE

FROM: SENATOR BOB SMITH, CHAIRMAN

SUBJECT: COMMITTEE MEETING - FEBRUARY 9, 2015

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

The Senate Environment and Energy Committee will meet on Monday, February 9, 2015 at 10:00 AM in Committee Room 10, 3rd Floor, State House Annex, Trenton, New Jersey.

The committee will hear testimony from invited guests and the public on electronic waste recycling. Also, a draft bill allocating funding for open space, farmland, and historic preservation will be distributed and committee members will have a policy discussion on that issue.

The following bill will be considered:

S-2424 Codey	Requires municipal land use plan element of master plan to address smart growth and storm resiliency, and environmental sustainability issues.
-----------------	--

Issued 2/2/15

For reasonable accommodation of a disability call the telephone number or fax number above, or for persons with hearing loss dial 711 for NJ Relay. The provision of assistive listening devices requires 24 hours' notice. CART or sign language interpretation requires 5 days' notice.

For changes in schedule due to snow or other emergencies, see website <http://www.njleg.state.nj.us> or call 800-792-8630 (toll-free in NJ) or 609-847-3905.

SENATE, No. 2424

STATE OF NEW JERSEY

216th LEGISLATURE

INTRODUCED SEPTEMBER 18, 2014

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex and Morris)

Co-Sponsored by:

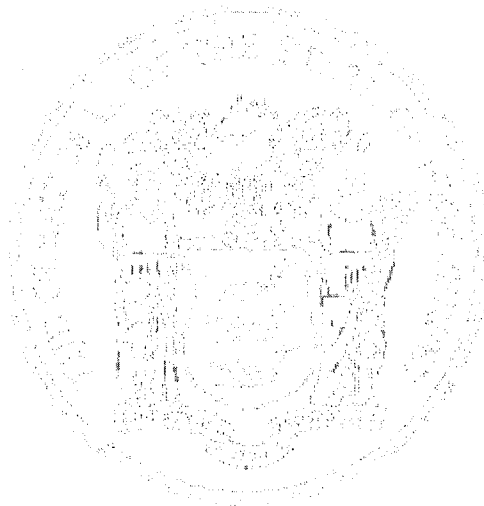
Senators Greenstein and Thompson

SYNOPSIS

Requires municipal land use plan element of master plan to address smart growth and storm resiliency, and environmental sustainability issues.

CURRENT VERSION OF TEXT

As introduced.



S2424 CODEY

2

1 AN ACT concerning smart growth, storm resiliency, and
2 environmental sustainability, and amending P.L.1975, c.291.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 19 of P.L.1975, c.291 (C.40:55D-28) is amended to
8 read as follows:

9 19. Preparation; contents; modification.

10 a. The planning board may prepare and, after public hearing,
11 adopt or amend a master plan or component parts thereof, to guide
12 the use of lands within the municipality in a manner which protects
13 public health and safety and promotes the general welfare.

14 b. The master plan shall generally comprise a report or
15 statement and land use and development proposals, with maps,
16 diagrams and text, presenting, at least the following elements (1)
17 and (2) and, where appropriate, the following elements (3) through
18 (16):

19 (1) A statement of objectives, principles, assumptions, policies
20 and standards upon which the constituent proposals for the physical,
21 economic and social development of the municipality are based;

22 (2) A land use plan element

23 (a) taking into account and stating its relationship to the
24 statement provided for in paragraph (1) hereof, and other master
25 plan elements provided for in paragraphs (3) through (14) hereof
26 and natural conditions, including, but not necessarily limited to,
27 topography, soil conditions, water supply, drainage, flood plain
28 areas, marshes, and woodlands;

29 (b) showing the existing and proposed location, extent and
30 intensity of development of land to be used in the future for varying
31 types of residential, commercial, industrial, agricultural,
32 recreational, open space, educational and other public and private
33 purposes or combination of purposes including any provisions for
34 cluster development; and stating the relationship thereof to the
35 existing and any proposed zone plan and zoning ordinance; and

36 (c) showing the existing and proposed location of any airports
37 and the boundaries of any airport safety zones delineated pursuant
38 to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-
39 80 et al.); **[and]**

40 (d) including a statement of the standards of population density
41 and development intensity recommended for the municipality; and

42 (e) including, for any land use element adopted after the
43 effective date of P.L. . c. (C.) (pending before the Legislature
44 as this bill), a statement of strategy concerning smart growth, storm

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

Matter underlined thus is new matter.

S2424 CODEY

3

1 resiliency with respect to energy supply and environmental
2 infrastructure, and environmental sustainability;

3 (3) A housing plan element pursuant to section 10 of P.L.1985,
4 c.222 (C.52:27D-310), including, but not limited to, residential
5 standards and proposals for the construction and improvement of
6 housing;

7 (4) A circulation plan element showing the location and types of
8 facilities for all modes of transportation required for the efficient
9 movement of people and goods into, about, and through the
10 municipality, taking into account the functional highway
11 classification system of the Federal Highway Administration and
12 the types, locations, conditions and availability of existing and
13 proposed transportation facilities, including air, water, road and rail;

14 (5) A utility service plan element analyzing the need for and
15 showing the future general location of water supply and distribution
16 facilities, drainage and flood control facilities, sewerage and waste
17 treatment, solid waste disposal and provision for other related
18 utilities, and including any storm water management plan required
19 pursuant to the provisions of P.L.1981, c.32 (C.40:55D-93 et al.). If
20 a municipality prepares a utility service plan element as a condition
21 for adopting a development transfer ordinance pursuant to
22 subsection c. of section 4 of P.L.2004, c.2 (C.40:55D-140), the plan
23 element shall address the provision of utilities in the receiving zone
24 as provided thereunder;

25 (6) A community facilities plan element showing the existing
26 and proposed location and type of educational or cultural facilities,
27 historic sites, libraries, hospitals, firehouses, police stations and
28 other related facilities, including their relation to the surrounding
29 areas;

30 (7) A recreation plan element showing a comprehensive system
31 of areas and public sites for recreation;

32 (8) A conservation plan element providing for the preservation,
33 conservation, and utilization of natural resources, including, to the
34 extent appropriate, energy, open space, water supply, forests, soil,
35 marshes, wetlands, harbors, rivers and other waters, fisheries,
36 endangered or threatened species wildlife and other resources, and
37 which systemically analyzes the impact of each other component
38 and element of the master plan on the present and future
39 preservation, conservation and utilization of those resources;

40 (9) An economic plan element considering all aspects of
41 economic development and sustained economic vitality, including
42 (a) a comparison of the types of employment expected to be
43 provided by the economic development to be promoted with the
44 characteristics of the labor pool resident in the municipality and
45 nearby areas and (b) an analysis of the stability and diversity of the
46 economic development to be promoted;

47 (10) An historic preservation plan element: (a) indicating the
48 location and significance of historic sites and historic districts; (b)

S2424 CODEY

4

1. identifying the standards used to assess worthiness for historic site
2 or district identification; and (c) analyzing the impact of each
3 component and element of the master plan on the preservation of
4 historic sites and districts;

5 (11) Appendices or separate reports containing the technical
6 foundation for the master plan and its constituent elements;

7 (12) A recycling plan element which incorporates the State
8 Recycling Plan goals, including provisions for the collection,
9 disposition and recycling of recyclable materials designated in the
10 municipal recycling ordinance, and for the collection, disposition
11 and recycling of recyclable materials within any development
12 proposal for the construction of 50 or more units of single-family
13 residential housing or 25 or more units of multi-family residential
14 housing and any commercial or industrial development proposal for
15 the utilization of 1,000 square feet or more of land;

16 (13) A farmland preservation plan element, which shall include:
17 an inventory of farm properties and a map illustrating significant
18 areas of agricultural land; a statement showing that municipal
19 ordinances support and promote agriculture as a business; and a
20 plan for preserving as much farmland as possible in the short term
21 by leveraging moneys made available by P.L.1999, c.152 (C.13:8C-
22 1 et al.) through a variety of mechanisms including, but not limited
23 to, utilizing option agreements, installment purchases, and
24 encouraging donations of permanent development easements;

25 (14) A development transfer plan element which sets forth the
26 public purposes, the locations of sending and receiving zones and
27 the technical details of a development transfer program based on the
28 provisions of section 5 of P.L.2004, c.2 (C.40:55D-141);

29 (15) An educational facilities plan element which incorporates
30 the purposes and goals of the "long-range facilities plan" required to
31 be submitted to the Commissioner of Education by a school district
32 pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4); and

33 (16) A green buildings and environmental sustainability plan
34 element, which shall provide for, encourage, and promote the
35 efficient use of natural resources and the installation and usage of
36 renewable energy systems; consider the impact of buildings on the
37 local, regional and global environment; allow ecosystems to
38 function naturally; conserve and reuse water; treat storm water on-
39 site; and optimize climatic conditions through site orientation and
40 design.

41 c. The master plan and its plan elements may be divided into
42 subplans and subplan elements projected according to periods of
43 time or staging sequences.

44 d. The master plan shall include a specific policy statement
45 indicating the relationship of the proposed development of the
46 municipality, as developed in the master plan to (1) the master plans
47 of contiguous municipalities, (2) the master plan of the county in
48 which the municipality is located, (3) the State Development and

S2424 CODEY

5

1 Redevelopment Plan adopted pursuant to the "State Planning Act,"
2 sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.)
3 and (4) the district solid waste management plan required pursuant
4 to the provisions of the "Solid Waste Management Act," P.L.1970,
5 c.39 (C.13:1E-1 et seq.) of the county in which the municipality is
6 located.

7 In the case of a municipality situated within the Highlands
8 Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the
9 master plan shall include a specific policy statement indicating the
10 relationship of the proposed development of the municipality, as
11 developed in the master plan, to the Highlands regional master plan
12 adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8).
13 (cf: P.L.2013, c.106, s.6)

14

15 2. This act shall take effect immediately.

16

17

18

STATEMENT

19

20 This bill requires that the land use element of a municipal master
21 plan include a statement of strategy concerning smart growth, storm
22 resiliency with respect to energy supply and environmental
23 infrastructure, and environmental sustainability. These issues are of
24 special importance to New Jersey, as the State is among the most
25 ecologically diverse and densely populated in the country. The land
26 use element of the municipal master plan is adopted by local boards
27 intimately involved with local land use issues. These boards are
28 uniquely situated to consider and adopt a local strategy designed to
29 address these issues in a practical and effective manner.

TABLE OF CONTENTS

	<u>Page</u>
John R. Purves, Esq. Private Citizen	3
Jim Entwistle President Newtech Recycling Inc.	3
Jeff Tittel Director New Jersey Chapter Sierra Club	15
Michael F. Cerra Director Government Affairs New Jersey State League of Municipalities	17
Jeff Kolakowski Vice President Government Affairs New Jersey Builders Association	22
Monica Gismondi Vice President-Program Association of New Jersey Recyclers, and Recycling Coordinator Gloucester County Improvement Authority, and Representing New Jersey Association of Counties	32
John G. Donnadio, Esq. Executive Director New Jersey Association of Counties	32
Paul L. McCall Director Public Works Somerset County, and Representing New Jersey Association of Counties	32

TABLE OF CONTENTS (continued)

	<u>Page</u>
John Holub President New Jersey Retail Merchants Association	44
Walter L. Alcorn Vice President Environmental Affairs and Industry Sustainability The Consumer Electronics Association	48
David A. Thompson Director Corporate Environmental Department Panasonic Corporation of America, and President Electronic Manufactures Recycling Management Company	57
Carole Tolmachewich Principal Planner Middlesex County, and Board of Directors Association of New Jersey Recyclers	69
APPENDIX:	
Open Space Implementation Bill Discussion Points submitted by Senate Environment and Energy Committee	1x
Testimony, and Internet Links submitted by John R. Purves, Esq.	5x
News articles <i>Illinois amendment aims to fix e-scrap program, and CRT glass brought Creative Recycling Systems down, and Piles of CRT glass sit at closed Dlubak site E-Scrap News</i> submitted by Jim Entwistle	16x

TABLE OF CONTENTS (continued)

APPENDIX (continued)

	<u>Page</u>
Testimony submitted by Michael F. Cerra	23x
Testimony submitted by Walter L. Alcorn	31x
Testimony submitted by David A. Thompson	34x
Testimony submitted by John Toth Board Member Jersey Coast Anglers Association, and Board Member New Jersey Outdoor Alliance	36x
Testimony submitted by Wayne D. DeFeo DeFeo Associates	38x
Testimony submitted by Jessica Evans Post Hurricane Sandy Fellow New York/New Jersey Baykeeper	41x
pnf: 1-74	

SENATOR BOB SMITH (Chair): I know Senator Codey is on the building; Senator Greenstein said she's going to be five-- She's in transit; she expects to be in 10 to 15 minutes. Senator Bateman is out today. So Senator Thompson and I are here representing the bipartisan coalition for a cleaner New Jersey.

So we don't waste time -- because we really have a lot of very important stuff on the agenda, we're going to start the e-waste hearing now; but we will interrupt it to go to a discussion on Open Space, and then Senator Codey's bill. And then we'll come back to e-waste. But let's not lose any time.

So can I have the slips for e-waste? Okay. And maybe a little philosophic--

MR. DUHON (Senate Majority Aide): At some point--

SENATOR SMITH: What's that?

MR. DUHON: At some point, we'll call the roll, but it could be later.

SENATOR SMITH: Yes, you could call the roll, but you'll know people as they come in.

MS. HOROWITZ (Committee Aide): I can wait.

SENATOR SMITH: And we are taking testimony; be careful what you say, it is being recorded, all right?

The background on e-waste is, we have had a program now for three years -- five year, all right. Anybody here from the DEP? (no response) Invited; we would love to have their comments. Invited on Open Space -- two of the most serious issues this State is facing; invited -- no one here. It's a shame.

MS. HOROWITZ: They said they're not scheduled--

SENATOR SMITH: Yes, right.

So here's the problem on Open Space. We had a program, I guess, about five years-- Does that sound about right?

MR. DUHON: That sounds right.

SENATOR SMITH: And it's a major problem for the State of New Jersey -- and for the world, for that matter. But we, being a high-tech state, and having citizens who are very high-tech oriented and who love their televisions, generate lots of it. And the problem five years ago, when we first looked at it, was we did not have an e-waste program. We didn't want all this stuff going into our landfills or, consequently, into our air and water. So New Jersey wanted to have a robust e-waste program.

And we looked at the various structures for e-waste programs around the country at that time. We had a huge discussion about whether there should be an advanced recovery fee. The industry said, "Please, we don't want an advanced recovery fee. California is off its rocker; we shouldn't do that. And we should just bill the manufacturers for their proportional production of e-waste on the State."

So now it's five years later. And I've had people come into my office saying our program is not working real well.

So our point today is to find out-- I would have loved to have had the DEP here to give us a little report on how well it's doing. Unfortunately, they have other scheduling issues. So we're going to get some testimony.

Oh, good. Senator Codey is now here, and we're waiting for Senator Greenstein before we get to the other stuff.

Is this the first slip that I said I was going to do first?

MS. HOROWITZ: (Indiscernible).

SENATOR SMITH: The first slip -- the first guy?

There is one witness who brought this to our attention. Would you come forward?

MS. HOROWITZ: John Purves?

SENATOR SMITH: Is it Mr. Purves -- is that right?

J O H N R. P U R V E S, Esq.: Yes, that's me.

SENATOR SMITH: Okay. All right, Mr. Purves, you are our first guy.

MR. PURVES: Okay.

SENATOR SMITH: And then the guy to your right -- left, two seats, is our second witness. Why don't you both come up?

MR. PURVES: I'll bring him up.

SENATOR SMITH: I think you are complementary to each other.

J I M E N T W I S T L E: Thank you.

SENATOR SMITH: So it's Mr. Purves and Mr.--

MR. ENTWISTLE: Entwistle.

SENATOR SMITH: Okay. And, gentlemen, for the record-- Remember, you're being recorded. So if you would identify yourselves and your affiliations.

MR. PURVES: Yes. My name is John Purves. I'm an attorney in the State of New Jersey. I represent a number of Class D recycling centers, which are the electronic waste recyclers in New Jersey.

And I'll begin my testimony. I have handed out, I think to all the members of the Committee, copies of my testimony and copies of a white paper that was prepared back in the summer to address this issue with the Department of Environmental Protection; as well as letters of support from the Association of New Jersey Recyclers and the Association of New Jersey Hazardous Waste Collectors. In addition, I've also provided you with copies of articles where this is an issue that's facing others states as well. And I think I've provided to the Committee, through Ms. Horowitz, I think 20 articles as well. They are not copies today, but I did send that by e-mail to her; so there is additional information as well.

I'll start out by thanking Chairman Smith and members of the Committee for the opportunity to talk to you today. I have been a legal and technical consultant for over 25 years in the field of recycling and solid waste. I've represented many private companies, and I currently represent virtually all types of recycling facilities right now in terms of new development in New Jersey, and expansion.

Prior to that, I was with the U.S. EPA and the New Jersey DEP; but it's probably been 30 years since I was here representing the Department, and I'm not speaking for the Department today.

I currently represent a number of Class D recycling companies. They are called *Class D* recycling centers; but Class D simply means that they are allowed to recycle electronic waste. So these are the e-waste recyclers in New Jersey. And, in fact, we should be really very thankful and happy that we have a complete collection in the recycling infrastructure in New Jersey. Back in 2008, the Electronic Waste Recycling Act was passed; implementation began in 2009. It was relatively easy at that time, because

we had a complete infrastructure for recycling electronic waste in place already. Unlike a lot of states, which didn't have that at the time they passed similar laws, we had that system in place already.

It operated very well for many years -- for the initial years of the development of this whole program. It operated very smoothly, primarily because we had the system in place. We had a system whereby residents would bring electronic waste to places like the Goodwill store, or they would bring them to municipal and county facilities. Most of our efforts, most of the tonnage, most of the recycling that we were engaged in at that time was really through collection programs by municipalities and counties, whereby they would take the material in -- whether from drop-offs from homeowners or from collection programs by the towns themselves -- and they would consolidate that material, and they would contract with recycling companies -- these Class D recyclers -- to recycle and remove the electronic waste. It worked very well. It worked very well because recyclers were paid a proper amount, compensated properly for the recycling of these materials. And we actually were flourishing in terms of how our recycling was going forward. I've represented clients who, a couple of years ago, had to greatly expand. They had to relocate and expand within the state because of the amount of material that was being recycled in New Jersey. It was working very well.

In 2013, that began to change. What happened was, manufacturers who were obligated under the law to take back this material -- to pay for this material, and take it back -- began to pay a lesser and lesser amount of compensation to the recyclers. And the recyclers at that time were not being paid for the full costs of recycling these materials.

That continued into 2014; and in 2014, we saw, actually, two things happen: We saw a significant drop-off in terms of compensation to recyclers so that they weren't being paid truly for the cost of their efforts; and secondly, under the law where manufacturers were to submit plans to the State for their allocation of material to take back, they weren't committing with these recycling facilities for the full commitment of what was being collected. And, as a result, we had facilities that were overflowing with electronic waste because the manufacturers weren't taking back the material, nor were they being compensated properly for this.

So now we have a situation in New Jersey where the recycling facilities have notified county government and municipal government that they can no longer take back the material in the way the law was intended. The law intended for this to be free and convenient to the consumer. In other words, residents were able to bring back their electronic waste to the Goodwill store, or other locations, or collect it through the government programs -- the collection programs -- and once they were consolidated by the counties and the municipalities, they would contract with electronic waste recyclers -- the Class D facilities -- that would come in and take the material, free and convenient. Well, free and convenient only works if the recyclers are being paid in a fair manner from manufacturers that are required to take this back.

It's my understanding that the intent of the Legislature was that the cost of recycling electronic waste was to be borne by the manufacturers; that's my understanding in terms of dealing with these facilities. I think it's the understanding by most involved in this whole program -- that it's the responsibility on the part of manufacturers to take

back-- Their obligation is to recycle this material; the cost is to be borne by the manufacturing industry.

That is not happening today. As a result of insufficient compensation, recycling facilities are notifying municipalities and county government that they can't take it for free; they have to charge. They have to charge the true cost -- the fair cost for providing the collection, the recycling, the processing of these materials, and getting it back to the manufacturers. As a result of this, municipalities and counties are finding that their costs are rising dramatically. In many cases, we have counties now that are suspending programs; we have municipalities that have notified the Class D facilities they can't pay for this material so they are suspending their programs as well. And I think we're going to hear testimony a little later from county government where, as a result of programs being stopped or suspended, we now have a real concern about illegal dumping of electronic waste throughout the state.

So that's where we are at this point in time. We have a lack of -- insufficient compensation for the costs of these materials, and we do not have-- Here we are, in the second month of 2015, and Class D facilities are not getting commitments from the manufacturers and their representatives for taking back this material, at any cost.

So we now, again, have warehouses starting to fill up; and we truly do -- at this moment in time we're having warehouses and facilities that are filling up with electronic waste because they have no commitment by the manufacturers to take back this material.

The Class D facilities have met with counties, have met with DEP; we've met those involved in this industry. And we've indicated that

the current law is not working, and that we really need to change the law in order to place the responsibility back on the manufacturers and have an effective program that does not cost the consumer, nor cost municipal and county governments, the cost of recycling this material -- because that's what's happening at this point in time.

So we're suggesting a number of changes. One change is that there be a responsibility on the part of manufacturers to take back an unlimited amount of weight, an unlimited amount of this material. In other words, manufacturers will be responsible to take back what is collected, not just what plans are submitted to the Department in a sense of what possible allocation to give each company. It doesn't work very well when you go back to the recycling facilities that are collecting this material from all levels of government. We need to have the responsibility where manufacturers take back all of the material collected in New Jersey.

A second suggestion is that regulations and fees be applied equally to in-state facilities as well as out-of-state facilities. We had a very, very comprehensive regulation -- or regulatory scheme involving Class D facilities. They pay some of the highest fees in the country. They go through a very lengthy process in terms of being permitted by the DEP. And we have out-of-state facilities that bear none of that responsibility. They don't pay fees, and we feel that there ought to be equality in terms of regulation of both in-state and out-of-state facilities in terms of being able to take electronic waste from our citizens.

A third item, and probably the most important, is fair and reasonable compensation to recyclers. There are other states that do have a system in place where the recycling facilities are paid for the proper costs of

recycling these materials. That way that cost is borne by manufacturers, and not borne by government or by our citizens.

We also suggest a couple other minor-- Those are the major points. We suggest some minor adjustments to the law that would add additional components of electronic waste to be recycled. And we also suggest we add other entities. We have-- Under the law right now, we have some outs for government, for school systems, and so on. And we need to place them into the responsibility of being required to recycle electronic waste as well.

So that's why the biggest concern is the requirement that manufacturers take back an unlimited amount of materials, and that there be proper compensation to the recycling industry to do so.

SENATOR SMITH: Okay John, let me ask you and Jim to step back. We have a full complement now; we're going to take the roll, and we're going to-- Some people came solely for an Open Space discussion, so we're going to take care of that next.

MR. PURVES: Okay.

SENATOR SMITH: Ms. Horowitz, if you would take the role, please?

MS. HOROWITZ: Senator Smith.

SENATOR SMITH: Present.

MS. HOROWITZ: Senator Greenstein.

SENATOR LINDA R. GREENSTEIN (Vice Chair): Here.

MS. HOROWITZ: Senator Codey.

SENATOR CODEY: Here.

MS. HOROWITZ: Senator Thompson.

SENATOR THOMPSON: Here.

SENATOR SMITH: Okay.

Our agenda advertised a little Open Space implementation bill discussion. There are two documents that, if this is your topic, you want to have: You want to have a draft bill, which has not been introduced, and you want to have an Open Space Implementation Bill Discussion Points memo. That memo is the philosophy behind the bill.

Now, let me preface the bill with the following words, which are: Nobody is going to be happy. All right? There are babies all over the floor that have been cut in half, all right? We do think, however, this is at least a starting point for discussion. So if you have the draft bill to look at, or the implementation bill discussion, let me give you the philosophy behind the bill -- which hasn't been introduced. It is our intention to introduce it this Thursday; that's really our last opportunity to do so before the break.

MR. DUHON: Yes.

SENATOR SMITH: And we want to get something rocking and rolling. But if anybody -- any of the stakeholders on Open Space think that we've absolutely missed the target, everybody has Kevil's phone number. (laughter) Kevil is the gatekeeper on comments, and we do want to hear comments until Thursday, at which point we're going to take a draft -- which might be modified again -- and introduce it so that we get it into the hopper and get moving on this project.

And again, for the record, is there anybody here from the DEP? (no response) Gee, it would have been nice to have this discussion and some input.

So let's go through the philosophical orientation, all right?

You may remember, we did a hearing on this; a very extensive hearing -- several hours -- not so long ago. And many, many -- maybe even all, close to all -- said that the DEP development funding should stay at the same level as before. And this draft does that. Before, there was funding in the Annual Appropriation Act for the DEP to get 15 percent of the environment dedication for Open Space development. If we assume that the environment dedication brings in \$100 million, for the purpose of illustration -- just to make the numbers easy for the math wizes in the room-- And everybody knows that right now we're projecting \$71 million a year for four years, and then \$121 million after that. But if you use \$100 million as the number for the purposes of illustration, then DEP generally gets about \$15 million. We converted that to 15 percent of the CBT into a percentage of the new Open Space dedication. So that if the environmental dedication is \$100 million, DEP continues to get \$15 million. If it's higher than it is in the current fiscal year, DEP gets a little more; and if it's lower, DEP gets a little less.

And just putting things in perspective: I was the prime sponsor of the CBT dedication for Open Space development in 2006. And by the way, that went on the ballot, if you remember, all right? And the crying need, we said at that point, was there was no stable source of funding for parks improvements, repairs, whatever is needed. And that's why we did the dedication.

So we knew that State Parks needed funding, and we took care of it. I propose today to keep the funding for the State Parks the same, but by doing that, everybody in this room has to be aware of the fact that that

makes for less Open Space money than we had in 2006, and this funding for State Parks means less money for other Open Space purposes. On the other hand, at that hearing everybody said that should be sacrosanct.

So what percentage to use? Some of you asked that allocations be the same as in the 2009 Bond Act, which was the last money we had for Open Space. This would not work, because in the past we've had two pots of Open Space money: the Bond Acts and the CBT dedication for Open Space development. When you combine these two pots together, you see that the DEP was getting a larger share of the Open Space money than what was reflected in the 2009 Bond Act. The conversion is very difficult, because the Bond Acts represent multi-year funding, while the CBT dedication was an annual amount; but this draft does not (*sic*) reflect a greater DEP share.

MS. HOROWITZ: It does.

SENATOR SMITH: I'm sorry -- it *does* reflect a greater DEP share.

So lease and conveyance revenue -- another issue that a lot of people at the first hearing talked about. We received many, many cards and letters about letting the State Parks keep their lease and conveyance revenue. That was always our intention, and that's in the bill. You need to understand that the only reason we dedicated the lease and conveyance revenue in the Constitution was to ensure that it never went for non-Open Space purposes. So the lease revenue in the Parks will stay in the park; other lease revenue may go into a pot.

Stewardship: This draft divides the funding along traditional lines -- acquisition and development. We put stewardship as a component

of development. One reason for that is that when I look at the definition of *development*, it looks like *stewardship*. I don't think we have a clear distinction right now between the two concepts. Maybe the best way of looking at it is that stewardship is enhanced, really good development. But for now, I'm not comfortable with setting up two distinct categories. A second reason for combining these concepts is that I want maximum flexibility. As we move forward into an Open Space world, with restricted dollars and a new stewardship mandate, I think it's important that we give the agencies the flexibility to figure out what stewardship is and how it should be funded. There is substantial money in the bill dedicated to stewardship. Most of the stewardship funding goes to the DEP, but there is some earmarked for local governments and nonprofits, and some for farmland preservation.

Okay, this is a four-year program; it sets up allocations for the next four years. You may remember we're talking about \$71 million a year, then after that it goes to 6 percent, which should get us to \$121 million. So we're talking about the next four years.

In Fiscal Year 2020 there will be an increase in the constitutional dedication for Open Space. And, at that point, we'll need to reassess how the money is allocated. I fully expect these four years to be a period of trial and error; I expect that we'll figure out how to wisely spend these limited sums, which are not all that limited because the constitutional dedication is forever. Can I say that enough? We've been going through this bond, and do something; bond, and do something; bond, and do something. This is forever. So it's not as much money as everybody would

like, but it's forever -- baseline funding for Open Space, farmland, and historic. And that's what the voters decided they wanted.

If I can mix metaphors just a bit: With Open Space funding, we will be on a diet, but we'll no longer have these periods of booms and busts -- which we think is the right way to go.

Now, we have attached to that a chart; many of us love charts. The first chart you should look at is the second chart that's attached to the-- That first chart is proposed Open Space allocations, assuming environmental dedication equals \$100 million; and Open Space dedication, we know, is \$71 million. So you see what the 2009 Bond Act was; you see what the former CBT dedication was; you see the proposed annual percentages; you see the proposed distribution annually; and then you see the proposed total amounts annually -- which add up to \$71 million.

So if this is the final version that gets passed in both houses and signed by the Governor, Green Acres will get \$45 million a year; Blue Acres, \$2.8 million; farmland acquisition and development, \$20.5 million; historic preservation, \$2.1 million -- for a total of \$71 million. And again, nobody's happy. If there is any person in this room who is happy, raise your hand. (no response) Like I said, there's nobody happy. But we're living in a different world; we're on a diet.

If you look at the second chart, which is actually the first in the attachment, that's proposed annual Green Acres funding. So what we did was to take the \$45 million in Green Acres and now break it down. So you end up with State acquisitions at close to \$10 million; State, basically, Park development at \$15 million -- which is what the former dedication was that the voters approved in 2006; we have assistance to local governments for

Open Space acquisition; we have nonprofit acquisition at \$3.2 million -- for a total of \$45.4 million.

You know, the only thing we ask from all our friends in the room is that you try to be flexible and understand that there are limited resources, that this is not easy, and we're still willing to take any comments -- Kevil will take any comments in the next 72 hours on major screw-ups in the bill, all right? But we thought this was the best way to do it. And we put it forward with a clear conscience.

So for all the people who wanted to know at least the first attempt of a draft on Open Space implementation, you now have it; and you have the philosophical basis for it.

And with that, we're going to move on to Senator Codey's bill.

Members, if anybody wants to throw anything out. I mean, you haven't had a chance to read it, just like the public hasn't. But if anybody has a comment, we'd love to hear it.

SENATOR CODEY: We had a discussion on this.

SENATOR SMITH: Yes.

Sam, Linda? (no response)

Okay. So if you have cards and letters, get them in quick, all right?

Let us now move on to Senator Codey's bill.

Senator Codey's bill is the response to the devastating impacts of Sandy and other storms on our state, plus the new world that we live in. We have had, I guess since the 1940s, 1950s, 1960s, land use law. How far does it go back?

J E F F T I T T E L: (off mike) It was 1975 -- was the codifying--

SENATOR SMITH: It was 1975.

MR. TITTEL: --was the full codification--

SENATOR SMITH: And what New Jersey tries to do, in the land use law, is to set up a reasonable procedure for us citizens of New Jersey to figure out what future we want. We now have been faced with these catastrophic challenges and, as we said, we live in a new world. The American Planning Association and this terrific group on sustainability in New Jersey out of Rutgers -- some of the things they've suggested, and Senator Codey has taken the challenge, are that we, in our municipal planning, should include a vulnerability assessment and a sustainability assessment. Which means that when we make land-use decisions we should be taking into account those areas of our towns and cities that have major vulnerabilities to storms like Sandy, and adjusting our land-use practices and policies accordingly.

Sounds like a great idea, and we've already had one hearing on this. We held it because we received comments from the League of Municipalities saying, "We like the idea, but we don't want to be told to do it." And, of course, the problem with that is that while most municipalities will be responsible, not necessarily all municipalities will be responsible.

So Senator Codey and I have talked about this and, right now, the intention is to leave the bill as is, subject to some earth-shaking piece of testimony.

And we are having a hearing on this bill; this is Senate Bill 2424. Stacy McCormack, American Littoral Society, in favor, no need to testify; Mike Cerra, League of Municipalities, who I think is our prime

opponent-- Mike, if you would like to testify, we'd like to hear it -- opposed.

M I C H A E L F. C E R R A: Good morning, Mr. Chairman and members of the Committee. Michael Cerra, on behalf of the State League of Municipalities.

I did testify on this bill in October, so I'll do my best not to be redundant with some of my comments. There are a few things that I believe need to be illustrated here.

But first of all, I do want to express some appreciation to Governor Codey and his staff. Following that meeting, I was asked to provide some alternative language -- which we did; I believe that's in front of you today. And I think it was a productive conversation. And by those amendments and concepts that are before you today, I'm hoping that maybe we sowed the seeds for something, going forward.

But I can only testify to what is before us right now. And the League, and the Builders' Association, and others expressed concerns about the lack of definitions and redundancies with existing laws.

But today I wanted to illustrate something, because we researched the issue. And we try not to cry wolf regarding mandates, but we do believe that this bill constitutes an unfunded State mandate. So our issue is not with the policy, because most unfunded mandates are good policy. Most unfunded mandates-- Someone came up with a good idea to implement a policy, and it was put forward, and there was push-back against it in the mid-1990s; it went to the ballot, and it is part of our State Constitution. And our position is that if this is a worthwhile policy to advance, and it is the State's desire for us to do so, that the State should

either provide the funding or identify the funding source, because it should not be left to the property taxpayers.

So again, a lot of good policies. I don't like to stand up here and argue against making our systems more energy resilient -- sustainability. But this is a new requirement; it's potentially costly. It is on every municipality in the state. And if it's worthwhile to pursue, our request is to at least identify a recurring funding source so that it doesn't fall on the property tax.

Thank you.

SENATOR SMITH: One quick response to that. Senator Codey, and Senator Greenstein, and members of the Committee have talked about another bill with a grant program to municipalities to assist those municipalities that want to go forward with this before their 10-year time period is up. Everybody may remember that we adjusted the municipal land use law to say that instead of every 6 years, they should do a municipal master plan update -- that it goes to 10 years. So for a lot of communities, this is going to be many years from now before they even deal with the issue.

But at the end of the day, the changes the first time around were changed -- the *shall* to *may*. And the problem with that is, this is no longer a situation in New Jersey where this should be an option. New Jersey municipalities need to plan for these disasters because there are more of them in our future. If you don't believe in global warming, I don't know what it takes. But we have a major problem. And I know that that bill is under construction; I think the right person is Governor Codey.

Governor.

SENATOR CODEY: You know, we've spoken. And my interaction with some mayors was, those who have the vulnerability, you know, talk about the cost; those who do not, it doesn't seem to bother them much -- that's what I gathered, all right? And while I didn't think your ask was so bad, it didn't seem to jibe with a lot of other people's opinions. But I appreciate you coming forward with what I thought were not outrageous requests.

MR. CERRA: Not so bad -- I'll take that.

SENATOR CODEY: Okay. (laughter)

SENATOR SMITH: And by the way, one of the things that we'll do on your main issue -- which is if State mandates, State pays -- let me ask Kevil to put a request in to OLS to have an evaluation of that -- whether this is a State mandate, State pay. We don't think it is. You're required right now to do a municipal master plan update every period of years, and we have traditionally indicated what the elements of the master plan should be. So I don't think it's so unreasonable.

MR. CERRA: Respectfully, Mr. Chairman, the State Constitution provides a number of exceptions to unfunded mandates. One of them is the lessening of the mandate, such as the -- from the 6 to the 10. But it has been interpreted that the extension of an existing mandate, by definition, is an unfunded mandate. And that would be the argument that we -- one of the arguments that we would make. And if OLS is going to take a look at that, I would respectfully request that there be some communication between lead counsel--

SENATOR SMITH: We'll share the opinion with you. And you're more than welcome to contact the OLS person who's doing the opinion, all right?

MR. CERRA: Thank you.

SENATOR SMITH: Jeff Tittel, Sierra Club, in favor.

Mr. Tittel.

MR. TITTEL: And I will try to be brief, but there are a few issues I wanted to bring up.

Yes, I remember -- I was just a young hot-shot kid on the Planning Board when the MLUL finally came into play in 1975.

SENATOR CODEY: Would you still consider yourself a hot-shot? (laughter)

MR. TITTEL: Well, I was probably even younger and brasher.

SENATOR SMITH: Hard to believe.

MR. TITTEL: Yes, I know -- and even more opinionated.

I just wanted to say that you don't need to be a scientist to figure out we have a big problem in this state. And we have zoning and master plans that, in many cases, go back decades and really need to be updated.

The world has changed. Nine percent of New Jersey, according to Rutgers University -- and this is pre-Sandy -- was vulnerable to sea-level rise in storm surges. That number has grown. We know we are building many times in many of the wrong places. We need to do things better. And a lot of towns are. And this is where I really disagree with my good friend from the League, because we're on the same side in many issues. The City of Trenton is actually working -- and we're working with them -- on

ordinances for resiliency and to deal with hazard planning. But it's not in the master plan. And those ordinances will be challenged, and they will lose -- after spending tens of thousands of dollars writing ordinances. A master plan is relatively inexpensive; writing ordinances is not. And I think we need to have this legislation, and we need to have it as a mandate because we need to do better planning throughout New Jersey.

And there's not an area of the state that has not been impacted by flooding. You can't say that this is a coastal issue; Irene flooded areas in the middle of nowhere. And we had that (indiscernible) in South Jersey, and you had microbursts that wiped out dams up in Sussex. Statewide, we have been impacted. There is not-- We're the only-- There has not been one county in this state that has not been declared a disaster area in the last five years. So when you think about it in those terms, we need to do a better job, and we need to make sure that planning begins as part of the master plan. And when they do their revision -- their periodic review of the master plan, when they rewrite their master plan, it's not a lot of extra cost. And, in fact, some of it -- there could be funding available from existing sources like Sustainable New Jersey and the grants they give out, to include planning as part of that to help defray some of the costs. Many of these towns, especially in the coastal areas, have to do this anyway in order to receive Federal grants to do either buyouts, or to do hardenings, or whatever they need. We're going to be spending billions of dollars in this state trying to make this state more resilient in dealing with the next storm. So we, therefore, better do a better job of planning our communities to be part of it, otherwise we're going to not only be wasting a lot of money, but we're

going to be putting a lot of people and property in harm's way. So we strongly support this legislation.

SENATOR SMITH: Thank you, Mr. Tittel.

Mike Pisauo, Stony Brook-Millstone Watershed Association, in favor, no need to testify; Jeff Kolakowski, New Jersey Builders Association, opposed.

Jeff.

J E F F K O L A K O W S K I: (off mike) Mr. Chairman, we share the League of Municipalities' concerns on this bill. In the interest of time, I'll hold my testimony, since I submitted testimony against the bill last time. And we hope that Senator Codey considers the amendment put forth by the League of Municipalities.

SENATOR SMITH: Thank you, Jeff.

AJ Sabath, U.S. Green Building Council, in favor, no need to testify. And that is all of our witnesses.

Any discussion by Committee members? (no response)

All right. I'd like to move to release Senator Codey's bill.

SENATOR GREENSTEIN: I'll second.

SENATOR SMITH: Seconded by Senator Greenstein.

Take a roll call vote, please.

MS. HOROWITZ: On Senate Bill 2424, Senator Thompson.

SENATOR THOMPSON: Yes

MS. HOROWITZ: Governor Codey.

SENATOR CODEY: Yes.

MS. HOROWITZ: Senator Greenstein.

SENATOR GREENSTEIN: Yes.

MS. HOROWITZ: Senator Smith

SENATOR SMITH: Yes. The bill is released.

Let me bring up John Purves and Jim Entwistle again on e-waste; we're back to e-waste.

And Mr. Purves, did you finish your comments?

MR. PURVES: I've completed. I think we have some representatives from the industry; I think they could really speak to some of the details as well. And I know the counties are going to speak.

I'll just stop with-- My emphasis here is that we have a desire in the state to remove electronic waste from disposal facilities. I think we have a consensus on that, that we do not want these materials in incinerators and landfills. And I think we have to make a decision as to how we want to go forward, and who's responsibility it is to do this. I think we've wanted to see the manufacturers responsible for this, as well as what's happening in many other states. And we just have to decide how best to do that, and to make it work.

SENATOR SMITH: Okay.

MR. PURVES: I'll just leave it there.

SENATOR SMITH: Mr. Entwistle.

SENATOR THOMPSON: I do have a question for Mr. Purves.

SENATOR SMITH: Yes, sir. Senator Thompson

SENATOR THOMPSON: You indicate that what you would like to see is legislation that would require the manufacturers to take back all of the collected e-waste that you are recycling, right?

MR. PURVES: Correct.

SENATOR THOMPSON: Now, I gather since they don't want to take it all back, they figure they don't have a use for it all. Would that be a reasonable statement?

MR. PURVES: I don't think that's fair to say. I think there is a use for all this; it's just the cost--

SENATOR THOMPSON: But do they view it, as far as they're concerned, useful for them to take it back?

MR. PURVES: There is a use for this. It's just-- The issue is just the cost of doing this, and who we place that cost on. But this material is being recycled, has been recycled, it will be recycled. And it's a question of the cost of doing that, and who bears that burden.

SENATOR THOMPSON: Well, where I'm going with it is, okay, if we said you have to take it all back, what are they going to do with it? They have to now find a way to dispose of it, or are they going to be able to really utilize it? I mean, they're saying, "Hey, we don't need it, we don't want it, etc." That's what they're saying at the present time, because they won't take it. So if we say, "You have to take it," and we're saying, "Okay, you have to take it, and now you have to find some other way to get rid of it--"

MR. ENTWISTLE: Yes, Senator, I'm going to jump in and take it.

MR. PURVES: Go ahead, go ahead and take it.

MR. ENTWISTLE: And I want to make sure there's clarification for a take-back, versus a producer responsibility law.

The manufacturers don't want the material back; they want it processed properly. So there's an infrastructure--

SENATOR THOMPSON: Okay, in fact, you're using the word *take-back*. That's where--

MR. ENTWISTLE: And that's why I jumped in -- to clarify that. Yes, it's a producer responsibility law that's in place in the state.

SENATOR THOMPSON: So you're not saying you want them to take it back; you're just wanting them to pay you for more of the material. Is that what you're saying?

MR. ENTWISTLE: We would like to be compensated properly for the proper disposal of that equipment -- that is correct.

SENATOR THOMPSON: Okay. So it's not saying you want them to take it back; you just want them to pay for more of the material you're recycling. Because that seems to be a second issue that you're speaking about there. Oh, no, the other issue was the price that they're paying for you to do it.

MR. ENTWISTLE: Yes. That is one of the issues, Senator; yes.

SENATOR THOMPSON: So you're saying that if manufacturer A-- You've got -- I'll just pick a number -- 10 tons of material you're recycling for them. They're saying, "We'll only reimburse you for 5 tons," or something like that.

MR. ENTWISTLE: That is part of the problem and the challenge that we have with the law; yes, sir.

SENATOR THOMPSON: And not only are they saying, "We'll only pay you for 5 tons," what you're saying, even that 5 tons, they're not paying enough for it.

MR. ENTWISTLE: That is correct.

SENATOR THOMPSON: Okay, thank you for the clarification.

SENATOR SMITH: Senator Greenstein.

SENATOR GREENSTEIN: Good morning.

MR. ENTWISTLE: Good morning, Senator.

SENATOR GREENSTEIN: I actually want to follow up on Senator Thompson's questions.

When your type of company takes these goods right now, what do you do with them? Maybe I need a larger definition of recycling. What do you do with this material?

MR. ENTWISTLE: Yes, I'm happy to answer that.

Newtech is a Class D recycling facility in the state. So I'm regulated by the State DEP. We actually are a processing center, so we are actually doing the demanufacturing of that equipment right in our facility. Newtech is actually unique in the state, being that we actually separate CRT tubes in our facility as well. So if you can imagine a manufacturing facility that is building product, we are actually the opposite side of that. We are actually taking that material apart in our facilities.

SENATOR GREENSTEIN: And then what do you actually do with it when you take it apart?

MR. ENTWISTLE: Yes, that's a great question. We utilize a network of downstream facilities. Because I'm not a smelter -- I'm going to use that as an example -- someone who melts down metals in my plant, we utilize an approved list of downstream vendors that have been approved by us -- it could be numerous other organizations -- to process the material. One of the challenges that we have is, being that we separate CRT glass--

So we're very-- We work under very stringent guidelines as far as the processing of that CRT glass. So our CRT glass goes back in to be reused for new monitors, or it could be new material.

SENATOR GREENSTEIN: So these other facilities that you're working with -- these other kinds of companies that you're getting the material to -- do you have to pay to do this? Is there cost to you?

MR. ENTWISTLE: Yes; in some cases, yes. The challenge that we have is the infrastructure that we have to have in place because we have to collect the material first. So we become-- There are almost three parts to our business: We're a logistical company first, figuring out how we're going to get that material into our facilities in the most efficient way; then we process that material within our facility; and then we have to downstream that material.

SENATOR GREENSTEIN: Get it somewhere--

MR. ENTWISTLE: Exactly right. Process it, and then get it to another place. So there's an extreme amount of cost involved in doing that properly. And, you know, we're regulated; we're regulated by the DEP. We also have national certifications, one called R2, which stands for Responsible Recycling -- which is endorsed by the EPA. I'm ISO certified. So there are a lot of costs involved in not only those certifications, but in processing material properly.

SENATOR GREENSTEIN: And then you want to get the manufacturers more involved. At what point in the process would they be involved? Would that be sort of at step 3 -- they would be taking charge of the material once you break it down, and then they'd have the cost of that?

MR. ENTWISTLE: Yes, it's a unique-- I'm in a unique situation because I represent manufacturers -- that are not only in this room, but that I've had long-term relationships with.

SENATOR GREENSTEIN: And you want to keep it that way.
(laughter)

MR. ENTWISTLE: So I tend to be Switzerland on some of these issues. But I can bring a very unique perspective to it, and that is that we want to work with the manufacturers. The key thing is this: The law itself has issues -- the law itself has issues. We want more support, obviously, from the manufacturers, but we want some other things, and John mentioned those. We call it the *Big 5*. One of them is unlimited weights. So the main fact, Senator, is that we have a wonderful collection that works, that's been in place for years. We have counties that have worked tirelessly to put an infrastructure in place. We don't have the mechanism to support that infrastructure due to the law that is limiting us based upon weight allocations that are built into the law. There's a formula that's in place that is not giving us the opportunity to collect an unlimited amount of material. That's our biggest challenge that we need to overcome. I'm turning away business currently, and the manufacturers that I work with are supporting me. I represent Somerset, Union, Mercer, Hunterdon County, and Warren County, but I have a neighboring county in Middlesex that I can't support because I don't have weight. It just doesn't make sense.

In addition to that, I'm an approved recycler -- a certified recycler in the state of Connecticut, where the Connecticut law has an unlimited basis. So now I'm leaving my home state of New Jersey and

driving to Connecticut to collect material on an unlimited basis, and process the material there. It just doesn't make sense, right?

SENATOR GREENSTEIN: Well, is this done in a very-- What you just described -- is it done very differently in other states? Is each state very different?

MR. ENTWISTLE: I would say the majority of the states are similar, but they're all having issues. Connecticut is a different type of state, and the program is run very differently. And I know that my manufacturer partners do oppose that type of law. But from a recycler's standpoint, we want to do what we do best -- and that's collect and process material. We want to support a law that was put in place; the intent of this law is free and convenient collection of material. Why is there a limit on it? There shouldn't be. Let us do our job; let us collect the material.

Level the playing field, as far as rules and regulations go, so that out-of-state recyclers don't have an advantage over us. That doesn't make sense to me.

SENATOR SMITH: Why do they have an advantage?

MR. ENTWISTLE: Because they're not paying the same fees; they're not held to the same guidelines that we are; they just don't. There's no outside mechanism to say they pay the same fees in order to operate within the state, like we have to pay.

SENATOR GREENSTEIN: Thank you; thank you very much.

SENATOR SMITH: Jim, what would you say is the biggest difference between the Connecticut program and the New Jersey program?

MR. ENTWISTLE: It's the ability to collect an unlimited amount of material, and the--

SENATOR SMITH: What's happening with the material we're not collecting?

MR. ENTWISTLE: Pardon; I'm sorry?

SENATOR SMITH: What's happening with the material we're not collecting?

MR. ENTWISTLE: That's a question that I think the counties will answer for you.

SENATOR SMITH: Okay.

MR. ENTWISTLE: Yes, it's stockpiling, Senator; and it's getting stockpiled in the wrong places. And I know that they're prepared to answer that question.

SENATOR SMITH: Okay. Jim, is there anything else that you wanted to say?

MR. ENTWISTLE: No, I just wanted to thank you all. Thank you for being open to all the information that I'm continually sending you, and the updates, and your openness to consider making a legislative change. We need your help.

SENATOR SMITH: All right.

SENATOR THOMPSON: One more question.

SENATOR SMITH: Yes, sir; Senator.

SENATOR THOMPSON: You speak of the weight allocations. Now, are these weight allocations talking about total weight volume that your facility can collect, or are they weight allocations related to different manufacturers and so on?

MR. ENTWISTLE: The second, Senator.

SENATOR THOMPSON: Each manufacturer has a weight allocation that they will support, and that's where you're talking about that they won't pay for all that you can get, or something. Is that correct?

MR. ENTWISTLE: That is correct. Yes, the DEP has a formula in place that dictates the allocated weight that the manufacturers are required to collect within the state.

SENATOR THOMPSON: And that's where it comes in, again, that they won't take back everything? You hit your weight allocation for them, and they say, "Okay, I'm not going to pay for any more."

MR. ENTWISTLE: Yes, sir.

SENATOR THOMPSON: So in other words, that weight allocation formula set by DEP, or something, is what you're looking to see changed in that respect.

MR. ENTWISTLE: Yes, sir.

SENATOR SMITH: For both of you: Does the DEP have the authority under the existing law to change the weight allocations?

MR. ENTWISTLE: From what we understand, they do not.

MR. PURVES: No.

MR. ENTWISTLE: But we'd like that to be put into place, moving forward.

SENATOR SMITH: Okay. Thank you for your comments. Please stick around.

MR. ENTWISTLE: Okay, thank you.

SENATOR SMITH: We might have more questions for you.

MR. PURVES: Yes, thank you.

SENATOR SMITH: Let us go to the counties. John Donnadio, Paul McCall, Monica Gismondi or Gismoni? (indicating pronunciation) -- from the New Jersey Association of Counties. Sorry for fracturing your name, Monica. (laughter)

MONICA GISMONDI: That's okay. My maiden name was Ramotowski, so Gismondi is a lot easier. (laughter)

JOHN G. DONNADIO, Esq.: (off mike) I'm just going to introduce them, Mr. Chairman, so I'll stand.

I am John Donnadio, New Jersey Association of Counties. I want to thank you for holding a very important discussion on this (indiscernible) the counties today.

I'm happy to have with me Monica Gismondi, who is the Recycling and Hazardous Waste Director in Gloucester County; and then Paul McCall is the Director of Public Works in Somerset County. So you get a good perspective from two different regions in the state.

So we're going to start with Paul, and then Monica, and we'll all be here to answer any questions, if we can.

Thank you.

SENATOR SMITH: All right.

PAUL L. McCALL: All right, good morning.

SENATOR SMITH: Good morning.

MR. McCALL: So I just wanted to give you a little background on the Somerset County e-waste program. When it started back five years ago, we used to continually pick up e-waste -- actually, we didn't pick it up, it was delivered to our recycling facility. We have our own recycling facility in Somerset County. The first Saturday drop-off, cars would come and

drop off their e-waste; we would take it to our vendor. We probably had 300 cars that would come in to drop off e-waste the first Saturday of every month.

So in 2012, we put out a contract to have a drop-off center for all County residents. So during that time, July 1 to December 31, the residents dropped off 600,000 pounds of e-waste. So that contract is a three-year contract; so in 2013, they dropped off 1.2 million pounds of e-waste; and in 2014, the same -- 1.2 million pounds of e-waste. At this point in time, Somerset County gets paid for their e-waste, so we're not in the predicament that other counties are in.

SENATOR SMITH: What do you get paid?

MR. McCALL: In 2012, we collected \$30,000.

SENATOR SMITH: Thirty thousand dollars?

MR. McCALL: Thirty thousand dollars; I'm sorry. In 2013 we collected \$53,000; and we only have the numbers in from the first half of 2014, which was another \$26,000. So we're collecting money on our contracts right now.

But as you see with the 1.2 million pounds, our only concern is -- As we see from Cape May -- moving up the state -- and I know Middlesex, and I think they're here to speak at some point, don't have a contract. Our concern is having to try and pay for 1.2 million pounds. In Somerset County, do we have an issue right now? We do not. We are being paid, but our contract is up in July of this year. So we're not in the predicament that other counties are. But we're just hoping that whatever happens with the e-waste, that we don't end up with 1.2 million pounds of e-waste.

SENATOR SMITH: All right. Now, are you typical in the sense that counties charge fees when the e-waste is delivered to the county? Or do most of them just accept it at no cost?

MR. McCALL: No, we do not charge any fees. Our e-waste is dropped off at a drop-off location, which is our vendor.

SENATOR SMITH: Oh, so your vendor--

MR. McCALL: Yes.

SENATOR SMITH: Your recycler is paying you for what -- under the contract, with some value proposition for the poundage that they collect.

MR. McCALL: Yes, exactly. And our residents can go there five days a week and one Saturday a month.

SENATOR SMITH: All right; so are you getting any advance warning from your vendor that the equation is changing?

MR. McCALL: In August of 2014 we got a letter from the vendor requesting economic relief. It was discussed; we did not grant economic relief, so we are still collecting the money for the tonnages that are brought there.

SENATOR SMITH: But every indication is that that's going to change.

MR. McCALL: That's what it seems like; and, like I said, in Somerset County it has not.

SENATOR SMITH: The contract's not up yet.

MR. McCALL: Their contract is not up until July. So that's our only concern.

SENATOR SMITH: Okay, thank you.

MR. McCALL: All right, thank you.

SENATOR SMITH: Monica, your comments.

MS. GISMONDI: Hello; thank you for allowing me a few minutes to speak and just kind of let you know what's going on down in South Jersey.

In e-waste, recycling is nothing new in Gloucester County. We began a program back in 2001; at that time, we had-- We only collected computer monitors, towers, and the actual keyboards and items -- materials that came with a computer.

SENATOR SMITH: Who's doing the TV sets and the CRTs?

MS. GISMONDI: Well, at the time, we were not collecting. People were just putting them out in the trash, back in 2001. So basically we had a container; residents would come in for -- it was a free program. If you had a computer you needed to get rid of you came in, you dropped it off at the County landfill during our regular operating hours. In 2007, we added televisions as well as many other components. We take printers, we take VCR players, DVD players -- even the old game boxes that the kids play. We expanded it to that, once again, at no charge to our County residents. Basically, the residents could bring it in during our regular operating hours, Monday through Friday, 7:30 to 3:30; it seemed very convenient at the time.

There was no charge for the electronics; however, the current Act-- On our end, we had to start paying in 2014 for our material. Basically, we collected the material; we had an agreement with our contractor. He would come in when our container was full. We gave him a

phone call, they came in, they picked it up, and that was a win-win situation for everyone.

In Gloucester County, we started paying in 2014, and we're now still paying 2015.

In addition to our County drop-off site, 23 of our 24 municipalities do have a local drop-off center at their local Public Works yard. Basically the way the program is -- when we knew the law was going to be coming into play a few years ago, I really pushed the issue for my towns to have their own drop-off program. Make it a convenient program. We sold it, because the way I sold it to my towns is the way it was sold to me: It was supposed to be a free and convenient program; it was going to be good PR for our towns, for our residents. Basically, the townships are going to be able to offer a free program for their town -- for their residents, basically -- so they had some place to take it; because once the law came into play, televisions and computer monitors were no longer allowed to be placed in the regular trash.

SENATOR SMITH: Right.

MS. GISMONDI: Residents had to take it someplace. So rather than driving it from South Jersey to North Jersey to one of -- whether it be Newtech or any of the northern Jersey facilities, we opted to -- the towns-- A lot of the towns opted to have a-- The resident can drop it right off at their Public Works center, or they can take it to our County drop-off.

In 2014, Gloucester County alone, just for our site, we were charged \$1,324.20 just for the material that was picked up, because of the issue with the payment of the market -- the way the market's been going.

SENATOR SMITH: Is that for the whole year?

MS. GISMONDI: Well, that was for the end of-- Towards the-- That was for the portion of the year; that was for 2014. In addition to that, when I added my 23 towns -- I did a survey of the 23 towns that were collecting, those that were being charged; totally, in 2014, Gloucester County was out \$12,849 for a free and convenient program.

Now, what's happening is, one of the counties in the State opted not to even offer any type of county drop-off site at all -- basically letting their residents fend for themselves. So they had no local town drop-off, they had no local county drop-off. They were on their own, whether they had to drive it to a Goodwill, or to wherever, and that--

SENATOR SMITH: Which county?

MS. GISMONDI: That was Atlantic County. They basically-- Most of the counties in the State opted to have some sort of program; but apparently Atlantic County chose, for whatever reason, not to get involved, and they had no program. So now their residents were basically out of luck, and they were-- It was starting to turn into a dumping problem.

I do not want to see that happening in Gloucester County. Unfortunately, it is happening. We have pictures from several of our parks where the residents just don't want to be bothered with-- Everyone is used to having-- In Gloucester County, we have a curbside program. Basically, you put everything out to the curb and the township or the Public Works truck comes by, picks it up on trash day, and it disappears. Once this law came into play, now towns can no longer put their televisions out; the residents have to physically do something with it. We feel it's still a good program for the residents just to simply take it to their Public Works yard

versus, unfortunately, like in Atlantic County -- the resident has to physically take it someplace else.

So we want to continue the program; however, the charges that we are being charged -- mainly because the manufacturers are not paying back the middle man, so to speak-- So we have to do something with it.

Now, no one included this funding in their budgets because, basically, they were sold that it was a free and convenient program; it's a good PR thing. Now they're scraping for money, trying to find out how to pay for their \$200 and \$300 bills at a pop -- or whatever they're being charged. Some are being charged by the pound, some are being charged by the pull. It varies, depending on what their agreement is.

So basically when this all happened, it started out-- I believe it started out -- it was deemed as a South Jersey problem because it was in Gloucester County, Salem County, Camden. The southern counties were the ones that really started to feel the pinch of the program, having issues mainly because we only-- In the northern part of the state there are far more facilities up there for the towns and counties to be able to make agreements with. In South Jersey, we basically had the Goodwill Reconnect Program and Magnum Computer. They were the only places -- facilities in South Jersey, so we didn't have that many places. But basically, all -- 23 of my towns either went with Goodwill or went with Magnum.

So everything was going fine, but the main issue that started the whole problem was because of the limitation that the manufacturers were requiring -- those quotas that the DEP came up with. Before the quotas came into play a few years ago we basically kept stating, "The numbers are too low. What happens when Sony, or Panasonic, or whoever

the manufacturer was -- what happens if, say, come May of the year, they've met their quota? Now, what are we supposed to do from June through December?" "Oh, that's not going to happen; that's not going to happen." Well, unfortunately, we were deemed as being Chicken Little, crying that the sky was falling; and, unfortunately, the sky fell.

In September of 2013, I believe, that's when the manufacturers reached their quota. They basically closed up shop and said, "No, I'm done. I'm not collecting anything until January 1 of next year." The stuff started stockpiling -- we started stockpiling stuff, our market started stockpiling it -- because no one would take the stuff because they weren't paying back -- they weren't doing-- They thought their obligation was met according to the statistics in the law -- the way the law read. And, basically, that's what happened.

So January 1, everything opened up again. They were starting to take the stuff but, once again, they met their quota, and then, at that point in time, now that they've met that quota, they don't have to stop -- they don't have to continue taking it, the way the law reads currently.

So basically what we said was going to happen, is happening. And now we're stuck with the material. The residents want to do the right thing; they want to recycle it. They don't want to see the stuff going in the trash. We understand; we don't want to put it -- bury it in landfills. We don't want to put these televisions with the leaded glass into the landfills to contaminate everything. We want to keep the stuff out. The law-- It's a good law; we just need to tweak it a bit to make it work so everyone works out -- everything works out in the end.

SENATOR SMITH: Thank you for your comments.

Any questions from the Senators?

Senator Greenstein.

SENATOR GREENSTEIN: Thanks.

And again, following up on the earlier questions: Maybe it was answered earlier, but I guess I'm still confused. The main-- Did something -- When you keep talking about *the law*, did something change in the law in the last two or three years, or is this a long-standing problem?

MS. GISMONDI: No, I believe when the quotas -- the DEP came up with their quotas for each manufacturer. How they came up with that number, no one really knows. We've never really been able to figure that out.

SENATOR GREENSTEIN: And the problem for you is that when they reach their quota--

MS. GISMONDI: They stop collecting.

SENATOR GREENSTEIN: --you don't know what to do with --

MS. GISMONDI: Correct. And we kept telling them that this number is too low, and they kept saying, "No, it's not; it's fine, we'll be fine." And we kept-- Like I said, there was a number of counties that kept saying, "No, we-- There is a lot of stuff out there. You don't understand. We keep collecting it." The week after Christmas, when everybody and their mother gets a new television and a new computer system; and in September, when the kids are all going off to college and their parents go out and buy them all new stuff -- I mean, these kids are getting flat screen TVs, so the old stuff is coming to us. The first week of January--

SENATOR GREENSTEIN: This issue of the quotas -- is this kind of a new thing? Because it sounded like you didn't have as many problems a few years ago. Is this--

MS. GISMONDI: No, prior to the law, we never had any problem. Basically, whatever we collected was taken from us.

SENATOR GREENSTEIN: And what year was that?

MS. GISMONDI: Well, 2013 -- when the law was put into place; I believe it was 2012, 2013.

UNIDENTIFIED MEMBER OF AUDIENCE: (off mike): It was 2009.

MS. GISMONDI: Yes, but basically the last two years, because we saw the quotas-- The quotas were just too low, and the material that was coming in-- Because it's a per-weight type of thing. So basically these large monster TVs -- they're not the little 9-inch TVs. These are very heavy. So collecting--

SENATOR SMITH: Right. And also, the world is changing to flat screens.

MS. GISMONDI: Correct. And we're--

SENATOR SMITH: And there are probably like 20 billion old CRT tubes out there in New Jersey. They're all in the spare room, or the basement, or the whatever.

MS. GISMONDI: Right.

SENATOR SMITH: But someday they're going to start coming in, in a flood.

MS. GISMONDI: Right. And we still actually, occasionally, get the old console, big furniture TV, that's still embedded -- encased in the

wooden piece of furniture that I grew up with. We're still getting those, and that's all very heavy. So that weight is all counting for us. So once they meet that weight limit, they don't have to take it anymore, the way the law is currently written. So that's-- It may have started as a South Jersey thing, but this has festered throughout the entire state. And I believe strongly that it's not just a Gloucester County issue, it's not just a South Jersey issue, it's an entire-- It's an issue that the entire state is starting to have a problem with.

SENATOR SMITH: All right. So you've suggested, I think, a good idea, which is-- See, the question is, do we go to this new model -- which is the Connecticut model -- or does our law have to -- the law that we have now, currently, have to change with regard to these quotas, etc.?

And Kevil, I'm going to give you more homework. I'd like you to write to the Commissioner, saying that in light of the transcript from this hearing -- of course, we'll have to wait for the transcript -- does the DEP want to see any changes to the existing law? And, hopefully, we'll get an answer.

SENATOR THOMPSON: Because, you know, one might raise a question even whether utilizing a weight limit is an appropriate way to determine this. Because-- Well, as you mentioned, an old TV, etc. -- big, etc., wood and everything -- a lot of weight--

MS. GISMONDI: They're still coming in.

SENATOR THOMPSON: But in terms of recycling, there is a big difference between recycling that TV and some of these newer, smaller electronic gadgets and so on. I suspect the smaller item might cost a lot more to recycle than a great big, bulky old TV.

MS. GISMONDI: That I'm not sure. I don't have the information.

SENATOR SMITH: Well, and actually you might be a little counterintuitive. The smaller TVs, the flat screens, may be more valuable because of the materials -- the metals that are in it that were not in the old ones. And do the new TVs have the leaded glass screens?

MS. GISMONDI: That would be something Jim would know, I believe.

MR. ENTWISTLE: (off mike) No, they don't.

SENATOR SMITH: Yes, see, the old TVs have leaded glass.

SENATOR THOMPSON: I'm suggesting rather than just considering the weight limit, maybe they should reevaluate the whole way that they--

SENATOR SMITH: Do it.

SENATOR THOMPSON: --determine what they're going to do.

SENATOR SMITH: And listen: We're happy to make whatever are the right changes to make, to get this program to be successful. Anything else?

MS. GISMONDI: No, that's it. Thank you.

SENATOR SMITH: All right. John Holub, from New Jersey Retail Merchants Association, who swore on the honor of his family, when we did this law the first time, that this would solve all e-waste problems. (laughter)

John, New Jersey Retail Merchants Association.

J O H N H O L U B: I'd like to see that transcript where I swore on that. (laughter)

I will be honest with you, Mr. Chairman. This is the one issue that I didn't think I'd be back, five or six years later, discussing with you.

But obviously this is a huge issue for my members -- one that we have been active participants in, and remain to be -- continue to be active participants in. And some of my members offer some of the most comprehensive appliance and electronic recycling programs in the country. In fact, one of my members, in talking to them just the other day, informed me that, nationwide, they're collecting more than 400 pounds of product for recycling every minute that their stores are open. So my members are committed to this issue, and will remain committed to this issue.

SENATOR SMITH: Which means they're making lots of money. (laughter)

MR. HOLUB: I will say just kind of a 30,000-member view on this issue, and just kind of give you an idea of some things that we continue to support and some things that we would not support. Obviously, we continue to support a program that's producer responsibility; and it's obviously the preferred approach. And some members, I think, have pointed to some other states that have done it. I mean, I don't think any state is perfect at the moment, but I will tell you two of the states that my members did point to were Minnesota and Wisconsin, as some preferred approaches.

And just so you all know-- I mean, obviously, producer responsibility is a program where the manufacturer whose name is on the product takes full responsibility for that product; and particularly, the

discussion that we're having is at the end of the life. And I want to make sure everyone's clear that retailers are not trying to shift any responsibility; because, in a lot of instances, we do have a private label where we are considered the manufacturer. So retailers are not simply trying to say, "Let's do producer responsibility; let the manufacturers figure it out," because, in fact, we are, in a lot of instances, the manufacturer. So I just want to make that point perfectly clear.

As far as things that we will not support I think remain consistent: We had a lot of discussion several years ago on this -- is the Advance Recovery Fee, which we would also like to -- prefer to call the TV tax. And it's important to note that only one state in the country has implemented a TV tax, and that's California. And I think you said earlier that one of us might have called California *off their rocker*. I still stand by that comment -- that California is off their rocker and continues to be off their rocker.

SENATOR SMITH: How is that program doing?

MR. HOLUB: What's that?

SENATOR SMITH: How is their program doing?

MR. HOLUB: As I said, I don't think anyone is perfect. I don't think it's any better than what's going on. From what I understand, no program is perfect. In fact, I can tell you that the biggest difficulty we have with the Advance Recovery Fee -- and I think this is very specific to retail, and particularly electronic retailers, which is a very, very competitive retail category. And right now -- and this is a kind of a little bit off-topic, but I think it's very relevant -- one of the biggest things that retailers face right now is the issue of *e-fairness*. And that's the-- There are these online-

only retailers that don't have a physical presence in our state that are exploiting the competitive advantage that they have by not being required to collect sales tax. In fact, these companies are actually advertising, "No sales tax," when, in fact, the tax is still owed; it's just that the responsibility is being shifted to the consumer. But these online-only retailers are exploiting this loophole. And if you were to add, now, a TV tax onto that as well, there's no doubt in my mind that these retailers will also begin to exploit, "Well, you don't have to pay sales tax; and you don't have to pay this TV tax," because they will not be required to collect it.

So the online-only retailers is a significant issue that cannot be dismissed. And that is, today-- I think our concerns a few years ago, when it came to the TV tax, are different as opposed to today where the online e-fairness issue is huge; one of the biggest issues we face in retail. And if you add a TV tax, that problem is only going to be compounded, because these online-only retailers are going to exploit that loophole and will not collect it, and use it to their competitive advantage -- to the detriment of retailers based here in New Jersey. So that's one issue that cannot be avoided; and I'd be happy to have more conversations with you, Senator, about that. But that is our number one reason for why we would oppose a TV tax.

Also, if you did have some, I think, conversations about the Connecticut model-- And forgive me, I'm not 100 percent up to speed on all the-- I was an expert about five years ago on e-waste, and I'm a little slow in getting back up to speed on this issue more recently. But what I do understand from Connecticut is that it's a closed model -- in that the state makes all the decisions on who the service providers are, and what the cost of the recycling is, and who gets to collect the product. So it's a very closed

system, and the state dictates everything about that. So that's one reason why we'd be very concerned about that. In fact, I had one member in particular tell me that they would, should you go to a Connecticut model -- they will shut off their own recycling programs that they offer now to their customers. Anybody who brings a TV-- And they actually incentivize people; they give them a gift card for any old TV that they bring in. And programs like that would be completely shut off if you were to go the Connecticut model.

SENATOR SMITH: Who was that?

MR. HOLUB: I prefer not to-- I'd be happy to tell you offline, Senator. (laughter)

SENATOR SMITH: Okay.

MR. HOLUB: So with that-- And I think -- I know that the Consumer Electronics Association is here as well, and are much more able to speak to, I think, the larger issues involved. But I would be more than happy to answer any questions that you might have.

SENATOR SMITH: Okay. Any questions for John? (no response)

All right, thank you for coming in.

MR. HOLUB: Okay; thank you, sir.

SENATOR SMITH: Let's get the-- We have a slip -- John Martorano Jr., Thanks for Being Green, LLC. And he doesn't indicate in favor or opposed; he just says, "no need to testify." So John, we've noted that you've come here, and you're neither in favor or opposed, and you don't want to testify.

Let's try the Consumer Electronics Association. We have Walter Alcorn.

Mr. Alcorn.

WALTER L. ALCORN: Thank you very much, Mr. Chairman and members of the Committee.

My name is Walter Alcorn; I'm with the Consumer Electronics Association. We represent manufacturers of consumer electronics, as well as retailers and others in the industry, including a number of companies based in New Jersey. As a matter of fact, I do want to recognize -- they're not going to all speak, so that's probably a good thing for your time -- but we do have representatives today from several New Jersey-based companies, including Samsung, Panasonic, JVC, Sharp, and Barnes and Noble. So we're basically talking about an industry that provides several thousand jobs for New Jersey. So I would very much strongly encourage you to be careful with whatever changes you do to this law, because ultimately it could affect jobs directly in New Jersey.

And along those lines, our manufacturers spend, just in New Jersey, upwards of \$10 million a year supporting electronics recycling. So we have a target that's set by DEP; it's approximately 50 million pounds a year of old consumer electronics that have to be recycled.

SENATOR SMITH: Should the target be bigger?

MR. ALCORN: No.

SENATOR SMITH: Why?

MR. ALCORN: Well, in fact, you've heard people talk about the Connecticut system. Connecticut collects and recycles just over half the amount that's collected and recycled on a per-person basis that New Jersey

does. So in effect, the Connecticut model collects less but charges manufacturers almost twice the market rate. And that's something we have real concerns about. We want to make sure--

SENATOR SMITH: But here's the question. You said that DEP has a target goal of 50 million pounds.

MR. ALCORN: Yes.

SENATOR SMITH: Forgetting Connecticut.

MR. ALCORN: Yes.

SENATOR SMITH: We're talking about the amount of e-waste that's out there; should it be a bigger number?

MR. ALCORN: Actually, let me put this in perspective. Because I think what's happening is we're seeing more of challenges in the market. Basically, what you have is this: Manufacturers hire some local New Jersey recyclers -- Class D recyclers. Some manufacturers also hire national recyclers to comply with the requirements in New Jersey. Local governments, as you've heard, go through the process of contracting with recyclers as well. Local governments, traditionally, have hired local recyclers. If both sides-- If the manufacturers and the local governments were hiring the same recyclers, we probably wouldn't be having this hearing today. But you have a big fight going on in the electronics recycling market between the larger recyclers that, frankly, have economies of scale and operate more efficiently, and legacy recyclers that are struggling.

And what's made this really much more -- and this has made it worse for everybody -- is the CRT market. You know, we've heard things really started to fall apart in 2013. Well, that's pretty much when the CRT market started falling apart. And so now, even though the law-- Basically

you have a product that is the most prominent, the most largest percentage of the total electronics recycling stream -- is this old cathode tube glass; low-leaded glass. And there's really no demand for it. So as you've heard, recyclers have to pay somebody to take it and process it. But yet we have targets that we have to meet to make sure the stuff is processed, even though there's really not demand for it.

So we do-- As an industry, we want to see this process; we want to see this work. But I would just strongly encourage the Committee to be careful because-- And I very much appreciate the opportunity to give another side to this issue, because there is turbulence in the market; there's absolutely no doubt about that. And there's a lot of stress. But there's also stress on our manufacturers as well, and it's included in the testimony that I gave you.

There are a couple of, I would say, more positive things that I would like to end on.

SENATOR SMITH: Yes, but before you end on it--

MR. ALCORN: Yes.

SENATOR SMITH: I want you to answer my question.

MR. ALCORN: Yes.

SENATOR SMITH: Suppose we have 60 million pounds of e-waste to dispose of every year -- should the number be higher than 50 million?

MR. ALCORN: Well, right now, DEP approves recycling plans for manufacturers. Manufacturers have to have an approved recycling plan. And in that plan there are specified the collection locations -- or, at least, there should be specified collection locations that are supported by that

manufacturer. Okay, now I've heard one of the suggestions here is that manufacturers should collect everything that's out there; collect year-round. We're fine with that. As a matter of fact, we think DEP has the authority currently -- and DEP has put some things in place recently, just last year, that we think will ensure continuous service to these collectors that are shown in manufacturers' plans. So I think actually -- I think we're going to see, with DEP's implementation of this new process, I think we're actually--

SENATOR SMITH: What's the new-- Tell me about the new process. What's the new process?

MR. ALCORN: The new process is this: DEP is actually now scrutinizing, much more, the collection locations that are shown in manufacturers' plans. And so they're now holding manufacturers to making sure that those collection locations are supported throughout the year. And that's something we support; we support that.

SENATOR SMITH: Yes, but the problem wasn't collection. The collection, as I got it, is in pretty good shape, with the exception of maybe Atlantic County. So there's-- The collection is not the issue. The collection is paying for the recycling of materials. And, as I understood what the issue was that was presented, is that the DEP has set a limit in terms of poundage, and the amount to be disposed is higher.

So the question for the Consumer Electronics Association, to answer the direct question, is should the number be as high as whatever is out there in e-waste for that given year?

MR. ALCORN: See, we disagree--

SENATOR SMITH: Or for the past year -- whatever.

MR. ALCORN: We disagree that there's an imbalance between the target and the pound amount, and what's coming in.

SENATOR SMITH: Why?

MR. ALCORN: It's the market--

SENATOR SMITH: Why? Why?

MR. ALCORN: Because you have local recyclers that don't have sufficient manufacturer backing that control the flow. And yet you have national recyclers that have pounds orders in excess of what they're getting. So it's basically a standoff in the market. So that's why.

SENATOR SMITH: Stop for a second.

Mr. Purves, do you have any response to that?

Come on up -- come on up to the microphones so that we can get it on the--

MR. PURVES: Well, I think we have a little bit of a disconnect here, because--

SENATOR SMITH: Well, so we're trying to find out.

MR. PURVES: --we're hearing from the industry that there's a commitment for poundage. Right now, we have warehouses. We're in February of 2015; we are only one month into the year, and a lot of my clients have no commitments from manufacturers, or from brokers, or from their agents -- those responsible for providing -- guaranteeing weight, guaranteeing to take this material. And there's no commitments, and yet the stuff is still being collected, it's still going in the warehouses; it's filling up warehouses right now with no commitment from manufacturers to those recyclers who are the ones collecting it in New Jersey.

SENATOR SMITH: And the commitment should be from the manufacturers?

MR. PURVES: Or their agents. I mean, they do it, not necessarily directly.

SENATOR SMITH: All right. Let me go back.

MR. ALCORN: Yes.

SENATOR SMITH: Respond to that.

MR. ALCORN: Yes. Basically, the local governments are hiring recyclers that don't have manufacturer backing -- or sufficient manufacturer backing. That's the problem.

SENATOR SMITH: All right. Senator Greenstein.

SENATOR GREENSTEIN: Yes, I hear what's being said here. Most of the people who spoke talked about *poundage* as the issue. You're saying that the linkage between a, I guess, local recycling, local government, and a manufacturing plant is not there. So you have all of these local plants out there not linked to a manufacturing plant -- which is not directly about poundage. I mean, that's what I hear Mr. Alcorn saying. But it does seem like I'm hearing two different things.

SENATOR SMITH: Two different stories. (laughter)

Yes, sir.

MR. PURVES: May I--

SENATOR SMITH: Hold on one second.

Senator Thompson.

SENATOR THOMPSON: In fact, I'm kind of confused about how this whole thing works, (laughter) as we speak of contracts between

manufacturers and recyclers, and contracts between recyclers and counties, and so on.

Okay -- Samsung is a manufacturer. Now, a recycler-- I assume if they contract with a county, they pick up goods. I mean, does a recycler just go to the county and only pick up Samsung, for example? Or do they pick up all the electronic waste that comes in? So, I mean--

MR. ALCORN: Actually, Samsung--

MR. PURVES: Let me address--

SENATOR SMITH: I'll give you both a chance; we'll give you both a chance.

MR. PURVES: Let me address how--

MR. ALCORN: We'll probably say the same thing; go ahead.

SENATOR THOMPSON: Well, let me finish my question before you answer; let me finish the question.

In other words, I assume the recycler will have a contract with a county, they pick up all the electronic waste that comes. But if it's being suggested that recyclers need to have a contract with each manufacturer out there in order to recycle their waste-- I don't know how the whole system works.

SENATOR SMITH: That's insane.

Mr. Purves, and then Mr. Alcorn.

MR. PURVES: Well, let's talk about how the counties-- And it may be best for the counties to define exactly how they do it, but they put out request for proposals. They will have this material collected -- or they will anticipate having e-waste days or providing an option for their municipalities. They're going to have material. So they will go out for

request for proposals for companies -- and this is, presumably, recycling companies -- to come in and give them a commitment to take back -- to collect this material, and get it back into the recycling market.

What I'm hearing is that--

SENATOR THOMPSON: And, of course, what they're getting is all kinds of material from all kinds of manufacturers.

MR. ALCORN: That's right.

MR. PURVES: Absolutely -- a mix of CRTs and other electronics; some good material, some material that's going to be very costly to get rid of.

SENATOR THOMPSON: Right.

MR. PURVES: It's a whole mix of materials. And recyclers have to figure out, "Well, how am I going to bid on that in the future? I may have an allocation for one manufacturer for a certain material; I may not. I'm not exactly sure how to bid on that."

What I'm hearing is that there are plenty of out-of-state recyclers that can handle that, yet these out-of-state recyclers aren't responding to the counties' needs to recycle the material. So that's why counties right now are not getting contracts from recyclers to take the material back -- to collect the material.

SENATOR THOMPSON: Are you saying some recyclers can only get reimbursed from certain manufacturers for some of the material they're collecting?

MR. PURVES: They have to have an allocation of weight for the material that they've collected from the various manufacturers and/or their agents.

MR. ALCORN: And just very quickly. The manufacturers-- I don't know any manufacturer that just tries to collect their own brand in New Jersey. They collect the range of-- It doesn't matter the brand; it comes back. So it is the broader set of electronics that these manufacturers -- like Samsung--

SENATOR THOMPSON: They're paying for a certain amount of electronics, not necessarily-- Samsung is not just paying for electronics; they're paying for *X* thousands of pounds of electronics, or something like that.

MR. ALCORN: That's right; that's right -- of the covered products. Covered electronics.

SENATOR THOMPSON: Okay. So therefore, the total number of pounds that each manufacturer has is this much. They may contract with only one agency to get the whole allotment, or they may spread it around a number of recyclers.

MR. ALCORN: That's right. And Mr. Chairman, just one more quick, positive point.

SENATOR SMITH: Please, sure.

MR. ALCORN: Which is, this really -- and I think we're seeing this in other states -- the collapse of the CRT market has really brought this to the fore. This is what's creating, I think, a lot of the stress. And the good news is, we are seeing peak flows of CRTs, probably, in 2015. So I think we're going to see reductions; maybe not significant reductions, but over the next 5 to 10 years this is going to become much less of a problem. We've already seen reductions in Washington state and in California, where they've had programs that have been going a little bit longer. So we think,

actually, this is probably the worst of all the times for CRTs. And frankly, that's something I think we can all agree on. We'll be glad when it's over.

SENATOR SMITH: Okay. Thank you for your comments.

MR. ALCORN: Thank you.

SENATOR SMITH: David Thompson, Panasonic.

Mr. Thompson.

DAVID A. THOMPSON: Chairman Smith and members of the Committee, thank you for the opportunity to be here and testify from the perspective of an electronic product manufacturer.

We are headquartered in New Jersey; we have our North American headquarters in Newark, and we employ well over 800 people at our Newark and our Harrison, New Jersey, locations.

We collect and recycle electronic products on a nationwide basis; and last year we collected approximately 39.6 million pounds across the country. In the State of New Jersey, we collected 3.94 million pounds. That was the target that the DEP assigned us for 2014. Our New Jersey target for 2015 is 4.4 million pounds.

So I would like to say that, in my view, my understanding, the DEP does have the ability to adjust the targets upward; they did adjust them upwards, I believe about 10 percent. My target went up-- The targets are set based on your sales -- the weight of the product you sell. So despite my sales going down, my target actually went up. So DEP has taken at least one step to try to adjust -- address, I guess, the problems that we're finding in New Jersey, by raising targets. That's my understanding.

We have a deep commitment to responsible recycling. We participate in an EPA program, whereby we've committed that we will only

use third-party certified recyclers. So if a recycler isn't third-party certified, we are not going to use them.

We also have a commitment to increase the recycled content of the products that we make. Our goal for 2018 -- our 100 year anniversary -- is 16 percent post-consumer recycled content in our product lineup. As of 2014, we're ahead of that goal; we have a 17 percent achievement of post-consumer recycled content. I will tell you, we've been trying to buy plastic in the United States, and are having a very difficult time getting it.

So I would say that it's not a case where we don't want these materials back; some of them we do.

So regarding New Jersey, we have looked at this problem over time of collecting recycling e-waste, and starting in 2007 we thought that the best way to address it was through some sort of collaborative manufactured partnership. So we worked with Sharp and Toshiba. Both of them were New Jersey companies; I think Toshiba no longer is. And we formed an organization called the Electronic Manufacturers Recycling Management Company -- or MRM, for short -- in 2007. And we've brought about 35 companies together, and they participate in a collaborative e-waste collection program; depending on the state, the numbers vary. I also serve as President of MRM, just for the record.

In New Jersey, we represent 17 separate manufacturers in our state collection program. We contract for 148 collection sites around the state. And while we use a number of recyclers, some of them national, we also support four New Jersey-based recyclers: Covanta, LogTech, Newtech, and Thanks for Being Green. Based on the information I have, we cover 100 percent of the collection volume generated by Hunterdon, Mercer,

Somerset, Union, and Warren counties. And we also have a direct relationship where MRM, on behalf of the 17 companies, has contracted directly with Morris County and provides probably 17 or 18 drop-off locations in Morris County where we, as a group of manufacturers, have responded to an RFP that the County issued.

So in my view-- And one other thing I'd like to say about this: We do try to look at our targets, as assigned by the DEP, and then work with local governments and other collectors to determine which one of those we can support throughout the course of the year, based on our allocated volumes. So we are committed, and we do work to-- If we sign up with a municipality -- we support several municipalities -- or a county, we are committing to take the volume that they generate, essentially, over the course of the year. So it's not a case where if everybody comes, and we've made our target, we say, "Sorry."

SENATOR SMITH: Yes, but when you-- Just to Senator Thompson's point, when you say *take*, you don't mean take back the waste? You mean pay for the recycling of a certain weight of the material, right?

MR. THOMPSON: Yes. We contract with collectors and recyclers--

SENATOR SMITH: Right.

MR. THOMPSON: --to take those materials and process them for us.

SENATOR SMITH: Right.

MR. THOMPSON: So we think we're doing exactly what the Act intended us to do, and we think we're doing a good job at it.

SENATOR SMITH: All right. So let me ask you the question: The comments, distilling them down, is that there's more weight out there than the DEP initially set goals for. So the question is, does Panasonic have a problem with a higher weight goal in New Jersey?

MR. THOMPSON: Panasonic supported the DEP increasing the target this year -- which I understand they did.

SENATOR SMITH: Yes, but what if it requires that the target goes up even higher?

MR. THOMPSON: I would like to wait and see if the target that's set this year actually meets -- actually fits, if that's the right word, the amount of volume that the State is generating.

SENATOR SMITH: You mean *weight*.

MR. THOMPSON: Weight, yes. And, again, my understanding is that the DEP did adjust the weight target up per capita by about 10 percent. And I also understand from talking to people -- so it's all hearsay -- that at the end of the year last year, that there was quite a bit of bargaining for recycling credits that manufacturers need to report to the DEP to satisfy our obligations, and that some manufacturers had trouble getting the pounds that they need.

So again, I would like to wait and see if this particular increase that the DEP put through this year is going to address this concern.

SENATOR SMITH: I appreciate your comments.

Any questions?

Senator Thompson.

MR. THOMPSON: Sir, I do have a couple of-- I want to make a couple more points, if I could; but please--

SENATOR SMITH: Oh, I'm sorry. Go ahead. I thought you were finished.

MR. THOMPSON: Oh, okay. But when we think about e-waste laws and regulations -- which we're talking about -- I do want to say that we're committed to work with our stakeholders in New Jersey. We would like to see laws that give manufacturers -- since we're responsible for paying for these materials, or maybe even taking them back and recycling them ourselves -- that gives us the maximum flexibility to work with recyclers who can do the job for us. This is an enormous cost burden on us; and we need to find recyclers who have the capability to invest in technology to reclaim the maximum value of the materials that are contained in the products so that we can really develop a sustainable approach to recycling.

SENATOR SMITH: Yes, the problem with that is that everybody would like the perfect recycler, who could recycle everything in the world. The problem with it is that you don't just get Panasonic waste at a county collection site; you get everybody's waste, all right? So that's part of the problem.

And then there-- At the end of the day, the manufacturers didn't want to be collectors; you didn't want us to have this all go back to your shops -- at least, that's what the prior testimony was. You wanted the government to be responsible for collecting this stuff. The way you would get that is, maybe what we should say is, "You collect all of your waste," or allow customers to bring it all back.

MR. THOMPSON: Senator Smith, what I meant by that is recyclers can invest in shredding technology.

SENATOR SMITH: Right.

MR. THOMPSON: Not one New Jersey recycler has a shredder that's worth a damn -- excuse me. So if recyclers do invest in shredding technology, they can reclaim more of the value of the materials in the products: the copper, the gold, the steel, the plastic -- whatever it may be -- and they can sell that at a higher price into the marketplace, which means a lower cost for us who are footing the bill -- paying the manufacturer tax, if you will -- to collect and recycle these products. That's what I meant.

SENATOR SMITH: Okay.

Senator Thompson, you had a question.

SENATOR THOMPSON: As this goes along, I keep getting a little clearer picture of how this whole process works.

So as I understand it, again, the State sets for each manufacturer an amount of recycled materials that they have to fund. Then it leaves it to each manufacturer to contract with one or more recyclers to recycle that quantity of material.

SENATOR SMITH: No, actually, that's not true. It's the counties that are collecting, and they contract with the recyclers.

SENATOR THOMPSON: What's that?

MR. THOMPSON: We both--

SENATOR SMITH: They--

SENATOR THOMPSON: No, no. no. With the credits they have, they have to fund recycling X tons, or thousands of pounds, or so on, right?

SENATOR SMITH: Yes, that's true.

MR. THOMPSON: Correct.

SENATOR THOMPSON: And then you are going to select recyclers out there--

SENATOR SMITH: No, it's the county that selects--

SENATOR THOMPSON: Well, let me ask my question, and you can change it.

SENATOR SMITH: No, no; okay. I'm just trying to straighten you out. But it's okay.

SENATOR THOMPSON: Okay.

SENATOR SMITH: Go ahead.

SENATOR THOMPSON: My understanding is that, okay, you have a certain allotment you have to pay for it to be recycled. So you contract with certain recyclers out there who are going to be responsible for making that collection. Is that correct?

MR. THOMPSON: Yes. We-- There is no easy, simple--

SENATOR THOMPSON: They then are under contract to the county.

MR. THOMPSON: There is no easy, simple answer.

SENATOR THOMPSON: They, then, are on contract with recyclers.

SENATOR SMITH: Okay.

MR. THOMPSON: So in the case of Morris County, my organization, MRM, has a contract with Morris County that we entered into, and then we arrange, through a contract with a recycler, to come in and pick up what Morris County collects. In the case of--

SENATOR THOMPSON: But you make your decision on whether you go into Morris County, or Essex County, or so on, and also you are going to work with a recycler to go there and get it. Is that correct?

MR. THOMPSON: But in some cases, we actually contract with recyclers, as you're saying, Senator Smith, to go out and arrange for pounds for us -- recycling credits; so they will go to either Goodwill, or county government, or a municipality and make those arrangements.

SENATOR SMITH: Okay.

SENATOR THOMPSON: Where I'm going with my questions, Senator, is that, that's with each manufacturer making these arrangements out there. They've got their allocations that they are responsible for. But they're making their arrangements with different recyclers or different counties independently.

SENATOR SMITH: Yes.

SENATOR THOMPSON: So therefore, reaching out like that, you may find some county that no manufacturer is interested in, or some recycling company that no company is interested in. They aren't necessarily having to make bids to them -- the recyclers are not -- or to the counties, or so on. It might be better if the State assign the responsibility for paying to them what the State contracted out there with recyclers and so on -- spread it down -- because you may have some recyclers out there that say that they can't get any manufacturers willing to give them a contract. So they're saying, "Oh, they're not buying enough," while somebody else may have these contracts and may not be totally fulfilling their contracts -- with every manufacturer out there trying to determine where they're going to put their allocations, who's going to collect it, what

counties they're going to cover, and so on. Maybe the DEP or the State needs to have more oversight on where these allocations are going from the manufacturers (indiscernible).

SENATOR SMITH: Okay.

MR. THOMPSON: Senator, could I make a couple more points?

SENATOR CODEY: So you pay a recycler to pick up any company's--

MR. THOMPSON: Yes.

SENATOR CODEY: Okay.

MR. THOMPSON: We're not trying to distinguish among brands; it isn't worth it.

SENATOR CODEY: Right. You could care less, as long as your quota is reached, correct?

MR. THOMPSON: Yes.

SENATOR CODEY: Okay. And what do the other companies do? Same thing?

MR. THOMPSON: I think-- I understand that they do the same thing. We just do it in an organized fashion for a group of 17 companies.

SENATOR CODEY: Yes, but why wouldn't you all get together and form a co-op?

MR. THOMPSON: Because I believe the answer would be that we think that collectively, in our infinite wisdom, that the marketplace is going to offer a more competitive approach if we have competition.

SENATOR THOMPSON: The State should take bids.

MR. THOMPSON: So I would also like to say that one thing that could be done, or should be done, is the State should maintain a level playing field among manufacturers. And that could be done if the DEP would or was given the resources they need to make sure that the manufacturer programs that they receive -- each manufacturer or group of manufacturers submits a plan -- has a number of collection locations that is commensurate with their target, and that the manufacturers that submit these plans must support those collection locations throughout the course of the year.

SENATOR SMITH: Senator Greenstein.

SENATOR CODEY: You know, like sub it out to somebody else. You're not doing the collecting yourself.

MR. THOMPSON: Honestly, if I had a co-op, I would do the collection myself -- if I had a co-op; but I don't in the sense that you mean.

SENATOR SMITH: Senator Greenstein.

SENATOR GREENSTEIN: Yes, thanks.

What I'm hearing is that your group of 17 companies is doing this in a very organized way. But it may be that a lot of other smaller ones may not be. And I think, here, the State -- the DEP -- really has to be the organizing factor; I think you just presented it. It has to really be done that way because, otherwise, my impression is that there's a lot of disorganization out there. I'm not sure I'm right, but that's what I'm hearing today.

Yours sounds pretty organized. But it sounds like some of the others are not -- the smaller ones are not really taking the same approach. So I feel like the State has to take an active role in this one.

MR. THOMPSON: I think that's what I just-- I agree.

SENATOR GREENSTEIN: And I think it is what you just said.

MR. THOMPSON: So the other points I would like to make is that, please, as you consider solutions, do not put us in a situation where the State sets prices. We end up paying almost double in the states that have done that, and that cost, to the extent I can stay in business, will be passed on to consumers.

SENATOR SMITH: Do you believe that's what the Connecticut model does?

MR. THOMPSON: Yes.

SENATOR SMITH: And when you say they set prices -- how do they set prices?

MR. THOMPSON: They choose recyclers that can collect and recycle in their state, and they set the price.

SENATOR SMITH: They set the price of a pound of whatever?

MR. THOMPSON: Yes, a pound of TVs in Connecticut is 38 cents, I believe, on average -- or roughly.

MR. ENTWISTLE: (off mike) That's not accurate.

MR. THOMPSON: What is it, please?

MR. ENTWISTLE: That's not accurate.

SENATOR SMITH: All right--

MR. ENTWISTLE: They don't set prices.

SENATOR SMITH: Well, we'll give you a chance--

MR. THOMPSON: They set the price, and that is accurate.

MR. ENTWISTLE: I disagree.

SENATOR SMITH: Listen, we're not on *Saturday Night Live*; this is not Jane Curtain. (laughter) So-- And we'll give you a chance for a response to that.

Go ahead.

MR. THOMPSON: I know what I pay.

SENATOR SMITH: Okay.

MR. THOMPSON: And it's exactly what the state sets the price at.

SENATOR SMITH: All right. Any other comments, sir?

MR. THOMPSON: Please-- No, that will do it for me, and I really thank you for the opportunity to be here.

SENATOR SMITH: Absolutely.

MR. THOMPSON: And we would look forward to trying to work with you and the State to make sure that this program works.

SENATOR SMITH: We appreciate that.

MR. THOMPSON: Thank you.

SENATOR SMITH: All right. And only while it's fresh in our mind-- Jim, if you would come up; and you wanted to have a quick rejoinder -- the emphasis on *quick*.

MR. ENTWISTLE: Yes, my name, just for the record, is Jim Entwistle.

SENATOR SMITH: Jim.

MR. ENTWISTLE: The group that was just up here is the group that I represent in the State. And they do a very good job working with us. I have a long-standing relationship with them.

As far as Connecticut goes, Connecticut-- The state does not set the pricing. The recyclers submit pricing, they have oversight on the pricing, and there is a cap in the law as to how much they can charge. My current rate to recycle TVs is not 38 cents; my current rate is 29 cents.

SENATOR SMITH: In Connecticut.

MR. ENTWISTLE: Yes, sir. That includes the collection, the sorting, the processing. The Connecticut law is a little bit different because I do-- In that law, we are required to sort the material by manufacturer. With TVs, in relation to Mr. Thompson's comment-- In regard to TVs, it's based on market share. So if you have a decreasing market share in a state, you would actually be paying less over time, if that was the case, if your sales were decreasing. So the market share model, in my opinion, is a strong model. And the rate that we're getting paid up there is for the full disposal and processing, right down to the glass.

SENATOR SMITH: Thank you for your comments.

Carole, from Middlesex County and ANJR -- the Association of New Jersey Recyclers.

Carole, I apologize. I knew once how to pronounce your last name, but I've lost it. (laughter)

C A R O L E T O L M A C H E W I C H: Good morning. I'm Carole Tolmachewich, from Middlesex County's Division of Solid Waste Management. Thank you all for the opportunity to speak on this very important topic.

Middlesex County had a long-running, 14-year program -- a successful electronic collection program that resulted in the collection of 2.8 million pounds of covered electronic devices in 2014.

The recycler that we had partnered with over the last four years is no longer working in our County. After several bid attempts -- and I will note that we sent our bid specifications to both in-state, local and out-of-state electronics recyclers that we knew were doing business in New Jersey -- we received no awardable bid.

The prices that we received to provide the services, for what is supposed to be a free program, ranged from \$420,000 to \$1 million per year. As a result, Middlesex County had no choice but to suspend our collection program as of December 31. So right now, in Middlesex County, there is no County collection program.

Our program consisted of not only a County drop-off which operated twice per month, but also we had partnerships with all 25 of our towns -- 24 of which had local drop-offs. That program is ended. As a result, municipalities are faced with the choice of either trying to find a vendor on their own or ending their program. If a town doesn't have a program, there are concerns with illegal dumping, stockpiles of covered electronic devices left at drop-off centers, and our big concern of covered electronic devices in our landfill.

We do have a few municipalities that elected to continue their program at taxpayer expense -- because every municipality that has elected to continue their program is paying. One such town has already spent \$3,000 solely for electronics collected in January; that's one town.

The County currently directs our residents to the NJDEP website and the NJDEP telephone number to get information as to where they should recycle their covered electronics. Unfortunately, our residents are not being provided with a free option for recycling their large

televisions. Of the 14 drop-off locations that are listed for covered electronics in Middlesex County, only 3 maintain that they accept televisions. One of those locations routinely turns away residents if their televisions don't work. The other two locations have size restrictions, and those size restrictions are -- if you have a tube television that is larger than 32 inches they will not accept it at no charge. If you have a projection television they will not accept it at no charge. If you have a console television they will not accept it at no charge. So if you are a resident in Middlesex County right now with a 52-inch tube television, you have no free option to recycle your television.

We have reached out to the NJDEP to ask for their assistance with this problem; we have not heard anything back.

SENATOR SMITH: When did you request assistance?

MS. TOLMACHEWICH: Oh, our Freeholder, Freeholder Polos, wrote a letter about three weeks ago to the DEP on that specific problem.

SENATOR SMITH: Okay.

MS. TOLMACHEWICH: And that was directed to the DEP Commissioner.

So from Middlesex County's perspective, the Act is not working as originally intended. And, therefore, we are recommending that it be amended so it is similar to that which exists in the state of Connecticut. And Middlesex County is willing to assist in making the necessary amendments to the State law so that we will return to a free and convenient drop-off program for our residents.

And I'm also speaking as a Board member of the Association of New Jersey Recyclers, which is a nonprofit organization that represents both the public and private sector, local and government officials, the recycling industry, and the business community. And ANJR has been hearing from our members that the biggest problem that they are currently facing is the electronics recycling issue.

The original bill gave many hope that all the positive work they had done to remove electronics safely from the waste stream would now be easier and costs would be covered. Many municipal and county elected officials are increasingly being confronted with no zero-cost bids, only bids with varied level of costs, and thus face the tough choice to either spend large sums of money to continue their electronics programs or to end them. Either way, they face taxpayer concern and anger. And ANJR cannot understand how the manufacturers are able to claim that they have met their collection quotas each year and, in fact, in some cases are claiming that they have met their set quotas before the year has ended, when so many communities are not being serviced by the free program. And ANJR has and is continuing to indicate their support for a legislative change to the program as well.

SENATOR SMITH: Carole, why do you think the Connecticut law would-- How, specifically, would it improve the situation?

MS. TOLMACHEWICH: Well, the Connecticut law would require recyclers to work with municipalities and counties. And in New Jersey, we are the ones that have the programs; we are the ones that the residents depend upon for their drop-off needs. So if we go to a Connecticut system, I will have a choice of a number of approved

electronics recyclers to go with to make sure that our electronics are being recycled. There will be no maximum quota; they will have to take back whatever materials that we generate.

SENATOR SMITH: Okay.

SENATOR THOMPSON: Mr. Chairman.

SENATOR SMITH: Yes, sir. Senator Thompson.

SENATOR THOMPSON: You indicate your program ended December 31.

MS. TOLMACHEWICH: Yes.

SENATOR THOMPSON: You said you did receive some bids, but they would have run hundreds of thousands -- up to \$1 million or so. What was the difference this year versus last year -- what caused the change, and so on, as far as you see?

MS. TOLMACHEWICH: We had a recycler who was based in Edison, and they moved out of the state so they were no longer continuing our program.

SENATOR THOMPSON: What were you paying them?

MS. TOLMACHEWICH: We were not paying.

SENATOR THOMPSON: They were doing it at no cost?

MS. TOLMACHEWICH: We were actually receiving a subsidy back.

SENATOR THOMPSON: So in other words, you were going from a no cost to up to \$1.4 million, I think you said. Okay.

SENATOR SMITH: Any other questions for Carole? (no response)

Carole is our last witness. Obviously, this is an issue that is of concern. We hope to get the transcript ASAP; we're going to send it to the Commissioner and ask if he has any suggestions. And, if not, then we're going to take a look at legislation to solve what is clearly a bigger problem than anybody ever anticipated.

Thank you for your comments. That concludes our hearing, and concludes this day's meeting of the most interesting Committee in the Legislature. (laughter)

(MEETING CONCLUDED)