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Hearing on Implementation of AB 2020 (Chapter 1290/86): The California Beverage Container Recycling and Litter Reduction Act

Assembly Committee on Natural Resources

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CALIFORNIA LEGISLATURE

ASSEMBLY COMMITTEE

ON

NATURAL RESOURCES

ASSEMBLYMEMBER BYRON D. SHER, CHAIRMAN

HEARING ON

IMPLEMENTATION OF AB 2020 (CHAPTER 1290/86):
THE CALIFORNIA BEVERAGE CONTAINER RECYCLING
AND LITTER REDUCTION ACT



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TUESDAY, JANUARY 27, 1987

ASSEMBLY NATURAL RESOURCES COMMITTEE
SHER, CHAIR
9:00 a.m. - Room 444

IMPLEMENTATION OF AB 2020 (CHAPTER 1290/86):
THE CALIFORNIA BEVERAGE CONTAINER RECYCLING
AND LITTER REDUCTION ACT

OPENING STATEMENT BY CHAIRMAN SHER

Witnesses

Randall Ward, Director,
Department of Conservation

Elizabeth Hill, Legislative Analyst

Tom Padia, Associate Director,
Californians Against Waste

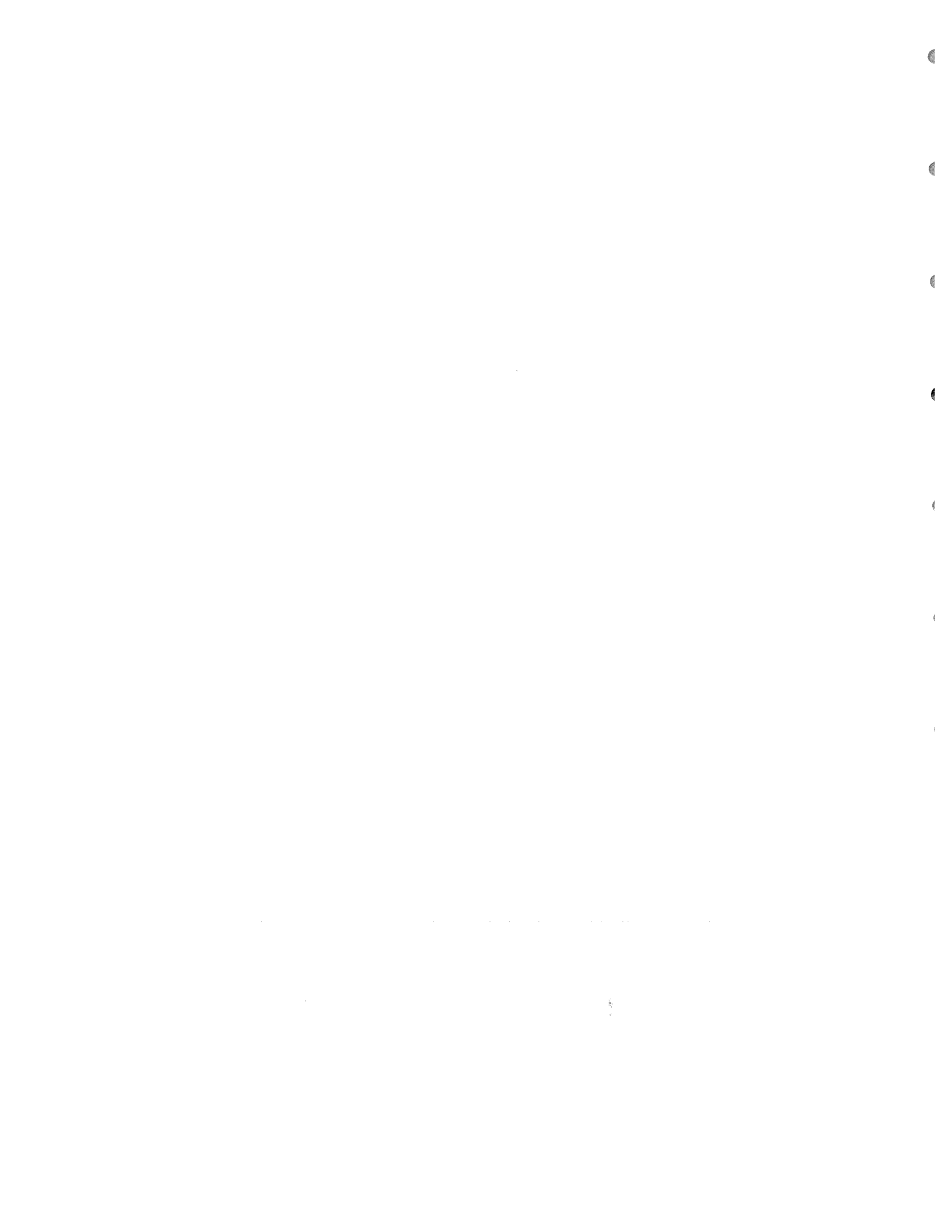
Paul De Nio
California Beer Wholesalers Association, Inc.

Tanya Lipschutz
Northern California Recycling Association

Ralph Simoni
IEC/California-Nevada Soft Drink Association

Bruce DeWolfson, President
ENVIPCO, Newark, CA

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BRIEFING PAPER
FOR
HEARING ON
IMPLEMENTATION OF AB 2020
THE BEVERAGE CONTAINER RECYCLING AND LITTER REDUCTION ACT OF 1986

ASSEMBLY NATURAL RESOURCES COMMITTEE
BYRON D. SHER, CHAIRMAN
JANUARY 27, 1987
SACRAMENTO, CA.

1. Introduction

In 1986, after 20 years of divisive and often bitter debate over how best to address the state's litter problems and to promote recycling, the California Legislature passed Assembly Bill 2020, the Beverage Container Recycling And Litter Reduction Act Of 1986.

AB 2020 was a consensus bill, albeit precariously so; it enjoyed support from most statewide environmental organizations, from the beverage container manufacturers, from major beverage companies and other related industries. The measure itself was an amalgam of redemption/recycling approaches used in other states combined with new elements never before tried on a large scale.

AB 2020 is not a traditional nickel deposit "bottle bill" which was strongly advocated in the past by environmentalists. It also differs markedly from programs suggested by the beverage container and other affected industries. While the bill does contain provisions supported by both environmentalists and the beverage industry, the program enacted by AB 2020 is one which is new and essentially untested.

The enactment of AB 2020 represented a significant step forward in resolving immediate political conflicts between traditional proponents and opponents to recycling legislation. However, the success of the program itself to a large extent depends upon (1) its timely and effective implementation by DOC, (2) an ongoing commitment to making it work on the part of recyclers, grocers, beverage

manufacturers and others, and (3) public acceptance of the program and public confidence that the program will work.

The purpose of this hearing is to familiarize committee members with the provisions of the Act, to provide them with an overview of the policy and fiscal issues involved in implementation of the program, and to ensure that the program is to be implemented in a timely and efficient manner.

2. Summary of Key Provisions

The principles behind the implementation of AB 2020 are fairly simple; the mechanisms to achieve its goals are decidedly complex.

Public Resources Code Section 14560, as enacted by AB 2020, requires, by 1992, that redemption rates for aluminum, glass and plastic beverage containers reach 65%. If this 65% threshold is not achieved at certain points between the time of the bill's enactment and 1992, the "minimum redemption value" on each container increases, up to a maximum of 3 cents.

The beverage container and recycling program is intended to work in the following fashion (see attachment A):

1. Beverage distributors (e.g. wholesalers) include a 1 cent per container "minimum redemption value" charge on beverage sales to dealers (e.g. grocers and other retailers). Distributors forward this amount, minus a 1% administrative fee, to DOC for deposit into the Beverage Container Recycling And Litter Reduction Fund (hereafter referred to as "the fund") for expenditure pursuant to (4) below.
2. For those container types which have no inherent scrap value, the DOC must establish a "processing fee" which is forwarded from the container manufacturers to the department for deposit in the fund and expenditure pursuant to (4) below.
3. Dealers sell beverages to consumers, who receive a minimum 1 cent "redemption value" plus a "redemption bonus" on each container returned to a certified recycling center.
4. Certified recycling centers collect empty containers from consumers and sell them to processors who remanufacture containers for reuse or scrap, or who sell them back to manufacturers.
5. The fund, derived from processing fees and from minimum redemption values collected on each beverage container sold to dealers, is expended in the following manner:
 - a. A continuous appropriation for DOC's costs in administering the program is made from the fund.

- b. Of the remaining amount, 70% must be used to establish "redemption bonuses" (amounts paid to consumers over and above the minimum redemption value) and for recycling centers administrative costs.
 - c. Specified amounts must be provided to local conservation corps programs in cities over 250,000 in population.
 - d. Specified amounts must be used for the promotion of the program and for private nonprofit organizations.
6. DOC is given overall responsibility for administration and implementation of the program. Specific short-term regulatory responsibilities are discussed in Section 4 below.

3. Fiscal/Budgetary Issues

Section 6 of AB 2020 provides DOC with a \$5 million General Fund loan (to be repaid, with interest, in the 1987-88 fiscal year) for start up of the Beverage Container Recycling And Litter Abatement Program. According to the Legislative Analyst, DOC has used this authority to begin hiring new positions within the Division Of Recycling.

While neither committee staff nor the Legislative Analyst have reviewed DOC's spending plans for the current fiscal year, we are advised that DOC intends to hire up to 44 new personnel years (PY's) of staff by June 30. According to the Analyst, as of the beginning of the year, DOC had filled 28 new positions in the Division Of Recycling. These positions were comprised primarily of management level positions. While no hard figures on expenditures are available, the Analyst estimates that somewhere between \$1.2 million and \$1.3 million of the \$5 million General Fund Loan has been expended by DOC to date.

For the 1987-88 fiscal year, the Governor's Budget proposes the following expenditures from the fund:

- a. \$5 million to repay the General Fund loan.
- b. \$75 million to provide 125.1 PY's for start up and ongoing operation of the program, including equipment, accounting systems and contracts.
- c. \$20 million to provide recycling payments to processors.

According to the proposed budget, the newly created Division will focus its activities on development of regulations; certification of processors, recycling centers and nonprofit drop off programs; establishing processing fees and convenience incentive payments; and issuing grants for litter abatement and public education.

The Act requires, commencing on September 1, 1987, that each beverage container distributor begin paying 1 cent per container into the fund. Based upon estimates of roughly 10 billion containers sold annually in the state, the budget contemplates approximately \$100 million in revenues (As described in

Section (2) above, the lion's share of these revenues will be returned to the consumer through redemption values and bonuses.).

1987-88 Administrative costs in 1987-88 are estimated by DOC to be \$9 million; \$4 million for staff and \$5 million for operating expenses equipment and contracts.

Specific budgetary issues which the committee may wish to examine include:

1. Does DOC have a work plan for implementation of its responsibilities under the act?
2. Does DOC have a specific expenditure plan for the remainder of the \$5 million General Fund Loan and the \$90 million?
3. Given current and projected budget revenues, is DOC satisfied that it has sufficient resources to ensure timely and effective implementation of the program?
4. Is DOC encountering any difficulty in hiring qualified personnel to fill positions within the Division? How quickly does the department believe it can fill 125.1 PY's within the next fiscal year?

4. Regulatory Issues

As described in Section 2 above, AB 2020 required DOC to undertake several tasks in order to ensure orderly and expeditious implementation of the program. Specifically, DOC is required to:

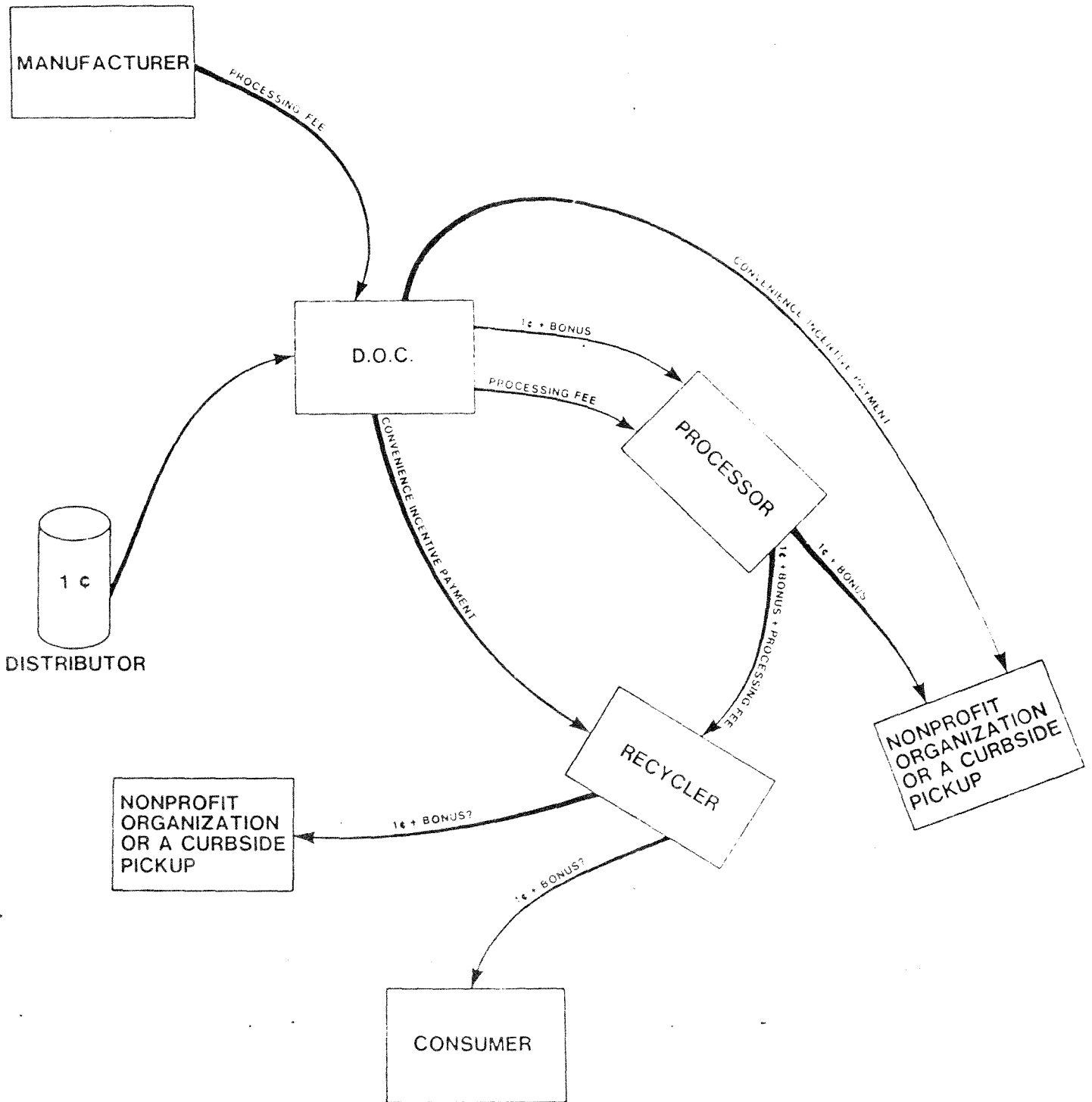
- a. Establish "convenience zones" (defined as zones within a 1/2 mile radius from a supermarket in most areas) and to publish maps specifying these zones by January 1, 1987 (According to DOC, maps of convenience zones have been prepared and will be presented to the committee at the hearing.).
- b. Adopt emergency administrative regulations for the certification of recycling centers, nonprofit dropoff programs and processors (See Attachment B, which describes the regulation in summary and sets forth a schedule for adoption.).
- c. Begin the process whereby DOC shall enter into agreements with recyclers to locate at least one certified recycling center within each convenience zone (According to DOC, this process will begin upon adoption of the emergency regulations governing certification.).

Other regulatory issues have arisen in the context of DOC's implementation of the program. Questions the committee may wish to examine include:

1. Should communities which have curbside recycling programs be exempted from having convenience zones established and recycling centers certified within their boundaries?

2. How does DOC intend to establish processing fees? Will these fees be set in a fashion which ensures that recyclable materials will be purchased and reused, not landfilled?
3. How will DOC implement the start up of the program so that in August and September, 1987, there is an orderly transition from the sale and purchase of nonredeemable containers to those which are redeemable?

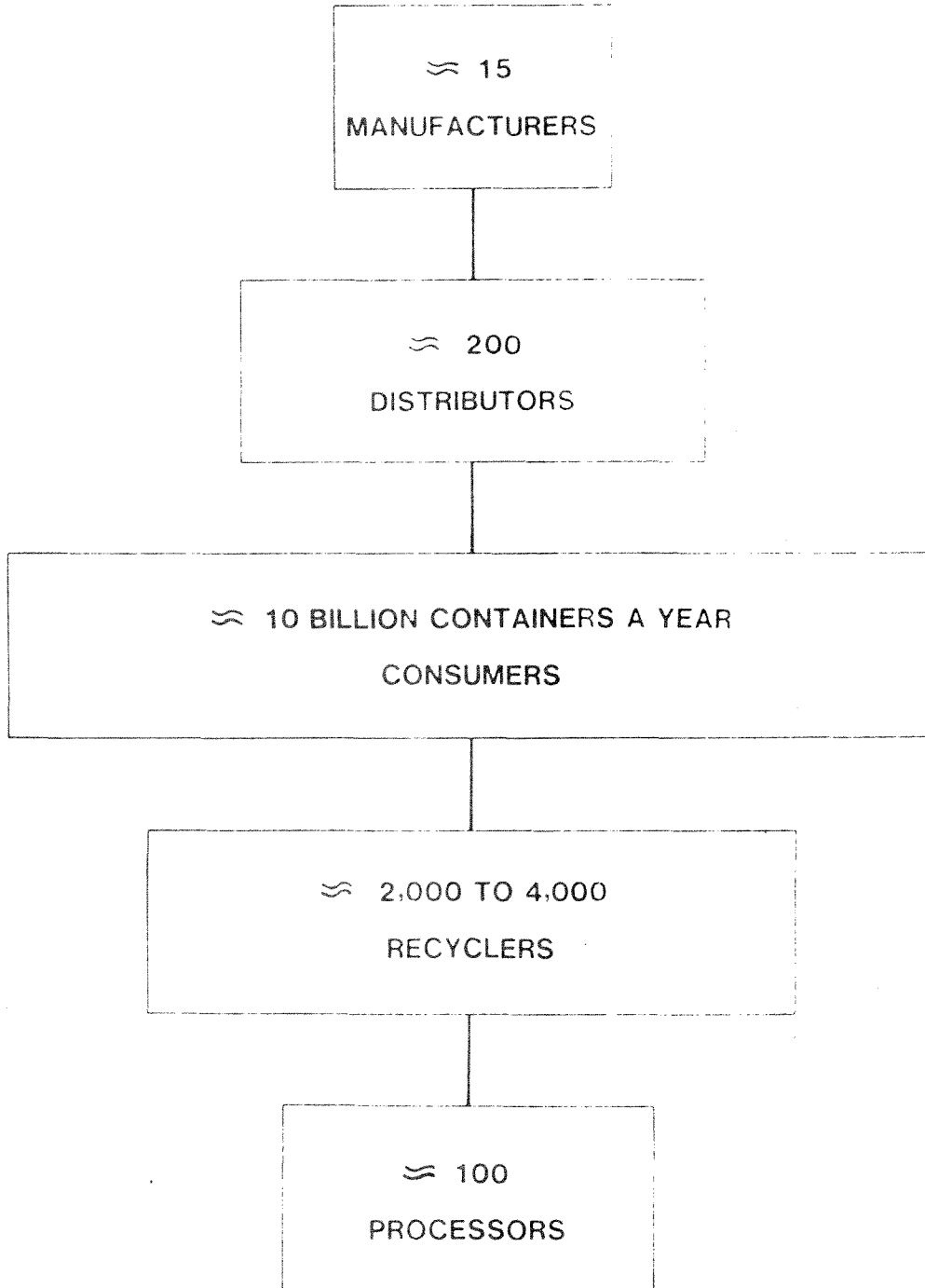
Prepared by Department of Conservation
August 22, 1986



MONEY TRAIL, AB 2020



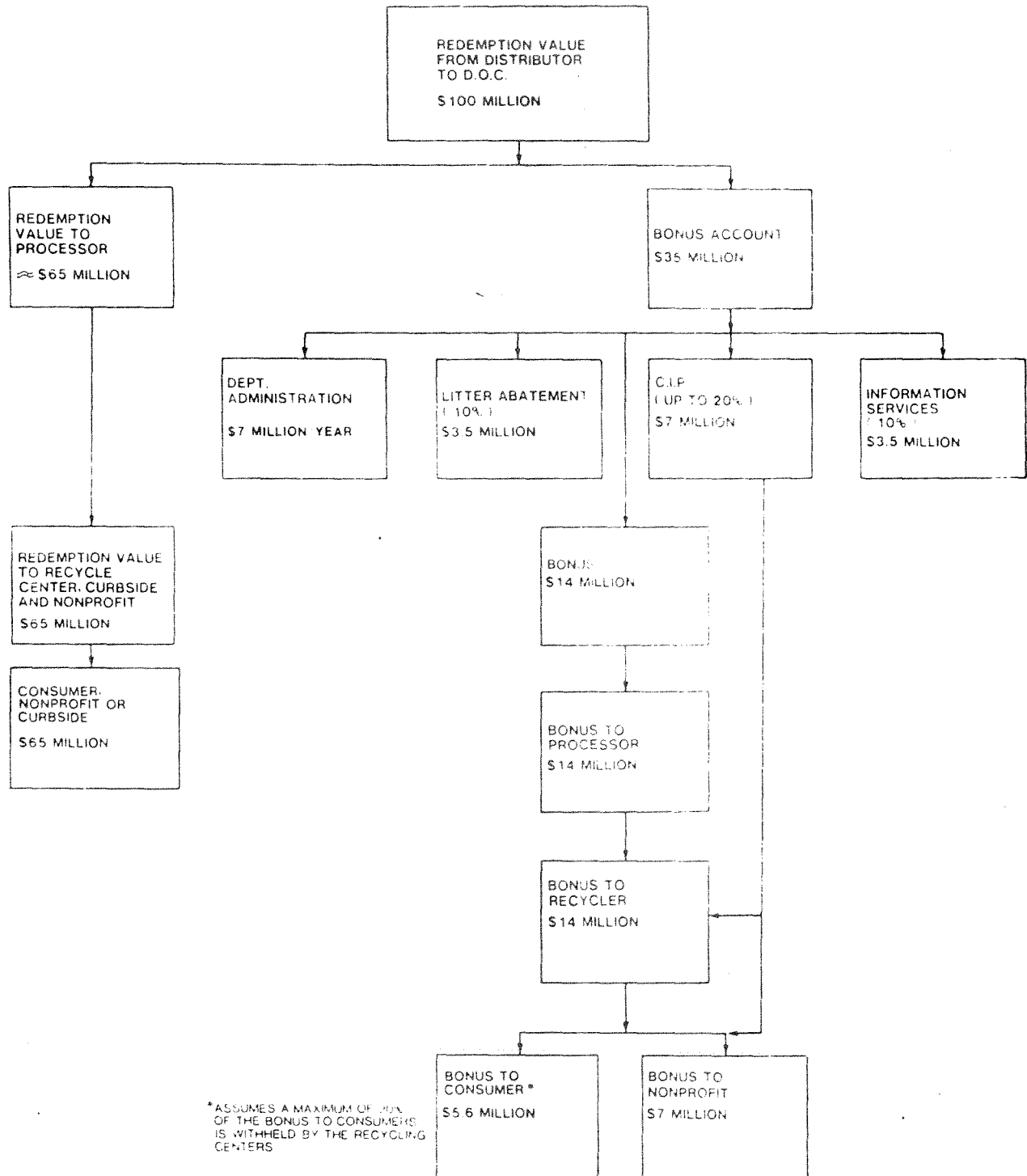
Prepared by Department of Conservation
August 22, 1986



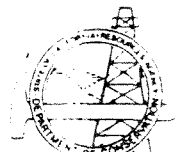
THE PLAYERS AND THE AUDIT TRAIL, AB 2020



Prepared by Department of Conservation
August 22, 1986



**MONEY TRAIL, AB 2020,
EXAMPLE AT 65% RECYCLE RATE**



DEPARTMENT OF CONSERVATION

DIVISION OF ADMINISTRATION
DIVISION OF MINES AND GEOLOGY
DIVISION OF OIL AND GAS
Division of Recycling



1416 Ninth Street
SACRAMENTO, CA 95814
(916) 323-3508

January 15, 1987

TO: Interested Individuals

SUBJECT: CERTIFICATION REGULATIONS FOR RECYCLING CENTERS,
NONPROFIT DROPOFF PROGRAMS, AND PROCESSORS

The Department of Conservation, Division of Recycling, has prepared the enclosed Notice of Proposed Action to adopt regulations governing the certification of recycling centers, nonprofit dropoff programs, and processors pursuant to Division 12.1 of the Public Resources Code. Provided for your convenience is a copy of the text of the proposed regulations and accompanying statement of reasons.

Any written comments concerning the proposed regulations must be received by the Division by 5:00 p.m. on Thursday, March 5, 1987, which is the close of the written comment period. Public hearings have been scheduled to be held on Tuesday, March 3, 1987 in Long Beach and Thursday, March 5, 1987 in Sacramento. Any comments submitted to the Division, orally or in writing, must identify the specific section of the proposed regulations which is being addressed.

If you have any questions regarding the public hearings, or the regulations process, please contact Ralph Chandler or Margie Grima at (916) 323-3508.

Respectfully,

A handwritten signature in cursive script, appearing to read "L. G. Vann, Jr.", written in dark ink.

L. G. Vann, Jr.
Chief
Division of Recycling

Enclosures

ATTACHMENT "D"

TABLE OF CONTENTS

TITLE 14. NATURAL RESOURCES

DIVISION 2. DEPARTMENT OF CONSERVATION

CHAPTER 5. DIVISION OF RECYCLING

SUBCHAPTER 1. CERTIFICATION REQUIREMENTS FOR
RECYCLING CENTERS, NONPROFIT DROPOFF PROGRAMS, AND PROCESSORS

Article 1. Definitions

	Section	Page
Definitions.....	2000	1

Article 2. Certification

Certification Required.....	2005	3
Certification at Multiple Locations.....	2010	4
Certification in Multiple Zones.....	2015	4
Certification Outside Convenience Zone....	2020	5
Posting of Certification.....	2025	5

Article 3. Application Procedures

Applicant Qualifications.....	2030	6
Filing of Applications For Certification..	2035	6
General Content of Applications.....	2040	7
Plan of Operation.....	2045	8
Review of Application.....	2050	9
Confidentiality of Proprietary Information	2055	10
Withdrawal of Application.....	2060	10
Submission of New Application.....	2065	11

Article 4. Administrative Actions

Inspection Authority.....	2070	11
Hearings and Appeals.....	2075	12

TABLE OF CONTENTS (continued)

Article 5. Requirements for Recycling Centers

	Section	Page
Operation Standards.....	2080	13
Notification Requirements.....	2085	14

Article 6. Requirements for Nonprofit Dropoff Programs

Operation Standards.....	2090	15
Notification Requirements.....	2095	16

Article 7. Requirements for Processors

Operation Standards.....	2100	17
Notification Requirements.....	2105	19

Article 8. Requirement for Grandfathered Facilities

Operation Standards.....	2110	20
Notification Requirements.....	2115	21

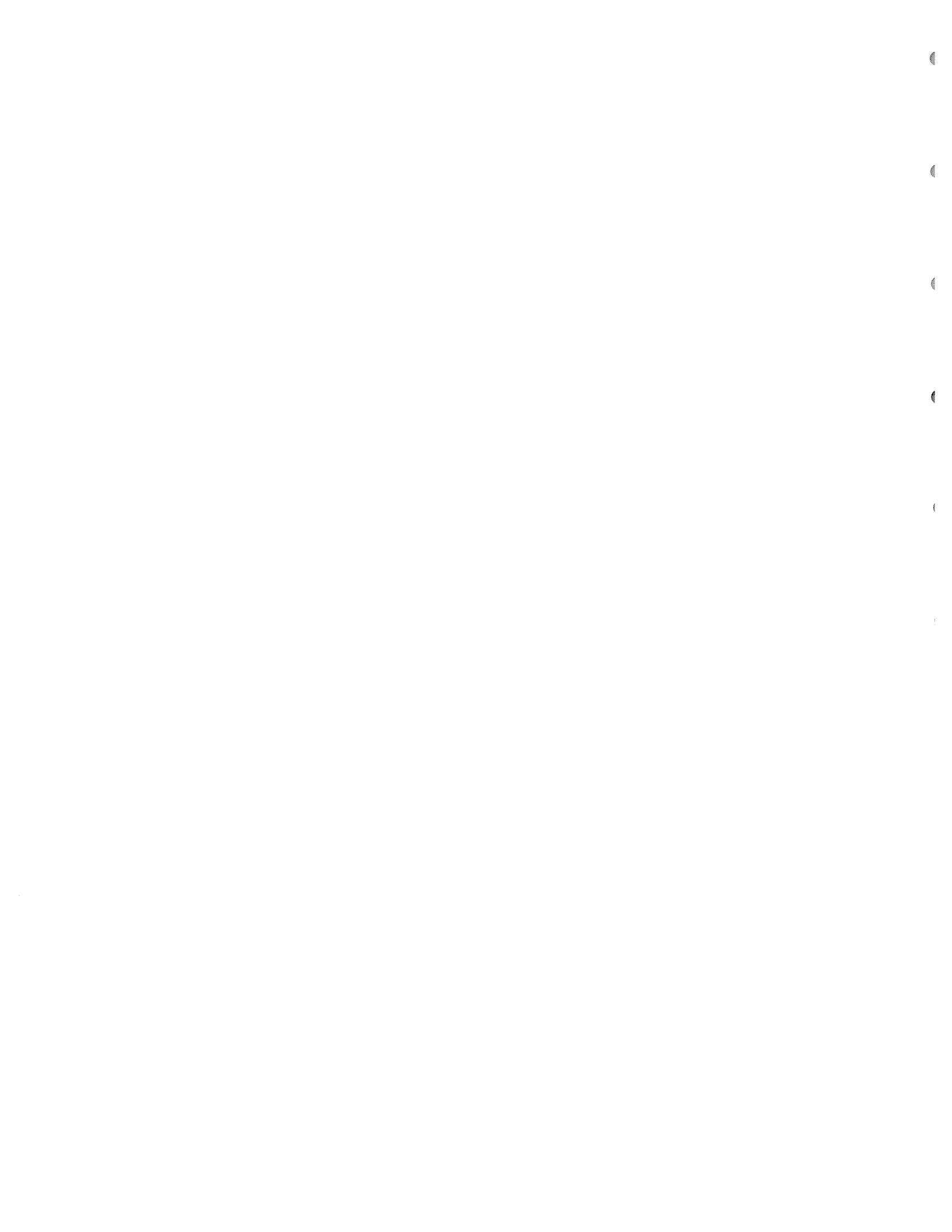
SUBCHAPTER 2. CONVENIENCE ZONES

Article 1. Definitions

Definitions.....	2120	22
------------------	------	----

Article 2. Exemptions

General.....	2125	22
Request Procedures.....	2130	22



IMPLEMENTATION OF AB 2020
THE BEVERAGE CONTAINER RECYCLING
AND LITTER REDUCTION ACT

Assembly Natural Resources Committee
Sacramento, California
January 27, 1987

CHAIRMAN BYRON SHER: Good morning and welcome to the Assembly Natural Resources Committee for the 1987-88 legislative session.

I want to begin by extending a special welcome to the new members of the committee who are present today: Vice Chair Trice Harvey, Assemblywoman Beverly Hansen, Assemblyman Lloyd Connelly, also a new member of the committee and of course, it is a great pleasure to welcome back one of the stalwarts from the previous session, Tom Bates; other members of the committee we hope will arrive in short order.

I had hoped to be able to welcome at the outset, Assemblyman Burt Margolin, the author of Assembly Bill 2020, who, regrettably is not a member of the committee, and even more regrettably, is not here because he is either fogged in in Los Angeles or fogged out of Sacramento. It is possible he will arrive during the course of the hearing but he is not in Sacramento now because he made the mistake of going home last night.

For those of you who are new to the committee, we have scheduled several informational hearings between now and March, when the committee will first begin to hear bills. I would encourage all members of the committee to review the background

materials prepared by the committee staff, and I also encourage you to participate vigorously in these hearings.

Today, of course, we are here to review the implementation of Assembly Bill 2020, the so-called "Beverage Container Recycling and Litter Reduction Act of 1986", sometimes called the "bottle bill", although many people are quick to say this is not a bottle bill, this is a beverage container recycling and litter reduction bill.

As some of the members -- Tom, I think will certainly recall -- this measure was heard by the Natural Resources Committee several times during the 1985-86 session.

In its first incarnation, AB 2020 was indeed the traditional 5¢ deposit "bottle bill", similar to those enacted in states such as New York and Oregon. When it was first passed by the committee, it was in that form, roughly. It was a nickel deposit with the containers returnable at the retailers who sold those kinds of containers. After it passed the committee, it was sent to the Assembly Floor where, I guess one way to put it was, it rested for nearly nine months while Mr. Margolin and the various interest groups negotiated over a new approach to beverage container redemption and litter abatement. The new approach eliminated the grocery store take-back requirements and eliminated the nickel a bottle, or nickel a container deposit found in the earlier bill as it passed this committee. That happened early in 1986 and the new approach was amended into the bill, whereupon the measure moved out of the Assembly and over to the Senate for further consideration.

The Senate passed it with some changes and in its second incarnation, the bill, before this committee, was a dramatically different proposal from what it had been when we first saw it. It was the result of these continuing negotiations among representatives of the beverage industries, recyclers, environmental groups and Mr. Margolin. On its return from the Senate, the bill was before the committee for recommendation to the Floor on whether to concur in the Senate amendments, and send the bill to the Governor or, alternatively, not to concur and put the bill in a conference committee for further refinements.

The committee chose to make the latter recommendation, and actually made some recommendations for amendments that ought to be taken in the conference committee. Indeed, that's what happened. There was nonconcurrency, the bill did go into the conference committee, and as most of you know, the bill subsequently came out of the conference committee, the conference report was approved by both Houses, and the new bill was sent to the Governor who signed it.

Now, last August, when the AB 2020 conference report was presented to the full Assembly, a number of members, including myself, emphasized that this measure was and is an experiment. We pointed out that the program contemplated by AB 2020 is one which has not been tried anywhere else, much less in the country's largest and most populous state. We also pointed out that the sheer complexity of the program might hinder public understanding and acceptance of it. Finally, some of us said that the absence of the grocery store take-back and the nickel

deposit might eliminate the incentives to the consumers to return beverage containers, which has made the traditional bottle bill so appealing to consumers and effective in other states.

Yet, most legislators voted for the bill. Some voted for it because they knew that the votes were not there for the traditional bottle bill, and the new approach, with its 65% recycling target for each category of container, was thought to be worth a try. Many of us voted for the bill because we were told by the Department of Conservation (from whom we're going to hear this morning), we were told by environmental organizations and by recyclers and by various industry groups, that this new approach, this new program, can and will work. We were also told that all parties would cooperate in trying to make the program work, since each interest has a stake in seeing that the program succeeds.

During the last several months we've kind of lost track of this. Most of us have been in our districts and have not had the opportunity to keep abreast of the Department of Conservation's implementation of the Act; we know the department has been busy, or at least we think it had better have been busy since it has the responsibility to have this program up and running on September 1, 1987.

Today's hearing is intended to accomplish several things: First and foremost, we want to hear from the department about its implementation of AB 2020. We're interested in hearing what actions it has taken thus far in starting up the program (for example, we want to know about the mapping of the

convenience zones, which was supposed to have been accomplished by the first of this year; we want to know about their issuance of regulations governing certification of recycling centers; we want to know about their hiring of new staff to perform the many tasks the department is responsible for completing). We're also interested in hearing from the department about any problems they have encountered in implementation of the measure, and whether any of their problems (if there are any) are due to shortcomings in the law that they've already discovered.

Secondly, the hearing is intended to inform the committee about the department's progress and its view as to whether the program will succeed. Come this September, our constituents will become profoundly aware of this program so that they'll have pennies added on to the containers that they purchase, and also, will then have the opportunity to return the containers for the redemption amount.

As I said earlier, the success of the program will depend on the public's favorable perception of it in its initial weeks and months. If the program is not implemented smoothly, efficiently, without serious problems, it is probably doomed to failure -- at least that's my opinion -- and that was the fate of an earlier attempt at establishing a recycling program in California (the so-called Senate Bill 650 program, which was repealed by the legislature after the public became outraged over its error-plagued implementation); something we need to avoid this time around with AB 2020.

Thirdly, and quite bluntly, and I say this with some hesitation but I think it needs to be said, this hearing is intended to keep the pressure on the department and to hold it accountable for its actions in implementing the program. I don't want the department -- and I don't think any of us do -- to come to the Legislature in September, when this program is supposed to be up and running, and tell us back in February or January the department determined there were serious problems but they had no forum in which to review them or to discuss the problems. I want to give the department every opportunity to advise us early on about any difficulties it believes might occur, and to tell us what needs to be done to cure these problems. Mr. Ward and his staff should know that if serious problems do arise, now or later in the year, and if the department has not told us about those problems well in advance, then the committee will know who has to be held accountable, so we want to provide every opportunity for this kind of communication and interchange.

Now, finally, and I think this is important too, I want to tell members of the committee and public and other members of the Legislature, that this hearing is designed to establish, at an early date, the principle that any bills introduced in this session, which the department tells us will interfere with effective implementation of the program, will not be looked upon favorably by me, at least, and I hope by others. This is in line with the notion that we are holding the department accountable for making the program work, as it assured us last year it would, and to avoid tinkering with the legislation in a way that might

later provide the department or other proponents of the approach taken in AB 2020 with some sort of excuse that is an opportunity to say the program would have worked if only you had left it in its original form.

So, I think this is the year for us to exercise restraint in trying to amend the law in a way that the department thinks would interfere with its trying to get this complicated system up and running. On the other hand, I should say, that any tinkering which the department says it needs or which it says will improve the efficiency of the program, will and should be met with a more positive response, so I don't think we need to rule out measures to clean up AB 2020 or to make it work better, and maybe we can explore some of those with the witnesses this morning, but from my point of view, any time a bill is proposed and we hear it in this committee, we want to hear from the department at the same time to get its views about whether it will help or hinder its attempt to get this very complicated program underway.

Well, that's what I wanted to tell members of the committee, and I think now it's time to begin with our witnesses and we're going to begin with Randall Ward, Director of the Department of Conservation, and his staff, to tell us where they are, how they're doing and what problems, if any, they've encountered.

Mr. Ward, will you and your staff please come forward?

Excuse me. Before you begin Randy, two other members of the committee have arrived that I would like to introduce:

another new member of the committee, Assemblywoman Jackie Speier, my new neighbor from the peninsula. Welcome, Jackie, to the committee. And, Assemblywoman LaFollette, a returning member of the committee. It's a pleasure to serve with you Marian and welcome back.

Randy.

MR. RANDALL WARD: Thank you, Mr. Chairman, and I, as well, welcome the opportunity to keep the committee up-to-date, recognizing that you are extremely concerned about the implementation of this program.

As you recall, and for the benefit of the new members of the committee, last April I had been told by the coalition that was putting together this new framework for recycling in California, that the Department of Conservation, named in the bill at that point, was just a placeholder; it was going to be going someplace else. I felt concerned at that point because I didn't feel anyone had taken the bill seriously from an administrative perspective. There had been an awful lot of hard work done, theoretically, on the concept of the bill, but from -- or looking at it with the eyes of a mechanic, I felt there were some significant changes that needed to be made in that bill. I was very pleased at the reception of the conference committee at that point in time, and believe that we received the benefit of all the amendments that we felt were necessary to make the bill work administratively.

Again, I think we agreed with you in conference committee, Assemblyman Sher, that it was an experiment, and some

of the concepts that are set forth in the bill, we have no way of knowing; there's no experience; there's no point of reference; there is really nothing like it anywhere else in the country. It has taken a number of problems that have surfaced in other states that have container recycling programs and attempted to solve them, but as of now we don't have any operating history to be able to say whether it's actually going to work or not.

We have been busy. As you well know, the Department of Conservation really did not have an organization that lent itself to this bill. The Department of Conservation has a Division of Oil and Gas, Division of Mining and Geology, and Land Resource Protection is a relatively small agency with 325 employees, so we were looking at this program as, literally, a soup-to-nuts program: staffing up, having to get office space, and do all the kinds of things you have to do, either in business or in government, to try to start a new program when you have nothing in place at the onset.

Up to this time we have rented space; we've developed an organization (we have 30 staff currently working on the bill); we've developed a schedule to meet the statutory deadline set forth in the bill; we, at the request of industry, promulgated emergency regulations for labeling of containers (we were told back in December that many of the containers that are going to be sold in late summer or early fall, need to be manufactured now and so that there was a very severe imposition on the industry if we were to have held up labeling regulations), so we were able to accomplish that (those regulations have now been approved by the

Office of Administrative Law and have been filed with the Secretary of State); we established convenience zones (the statutory date for establishment of those zones was January 1, and the maps are available to the committee members, and I think we've also provided you with one of your district, Assemblyman, and would be happy to provide the other members with maps of their districts as well).

CHAIRMAN SHER: May I break in on you, Randy, at that point?

MR. WARD: Certainly.

CHAIRMAN SHER: I can pass these around to give you an idea of what they look like; this is a blown-up map and then there are some books here with the -- there are eight of these books. Is that right? Covering the whole state? And you've brought -- well, why don't we just, for example, let people pass these around, please? Are these all the same?

MR. WARD: (inaudible)

CHAIRMAN SHER: We want these back, but to give you an idea of what these look like, let's share them with other members.

MR. WARD: The mapping process, as an aside, was quite interesting, because if you look at any kind of geographical map, they have street names but they do not have addresses. So we, by statute, used a list provided by the Grocers Association and that had all the addresses on it, but we did not have the addresses on the maps, so what we did was, we gave the addresses to a computer mapping firm and they gave us longitude and latitude and actually drew the circles via computer, so...

CHAIRMAN SHER: Let me ask you a question now about -- these are maps from my own area, and for those of the committee who can see it, you'll see there are a number of circles. I assume that each of these circles is a half-mile radius and in the center of the circle is a supermarket as defined. Is that right?

MR. WARD: That's correct.

CHAIRMAN SHER: So each of those circles represents a convenience zone, and under the act there must be at least one redemption center within that circle. Some of them overlap and it would be possible to establish one redemption center that would serve both of those circles as in this case.

MR. WARD: In some cases that is possible.

CHAIRMAN SHER: Now, we are -- it was contemplated, I think, and there was a lot of discussion about, for example, rural areas where there are no supermarkets and, therefore, there are no circles, and so where convenience zones which do not include supermarkets would have to be established. Has the department done any of that? Or are all the convenience zones (that have been established at this point) those in which a supermarket is located?

MR. WARD: No. We've also done the rural zones. In fact, let me introduce Leon Vann, who some of you are familiar with by virtue of his assistance to me when the bill was in conference. Leon is now the Division Chief of the Division of Recycling.

CHAIRMAN SHER: Congratulations, Leon.

UNIDENTIFIED FEMALE: He thinks.

CHAIRMAN SHER: Good luck.

MR. LEON VANN: What we did in the rural areas is we used the federal census tract maps. We set up some criteria; we looked for a city with a population of 3500 or more and then the surrounding population density of 100 people per square mile, and from those maps we drew up the additional rural zones. As it turned out, we only needed to create thirteen additional convenience zones. As it turns out ...

CHAIRMAN SHER: Thirteen over and above these circles?

MR. VANN: That's correct. As it turns out, the rural areas generally have a population center with a supermarket that exceeds \$2 million in sales per year.

CHAIRMAN SHER: But it is very clear that not everyone will live within a half-mile of a redemption center but, of course, I think the theory is that people will likely return these where they purchased them, and what you're telling us is that most people live near what would be a supermarket as defined and, therefore, under the specific provisions of the law as required to have a redemption center of a half-mile of that supermarket.

MR. VANN: That's correct.

CHAIRMAN SHER: So, if you look at these maps, for example, you'll be able to see that there are many areas, even in this urban community, that are much more than a half-mile from a redemption center but, of course, people would be buying their beverages in those supermarkets in any event and that theory is that is where they would be returning them.

So, there are only thirteen areas that have convenience zones in which a supermarket is not located.

MR. VANN: That's correct.

CHAIRMAN SHER: But your job, you say, is complete on drawing the convenience zones? And you think you now have the state covered in a way so that this process of redemption (assuming we can establish at least one redemption center in each of these zones) will be convenient for the public? And everybody will be happy?

MR. VANN: Yes.

CHAIRMAN SHER: Ms. La Follette.

ASSEMBLYWOMAN MARIAN LA FOLLETTE: Do you have a procedure developed so that those people who feel they don't have access to a redemption center will be able to write to somebody or call somebody and notify somebody?

MR. WARD: Under provisions of the bill, there needs to be one within a half-mile of a grocery store that does in excess of \$2 million annual gross volume. If, in fact, a recycling center is not established, then the safety net is then the grocery store, and that was negotiated in the latter days of the conference committee's deliberations on the bill. And if, in fact, they do not choose to establish one there is a significant penalty, at least insofar as I'm concerned, and I think the committee at that time was concerned, that would be an incentive for them to either get together collectively, or individually, to establish one.

ASSEMBLYWOMAN LA FOLLETTE: How is the public going to be able to voice their opinions or concerns or suggestions?

MR. WARD: We're planning on having offices, Assemblywoman, in the major population areas of the state, with toll-free numbers, and we will include that toll-free number on the advertising we're doing, the brochures, and those kinds of things that we will be making available to the grocery stores. The grocery stores are also required to put a sign up in their store (and that is in the statute as well) that indicates the redemption center closest to that store.

CHAIRMAN SHER: You can be sure they'll also voice their concerns through their legislators.

ASSEMBLYWOMAN LA FOLLETTE: Yes. You're right.

CHAIRMAN SHER: Mr. Connelly?

ASSEMBLYMAN LLOYD CONNELLY: My question was answered.

Thank you.

CHAIRMAN SHER: Okay. Go ahead, Mr. Ward, then; we want to continue.

MR. WARD: We have selected a contractor to assist us in probably the most monumental process in the bill, which is establishing the financial provisions in auditing and accounting. We've been extremely concerned about our ability to basically chase ten billion pennies throughout the state, in a different way than as typically seen in bottle-bill states where the cans, bottles, eligible containers are taken back individually. The statute provides that we do that by weight; it certainly is the most efficient way to handle it but it poses some very difficult

questions when it comes to auditing, and recognizing that we want to have some confidence level in the pennies we're paying out for eligible containers. But we have hired Peat, Marwick, Mitchell; the contract, I believe, was effective the middle of January, and they're going to be assisting us in that endeavor as well.

We also have draft certification "regs" for all the recyclers throughout the state and those, I believe, have been submitted to O.A.L.

MR. VANN: They're out for ...

MR. WARD: They're out for public review right now; excuse me.

We will be conducting a workshop at the end of this week on processing fees, and that was one of the questions you'd raised in your letter to the department. At this point in time we don't have any better information on processing fees than we did three months ago. We're beginning the work on that and are planning ...

CHAIRMAN SHER: I think, for the benefit of the members of the committee, you'd better explain what processing fees are.

MR. WARD: For there to be an adequate incentive for a recycler to recycle, there needs to be some positive scrap value on the material they're collecting. And, in the case of some containers, it is questionable whether that scrap value, in fact, makes it economically beneficial to the recycler to go through a process of collecting that and reporting it to the state and taking it to a processor, where it is going to be processed for some future use. And we have to establish a fee that would be

paid by the manufacturer of that container that would provide a reasonable profit to the recycler through that recycling cycle.

CHAIRMAN SHER: And that goes into the fund with the pennies?

MR. WARD: That's correct.

CHAIRMAN SHER: And then is made available to the people operating the redemption centers in order to provide bonuses to retract back, for example, plastic containers?

MR. WARD: That's right; it's supposed to be -- it'll be an incentive, using the example of plastic, for them to collect plastic which, potentially, has the problem of not having a sufficient scrap value to make it economically desirable for them to collect.

CHAIRMAN SHER: There has been some concern expressed about what will happen to those kinds of materials that don't have a market for reuse, and that while these processing fees will be established, the end result of the redemption centers collecting these things will be then to take them to a landfill rather than actually to send them back to the manufacturer to be reused. Is there going to be an attempt to see that that doesn't happen, given the severity of our landfill crises, and the desire to keep these things out of the landfill?

MR. WARD: Certainly. I think we're approaching it with the intent that this is a recycling bill. "Recycling" means to try to bring it back into some form where it can be used again. We have done some preliminary investigations on plastic, again, for example, and there are a couple of firms in the country that

are recycling plastic and using it for another purpose (specifically, pet containers, which are, potentially, the biggest issue here).

CHAIRMAN SHER: Well, how will you do that? Will the amount of the processing fee and the bonuses that go to these redemption centers somehow be geared to what they do with the containers after they get them back? I mean, the redemption center has the option, does it not, to dispose of these containers in whatever way is most economic to them? And the question is, will you be able to use the processing fee and how much the redemption center will receive to encourage reuse, rather than burying the material in a landfill?

MR. WARD: Well, I think you're posing a question of, really, two options; and what we're working on right now is something that would be contrary to its being disposed of in a landfill. There is a major company (we met with them last week, Wellman, out of South Carolina) that takes all the pet containers that are recycled from eastern coast states and processes those containers, and they basically pay the freight on it, as I understand it, currently. They are extremely interested; the amount of plastic potentially generated from California would equal what they're currently receiving on the east coast and they can use all that plastic.

CHAIRMAN SHER: But will you give the proceeds of this processing fee to this company in order to get them to come out here and buy the stuff? Or will you give it to ...

MR. WARD: I'm reluctant to answer that question. I don't have a specific answer for you. It's part of the question we're raising in the regulatory process as to how this should be handled, and right now, by virtue of, just simply, the problems with regulatorily imposing a processing fee, I'm really reluctant to discuss some of the options the department has at this point, and raise some fears of the industry, needlessly.

CHAIRMAN SHER: Okay. You're working on it, but you can tell us that your goal is to see this stuff reused.

MR. WARD: We look at the bill very conservatively; that the bill was intended to recycle the product and that is what we're looking to see occur.

CHAIRMAN SHER: Let me go back a step to the convenience zones and redemption centers. I didn't ask you and I should have after you drew these maps with the circles, how many convenience zones are there in California?

MR. WARD: Approximately 2600.

CHAIRMAN SHER: Twenty-six, of which 2587 have a supermarket in them and thirteen don't. Is that right?

MR. WARD: Right in that vicinity.

CHAIRMAN SHER: So that means that under this program you contemplate the establishment of 2600 redemption centers at a minimum.

MR. WARD: Well, there is a 10% exemption provided for in the bill, basically to allow for community service organizations, nonprofits, to inaugurate their own programs and, if a program is servicing a community (in fact, Palo Alto does

have a curbside program) there is a potential for an exemption, up to 10% statewide.

CHAIRMAN SHER: We need to talk about that, but what you're saying is that we can contemplate something on the order of 2600; that's what you're going to be working with and making arrangements with. Is that right?

MR. VANN: There are 2600 zones. Given the amount of overlap in many of those zones, I wouldn't expect there to be 2600.

CHAIRMAN SHER: What would you expect there to be, Mr. Vann?

MR. VANN: We don't know at this point in time.

CHAIRMAN SHER: If you haven't started the process -- you're still working on the "regs" to certify these redemption centers, so you actually haven't started any negotiations with the ...

MR. WARD: That's correct.

CHAIRMAN SHER: I want to ask you later whether you had any discussions that will give you reason to believe that you -- what kind of success you're going to have in establishing these by the end of April, by the end of July, by October 1st, these kinds of deadline dates, but we'll get to that.

Mr. Bates, you have a question?

ASSEMBLYMAN TOM BATES: Yes, on the convenience zones. I'm wondering what's your attitude, or your feeling about the inconvenience for people returning bottles and containers at this point? Do you think that'll be minimized? That they will, in

fact, be pretty much on the same route that they normally would take to -- or will be at the markets where they purchased the containers?

MR. WARD: Assemblyman, that's a very good question, and again, I think we need some experience; we're not going to know a lot of those answers until the bill actually becomes effective October 1 to the consumer. There was a lot of thinking that went into this by the coalition. They put the framework for this together and, again, it can't be totally answered at this point. I believe that there is significant economic incentive out there to establish these recycling centers in a convenient location. Furthermore, there's both a punitive and economic motivation to the grocers to see that they're established in the zone and we feel that they are working; there have been -- the grocers, it is my understanding, have formed a task force to look at this issue and to come up with some collegial plan on their own for dealing with the issue of convenience zones.

ASSEMBLYMAN BATES: The other point that I wanted to follow up on is, it is my understanding talking to people who have seen some of the trade magazines by the grocers, that they're, in fact, encouraging, or almost requiring (you know, to the place of almost coercion) their members to establish recycling centers other than own location of the market. Is that happening? Is that the attitude of the industry at this point? If so, isn't that really circumventing the thrust of the convenience idea, if they're saying don't establish it on your own location but go elsewhere?

MR. WARD: Well, I have not heard, specifically, by any reference to any written document or otherwise. If you have any information you'd like to give me on that, I would be happy to contact whatever association it was and give them an understanding of what I felt the intent of this bill and the policy position of the Legislature was on it. The only information I've received from the grocers (as I indicated) was that they have formed a task force; they're indicating to their membership in this and I -- they're capable of presenting this for themselves as well -- but as I recall, they had indicated to the membership a slowdown attitude on contracting or putting their feet in any cement until they'd had a chance to sit down in this task force and feel out what the best direction would be for them to go as a group. So it wasn't dragging their feet or opposing the intent of the legislation; I didn't get any sense from the communication I saw on ...

ASSEMBLYMAN BATES: Well, I really appreciate your -- I'll try to dig up the information; I was told this but, I think, from the point of view of the Legislature to the extent that certain markets are, obviously, not going to be able to put in a recycling center because they don't have the room, particularly in urban areas where they're congested and just don't have the space. In cases that wouldn't have a policy to try to, you know, coerce people to, in fact, not establish on their own sites, but to go for these convenience centers on an off-site, because it wouldn't provide any competitive advantage for people -- evidently, it's a disadvantage to have those bottles brought back

-- it seems like it could, in fact, damage and destroy the whole bill because, I think it's my judgment, that for a penny it is highly unlikely that people are going to go long distances to recycle. With their going back to the market, even though the return is still low, I think there is still an opportunity that they'll do it, but at some point they're going to say it's not worth it to drive all over town to get a penny.

MR. WARD: I think there is certainly some sympathy for that. One of the things that we are doing that I forgot to mention in answer to your question, we are doing a consumer survey. Many of the polling firms now have some free time and we are going to be utilizing them to do some of this ...

CHAIRMAN SHER: Are they giving you a good break?

ASSEMBLYMAN BATES: I would appreciate it if you could just find out whether, in fact, this -- we'll hear today, maybe, from people -- but in addition, your own -- I'll try to give you information -- if it is, I'd like you to have some meetings with them to try to discourage that kind of attitude.

CHAIRMAN SHER: Mr. Bates, Mr. Ward, I think maybe, Tom, you have reference to a memorandum that I've seen; I don't know if you've seen it, Randy. The Grocers Association, back in November, there was what somebody called an executive bulletin, which I have a copy of here, which suggests what Mr. Bates is talking about, that the resistance to sending customers to a competitor's premises and the suggestion that it would be better for all grocers concerned if these centers were set up in, as they call them, a "neutral site," which is then explained to be

not on the premises of any grocery store but somewhere else so that they would all be on the signs that are posted in their stores, be sending the consumer to this recycling center, so I think that's what has given rise to this concern about whether, indeed, that is the most convenient place for people to take their beverage back. I'm sure you've heard about this memorandum, but if you haven't, we can give you a copy of it.

MR. WARD: I would like to see a copy. It may be the one I'm referring to that talked about them getting together and talking about what their potential was. I really question a trade association's ability to do something that is going to hinder the economic viability of a grocery store. I mean, I don't think Safeway has ever listened to Lucky, and vice-versa, if they thought it was going to attract new customers, so I suspect that that's part of the equation that they're concerned about as well.

CHAIRMAN SHER: Assemblywoman Hansen, do you have a question?

ASSEMBLYWOMAN BEV HANSEN: I do. I'm going to show my "freshmanism" here a little bit. What is a pet container?

MR. WARD: They're the plastic, typically the two liter bottles that you see Coca-Cola and Seven-Up in, the large plastic bottles.

ASSEMBLYWOMAN HANSEN: Okay. I didn't think we were talking cats and dogs.

CHAIRMAN SHER: Mr. Connelly.

ASSEMBLYMAN CONNELLY: I just -- on the convenience zones (this is following up on Mr. Bates point, Mr. Chair) -- where the convenience zones overlap, where the two circles overlap, is the potential to have one recycling center or does there have to be a recycling center for each convenience zone?

MR. WARD: It depends on how much they overlap.

ASSEMBLYMAN CONNELLY: Is there a formal regulation?

MR. WARD: It has to be within a half-mile of that store.

ASSEMBLYMAN CONNELLY: Understand.

MR. WARD: If you can put a convenient recycling center that falls within a half-mile of two stores then you've solved the problem; if you can't, then it takes two recycling centers.

ASSEMBLYMAN CONNELLY: There hasn't been, as I understand from your testimony, any designation yet on recycling centers, so there is no information to say that of the first hundred that have been placed or location has been identified, they're at the store or they're not at the store.

MR. WARD: We have just gone through a regulatory process to provide for their certifications so they can participate in this program.

ASSEMBLYMAN CONNELLY: Does the individual store, then, have the ultimate decision within that convenience zone, as long as there's a recycling center, they meet the requirements of the law; you can't, for example, say "that's not a good location; it should be at the site of the store, or some other place that is convenient for the consumer."

MR. WARD: No.

ASSEMBLYMAN CONNELLY: That discretion is entirely theirs. On this administrative fee issue, have you done some initial calculations? Now as I understand this, this 1¢ that the manufacturer pays that goes into this fund and then there's all these things that come out of it, one of the things, the bottom thing that comes out is like a bonus to recycling to increase that 1¢, right? Have you done any computations based on your administrative costs, et cetera, et cetera, to determine what percentage is going to come out the other end for the consumer, for the bonus?

MR. WARD: We estimate it will be between 1/2 and 3/4 of a cent.

ASSEMBLYMAN CONNELLY: So, that is really 50-75 percent? Is that a fair way of saying (inaudible)...will come?

MR. WARD: Which is really significant when you consider the current scrap value on glass, aluminum and plastic.

ASSEMBLYMAN CONNELLY: Now I haven't -- I saw the committee report and I haven't seen anything in writing from you folks, and you may have it; it's probably in the text of the budget, I just haven't seen it yet; but is there something that quantifies that? I mean gives personnel years, actual cost of operation (I know you've mentioned this \$5 million figure, so forth and so on) and then actually shows a cash flow chart that says, "x" projected; "x" amount goes to the consumer and the text to the fiscal year?

MR. WARD: We can provide you that breakdown, or the committee that breakdown, if you would like.

ASSEMBLYMAN CONNELLY: Mr. Chair, I think that would be important to be part of the committee's record because that then ought to become a yardstick when we have a hearing a year from now, because, in addition to the recycling which is obviously the primary part of the bill, is to ensure that those administrative -- have those things kept low and the consumer bonus is maximized.

CHAIRMAN SHER: Do you mean for this year, or generally, a kind of a model? There is a model.

ASSEMBLYMAN CONNELLY: There is a model but there is no ...

CHAIRMAN SHER: This assumed a \$100 million in the fund generated by a billion containers a year and it assumed a 65 percent recycling...

ASSEMBLYMAN CONNELLY: Was this after (inaudible); I thought that was from committee staff? Is that from the Department of Conservation?

CHAIRMAN SHER: This was prepared last summer while we were working. The Department prepared that while we were actually considering legislation.

ASSEMBLYMAN CONNELLY: If it says 65 percent then you're still in that same ballpark.

CHAIRMAN SHER: That's the target; it'll be a long time before we hit 65 percent in each category.

ASSEMBLYMAN CONNELLY: Right.

MR. WARD: The target is actually 80 percent. The 65 percent is the benchmark that you use to determine whether the container goes from 1¢ to 2¢, and then again, from 2¢ to 3¢.

ASSEMBLYMAN CONNELLY: I understand, but in the text, -- so that isn't really the figure we're after. The figure I'm after is what -- a breakdown of newspaper costs, what-have-you, for this first year, and you say at the end of this year our goal will be to ensure that 65 percent of that 1¢ works its way back to the consumer and the consumer bonus. In some respects, although the recycling is the primary thing, that's a reasonable criteria, because to the degree with which that's maximized is the degree to which recycling will be successful. Could you put that -- and it could just be a two sentence letter?

MR. WARD: Certainly. Our estimate for annual administrative cost is currently just an estimate and it's between 5-6 percent, which is reasonable for a \$100 million program. Obviously, the first couple of years it's going to be more expensive than that, given the hardware and consulting services and those kinds of things that we may have to use. Also, the consulting firm we're using, Peat, Marwick, Mitchell, is going to be establishing our auditing standards, and what kinds of cycles we need, and how many people we need to actually achieve a certain confidence level: that we're paying out pennies for the proper containers; that the people who are taking those containers and putting them through the system are operating correctly. So, we don't know that yet.

CHAIRMAN SHER: Mr. Harvey.

ASSEMBLYMAN TRICE HARVEY: Yes, thank you, Mr. Chairman.

I'm a freshman, also, as you probably know, and I was going to ask the same question that "Freshman" Hansen asked, but I want to take it a step further because I certainly know what those containers are. Now that we've asked that, why is it called a "pet container"? I'm just curious.

MR. WARD: It's an acronym for the chemicals that're in the container; it's a petroleum-based container; the large part of the container is a different mix than the actual bottom; the base cup of the container is a harder mix and they can use the different types of plastic contained for different types of recycling processes.

ASSEMBLYMAN HARVEY: Because I, too, thought you were talking about pet milk and I knew it wasn't. Now, that's helped me some. The question I really want to ask now, Mr. Chairman, is as I look at this the bottling industry is mainly controlled by the State Health Department as opposed to local health departments. Now, in these recycling centers, what degree is the State Health Department to have responsibility, or the local health departments in terms -- whether you like it or not you're going to get back a lot of liquid; you have a lot to dispose of. What agencies are going to be watching that closely, more in terms of the public health viewpoint?

MR. WARD: Assemblyman, that's a good question. We don't, and the Legislature didn't when they passed this bill, envision this bill usurping any of the existing state health laws, local ordinances, zoning, et cetera, so someone who decides

to establish a recycling center under the provisions of this bill and becomes certified with the state, is still going to have to meet all the obligations of existing state law and any local laws that exist.

ASSEMBLYMAN HARVEY: If I may, because one of the concerns would be on the local level, I'm sure, if we haven't heard of it now, we will hear of it. The State Health Department, responsible for the complete inspection of recycling centers; the local health departments think that's fine; local government is on my side. If local governments added this, then they're going to want some money for taking care of it. I just thought, before we get there, we should -- it'll come up.

CHAIRMAN SHER: Well, I think it'll be just like any facility in the community. There are county health departments that have jurisdiction over health hazards, and I think probably they will regard these like restaurants: something they have to watch.

ASSEMBLYMAN HARVEY: Coming from local government, it won't be exactly that way, Mr. Chairman.

CHAIRMAN SHER: Okay. I came out of local government, too, but I'll tell you another way it won't be and that is with the state providing money to pay for it.

ASSEMBLYMAN HARVEY: I'll remember that too.

CHAIRMAN SHER: Another representative who came out of local government, Assemblywoman Speier; you have a question?

ASSEMBLYWOMAN JACKIE SPEIER: Thank you, Mr. Chairman. It has come to my attention that the wine cooler bottles are

likened to the beer bottles, and as such, may be exempted by virtue of the size and type of container. Have you raised that issue or dealt with it?

MR. WARD: Again, we came into this process after that issue had already been decided. The bill we received in the first of May had a number of agreements in it that we were told were sacrosanct, and we had to develop a way of trying to administrate this bill, given those agreements. You are correct. Wine coolers are exempted from the bill, but wine coolers, like any other glass, that may, in fact, mirror something that is eligible for reimbursement under the bill, is going to create a mechanical problem in the audit of this program.

In other words, the more ineligible containers you have in this program, that are entering that stream and getting pennies paid out on them, does create a real problem in auditing. We don't know how significant it is going to be at this point and, in pointing out wine coolers, we don't know how significant they're going to be, but it's a question we should be able to answer, but we won't answer until we have some of the information that's provided for in the bill in terms of the reports we have to provide the Legislature.

CHAIRMAN SHER: Jackie, I'm glad you raised that question. Our staff has already been discussing this with the department as part of this very complicated process and compromise legislation that came out of the Legislature last year. For reasons we won't go into now, wine coolers were exempt, even though they're individual beverages. I think, Mr.

Ward, that you have now said that that could cause a mechanical problem in the auditory. I take it that that translates to saying that if at this point the Legislature, in its wisdom, saw fit to make this bill cover wine coolers, that might be helpful to eliminate this problem -- this mechanical problem of the audit. Is that right?

MR. WARD: Again, we don't know how big the problem is; you would have to -- the bottle itself would have to have had the label removed and those kinds of things so that it was not distinguishable; in other words, the California minimum redemption value that is labeled on eligible containers, it was not distinguishable as to whether it had been a wine cooler or it had been a beer bottle, so there are a lot of questions that still remain on whether it is a problem or not. It's certainly a good question.

CHAIRMAN SHER: I want to follow up, though, on -- the law does not preempt local government from regulating those kinds of containers that are not covered by the bill, including wine coolers, and I've heard that some local communities, indeed, are considering ordinances to provide a redemption value on wine coolers. Are you aware of that?

MR. WARD: I have heard the same rumor.

CHAIRMAN SHER: Then, of course, they would have the potential for adopting different ordinances, nonuniform ordinances, that would make it very difficult for the manufacturers and the distributors to comply with in those jurisdictions.

We got into this because of these problems. It might be helpful -- this might be helpful tinkering, and, indeed, I wanted you to know that I've been considering legislation that, indeed, would add wine coolers. It's obviously something that will require a lot of discussion and the people in the industry who resisted it at the outset need to be brought into these discussions, but the fact is, I think there are things out there happening that might make the world worse for wine coolers if you, indeed, do have these nonuniform local ordinances proliferating to try to cover that kind of container. So, I'm glad you brought that up. It was something I wanted to review and as I hear from the department, at least as presently advised, Mr. Ward, if wine coolers were brought under the bill, that might be helpful in terms of administering the program. It certainly would not, in any way, be harmful. Is that right?

MR. WARD: I would agree with that.

CHAIRMAN SHER: Okay. Thank you.

ASSEMBLYWOMAN LA FOLLETTE: Mr. Chairman, I would like to ask a question, following up with what you were just discussing. Are you considering in your clean-up legislation, to include any other omissions? It seems if we're going to have a bottle bill, we should just have a bottle bill.

CHAIRMAN SHER: Right. Of course you remember the discussion we had in our original, whether the full wine bottle should be included, whether spirits should be included; there were some funny amendments that were taken in this committee in its original consideration. I don't have a clean-up bill that's

been introduced yet. Mr. Margolin has introduced a bill called AB 20 which is designed to be, I think, the bill for technical clean-up provisions that might be required. I suspect that other members will be introducing bills in this area, but I think there will be plenty of vehicles around to try to make changes that will -- I want to emphasize, again, what I said at the outset: that will be helpful to the department in administrating and implementing this program. We want to resist major, or even minor, changes that will, in any way, be looked upon as something that gets in the way of getting this program up and running. That's why I want to be clear about those things the department thinks will help, and if there are other kinds of containers that might be helpful, I think, probably, they'll be looked at in the course of considering these measures.

ASSEMBLYWOMAN LA FOLLETTE: Well, it would seem to me if we had a uniform law and regulations it would be much easier for everyone involved. I, frankly, don't understand -- I mean I do understand but I don't think it's appropriate that there are certain industries that are exempt. I mean, a container is a container.

CHAIRMAN SHER: If I introduce this bill I want you to be the principal co-author.

ASSEMBLYWOMAN LA FOLLETTE: I'll certainly look at it. But, also, I would suggest that you refrain from using the word "tinkering" because actually what we're discussing here is clean-up legislation that would improve the quality.

CHAIRMAN SHER: Okay, I'll refrain from using "tinkering". How about "monkeying" with?

ASSEMBLYWOMAN LA FOLLETTE: No!

CHAIRMAN SHER: Okay. Mr. Ward, do you want to continue to cover the points you want to cover?

MR. WARD: We've provided a list of answers in bullet-summary to some of the questions the committee raised regarding the budget, so unless there are any specific other questions...and I'm going to be talking to Assemblyman Connelly about how he would like to see a display of the...

CHAIRMAN SHER: The \$5 million advance that has been provided out of the general funds, repayable; that's going to do it you think? As far as these initial costs?

MR. WARD: We're going to need some money for July, August and September before the money starts rolling in, so we're going to address that in March change in the budget process, and had anticipated dealing with the '87-88 fiscal year in March change, and that was agreeable to the Department of Finance and the Legislative Analyst, given the shortness of time we had.

CHAIRMAN SHER: By the end of the year, you're supposed to have how many person years devoted to this program?

MR. WARD: Our estimate for a full staff is 125 persons.

CHAIRMAN SHER: Are you going to hire them all in 1987?

MR. WARD: No. Again, getting back to the audit and accounting issue, we won't know how many staff we'll need until Peat, Marwick, Mitchell, are able to give us an idea of what it is going to take on auditing and accounting. Our estimate for

the current year is approximately 45 staff to be able to handle the administrative regulations and the marketing effort and those kinds of things that are necessary to "tee" the bill off.

CHAIRMAN SHER: Okay.

ASSEMBLYMAN CONNELLY: Mr. Chairman, I'm sorry. On two miscellaneous points. One on the establishment of the recycling centers. As I understand the bonus, if the bonus -- and I may be incorrect, so you may have to counsel me -- but if the recycling doesn't work, then the bonus doesn't go to the consumers, it goes where?

MR. WARD: There is some option with the bonus, currently, (I believe I'm correct on this) that we have an option of allowing the recycling center or the consumer to receive the benefit of that bonus. The big question there is what economic incentive it's going to take to establish the recycling centers, to make sure that we have maximum convenience.

ASSEMBLYMAN CONNELLY: Is that entirely in your discretion? The statute doesn't place any controls on that, or triggering percentages, or what-have-you?

MR. VANN: Not percentages. It does -- the retention of the bonus is tied -- there is a special exemption for reverse vendors; they're allowed to keep the bonus until April of 1989. And then, in the case of all other situations, if a convenience zone does not have a recycling center located in that zone by, I believe it's July 31st, then the department must authorize the retention of the bonus in that zone.

ASSEMBLYMAN CONNELLY: It seems to me that there is almost -- and I don't know if this was considered in the text or draft in the legislation -- there is almost an incentive for the individual store to delay because if you delay it maximizes the likelihood that you're going to get the bonus that otherwise would go to the consumer, so you can establish a recycling center. Is that -- am I misreading that?

MR. WARD: I think it's a good question. It was a question that was raised in the conference committee, and the July 31st date, Assemblyman Sher participated in that discussion as well, it was a major question. The industry said, "no; absolutely not," and you're going to be having some representatives from the industry today that ...

ASSEMBLYMAN CONNELLY: Make those assertions. The ...

CHAIRMAN SHER: Before you go to your next question.

ASSEMBLYMAN CONNELLY: I had a question on this subject.

CHAIRMAN SHER: Okay; after you're finished.

ASSEMBLYMAN CONNELLY: It's a decision that is made convenience zone by convenience zone? Is that how it's made?

That's just something -- I assume we're going to have an oversight hearing on it again. It seems to me that the person who controls that, ultimately, will be you, and so I ...

CHAIRMAN SHER: You have not opened discussions with potential proprietors of these redemption centers? You're waiting for the regulations? Have you had any informal discussions with them?

MR. WARD: Not on that issue. No.

CHAIRMAN SHER: It was represented to me that at a recent meeting of a group of recyclers from Northern California -- I think some of the major, current recyclers-- that in discussion, that none of them were going to come forward and try to enter into contracts at this time with the department, because of a fear that the payback, the economics, were not there. Have you heard anything along those lines? Would that surprise you? Are they waiting eagerly, as far as you know, to make contracts, particularly in the high volume areas?

MR. WARD: I'm unaware of anyone that is intentionally waiting until July 31st. It is entirely possible; I'm just unaware of it. I would say -- and this is intuitive more than analytical, and of course a lot of our speculation on this bill is intuitive more than analytical at this point -- that our goal is to not only to get people to recycle, but it is to also to establish a convenient recycling opportunity and we have to make sure that at least to some extent, there's the benefit of a doubt out there in making sure that there is an economic incentive for the establishment of those centers.

CHAIRMAN SHER: You're not in a position now to speculate about what are we talking about, some 2600 zones, how many of those will have a contract by the end of April for someone to operate the redemption center, how many by the end of July, and then of course, what happens, members, you know, if there are none by the end of July then notice is given to the retailers in that zone that it now becomes their responsibility and they have, if none is established by means of the free

enterprise system, people coming in and making arrangements with the Department, then the retailers in that zone who sell these beverages in these containers have until January 1 of 1988 to establish such a redemption center or come under these very heavy penalties for not doing it. That's the way the law works. But you're not in a position now to make any estimates about how many holes there are going to be as of these particular critical dates?

MR. WARD: No, it's premature.

CHAIRMAN SHER: Mr. Bates?

ASSEMBLYMAN BATES: Would you mind elaborating or have Mr. Connelly elaborate? I'm sorry. I didn't get the point about incentive and the bonus going to the consumer or going to the recycling center. Would you mind explaining that?

CHAIRMAN SHER: Mr. Ward or Mr. Vann, do you want to explain that?

MR. VANN: When the Act was being developed, one of the issues that arose was an incentive for recycling and there are two incentives. One is an incentive to a recycler. If he gets to keep the bonus, his cash flow is higher and he can pay off his equipment faster. The other incentive is to the consumer. The higher the value of a particular container, the more likely that a consumer will bring that container back.

What we did in the Act is made a provision that, clearly, the intent is to direct as much of the bonus to the consumer as is possible, once you achieve a certain minimum level of convenience. We left an exemption in the Act to provide an

additional incentive to recyclers to locate in a particular zone, and we actually viewed that as those zones that are on the fringes of the populated areas and the rural areas where their need for additional incentives might be the highest.

ASSEMBLYMAN CONNELLY: The point is there's a potential for abuse because the individual retailer can delay, and the trade association made assertions of good faith and I assume they're going to reinforce those this morning but there's a potential to delay and then kind of put you in a squeeze because it coerces you to then make the decision to rotate the bonus that would otherwise go to the consumers to establish a recycling center, and I guess the reason I brought it up was to make sure that I understood that way and then to kind of say to you that one of the criteria that we ought to be evaluating is to be reasonable but a little bit feisty, I assume, in making that evaluation. You don't steal eyeballs.

MR. WARD: We anticipate being extremely busy in July and August with this certification process.

ASSEMBLYMAN BATES: Let me try to pursue this. In other words, you're now in the process, you have the zones drawn, you're ready to go, you want somebody to start a place to return the bottles, a redemption center. So, at that point, it's a place that people stall. Then, in fact, you may come and say, "Okay. We're prepared to give two cents to anybody who will establish a redemption center within this zone." Is that the potential abuse?

CHAIRMAN SHER: Probably wouldn't be too soon.

MR. WARD: Whatever it takes. And it's not necessarily an abuse. I mean, it's contemplated in the statute that, in some of these zones, particularly the ones that don't have a tremendously high volume, that something like this would be needed to encourage and help people get these things started.

ASSEMBLYMAN BATES: I guess I didn't understand the law. Because I thought that you wouldn't know what would be the amount that you would get on redemption until you have some idea of what percentage was recycled. At that point, if you had a small amount recycled, then I thought the incentives kicked in, the bonus became available at that point, but that's not the case?

CHAIRMAN SHER: That's correct. That is not the case.

ASSEMBLYMAN BATES: When is the incentive determined, when people are not recycling enough that you make a judgement that you want to go up to another cent?

CHAIRMAN SHER: Oh, that's in the bill itself. If the 65% mandate is not reached by December 31, 1988. If you don't have 65% redemption in each and every category then it goes to two cents.

ASSEMBLYMAN BATES: It doesn't go into effect until 1989?

CHAIRMAN SHER: December 31, 1988.

MR. WARD: December 31, so it's about 15 months after the program would go into effect. That container type that hadn't achieved 65% goes to two cents.

ASSEMBLYMAN BATES: But in the meantime you'll have a tremendous amount of people who will not be redeeming their one cent.

CHAIRMAN SHER: But, Tom, you should understand that this bonus will happen earlier than that because there are going to be a large percentage of these containers that are not redeemed. So, I think, out of a hundred million, I think, if it were that, it's estimated at least 30%... So, the Department will have that in the fund plus these processing fees as an additional amount to pour into these areas, and there is no limit on what the people in the redemption centers, the people who run them, can pay the consumer. The scrap value of the aluminum, for example, may enable them to pay more because they can take that returnable and sell it on the market. So, it isn't necessarily that people are only going to get the penny. In fact, it's contemplated that from the beginning, at least for certain categories the redemption value is going to be greater, but the law mandates, as of December 31, 1988, that for any kind of material that has not yet reached the 65% redemption, then the add-on up-front becomes two cents instead of one cent. That's going to build that fund.

ASSEMBLYMAN BATES: Now I understand it. Because you actually have a period, the first 15 months, you have the opportunity to use that money too, to a certain extent, because you're not going to have those things redeemed so you can put it into various centers and make it economically viable to operate.

CHAIRMAN SHER: Right, and the question is when the Department chooses to put this kind of bonus money, this extra money they have to play with, into a particular center, who gets to keep it? Will the ones who run the redemption center, do they

keep it, or will they be required to pass it on as part of the redemption or to encourage the consumer to bring that category of container back?

There are a lot of questions here that we don't know how to answer.

Mr. Bradley, did you have a question?

ASSEMBLYMAN BILL BRADLEY: Thank you, Mr. Chairman, I'm not a member of the Committee, but I'm very concerned about this bill for two reasons. One, it's easy enough for the state to say, "We're going to draw circles around an area." But you're neglecting the fact that local government is going to have a right to decide whether you're going to have a recycling center in any given area. Secondly, I'm concerned about...

CHAIRMAN SHER: What was that? I want to make sure I understand that point.

ASSEMBLYMAN BRADLEY: The land use impact on local government. They may not welcome these things. There'll be protest against them for infestation, bugs, and most other kinds of things that'll be attracted to them.

Secondly, I'm very concerned about the rural areas, because I represent a lot of rural areas. But you're saying that a Mom and Pop operation, you're going to fine him a hundred dollars a day if he doesn't take them back, so he agrees to go ahead and take them.

CHAIRMAN SHER: Mr. Bradley, they don't have to take them back on premises. They have to establish a redemption center. There's nothing that says they've got to take them back in the store.

ASSEMBLYMAN BRADLEY: You can't do that in a rural area. There's no place to do that. I'm talking about Mom and Pop operations. I'm not talking about the Supermarkets. It's the same thing that Mr. Bates is raising about the high urban areas, the 7-Eleven type stores. They don't have room to take these kinds of products back. The same thing applies to Mom and Pop. They could store them outside on their property, but then they're going to have to haul those things back to a redemption center, maybe ten or fifteen miles away.

CHAIRMAN SHER: They're going to have to get rid of them some way.

ASSEMBLYMAN BRADLEY: Where's the incentive for them to do that? There just isn't anything in this bill that takes care of the rural area except the blackmail of a hundred dollar a day fine. And that concerns me.

MR. WARD: You've raised two good questions. First of all, there is a clause. If, in fact, the local government agency has some land use constraint that would not allow recycling centers within the half mile. So, there is an ability in the bill for us to deal with that.

ASSEMBLYMAN BRADLEY: How?

CHAIRMAN SHER: Well, there was a Calderon measure that was introduced. It says that if local government may not prohibit on the premises or parking lot these mobile, you know, like the Goodwill truck for redemption, local government is barred from doing that if it's right on the premises in one of these mobile units, and that was incorporated into AB 2020.

So, there is that safety net, if you will. And reverse vending machines, also, I believe, cannot be barred. Is that right?

MR. WARD: Yeah.

ASSEMBLYMAN BRADLEY: Before you answer the other part, then let me ask a question on that. The bill says that you will get a chip when you go to a reverse vending machine. It doesn't say how you get redemption of that chip. But that's another point. If my second point the, on Mom and Pop having to haul them somewhere that they can't afford to haul them to.

MR. WARD: If the bill is structured correctly, if we've done our job, there'll be enough incentive for them, if they decide to do it, that they'll make money on it.

CHAIRMAN SHER: If they become the redemption center, the Mom and Pop store in the rural area, they're going to get the pennies from the central fund. It may not be economical to haul them to the nearest city. So, unfortunately, some of that stuff may end up in a landfill. That would be unfortunate, that's not the desire, but at least they will get the money from the central fund which they will then reimburse to the consumer.

ASSEMBLYMAN BRADLEY: A thousand cans, which is a lot of cans, will only net them ten dollars and that's about what it would cost you to drive a truck to a redemption center.

CHAIRMAN SHER: If you don't have these redemption centers, some of them I would anticipate in some of these areas, would have trucks going around to pick these up from time to time, particularly for the aluminum which has a real market value apart from the penny, or two cents.

MR. WARD: Another point, Assemblyman, that could be raised here is the convenience incentive payment, which is another provision of the bill. If, in fact, the bonus doesn't work, if the bonus doesn't work there's an ability for us to even add an additional amount to the redemption value of that container for someone to recycle. And I think the estimate is that there is going to be approximately what, ten million?

MR. VANN: Up to twenty percent of the bonus account. So it should be around somewhere between five and ten million dollars.

ASSEMBLYMAN BRADLEY: Okay, then if you force the redemption centers onto the parking lots, then you get a chip out of that machine, where do you redeem it? It's not in the bill.

CHAIRMAN SHER: Well, you know, I don't know about these chips but the modern reverse vending machines actually return money. They don't return chips.

ASSEMBLYMAN BRADLEY: Well, the bill talks about a chip that you will get.

CHAIRMAN SHER: I don't know where that is.

ASSEMBLYMAN BRADLEY: It's in there.

CHAIRMAN SHER: But the state of the art reverse vending machine gives back money.

ASSEMBLYMAN BRADLEY: But that's expensive to maintain, a change machine.

MR. WARD: That's a good point. We're going to address the (inaudible).

CHAIRMAN SHER: Before we go on I wanted to welcome another new member of our committee, Assemblywoman Maxine Waters. Welcome, Maxine. We're delighted to have you on the committee and have you here today.

Randy, are we done with your formal presentation? Is there more you want to tell us?

ASSEMBLYMAN BATES: Are there any tools that he needs now that he feels that in the bill that were left out, that would help?

CHAIRMAN SHER: Good question. This is a kind of summary section now. Tell us, whether all is going well, that you're confident that the program is going to succeed and you'll have it up and running on September 1. Is that right?

ASSEMBLYWOMAN LA FOLLETTE: Mr. Chairman.

CHAIRMAN SHER: Let's get his answer to that question.

ASSEMBLYWOMAN LA FOLLETTE: Well, as long as you said it would be a summary, I thought maybe during a summary he could talk a little bit more about the public awareness part of the program and whether that money is included in the initial five million.

MR. WARD: We are anticipating between three and four million dollars for marketing, advertising for this program. And the planning for the use of that money is currently being put together. In addition, any money that we would be asking for in June, July, and August is going to be including the amount necessary to frontload that advertising effort. That is one of the responsibilities that we have for helping this bill succeed.

CHAIRMAN SHER: When you say "asking for", you mean the budget change proposal?

MR. WARD: It'll be in our March change revision process to the Governor's budget. We'll probably be asking for both any current year problem that we have as well as 87-88.

CHAIRMAN SHER: But, like the \$5 million, that would be in the form of a loan from the General Fund to be repaid? This is supposed to be a self-supporting program, is that right?

MR. WARD: Exactly.

CHAIRMAN SHER: And that could be another up to \$5 million, do you think?

MR. WARD: It could be, yes.

CHAIRMAN SHER: How about Mr. Bates' question. Give us a summary about what you've been doing up to this point and what lies ahead. Are you optimistic that you're going to have this program up and running on September 1 and that it's going to succeed, or are there problems, and if there are problems is legislation needed to help you solve the problems?

MR. WARD: Okay. First of all, we have been extremely aggressive and we have met all the statutory deadlines in the bill. We were faced with a very serious time constraint on putting this program together. And to try to develop all the things that you've been hearing about today especially an accounting and auditing framework and to get that on some kind of a computer system is a time-consuming operation. It also involves requests for proposals and contracts. All those things are subject to a very competitive environment out there, and I

know people in the Legislature have seen it as well and numerous times you have aggrieved parties in these processes that can protest the award of a contract. If something like that occurs, it's beyond our control. It could cause us a problem in meeting the September 1 and October 1 date. At this point, we don't anticipate any of those problems. We are doing worst-case scenarios.

CHAIRMAN SHER: There should be no problem meeting the September 1 date, though. That's when the money starts rolling in.

MR. WARD: The October 1 primarily.

CHAIRMAN SHER: Well, let's be clear about that. On September 1 it's the distributors who actually pay the money into the central fund. That ought to be happening on September 1. I can't see any reason why that...

MR. WARD: It's forty days from the first of September, as the bill currently reads. That breaks into another issue. I just wanted to say is, up front, we're dealing with contracts and we're dealing with short periods of time. If there is ever a protest on one of those contracts, that process stops. We can't continue moving until the protest is resolved. It stops us in the water, and until the protest is resolved...

CHAIRMAN SHER: You mean, for example, the awarding of a particular contract to a particular redemption center in a particular convenience zone?

MR. WARD: No. Primarily dealing with our accounting and auditing. Let's say, we're going to use a service contract

to handle a turnkey system that is developed for accounting and auditing, basically the collection of all this money and how it's going to be paid out and our ability to make sure that it's done in some good faith and recognizing the stewardship that the Legislature would...

CHAIRMAN SHER: You're going to contract with somebody to do that, is that what you're saying?

MR. WARD: Exactly.

CHAIRMAN SHER: And you're saying that somebody might feel aggrieved in the contracting process? You think that's your biggest problem?

MR. WARD: That is potentially a major problem.

That's the only one that I'd raise now, because if we don't have a system to handle the pennies then we've got a problem. And a service contract like that could cause us some real problems.

Inventory clearance is an issue that is primarily an industry issue.

CHAIRMAN SHER: What you're doing is anticipating that won't happen, because in state government you have Requests for Proposals, Proposals Received, Contracts Awarded, every day of the year almost. And while it's true that when you get into things like computers for the Legislature or something, you sometimes get people raising problems, do you have any reason to believe that you won't be able to do the Request for Proposals and the award of the contract in a way that's going to have a contracting party ready to go as of September first?

MR. WARD: I think you raised a very fair analogy, and it's not unlike the kinds of things that occur in state government. We don't have any reason to believe that that is going to occur now. There have been service contracts protested in the past. We're confident that we'll be successful.

CHAIRMAN SHER: You're going to do it right, aren't you. You're going to have a fair process with Requests for Proposals which are going to be considered on their merits and the awards are going to be made to the one...

MR. WARD: Absolutely.

CHAIRMAN SHER: Okay. I don't see that as a problem. It shouldn't be a problem.

MR. WARD: You asked me for anything...

CHAIRMAN SHER: I know, you're covering yourself. And it's duly noted, but don't let it happen, okay?

MR. WARD: I paid my insurance.

CHAIRMAN SHER: Mr. Harvey and then Ms. Waters.

ASSEMBLYMAN HARVEY: Thank you, Mr. Chairman. Also, I won't use the term "coming from local government." I've just been in government. This is not unusual. I appreciate your letting me know that, because I've experienced it as we all experience. We're dealing with private enterprise. We cannot mandate that private enterprise take this. We cannot mandate that they don't get involved in a conflict, even lawsuits, which happens routinely. So, while I agree with the Chairman that it should not happen, I appreciate your letting me know because, most likely, it's got a good chance of happening because a lot of people don't agree with what we do.

CHAIRMAN SHER: But this is not the merits of the bill, Mr. Harvey. This is a question, one little part of the bill, maybe a big part, requires them to get a contractor who will do the auditing and the money chase here. But, you know, we're building a \$2 billion prison program. There are hundreds of contracts being let all of the time. I realize you want to have that in as a cautionary note, but I don't see that there's any reason to anticipate that you won't...

MR. WARD: Again, I'm not waiving a...

ASSEMBLYMAN HARVEY: Well, may I follow up on it? And just say this, I wouldn't want to put any bets on it. But I would like to say that whether we like it or not, it's certainly a factor that may be involved in it and I would like to say that I understand what we're talking about.

CHAIRMAN SHER: Okay, well, let me ask you this. Put it this way. Is there any reason to expect that there's a special problem here with this program that's likely to lead to a protest to your contracting process?

MR. WARD: Let me just indicate, there have been a number of protests in service contracts. We don't feel that the protest would be sustained, but that doesn't stop anyone from waging the protest which causes us a time problem.

CHAIRMAN SHER: It could happen. Okay.

MR. WARD: At the earliest time that I have some clear indication that that will be a problem, I will come over and inform the Committee that I am going to have some problem meeting the time-frame outlined in the legislation at this point. That

is probably the only major thing we see on the horizon that could cause us a time-frame problem with the deadlines in the bill. And that was what I was referring to.

CHAIRMAN SHER: Ms. Waters had a question.

ASSEMBLYWOMAN MAXINE WATERS: Mr. Chairman, I do not know if you had any discussion today about the 7.5% dollars that go to urban conservation corps. If you have, then I won't take your time.

CHAIRMAN SHER: No, well, we haven't gotten into that question. We haven't actually... Mr. Connelly raised some questions about the percentage of the money that actually gets back to the consumer, how much for administration. Another part of it, of course, built into the bill, is the education and the support of these organizations. But we have not talked about that today.

ASSEMBLYWOMAN WATERS: You don't plan on...

CHAIRMAN SHER: Well, that's not part of this implementation process. That is, of course, an important part of the bill but is something that will come later.

ASSEMBLYWOMAN WATERS: Well, that's the most important part to me.

CHAIRMAN SHER: Okay, well, it is an important part. I agree with you.

ASSEMBLYWOMAN WATERS: I want to get that money down to these kids.

CHAIRMAN SHER: Mr. Ward, then, apart from some very unlikely problem in this contracting process where there's a

protest, you're going to be up and going on September 1. You don't see any other problems?

Mr. Bates also said, do you see any need for any cleanup legislation to help you?

MR. WARD: We have some technical amendments. The inventory clearance issue is primarily an industry issue they are concerned about. We are working with them as of this point. We are not evaluating any one proposal that everyone has accepted. but at that point there probably will be a need for some legislation. Dealer definition, there is a question about what the intent was with the Legislature with regard to restaurants and bars, on containers sold to them, whether they are, in fact, qualifying or not. It was our feeling that it was the intent of the Legislature that simply they didn't have to put a sign in their place of business where a recycling center was, but for that, the cans, bottles, and plastic would be, in fact, qualifying. And that's not clear in the bill.

There's also a question as to whether containers coming out of vending machines would have to be qualifying containers.

CHAIRMAN SHER: These are technical questions dealing with, perhaps, ambiguities and Mr. Margolin, presumably, in his AB 20 will be addressing those. But these are not the main problems as far as implementation. You think you've got a pretty good bill and it's doable and, from your point of view, you don't need anything at this point that you can see to make it work?

MR. WARD: We have some other very small technical changes that I don't...

CHAIRMAN SHER: Well, that's encouraging news. Ms. Speier, we'll get your question and then we'll move on to the next witness.

ASSEMBLYWOMAN SPEIER: One last question. Based on your questioning this morning, it appears that there is, maybe unexpected, a situation by which there is an incentive for recycling centers not to give up until such time as that bonus is added on. Is that something that should be considered in the cleanup bill?

MR. WARD: I don't think so at this point. It was talked about. There has been an awful lot of thinking about it, and again, it's speculation.

ASSEMBLYWOMAN SPEIER: Well, it's not so much speculation if this CGA Executive Bulletin is taken at face value. It's underscored, "hold off on making further decisions."

MR. WARD: I appreciate that, but the other side of that argument is that there is going to be, by virtue of the revenue increase going to recycling. There's going to be some competition for some of these convenience zones. Idealistically, that's what we hope is going to occur here. So, by waiting until July 31, they're risking losing a convenience zone recycling opportunity where, theoretically, they're going to be making money.

ASSEMBLYWOMAN SPEIER: It's a little like the lottery, huh?

CHAIRMAN SHER: Okay, thank you Mr. Ward and Mr. Vann, for your testimony. We appreciate it. Keep the Committee

apprised of questions and problems and what we can do and we'll be calling on you as we see AB 20 and other legislation to get your views about it.

MR. WARD: Thank you, Assemblyman Sher, I appreciate the opportunity. I might, simply, indicate that if any of the newer members to the Committee would like to be briefed on this bill, we would be happy to do that and would literally take them through it, the theory behind it, at their convenience.

CHAIRMAN SHER: Very good. Thank you.

All right, our next witness is a representative of the Legislative Analyst, I think, Mr. Rabovsky. Are you here on behalf of Ms. Hill to tell us whether the Legislative Analyst thinks everything is hunky-dory with this program?

MR. DANIEL RABOVSKY: Thank you Mr. Chairman. My name is Daniel Rabovsky. I'm with the Legislative Analyst's office and with me is Arnie Sowell who is the analyst in our office who looks over the Department of Conservation's budget. And he's going to address some questions that you asked us.

MR. ARNIE SOWELL: Good morning, Chairman Sher and members. You've asked our office to comment on the progress the Department of Conservation has made in implementing the California Beverage Container Recycling and Litter Reduction Act, AB 2020.

In particular, you have requested information on the following matters: the amount of money and staff provided in the budget for this new program in the current year and in 1987-88 as well as the adequacy of those resources, whether the Department

is spending the \$5 million loan from the General Fund in a prudent manner, and any problems we foresee that may delay the implementation of the Act and any solutions to those problems.

First, I simply want to note the precise estimates on the amount of money or the number of staff needed to carry out the recycling program established by AB 2020 simply are not available at this time.

CHAIRMAN SHER: If I can break in and ask why not?

MR. SOWELL: Currently at this time, there is not a lot of information actually on the amount of money that actually has been spent or will be encumbered in the implementation process so far.

CHAIRMAN SHER: You mean the Department hasn't asked the Department of Conservation, the Analyst hasn't asked for it or the Department doesn't have it available?

MR. RABOVSKY: Mr. Chairman, the situation is, for example, one of the major expenditures that the Department will be facing will be this service contract that Mr. Ward talked about recently. The nature of that service contract for auditing and accounting services really hasn't been established yet because right now they've just started their contract with Pete Marwick that's supposed to design the RFP, the Request for Proposals, for that, so without even knowing what the precise parameters of that contract are going to be, it's really impossible to come up with a precise estimate of the cost. We do know what the Department's plans are for staff and for some contracts, and Mr. Sowell will be getting to that but for the

longer range it's going to be very difficult right now, for us or the Department to give you a precise figure.

CHAIRMAN SHER: You heard my interchange with Mr. Ward on that contract. Is there any reason to believe that there's some special problem here that is likely to lead after the Requests for Proposals are made and received and the contract is awarded, that there's likely to be some big blowup and delays in going forward? Is there any special problem here?

MR. RABOVSKY: I don't see any particularly special problem. I think Mr. Ward has cited, perhaps, some other services contract situations where that occurred. We haven't look at that specifically. He's probably trying to communicate to the Committee simply his concern that if this were to happen he has no control over it.

CHAIRMAN SHER: Of course, but I'm more interested in whether there's any reason to believe that there's something peculiar about this program where that it's likely to happen.

MR. RABOVSKY: We're not aware of any.

CHAIRMAN SHER: Okay, thank you. Why don't you go on with your testimony?

MR. SOWELL: As you know, AB 2020 created a unique and complex program. Unlike the deposit laws on the books in other states, AB 2020 requires the state, through the Department of Conservation, to collect and allocate recycling fees. The Department will face difficult regulatory decisions, such as establishing processing fees and recycling bonuses. It also must accomplish the difficult task of having in place by October 1,

1987, a full-scale auditing, accounting, enforcement, and information effort that will serve thousands of beverage dealers, container manufacturers, supermarkets, recyclers, local governments and of course consumers.

Neither we nor the Department can tell you at this time exactly what it will take to succeed in these tasks.

The Department has already indicated their staffing requirements for this year as well as the amount of money that they will be spending in this fiscal year, I think. What we can address to the Committee is the adequacy of the budget resources, \$5 million from the General Fund. Based on some rough estimates of what the Department has spent so far and what it plans to spend by the end of the fiscal year, we estimate that the Department of Conservation will need a total of \$3.3 million in personal services and operating expenses in this fiscal year. Therefore, based on our rough estimates the Department will have approximately \$1.7 million left from the \$5 million loan to cover expenses from July until October, when it will begin to receive recycling revenues.

The Department's current plan is to have a full staff of 125 people hired by October 1.

CHAIRMAN SHER: They said earlier that that isn't the case. They were talking about 45 or something and as they get towards next year, that would be the ultimate.. They don't, I think, expect to have 125 (inaudible).

MR. SOWELL: Based on this plan, we estimate the Department will need roughly \$2 million to cover staff, operating

expenses and equipment from July through September. This figure, however, excludes the cost of the major service contract which the Department expects to sign for auditing and accounting. Therefore, our analysis indicates that the \$5 million loan probably will not cover all the Department's expenses until October. The additional amount needed could be as little as \$300,000. However, the amount could be much larger if there are large expenses associated with the auditing and accounting service contract prior to October.

BREAK IN RECORDING DUE TO EQUIPMENT MALFUNCTION.

MR. SOWELL: ...although our review has not indicated any significant problems to date with the department's implementation of AB 2020, there are a few observations that should be noted.

First, the Department of Conservation has met its target dates, which it established last fall for the recycling program. The Department completed the convenience zone maps by the statutory deadline of January 1. Draft regulations governing certification of recycling center, establishing processing fees and little abatement grants have been sent to the Office of Administrative Law.

BREAK IN RECORDING DUE TO EQUIPMENT MALFUNCTION.

MR. SOWELL: ...any significant delays. The time schedule is extremely tight. There's basically no room in the implementation process, or the implementation schedule, for any delays or unforeseen circumstances if the program is to begin operation on October 1. Therefore, any substantial setback may cause delays in implementing the Act.

BREAK IN RECORDING DUE TO EQUIPMENT MALFUNCTION.

MR. SOWELL: Secondly, the budget revenue estimate is too high. The budget anticipates total revenues of \$100 million in 1987-88. This \$100 million revenue figure is based on annual beverage container sales of ten billion beverage containers, and actually a quarter of a year is cut off in beverage sales.

CHAIRMAN SHER: Whoa! But see...

BREAK IN RECORDING DUE TO EQUIPMENT MALFUNCTION.

MR. RABOVSKY: Correct.

CHAIRMAN SHER: Well, that's just a mistake, then, I think.

Ms. Waters?

ASSEMBLYWOMAN WATERS: Is this the whole service personnel, also the service personnel? And we have most of the managers and supervisors hired already?

MR. RABOVSKY: Yes.

ASSEMBLYWOMAN WATERS: What do they look like?

(inaudible)

MR. RABOVSKY: I think we could ask the Department to supply that information to Ms. Waters.

ASSEMBLYWOMAN WATERS: Do they know it now?

MR. RABOVSKY: Well, they have, I think they said, they had thirty-five. Mr. Ward, do you know? Thirty-five, you've taken on so far?

MR. WARD: About thirty. We have a sixty-three percent affirmative action hiring rate. Most of those are in your level, managers and above. We can provide that information.

CHAIRMAN SHER: I think you should stop by and talk to Ms. Waters about that, okay?

I don't think we want to get into that issue now.

ASSEMBLYWOMAN WATERS: I'm doing it rather lightly now. It's very important. I don't want us to think that it's not important. When we start up new departments and opportunities, particularly when you tell me you're trying to organize the supervisors and I ask this question, it's a very important one, because at some point we have to start to focus on it, what we do when we create new opportunity here. So, even though your answer is not adequate now, I'm letting you off the hook so that I can talk with you directly and you can show me the actual numbers and descriptions so that perhaps we can be helpful.

MR. WARD: I think we look at the opportunity the same way, Assemblywoman, and we have established very serious affirmative action targets for the division and it exceeded those targets. I'm extremely pleased, and I think you will be as well.

Thank you.

ASSEMBLYWOMAN WATERS: Okay, I think I'll hold you to that.

CHAIRMAN SHER: Mr. Rabovsky, have you finished your testimony?

MR. RABOVSKY: Well, there is one more point, I think, with respect to a question that Mr. Connelly raised earlier. And that is on the establishment of the bonus values and the timing of that establishment. When we read the bill AB 2020, what the bill says is that the Department is supposed to establish the bonus values based on the redemption rates during the past quarter. That appears to us to indicate that there won't be any bonus rate until, say, January 1 at least. I'm not sure whether the Department agrees with that right now or not. In any case, we would suggest that it would be prudent to postpone the imposition of any significant bonus, at least until that date, because, of course, Number One, we won't have any data on the redemption rates until that time; Number Two, there is this frontloading problem. There are a lot of cans and bottles that undoubtedly will be returned early for which that redemption value was not paid and there's no way to know how many that will be, but the Department will have to make payments to recyclers for those bottles and cans because no one's going to be able to go through and separate out all the labeled ones and all the nonlabeled ones. Also there are the administrative costs and exactly how much they will be, the repayment of the loan to the General Fund, trying to get that done reasonably early. For all

those reasons, we would suggest that it's probably better to leave a little bit of fiscal room in the funds than to try and pay out everything and perhaps run a risk. The most important thing is that they have the money they need to make the payments they're required to make.

CHAIRMAN SHER: Okay, thank you.

I want to thank both of you for coming over today. I know this is the busiest time in your office, dealing with the budget, so we appreciate your taking time to do this analysis and to come and testify.

Mr. Bates?

ASSEMBLYMAN BATES: Very briefly, September first is when the people can redeem? Is that correct?

CHAIRMAN SHER: October first.

MR. RABOVSKY: Under the current bill, September first is when...

ASSEMBLYMAN BATES: And then Mr. Margolin is carrying cleanup legislation which would change it to October?

MR. RABOVSKY: Right.

ASSEMBLYMAN BATES: Okay. Is he also, he's not here unfortunately, but is he also considering some kind of cleanup which would allow people to redeem bottles and cans that were, in fact, received before they were embossed.

CHAIRMAN SHER: There's no money. I mean, they didn't carry the up-front penny, so there's nothing in the fund.

ASSEMBLYMAN BATES: The one month difference, it doesn't make...

CHAIRMAN SHER: Theoretically, for every penny that goes into the fund, that the distributor puts in there, there's a container out there that carries that penny redemption value and they're counting on a certain number not being redeemed. It's that part of the fund that is to be used for the bonus and paying the community groups and to carry the administration.

So it's pretty hard to start paying redemption on pre-penny containers.

ASSEMBLYMAN BATES: Well, the other question would be to, maybe, delay it for two months and then allow it for another month to be available to handle some things that are out there in the system. It just seems like it's going to be a tremendous clog. People are going to bring things that are both redeemable and non-redeemable bottles. I don't know, it's just something to give some consideration to.

CHAIRMAN SHER: Theoretically, the redemption center, when they bring these in, is not supposed to pay any redemption on the pre-Act containers and is not supposed to be reimbursed for any they paid. Of course, there is a very hard auditing problem there because a lot of these are crushed and they're done by weight. So there's going to be a problem. There's no question about it. But I don't know that going two months is going to solve the problem either.

ASSEMBLYMAN BATES: But, I mean, at least you have the money in the system, theoretically, to be able to...

CHAIRMAN SHER: I think the feeling at the time the compromise was entered into was that there should not be too long

a delay between the time when distributors start adding these pennies on and the retailers start passing it along, perhaps, to the consumer and the time when the consumers can start getting it back to the redemption center.

ASSEMBLYMAN BATES: Well, I just think it's a snafu in there some way that could be worked around that might be... And obviously other people have thought about this before.

CHAIRMAN SHER: I think they're worried about it and I think there are going to have to be controls at the beginning to try to screen out those containers that are not entitled to the redemption.

ASSEMBLYMAN BATES: Could I ask one control question? People who bring back bottles to redeem the bottles, how are we going to be able to determine whether or not they brought back 25 bottles or 150 bottles? How will that be determined in terms of audit trail, to find out that there are not abuses taking place on that?

MR. RABOVSKY: Well, as I understand it, the Department is primarily going to be focusing on auditing the processors and perhaps the recycling centers. No one is going to be auditing consumers who bring back bottles and cans.

CHAIRMAN SHER: Because we have that now, you know. There are a lot of, even without this bill, there are a lot of aluminum that go back and they pay them either by the pound or by the unit. It's up to the person taking them back in to make sure they're not paying for ones that they can't then turn around and collect from the state out of this fund. So that's the first

screening process, but the hard part is when this redemption center comes in and it's all been crushed and they weigh it up and they say, "Now we've got in this bundle 100,000 and we're entitled, therefore, 100,000 pennies or whatever." That's part of this audit process where you're going to have this money trail that presents problems.

ASSEMBLYMAN BATES: My concern is, assuming you were in cahoots with somebody who says they brought in a certain number of bottles when, in fact, they didn't but you paid them for an amount which was substantially more. How are you going to catch that problem and how are you going to catch the other problem which is that they claim they have more than they have?

MR. RABOVSKY: Well, presumably, there's going to be an audit of the processors and the recycling centers and when they say, "We received 10,000 pounds of aluminum containers and so we want our pennies based on some approximation of how many cans per pound," they are going to have to be able to show some sort of record that they sold that many pounds of aluminum or have that much in inventory to the next step in the process. Now, we don't know precisely what that audit process is going to be. The Department is working on that right now.

ASSEMBLYMAN BATES: But do you feel that it is controllable and we can put in standards that will mean that there won't be potential abuse?

MR. RABOVSKY: Well, it's not going to be an absolutely precise system. It can't be. On the other hand, I don't see any reason why it can't be a reasonably precise system and function adequately if it's properly designed.

As far as the front loading problem goes, too, and paying the penny on cans and bottles for which the penny was never paid, there will be some float in the system of course. You're going to have the pennies paid in September first. Not all of those containers will be sold by October first, and even those that are are going to sit in people's closets and refrigerators and not get returned perhaps until January so there'll be some money in the fund. There'll always be some float and, hopefully, that will take care of most or probably all of the front loading problem initially.

CHAIRMAN SHER: I thank you for your testimony. We appreciate your coming today.

MR. RABOVSKY: Thank you, Mr. Chairman.

CHAIRMAN SHER: Our next witness is Tom Padia, Associate Director of Californians Against Waste, one of the environmental organizations that was centrally involved in the negotiations of AB 2020.

Mr. Padia?

MR. TOM PADIA: Thank you, Assemblyman Sher, members of the Committee.

My name is Tom Padia. I'm the Associate Director of Californians Against Waste.

I'd like to say first that CAW is very pleased with the conscientious and diligent job that the Department of Conservation has done to this point to keep this enormous and complex project on track. As far as some of the regulatory issues that involve the Department, we at CAW don't have any

specific problems with anything that has been done to this point, just our position on some of the issues that are in the process of regulations being promulgated. On the labeling of containers, obviously, the two main functions that that labeling has to serve is that consumers are aware of the fact that the container they have is redeemable and secondly, that it be marked in such a way as to allow efficient bulk redemptions by some recycling centers.

With processing fees, we share your concern. It was certainly never our intent to create a very complicated system for segregating specific materials only to turn around and send them to the dump and we would hope that would be an extremely rare, if at all, instance of what happens.

As far as funding for the Urban Conservation Corps programs, we feel this is a small but very exciting and dynamic element of the bill, one that unites the concerns of environmentalists with those of inner city youths and we hope that this element will be implemented in as timely a fashion as possible and that those local conservation corps that would potentially qualify for these funds learn and take full advantage of the recycling and related opportunities.

As far as some of the other issues that have been brought up unrelated to the Department's responsibilities, some points of fact. One, I believe that the timetable for the amount to go up to two cents is December 31, 1989, not 1988. If you want to move it up, that would be fine with us but it's not 15 months, we're talking 27. So, at the end of 1989, at this point.

Also, it was raised several times, the mention of grocers having the responsibility to do this or that. Actually in the bill, grocery stores are singled out as a reference point to draw the circles for the convenient zone but they have no more or less responsibility than any retailer who sells beverages including AM/PM, 7-Eleven, liquor stores, Thrifty, whoever, in terms of either paying a fine and/or redeeming containers themselves if there is no convenient redemption opportunity.

We are concerned that grocers and all dealers be cooperative partners in helping set up convenient redemption opportunities. This was brought up by you, Mr. Chairman. Since the final responsibility does rest with the dealers, the retailers who are putting these containers into the consumer stream, they will be a very main and pivotal catalyst in helping this convenient redemption opportunity be created.

On the issue of wine coolers, for a number of different reasons we would like to not see them left out in the cold. We would like to have them brought into the system. In September during the California Coastal Cleanup, I went to some of the beaches along the San Mateo Coast myself and noticed that they do get littered along with other glass containers and they're also, I think, coming out with PET wine cooler containers. They appear in the same places as other beverage containers that cause litter problems. They are also likely to appear in the same bags and boxes of glass that come back to recycling centers, and many of them indistinguishable from beer bottles or other containers that will carry a redemption value. And that would also add about 150

million more pennies into the system, which is something to consider. There's efficiency from the recycler's point of view, there's the litter aspect, and there is the fact that it would create a little bit more money flowing through the system.

That's basically it for our comments. I'd like to thank you for this hearing.

CHAIRMAN SHER: Thank you for testifying. Any questions?

All right, thank you very much.

The next witness is Mr. Paul De Nio, California Beer Wholesalers Association. Welcome.

You're beer wholesalers, but you have something to do with wine coolers as well, Mr. De Nio?

MR. PAUL DE NIO: We handle some of them, Mr. Chairman.

CHAIRMAN SHER: Okay, well, maybe we'll talk a little bit about that, as well.

MR. DE NIO: A couple of points, Mr. Chairman, members of the Committee. There's been a considerable amount of discussion this morning on when the pennies start flowing.

I thought maybe we could simplify it by taking Section 14574, which is very short, and it says, "A distributor shall pay to the Department the redemption value of every beverage container other than a refillable beverage container sold or transferred to a dealer less one percent for the distributor's administrative costs within forty days of any sale." Now, in other words, forty days after we start selling the marked containers...

CHAIRMAN SHER: When will those with the mark first be sold, September first or could they be sold before then?

MR. DE NIO: Well, definitely September first. Hopefully we can get started earlier.

CHAIRMAN SHER: Those containers that are covered, none should be sold after September first that don't have the mark and within forty days, the payment has to be made into the fund?

MR. DE NIO: Yes.

CHAIRMAN SHER: So, some are sold earlier because of inventory, changing these containers before September first, the forty days would run from the time they're actually sold? So some of it could come in earlier than forty days after September first?

MR. DE NIO: It's possible and we will try to get inventory that's labeled as soon as possible, because it is not only helpful to you but it is to our advantage to get rid of that old inventory and get the new going as soon as possible. We are talking with the Department now on that issue and trying to get it straightened out to where we are unable to put the money up in advance, taking the last month of September, 1986, as an example, the twenty-four cents per case that we would turn in to the Department figures \$175,000 a day. And most of our people do not have \$175,000 a day to take out of their pocket. They really do need to be paid by the retailer for that amount before we can pay it and pass it on.

CHAIRMAN SHER: And normally there would be a thirty day lag in collections from the retailer for the beverage and for the container?

MR. DE NIO: Yes, in fact, that is almost to the day due to a credit law that we have regulating alcoholic beverages, which is thirty days.

CHAIRMAN SHER: Ergo the need for at least the forty day lag?

MR. DE NIO: That was the reason for putting it in.

ASSEMBLYMAN BATES: Mr. Chairman.

CHAIRMAN SHER: Mr. Bates?

ASSEMBLYMAN BATES: You indicated that, from the inventory point of view, you might get to the place where you might need to emboss the bottles earlier than September? Is that correct?

MR. DE NIO: Well, the manufacturers themselves are going to have to start marking containers far earlier just to go through the system of inventory buildups and things of this sort. As an example, just as a rough average, we'll inventory about fifteen days of sales in our warehouses, as an average, so that we would at the very least, starting August fifteenth, we would have to start replacing that unmarked inventory with marked inventory because that would be sold on September first, what we were getting.

ASSEMBLYMAN BATES: Well, would there be, in the flow at the markets and where consumers would have contact, bottles that would be marked for reimbursement prior to the date of the application of the bill.

MR. DE NIO: Some, probably, yes.

CHAIRMAN SHER: Well, that's certainly inevitable, in the month of September. If this thing works. All of them that are sold after September first should have this mark on it but none of those will be redeemable at the earliest until October first. So there is...

ASSEMBLYMAN BATES: Assuming the Margolin bill passes.

CHAIRMAN SHER: Oh, you mean this cleanup part of it.

MR. DE NIO: I'm sorry. I was talking about the money. The cleanup is the major problem. And that's another one that we're talking with the Department on because it's impossible as of midnight on August 31 to exchange one billion containers in the marketplace.

ASSEMBLYMAN BATES: Right.

MR. DE NIO: Of course, we'll start trying to lower inventories in the trade much earlier so that there is less in the trade, but as of September first it is impossible not to have a rather large quantity of unmarked containers in the retailer's premises.

ASSEMBLYMAN BATES: Right. For long periods of time.

MR. DE NIO: And that is a very difficult problem, but it is impossible financially for us to go and pick every one of these up and replace them. That would destroy us.

ASSEMBLYMAN BATES: So, it's like the new Coke and the old Coke, right?

MR. DE NIO: Very similar. It's a difficult question to come out to where we do not flood the market with these unmarked containers and get the confusion.

Another problem would be that, as of September 1, when we start replacing inventory with the marked containers, and they go on the shelves, they're both going to be the same price to the consumer by then, it's not practical for the markets to change the computers and everything between the two containers.

CHAIRMAN SHER: This was inevitable in any bottle bill, I suppose, isn't it?

MR. DE NIO: It's a problem. It's a start-up only.

CHAIRMAN SHER: You've got to get over this initial problem.

MR. DE NIO: The inventory and the pay is only a one-shot start-up problem. As soon as we're flowing, both of these things are really not a problem.

ASSEMBLYMAN BATES: That's why I'd like to have some provision. I don't know how it would work, where any bottle that's returned as of the redemption date, would be paid the deposit, so that you wouldn't worry about it until... just during the start-up phase, like for six months as an example. Any bottle that's brought in would be entitled to be with a one cent redemption.

CHAIRMAN SHER: Where's the money going to come from?

If it's a state program and it's in the budget, if you want to put five or ten million dollars into the budget, where's it going to come from, Tom?

ASSEMBLYMAN BATES: Well, I think that there are ways of doing that. Obviously, he's indicated that, starting September 1, as an example, the retailers will in fact be selling bottles

that are marked not for redemption purposes at the same price. I mean, as they would those that are going to be redeemed.

It seems to me that there ought to be some way that we could capture some of that money. I don't have the answer today, but I think there are ways of doing it: delaying the date, when you maybe collect earlier and redeem later.

CHAIRMAN SHER: You mean, have the retailers collect the penny on the marked ones?

That would be horrendous for one thing.

ASSEMBLYMAN BATES: Well, maybe when they take their inventory. I don't know, as of the date that the bill comes in they determine what stock they currently have that's on the shelf and then we're entitled to receive a penny for that. I'm sure that there are ways of... I haven't been a member of the conference committee, you know, and this is new. I am reasonably confident, Mr. Sher, as an example, and this may be unworkable, but if you went in September 1 and you did an inventory of all those products that are on the shelves that are not marked for reimbursement but are, in fact, eligible for reimbursement of a cent, because they will be sold after that date, you determine what that amount is, you then make a deposit into the fund of that amount of money and that would more than cover that problem and more than cover the other...

CHAIRMAN SHER: There was a related problem that did get discussed in conference committee on why it was thought important not to have any container that didn't carry the legend, that this is a redeemable in California, to stick to that principle. There

was a concern that if you didn't do that, you would have, certainly near the border, large trucks carting in containers from Nevada, unmarked, to try to collect these redemptions.

ASSEMBLYMAN BATES: For a penny? I can't...

CHAIRMAN SHER: No, not at the penny. This would be a huge trailer truck full of these things. That issue was discussed and I think that principle was established that the only things that are redeemable would be those that are marked with these insignia.

ASSEMBLYMAN BATES: Maybe there's a temporary mark that they can, when they go through and do their inventory, determine what that is and mark it there. Then determine what it is.

There's obviously going to be a huge float out there of bottles that are on the shelf that are not sold, and I don't know what the normal turnover of a bottle is, but it will be on the inventory for a long period of time, and then how are they going to get rid of that stuff? If we have a choice between a redeemable bottle and a nonredeemable bottle, you pay the same price for it, you're certainly going to always buy the redeemable. If it sticks on the shelf, it gets to be a real problem.

ASSEMBLYWOMAN SPEIER: Mr. Chairman, I don't know that I have a solution, but based on what Mr. De Nio has just said, as of September 1 or October 1, I can't keep these dates straight anymore, the retailers are going to be charging the same amount on that bottle of beer, for instance, so even though one is redeemable and one is not, that one cent is going to be attributed to both bottles.

CHAIRMAN SHER: Yeah, but the way it works is that the distributor, when they put the marked bottles in the hands of the retailer, pay the money into the fund. The distributor then makes a decision: "Do we pass that along to the retailer or not?" In many cases it is thought that those pennies won't be passed on to the retailer at all. The retailer may or may not raise the price of what they sell to the consumer. That's all going to be worked out in terms of the overall competitive situation.

You should know that, and all of this was discussed last year, there are all kinds of promotional things that go on at different times of the year when these prices are cut, so this penny isn't automatically going to go from distributor to retailer to consumer. In many cases, it will be absorbed, either by the distributor or the retailer, and you won't see it in the price. You won't see an extra six cents on a six-pack, necessarily.

ASSEMBLYWOMAN SPEIER: Okay, I guess my one recommendation would be that there is some kind of a lag time in which the actual consumer redemption takes place maybe one to two months down the line and allow the greatest number of legend containers to be in the stores. And that also allows more money in the fund.

CHAIRMAN SHER: So more money could accumulate. In other words, push back the date of redemption.

Well those are the things that, maybe, some of you want to talk to Mr. Margolin about. I think you'll find that there

are as many problems created by doing it as you solve by trying to adjust to these matters.

Did you have some other points?

MR. DE NIO: That was our concern. Otherwise we're interested in seeing it work and to get it implemented as soon as possible. If there are no questions, I have nothing further.

CHAIRMAN SHER: All right. Are there any questions?

If not, thank you for coming and thank you for your testimony.

Our next witness is somebody representing the recycling industry, Tanya Lipschutz? From the Northern California Recycling Association, and a major recycler in her own right. Right?

MS. TANYA LIPSCHUTZ: Yes, very little trash goes outside our house.

The Northern California Recycling Association is a group of people who are involved in running recycling programs and assisting in recycling programs and providing support services, including private, nonprofit and municipal programs, and we've been involved in trying to make sense of this bill since it started, and trying to help out with it.

Well, in terms of the question of 'Are our members holding back until July 31', I would like to say that I have not heard of anybody saying they are holding off until July 31. However, they have been sort of in shock for the last couple of months, adapting to the complexity and the questions, the uncertainties, that are all around this bill. If you can imagine

having a recycling site, one site with maybe ten or fifteen employees, and suddenly being asked to expand within one year to thirty sites without many more employees, without knowing what your markets are going to be and who's going to be in competition with you and all of that, that's why we've not run to the Department to be certified yet, but we are thinking very seriously about it and starting to meet and work. Our next recycling meeting is at a reverse vending machine office and we're going to have a tour and we're going to be discussing that at our next meeting the second week in February.

In terms of the questions that have been asked, the Department of Conservation has been incredibly impressive. For the first thing, they call themselves The Recycling Division. Of course, we can't argue with that. We have found them to be working under the handicap of being short of staff, without furniture and in start-up, to be very responsible and responsive, working overtime and weekends. They're very communicative. We get phone calls from them Christmas Eve, whenever something comes up that's a question of how it will work in the real world.

CHAIRMAN SHER: Mr. Ward is smiling back there when you say that. That's very nice, that's praise, indeed.

MS. LIPSCHUTZ: They seem to be dedicated to making it work in the real world, working with the various parties to do that, and upholding the intention of the bill.

The labeling workshop was the first formal workshop that was held, although there have been informal workshops. It seemed that the Department put their best shot into the draft

regulations and then listened carefully as the various people told what the regulations would mean in their business and in the operation of the bill, and it was a real working meeting.

I haven't seen the regulations yet. They just came out today, so I can't comment on whether we were heard or not, but I think we were.

Specific things that the recyclers are concerned about in the working of the bill: what will be the market prices? What will be the plastic market? Will the retailers work with us, allow us on their premises or not? Many retailers are surrounded by residential areas and it's hard for us to find a place. What equipment will be invented to handle plastic? What will be the cancellation method that we'll have to put into our facilities? Will the labeling be of a contrasting color so that we can spot the iced tea cans from the other cans as they go across our conveyor or across our table? What will be the certification requirements? Since the final public hearing on certification isn't until March 5, and the hearing on processing, the formal ones, I believe, aren't until April, we have a lot to know before we know that we can go into the business.

I will say that the recycling centers in our group, and we haven't done a formal poll of our memberships, so I'm not speaking from that, I'm speaking from what I'm hearing at meetings and discussions and so on, let's be straight about that, but the recyclers who have sites now are most likely going to apply to be certified at those sites. Those of us who are doing processing at our sites, crushing cans, (inaudible) cans,

crushing glass, so on and so forth, are almost certainly going to be processors at those sites if we are permitted to be so.

In terms of the sites at the markets, again there are all these factors. Some of us have started talking to CCC groups, to nonprofit groups, in our area and other people who might be able to staff such sites as well as ourselves putting out new sites. In terms of the question of overlapping zones, the answer is that we're looking for spots that will serve as many retailers as possible. I know, in our area, there is one nonprofit organization who happens to be on a lot halfway between two retailers and within a half mile of each and we've started working with them just as one personal anecdote.

CHAIRMAN SHER: From your point of view, it would be most desirable to have the highest volume possible in any one of these, and so if there are overlapping zones, from your point of view, it's best to have one rather than a redemption center in each of the supermarkets in those overlapping zones, is that right?

MS. LIPSCHUTZ: That's right.

CHAIRMAN SHER: That runs up against the question of competition among these, and if you do it at the Safeway store and Lucky stores in the same zone, that might mitigate against doing that and might lead to the neutral zone, but from the recycler's point of view, the higher the volume, the better chance of success of that redemption center?

MS. LIPSCHUTZ: Absolutely.

ASSEMBLYMAN HARVEY: Thank you, Mr. Chairman, I'm going to make an assumption that you're talking about urban areas. What's your experience in Northern California and the rural areas in terms of recycling centers? What's happening in that area?

MS. LIPSCHUTZ: There are some recycling centers in rural areas that happen to be close to the supermarkets that serve their rural areas. So, that's okay. On the issue of ten percent exemptions or more, once we look at it, it may turn out that there are recycling centers existing in the area that could serve and are serving the population but aren't within the half mile, and it would be useful to have exemptions for those. Our organization... I mean, I can give you anecdotal, I can't give you formal stuff, our organization serves one town of 10,000 people and buy back. We go up there twice a month to make a profit on it. I don't know if we'll be able to be there 10 days a month, if there will be enough volume to do that. There's two supermarkets at either end of town, so that means two zones. So, yes, it's a problem.

One possibility is an RV machine at one and the recycler at the other and the recycler serving the RV machine. But it's also in question as to whether the RV people will contract with local people or statewide people or what. So there are a lot of questions out there.

ASSEMBLYMAN HARVEY: On some of these questions you raised about marking the containers in a way that will make it easy, you'll be obviously involved in the process of developing these regulations, to try to make those concerns known, to make them...

MS. LIPSCHUTZ: We did so. The regulations are out today, and I don't know.

ASSEMBLYMAN HARVEY: But you don't know. Obviously, you're not being shy about telling them the practical problems to make sure that they are dealt with in the regulations.

MS. LIPSCHUTZ: And they are not being shy about asking.

ASSEMBLYMAN HARVEY: You're not in a position now, because of all these uncertainties about regulations, to predict how many of these 2500 convenience zones will have recyclers coming forward by the end of July or earlier to enter into contracts and how many holes there'll be in the system after July 31?

MS. LIPSCHUTZ: I can't say that now.

ASSEMBLYMAN HARVEY: No way to know?

MS. LIPSCHUTZ: I can try to do a survey and try to find that out for you, but did not have time in the week before...

ASSEMBLYMAN HARVEY: But your members are actually now working at these specific sites and zones and trying to make a decision about whether they want to bid to be the redemption center in all of these sites where the circles are not drawn?

MS. LIPSCHUTZ: Learning about it, trying to track down the rumors, going out to realtors, looking to see what's available, this sort of thing is going on, yes. With mixed results.

In terms of things on AB 20, in terms of the transition period, the labeling is important. It might be useful to advertise the month before to bring in your old cans then. We

would support having the wine coolers included in the bill, because for practical and cost reasons it's a matter of somebody brings in twelve plastic bottles. The day the bill was signed I walked into the supermarket and saw for the first time wine coolers in (inaudible) bottles, just like the soda bottles. It's a matter of having twelve in front of you, going like that, turning them over to see what they are. Tremendous difference in time and expense. In terms of the size and wording on the labels, the can manufacturers had a concern that the California redemption value in the quarter inch height, or the half inch height, would not fit on the top of the can. It's our opinion that if it's embossed on the can, you can't see it anyway, so it doesn't matter what size it is. We would support a bill, an amendment allowing that to be a shorter sentence and a smaller size, provided it was a contrasting color or symbol that we could see easily on the can.

Ten percent exemptions: it's been suggested that that be increased. I think it would be a good idea to see what happens and maybe make that allowable later.

CHAIRMAN SHER: Can your members handle crushed cans?

MS. LIPSCHUTZ: Yes.

CHAIRMAN SHER: And be able to identify, will they be able to see the contrasting color if these...

MS. LIPSCHUTZ: If it's on the top, which is what was suggested. I think everybody was in agreement. I can't speak for the Department, of course, or what came out. But people seemed to be in agreement at the labeling hearing that the

Department's suggestion of putting the labeling on the top of the can was the appropriate place to put it.

CHAIRMAN SHER: Because even if they're crushed, that will be visible.

MS. LIPSCHUTZ: Mostly, and it's also cheaper for the can manufacturers. They make lids much more easily than they make containers.

CHAIRMAN SHER: Mr. Harvey?

ASSEMBLYMAN HARVEY: I wasn't in on these so bear with me, Mr. Chairman. That also makes it so much easier, what you described, for the consumer. It seemed to me, it seemed natural for it to be on top. I wasn't in the discussion, but it helps all of them, doesn't it?

MS. LIPSCHUTZ: For it to be clear where you can look to find it. It's easy for the consumer and easy for us, yes.

CHAIRMAN SHER: Are there any other questions?

Well, thank you very much for your testimony. We'll expect you to continue to work with the Department. You made a lot of points with them today, so they ought to listen carefully to what you have to say to make this thing work.

MS. LIPSCHUTZ: I hope it works out. I really do.

CHAIRMAN SHER: Thank you.

Ms. LaFollette?

ASSEMBLYWOMAN LA FOLLETTE: (inaudible).

CHAIRMAN SHER: I see Mr. Beaver back there. He's certainly welcome to come forward. There is one witness from the Farm Bureau who has to testify at the end briefly and if Mr.

Beaver wishes to, he may. I think we sent letters to all of these interested parties inviting them if they wished to, and nobody was excluded.

ASSEMBLYWOMAN LA FOLLETTE: (inaudible).

CHAIRMAN SHER: Right, well Mr. Beaver, certainly when we finish our list of witnesses, is welcome to come forward. I see Mr. Howe is here as well from the retailers and he's certainly welcome, if he wishes, to say something but now we have Mr. Simoni, who is with the soft drink association.

MR. RALPH SIMONI: Thank you, Mr. Chairman. I'm Ralph Simoni, representing the Industry Environmental Conference this morning.

The IEC is a coalition of various industries, composed of the retailers, soft drink bottlers, beer wholesalers, brewers, and also the container manufacturers. These industries participated in the development of the AB 2020 compromise, and I'm pleased to say that we remain fully involved and committed in ensuring that this program works to the benefit of all of us.

We welcome the opportunity to update you on our perspective as to the progress towards implementing AB 2020.

Since the passage of AB 2020, the IEC has worked collectively and its individual members have worked individually with the Department to ensure that there is a timely implementation on this process. I think many of the committee comments that we have heard this morning indicate that timing is a critical matter here. And I think that the Department should be complimented for not only their timely addressing of the

important threshold issues like convenience zones and labeling but also in terms of establishing their priorities. In our opinion, they have worked very effectively towards this. The convenience zones, as was expressed by Mr. Vann and Mr. Ward, have been met. Not only can recyclers look at this but also all of the industry people, including retailers, soft drink bottlers, et cetera because it is considered to be a cooperative effort to ensure this. The labeling regulations we look forward to reviewing. We understand that they are available today and our industries do need the lead time with regard to labeling to ensure that our can orders, our various inventories, and other mechanical aspects are adequately taken care of.

Now we've gone through an interesting metamorphosis in our observation on this bill. Last year it would be fair to say that our concern was predicated on the more broad, theoretical aspects of structuring the AB 2020 compromise. During the implementation phase, we find ourselves focused on the practical considerations as to how this will work in the marketplace. We're trying to apply these theoretical aspects of the statute to the industry practices, trying to balance the marketplace with the statute.

Now several issues have come to your attention this morning raised by Mr. Ward in the Department as well as Mr. De Nio. We do have a continuing concern with regard to the date of sale or, if you prefer, the inventory clearance or rotation aspect. That is something that affects us all vitally from an industry standpoint. There are different principles

applied to different segments of the industry. For example, if I can put on my soft drink industry hat, our feeling is that many of the major brands, Pepsi, Coke, 7-Up, do have a clearance period of approximately 30 days, perhaps a little bit more, as a general rule. However, the secondary brands do have a much longer period of time, perhaps 45 to 60 days. In our industry, at least, we have discussed the prospect of conforming with what Mr. Bates suggested, of moving up the sale of these marked and labeled containers to perhaps August 15. I think the real problem is

Mr. De Nio's and the beer wholesalers with respect to imported products that have a very, very long pipeline life. So these things need to be addressed. We're pleased that Mr. Margolin has initiated the debate on this issue with the introduction of AB 20. In our discussions, we think we can adequately resolve this to the satisfaction of all parties. I don't think it's in anybody's best interest, nor was it the intent of all those participants last year, to suggest that products should be taken off the shelf and merely destroyed because they don't contain that label. We will find a solution to this and bring it back before you.

Also, the dealer definition needs clarification. Right now, as mentioned, the dealer definition seems to exclude certain on-premise type sales as well as vending machines. It was not our intent to exclude these from the minimum redemption value loop, and we will be clarifying that.

I just want to emphasize to the committee that the issues that I am referring to and the issues that we are dealing with are merely refinements to the AB 2020 process. They are not intended to alter its structure or in anyway deviate from those sorts of agreements that were made last year when this legislation was enacted.

I'd be pleased to answer or respond to any questions that some of you might have.

CHAIRMAN SHER: Any of you members have a question? If not, that's very helpful testimony. We're glad to hear you, too. I think we're getting a general impression that people think that we've made a good start. Certainly we've had good comments from Mr. Ward as he leaves the room, about their dedication and how they've tackled the hard problems. So we're glad to have you confirm that, Mr. Simoni.

Our next witness is Mr. Bruce DeWoolfson, President of ENVIPCO, the company that makes the reverse vending machines. Mr. DeWoolfson, welcome.

MR. BRUCE DEWOOLFSON: Thank you, Mr. Chairman, members, I appreciate the opportunity to testify at the hearing today. My testimony concerns technical or mechanical issues of financing recycling centers. In my case, reverse vending type recycling centers. Because of the Chairman's suggestion that any changes to the bill should come through the Department, I'd like to go through this testimony and leave it on the record and then coordinate these suggestions with the Department, discuss them with the Department, and see if any of them make sense to the Department to try to pursue for changes in the....

CHAIRMAN SHER: I want to clarify. I don't think, necessarily that they have to emanate from the Department. I said that it's going to be important to me, at least, if there are proposals for change made to get the Department's view and confirm that they won't in any way hinder the implementation. We ought to be moving in the direction of promoting it. But that wasn't designed to say that, and of course I know that it's impossible to say around here, that members shouldn't be free to introduce legislation with whatever sponsors there might be, but it's going to be important to me to hear the Department's testimony always on those to see whether they agree that it's a good thing to do.

MR. DEWOOLFSON: We would intend to get with the Department and discuss these points and then get back to the Committee.

We, of Environmental Products Corporation, or ENVIPCO, believe that the California Beverage Container Recycling and Litter Reduction Act under discussion here today has the potential of being the most successful beverage container recycling law in the world and of being widely copied elsewhere. We also wish to express our favorable impressions of the Department's diligent efforts toward implementing the law.

We would, at the same time however, like to identify several concerns which we feel will make implementation of the program a difficult challenge to all of us who want to see it succeed.

ENVIPCO is in the reverse vending machine business, as was mentioned, and is the only company in the world with significant experience in reverse vending of all three container types: cans, glass, and plastic beverage packages. We presently recover over one million containers per day through our machines. We think, and others tell us they believe, that reverse vending is an important part of the answer about how convenient recycling opportunities will be made available to California consumers under the new law. However, our machines have manufacturing lead times of many months, which is just a simple fact of life. As the convenience zones become identified which have no recycling center coverage, and various economic questions get answered such as the size of the processing fees and the bonus or convenience incentive payment which will be made available, ENVIPCO expects to be in a position to start making detailed plans about how it can be a part of the program. But with these answers not taking shape until the third quarter of 1987, we will not be able to be a part of the program this year.

Another concern we have is that the financial incentives provided under AB 2020 are inadequate of too short a duration to ensure the large scale establishment of new recycling centers. For example, the act recognizes that redemption bonuses might have to be retained by recycling centers to help cover costs, yet the limit for reverse vending machines is through March 31, 1989. Unless the new center is operational by October 1, 1987, in which case the Department may, on a case-by-case basis, authorize retention for a longer period. Because we finance equipment over

five years, and because we could not expect to be placing machines until well into 1988, we would need something other than the first quarter of 1989 cutoff, if we are to have an opportunity to provide certified recycling centers in California under AB 2020.

Similarly, the convenience payments are only contemplated in the law for three years and would, for the same reasons, be needed for a longer period. Additionally, we do not think that a commitment made to a recycler by the Department for financial assistance in the form of retained redemption bonuses for convenience incentive payments should be subject to automatic termination by a new competitor opening up in that convenience zone, which is currently the approach set down in the law. The new competitor may not be a responsible player and may not provide acceptable service, and secondly, the new competitor may survive only long enough to destroy the investment of the original operator, who at that point would have been deprived not only of business volume, fair enough in a competitive marketplace, but also of financial assistance which he had counted on in good faith to open his business. Under the threat of withdrawal, financial assistance, which is intended as an incentive for centers to open in less profitable areas, becomes meaningless.

In conclusion, we believe in AB 2020 and intend to help make it work. But we believe some changes may be necessary to have it work in the intended manner.

Thank you.

CHAIRMAN SHER: Thank you for your testimony. Any questions, members?

Thank you very much. We know of the hard work that you put into it, and your representatives. We appreciate that and we appreciate the spirit of your testimony, too, recognizing that there are these practical problems to get you to be an immediate player in these redemption centers. So that's helpful testimony.

Those are the listed witnesses. Mr. William DeBoer from the Farm Bureau asked for a little time at the end. Is he here?

Okay, well, that's unfortunate. Is there anyone else who would like to address the Committee? Why don't you come forward and we'll see the dimension of... Would you please identify yourself?

MR. RON KEMALIAN: Yes, good morning. I'm Ron Kemalian. I'm the Chairman of the Board of Directors for the Recycling Coalition of California.

I would just like to echo some of the feelings of some of the previous testimony. Mr. DeWoolfson, as well as Tanya's, regarding the situation that recyclers are finding themselves in.

There have been a number of questions raised this morning about how many people are waiting in line to apply for a convenience zone. I think that the question has been answered as best possible. We really don't know. There are a lot of unknown questions at this point that, in the process of developing a business plan, the recycler feels he must know before he's able to complete that plan and go ahead with the process of responding.

The Recycling Coalition represents the major commercial recyclers in California. And I can assure you that their intent is to respond to the bill, but just as the Department of Conservation has a difficult timeline to follow, also have perhaps even a more difficult timeline to follow because they need to respond based on what the Department is able to provide them in the way of information and regulations.

That's all.

CHAIRMAN SHER: When the regulations are available and the requests go out for application or bid, however it's phrased, to set up a redemption center in one or more of these zones, I assume you remember, that's the point at which they then will know the economics and whether they're prepared to do it.

MR. KEMALIAN: That's the point at which they will understand the economics and know if they're prepared to do it. They are concerned that there are only ten billion beverage containers out there.

CHAIRMAN SHER: It seems like a lot when you see it on the beach.

MR. KEMALIAN: They are concerned that the scrap value of those containers may not be sufficient to warrant the support of 2,600 locations, or 1500 locations, or whatever.

CHAIRMAN SHER: Or if it's not just the scrap value, it's also the pennies that were paid and the unredeemed ones.

MR. KEMALIAN: But those pennies and those unredeemed deposits don't affect the commercial recycler. They are a pass-through for them. They pass the penny on to the consumer,

they pass the redemption bonus on to the consumer. In fact, they are left with the actual scrap: the aluminum containers, the glass containers and the plastic containers. That is the material that they have to somehow earn enough money from in order to support their business.

CHAIRMAN SHER: I mean, that's true now, without a bill, right?

MR. KEMALIAN: That's true.

CHAIRMAN SHER: And one thing you do know, there's going to be more of it.

MR. KEMALIAN: Yes, and that's the encouraging news with AB 2020, that we believe volumes will increase.

CHAIRMAN SHER: A lot depends on the market for the stuff, isn't that right? As far as what you sell it for?

MR. KEMALIAN: There's got to be markets for it, to sell it to, yes.

CHAIRMAN SHER: But those are uncertainties that exist in your current business, aren't they? The market bounces around?

MR. KEMALIAN: Well, recyclers today are not bound to take back pet containers, they're not bound to take back glass containers. They are more than willing to take back aluminum containers because of the inherent value in that container.

CHAIRMAN SHER: So it's the expansion of your operation. That would be a mandate, that if you're going to be certified and participate you would take back all.

MR. KEMALIAN: Unless you fall under the grandfather provisions of the law, and the grandfather provision doesn't get around having a multi-material center in each of the convenience zones.

CHAIRMAN SHER: Mr. Harvey?

ASSEMBLYMAN HARVEY: Yes, Mr. Chairman, thank you. I think one of the problems, if I'm following, as far as private enterprise, is that we've mandated that you're going to have these areas, and we are also going to tell you how many have to be there. Beyond that, there could be more competing for these 10 million containers, but the problem here is that mandate that we're going to tell you how many businesses are going to be out there and how it's going to be run. That's the biggest problem you have, I assume.

MR. KEMALIAN: One of the problems. There are approximately one thousand locations in the state right now that will take back at least one of those three types of containers. And we're talking about having a minimum of however many new locations are determined. I'm not going to say it's 2600 because the overlap situation may resolve that and reduce that significantly. But when you're talking about a bill that requires at least one, there's nothing that prevents five or ten redemption centers from being located in a zone. It's expected, I think from some of the materials we've read, that there'll be a lot of new entrepreneurs that will see this as a business that they will want to get into. Our members are concerned that some of these people may be looking at this as a pie in the sky

opportunity. They may get into it. And while they fold eventually, they may drag down others who have been in the business for quite a long time. We are more than willing to work with the industries involved and more than willing to try to make this bill work and we believe that the concept itself is the concept that will work.

CHAIRMAN SHER: Okay. Well, that part's encouraging.

Mr. Beaver, for the Grocers, and Mr. Howe, as well.

MR. DON BEAVER: Good morning. I'm Don Beaver of the California Grocers Association. I guess several months ago now, we were one of the supporters for finding an alternative for the continued legislative battles and initiative battles that have taken place in California. In that spirit, our association was committed to finding the alternative that is here today. So, we as an industry are very much in support of what is taking place and our great concern is to see that it is successfully implemented and carried out on a long-term basis.

In that concern, I think the recyclers have touched upon what that concern is and, even you, Mr. Chairman, have alluded to it, a minute ago, that if this program is going to work we must have financially successful recyclers in the industry. We've always supported the recycling industry and want to continue to do so. Retailers, as a group, do not want to be recyclers. That is not their business, it's not their expertise. They want to sell products. And in that spirit we have sent out that memo. Now, if we were devious and trying to do something to hinder the program, certainly we would have been smart enough not to send it

to the Legislature. But we wanted you to know, as a committee, what those concerns were and that is that this industry is so highly competitive that if one competitor, if there are three supermarkets on a corner, and one has a recycling facility on it, the other two retailers will not send their customers over to the competitors to take their bottles, cans, and plastic for redemption. What's going to happen? There's going to be three recycling facilities on one major intersection and all three of those recyclers financially are not going to make it. That is the reason that we put out the memo to encourage retailers not to jump to put recycling facilities on their locations, on their properties, but we want to strive to find neutral properties somewhere that all retailers, all sizes in the area, that do sell beverage products could put a sign in their store and have those containers taken to one location so that that recycler could be financially successful and this program can be carried out as it was intended. And that is what the memo was for. Not to try to hinder the program, but certainly try to make it as successful as we can.

CHAIRMAN SHER: Well, Mr. Beaver, you should know that in making reference to it, I wasn't suggesting that those aren't legitimate concerns and I think we all understand those concerns. Mr. Bates was raising the question. I think it probably emanated from that memo or other suggestions and I was just trying to identify what the cause of the concern is. But there clearly are competing issues here. One is the competitive situation of the retailers that are located close together and not wanting to see

their customers disappear to a redemption center on the competitor's premises and the other is making sure of the convenience to the consumer. The case you put, for example, you've got three major supermarkets, and they don't want to compete, so they establish a redemption center a half a mile away that is convenient to none of the consumers who shop at any of those three, that's something, true, that obviously has to be a concern.

MR. BEAVER: Well, that's not our intent. We want it convenient and we support that issue. It's just the matter that if we do not make those recyclers financially successful there are not going to be any there and then the load is going to come back on our industry and that is why we're vitally concerned about that issue. We want to support the recyclers. They're in the business of recycling. They do it the best. And they know how to do it. And we want to make sure that they are successful in doing what they're doing so the program will reach its maximum redemption.

CHAIRMAN SHER: All right. We understand your commitment to it. I want to say here, in front of you and Mr. Howe, that I spoke about this measure last year, while it was being debated, that the motivating force in this coalition that brought about this new approach and the amendments to AB 2020, clearly, I think, were the retailers who were in the middle between consumers and their customers who wanted it and people further up the line who were suspicious about it. I think that your industry deserves a lot of credit for what we have here and I know that you have the commitment to make it work.

ASSEMBLYWOMAN LA FOLLETTE: I'm glad, Mr. Chairman, that you have just stated what you did and that was one of the reasons that I wanted to be sure that representatives from the California Grocers Association had a chance to appear, because whoever distributed this memo and a copy of this letter did their own emphasizing and their own underlining and I thought that some of the sentences which were not underlined were of more importance. Obviously, somebody else chose to concentrate on something different, but I think that encouraging as you are doing and saying, I encourage you to take part in all discussions at the convenience zone level. It is very important. Yes, right now is the time for everybody who has any part in this, and obviously you have the greatest part, to be involved. If your grocers aren't going to be paying attention to it, then they ultimately will be among those who suffer. The whole program will suffer. So I'm glad that you are here. I'm glad that you had the chance to speak.

ASSEMBLYWOMAN SPEIER: Mr. Chairman, thank you. This memo that has become so topical this morning is one that I would just like to have a clear understanding of, having not been part of this process before. The thrust, clearly, to me in reading this memo is to tell the members that they should hold off on moving forward in establishing recycling centers at their particular retail stores. It says over and over again that, first, the placement and location of recycling centers under the new law is detrimental to its success, that mutual sites will be designated for recycling centers, that it will be critical for

the industry to work together to develop neutral sites for equipment. Do not act too quickly. It could break down the system. It appears to me, from reading this memo, that you want to have neutral sites only, or predominantly, in the establishment of this program.

MR. BEAVER: That is absolutely correct.

ASSEMBLYWOMAN SPEIER: Now, there are reasons, very obvious ones, to suggest that having them at the retail stores in terms of making it convenient for the consumer and making it successful in terms of the recycling operation are very important and that by, somehow, encouraging members of your industry not to participate is not going to be a healthy process for all of us to attempt to reach the goal that we have intended.

MR. BEAVER: No, we're not encouraging them not to participate. We're encouraging them to let recyclers do the recycling but to do it on a neutral piece of property somewhere and not on that retailer's parking lot. Again, if you've got too many recyclers on every retailer's parking lot, financially they can't make it. And they'll tell you this. And they're not going to run a business that they financially cannot succeed in. So what are you going to have left? You're going to make the grocer, then, operate recycling centers which we do not want to do. That was never the intent, for us to do it. We want the recycling community to do the recycling because they are best equipped and know how to do it. If there is one... the industry's too competitive, as I say. Even a small independent grocer will not send his customers over to any other retailer to

redeem his containers. He will put some kind of a facility on his property. And if everybody's got one, nobody financially is going to be successful at it and then you're not going to have any recyclers out there.

ASSEMBLYWOMAN SPEIER: I appreciate that, but the thrust of your memo is to really move everyone into neutral sites and I'm suggesting that for the program to indeed be successful it has to be convenient to the consumer.

MR. BEAVER: Well, we're not saying to make it inconvenient. We're just saying take an empty lot or an empty building that's in that zone and put the recycling facility there, because the supermarket is not the only one who's going to have containers. You have drugstores, you have convenience stores, you have Mom and Pop stores, as well as supermarkets that are going to sell these containers, so we don't want to necessarily just make it convenient for someone trading just at that store and here's five other stores around here selling it and it's inconvenient for all those people.

CHAIRMAN SHER: Okay, well, I think we've kind of exposed this problem that clearly is going to be one that we're going to be hearing more about.

Mr. Harvey, you wanted to ...

ASSEMBLYMAN HARVEY: Yes, if I just briefly, on this subject, because I've read the underlined scores here that I hadn't seen previous to this and I respect everyone's opinion but I do understand exactly what you're trying to say and I think the Grocers Association in sending this made sense to me without

overemphasizing what you're trying to say, that that neutral zone is going to be good for their business, going to be good for your business. I think it's good for us that we can't mandate, hopefully we can't, maybe we'll have to, and every container go back to the retailer who sold it, but we've made the zones within a half mile to make it easier. It's easier than to say it would go back to the store at which you bought. We don't know which store they bought it at, you don't, and if we keep it within the one-half mile radius, which we've tried to do, I think it makes it very convenient for everyone and we get out of that Bible that you have there and something that's mandated down from us to private enterprise to do, I think is an area that we need to yield in. I think it's been done properly, in my opinion.

CHAIRMAN SHER: Thank you. Thank you, Mr. Beaver.

Mr. Howe, did you wish to add something?

MR. LES HOWE: Mr. Chairman, members of the Committee, I'm Les Howe, California Retailers Association. I have read the executive bulletin, too, and I must just, as a frame of reference to indicate that while we were heavily involved in this convenience issue all the way through the AB 2020 legislation, that as far as representation, to clarify that, that for the most part the large supermarket chains belong to the California Retailers Association. They have not... they've received this, but I don't know if they've responded or anything else to it.

CHAIRMAN SHER: That's known as putting distance between you and the memo?

MR. HOWE: No, I'm not saying anyone disagrees with it. I think we're probably overreacting at this point, simply because that makes some sense. But beyond all of that, this is so early in the whole process, because, as Don pointed out, there are a lot of other dealers out there who are caught up in this the same as the supermarket or other type of grocery store, everything from service stations on, and they have the same basic responsibilities, and that was the way it was designed and the Chairman helped design it very well.

CHAIRMAN SHER: Well, I think we understand it. I think we're overstating the significance of this memo. We heard from the recycler witness. There's a lot of discussion going on out there about how this law is going to work, how it impacts and what's the best way, and it's got to be expected that there's going to be discussion, whether orally or in writing, about the impacts and what's the best way to proceed, so I don't think we should overplay what's in that memo. I think we've exposed that issue and we're going to be talking about it a lot more, but we shouldn't overreact to that one piece of paper.

MR. HOWE: I might just add one point, and I know it's getting late, but it will bring about a certain amount of care on the part of dealers, but the fact is that before they're in a position to make decisions as to which way they want to go in this whole process, and of course that will be going on all of the time in both organizations, they need time to find out from recyclers what kind of locations are possible. I mean, who is going to be offering this kind, because there's every type.

You've heard of reverse vending, you've heard of mobile manned units, and all types of things that, until the dealer has some idea of what's available he's not going to make more. That's just part of the process, and one date that wasn't mentioned that the recyclers don't start becoming certified until May 20, and at that point a lot of this is going to come into focus.

CHAIRMAN SHER: Well, okay, I appreciate your testimony, Mr. Howe and Mr. Beaver. Thank you very much. Unless there are other witnesses who wish to come forward, I think that concludes the hearing. Ms. Hansen?

ASSEMBLYWOMAN BEV HANSEN: This is relatively new to me, though I followed the legislation during the time it was going through but all the testimony and all the new kinks are kind of interesting to me to listen to, but the one point I have to be reminded of is that the reason for this is to clean up litter in California, and while we get into all the technical things about the this and the that, there is a burden of responsibility on the consumer, too, and that the burden shouldn't have to fall just on a complex system of doing it. The consumers out there have to realize that they have a responsibility to make this whole thing work, too.

CHAIRMAN SHER: Well, I think that's a good point. Before we close, let me again remind you that we have a complete set of the blown-up convenience zone maps that the Department has prepared. We'll keep those in the Committee offices and if you or your staff would like to come by, members of the committee, and look to see what's going on in your area and make copies of them, that's fine. We only have the one set so we will...

No, we have the bigger maps. That's only one out of eighty of those, actually. But these are the bigger maps, and we have a complete set of these which are easier to read, so any member of the committee or your staff, if you would like to come by our offices you can try to get copies. We'll at least let you see them.

Well, thank you all very much. We made it by noon. I appreciate your attendance. I appreciate the testimony of the witnesses. The meeting is adjourned.

End of Hearing