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# Oversight Hearing on the Beverage Container Recycling and Litter Abatement Act

Assembly Committee on Natural Resources

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**CALIFORNIA LEGISLATURE**  
**ASSEMBLY COMMITTEE ON NATURAL RESOURCES**  
**ASSEMBLYMEMBER BYRON D. SHER, CHAIRPERSON**

**DEPOSITORY**

**JUL 3 1989**

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**OVERSIGHT HEARING**  
**ON**  
**THE BEVERAGE CONTAINER RECYCLING**  
**AND LITTER ABATEMENT ACT**



February 27, 1989

State Capitol, Room 444  
Sacramento, California

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**OVERSIGHT HEARING ON  
THE BEVERAGE CONTAINER RECYCLING AND LITTER ABATEMENT ACT**

February 27, 1989

**STAFF PRESENT**

**Kip Lipper, Chief Consultant  
Ann Boone, Committee Secretary**

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CHAIRMAN BYRON SHER: ...committee who is always on time. I'm going to try to set a precedent and live up to your standard, so we're going to start, and hopefully those who are listening will join us, those who have not yet arrived.

ASSEMBLYWOMAN SALLY TANNER: Which means, Mr. Chairman, I hope you'll be at my committee hearing.

CHAIRMAN SHER: Absolutely. I always am.

We had one bill scheduled to be heard today that was Assembly Bill 58. At a the request of the author, that bill was taken off calendar and will be heard later. So, today our only item of business is an important item of business, a review of the California so-called bottle bill.

Before we get to a brief introductory statement, I do want to welcome to this first hearing of the Assembly Natural Resources Committee for the 1989-90 session some new committee members. Ms. Tanner is one such member. We will also be joined, I hope, later by Mr. Calderon, Mr. Frazee, Mr. Frizzelle, and Mr. Margolin, new members of the committee not here, at least at the last session.

Well, the purpose of today's hearing is to review the status of California's two-year experiment with Assembly Bill 2020, the state's unique beverage containing recycling law. According to the first annual report of the Department of Conservation, of which you all have copies, I think Californians can at least be modestly proud and pleased with the implementation of the program. For example, if you look at the report, you will see that it states 2400 new recycling centers have been

established in California. Over \$67 million in redemption values and bonuses have been paid out to consumers, non-profit groups, and curbside recycling programs. Over \$4 million in grants and contracts have been provided toward litter abatement and recycling projects, and there has been, according to the department, a 300% increase in the awareness of the program on the part of the public.

Clearly, those successes should not go unnoticed, but those of us who were involved in the drafting of original law and who have observed the beverage container recycling program since its inception continue to hear from people who say that the program still has serious problems. For example, we are still receiving reports of inadequate, and in some cases, illegal operation of the certified recycling centers. These reports range from complaints that some recycling centers are not open the required 30 hours a week as is required by law to complaints that the so-called can-machine, two cardboard box center, which may comply with the letter of the law, does not comply with the spirit of the law.

Another complaint we heard from the certified recyclers is the need for increases in and extensions of the so-called SIPS, the convenience incentive payments. They point out that the recycling infrastructure established under the AB 2020 program is in danger of collapsing if these SIPS aren't provided.

On the other hand, other persons argue that increased and extended SIPS would continue to subsidize inefficient recycling centers, some of which we are told receive over ninety

cents per container recycled from the department.

The third point, the curbside recycling programs are becoming more prevalent. The impact of these programs on the 2020 program is, at present, unclear. Some have argued that more curbside should be encouraged, and the convenience recycling centers should be reduced. Others contend that curbside and convenience recycling should coexist and that no reductions of the latter should be permitted.

Another point, some environment groups and others have argued that an increase in the redemption value is essential to increase consumer participation and to adequately fund the program. Yet, while there seems to be some willingness on the part of beverage manufacturers to discuss the issue, many still resist any increase in the redemption values over and above those provided under the current law.

Well, these and other issues will be discussed today and will be before us in the coming session. Without regard to how these issues ultimately are addressed, we do know that last year there was a free for all of sorts over legislation affecting the AB 2020 program, particularly toward the end of the session in August when we were dealing with a number of bills. It seemed that each individual group or lobbyist had a bill designed to fix the problem which that party was interested in. Unfortunately, as the saying goes, one person's meat is another's poison and sometimes those bills would fix the problem of the sponsor but to the detriment of other interests involved with the program. The individual bills invariably provoke responses from those who were

adversely affected who, in turn, introduced or amended their own bills to deal with their problems.

In my view, it's both a waste of the Legislature's resources and it's counterproductive to the program to tamper with the law on a piece-meal basis. Therefore, I want to request our witnesses today to speak succinctly and very specifically as to what legislative changes, if any, they think should be made in the program. After the hearing, I'm going to ask our committee staff to review the testimony and to try to develop a single omnibus bill that includes all of the changes we think need to be made in the law. We will provide this omnibus bill to committee members and to other interested parties with the goal of developing a committee bill, hopefully, that other members of the committee will wish to coauthor, and it's my hope that in this way we can exercise greater discipline over this complicated subject area and that we won't be faced with a rash of bills that sometimes create more problems in other areas than the specific problem that they are designed to solve.

So, that's my wish. It may be pie in the sky, but we're going to try it, anyway, and I hope that in that spirit our witnesses will be very specific today in telling us what changes, at least in general outline, they -- well, I guess that's kind of inconsistent -- I hope they'll be very specific in telling us what changes they think need to be made in the program, and we're going to start with the department, Mr. Randy Ward, Director of the Department of Conservation, and we'll ask Peter Wood, the chairman of the Beverage Container Recycling Committee to come forward and

to tell us from the Administration and the department's point of view how the program's going.

Mr. Ward, welcome.

MR. RANDY WARD: Thank you, Mr. Chairman. I have with me, as well, Mr. Ralph Chandler, who is the division chief from the Division of Recycling within the Department of Conservation.

As your staff asked last week, they thought it might be helpful for the benefit of some of the new members of the committee, that I do a brief overview of AB 2020. What I'll attempt to do is keep that very brief in the interest of committee time. I know you have a lengthy schedule today, and then also indicate to the committee members that would like specific elements elaborated on that we'd be happy to sit down with them at their convenience and talk about these issues further.

AB 2020 was literally in conference committee for over five months, and a variety of issues that were under debate, I think, the most important issue that was under debate was the convenience zone concept that was initiated by AB 2020, and as you heard the chairman talk about briefly, the CIP, which is the convenience incentive payment, which is a mechanism that subsidizes to a great extent the convenience zones that were established by AB 2020 continues to be a major issue.

On October 1, 1987, about seventeen months ago, the program was in effect as far as the consumers were concerned. At that point, we had a convenience zone established within an half mile of every major supermarket in the State of California. We determined that there were approximately 2700 of these zones

statewide, but due to overlapping within the zones, a minimum number of 1700 was necessary to meet the mandate of AB 2020.

If these centers were not established by January 1 of last year, then the dealers within the area, and this includes the supermarket as well as all dealers of soft drinks and malt beverages, were required to pay a hundred dollar a day fine until such convenience within that area was established.

The law set forth a one-cent minimum redemption value on carbonated soft drinks, mineral water, beer, and malt beverage containers labeled with "California redemption value." Currently glass, plastic, aluminum, and non-aluminum metal are subject to the mandate contained within the law. Beginning on September 1, 1987, the minimum redemption value was paid by the beverage distributor on every container sold or transferred for sale in California and deposited in the state's recycling fund. The Department of Conservation is charged with the administration of that fund and the program that required recyclers and processors to be reimbursed those moneys that they have paid out to the consuming public.

The law further requires that after redemption is paid to the consumer that we at the department of conservation deduct administrative costs and the remaining moneys in the fund be awarded grants and contracts to local conservation corps, which is about 10%, or specifically mandated at 10%, private nonprofit groups for public education and information, and that's 10%, convenience incentive payments at 20% and the bonus account in the recycling fund.

In order to assure that there is a reasonable return for processors of this material who are required to recycle these four container types, a processing fee was set by the Department of Conservation for each container type when it costs more to recycle than its scrap value, and this was probably one of the major revolutionary characteristics of AB 2020. Essentially, the theory here is if the container did not have enough scrap value to make the economically recyclable that the department would go through a process and determine how much its cost to recycle that container and would assess the distributor or, excuse me, the manufacturer of that container what is called a processing fee, and that would be paid on a per-container basis.

The option that the manufacturers had to avoid that processing fee was to raise their scrap value, which they ultimately selected to do. The difference being that they're paying the amount simply on those containers that are being recycled, as opposed to every container that they sell in California. What that meant was that the fees of six-tenths of a cent for glass, about four cents for plastic and four cents for non-aluminum metal were established. Aluminum already had a sufficient scrap value to enable it to be economically recycled in California.

The ultimate program goal is an 80% recycling rate for each container type. If a 65% redemption rate is not obtained by December 31, 1989 for specific container types, the minimum redemption value to the consuming public will increase to two cents, and if it is not reached by December 31, 1992, then that

amount will go to three cents.

The committee posed a number of questions to the department, and now, unless there are any specific questions, we do have some charts, and the orange folders that have been passed out show the flow of the money from the distributors to the Department of Conservation and back out to the processors and the recyclers.

CHAIRMAN SHER: Since we have this in front of us, each member, maybe the chart can be turned so the audience can see. Would that be possible?

MR. WARD: The first chart that you have included is simply a flow chart of the funding of the program as set forth by AB 2020, and I recognize it's complicated, but the beverage manufacturer...

CHAIRMAN SHER: By the very nature of the material being recycled, it's effectively a closed-loop system. You can start at the lower right and see the container manufacturer who essentially produces those containers, moving into the beverage manufacturer strain who fills those containers, on into the distribution system, through the retailers, ultimately the consumer, who hopefully recycles those containers moving them on to a processor who in turn sells that raw material back to a container manufacturer and thus the recycling loop is completed. That's on the material side.

If you want to look at the funding side, then I ask you to look at the one cent figure and start at the distributor level that pays the one cent into the Department of Conservation. We

thereby pay pennies out to the processors who present bills to the department for materials that have been returned through the recycling network. That penny, of course, is paid on to consumers who choose to recycle. So, essentially, you have two flow patterns going here, one on the materials side, which is represented by the circle and arrow with the can, and one on the funding side. but there isn't a start or a stop, because you essentially have a closed-loop recycling on the material side.

MR. WARD: The next chart is the convenience zone break-down, and it indicates those active, deleted and exempt convenience zones, and again, these are zones that are within one-half mile of every major supermarket in the State of California.

CHAIRMAN SHER: Which would total, if you required it, at every supermarket there would be 27,045 of them?

MR. RALPH CHANDLER: That's correct.

CHAIRMAN SHER: And some were deleted and some were exempted, is that correct? So there are now 23,055 active?

MR. CHANDLER: That's correct.

The department has the ability to exempt zones based on applications or initiatives from local communities on behalf of curbside programs or nonprofit programs. That's what the 96 exemptions, the statute allows for 10% of the 2700, so we have essentially authorized less than 5% of the total number of exemptions available to us. In addition, we're required to use the Progressive Grocer's Guide that earmarks supermarkets with a gross sales of \$2 million annually, in some cases stores closed

gross sales figures changed, and that represents the 294 deleted zones that no longer met that criteria.

I think it's important to keep the distinction between the number of zones and the number of recycling centers, and that's what the second chart attempts to do, where you can see, in the spring of 1988 we reached our peak with nearly 2500 certified recycling centers, both in and outside of zones. That's leveled off now to just over 2,000, and the figures on the bottom of the page show which are represented as certified centers located both inside and outside zones.

ASSEMBLYWOMAN TANNER: Mr. Chairman.

CHAIRMAN SHER: Yes, Mrs. Tanner.

ASSEMBLYWOMAN TANNER: I really don't know much about this. I'd like to ask several questions.

CHAIRMAN SHER: Well, you should. Feel free.

ASSEMBLYWOMAN TANNER: What is an exempt convenience zone?

MR. CHANDLER: Well, as I just indicated, the city or county can petition the Department of Conservation to exempt a zone from the requirement of having a certified recycling center in that zone on behalf of a curbside program or...

ASSEMBLYWOMAN TANNER: Whoa. I don't understand.

CHAIRMAN SHER: Well, let me give you an example. The law provides that you must have one of these convenience...

ASSEMBLYWOMAN TANNER: What is a zone?

CHAIRMAN SHER: A zone is a half mile area radius drawn around a supermarket that does a volume of business of \$2 million

or more, and the law required there had to be one of these inside that geographic area. It also provided that the department, for good and sufficient reasons, could exempt up to 10% of the total, so if the total number of convenience zones under that formula would have been 2700, they could have exempted 270.

ASSEMBLYWOMAN TANNER: Under certain conditions?

CHAIRMAN SHER: Under certain conditions.

I'll give you a good example in my own city. Palo Alto has, and has for a long time, had a curbside recycling program, and as a result, the city picks up these containers, and applied for an exemption except for two supermarkets, so they applied for different locations, so there are only two in the city instead of one at each supermarket. People could still take their containers to those two but not within a half mile of each geographic area, and there has been some dispute about whether the department ought to be able to exempt more as curbside becomes more prevalent around the state. That was one of the things I mentioned in my opening remarks. There's a difference of opinion about that. That's one thing I'm sure we'll be hearing more about, and we'll probably see something in some bills having to do with that, but as I understand it, the department has not yet used up the full 10% percent that's already allowed in the law, is that correct?

MR. CHANDLER: That's right.

CHAIRMAN SHER: So, there still is the possibility under the existing law to grant more exemptions than have presently been granted.

ASSEMBLYWOMAN TANNER: And that's only in case there is

a way to -- for the consumer to get...

CHAIRMAN SHER: That's right, and the department said that they have to make that determination, whatever's done on an application bases. In order to get rid of it, you just can't do it. You've got to apply to the department, and the department has to grant the exemption if there are good reasons, in their view, to do it.

ASSEMBLYWOMAN TANNER: Has it been working. I mean, you really have granted those exemptions for good reason?

I have never worked with your department, but I have worked with others.

MR. CHANDLER: Well, a public hearing process is involved, to present both sides of the matter, and they give the best arguments they have for why an exemption would or would not be warranted, but it has proven...

ASSEMBLYWOMAN TANNER: So, it isn't an arbitrary thing at all?

MR. CHANDLER: Oh, no.

ASSEMBLYWOMAN TANNER: Okay.

MR. WARD: Let me continue on. I think, to give a fairly vivid example of what the processing fee established by the Legislature meant to the scrap values for glass and plastic. Glass went from an average scrap value in the state from approximately \$66 a ton to almost \$94 a ton. Plastic went from about \$143 a ton to \$719 a ton.

CHAIRMAN SHER: This is on page four of your charts. It's graphically represented, and that's, I think, Mr. Ward, as

you pointed out, the people who manufacture those materials established the market for it, and had an interest in setting those high in order not to come under this processing fee which you described, so they were buying the material back, for those that were recycled, at these much higher values that they had before the law was in effect.

MR. WARD: That's correct, Mr. Chairman, and interestingly enough, what this did is it required the industry to produce the container to make sure that there was some responsibility being assumed for the recycling of that container, which is extremely innovative and the only place to occur is in California.

CHAIRMAN SHER: Does the law prevent, of the recycled plastic, for example, from being then taken to a landfill?

MR. WARD: It does not prevent it, but there are certainly very strong safeguards. I believe it's three times the tipping fee is the penalty for putting it in a landfill.

CHAIRMAN SHER: So a disincentive, and by the same token, there are incentives to promote true recycling of these materials.

MR. WARD: Exactly, in fact I think you'll be hearing from representatives of the plastic recycling corporation, but that corporation didn't exist until subsequent to the passage of this act and is working diligently on markets for that material type.

To date, more than \$68 million in redemption value and bonuses have been paid to consumers, curbside programs, and

nonprofit charitable groups who recycle. This over and above anything that they would have got on scrap value and over and above what they would have got prior to the existence of the program.

ASSEMBLYMAN CHARLES CALDERON: What fund is this in?

MR. WARD: It's the beverage container recycling fund, which essentially receives all its moneys paid in by every distributor, from alcohol, excuse me, malt beverages and soft drinks in these three container types. They pay a penny for every container they distribute, and it's paid at the distributor level.

CHAIRMAN SHER: No, that's fine. Do you have more? No, no, just break in.

MR. WARD: Assemblyman Calderon, there is a lot of poetry to this, and I don't think anybody was a materials economist when we put it together, so there was a lot of participation, so certainly, any questions you have, we'll try to answer.

Seven point six million dollars has been paid out in grants and contracts directed toward litter abatement and recycling projects throughout the state. Of the \$7.6, \$5.8 million has been awarded to grants to community conservation corps in San Francisco, Los Angeles, Sacramento, San Jose, and the East Bay for establishment, expansion, and promotion of local curbside programs and the placement of recycling bins in public recreational facilities such as parks, beaches, and marinas. One point eight million has been awarded in contracts to nonprofit organizations. These funds help facilitate the expansion of the

bar, restaurant, office, and recreational area collection programs. Another \$2.5 million in contracts has been awarded to statewide nonprofit private groups for statewide public education, information, promotional projects, development and implementation of recycling curricula in schools as well as recycling incentives offered through local government and environmental groups and at retail points of purchase have also received funding.

An additional \$3.3 million in contracts has been awarded by the state for statewide public education and information, and as the chairman indicated, I think the awareness that we have a recycling program has been indicated by polls that we've taken indicating that there is approximately a 300% increase in the general public's awareness that we do have a program in this state.

Curbside programs, in which there is significant interest, have benefited extremely well from the act, and are experiencing higher revenues and also moderate increases in volumes.

The redemption rates eight months after the program began, this is by June 1, 1988, aluminum surpassed the 65% redemption rate set by law.

CHAIRMAN SHER: This is the last chart in your packet.  
Assemblyman Bates?

ASSEMBLYMAN TOM BATES: On the curbside, what are the incentives for cities to go to curbside? Other than they wanted (inaudible) what are the major reasons for curbside?

MR. WARD: There's a variety of reasons. I think

specifically, with regard to this program, you now have a value that is far higher than it had been previously associated with these types of materials, so to the extent that this can affect the economics of a curbside program, it certainly would be an incentive to the establishment of a curbside program.

CHAIRMAN SHER: I've just been reminded by the Sergeant that this hearing's being recorded, so it would be helpful if you'll turn on you microphone when you have a question or a comment.

ASSEMBLYMAN BATES: So the curbside, if it's operated and people are participating, you can actually cover your costs plus maybe making some financial incentives?

MR. WARD: I think it varies, and it's a lot more complicated than just this program, and the contents of the waste stream vary by geography throughout the state, by the economic or demographic characteristics in a specific area, so I don't think that there's any general rule here, but I think, as the chairman indicated, the City of Palo Alto, and I'm not sure to what extent the city residents subsidize that program, but I think it is fair to say that it is made more economic by the advent of this program.

CHAIRMAN SHER: In the early days, the program was heavily subsidized by the city. AB 2020, with the redemption values that the city can collect for the containers they pick up, has helped carry the subsidy, and I think it's probably at least at a break-even point now.

ASSEMBLYMAN BATES: Well, it seems like -- I don't know,

it would seem to me that the extent to which people are used to separating it at the source and doing curbside programs, that we're all better off than carrying them to little machines a mile away or a quarter of a mile away.

CHAIRMAN SHER: You want to put that question to Californians Against Waste, because I don't think they necessarily entirely agree with you. We need both programs because consumers come in different categories.

MR. WARD: I think that certainly you're not alone in that reaction, Assemblyman Bates, however, we had some surveys, and we've tried to learn as much about the clientele that's interested in recycling as possible, and there are a variety of people that are interested in just simply seeing it collected through a curbside program where the benefits defray the cost of refuse collection and landfill, and maybe, if they're making some money can go into an environmental program or parks, something like that, however, there are many segments of the California community that would like to be able to take those containers back and receive value for it, and certainly, we've see, historically, that many charitable groups, nonprofit organizations, have derived a high amount of their livelihood by virtue of their recycling activities that are extremely sophisticated and very well organized.

CHAIRMAN SHER: Mr. Frizzelle.

ASSEMBLYMAN NOLAN FRIZZELLE: One of the problems is for those things to be separated at the curbside, and when you separate those things out, and you have an identifiably

potentially hazardous substance, other people, then, have to carry special licenses for picking up those substances occur and increased costs, and so it became a big hassle, just because the people who now pick up the trash, sometimes with things buried in it...

CHAIRMAN SHER: They don't know, so nobody knows it's a problem, huh? But when you start separating, then it becomes apparent that some of the waste is hazardous waste?

ASSEMBLYMAN FRIZZELLE: Right, so you end up, because of things that are already involved, costing more when you do separate, and I don't know how we can handle that, that cost factor.

CHAIRMAN SHER: Well, you know, the purpose of the bottle bill, AB 2020, the separation of these beverage containers or glass containers generally because they count toward the percentage of glass being recycled, so you know, cans of paint, those don't get separated under a curbside program where the city is the certified recycler.

That's a problem in any event. There's been a lot of legislation around here trying to deal with that (inaudible) will tell you what is hazardous waste and how to deal with it. It's a problem whether you separate it or not.

ASSEMBLYMAN BURT MARGOLIN: A bit more comment, Mr. Chairman, on the point that has been raised.

I really don't think that Californians Against Waste would disagree with Mr. Bates, or that I would disagree with Mr. Bates, that curbside can work, and in the communities where it can

be supported is a very good system and a very good way to go, and certainly preferable where it can work to having to make a special trip to have your containers returned, but the reality, and I think Mr. Ward alluded to this, is that in large areas of the state, the potential for curbside is limited, and you're going to have either organized charities of individuals who, while they're going to the supermarket, will find it convenient and profitable to make use of a buy-back system, and again, the key to the success of this program or any program in the recycling field that has the objectives of this type of program, is to provide consumers with options and choices and to have an integration of the buy-back opportunity with the more convenient curbside opportunity.

So, I wanted to make that clear, that we intended when this bill was first negotiated, we intended for this program to strengthen the curbside effort statewide, and I think you'll see from the documents the department's put forward that it's succeeded in that objective. We have a stronger statewide curbside effort because of the existence of this program, but if we're going to really reach the ultimate target of 80% or more in return rates that we have for beverage containers in the state, we have to do far more than curbside. We have to have an integrated system.

A question for Mr. Ward on enforcement of the law. We talked about this at our last oversight hearing, and it continues to be a concern of mine. You list here in the documents you provided to the committee some 2,000 certified recycling centers

established statewide, at least established on paper statewide, and while many of those centers operate very well and do an efficient and competent job of serving the consumers, we're still running across, and I'm having this experience in Los Angeles, every time I go out to check on recycling centers, we're still having the experience of recycling centers that claim to be in operation during certain hours not actually being in operation during the hours they posted. We have centers that claim to take back all three container types but, as a practical matter, only take back one or two container types. We have groceries that post signs, as the law requires, indicating for consumers where their nearest recycling center is located, but the sign may omit the address and in fact not have useful information on it at all.

I just went to a major new supermarket about a half block from my district office three or four days ago. It's a rebuilt neighborhood supermarket that took the place of an earlier location that had a very good certified recycling center operating. I went to the new location three or four days ago and saw there was not a recycling center in existence. I went to the service manager and asked him where the nearest center was, and he said, "Well, because of the nature of our new location, it wasn't convenient for us to set up a center," and he really had no idea where the nearest center was. This was like an eighteen checkstand major supermarket which, for that neighborhood, was providing the major recycling opportunity, no longer in business and not providing appropriate information.

So, again, in my experience, and I think in the

experience of many others involved in this program, there's a major question here of whether or not consumers are being conveniently serviced. I'd like you to give us some sense of what the department's strategy is for improving that situation.

MR. WARD: Well, I don't think that we would argue with you, Assemblyman Margolin. As we indicated to you last spring, we have auditors that are on a cycle that are out attempting to make sure that the mandates in the law are being carried out, and certainly there are going to be occasions where you have grocery stores going out of business, new grocery stores going into business, not having contracts with a recycler to provide that service at the store. We continue to have the...

ASSEMBLYMAN FRIZZELLE: It's the same market rebuilt by the same owners.

MR. WARD: Okay. Well, we continue to have a toll-free number that is supposed to be posted at every dealer throughout the state, it's an 800 number, so if a consumer has got a problem they can call us. We keep a statistical record of all those complaints. It helps guide our audit system and enable us to get the biggest bang for the dollar in terms of the use of those resources.

I will indicate a couple of things. We have completed over 4,000 recycler and 3,000 dealer inspections throughout the state. Recycler violations are at a 30% rate, and dealer violations are at a 45% rate. They are ticketed.

We now have a fairly efficient process, as such as you would receive a traffic ticket if you are disobeying the speed

limit. It's a \$100 fine. In some cases, it may be economically beneficial for the retailer involved, recognizing that we can't be there every day of the week, every hour of the day, to go ahead and take his chances with receiving a fine.

CHAIRMAN SHER: How much was -- excuse me for interrupting, but how much actually paid in 1988 in fines?

MR. WARD: Total fines and violations have resulted in \$144,000 being assessed against the industry. Dollar amount collected to date for violations is \$80,000, and this does not include audit cases or fraud cases involving processors.

CHAIRMAN SHER: So that's since September 1987? That's the figure?

MR. WARD: That's correct.

CHAIRMAN SHER: Now, I notice...

MR. WARD: Let me answer one last question.

I think that we're at a point now where we think, among other ideas for legislation to assist us here, and certainly the most glaring, is an increase in the fine. As I indicated, it may be economic...

CHAIRMAN SHER: So that's your first recommendation?

MR. WARD: That would be the first recommendation, yes, and that's an answer...

ASSEMBLYMAN MARGOLIN: Your proposal in your report is for \$1,000, is that not correct?

MR. WARD: That's correct, a thousand dollars per violation.

ASSEMBLYMAN MARGOLIN: Per violation?

MR. WARD: Right now, it's a hundred dollars per day, and there is an obvious distinction there.

ASSEMBLYMAN MARGOLIN: So the distinction would be that you can go into a location and find five violations on that same day and make that a \$5,000 fine.

I'm assuming from the fact that you've made this recommendation and the fact that you've cited those figures of 30% and 45% noncompliance, which seem to me very high, that you consider the level of noncompliance unacceptable?

MR. WARD: It's unacceptable. It happens for a variety of reasons, and I think the clear indication to us is that the pain has to be more painful than it currently is.

ASSEMBLYMAN MARGOLIN: Okay. Thank you.

CHAIRMAN SHER: Well, I was going to come to that point.

I notice in the Legislative Analyst's review of this program there was a page of text on it that the department is proposing additional resources for enforcement and audit staffs.

Now, the enforcement that she talks about in the Legislative Analyst's report is enforcement of the violations because out-of-state containers are coming in and being redeemed when they didn't pay into the fund, so that's one kind of problem that you have.

Will this proposed additional enforcement work on the kind of...

MR. WARD: It serves both areas that those staff are being devoted to, and...

CHAIRMAN SHER: And, of course, the more fines that are

collected, the more that can be devoted to enforcement, right? So you do have and plan to continue an aggressive enforcement program?

MR. WARD: It's been one of our highest priorities, I assure you, Mr. Chairman.

ASSEMBLYWOMAN MARIAN W. LA FOLLETTE: Mr. Chairman.

CHAIRMAN SHER: Ms. La Follette?

ASSEMBLYWOMAN LA FOLLETTE: Yes, while we're talking about enforcement, obviously there is some reason that there are some problems out there that industry is having in compliance, or else they're just dragging their feet, but it's my understanding, too, that the department has failed to certify the mobile recycling units as recycling centers, is that true?

MR. WARD: Well, that's a bit of a different issue, and it's one of the questions...

ASSEMBLYWOMAN LA FOLLETTE: It's a different issue, except that it all ties together.

From some of the information that I have received, some of the recycling centers, the reverse vending, they're accepting what, only aluminum, and not accepting the plastics and the glass. This may be not an enforcement issue, but that may be letting us know that we need something else to make the program complete, and that's why I'm wondering about this certification of...

CHAIRMAN SHER: For the benefit of all the members of the committee, the mobile activity, it's truly that. It's a vehicle that goes around a community at announced times and at announced locations to pick up and redeem these containers.

Now, there's been a question, and Mr. Ward, is it your view that the department does not have the power to certify such a mobile redemption center?

MR. WARD: That's correct. They accept for specific criteria those centers to be certified. They have to be open certain days of the week, a minimum of thirty hours, and at least one weekend day, I believe.

CHAIRMAN SHER: Well, if that's an issue, then we have a policy question facing us. If that's true, and I know there's a disagreement about that among the people who operate these, but let's assume that's right. Do you have a recommendation about whether the law should be amended specifically to permit this? What effect would it have on the general certification?

MR. WARD: We're not necessarily averse to some kind of change in the law that would allow a mobile recycling center to operate. For example, in a rural area that can't sustain a full time recycling center that would operate under the terms and conditions of the law, I think a mobile center is a thing that makes economic sense and also satisfy the Legislature.

CHAIRMAN SHER: But you feel you don't have the authority to certify?

MR. WARD: No.

CHAIRMAN SHER: So clearly, in that case, you think the law should be changed?

MR. WARD: And I think the question here is that if you have a mobile center, that does not have the capital investment that a convenience zone recycler does, and he is able to operate

throughout a territory that may be served by convenience zone recyclers, then you have potentially some real combat between two industry groups on this whole issue, and I don't necessarily have any answers to that problem.

We've been working with the interest group that you're speaking about on the issue, but frankly, if in fact we're talking about a fairly urbanized area that is substantially served by the convenience zone network mandated by the Legislature, to allow a mobile recycler to be coming into that area may result in some competition that is not necessarily consistent with the Legislature's wishes.

CHAIRMAN SHER: That's fine.

ASSEMBLYWOMAN LA FOLLETTE: I do have a copy of a legislative opinion from -- it was addressed to Mr. Hauser, who asked if the Department of Conservation was authorized to certify mobile recycling units, and that opinion is yes, the Department of Conservation is authorized to -- have you seen this opinion?

MR. WARD: I have, and yes, we do certify mobile units, but we still hold them to the same requirements as other certified centers, so...

CHAIRMAN SHER: They have to have an actual location...

MR. WARD: So, a trailer or a van that comes into an area, mobile as it may be, serves that certified convenience zone for its thirty hour requirement at that location, is a mobile unit that is being certified, and the department has certified mobile units.

CHAIRMAN SHER: They don't spend up to thirty hours at

all the locations that they touch, so that's the department's position.

ASSEMBLYWOMAN LA FOLLETTE: So this is something that is a policy question that this committee should become involved in and decide?

CHAIRMAN SHER: We are involved in that. I think a lot of us received the same information that you did, Ms. La Follette, and I'm sure that's one of the issues that we're going to be looking at, and the question is that if we do clarify in the law that you don't have to be thirty hours at a particular location, then you do get into this secondary policy question about if you permit the department to certify them in areas where they're competing with fixed locations, you know, they're competing for the same volume of materials, and you get into the question of whether it's economic for the one at the fixed location to stay there, so those are hard issues that we will undoubtedly look at.

ASSEMBLYWOMAN LA FOLLETTE: Maybe some will be more zealous, then, at really performing the job that (inaudible), which is getting all this material into a position to be recycled.

CHAIRMAN SHER: Right, they'll be zealous, but then the ones who aren't making it are going to be looking for these convenience incentive payments, which are a drain on the fund and which take away from the bonus payments that can be paid directly to the consumer to entice the materials back, so all of these things are kind of intertwined, and it's -- there are not real simple answers, but it is an issue that's been raised, and it's going to have to be dealt with.

Mr. Calderon?

ASSEMBLYMAN CALDERON: Well, I was going to raise -- first of all I was going to try to distinguish in my mind the difference between mobile recycling operations and just curbside. I guess, through the conversations, curbside is where the ...

MR. CHANDLER: The material is donated, generally at the residence. Mobile units, typically, go around a community...

ASSEMBLYMAN CALDERON: And those units in some cases have been exempted simply because they had programs...

MR. CHANDLER: It's usually a city, and they go to every household, and the mobile goes to announced locations in a particular community on a pre-published schedule where people can bring their -- in for redemption. They're not donated, as in the curbside.

ASSEMBLYMAN CALDERON: Oh, so in those areas where there is an exemption, there is still a payback to the consumer who participates in the program?

MR. CHANDLER: No, that option is there, and the curbside, such as in my city, the people who put it out on the curbside don't get anything back. The city picks it up, the city is a certified recycler, and they collect the -- the city does subsidize the program. People who don't want to put it out on the curbside can take their materials to the remaining convenience zones in the city and get money for them.

ASSEMBLYMAN CALDERON: I see. So, then, in those areas where there is an established program, then there is the money incentive?

Now, these mobile recycling operations, they'll go just, what, from -- pick an area, go from block to block, how do they generally work?

MR. CHANDLER: Well, I think your agenda and your panel members that will be before you late in the afternoon could probably speak to you more specifically about the exact locations and how that works, but as I understand, most of the mobile programs that are being put through the department for certification go throughout a community, designate maybe five or ten minutes at certain street corners where they will offer redemption value and buy back all three container types, glass, plastic, and aluminum, and wish in order to receive reimbursement of the redemption value through the state fund, to be certified, and it's really a locational issue. Are we going to require them to hold the same standards that we hold other certified recyclers to, that being that they be there thirty hours a week?

ASSEMBLYMAN CALDERON: So, in other words, you don't pay anything less to the consumer? They get the same amount of money?

MR. CHANDLER: No, it's just another opportunity.

ASSEMBLYMAN CALDERON: Now, do you find yourself already strapped from an enforcement level with respect to those permanent sites, that it's much more difficult for you to then extend enforcement procedures to these mobile redemption?

MR. CHANDLER: That is one of the considerations, to (inaudible) redemption value and enforce the standards, you'd have to essentially be there at that twenty minute time period throughout the city each day of the week that they are doing the

route.

ASSEMBLYMAN CALDERON: So that, maybe, figures into your opinion that, maybe, only in rural areas is it worthwhile examining, or maybe providing for, these mobile recycling operations, but not necessarily in urban areas because of the enforcement problem?

MR. CHANDLER: Well, enforcement's secondary to whether or not it just undermines the whole convenience zone network.

ASSEMBLYMAN CALDERON: So competition between centers is not good?

CHAIRMAN SHER: Well, but they're operating on different basis. We're going to hear more about this from the operator of one of these mobile centers, coming up, one of our listed witnesses.

Ms. Waters?

ASSEMBLYWOMAN MAXINE WATERS: I just wanted to ask is there anything in law that prohibits anybody who wants to go around and pick this up from curbside or anyplace else? There's nothing to (inaudible) about is there?

MR. CHANDLER: No, but people want to get the pennies out of the central fund from the department, to be in the program and get the payments from a state agency, have to be a certified recycler. There are people in some of these curbside cities, late at night or early in the morning, going around and picking up these materials and then taking them in and selling them, so that goes on anyway, but that's not the...

UNIDENTIFIED SPEAKER: They're called the homeless.

ASSEMBLYWOMAN WATERS: You call them a junkman, remember?

MR. CHANDLER: But a business doing this wants to be a certified recycler so they can draw money out of the fund and pay it back.

CHAIRMAN SHER: The kids can go door to door, the Boy Scouts?

CHAIRMAN SHER: Absolutely, and they can turn it in to the certified recyclers and earn money that way.

All right, Mr. Ward, do you have any other specific suggestions for changes in the law besides the one you've given us so far?

MR. WARD: Well, just real quickly indicate the percentages. As I indicated, aluminum surpassed the 65% redemption rate, achieved 67%. Glass achieved a 48% recycling rate, and plastic, 4% during that time period. The overall recycling rate is approximately 53%, and our -- I think the generally agreed amount prior to that was about 40%, so overall recycling for beverage containers has gone up from 40% to about 53%.

We're also looking into an issue which we don't have a specific proposal for legislation right now, but we believe certain containers are escaping the process that aren't being counted in the total percent, and so we're looking at various mechanisms that can capture at least those amounts that are going through possibly uncertified centers, and somehow being recycled and not counted in the total.

Obviously, the ones we count, the numbers we get are from those that are certified, SB 1730 that passed this year, that required everyone who was getting benefit from this program be certified certainly went a long way to correcting that problem, but as I indicated, over the first 12 months of the year, certainly substantial amounts potentially have not been counted in the overall system.

CHAIRMAN SHER: Well, you sound like things are improving and the program is in good shape, so are you going to give us some other recommendations, or is this the year where you think we can leave the law alone, except for the one recommendation?

MR. WARD: Well, you asked a number of questions, Mr. Chairman, in your letter. Do you want me to go over those very quickly?

CHAIRMAN SHER: What I want you to do is tell me whether you think the law needs to be changed in any respect. I want you to also comment on the suggestion that some have made that the redemption amount is inadequate to run the program and provide the incentive payments and the bonuses that would really put the program over the top. Do you have a view on that?

MR. WARD: I think the old question on the issue you're raising is to what extent the Legislature wants convenience and to what extent the Legislature wants to pay for convenience.

Convenience, as we currently have it, with a 10% exemption rate is probably not doable after October of this year given the current amount of money that we're collecting and the

current amount of subsidy required to make the system, as we currently know it, continue to operate.

UNIDENTIFIED SPEAKER: What does that mean?

CHAIRMAN SHER: Let's explain that. What you're saying is that it takes money to provide convenience. One of these...

MR. WARD: There are two mechanisms that the Legislature provided for in AB 2020 that we've spoken about. We have the bonus account, which is an amount of money that goes to all certified recyclers for containers that they are taking in that are California containers.

There is also what is called the convenience incentive payment, which was designed by the Legislature as well to make it economic for a recycler to locate in one of these convenience zones. In other words, what we did is we added over 1,000 recyclers to the current mix of recyclers in California at locations within a half mile of every grocery store. In some cases, some of these centers are more economic than others. The convenience incentive payment was designed to assist their capital requirements and all those kinds of things, their operating requirements, to make them whole. It's obviously been a fairly serious issue because it's a subsidy, essentially, that we're providing these recyclers.

CHAIRMAN SHER: In blunt language, that's what you have to understand. Many of these convenience recycling centers are losing money. They don't take in enough volume and receive enough from the state fund to operate and pay their expenses. As a result, they rely on the so-called convenience incentive payment,

which subsidizes them so that they can at least break even, and the department's position in this statement, as I understand it, is if you want to have 2400 less of these convenience zones, all of them operating, it takes a lot of money to subsidize all of those zones.

ASSEMBLYMAN CALDERON: They compete, these subsidized...

CHAIRMAN SHER: Well, no, but they're all over the state. They might compete or they might not, but that's why the exemption...

ASSEMBLYMAN CALDERON: All recycling is not subsidized, right?

CHAIRMAN SHER: Unless they're certified, they don't get the subsidy, that's right, but even without that, let's leave out all of these others, you've got -- the law requires, presently, that you have to have one of these within a half a mile of every big grocery store with the ability to exempt up to 10% of that amount for circumstances we've talked about, and up to now we're told a lot of them are losing money and are relying on this convenience incentive payment, and you're still not paying all of them enough for them to break even, is that right, Mr. Ward, or are they all breaking even at least at this point?

MR. WARD: I don't think it's fair to characterize it as them all breaking even.

CHAIRMAN SHER: Some are losing money. We had -- some of you may remember last year, when we had all these bills introduced, there were three big companies that had made contracts with the grocery chains to run the redemption centers on their

parking lots. One of the big companies was threatening to quit in California and fold up and leave. That was a company called Twenty-twenty, the one that operates the igloos on the grocery store parking lots because they claimed they were losing too much money in California.

Mr. Ward and others have suggested that if you want to have that much convenience -- Mr. Margolin is very anxious to jump in here, and I'm going to recognize you, that you've got to have enough money in the system to pay these payments to these centers in order to permit them to operate on an economic basis.

One way to get more money into the system, and that's the question I raised with you, is to go from a penny deposit per container into the fund to two cents or more.

Mr. Margolin?

ASSEMBLYMAN MARGOLIN: Thank you, Mr. Chair, for that lead-in.

Mr. Ward, I wanted to challenge, respectfully and politely, the premise you established when you were asked to respond to the refund value increase question. You said that the issue for the Legislature is how much convenience we want and what we're prepared to pay for, and while that's one way of looking at the issue, I don't think it's the most appropriate way to look at the issue.

The ultimate objective of this program is volume of return. It's to pick up the beverage container litter, make the system work, clean up the parks and beaches, and get rid of that waste. That's the ultimate objective.

Convenience was written into the law as a means toward that objective, and when we talk about refund value increases, while I'm interested in how impacts on our convenience system and whether it makes the convenience centers more profitable or less profitable, that's certainly an important question to look at, the larger question, the main question to look at, is how will it impact on the return rates. When you talk about a 53% return rate, while I'm prepared to acknowledge that that's an improvement over the previous return rate and the program has made some difference, we still have to remember we are far below the return rates in other states that have traditional nickel bottle bills. They're in the 85 to 90% range, some more, some maybe a little bit less, but in that category, and we're still in that mid-50, lose-50 range, so when we talk about the refund value increase question, I'd like to have your response to how you think a refund value increase might impact on the ultimate return rates, and our ability to move out of the fifties and into the sixties and seventies?

MR. WARD: Interestingly enough, the polls that we've taken have indicated that, generally speaking, people don't recycle for economic reasons. They recycle for environmental reasons or reasons of social consciousness. I found that surprising, but these results have been collaborated by studies, I believe, by CAW as well as various industries. That being the case, it makes it much harder to discern what, in fact, is going to motivate an increased percentage of people in California to recycle.

ASSEMBLYMAN MARGOLIN: Well, in your judgment, Mr. Ward, in the states that have a nickel program, why is it working so much better there?

MR. WARD: I'm not really sure, and I'm not sure whether it's one cent, two cents, three cents, four cents or a nickel, Assemblyman Margolin. In fact, if it's your feeling that we should motivate the program by an increased amount of money, we have the mechanism to collect more money, and I recognize that's a sensitive policy issue, but frankly, I'm trying to indicate to you that from the sampling that we've done, there is not clear indication at what level you have raised the interest of consumers to recycle more containers and at what level that increase is reflected in some kind of economic balance both to the industry as well as to the consumer and to the program that we have here, and when I indicate convenience, certainly convenience is one motivation, and clearly it was a high priority with you for the consumers to be able to recycle, so in fact, I think it is certainly parallel with regard to the amount of money, and I regret that I can't be more specific. I don't think anyone knows the answer to that question.

ASSEMBLYMAN MARGOLIN: I understand that, Mr. Ward, and I appreciate out of the year wouldn't be doing anyone any good, and I'm obviously concerned about convenience. I do consider that an important element.

I guess what I was responding to when I heard you put the issue in terms of how much we're willing to pay for convenience, I don't want to see us continue to debate as we began

last year, which I thought was a very, in many respects, counter-productive and destructive debate, over how we subsidize or maintain existing inefficient recycling centers with that almost as an end in and of itself, keeping the recycling center going no matter how poor the operation, no matter how low the return rate, what money is required to keep that door open and to keep that sign up and to keep technical compliance with the law.

While I want to see those locations out there, and I want to see a convenient network, I want us to always keep our eye -- or try this year in the debate to keep our eye on the big picture of what kind of return are we getting and how do we get those rates up. Too much of the debate last year, in my judgment, was focused on simply keeping the door open, and while new subsidies were provided, in many of those locations where the new subsidies have been provided, the quality of service is just as mediocre as it was last year. I haven't seen any difference in many cases.

So that's my reason for focusing on that issue. Convenience is important, and you're obviously correct in indicating that it was a major concern of mine. People aren't going to make special trips to isolated locations to get back no matter whether it's a penny or a nickel. They just won't make the separate trip. You've got to make it convenient for them if we're going to get the rate up, but the financial incentive, I think, is a factor for consumers as well, and I think in the eight or nine other states that have a nickel program, they've demonstrated that when you go into that level, you do get a very strong response

from the public.

CHAIRMAN SHER: Okay. Mr. Bates.

ASSEMBLYMAN BATES: I was wondering how much the convenience center subsidy actually totals statewide.

MR. CHANDLER: Well, it's 20% of the redemption bonus account, so it's a function of the return rate.

We issue it on a six-month basis, and the last account balance for that percentage was right around the \$4 million neighborhood.

ASSEMBLYMAN BATES: It's roughly \$8 million a year annual?

MR. CHANDLER: With the 25% increase that SB 1730 brought about it will be closer to \$10 million a year annually.

CHAIRMAN SHER: That was one of the bills that passed last year, was to permit that to be increased to a 25% level.

ASSEMBLYMAN SAM FARR: Mr. Ward, I have a question that I've thought about this since our last hearing last year, and looking at the cost of trying to run a so-called convenience center, which I really don't think are convenient at all because you have to haul stuff around in order to leave it there, and you also have to leave it in a timely fashion. You can't come in the middle of the night -- have to be during the operating hours. My question is, really, based on the most convenient system we have is one that's traditionally been there, and that is once a week somebody comes by and picks up your garbage. Has there been any consideration, though about essentially building the redemption into collection system using that kind of technology or perhaps on

each garbage can have a scanner code, like we have on all the things we're throwing away, and that scanner code could be read by the garbage truck and accredited to the account of that person so that you actually have a motivation that as long as you do some sort of separation in the home, you're going to get some credit against your bill for the value of what you're separating.

MR. WARD: "Scan the Can."

That's an interesting idea. I regret to indicate we have not, to the best of my knowledge, looked at any system like that, but I would indicate, Assemblyman Farr, that we have worked and provided technical assistance as well as grant money made available through this program to a variety of curbside collections, and what we're trying to do is get smarter on the kinds of things that will incite the public to recycle, and I think, in a general statement, that the point, there are a variety of things that do that and in some cases it's a curbside program where people are not concerned by the economic incentives contained in those kinds of things they recycle.

ASSEMBLYMAN FARR: Well, that gets back to your conservation. In the community I live in, most people do that. They haul it out there. They don't get any credit for it. They just do it as a good will because they want to be conservationists. It seems to me if you knew that doing that would also effect some credit, you might get, and I imagine if you scan the can kind of idea, it'd be a costly technology to implement, but then that could be off-set by some kind of credit.

MR. WARD: I think even without some kind of a technical

mechanism, those cities and counties that are currently operating curbside programs can inform the public that they are receiving substantial benefit, positive benefits, as a result of that curbside program, and they are participating in the program as a result of value that the city or county is receiving from the sale of those commodities. So in that context, you know, they're better off, but to outline something or prescribe on the bill, that may be a little ways off.

CHAIRMAN SHER: Are you prohibited from giving grants to communities that may want to try something like this?

MR. WARD: Not at all.

CHAIRMAN SHER: I'm going to cut in on this point. Obviously, Mr. Ward, people like to talk to you. You must be a very friendly type because when I ask all these questions.

We have a number of other witnesses from different perspectives, but I want to do three things before we dismiss you. One is to call on Mr. Harvey, then Ms. La Follette. One more question, and then I want you to tell us where we've missed anything, whether you have any specific suggestions other than those you've named, that you think we ought to be reviewing this year. So you be thinking about that.

Mr. Harvey.

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

The question that I want to find out is I heard a while back, quite a while back, and it's about the advertisement, the PR part of this, has raised the level of -- percentage of people --

it wasn't a percentage -- you said about 300% more know about the recycling program than they did when you started this. Because I don't know what that -- three hundred more of what? Are we at 10% of the people know now, 30%, or 40%, or maybe enough people don't know about it yet to get to where Mr. Margolin and all of us want to go in terms of raising that percentage of how many are participating in recycling. What is 300% more of what we started with, of what you were referring to about forty-five minutes ago?

MR. WARD: The initial survey showed that shortly after the bill was passed, approximately 16% of the California public knew that there was a recycling program about to begin in this state that would allow them to return their beverage containers.

In the last study that we concluded, over 60% of the public responded that they either recycle or are aware of the redemption value.

ASSEMBLYMAN HARVEY: So, of the 60%, we've moved up to, now, of the public out of that 60% is -- all of we're working with to try to get to the 50%, so if we could get a 100% of people knowing we've got the potential, then, to come up in -- way above 60% if it all -- everything was even, if you don't make any changes, so we do have a lot of potential in terms of people being aware of the redemption centers and recycling program. A lot of people left to be aware of it in order to get the percentage up that are participating in it?

MR. WARD: That's correct, and in the interest of time, I won't elaborate on that, but I will indicate that certainly we see a long way to go in terms of advertising and promoting this

program, Assemblyman.

CHAIRMAN SHER: Ms. La Follette.

ASSEMBLYWOMAN LA FOLLETTE: Yes, thank you.

I guess in a way, Mr. Harvey was mentioning part of the thing that I've been struggling with. I guess, the last two years, we would call this an educational phase of trying to first of all acquaint everyone with the idea that we do have this redemption program, but I think, too, something is happening that is more current and Mr. Margolin and I have been working on this for some time, and that has to do with the limited landfill space and as more and more people are becoming aware of that, more and more people are being good citizens by making sure that the materials that can be recycled are being recycled, which sort of bears out the fact that -- the statement that you made, that in your research, you've found -- in your surveys you have found that more people really were being good neighbors and good Californians by participating in the program than they were concerned about the money. I will say though in my own district, I have noticed a decided lack of bottles now in some of our small parks which shows that somebody is interested in the money.

Then, my next question is, and it's a sort of a take-off from a statement you made, Mr. Margolin, do we want to create an extended more heavily subsidized so-called convenience center program or should we be looking at what the private entrepreneurs would like to be doing in this area, and in fact, are doing as a new industry is developing?

CHAIRMAN SHER: Ms. La Follette, there are private

entrepreneurs who are running these recycling centers, and they're being subsidized. Those are private companies out there.

ASSEMBLYWOMAN LA FOLLETTE: Well, actually, I'm not talking about those that are doing it in association with a requirement of the market, right?

CHAIRMAN SHER: That's right, but...

ASSEMBLYWOMAN LA FOLLETTE: ...tried to fulfill the legal requirements of this bill, and they're doing it very poorly.

CHAIRMAN SHER: Well, they're there because the grocery store wants them and needs them there because if they aren't there under the law, all the retailers in that zone have to pay a hundred dollars a day until they establish one there. That's what the law requires.

ASSEMBLYWOMAN LA FOLLETTE: I don't call that free -- really, a free enterprise.

CHAIRMAN SHER: Well, except these companies came in and made those contracts with the whole chain of -- Safeway or Alpha Beta, to operate these redemption centers that are all over the state.

ASSEMBLYWOMAN LA FOLLETTE: What about the markets that just have a box on the floor and say, "Put your bottles in here."

CHAIRMAN SHER: Well, the markets, as we know, don't want them in their store at all, but you'd have to have three boxes at a minimum, and of course, Mr. Margolin says that doesn't comply with the law either because they're supposed to have somebody there operating those at least thirty hours a week under the law, taking it back and paying -- it's not just a place where

you can leave them but where you can be paid what you're entitled to for turning them in, so you'd need an operator at these places, and the grocery stores elected to have them on their parking lots and not in the store, and the law requires that they be open at least thirty hours a week with certain constraints.

ASSEMBLYWOMAN LA FOLLETTE: Can I just make one final comment. It has been my experience, my observation, that anything that is subsidized is less effective than something that is left up to the individual creativity of the...

CHAIRMAN SHER: A lot of us would agree with that, except that these are private companies that are asking for subsidies, those private entrepreneurs.

ASSEMBLYWOMAN WATERS: Mr. Chairman, I'd like to just find out how convenient are we? You mentioned about 2400 locations. Are all of those subsidized locations? What percentage of those are subsidized?

MR. CHANDLER: Out of the 2100 certified recycling centers, we have today, approximately 1400 are receiving CIP's, any where from a dollar up to \$1100.

CHAIRMAN SHER: A dollar a month? To \$1100 a month?

ASSEMBLYWOMAN WATERS: And how is that determined, based on what?

MR. CHANDLER: It's basically determined based on their revenue and their expenses.

CHAIRMAN SHER: Their need.

ASSEMBLYWOMAN WATERS: Regardless of volume?

MR. CHANDLER: It's a function of their volume.

ASSEMBLYWOMAN WATERS: It's a function of volume.

CHAIRMAN SHER: The more they take in, the less they need the subsidy.

MR. CHANDLER: And that's our question with respect to the mobile programs. Are you going to see a reduction in their volume and thereby an increase in the CIP request when we certify, or allow certification from some of the mobile programs? Again, I think mobile programs have their place, but we wonder if that's going to have...

MR. WARD: Again, I...

MR. CHANDLER: I might mention to help clarify this just in terms of getting back to the original perspective that I think the conference committee looked at on these. This was a much involved issue with not only retailers but also all the beverage companies in the state, and I think that in short at least my sense is that this was an agreed upon subsidy that the Legislature and the beverage industry felt was necessary to insure convenience for the consuming public in the State of California.

CHAIRMAN SHER: No, no, there were about three other people, Mr. Margolin, one that had a very small question ahead of you, and so I...

ASSEMBLYMAN MARGOLIN: I had a small clarification, but I'll wait.

CHAIRMAN SHER: Take one minute, Mr. Bates, then Mr. Farr, then Mr. Margolin, then we're going to get your last remarks and then we're going to go to these other panels.

ASSEMBLYMAN BATES: In hearing these discussions and the

notion about the curbside versus being able to take the convenience zone. You say in your report that you'd like to have a balance between the two, but I'm wondering if you simply went to the place where it made sense, where you had the density of population to simply have a state law that requires people to separate, like we used to have in the old days, I remember as a kid we had two cans. We had what was wet garbage and we had...

CHAIRMAN SHER: Okay, we got the question. Would you recommend a law mandating people to separate their garbage with the recyclables, yes or no?

MR. WARD: Once we have scanners in place...

CHAIRMAN SHER: So your answer is not at this time, is that right?

Mr. Farr, what's your question?

ASSEMBLYMAN FARR: My question is do you know what percentage of all the recycling comes from the convenience centers, of the total volume?

MR. CHANDLER: Approximately only 30% is going through the convenience zone network.

ASSEMBLYMAN FARR: So 30% of the market -- we're somehow subsidizing and 70% of the market people are doing volume entirely without any financial incentives?

CHAIRMAN SHER: Or through noncertified recyclers.

MR. WARD: Well, that's not necessarily true. There is another ornament on this bill that pays a certified recycler that is not in a convenience zone. There are many recyclers that existed prior to the enactment of this bill.

ASSEMBLYMAN FARR: What do you call those people, gleaners?

CHAIRMAN SHER: Old line, old line, and they get a big volume.

MR. WARD: These are people that have, for whatever reason, decided to locate in a specific area and take in tremendous volumes of containers.

CHAIRMAN SHER: But they go to pick up places where people come to them. But they pay a high price, particularly for aluminum. They're in the business, and they've been around a long time, and we're going to hear from some of those.

What's your clarification, Mr. Margolin?

Then, we're going to stop and go to the other witnesses after you tell us whether you have any other recommendations.

ASSEMBLYMAN MARGOLIN: Just a brief point, and response to Mr. Ward's comment about the intent of the conference committee. On the CIP, or subsidy issue, again, as the author of the bill and a member of that conference committee, I want to state emphatically that it was out intention, at least my intention, and I think a majority of that conference committee, that the CIP or subsidy, be limited and be a highly selective, and it was our vision at the time that rural areas with smaller population and with less volume would be the classic example of where some kind of subsidy might be needed. In the proliferation of the subsidies into high density urban areas was not in my view the intent of the conference committee. I understand the forces that have brought that about, but if we want to go back to

conference committee...

CHAIRMAN SHER: Thank you, Mr. Margolin. Now, do you have any final specific recommendation for us to consider this year, Mr. Ward?

MR. WARD: First, as I indicated, the thousand dollar violation is a major issue. We continue to have some degree of problems. We're involved with the Department of Justice, United States Custom Service Board of Inspection Stations, the Highway Patrol weigh scale stations, port authorities, the Department of Food and Agriculture inspection stations, on the issue of imported containers from other states receiving the benefit from California's program, and we would...

CHAIRMAN SHER: That's an enforcement problem.

MR. WARD: Issues that we may be coming forward with some clarification and some ability to deal with civil and criminal penalties on those issues. Now, I think that's...

CHAIRMAN SHER: Okay. So, in other words, you don't have a lot of recommendations. Thank you very much for your testimony.

Did you wish to say something?

MR. PETER WHITED: If I could.

CHAIRMAN SHER: Yes, please, but be brief because although you haven't spoken, I'm getting nervous about all these witnesses that we have listed here.

MR. WHITED: I'll be very brief. Basically, I wanted the committee to know that the beverage -- AB 2020 does maintain a beverage container recycling advisory committee, which is made up

of twelve members, six appointed by the governor, three appointed by the Speaker of the Assembly, and three by the Senate Rules Committee. Our mandate is basically four-fold. One, we meet quarterly, at least quarterly, at the request of the director. Two, we review all regulations that are presented by the department as well as all legislation. Three, we review the redemption bonus account that we're talking about. Since the beginning of the fall, we have met fourteen times and our objective is to continue to look at legislation and continue to give the department the advice they need to make sure this bill continues to run efficiently.

CHAIRMAN SHER: I didn't mean to cut you off. You're Mr. Chandler, right?

MR. WHITED: No, I'm Mr. Whited.

CHAIRMAN SHER: You're Mr. Whited, and you're Mr. Chandler?

MR. CHANDLER: That's correct.

CHAIRMAN SHER: Okay, got you straight now. Thank you, and if you have specific recommendations for legislation that's needed, let's have it.

ASSEMBLYWOMAN WATERS: Mr. Chairman, I don't want to be facetious, but let me try and understand. Did I hear you talk about money for enforcement at the border or for this contraband coming in from other areas where people are collecting and you talk about how we do a better job...

MR. WARD: No, we're not asking for additional money. What we're looking for is potential changes in the law that will

give us substantial power in the areas of civil and criminal action to be brought against these people. One forty-foot trailer full of crushed aluminum is worth about \$20,000 more in California than it's, say, in Nevada or Arizona.

So there is certainly an economic incentive to try to beat the system and that's what I was talking about.

CHAIRMAN SHER: Thank you. Mr. Ward, would you make -- you have written testimony that you could make available to us?

MR. WARD: Yes. We'll provide in writing all the answers to the specific questions.

CHAIRMAN SHER: All right. Thank you very much. Thanks for coming.

MR. WARD: My pleasure, Mr. Chairman.

CHAIRMAN SHER: Now, if we could get to the first panel here, or Panel Two, as it is on the agenda. Mr. Murray, from Californians Against Waste, Mr. Brown, from the Manning Conservation Program, and Mr. Hart from the Sierra Club, and we spoke to these panel constituent members earlier, and we asked them as part of their presentation to try to limit their formal presentation as a total to fifteen minutes, to divide it any way they want, and then we'll have time for questions, so who's going to start?

MR. MARK MURRAY: Assemblymember Sher, members of the committee, my name is Mark Murray, and I'm policy director for Californians Against Waste. I want to thank you for having another opportunity to comment on this program.

The Sergeant is passing out a white paper prepared by

the California Recycling Foundation, or Californians Against Waste Foundation, which kind of deals with a lot of issues that have been raised in the initial discussion and also attached to that is a listing of very specific recommendations of what needs to happen with the AB 2020 program in order to make it work, and these are recommendations that are supported by the Sierra Club, the Planning and Conservation League, and Californians Against Waste.

Three years ago, following nearly two decades of deadlock and one costly ballot initiative, environmentalists, industry groups, and recyclers agreed to come together and try out an experiment for facilitating the recycling of beverage containers. In agreeing to the compromise, environmentalists gave substantial ground on two key elements of projected beverage container recycling systems. Number one was a minimum five-cent redemption value, and number two was a maximum convenience provided by having beverage containers returned at every retail store that sold the containers.

Environmentalists were justifiable skeptical that such a system without those two elements would achieve the 80% recycling rates that the Legislature envisioned. However, there was some very important integrated checks and balances that were included in the AB 2020 program. One of the ways that makes it a very complicated piece of legislation but one of the reasons it was very important for environmentalists to sign on to this piece of legislation. If implemented, these checks and balances would have created incentives for retailers, recyclers, container manufacturers, the beverage industry, and environmentalists,

public interest folks, to work together to meet the 65% minimum recycling standard and ultimately to work together to achieve an ultimate 80% recycling goal.

Today, after more than a year of implementation, the AB 2020 program -- with the AB 2020 program, 50% of all beverage containers are still winding up as litter on roadsides or as wasted resources occupying space in our state's dwindling landfills. The case is particularly stark for nonaluminum container types. Only two of every ten glass beverage containers sold is currently being recycled. Less than one in ten plastic containers is being recycled, and less than one in eight hundred bi-metal containers is being recycled. With the bi-metal containers, none of them are actually being recycled. They're just being returned and unfortunately, those containers for the most part are being buried.

Originally, we envisioned 2,000 to 2400 convenience zone recycling centers. These are new convenience zone recycling centers at the grocery stores. Currently, we have less than 1600 of those recycling centers in the state.

As for the checks and balances that were part of this original agreement, they have either never been enforced by the department or have been dismantled by a series of industry sponsored clean-up measures.

For example, it was clearly the intent of the Legislature to require that if a recycling center be established within a half mile of a retail store, in the event that that recycling center was not set up then the responsibility was on the

retailer to either take back the beverage containers inside the store or pay into the fund a hundred dollars a day fine. I don't think it was the intent to view this as a traffic ticket or something the department needed to be on top of every single day. The reason that it was a hundred dollars a day as opposed to a thousand at the time was that it was felt that the retailers would take that responsibility and pay that hundred dollars every single day that they weren't recycling. Hopefully, they wouldn't pay the money. Instead, they would take the containers back in their store.

Right now, in hundreds of convenience zone recycling locations, neither is taking place. The hundred dollars a day isn't being paid, and the beverage containers aren't being taken back in the store.

So, what do we do now?

CHAIRMAN SHER: I'm sorry to interrupt. I was on the conference committee, and we discussed that point very closely. Nobody hoped that the grocery stores would end up paying the hundred dollars a day. What was anticipated was that the grocers would have a direct stake in making sure that there was a viable convenience redemption center in the zone because of the potential consequences if there weren't, and therefore, it was thought -- and Mr. Margolin, I think, can confirm this, that it wasn't going to be subsidized by these payments in urban areas but the retailers might have to do some of the subsidizing because they were the ones who did not want to have the containers returned in the stores, and of course, the resistance to the bigger additional

five cent deposit. So I think that's the way it was intended. It was a threat. The hundred dollars was a threat, and it was thought that if there was not economic incentive to do it, that this must be the way the retailers would contribute, and they would -- they might have to do some subsidizing of their own.

I do think that they provided, in many cases, the location on the parking lot without rent.

MR. MURRAY: Well, that's swell, but I mean, if the enforcement is never paid out, though, if it's never utilized, then it's a worthless as an enforcement.

CHAIRMAN SHER: So, the problem, you say, is enforcement?

MR. MURRAY: Right. I think it was your intent on the conference committee that this hundred dollars a day would be paid or at least the threat would be there. If the threat isn't being enforced, then they don't worry about it.

In terms of, specifically, what needs to be done, we can spend the next two years tinkering away at that experiment. A few more dollars to the recyclers, extending a grace period to the retailers, the time that they don't have to pay or take back containers, we can try and do lots of little things to make all the private interests that are in this room happy, but none of that tinkering is going to do anything towards getting us to the 80% recycling total. None of that is going to do anything about getting the beverage containers right now that are still being littered on the roadsides, that are still being littered in the parks, and the beaches, and still piling up in the landfills.

None of that tinkering is going to do anything about that. What will work, and what we are strongly recommending, is that the two essential elements be included in any clean-up legislation that passes through this committee. That's one that we increase the redemption values at least five cents for containers -- to five cents for containers that fail to reach 65% percent recycling, higher for larger containers.

CHAIRMAN SHER: Specifically, as of January first, next year, five cents for any of the three categories that haven't reached...

MR. MURRAY: Sixty-five percent. Instead of jumping to two cents, go to five cents.

CHAIRMAN SHER: If a volume number has reached 65%, we'd leave it at a penny?

MR. MURRAY: Exactly.

CHAIRMAN SHER: Okay. I just wanted to be clear on your recommendations.

MR. MURRAY: No, no, actually, I'm sorry, I think that aluminum, which is right now at 67%, our ultimate goal is to get it to 80%, so I'd also like to see the two for a nickel that we were talking about last year implemented on the aluminum so that for aluminum, you would get base level of two for a nickel.

CHAIRMAN SHER: Any containers that have reached 65% that ought to be two for a nickel and any that hasn't ought to be a nickel a container as of 1/1/90, is that your recommendation?

MR. MURRAY: Exactly, and these are spelled out in this list of recommendations.

The second critical factor, as we alluded to in terms of improving the quality and quantity of the convenience zone recycling center by simply demanding that the existing requirements of the law be enforced.

CHAIRMAN SHER: That doesn't require a change in law, though. You say more aggressive enforcement of existing law by the department of violations of the mandates? Okay.

MR. MURRAY: Exactly. You don't always recognize that higher redemption values alone will not solve all the technical problems with this program. We've recommended a package of fixes which, combined with the higher redemption values and the increased vigilance on the convenience centers will create a program that works, that's cost-effective, that isn't highly subsidized, and that we can all be proud of.

Just listing some of those other things that need to be addressed, and these are all developed more fully in this paper that we've passed around. Number one, we need to recalculate the processing fee on the beverage containers so that it's actually enough to see that all of them are being recycled and that we don't have a situation, for example with the bi-metal containers, where they're being thrown away. Reestablish the legislative intent with regard to the CIP's Mr. Margolin was referring to earlier. Redefine the redemption rate as a true recycling rate. The department has referred to the redemption rate of 40% that's in the law. That is actually, that's a formula. It's not really a recycling rate. It's a formula intended to make a glass recycling rate look good. It's really only 20%, 21%.

CHAIRMAN SHER: That was part of the original compromise, of course, as we remember, in the bill, and you're saying it was a bad compromise? It ought to be changed back?

MR. MURRAY: Yeah, as one of the elements of that compromise, we made an error in agreeing to something that doesn't reflect accurately what's actually happening out there on beverage containers.

CHAIRMAN SHER: Do you understand that 65% in the goal of 80% for glass unlike the others, other kinds of glass containers besides beverage containers can be counted toward that 65% and 86% of that was part of the original legislation.

MR. MURRAY: One thing that we need to do, I think, is define the criteria for in-store redemption, what does that mean? I want to make it absolutely clear that in-store redemption is not for three cardboard boxes or a reverse vending machine and two cardboard boxes. Enforcing the full staffing requirements at any of the recycling centers, whether it's a full service recycling center or it's a one aluminum can recycling center with two cardboard boxes with shopping carts, or whatever, in side the store to take glass or plastic. Designate convenience zones at the new retail stores. Mr. Chairman mentioned that some 290 stores have been designated as convenience zones. I imagine a like number should have been redesignated because of new stores opening up in the state. I know that there are at least dozens of stores that fall into this category of new stores that have opened up with no convenience zones established for them, and I think that that's something that needs to be done.

Californians Against Waste has only one agenda with regard to this program, making it work. If it was possible to make it work for a penny or two pennies, we would be cheerleaders for the program and the biggest supporters. Unfortunately, it doesn't work at that level. We are convinced that the only fix that will work, the only fix worth bothering with, is one that increases the redemption values. We look forward to working with the members of this committee in developing solutions to meet the 80% goal.

CHAIRMAN SHER: Let's get the other witness first, and then we'll see if there are questions. Please.

MR. GORDON HART: Mr. Chairman and members, I'm Gordon Hart, representing the Sierra Club, and we have joined in with Californians Against Waste and Planning and Conservation League on the recommendations outlined by Mark.

The only comments I'd like to make would echo Senator Margolin's sentiments, that everything that we do in terms of fixing this legislation should be oriented only towards increasing the volumes. Now, we need to respect the integrity of the new infrastructure that we've established with the convenience zones, and we need to be concerned with technical fixes, but the most important priority that we have is to increase volumes. We started at a base of 40% recycling on beverage containers with a goal of reaching 80%. We wanted to double the amount of recycling we have. All we've done is increase it 13%. It's gone from 40% to 50%, and we wanted to go from 40% to 80%. Now, you can have a whole lot of talk, but that's the bottom line of what's happened.

We need to balance that with an understanding that the department has done a truly yeoman job in starting a whole system and in creating a very major department, and we appreciate what they have done, but we believe that they need more help from the Legislature in saying, "We're going to give you a system to implement that is actually going to achieve the goals," and we believe that to do that the redemption rates have to be increased, and the other recommendation, as outlined by Mark, need to be followed.

Thank you.

CHAIRMAN SHER: Okay. Let me just, in the last point, point out that the director did not, at this time, at least, recommend an increase as something that was needed in order for them to implement the program. There may be a difference of opinion on that.

MR. HART: We're just trying to help them out a little bit.

CHAIRMAN SHER: Okay. The other thing I wanted to ask you specifically, the point that you underscored about using the resources to increase the volume, it presents an interesting question about a redemption existing redemption center that's taking a very low volume under the existing law and which is drawing down a very big CIP. Some would argue that it would be better to get rid of that one because the volume is too low, and with no potential, it's not gone up even though it's been subsidized in order to keep going, and take the resources that we're using to prop that one up in a more high volume area to bring more in, but that would lead you then to the conclusion that

you don't require a redemption center in each and every convenience zone as defined in the law. How do you feel about that?

I see some body English going back and forth here between the two -- Mr. Margolin, I know, has a view on that, and I wonder what your view is.

MR. MURRAY: I would say that let's see what kind of convenience we need once we get up to 80% recycling. Let's see about the number of convenience zone centers that we need, what the balance between the convenience zones and the other certified zones are, let's wait until we're up to 80% recycling.

CHAIRMAN SHER: But you may never get to 80%, and you may have a better chance of getting to the 80% if you let some of those go, that's what I'm saying. You don't agree with that?

MR. MURRAY: I don't.

CHAIRMAN SHER: Because if you don't agree with it, then what you are saying is that convenience to every consumer in every part of the state within a half mile radius is a paramount value and that ought to be maintained even though you're not getting a lot of volume at those particular places.

MR. HART: If I could interject for one second on that, I think what we're saying is the verdict is not out, and it's a lot easier to delete later than it is to add, and that we are very pleased with the progress that's been made in convenience, and we don't want to sacrifice that until we see what the effect of what we believe the primary fix is, and at that point we can then judge that issue.

CHAIRMAN SHER: No, I don't disagree with you. I just want to see what your position is. What you have just said, though, is that convenience is a value in and of itself.

MR. HART: At this point, we believe that we do not know whether or not this convenience is so necessary to achieve the rate. We do know that there are redemption centers and convenience zones that are generating very low volumes of return. We know that now.

CHAIRMAN SHER: Mr. Margolin.

ASSEMBLYMAN MARGOLIN: If I can comment on that point. We do know there are convenience centers that have low rates of return and in many of those cases, if you go out and physically examine those centers, you'll see that they are centers in name only. They're paper centers. They are cardboard boxes, unmarked or poorly marked, in the corner of the parking lot. They exist, maybe, in the alley behind the store. They're not marked. They're not identified. So for the consumers, who flow through that particular location, they are invisible, largely non-existing.

CHAIRMAN SHER: You say try enforcement first.

ASSEMBLYMAN MARGOLIN: What I want to do is -- I believe that a convenience zone center that operates properly, that's well marked, appropriately staffed, that courteously and efficiently responds to consumer interest in recycling, will do a good volume, and in cases where they exist today does good volume, and what we're trying to do, and this goes back to our original compromise in 1986, we're trying to get the original terms of that compromise

implemented, which three years after the fact we still haven't accomplished because many of these centers simply don't work the way they're supposed to, and again, as the last witness indicated, our goal here is return rate, volume.

If a center that operates according to the terms of the original compromise, and that operates competently, can't produce a return rate, then we have to question whether or not that particular center should continue to exist, but right now, we're just struggling to get that in place, and we haven't reached that point yet.

CHAIRMAN SHER: Mr. Calderon.

ASSEMBLYMAN CALDERON: Yeah. I probably should add that at this point I'm a complete novice in this issue, a newcomer, so I don't know who I'm offending and who I'm not offending by asking these questions or making suggestions or just blurting out ideas off the top of my head, but it seems to me -- I'm struck by the fact that the department testified that, based on their polls, the primary motivation for separation and participation is environmental concerns, and I hear you environmental types saying we ought to increase the economic value, so that's the first thing. Go ahead and respond to that.

MR. MURRAY: Okay. If you ask people that are currently recycling why it is that they're currently recycling, it's for -- because there is no money in it, the reason they're recycling is for good environmental reasons. What we need to do is we need to tap into that 50%, 60% of the population that isn't doing any recycling at all, and what in the CAW poll that Mr. Ward referred

to actually shows, that 70% of the people will be more likely to participate if the redemption value was five cents. Less than 50% right now are interested in participating in this law at all, at a penny.

ASSEMBLYMAN CALDERON: All right, then, following along those lines, in terms of appealing to the pocketbook, we get back to mobile recycling, which is a term -- I thought curbside -- I thought that was mobile recycling, but I guess it's different.

So with that -- in that respect, I sensed sort of, and this may be totally unfair to the department, but I read in -- it may be a bias against mobile recycling units. They suggested it might be good just in rural areas where you don't have a lot of sites where it could be set up, but in terms -- if you're going to increase the economic incentive, then we go back to this notion of convenient, and I guess what is more convenient than calling somebody up and saying, "We'll be at the end of your block. Just come on down, and we'll pay for it."

CHAIRMAN SHER: Well, I don't think it works that well, actually. You know, it's in a community, and it would be at a public place, and it's no more convenient than going to the one on the Alpha Beta parking lot than it is to go to the corner of Main and Tenth where they're going to be between three and three fifteen on a given day. Then they move around on a fixed schedule, but apparently it works in some areas because there are companies that are out there doing it.

That's just a question, I think, that needs to be...

ASSEMBLYMAN CALDERON: Are these mobile operations

subsidized at all?

CHAIRMAN SHER: No, because the department has taken the position they cannot certify them as a recycler so that they could participate in the state program because the state law requires that the certified recycler be open for a specific amount of time during certain hours, and they aren't at any one location. They're moving around through the community on a pre-announced schedule.

ASSEMBLYMAN CALDERON: Well, let me just direct my question to the witness.

Is there any -- do you have any sense or position one way or the other. Is the notion of mobile recycling offensive to your sense?

MR. MURRAY: Not at all. The more recycling the better, so long as these mobile recycling operations are willing to meet the certification requirements of any other recycler, then they should be entitled to the bonus value.

ASSEMBLYMAN CALDERON: Would you say if their total operation for a week adds up to thirty hours, no matter how short a period of time they are at any particular location, that they should be qualified...?

MR. MURRAY: To be honest about that, I'd need to know a little bit more about the system. I'm not sure...

CHAIRMAN SHER: It would have been an objectionable question in court. It would lay a foundation, call for speculation and a conclusion.

I think what we're saying here is that one interest

group has done a very good job on educating the committee in advance, and I'm not about to let this hearing be turned into a hearing simply on, quote, mobile recycling. We've heard an awful lot about it already today, so I want to get on to get the other points of view of these other witnesses.

ASSEMBLYMAN BATES: I want to raise the radical point about requiring source separation. You know, the problem is, obviously cans or bottles are very important in the waste stream, and it represents a substantial amount, but if you look at it in terms of the long-term problem that we face in this state, five years, ten years, we're going to run out of landfill. There's just no question about that. To the extent that you can take paper, and you can take mixed paper, and you can take aluminum, and you can take steel, cans and things out of the stream, we're infinitely better off, and if you're coming every week to pick up the garbage, it seems to me that you can easily start suggesting to consumers that they separate their newspapers, they separate their mixed papers, they separate their bottles and cans and make that -- I mean, that's an infinitely better system than tinkering around the edges with this kind of albatross that's barely afloat and doesn't make much sense in terms of the overall impact.

CHAIRMAN SHER: Okay. That's a good point of view. That wasn't a question, so...

ASSEMBLYMAN BATES: It was a question, and I want to hear the reaction. Do you agree?

MR. HART: I don't agree with the characterization of the system as an albatross, but what I do agree with is the

overall point that we need to look at the 2020 program in the context of our entire state efforts in encouraging recycling and that we can't think that it's the only thing that we need to do but we can't think that it's an unimportant thing to do, and I would agree that a lot of the things you're talking about, Assemblyman Bates, we need to look at.

CHAIRMAN SHER: You know that there were bills last year to mandate on the counties a mandated percentage reduction in the waste stream, giving a county the power to institute programs like the one you suggested, and that there will be legislation like that this year, I'll guarantee you.

Mr. Harvey.

ASSEMBLYMAN HARVEY: I don't want to get involved in anybody's politics. We got to government into all these bills, and all of a sudden, I'm paying attention. This is a statement followed by a question, which we often do up here. I got on the question a while ago related to, we went from 16% of the people aware of a recycling program with a lot of advertising to 64%. Out of that 64% of people aware, we got roughly, I think someone said, 53% of people recycling. They're doing it based on this survey that you and Mr. Ward have mentioned basically because they feel morally right or they just want to keep a clean environment, or whatever the words were. Then we get hung up on the money, five, a double nickel, five or whatever. My question to you folks is this. It seems to me, and tell me if I'm right, that part of this problem would be moving up with more recycling if we get to more people. I believe that people in other states who are doing

better than we are have been in the program longer, obviously doing advertising, promotion, more people aware of it. If we bring the awareness up through advertising and promotion, won't that bring the percentage of participation up along with that? Will that be helpful or not?

MR. MURRAY: Oh, it would definitely be helpful. I mean, if we have had a year and a half worth of quite a few million dollars worth of promotion on the part of the department, I think it's been beneficial in terms of raising public awareness. It's been beneficial both for the AB 2020 program and other kinds of recycling collection programs, you know, curbside and donations. I think that we're talking about, though, in terms of trying to hit 80% recycling, it's going to take a little bit more than just letting everyone know that recycling's out there, and it's something that they should be doing. What we need to do is tap into those folks that have traditionally not recycled, people that are going to be motivated, as they have been motivated in other states, by the financial incentive, taking the container back. Certainly, the recycling rates, the immediate jump in recycling rates in traditional bottle bill states, New York is the best example, prior to having a program, they were at a similar recycling rate as we were. Actually it was about 30% recycling rate. With the implementation of their New York bottle bill, which is a nickel, immediately jumped to 70% recycling in one year.

CHAIRMAN SHER: But in those state, isn't it true, if I may put the question in that form, Mr. Calderon, isn't it true

that they pay a nickel up front? It's a deposit that's paid and so they know that that's out of their pockets, and therefore, they are educated by the force of that being part of the bill at the grocery store, and so then they're told that they can go get it back. Our program, no matter what the redemption value is, it's concealed in a way. It's paid by the distributor into the state fund, and it's not separately identified when you buy your beverages in the store, and then appeal may or may not have the same -- so you can't track that experience exactly?

MR. MURRAY: No, no, I mean, I think that actually, maybe, that's a very good public awareness tool, that maybe we could be using with this program, is to show that penny or two for a nickel or a nickel, whatever it is that we get it at the end of the session, and show that separate.

MR. HART: Well, you can track it if you look at the difference between aluminum and glass, because of the scrap value of aluminum.

It's still a hidden cost. You don't see it, but because of the scrap value for aluminum is almost a nickel.

CHAIRMAN SHER: Ms. Tanner, did you want to ask a question before you...?

Okay. All right. If there are no other questions for our environment panelists, can we get the next panel to come forward, please?

These are the beverage manufacturers, and we, in the interests of equal treatment, have someone, well, we have Mr. Simoni representing the whole industry, Environmental Council,

Coalition of Groups, and Mr. Aldrich from Anheuser-Busch. Mr. Simoni, also we would encourage you to be specific on suggestions if you have any.

MR. RALPH SIMONI: Mr. Chairman and members, Ralph Simoni, representing the IEC, just to refresh some of the memory of the committee, as well as to appeal to some newcomers, the IEC, as a coalition of softdrink bottlers, of brewers, which Mr. Aldrich is one, your wholesalers, retailers, and container manufacturers, these are aluminum, glass, and PET manufacturers, these are the industries that are currently contributing one cent for each of the twelve billion containers that are sold in California, creating the hundred twenty million dollar fund that is administered by the Department of Conservation. So we have a significant stake in this program and its success. I think that the success of the program can actually be found in the actual redemption rates that have been gone over by other witnesses today. That is the 67% for aluminum, 48% for glass, and 4% and growing for PET.

There are a couple of features of those statistics that I think are very important. For instance, these materials in California are not going to the landfill like they are in actual traditional bottle bill states. Take, for example, PET. Even at the rate that they are recycling today, there are 22.8 and 3.5 million containers per month that are actually being recycled and put into secondary uses. Some people have mentioned today steel containers, primarily imported beer market. Those are an infinitesimal part of the marketplace here in California, and they

will not have an intrusion in here. Other states, back east and elsewhere, they're looking at steel containers because they are competitively priced. They are less expensive than aluminum. You will see them in other states, but because of the processing fee here you will not see an expansion in that area, and I would suggest to the environmentalists in the committee that this bill is having an influence on marketplace dynamics. It's having an influence on recyclable containers, where there is a market.

Now, we're not unmindful of a lot of the start-up problems that we have had with this legislation. I think there have been both legislative and marketplace remedies and corrections that have plugged some of the gaps. For example, there was a problem last year with regard to the flow of containers coming through non-certified recyclers, perhaps some of the majority of those containers that are actually recycled. In our opinion, this was a situation where they partook of the benefits of the program, that is minimum redemption value and redemption bonus, however, they didn't share in the responsibilities of the program. Number one, they didn't share in taking all three container types. Number two, they didn't share in fulfilling the convenience mandate of the legislation, basically skimming a lot of the cream off the program. That has been fixed by Senate Bill 1730, which has been referred to before. Additionally, we increased the economic viability of recycling centers by increasing the CIP, so we have had some legislative corrections, which, in the opinion of the beverage industry has gone quite a ways in correcting the program.

In addition, marketplace corrections: when the program first started, there was an incredible amount of over-convenience, that is, overlapping zones. Picture a situation where you have three retailers on three sections or three corners of an intersection, all of which have convenience zones competing for the same finite material. We had a tremendous amount of over-convenience in that area. The marketplace has taken care of it. There's been a wash. There's been a reduction of centers, and I think everybody has benefited.

Also, there is another area that I think we have to look at, and I'll refer to it, with the Chairman's permission, as the Palo Alto phenomenon, where you have aggressive, high participation curbside programs. These also have had an impact on recycling centers, and their economic viability. Any time you have a community of 50,000 with two convenience zones, I think, you're fulfilling what Mr. Margolin suggested, which is convenience and option but in a very efficient economic mold that allows the public to do both, and we would support that in the future.

In terms of the future, the industry is looking beyond the symbolism of purely addressing beverage containers. Beverage containers are a minor part of the household refuse system, 7% to 15% and the household refuse is only a minor part of the overall solid waste problem, which is compounded by industrial and commercial waste, and I think that there is a lot of sentiment here from the antagonists of this program which would suggest we need to beef up beverage containers. I would suggest we need to

go beyond symbolism and to look at the broader perspective of programs, such as Mr. Bates and others have suggested, which is a genuine curbside program, some system of inducement that we can get curbside moving in this state. I don't know what tea leaves the environmentalists are reading, but all the recent events and the surveys that I have seen indicate that the public wants more aggressive, more expansive and comprehensive solutions.

The State of Montana rejected a bottle bill by a vote of 79% to 21%. Berce County, New Jersey, defeated one 72% to 28%. I think all of those things indicate that the public is not necessarily looking at a very narrow solution on one minor part of the system, but instead is looking at a much larger concern.

Curbside is here, whether we want it or not. It's being rolled out in communities throughout the entire state. For example, BFI is rolling out a program from South San Francisco to San Jose that will include eleven separate communities in that area. The City of Los Angeles is initiating a pilot program, and when they get it completed, they will have approximately 700,000 households. There's a phased-in program that waste management is participating in in San Diego. It's all happening, and I think that we need to be cognizant of these. We need to balance the 2020 system against the ultimate convenience that the consumer has not only beverage containers but for all sorts of household waste and litter.

A couple of interesting statistics that we have been able to glean: beverage containers, regardless of whether there is a deposit of a nickel, regardless of whether there is a one

cent minimum redemption value, are important commodities to drive the economic model of curbside programs. For example, there are statistics, I mentioned 7% to 15% of household refuse is beverage containers. I have heard that that 7% to 15% actually constitutes somewhere in the neighborhood of 40% of the value of recyclable materials that come through a curbside program, so if you have a nickel, a dime, or a quarter on a beverage container that's going to a recycling center located at a supermarket, then you are depriving the waste hauler of that economic value of those commodities that are important to subsidizing the actual curbside program.

I think we need to look at transitioning from exclusively beverage containers to a larger, broadened system that would create inducements for all sorts of commodities that we find in the waste system.

CHAIRMAN SHER: Mr. Simoni, if I could break in, are you going to suggest to us today that we ought to broaden the beverage container act to include other kinds of containers or other materials with the same kind of payment into the central fund and redemption of the material?

MR. SIMONI: I'm not quite prepared to say that today, but you know there are states that have addressed this, for example the State of Florida, last session, although not currently implemented, has passed comprehensive legislation that places an advanced disposal fee on all sorts of rigid packaging that contribute to the waste stream. I'm not suggesting we go into that, but these are certainly things that we need to look at to

get beyond the symbolism of beverage container --

CHAIRMAN SHER: Where do the fees go?

MR. SIMONI: Where do the fees go from the Florida system?

CHAIRMAN SHER: In this advanced disposal. That would be like cardboard manufacturers and paper container manufacturers?

MR. SIMONI: I believe in Florida, their model, and that's why I'm not suggesting we consider it here at this moment, it is collected at the retail level and then submitted to a state agency. There are exemptions for different commodities that have a 50% recycling rate, and there are a number of other features in there that we may not be prepared to adopt, but those systems need to be looked at. What I'm suggesting is broadening our scope, being a little bit more visionary in terms of where we need to go from here.

Now, the chairman has asked for specific proposals.

CHAIRMAN SHER: Have you got any for us?

MR. SIMONI: From the IEC, we were not necessarily prepared to come before you today with specific proposals, however, I will commit to you that we will have those to your office by March 15.

CHAIRMAN SHER: You don't have to. You might think the program's working pretty well, but if you do have them, we need to know what they are early on.

MR. SIMONI: There are always corrections. There are always resources that we could make available that would expand that would improve the program as it currently exists and expand

the program to meet what I consider to be the needs of the public and what the public policy debate should be. There are several bills that have already been introduced this year. Some have actually been reintroductions. For example, you have Assemblywoman Eastin's AB 40, which provides for some type of preference for the state's purchase of recyclable material. That is one piece that should be looked at. Additionally, you have Assemblywoman Killea's reintroduction of her bill, which is now Assembly Bill 80 on the recycling goals and the source reduction of 20% in cities and counties.

CHAIRMAN SHER: Those are broader kinds of subjects and aren't limited to 2020.

MR. SIMONI: They are very broad, but our suggestion is that you need to incorporate these into a larger scope of where we need to head from here.

That really concludes...

CHAIRMAN SHER: ...container recycling program and structure should be maintained as an independent program, or are you suggesting in your closing remarks there that perhaps it ought to be folded into some broader strategy on all kinds of materials that get into the waste stream?

MR. SIMONI: I'm suggesting that now is the time when we need to explore whether or not AB 2020 should transition into the larger type of a comprehensive solid waste program, and I would suggest that some of the criteria occurring in cities like Palo Alto, where you do have aggressive curbside programs but balancing the options for consumers who wish to take back containers with

value to bring those back to recycling centers.

MR. TOM ALDRICH: Mr. Chairman, I'd like to address this from the standpoint of one company.

Our company, of course, is the largest manufacturer and marketer of beer in California, about 52% of the market. We're also the major manufacturer of cans in this state and lids, so we're in this game deeply, in an economic sense.

This is our largest profit state for our company, even though we're in all the states in the United States. This is of great interest to our corporate structure. We see the very central issue of this as being what the public is really concerned with. There was some allusion to this earlier, but I'd like to concentrate on that.

People say drugs are the number one problem at the city level. I think that's generally accepted. Among the next one or two major problems is how to dispose of waste, and although we have been supportive of AB 2020, we see this as only hitting an incremental piece of the total issue and until we hit all of it, we really haven't served the public's ultimate desire, and that's to find the solution to the solid waste stream in the cities and then disposition of that.

We all know that the landfills are running out and the time bomb is ticking on it, yet, if we even went to 85% recycling, which is the goal of AB 2020, and a very admirable and high goal of 85%. We would still only have disposed of 6% or 7% at the most of the waste stream that's out there, so we really haven't addressed all of it at all.

Secondly, I thought it was a major point that was made earlier that all of the public is not really involved, not really with it. Whether that percentage is 50% or 60% or 70% percent of the public is not the point. The point is there's a large portion out there not yet into it. We think that if we want to really get the public involved, we must pass a substantive and I'd like to call it a change to AB 2020, rather than AB 2020 being a part of some other bill -- a change to AB 2020 which would bring in curbside statewide, a mandate curbside program, provide guidelines, let the city and the counties run the curbside program, set the guidelines, set the source of the moneys for this, and to add that to what we're doing. Certainly, that is in some method a tremendous asset to AB 2020 because it brings to the focus of the public that it's got to be disposed of. They can take it and turn it in at their shopping center. They can decide to go to some other recycling center, the old line recyclers, or they may decide to put it out at the curbside and let that be picked up, or they can take it to the Boy Scouts and let them have the credit for it, but it starts everybody into thinking and doing, and they've got to physically get involved at the curbside location if they don't do it some other way. We think that would certainly be something that has to be done.

Our company has done some studies in this regard, nationwide look-see, and we see the ultimate goal as a stepped device. The public's got to have understanding, and then they must have reaction to it, and we see curbside as the very first step. Ultimately, the cities are going to have to get involved in

automated selection of every item at the pick-up point or at the point of disposal, and they're going to have to get into a lot of automated equipment, but the first is the curbside approach. We're very encouraged with what's happened thus far. We're going to support very strongly curbside operations. We're working now not only with our EC but with the department in trying to find where we can really apply this in the state of California. We're looked at all the other states' curbside bills. We have copies of all of those, and we really see that as an answer.

We don't see that we want to go after the public by raising the amount of the fee in AB 2020. We think that the goal that was made, the one cent, two cent, three cent arrangement is there. If it goes to two cents on all three types of containers here the first of next year, so be it. We'll have more funds to work with. But let the program work for that. However, let's modify it so that we can bring the public fully into this, that we can separate not only these containers that we've got, these beverage containers, but we can bring the broadest structure of it in like the test program that Los Angeles is looking at. Let's try to make this statewide program and really make something here that's lasting and permanent, and we'll give that kind of thing a strong support as far as our company is concerned.

We do think that this may not only give the public a lot of choice but it also may have some competition with the recycling centers out there. If there are 2400 of them right now and they're not going to all stay in business, in essence curbside is a recycling center of its own, so we could bring this into the

more economic focus once curbside is in being.

Our ultimate goal is to get a higher recycling rate. We believe in that. We're the largest purchaser of the recycled products of cans and we're the largest user of the recycled products of glass, so we believe in it and want it to work.

CHAIRMAN SHER: Thank you for your testimony. Questions from committee members? If not, thank you both, and our last panel of recyclers and processors, Ms. Rose, Mr. Carter, Mr. Massey, and Mr. Lang. If you're here, we're glad to see you, as always.

Can I ask each of you, maybe, to give us a brief statement of your position? Again, any specific suggestions as you see is needed to be changed in the law, and since there's a large panel, we'll move expeditiously. We'll start with you, Ms. Rose. You're listed on top of the group here.

MS. CRISTINA ROSE: Cristina Rose, representing Environmental Products Corporation, and I would like to first say that we're very appreciative of the law in California for a variety of reasons. Despite the criticism that is often directed at this law, we do think that it is far better than anything that's on the books in any of the other states.

I could run down the litany of the reasons, but one of them in particular that I would like to mention in the interest of brevity is that for the first time the various forms of an integrated recycling system are provided for in this bill, or at least a mechanism so that they can all work together. We are very supportive of curbside. There has been a lot of mention of it

today. We think particularly in certain types of ways it is the ideal system, certainly yard waste, newspapers and so forth, and in fact, does fit for several container recycling. We think, to a limited degree, but where there -- both programs exist, or you have both curbside and beverage container recycling, which has occurred, as you have already heard mentioned today is that in fact both systems work better, and consequently, we would like to see them work in tandem.

I would like to mention we are all familiar with the beverage container recycling from much discussion today, but just let me say briefly, the drawbacks to curbside just generally as have been mentioned earlier are that they -- it does not address litter, and in fact a deposit system is the incentive which people need to clean up beaches, parks, and the environment generally. In our view, that deposit is currently too low, as I will come to, but we believe that as the deposit is increased that litter will be -- pick up of litter will improve.

Secondly, as I mentioned, and this is really not a drawback for curbside, but curbside and convenience recycling tend to reach two different groups, and there's very little overlap, so again, we think that there is a reason that they need to work in tandem, and thirdly, as has been mentioned earlier, curbside does not work well in dense urban areas and in those cases we do believe that beverage container recycling program does. Therefore, we would like to see them work in tandem.

Secondly, another point I would like to discuss, and one which has been mentioned today though not in a great deal of

depth, but we have recognized that there is a problem because in many locations right now many of the ENVIPCO locations, despite the fact that reverse vending is regarded to be a highly efficient system once it is in place and efficient twenty-four hours a day, at this point in time in many of our locations, we only have one machine, and that's a can machine. The glass and plastic are being taken back manually within the grocery store, where at some point all of the machines will be located.

The fact is that during the start-up period of the last sixteen months, ENVIPCO has not been able to afford the investment to fully equip all of its automated centers. I'm sure that this won't come as a surprise to anyone. We've had a lot of discussions about this over the years, and we have, since the early stages of debate on this bill explained that the equipment capitalization would have to come from within the system. It's somewhat discouraging to hear people talk about letting private enterprise work and "let's have people get out there and compete and we'll have systems everywhere." The reason it's discouraging is because this original implementing legislation, in fact, subverted private enterprise, and in every state which has a bottle law on the books, inevitably, just as an aside, it's at least five cents.

But that's not the issue that I'm concerned with at this moment. In every other state, that five cent deposit stays within the system, and it's used by various levels of private enterprise, manufacturers, distributors, retailers and so forth, to provide advertising, to manufacture equipment, to lease equipment, and so

forth. The way that the law works in California is that a penny deposit follows a system, goes to the state to a fund, the unredeemed deposits fund, and then follows a trail back again to the consumer, and anything that is unredeemed, because a consumer -- because many consumers have not, in fact, redeemed their containers, anything that's left over will go back to the consumer in the form of a bonus, and all along the way little bites will be taken out of that. The point that we have made from the beginning is that a bite has to be provided in order to establish the infrastructure in California. As I said, in every other state it is paid from within the system. That nickel doesn't go to the state. It stays with, as I say, private enterprise, and they utilize it to establish the system. Somehow, from that penny deposit, some money must be provided to establish the system. Once the system is operating, it can function, but scrap value will not pay for the initial capitalization costs.

Action was taken in the original legislation to try to pay for that initial capitalization. It was in the form of loans and grants and bonds, and as all of us are all too painfully aware, none of that materialized. That was not going to be a bite out of the penny, out of the unredeemed deposit. It was going to be in addition to that fund. That money did not materialize, and therefore the only thing that the recycler was left with was the little bite, and that bite was in the form of a CIP payment, the convenience incentive payment, but if somebody wanted the CIP payment, they had to be willing to establish a center that would take back all three container types as of October first of 1987,

and so they did that, and in the case of ENVIPCO, the way that it ended up financing the system in California thus far has been, number one, by depleting their inventory. They have no can machines left to put out in other states because they utilized the existing inventory that they had. Number two, they ended up selling more stock so that they diluted the stock of the early stockholders in the company. Number three, they spend down to the bottom the operating line of credit that they had at the bank, and number four, what they had to do was sell off sort of the jewel in the crown, their plastics plants, their state of the art plastics plant. They've put \$10 million thus far into California. They've received \$2 million in CIP payments. This is, unfortunately, the only source of funding that is available.

We are not happy with that. No one is particularly enamored of the CIP system, but it is the only way that there is any money available from within the system to help the recyclers get on their feet and get going, and these were recyclers who had not yet started operations in California who were willing to meet the convenience mandate of the legislation, take the risk, and go out there and get started.

The way that ENVIPCO is now financing the machinery is through deposits that they receive from other states. That means that it takes a very long time to do it. They figure that in another eighteen months they will try to have all the machines out in the stores to meet the commitments they have made. In the meantime, grocery stores are helping by taking back the plastic and glass. That system is not always ideal. Grocery stores have

recently, in working with ENVIPCO, become quite insistent that their stores, in fact, do comply with the law and take back those containers.

ENVIPCO has also established its own system of quality control and we do believe that, in fact, compliance has dramatically improved. We would be very happy to have a high level of enforcement, by the way.

But most unfortunately, there is a lower recycling rate at those locations that have only one machine, and in fact, there is a lower recycling rate across the board, not just for plastic and glass but for aluminum as well. Where there are all three machines in place, ENVIPCO takes back approximately 30,000 containers per month. Where there is only one machine and the plastic and glass are returned through the store, ENVIPCO takes back approximately 13,000 containers per month. The average for plastic and glass where there are three machines is 3,000 per month, approximately, for each, plastic and glass, and where there's only one machine, it's only a thousand containers per month.

So ENVIPCO, more than anyone else, would like to be able to get its machines out on the street. Unfortunately, as we've discussed many, many times, what that requires is money, and ENVIPCO has never yet been able to finance the machines through a loan from the bank.

CHAIRMAN SHER: Ms. Tanner has a question.

ASSEMBLYWOMAN TANNER: Yes, I do.

I'm new on this committee, so I will be asking some very

naive questions, I'm sure. How did your company get involved? Is there a contract with the state or with markets or -- what I'm hearing from you is that this poor company is attempting to do something, but you're not getting the tools to do the job. Aren't there other companies that might have the tools to do the job?

MS. ROSE: That's a good question. What we have found with the statistics that have recently been put out by the department is that the cost per container is approximately the same across the industry, with the three major recyclers that are out there recycling as well as the large category of others. There are locations where we feel that it is too expensive, and there is some room to exempt certain of those centers.

ASSEMBLYWOMAN TANNER: How do you put your equipment into a particular convenience center?

MS. ROSE: Well, what happens is that ENVIPCO has, as do the other recyclers, contracts with the grocery stores which are the center of the convenience zone.

ASSEMBLYWOMAN TANNER: Okay. So you've had the contracts, and so to meet those contracts, though, don't you have to have all three?

MS. ROSE: The way that they have done it for initial stages of this law, yes, they must take back all three container types, and ENVIPCO, in many of those centers, has only a can machine, and the plastic and glass that ENVIPCO has a contract with the grocery store to take back...

ASSEMBLYWOMAN TANNER: They subcontract?

MS. ROSE: Yes, they subcontract, yes, and so what I was

saying earlier is that more recently, now, because you heard earlier about problems with compliance with the grocery stores, there has been a major effort on the part of the chains with which ENVIPCO has contracts to be certain that, in fact, the law is being complied with. As quickly as possible, ENVIPCO would like to get its other two machines out there, and they do have an inventory of glass machines, which they're trying to get there quickly. If there were more funding available, and I will come to that, or if the beer people would put the UPC code, the Universal Product Code, on the bottles, they would be able to get the glass machines out there more quickly, but they're changing the equipment in order to meet the needs of California and hope to have it within the next few months.

ASSEMBLYWOMAN TANNER: So, you are recommending an increase to the five cents, is that right?

MS. ROSE: We would like to see an increase in the deposit, and it's been demonstrated, I believe, that in those states which have five cents, there truly is a much higher level of recycling.

ASSEMBLYWOMAN TANNER: There is disagreement in testimony, though, so...

MS. ROSE: Well, I can tell you from ENVIPCO's point of view, because they have machines in other states, and in the initial deposit states, they're collecting between 90,000 and 100,000 containers per month. In California...

CHAIRMAN SHER: At each location?

MS. ROSE: That's an average, and in California, they're

collecting, as I said, approximately 30,000 containers in those centers where they have the bank of all three machines.

So ENVIPCO, I think, believes, based upon their empirical experience, that, in fact, a higher deposit means a higher level of return. We would like to see a higher deposit. We have not fixed on the amount of that deposit, but we feel that any increase is going to make some difference in the recycling level. It will also make a difference in the size of the unredeemed deposits fund, which means that there's more money available to help the recyclers capitalize.

CHAIRMAN SHER: Do you have other specific recommendations? Why don't you give those to us right now?

MS. ROSE: Outside of the increase in the deposit, and I guess I can spare you the rest of this.

CHAIRMAN SHER: You could submit that, because we want to move along.

MS. ROSE: The second change that we would like to see in the law is that the CIP payment, such as it is, is based upon need, and what that means is that there is never any profit, actually, built into the system, and somehow we would like to see an opportunity for profit. Clearly, CIP, the way that it is currently administered, is not the answer for providing the kind of financing that needs to be provided.

CHAIRMAN SHER: So you're saying that the most that a CIP payment should be would be to make a center break even?

MS. ROSE: That's correct. It plays off against the processing fee, the processing fee is supposed to have profit

built into it, but against that will be set the CIP, and the CIP is only for those areas in need, and the way that it is being administered, there is no profit in there. Currently, the recycler will try to climb the ladder, but the ladder keeps being lowered, and there is no opportunity to make a profit.

CHAIRMAN SHER: The best you could look forward to is breaking even?

MS. ROSE: Yes. Although we are not certain that the profit portion of CIP needs to be built into the law itself. We think that it is debatable whether or not the department could, in fact, decide what part of need is profit, but that is somewhere down the road. I mean, somewhere along the line, we feel something needs to be done to the law so that, in fact, a recycler can actually make a profit in California.

CHAIRMAN SHER: You don't think, if you got all three machines out in every center, that you would be making a profit without any CIP's?

MS. ROSE: First of all, you have to look at the capitalization that that entails.

CHAIRMAN SHER: No, I mean, eventually, when you capitalize these machines and...

MS. ROSE: Once all of the machines were capitalized, but there's some mechanism in this law, yes, at that point, there's a possibility of profit. Scrap value will pay for operating expenses.

CHAIRMAN SHER: Well, in answer to Mrs. Tanner's question, that's why your client got into this business, right?

MS. ROSE: Well, they got into it because there were certain commitments made in the law...

CHAIRMAN SHER: They thought they would reach that point where it would be profitable without any convenience incentive payments?

MS. ROSE: Right, except in areas of need, which is what the...

CHAIRMAN SHER: Yeah, we're talking about a transitional period now, right?

MS. ROSE: Right, and what we're talking about is that there were commitments that were in the original law, and therefore commitments made by businesses based on those recommendations, and then those elements of the law did not come through.

CHAIRMAN SHER: You're referring to capitalization? The bonds and so forth?

MS. ROSE: Yes, the loans, grants, and bonds, yes.

CHAIRMAN SHER: What else do you have for us in the way of specific suggestions?

ASSEMBLYWOMAN TANNER: This meeting is really lasting, and I know some of the witnesses have planes to catch, and...

CHAIRMAN SHER: Well, that's why I'm trying to speed things up.

At that point, you can go just to your specific recommendations.

MS. ROSE: Okay. The next point, again, relates to CIP, and that is that the 5% CIP payment runs out the middle of next

year, goes to 20% for thirty months after that, and again, that's the end of the bite, and that's not going to be sufficient, given the current economics. Thirdly, the 5% for advertising and promotion, which was made available in the law last year, is being made available through a cumbersome contracting program, and that needs to be streamlined, and finally, the DOC, right now, is required to take away CIP if another contractor comes into the zone, and when someone has made the commitment to come and made the investment, for another recycler to come in, give it a try, and then walk out, means that it's again a very painful business decision, and finally, there has been discussion of reducing convenience, and I will submit my comments to you on that rather than take more time.

CHAIRMAN SHER: All right. Thank you.

Mr. Cotter, you're next, and you're one of these mobile people, right? So you want to waive your time because we've spent so much time talking about it?

MR. DAN COTTER: Well, I want to thank you for all the time you've spent. I'll keep it pretty brief, because you're already talked about it.

CHAIRMAN SHER: Okay, please.

MR. COTTER: A couple of main points that we want to make about the mobile units is that our company, West Coast Salvage and Recycling was involved in the recycling program before the AB 2020 law even passed, and it was a successful program, or building towards a successful program, before the law was passed, and we feel, to some extent, we're being kind of put upon with

some of the changes in the law that's changed our business as well. We were going along. We had a program that was working under AB 2020. We were getting the redemption value, and all of a sudden, the redemption value was pulled out from underneath us for reasons that we feel were not good reasons.

CHAIRMAN SHER: You did receive it for a while?

MR. COTTER: Yes. These programs, the mobile programs, do comply with all the mandates of AB 2020 law. We're open the thirty hours or more. As a matter of fact, one of the programs has just gone to seven days a week in Vallejo.

CHAIRMAN SHER: But not in one location?

MR. COTTER: Well, it moves. It's mobile, truly mobile, but it is on the streets seven days a week throughout the city. It takes all three container types. It is offering truly convenient recycling. It's going out into the neighborhoods as opposed to making people drive to it. As of December of 1988 was when we were informed by the department that they had passed some regulations disallowing certification for mobile sites, thus keeping the mobile sites from getting the redemption value payments and not allowing the mobile sites to pay redemption value to customers, so as of December, we have not been allowed to pass on the redemption value to customers as we had done previously. We think that's clearly unfair to single out mobile recycling units for noncertification. They're very much liked exactly like any kind of convenience zone or any kind of -- I should say nonconvenience recycler, any recyclers outside of the zone can be certified.

CHAIRMAN SHER: What's happened in January and February? They're still out there?

MR. COTTER: They're still out there, but they're paying a much reduced value for the materials.

CHAIRMAN SHER: Are they taking all three types?

MR. COTTER: They're still taking all three types. We've made the commitment to the program. We believe that this can and will be fixed rather easily.

CHAIRMAN SHER: Have your volumes fallen off?

MR. COTTER: Dave is the expert in Stockton.

Have the volumes fallen off in Stockton?

MR. DAVE IANNI: I think in Stockton you're looking at a group of people who really enjoy the pay back, and they enjoy the benefits of it. Yes, some has dropped off.

CHAIRMAN SHER: But not tremendously? It's only two months since you -- is that right?

MR. IANNI: People still patronize the system because they believe in it in Stockton.

MR. COTTER: And the Stockton company runs the mobile unit as well as seven stationary units all in the same area.

CHAIRMAN SHER: Mr. Cotter, you have one message for us, and that is to tell Mr. Ward to start making the money flow again, right?

MR. COTTER: Well, our contention is, and we have legal opinion, that both the original AB 2020 law and SB 1730 do not specify that mobiles cannot be certified. As a matter of fact, quite the contrary. Especially AB 2020 envisions mobile units

being certified. It says nothing about single location. It says that a mobile recycling center is a location, which contemplates mobiles move, and therefore, we feel that we don't need to have a legislative change. It's certainly just an administrative change, and a recommendation from this committee may very well help us get that administrative change. They buy back from people on the street corner in the residential neighborhoods, so it's a buy-back curbside, not a curbside where we just take the materials and keep the money.

ASSEMBLYMAN BATES: So, if you have stationary sources which are stationary buy-back centers, and then you're operating a mobile, I don't think there should be any disagreement about your ability to operate mobiles within the context of areas that you have already stationary centers.

MR. COTTER: That's very true, and in Stockton, where the mobile system, and correct me if I'm wrong, Dave, as I understand it, we are not crossing anybody else's convenience zones, is that correct?

MR. IANNI: They are the areas we serve, we call it the residential buy-back, and it's predominantly residential. There is no convenient place to put it -- where we're serving in residential buy-back, there's no convenient place to put a recycling center, other than somebody's driveway.

ASSEMBLYMAN BATES: So you don't travel around Safeway stores, for example.

MR. IANNI: No, no.

CHAIRMAN SHER: Okay, Mr. Cotter, are you finished?

MR. COTTER: Just to finish, the other community is Vallejo, and all of the convenience zones in Vallejo, where the stationary sites were run by us, and the City of Vallejo asked us to apply for exemptions because they wanted the mobile system expanded. They felt it was a better system. We received exemptions for all of the stationary sites in Vallejo, yet we cannot get our mobile units certified in Vallejo.

ASSEMBLYMAN BATES: It would seem to me that -- I would feel comfortable, as one committee member, where you have the stationary source and you want to operate a mobile in context with that, I think that makes sense. I have problems when you might be operating in another zone, where somebody else -- you know, where we have to subsidize it in another zone, and you come in basically take some of the volume away.

MR. COTTER: And I agree with that, and that's not the spirit of what we're trying to do.

MR. IANNI: I think one point needs to be made. If you'll bear with me, Mr. Chairman, it is that this system, when it was designed and implemented, wasn't supposed to substitute recycling centers for the convenience zone system. It was meant to work as part of the family recycling system that we would support, and we like to think that the citizens --

CHAIRMAN SHER: You mean when you instituted this? Is that what you're saying?

MR. IANNI: Right. We like to think the citizens of Stockton enjoy a more wide variety of options, recycling options, that as Mr. Margolin said, consumers come in all different shapes

and sizes, and we have to get to those people.

MR. COTTER: Well, I think the only issue, really, is that the law mandates that unless there's an exemption, that there be a fixed location redemption center within a half mile of every supermarket, and because the law mandates that, and retailers want to avoid the hundred dollar a day fines, or don't want to take them back in the stores, we've got a lot of them out there that aren't making it, and that -- how these two things interact, I'm not sure I understood what you said, Mr. Bates, because they could be operating mobile in an area where there's supermarket parking, they're being subsidized because they aren't making it on volume, and the containers they're picking up might otherwise find their way to that location.

CHAIRMAN SHER: Is that the case?

MR. COTTER: No, well, that's not the case in our particular section.

CHAIRMAN SHER: Well, it seems like if you define it -- I mean, what we're saying is, if you operate stationary sources that are not subsidized, then there's clearly no dispute about it.

ASSEMBLYMAN BATES: Well, what you're saying is that they ought to be permitted to operate and be certified and participate in the program but only in those areas where you have available, economically viable, stationary, then you're going to get some disagreement.

CHAIRMAN SHER: I don't know. Am I? I don't think so.

MR. COTTER: The fact, whether there's a mobile zone there or a mobile recycling operation or not, in an area, is not

necessarily going to make or break a stationary convenience site. We have stationary convenience sites that are not making enough money as it is, and there's no mobile around, so you can't say that there's a clear cause and effect. We have stationary buy-back sites that are taking in enough volume that they do not require subsidy with a mobile system running in their neighborhood.

CHAIRMAN SHER: Okay, well, I'm going to stop on this point because I want to get to the last two witnesses.

ASSEMBLYMAN BATES: What about the scenario that the chairman set forth, that if you operate in areas where you're not subsidized, and you have a mobile source pick-up in those areas, I don't think there's any dispute, at least I wouldn't think, and the committee members, but I'd license. Does that meet your needs, or do you want more?

MR. COTTER: Well, we have spelled out about five or six different things, and it's in the packet that I think we've sent to each of you basically laying out the way the mobile systems work and some way of maintaining that kind of competition that is no direct competition in the shopping center parking lot by a mobile, and some of the sort of things that mobiles do not get some of those subsidies. We're only asking that the mobile units continue to receive the redemption value, that they're certified as the original AB 2020 law stated. Mobile units, in the original law, were contemplated to be certified, and the department has made regulations absent of legislative input saying that they can't be, and we're just asking for that to be reversed.

CHAIRMAN SHER: Mr. Massey, let's go to you now.

MR. JOE MASSEY: Thank you, Mr. Chairman.

My name is Joe Massey. I'm with Alpert and Alpert Iron and Metal in Los Angeles. We are part of what is known as the old line recyclers.

I have two specific requests, or changes, number one, that separate posting at the grocery store be required. This would give us instantaneous consumer awareness. Every housewife would know when she buys something that she's got a redemption value on it, and she'll ask the question, "How do I get it back."

CHAIRMAN SHER: Separate posting on the shelf?

MR. MASSEY: No, on the purchase ticket, the buy-out ticket.

CHAIRMAN SHER: Cash register ticket?

MR. MASSEY: Cash register ticket.

CHAIRMAN SHER: Okay, your second recommendation?

MR. MASSEY: The second one is regarding the convenience. The present convenience system is not working, as only, or less than 20%, of the volume is coming back through the new 2400 centers. Not only that, but it's very expensive. Seventy-five percent of the locations that get CIP's generate more revenue from the CIP than they do from the containers they collect. A new system utilizing the old line recyclers as the hub of this stem, or if there's no old line recyclers available, the supermarket or a curbside program as the hubs would be more beneficial right off the top. It would save the \$10 million that's already been spent in subsidies. It would create more

money in the fund to generate higher bonuses, which in turn would generate higher volumes at the centers, which we all want. So I think that would be something to look at.

Those are my two specific recommendations, and if I may...

CHAIRMAN SHER: You would say eliminate the mandate of a convenience zone recycle within that half mile of each supermarket.

MR. MASSEY: No, sir. I wouldn't eliminate it. I would change it. I would take the supermarket from being the hub and make it an old line recycler as the hub.

CHAIRMAN SHER: But there aren't enough of those all over the state.

MR. MASSEY: Presently, there are enough to do 80% of the volume, sir.

CHAIRMAN SHER: Because most of it's in the urban areas, is that right.

MR. MASSEY: That's where most of the volume is done.

CHAIRMAN SHER: Well, then, what would you do about the other areas?

MR. MASSEY: You could use either a supermarket or a curbside program as the hub.

CHAIRMAN SHER: Require the supermarket to take them back in the store or in those places?

MR. MASSEY: No, sir. Just use them as the hub. The same system we have now in rural areas, you could have it with a half-mile radius.

CHAIRMAN SHER: You have a geographic area drawn around the old line recyclers?

MR. MASSEY: You could have a geographic based on the population.

CHAIRMAN SHER: What would you suggest, like a half a mile, a mile?

MR. MASSEY: It probably would be on density of population. I think the department has done a study on it, and I think they could be more specific on it, but I think a population density of ten or twelve thousand is enough to sort of make a center self-sufficient.

CHAIRMAN SHER: So there would have to be, in Los Angeles, a lot of them.

If you drew a CIP for every ten or twelve thousand population, there has to be one of these hubs, you'd have to have a lot of them in Los Angeles.

MR. MASSEY: In Los Angeles you already have a lot of them, sir.

CHAIRMAN SHER: Okay, thank you.

MR. MASSEY: Now, if I might, I'd like to make a couple of comments.

ASSEMBLYMAN BATES: (Inaudible).

MR. MASSEY: Eighty percent come from firms or entities that were established prior to 1987.

CHAIRMAN SHER: It's mostly aluminum cans, right?

MR. MASSEY: That's correct. The aluminum can has been recycled for twenty years. One of the comments I'd like to make

is that with the passage of SB 1730, everybody was concerned about getting everyone who received value from the program certified. I would like to see that concept include the convenience zone operations that only take one container type back. There is no subcontracting allowed. Otherwise, we could subcontract to non-certified recyclers.

Secondly, there was a lot of reference to deposit law states and the amount of recycling that's done there. All of the figures that were tossed around are unverifiable. The only state that has verifiable numbers is California. Everything else stays in the hands of the distributors, and when --- it's not verifiable in any way, shape or form.

CHAIRMAN SHER: So, you say we don't know whether they are getting 85%, 87% recycling or not?

MR. MASSEY: Well, I've been led to believe by the aluminum association, and I think we all can agree that the aluminum can is the highest recycled commodity, that the deposit law states are recycling anywhere from 78% to 82%, not the 90% and 95% that's been thrown around.

CHAIRMAN SHER: And so you'd say it'd be even less on glass and plastic?

MR. MASSEY: I can't comment.

I think the grocers have to be taken to task. They are the biggest problem since this bill has been in existence. There has been no promotion at the store level of the program. The signs are posted in inconspicuous areas. They have successfully abdicated their responsibility to provide convenient, efficient,

and economic recycling opportunities, as was the intent of the legislation, simply by signing a contract that is -- requiring contracts to be signed for a chain-wide basis which precluded any number of companies from applying for them and by not requiring or enforcing proper performance standards or their contractees and relying on their contractees to get state subsidy.

My last comment is there has been some criticism of the division and the department, and I have oftentimes been at odds with them, but given the circumstances that they've had to work under and the pressures that they've had to work under, I think they have done a credible job.

CHAIRMAN SHER: Thank you.

Mr. Lang, our old friend.

MR. LEONARD LANG: Yes, I'm with the Allen Company. We are predominantly a major wastepaper recycler west of Chicago, and we have been recycling aluminum cans for ten, eleven years, and we're major in that business.

I'll skip all the other stuff. I'm with the Recycling Coalition of California. I'm a director and basically part of old line constituency.

Legislation that we would address: expand the zones based on economics, use of census or other population would be very imperative, and you would have to incorporate all the geography, and that would then include the existing recycling industry which has not been allowed to operate in things like grocery store parking lots in the past.

Secondly, reduce the CIP with an earlier sunset. We

know that the more you pay the more you get, and subsidization is not getting the money out to the public, and that's what you need to do to get the recycling rates increased.

Number three, the original bill calls for various types of alternative convenience, and as of yet, very little of that has been explored or allowed by the division. We've discussed mobile recycling.

Number four, there's a commingled rate on the container types, containers that are not covered but are still of materials that could be recycled. We need to get rid of that as much as possible, so I heard somebody refer to the Florida program. They applied it to all container types, and if there's an aluminum can of iced tea or a mixed cocktail is made of an aluminum can, it should be incorporated in the program, as should a bottle of fruit juice or whatever.

Number five, we should take...

CHAIRMAN SHER: We should take on all those other industries, is what you're saying?

MR. LANG: Number five, the processing fee calculations must be resumed. The only thing that really makes the program go is the scrap value of the commodity, even in the division (inaudible) of the new audit, and reporting regulations. They've allowed the aluminum industry subsidizing the glass and plastic, and number six, the real thing that needs to be addressed is the grocer's contracts with the convenience zone operators. We know that recycling is a hub and spoke industry. Within a facility, you need a certain amount of population and material around you to

make that economically viable. It's the business practice of these operators that move small amounts of material long distances that make it economically unviable and therefore require the subsidies. This is one of the major problems with the program.

As Mr. Massey did, I'd like to make a few comments on a few things here. We have been in the paper recycling business for 25 years. We've practically gone from nothing to a major, and I make a comment that since curbside recycling, about 75% of the material is newspaper, and that's been a very big part of our business over the years. There is not the capacity to recycle all this newspaper. When people talk about the economics, as Mr. Simoni did, 48% of the material for the value is in containers. That ratio will change, as will everything else, due to the over-collection of newspapers in already existing mandatory recycling states like New Jersey. We've already flooded the market. That's created a substantial drop in the value that we're able to pay out right now, and that has created a substantial amount of recycling that has taken place in California of paper products. Any program is going to have to stand on economics. That's why I say you need to expand the zone. You need to expand into the existing recyclers. You need to cover all the distributors that aren't covered. I think the division has found out that 50% of the distributors are not in convenience zones. Therefore, is convenience really at the supermarket? I don't think it is. Twenty percent of the material goes back there, so obviously, 80% is going elsewhere, and there was a mention of UPC codes here today.

The UPC code indicates what the product was. It might be a bottle of Seven-up or a can of beer or something of this nature. It doesn't indicate whether that bottle came from California, New York, New Jersey, or Florida. The only way you can tell if a container is a California redemption container is by manually inspecting it, human being. Thank you.

CHAIRMAN SHER: Okay, well, I think you folks have a lot to talk to each other about.

Mr. Massey?

MR. MASSEY: Mr. Chairman, one point of clarification for Mr. Bates. He asked a question about where the buyer came from. Ms. Rose commented that they handle 30,000 containers a month. I handle over 2 million a day.

MS. ROSE: That's at one cent.

CHAIRMAN SHER: Okay, we're not going to get into that kind of discussion today. I think you should both go talk to Mr. Bates, individually or collectively, if you'd like.

ASSEMBLYMAN BATES: I just want to ask a question about the thing you mentioned about the newspaper. I mean, you're saying that the market is basically flooded, which has driven down the price, so how does that follow? Is that because we don't have the inking plants in order to receive that material?

MR. LANG: The area's supply and demand is such that the -- we have lots of supply. Obviously, the price is going to drop.

ASSEMBLYMAN BATES: But at some point, people are going to figure out how to utilize that.

MR. LANG: The answer to that question, it's not a

short term answer. It's a mathematical equation. If you're generating 40 million tons of newsprint and recycling ten million tons of newsprint with ten million tons of capacity of an existing plant, how long will it take to convert existing plants to start using recycled? How long will it take to build new plants? That process can be anywhere from three years with no environmental problems to five, six, seven years.

ASSEMBLYMAN BATES: So it's really capacity to recycle.

MR. LANG: Exactly.

CHAIRMAN SHER: Mr. Bates, I have to leave. I have a 4:15 appointment, a very important one, but if you would carry on. Are there any members of the public who wish to address the committee, or what's left of it, here? If not, I want to thank all of you on the last panel for coming. A very useful hearing, and thank the members of the committee, and particularly those who stayed so long.

The meeting is adjourned.

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