
Committee Meeting

of

SENATE ENVIRONMENT AND ENERGY COMMITTEE

"The committee will meet to hear testimony from invited guests on the effects of climate change on agriculture in the state, and potential strategies to make agricultural operations more resilient to climate change"

LOCATION: Committee Room 4
State House Annex
Trenton, New Jersey

DATE: October 6, 2022
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Bob Smith, Chair
Senator Richard J. Codey
Senator Andrew Zwicker
Senator Edward R. Durr, Jr.
Senator Jean Stanfield



ALSO PRESENT:

Eric Hansen
Christina Denney
Office of Legislative Services
Committee Aides

Joseph Gurrentz, Ph.D.
Senate Majority
Committee Aide

Rebecca Panitch
Senate Republican
Committee Aide

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

Bob Smith
Chairman

Linda R. Greenstein
Vice-Chairwoman

Richard J. Codey
Edward R. Durr, Jr.
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NEW JERSEY STATE LEGISLATURE

SENATE ENVIRONMENT AND ENERGY COMMITTEE

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COMMITTEE NOTICE

TO: MEMBERS OF THE SENATE ENVIRONMENT AND ENERGY COMMITTEE

FROM: SENATOR BOB SMITH, CHAIRMAN

SUBJECT: **COMMITTEE MEETING - OCTOBER 6, 2022**

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

The Senate Environment and Energy Committee will meet on Thursday, October 6, 2022 at 10:00 AM in Committee Room 4, 1st Floor, State House Annex, Trenton, New Jersey.

The committee will meet to hear testimony from invited guests on the effects of climate change on agriculture in the State, and potential strategies to make agricultural operations more resilient to climate change.

The following bill(s) will be considered:

S416 Smith, B/Greenstein (pending referral)	Prohibits investment by State of pension and annuity funds in, and requires divestment from, 200 largest publicly traded fossil fuel companies.
S2145 Madden	Prohibits sale, distribution, and import of certain products marketed as recyclable, unless DEP determines that products are widely recycled.
S2196 Scutari A1438 Kennedy/Mukherji/ Stanley	Increases maximum penalty for certain violations concerning asbestos hazard abatement; allocates moneys from increased penalties to asbestos programs.

(OVER)

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S2576 Cryan/Oroho	Establishes certain requirements for award of contracts to service-disabled veterans for certain projects funded by NJ Infrastructure Bank.
S2973 Smith, B/Greenstein	Requires electric public utilities to submit to BPU and implement integrated distribution plans.
S2978 Smith, B/Stanfield	Revises State renewable energy portfolio standards.
S3092 Smith, B/Codey	Authorizes installation and operation of meter collar adapters on residential electric meters, under certain conditions.
S3102 Smith, B	Establishes uptime requirement for electric vehicle charging station incentive programs administered by BPU.
S3110 Smith, B	Requires sellers of real property and landlords to make certain notifications regarding flooding.
S3114 Smith, B/Corrado	Eliminates prohibition on provision of single-use paper bags by grocery stores for certain orders for five years; allows packaging options for grocery orders; requires program for disposition of reusable bags for grocery orders.

Issued 9/29/22

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SENATOR BOB SMITH (Chair): So, I think the opening comment has to be if there is any doubt that this is the most interesting Committee in the Legislature, today proves, once again, it *is* the most interesting Committee in the Legislature.

Let me call the Committee to order, and let's take a roll call, please.

MR. HANSEN: Chairman Smith.

SENATOR SMITH: I am present.

MR. HANSEN: Senator Zwicker is subbing in for Senator Greenstein.

Senator Codey, we're still waiting on. Senator Durr.

SENATOR DURR: Here.

MR. HANSEN: And, Senator Stanfield.

SENATOR STANFIELD: Here.

SENATOR SMITH: OK.

MR. HANSEN: You have a quorum.

SENATOR SMITH: So, by way of announcements for today's meeting, Senator Madden asked that his bill, S2145, be held for today. He indicates that he has further discussions that he wants to have with the American Beverage Association, so S2145 is off today's agenda.

And, the really, really, really big bill, S2978, is also being held. And, the story there is that we received an awful lot of comments from some very smart people, and I think it needs some adjustments. So, we're also going to hold S2978. The plan, however, is to have it at the next November meeting, all right.

And, other than that, I think the rest is a go. My plan is to save the best for last. The next most interesting bill on this agenda is S3114, which is the fix -- the temporary fix for the delivery glitch that's in the single-use plastic bag ban bill. We're going to do that last.

We start the meeting today with two speakers. And, the two speakers are Brian Schilling and Margaret Brennan from the Rutgers Cooperative Extension Service. We're going to talk about agriculture and climate change -- which, you'll remember, every Committee meeting of this Committee in this session, we've always started with a speaker -- or speakers -- on global climate change, and I think we'd like to hear more about how agriculture and climate change interact.

So, however the two of you have decided to speak, please do so.

BRIAN SCHILLING, Ph.D.: Good morning, Mr. Chairman, and Committee members.

My name is Brian Schilling, I am the Director of Rutgers Cooperative Extension. My colleague to the left of me is Margaret Brennan-Tonetta, who is the Director of Resource and Economic Development at the New Jersey Agricultural Experiment Station.

Just by brief introduction, the Experiment Station is a unit of Rutgers University that is statewide in nature, research, extension, and educational outreach. We'll introduce a little bit more about our programs of interest to the Committee in a moment, but just for context, this is actually a part of Rutgers that is mostly off campus. We are across the state. We have county extension offices where we do educational programming in communities in all 21 counties. We have upwards of 1,200 acres of research farms, which are relevant to the discussion today, sir, as well as marine and

coastal stations which are very much part of the climate discussion within the state. And we distributed some resource material for the Committee so we don't have to go into length here.

One of the things that I'd like to clarify for all in attendance, including members of the Committee, is our name is Agricultural Experiment Station -- this is a name that goes back to the 1880s. So, this is really a center part of what makes a land grant system across the country a land grant system. But, we do more than commercial agriculture. While that's a mainstay of what we do, we work closely with the fisheries and the aquaculture sectors, horticulturalists. We actually run one of the largest youth-development programs in the entire country, 4-H Youth Development, and also do work in food insecurity and nutritional education and health and wellness.

What we're here to talk about today, obviously, is climate and agriculture, which brings two of our primary program areas into alignment. So, what Peggy will speak about today is a little bit about how we approach investing in this area, and then we'll give the Committee just a very broad overview of a few examples of the programs and issues that we're contending with, and, if time allows, sir, take any questions that you may have.

MARGARET BRENNAN - TONETTA, Ph.D.: Good morning, everyone. Thanks for the opportunity to be able to speak today about the Experiment Station and Cooperative Extension.

Recently, the State has made some investments in the Agricultural Experiment Station, and we developed a strategic initiative to improve the experiment station, farms, field stations, marine stations, business incubators, and our programs throughout the state. We're doing

these investments that we could build greater programmatic capacity at these locations, and really make them a model for activities of importance to the State in terms of climate, environmental management -- things like soil health, water management, erosion control. We want these to all be model programs at our farms and marine stations where industry could come, look at what we're doing, and adopt those practices themselves.

We have three programmatic areas as part of Vision 2025. Climate resilience and adaptation; community health and wellness; and the future of agriculture; and all three of these focused areas are interconnected as they all relate to-- One is really dependent on the other. So, we work to really integrate these programs to really have maximum impact in terms of what we're trying to accomplish.

Just some examples of programs that we have: We have the Rutgers Eco Complex, which is near Columbus. We have its Clean Energy Innovation Center. As a business incubator dedicated to education, outreach, and bringing business developments, this is all about starting new companies, helping existing companies to grow their business and to also create jobs. We focus on workforce- and business-development programs for underrepresented populations through the recent Wind Ignite Program that was just launched. And, also, a big focus on food-waste recycling, renewables, offshore-wind business development, and alternative fuels.

Then we have our Haskin Shellfish Laboratory, which is down south, near Cape May. And, at that location, we conduct shellfish research and also research on fisheries and aquaculture, with a big emphasis on ecosystem restoration and economic development; and we do a lot of oyster breeding there, which is essential to the health of the Delaware Bay. And, we

also have our Aquaculture Innovation Center, where we nurture new aquaculture businesses.

And, in terms of renewable energy, we have two major programs, one being offshore wind. We have a tremendous amount of expertise at the experiment station down at Rutgers in terms of environmental resource assessment and stewardship. In fact, Rutgers is doing fisheries monitoring and assessment for the offshore wind turbine installations, materials, engineering, energy economics and policy. And, cross-cutting all of those topics is stakeholder engagement, education, and workforce development, which received, to date, about \$23 million in Federal State industry funding to support their research work.

In addition, we have recently launched, the last year and a half, the agrivoltaics Program, and we're planning construction of three agrivoltaics systems on our research farms. Each one is uniquely different in terms of being able to evaluate whether it's a vertical or horizontal type of solar system. We have mockup installations installed for preliminary data collection, and, also, going through the challenges -- understanding better the challenges of actually installing a system like this on farms, and for those of you who may not be aware, agrivoltaics is being able to have solar installations on farmland with the panels that were installed about 16 feet high, so that farm equipment and farm-management practices can be conducted underneath them, so that we're not removing the agricultural use of the land but, actually, it's compatible use with the agricultural reduction taking place.

And, Brian will take over now to talk about some of the Cooperative Extension Programming related to environmental issues.

DR. SCHILLING: Moving more directly to what we're doing in agricultural, agrivoltaics is a very good example.

One of the things that we'll close with momentarily is the state of the agricultural industry. The last several years have been challenging, to say the least. I've been working in this industry for about 30 years, and others that have worked longer than me will attest that this is probably the worst year that any of us have seen for agriculture. And, we'll get into that momentarily. But, the reason agrivoltaics, what Peggy just spoke about, is so important is we're trying to find ways to balance public interests in the state.

We have a 70-year history of protecting and developing the agricultural industry. We have ambitious farmland preservation and energy, renewable energy goals. So, what we're trying to do is help create both technically, economically, and from policy environment the ability to do these things in balance.

One of the things that I'll tell you we're very pleased about is the extension mission is to bring education out to communities and make people's lives better in all the areas that I had mentioned. But, part of what we do, or how we do this, is by training and empowering people to do things in their own communities or to better their own or family well-being. The Environmental Stewards Program is actually a program that's going on about 16 years now. We've had about 1,100 people come through this program to learn everything about everything from how to make better environmental improvements in their community through waste reduction; water management; even renewable-energy habitat restoration; and so forth. It's a training program where we bring science to people and empower them to

make environmentally conscious and favorable decisions in their own communities.

So, just as a case in point, we just graduated, if you will, about 120 people from last year. These people are serving on environmental committees; they're serving on local planning and zoning boards; they're bringing an informed eye to environmental issues in their community.

One of the things that I think will interest the Committee -- in light of some of the challenges that we've seen in recent years, and we anticipate seeing more in the future -- is water-resource management. This is actually proving to be a substantial issue in agriculture as we're starting to see saltwater infiltration in certain southern parts of the state. This year, we have drought conditions that are affecting about 97% of the population across the state. We're seeing losses that are probably going to be relatively historic in terms of drought-induced losses. The worst recent memory I had is 1999 where we knew of at least \$80 million worth of crop losses. We don't have the tally for this year, but I suspect it's going to be something that rivals some of the more historic drought losses in the state.

On the other end, we've had chronic flooding in many areas, including in agricultural lands that inundate or over-wash areas; bring pollutants on; bring saltwater on; or just make land inaccessible. So, we have a water-resources program, led by somebody who is an engineer by training, that actually brings green technology, green infrastructure projects, out to the communities. What does that look like? It could be something as modest as this project in Hillsborough where you have a rain garden that allows water to collect and infiltrate more slowly, rather than flooding. It could be water-capture systems for urban gardening.

One of the metrics that we report here is that our engineer, Chris Obropta, who leads this program, has worked with 200-plus communities across the state and installed, as you can see here, more than 500 green infrastructure projects across the state. I'm not going to sit here before you and say that any one of them solves the problem, but the collective impact of 500 projects and the people that we trained to do these types of things in their communities is starting to become quite substantial. The beauty of some of these programs is that we're engaging young people in these projects, of what they can learn, and become equipped to do this in the future. But, also, they're very scalable. We are starting to install these projects increasingly on agricultural lands, (indiscernible) soil and water runoff to adjacent properties or to degrade the quality of the resources on the farms.

Let me close with a direct few comments on farm liability. As I said, this year is probably one of the most challenging ones on record. We know of a number of large-- Among the largest--

SENATOR SMITH: If I can stop you for one second--

DR. SCHILLING: Yes, sir.

SENATOR SMITH: Our recording people are telling us they'd like the microphone a little closer to you--

DR. SCHILLING: Happy to do so, is that better?

SENATOR SMITH: --So, that you can be heard a little more clearly, OK.

I'm sorry to interrupt.

DR. SCHILLING: No, please, my apologies.

I was saying that this is definitely a very challenging year. We're seeing some of our larger farmers contemplating getting out of the industry.

And, it's a combination of things -- low prices determined by the market, but also remarkable inflation and costs, weather, labor issues, supply-chain issues. I'll give you a point of context. We have about 10,000 farms in this state -- only 400 of them produce over 80% of the (indiscernible). There are some of them going out of business; some have already. I'm looking at members of the Committee and thinking of your respective districts down south, on the left. You know the situation in your areas. And, it is becoming pretty dire.

So, we're looking at the commercial heart of this industry as being threatened. We also have this paradox where we have crops being plowed under in South Jersey and we have food insecurity in our communities. And, we're seeing some of these challenges exacerbated by climate issues that I said -- drought, water, new invasive species coming in, disease, and what have you. So, some of the three largest sort of agricultural leader interests in the state have historically been the Experiment Station, the New Jersey Farm Bureau, and the Department of Agriculture. We're working together as we speak to try to come up with solutions in the near term to help support this industry at a time where many of them may be going out of business.

So, in terms of farm liability, we see climate adaptation and resilience as part of the equation. It advances a number of public interests simultaneously. If we are concerned about soil health for agricultural productivity purposes, which we are, at the same time, we're looking at improving resource-conservation issues on the farm whether it be soil and water.

I am telling you that in my 30-year career, I never thought I would be sitting before a Senate Committee talking about artificial intelligence, but I am. We're looking at machine learning, artificial intelligence, autonomous vehicles, drones, sensors, to help us manage farms more efficiently and the resources on them. We're looking at risk management very differently. We will see in our future a conflict between, likely, a growth in indoor cultivation and people's expectations about how we manage the land.

We're looking at crop-breeding programs-- Senator, we invited you and encouraged you to come visit a cranberry harvest; we invite all of you to do so. We're at the southern region of where cranberries are produced in the United States. We may see immediate near-term threats to our ability to have a viable cranberry industry because of heat at wrong times of the year. So, we're working on breeding programs that allow disease resistance, heat resistance, so we can continue this industry. And, you can read for yourself others.

So, I think the short answer to, "What are we doing in climate and agriculture?" is a lot of different things. They're here on the screen; I don't want to take more of the Committee's time. But, we also want to be very clear that we are a resource to this Committee, and, individually, district members across the state. We are outward facing, we have county offices across the state, we're highly engaged with the industry, we're highly engaged with county commissioners and legislators in their districts.

So, Mr. Chairman, we'd like to stop speaking there and invite questions that you or your colleagues may have.

SENATOR SMITH: Well, we appreciate your presentation. I was especially noting the work of the extension on the dual-use solar. We -- this Committee -- did that bill in the last term, and we also supported an appropriation in the State budget for the research that the agricultural station across the state is doing, because we want to know what are the best practices in North Jersey, South Jersey, Central Jersey.

Point being that solar and farming can work hand in hand, and anything that increases the income of farmers is terrific. Because we want to remain the Garden State. So, the sooner you get us that research, the happier we're going to be, and the sooner you get it out to farmers to show how they can increase their income, that would be a great thing. It has a tremendous impact on land use, too. You may have seen some of the articles in the *Star-Ledger*. There's a concern about how we're over-warehousing New Jersey. Well, one of the reasons that happens is that farmers are getting prices for their land that are through the roof. We need to find a way to keep them in business so that the farming continues, and we get less development out in the hinterlands.

I would particularly appreciate, at some point, maybe even tell us what you're going to do on methane, all right. One of our biggest problems with agriculture is the production of methane, specifically from the beef side -- less so from the pork side, because of their digestive systems -- but if the Agricultural Extension Station could take a look at that, it would be a big help to finding out that more and more, methane may be a much bigger -- really much bigger -- impact on global climate change than carbon dioxide.

So, that's my particular comments. Please keep up the good work.

Any questions from members of the Committee?

Senator Stanfield.

SENATOR STANFIELD: Good morning.

I just want to say what a wonderful resource you are in Burlington County, and I've been speaking to many farmers -- I know we still have concerns about losing some of those farmers, and I know you've been a great resource.

Can you tell us a little bit about where your funding comes from?

DR. SCHILLING: Absolutely, Senator.

So, the Experiment Station actually is funded through the Federal Government by what we call capacity funding that comes in annually to support the research side of the house, as well as extension. These are dedicated funds that are through Federal statute in place literally for more than 100 years. We also have a State line item that funds a lot of our salary obligations within the Experiment Station. We also have a funding partner -- funding partners -- in every county. We have annual salary agreements to support cooperative extension in all 21 counties. We also leverage those-- And Rutgers University proper provides discretionary funding as well to support the Experiment Station.

The majority of our budget is competitive grants and contracts, that we leverage those capacity funds to go competitively earn. So, a lot of that comes from the Federal Government. We also have a number of State contracts -- for example, from the Department of Agriculture, DEP, Health, etc. We also have small amount -- relatively speaking, smaller amounts -- of royalty income that come from our breeding programs. And, people like us,

so, we're blessed to have some philanthropy that comes in as well to support endowments in certain areas.

SENATOR STANFIELD: Fantastic, thank you, and keep up the good work.

DR. SCHILLING: You're welcome; thank you.

SENATOR SMITH: Are there any other questions for our Rutgers Extension people? (no response)

OK. Thank you very much.

Our first bill is S3110. That's Governor Codey and myself as co-primes, and this is disclosure in real estate transactions.

GOVERNOR CODEY: How much disclosure do you got?
(laughter)

SENATOR SMITH: What's that?

GOVERNOR CODEY: How much disclosure do you have?

UNIDENTIFIED SPEAKER: Hey, disclosure is good.

GOVERNOR CODEY: That went over his head, leave him alone.

SENATOR SMITH: It did. Some things are a little too subtle for me.

OK. So, I'm looking at the slips, and it is all in favor except the Press Association.

What this is about is, in real estate transactions, the New Jersey Future and the New Jersey Realtors Association have worked together to come up with a compromise on what kind of disclosure there should be in real estate transactions in New Jersey. And, this is specifically with regard to flooding. The buyer should know what he or she is buying, the seller should

disclose what he or she knows about the flooding characteristics of the property, and there also should be a resource, an independent governmental resource, that would tell them what are the flooding characteristics of the property.

So, I have-- All these slips are in favor with an exception of one, and I think we can take care of it. For the record, Zoe Baldwin, Regional Plan Association -- in favor, no need to testify. And, everybody else wants to testify. So, on the theory of let's not snatch defeat from the jaws of victory, I am going to ask you if you still want to testify.

There is one where there is a (indiscernible) seeking amendments, and that is Nicholas J. Kikis, New Jersey Apartment Association -- actually, opposed, I misread that. Seeking amendments.

Mr. Kikis, where are you?

N I C H O L A S J. K I K I S: Mr. Chairman, thank you for the opportunity to testify.

Again, for the record, Nicholas Kikis with the New Jersey Apartment Association.

As you said, we are opposed to the bill as currently introduced, and seeking amendments. We certainly understand and appreciate the importance of providing disclosure on the rental side. It's actually updating a disclosure that's currently required to be provided.

We do have a few concerns with the proposed language. One is that some of the triggers for when disclosure is required is ambiguous. If there's a significant risk of flooding or if it's in a FEMA-designated flood plain, I think some of these terms warrant greater definition if it was in a 100-

year or 500-year flood plain, I think that could be something to trigger. Additionally, it requires reporting the entire history--

SENATOR SMITH: By the way, that is already in there; that request is already in the bill.

Put on your microphone, all right.

MR. GURRENTZ: I was just saying, with respect to the 100- and 500-year flood plain that that was part of the disclosure. Are you saying that would trigger disclosure?

MR. KIKIS: So, the way I'm understanding it is there's a few different triggered -- different, you know, categories that you would check. So, one is, are you in a 100-year flood plain, are you in a 500-year flood plain, but also are you just in a flood plain? And every parcel of land is, essentially, in a flood zone that has some risk of flooding. The question is how significant is that risk?

So, if it was kind of the moderate and severe risk, that that's a fairly defined term, it's fairly knowable. Our concern is just, is there a substantial risk of flooding or things of that nature. Additionally, on the sale side, it's very clear that it's the seller's actual knowledge. On the rental side, it's just a required disclosure. So, for example, if I were to rent out my house, I purchased it in 2016; I haven't had any flooding history; I haven't had any water issues in the property; nothing was unearthed in my purchase of the property; but, I don't know how it performed during Hurricane Sandy, how it performed in Hurricane Irene, etc.

So, we would ask that disclosure be that which the landlord has actual knowledge of, as it exists also for the for-sale side.

SENATOR SMITH: All right, so stop on that one, because that -- I think you emailed these comments into us, and this one we were kind of trying to understand which was the better way, which was the more disclosed -- provided the most disclosure to the buyer. And, I don't know where we ended up on that.

What are two choices here? Microphone, so people can hear what you're saying.

MR. GURRENTZ: Right, so, we got your correspondence asking for the best of your knowledge, right? So, currently in the bill it does not say, "to the best of your knowledge," so, it does go back historically. We circulated his comments, but, we're still waiting for a response, so, we just discussed.

SENATOR SMITH: And, who did we circulate it to?

MR. GURRENTZ: NJ Future and the builders.

SENATOR SMITH: OK, so, the two -- the two primary groups who we've asked to work together, who might have adverse interest, was New Jersey Future and the Realtors. Your suggestion on that point came in relatively late. So, what we've done is to send it to both New Jersey Future and the Realtors to get a reaction from them.

So, I don't think today we're ready to do that. We want to hear from--

MR. KIKIS: Understood.

SENATOR SMITH: --the movers and shakers on this bill.

MR. KIKIS: And, I appreciate--

SENATOR SMITH: And, by the way, we have like, 300 opportunities to amend a bill if we want to, all right, so we're going to get

their reaction back. But, we did test that out, to see whether it's a better idea or not.

MR. KIKAS: Absolutely, and I appreciate the opportunity to testify here.

And, the remaining issue is kind of the timing of when the disclosure is given. Right now, it says it has to be part of the application process. Typically it's prior to the time of lease signing, and we understand kind of wanting to make that notice stand out, and I think it could be accomplished by being a separate rider or a separate document to sign and acknowledge by all parties. Our concern is that small landlords don't have, oftentimes, the same, like, robust application process to put that disclosure there, it's part of an application process.

Additionally, it's important to have documentation. I know, for example, one time when I rented an apartment, I did the application entirely by phone, no signatures or things like that. So, I think broadening it to be disclosure kind of prior to the lease signing accomplishes the goal and we can work with you to try to make sure that it stands out and tenants receive that notice as required.

SENATOR SMITH: So, we'll consider that as well. That was also circulated, but I don't think it's anything that needs to hold us up today. We do appreciate your comments--

MR. KIKAS: Thank you.

SENATOR SMITH: --and, we will look into them.

And, in light that we have a little opposition, maybe we should get a little positive on the record. Mr. O'Malley, Environment New Jersey--

GOVERNOR CODEY: Hold on, hold on.

SENATOR SMITH: I'm sorry, Gov.

GOVERNOR CODEY: Sir.

SENATOR SMITH: Come on back.

GOVERNOR CODEY: I feel bad for you. During the pandemic, having to represent landlords. And, then you had people who were tenants who were making more money than landlords refusing to pay their rent because they thought they could get away with it.

Just an offside comment.

MR. KIKAS: It's been a challenging time period, sir.

GOVERNOR CODEY: That would be an understatement.

MR. KIKAS: Thank you, Governor.

GOVERNOR CODEY: I'm glad I don't have that kind of problem.

SENATOR SMITH: All right.

So, Mr. O'Malley, short and to the point.

DOUG O'MALLEY: I appreciate that offer, Chairman. I will follow on that.

For the record, Doug O'Malley, Director of Environment New Jersey.

I think the best way to think of this legislation, Chairman, in many ways, to think of the Latin phrase *caveat emptor*, or "buyer beware." And, right now, we actually have an environmental precedent for exactly this type of legislation, specifically the legislation passed more than 20 years ago to monitor our well water, to make sure that if you buy a house, that you're not buying a house that has polluted well water. This, in many ways, is the more modern climate version of that legislation -- to ensure that when you

buy a house, you are not literally buying it in a flood plain that is going to flood now or will flood in the future.

And, oftentimes, people will say, “after it floods,” and we’ve heard this so many times a year ago after Hurricane Ida, “It’s never flooded here before.” The reality is, the experience, whether it’s a decade, three decades, or five decades -- not to say it doesn’t matter, but it doesn’t hold up anymore. We need real data to influence and inform where we’re building, and, in this case, where we’re buying homes across the state.

Thank you.

SENATOR SMITH: Thank you, and that was short and to the point. You are to be congratulated.

Rebecca Hilbert, New Jersey League of Conservation Voters.
Short and to the point.

R E B E C C A H I L B E R T: Good morning.

My name is Rebecca Hilbert, Senior Policy Manager from New Jersey LCV.

And, we just want to say that we support this bill. I also speak as State Lead on behalf of the Coalition for the Delaware River Watershed, and this is a bill that is a priority of ours. We unite 180 groups for the four basin states, and we’re working on flooding strategies throughout all four.

We just also would like to thank New Jersey Future for their work on this bill, and we are grateful that the bill considers renters as well, as most of the time they’re not quite as considered as often as homeowners on this type of legislation. And, as we hear from experts and the public upstairs in the Assembly on the anniversary of Sandy, and how we can be more

resilient and prepared as a state, we think this bill ties in really nicely with how we can be better prepared as homeowners and renters as well.

Thank you.

SENATOR SMITH: Thank you very much.

Kimberley Irby, New Jersey Future.

Kimberley. While you're walking up, your last job on this is to consider the comments of the Apartment Association sometime in the next two weeks, all right.

Kimberley.

KIMBERLEY IRBY: Good morning.

Thank you for allowing me the opportunity to speak today. My name is Kimberley Irby, I am a Policy Manager at New Jersey Future, working on our climate and transportation priorities. So, on behalf of our organization, thank you for introducing S3110.

And, I would just like to highlight there was a recent national news piece about flood disclosure that reported the risk that home buyers face in states that lack transparency about disclosure laws. And, that story featured a woman in southeast Georgia who bought a house that has frequent damaging flooding without knowing about it. And, she described how she has constant anxiety dreading the next rainfall, and that she feels trapped in a 30-year mortgage.

Currently, New Jersey is one of 21 states without strong flood-disclosure requirements and yet they are one of the few states, which, as you know, has both coastal and inland flooding and significant climate threats. So, given that many New Jerseyans will be impacted by these threats and deserve to know the extent to which they may be affected before choosing

where to live, and it makes sense to pass this bill and do this now by calling for more detailed disclosure forms for both buyers and renters, as well as a statement about increasing flood risk that directs them to a resource with more information. This will ultimately provide New Jerseyans the transparency they need to make informed decisions, and ultimately reduce burdensome costs for both tenants and homeowners.

So, again, just supporting the bill, and thank you for the opportunity to testify.

SENATOR SMITH: Thank you for your comments.

Douglas Tomson, New Jersey Realtors -- in favor.

D O U G L A S T O M S O N: Thank you, Chairman, Doug Tomson, Vice President of Governmental Affairs for New Jersey Realtors.

We just wanted to thank you for your sponsorship of this legislation, and we look forward to working with you on any future amendments.

Thank you.

SENATOR SMITH: Thank you for your comments.

So, NRDC, Eric Miller. Are you here? In favor. He may have left. And then, Tina Weishaus, Divest New Jersey -- in favor.

MS. WEISHAUS: I don't need to speak.

SENATOR SMITH: OK, and not necessary to speak.

So, Committee, we have (indiscernible) Coalition, the Realtors -- I'm sorry, the Apartment Association, has a couple of suggestions that we're going to ask New Jersey Future and the Realtors to take a look at it. And, of course, ultimately the decision will be what provides the most disclosure.

So, are there any questions on the bill? (no response)

Motion to release by Governor Codey, second by Senator Stanfield. Let's take a roll call vote on S3110.

MR. HANSEN: There are technical amendments, did you want them--

SENATOR SMITH: Oh, there are technical amendments. Please, mention that.

MR. HANSEN: OK, the Committee amendments would clarify that the DCA is required to adopt rules and regulations to implement the bill's provision within 90 days after its enactment to clarify that the bill's notification requirements for landlords and sellers of real property would go into effect 90 days after the DCA adopts rules and regulations, and make technical corrections.

SENATOR SMITH: So that's the-- Over in the (indiscernible) will agree to those amendments. Can you take a roll call vote on the bill as amended?

MR. HANSEN: On the motion to release Senate Bill Number 3110 with Committee amendments.

Senator Stanfield.

SENATOR STANFIELD: Yes.

MR. HANSEN: Senator Durr. (no response)

He left a yes vote.

Governor Codey.

GOVERNOR CODEY: Yes.

MR. HANSEN: Senator Zwicker left a yes vote.

And, Chairman Smith.

SENATOR SMITH: Yes.

And the bill is released unanimously.

Our next bill is S2196. Senator Scutari and Assemblymen Kennedy, Mukherji, and Stanley. It increases penalties for certain violations concerning asbestos hazard abatement.

Ed Potosnak, New Jersey League of Conservation Voters -- in favor, no need to testify. Alex Ambrose, New Jersey Policy Perspective -- in favor, no need to testify. Tina Weishaus, Divest New Jersey -- in favor, no need to testify.

So, we have the all everybody support. Are there any questions from senators on the bill? (no response)

All right, if not, can I have a motion to release? Senator Stanfield, seconded by Governor Codey. And, let's take a roll call vote on S2196.

MR. HANSEN: OK, on a motion to release Senate Bill Number 2196 and Assembly Bill Number 1438.

Senator Stanfield.

SENATOR STANFIELD: Yes.

MR. HANSEN: Senator Durr.

SENATOR DURR: No.

MR. HANSEN: Governor Codey.

GOVERNOR CODEY: Yes.

MR. HANSEN: Senator Zwicker left a yes vote.

And, Chairman Smith.

SENATOR SMITH: Yes.

And, the bill is released.

Our next bill is S2576 by Senator Cryan and Senator Oroho. Establishes certain requirements for the award of contracts to service-disabled veterans for certain projects funded by the New Jersey Infrastructure Bank.

And, we have one signed-up witness, Ryan Sharpe from the Utility and Transportation Contractors of New Jersey -- in favor, no need to testify.

And, what, in effect, this does is to make sure veterans get a piece of the pie. In a nutshell.

Any comments from senators? (no response)

All right, if not, a motion to release by Senator Durr, second by Governor Codey.

Let's take a roll call vote on S2576.

MR. HANSEN: On the motion to release Senate Bill Number 2576.

Senator Stanfield.

SENATOR STANFIELD: Yes.

MR. HANSEN: Senator Durr.

SENATOR DURR: Yes.

MR. HANSEN: Governor Codey.

GOVERNOR CODEY: Yes.

MR. HANSEN: Senator Zwicker left a yes vote.

And, Chairman Smith.

SENATOR SMITH: Yes.

And the bill is released.

Next bill is S2973, which requires utilities to submit and implement an integrated distribution plan.

So, on this bill -- and, by the way, the reason you want an integrated distribution system is it makes for a stronger grid.

Doug O'Malley, Environment New Jersey -- in favor, no need to testify. Tina Weishaus, Divest New Jersey -- in favor, no need to testify. Eric Miller, Natural Resource Defense Council -- in favor, no need to testify. And, Christina Farrell, New Jersey Utilities Association -- she says no need to testify, but she has concerns and submitted written comments. Are you here, Christina Farrell? (no response)

OK. So, has anybody seen the written comments?

MR. HANSEN: I don't remember seeing them.

SENATOR SMITH: Do you remember seeing the written comments?

All right, well let's make sure the members have--

MR. HANSEN: Oh, yeah, yeah, yeah, she gave us hard copies.

SENATOR SMITH: Let's take a minute to take a peek.

And, by the way, if you care about something you should be here testifying, FYI.

All right, well, this is in the category of why didn't you wait until after the hearing was over, to give us -- this is dated October 6, so shame on you -- who is the person? Christina Farrell. It's not the way to play the game. If you have a real concern, you really want to get it to us at least a couple of days before so we can consider it.

And, that being said, we'll still consider it, but we can't consider it today. We'll take a look at this and between here and the Senate floor or here and the Appropriations Committee we'll take a look at it. But, please, don't send it to us on the day of the hearing. It's a little bit-- And, a little

different if you're going to be here, and you're going to talk to us about it, but a little bit of not the way to play the game.

We have all these people in favor, and Christina Farrell, she has concerns, but didn't take the time to get them to us in time.

Anybody have any hesitation on releasing the bill?

SENATOR DURR: Just a little concerned, I would like to hear some of these comments--

SENATOR SMITH: Yes, I would too. (laughter)

SENATOR DURR: Other than that, I mean, you're always open to amendments. I know the Senator is, so--

SENATOR SMITH: Always. And, we're not -- we don't want to release a bad bill--

SENATOR DURR: --I guess I would be fine with releasing it today.

SENATOR SMITH: All right, we have a-- Stop the music.

All right, the (indiscernible) is that the lady is in a different committee testifying. You've got to pick your priorities.

SENATOR DURR: All right, you've got to take the shame back.

SENATOR SMITH: Let's get it out. I'll be happy to look at it before there's any action on it. And, by the way, the little bit I've read is saying, "Well, we'd like the BPU and PJM to play nice together." I kind of think they have to do that, I don't think there's any way you could avoid each other. But, we'll take a look at it.

So, that being said, motion release from Governor Codey, a second by Senator Stanfield. Let's get the bill moving.

MR. HANSEN: On the motion to release Senate Bill number 2973.

Senator Stanfield.

SENATOR STANFIELD: Yes.

MR. HANSEN: Senator Durr.

SENATOR DURR: Yes.

MR. HANSEN: Governor Codey.

GOVERNOR CODEY: Yes.

MR. HANSEN: Senator Zwicker left a yes vote.

And, Chairman Smith.

SENATOR SMITH: Yes. And, I want you to follow up, all right? Joey will follow up with the -- OK. So, let's see if any of their concerns are legitimate.

OK. Next bill, Senate Bill S3092, Governor Codey, Senator Smith. It authorizes the installation and operation of metered collar adaptors on residential electric meters under certain conditions.

So, I've got three "no need to testify." A little testimony would go a long way. But, in any case: Ed Potosnak, New Jersey League of Conservation Voters -- in favor, no need to testify. Doug Hritz, Solar Industry Association -- in favor, no need to testify. Doug O'Malley, Environment New Jersey -- in favor, no need to testify. And, one witness who would like to testify, and that is Zach Kahn with Tesla -- in favor.

Mr. Kahn, are you here?

And, if you wouldn't mind, Mr. Kahn -- because I don't have any other witnesses -- would you explain to the Committee what is a meter collar adapter?

ZACHARY KAHN: Certainly.

Good morning, Chairman Smith, and members of the Committee.

For the record, my name is Zach Kahn. I am a Senior Policy Manager at Tesla. I am here today to provide supporting testimony for S3092, but I do recommend that you reduce the bill's implementation timelines, and I'll go through that at the end.

To answer your question, Chairman, meter collar adapters provide an immense opportunity to expedite the clean energy transition by allowing energy storage, solar, and even EV chargers to be installed in a fraction of the time and at a fraction of the cost by residences. Today, New Jersey had the process to install behind-the-meter energy storage that allows residents to provide backup power to their property in the case of a grid outage is wildly overcomplicated, costly, ugly, and confusing. Customers essentially have to re-wire their whole home when they are installing backup battery power.

Meter collars provide a standardized interface to make this process faster and more cost effective without sacrificing safety. Tesla's backup switch, which is our meter collar adapter, enables safe whole-home backup from a battery energy storage system through an integrated product that plugs into customers' main service panel on the customer side of the meter. In the case of a grid outage, which we're seeing more and more of as climate change worsens weather patterns, the backup switch provides an automated means of disconnecting the home from the grid so that the home can run exclusively off of its solar and storage system.

The device allows us to install energy storage systems 12 times faster than we are able to do under the current system. It provides substantial installation cost savings, which are passed on to consumers in states and under utility territories where this is permitted. It is incredibly safe, it's tested and certified, and is governed under existing safety standards. In fact, it is certified under the same UL 414 standards as the meter sockets that are currently used today by utilities. The backup switch -- which, again, is our meter collar -- is currently approved in 18 utility territories around the country and is being piloted in three others. In those places, thousands of these devices have been installed without incident. Unfortunately, no New Jersey utilities have allowed for installation of meter collars, even when the equipment is fully certified to all relevant safety standards and requirements. And, this is despite the fact that it could lead to significant consumer savings.

This prohibition presents a hurdle for New Jersey meeting its ambitious goals for energy storage and its clean energy goals. When batteries are coupled with solar, these homes can use solar energy during times of peak demand -- avoiding the need to run dirty fossil fuel (indiscernible) plants. Just last week, the BPU released its energy storage incentive straw proposal that will merely incentivize *more* storage -- it will not get it installed faster.

By requiring utilities to adopt a process as is done in this bill, these products have to be thoroughly tested by nationally recognized testing laboratories, and, by allowing this, New Jersey will position itself to allow for more and faster installations of storage and solar. This legislation is required to remove some utility resistance, to allow customers to choose to deploy these technologies.

As I mentioned at the outset, we did have one issue with the bill as written. As it is currently written, it would take about a year for it to take effect. The bill provides the utilities with six months from the effective date to develop a process for approving meter collar adapters, but then it makes the effective date 180 days post-enactment; effectively giving the utilities a full year. We recommend that the bill be effective immediately upon enactment, and that utilities be given 90 days to develop an approval process.

While we recognize there is a need for time to put this process in place, other utilities have managed to do so in just a few months. And, with an aim to meet the State's clean energy goals, it's important that we reduce any of these time barriers.

Thank you for your time tonight, and I appreciate the opportunity to speak here, and I would be happy to answer any questions.

SENATOR SMITH: Any questions for Mr. Kahn?

GOVERNOR CODEY: No, but I think I know now what a meter collar -- a collar meter adjustor is. That's what my wife puts on me when I leave the house.

SENATOR SMITH: (laughter) And, with good reason.

Thank you, Mr. Kahn. We do have one more witness in favor. From ConnectDER. Not sure I can read the handwriting -- what is it? Jon, and the last name is? Knauer? From ConnectDER. And, I'm sorry if I mispronounced your name.

J O N K N A U E R: No problem.

SENATOR SMITH: Hit the button-- Good. Red means go.

MR. KNAUER: OK.

Good morning, everyone. Jon Knauer. I'm a VP of Policy and Product Strategy at ConnectDER. No apologies needed for either my name or the name of my company, no one ever gets either of those things right.

So, yes. Like Tesla, we make meter adapters. The fundamental value of the product is to accelerate the installation time of residential DERs. So, solar energy storage, electric vehicles.

And, just some points on our product. We are a Philadelphia-based company. We've been selling these devices for about six or seven years. There are 15,000 or so connectors in the field now with incredibly high reliability. Some markets that we're in that are nearby are Pennsylvania; PPL has approved our product; the state of Vermont -- Green Mountain Power; the state of New York, they're being used in Con Ed. So, this is not some exotic foreign thing, it's being used nearby very successfully every single day.

Nationwide, we are approved in close to 20 states at this point. And, you know, just building on some of the things that Zach was saying, very cost-effective product, very inexpensive addition to the system that avoids thousands of dollars in electrical system rewiring. There's no cost to the utility, there's no cost to the State, and there are significant benefits to the homeowner. There's a lot to be said for these products, just in the broader decarbonization and electrification space. It's going to be extremely costly, and just cause unreasonable delays in electrification if every single home needs to be rewired in order to accommodate solar and electric vehicles and heat pumps and, you know, other home electrification decarbonization strategies.

So, yes, we believe very strongly that this legislation would be of significant benefit to homeowners in New Jersey and just emphasizing, again,

it's not going to cost the utility or the taxpayers a dime in rate-based or programs that are required to facilitate electrification via tax credits, or what have you.

And, I agree with the statement from Tesla about the timeline. So many other utilities have done this at this point, that the New Jersey utilities should be able to just take a process from Colorado or Arizona or Vermont or Pennsylvania or New York or wherever and they should be able to accelerate that process development and evaluation timeline substantially. I think three months should be plenty.

SENATOR SMITH: Appreciate your comments.

Just for the average person who knows nothing--

MR. KNAUER: Yes.

SENATOR SMITH: What does a meter collar adapter cost?

UNIDENTIFIED SPEAKER: Thank you, I was going to ask that.

MR. KNAUER: So, there are a couple of different versions of our product that cost anywhere from \$500 to \$1,000, depending on the features that they have, whether they include metering, whether they include other control functions. So, a basic one is about \$500, and then if you want to build revenue-grade metering and data acquisition to that, it roughly doubles the cost. So, that's still anywhere from \$1,000 to \$3,000 less than doing an electrical system upgrade that would otherwise be required to install solar or storage or an EV charger.

SENATOR DURR: Senator.

SENATOR SMITH: Questions?

Yes sir.

SENATOR DURR: How long does one of these take to install?

MR. KNAUER: The actual installation of the collar itself only takes about three minutes. And, then to do the wiring connection from -- say it's the solar, and you're wiring from an inverter into the adapter, that takes maybe 15.

But, it's not a difficult process.

SENATOR DURR: You also spoke about safety and stuff. How long has this been around, and has there been any, you know, study done on how effective the safety is of it? Has there been incidents?

MR. KNAUER: There have not been any incidents. There-- I don't know that any formal safety studies have ever been done, but there is an extraordinary amount of testing that happens on the front end with UL and adherence to various (indiscernible) standards. The utilities themselves do their own safety testing and develop procedures to ensure that their line crews are properly trained.

So, there's a whole system that exists around the product to ensure safety.

SENATOR DURR: All right, thank you very much.

MR. KNAUER: Sure.

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

Thank you so much.

MR. KNAUER: Thank you.

MR. GURRENTZ: I also just got a note from Tesla saying that there's some \$500 credit to customers where they're allowed to install metered collar adapters. (indiscernible)

SENATOR DURR: So, almost at no cost.

MR. GURRENTZ: I'm sorry?

SENATOR DURR: Almost at no cost.

MR. GURRENTZ: I don't know how much the Tesla one would cost, but it would be a credit (indiscernible), that's all I can say. You can follow up with Zach Kahn if needed to answer your question.

SENATOR DURR: Absolutely. Thank you.

SENATOR SMITH: So, what do you think, Committee? Can we have a motion to release? Senator Stanfield, second by Governor Codey. Let's take a roll call vote on metered collar adapters, S3092.

MR. HANSEN: On the motion to release Senate Bill Number 3092.

Senator Stanfield.

SENATOR STANFIELD: Yes.

MR. HANSEN: Senator Durr.

SENATOR DURR: Yes.

MR. HANSEN: Governor Codey.

GOVERNOR CODEY: Yes.

MR. HANSEN: Senator Zwicker left a yes vote.

And, Chairman Smith.

SENATOR SMITH: Yes.

And, the bill is released.

So, our next bill is the divestiture bill, which is Senate Bill S416. It prohibits the-- And it's by Senator Greenstein and Senator Smith.

MR. GURRENTZ: (indiscernible)

SENATOR SMITH: What's that?

MR. GURRENTZ: (indiscernible)

SENATOR SMITH: Oh, I'm sorry, it's by Senator Smith.

It prohibits investment by the State of New Jersey of our pension and annuity funds from the 200 largest publicly traded fossil fuel companies. And, I think it requires some background information.

Number one, the State of New Jersey, in terms of divestiture of our pension funds-- We've done this, in my understanding, in the history of New Jersey, twice. We did it about 20 years ago, divesting in investments in South African companies because of the outrageous Apartheid system in South Africa. And, I think that wasn't just New Jersey, it was the whole world, actually, that got involved in that. And, I think it was part of the reason for the destruction of that system, and, ultimately, Nelson Mandela becoming the President. I think we did, a year or two ago, on Ben and Jerry's ice cream. Not quite the same level, all right.

What's proposed here is sending a signal to the fossil fuel world and industry that we've got to find different ways to live. And, you, the companies that produce these fossil fuels, have to help us. And, to a greater or lesser degree, some are trying. I had the opportunity to visit the Exxon research facility in Clinton, New Jersey, and they are doing research that will help to reduce fossil fuel use. Good thing.

But, I still think New Jersey needs to send a signal to the industry that this is existential, you know. Not everybody in the room feels that the end of the world is coming; I'm one of the few that actually does, I think. Maybe a little too radical a view, but I really think we're in big trouble. Sandy, Ida, people dying from the impacts of global climate change in New Jersey convinced me that we've got to do things differently.

So, it's a controversial bill. And, it's controversial because it's hard to imagine a stock portfolio making that much of a difference. It makes a difference. Releasing the bill sends a signal. It means we've got to change the way we're doing business in America and in New Jersey.

So, I have a very long list of people who have a position and who don't want to testify. And, then I have a much shorter list of people who do want to testify. So, let me read the list of people who-- Mr. Governor.

GOVERNOR CODEY: Sorry to interrupt you, but I have another committee at the same time.

SENATOR SMITH: Yes, sir.

GOVERNOR CODEY: And I (indiscernible) a lot of time. And, as you know, I am not voting for the bag bill--

SENATOR SMITH: Yes, sir.

GOVERNOR CODEY: OK, and I would love to (indiscernible) understand why we're doing it. It just started, and I'm well aware of what's going on in the store. My wife had a new knee, so I'm there, and I'm hearing comments back and forth and I don't know why it just started and now we have to change it somewhat dramatically right now, so I will not be voting for it.

But, I have to go to another committee.

SENATOR SMITH: Hopefully, before you go, Governor, you can leave your vote for S416. That's the bill we're talking about right at the moment. Oh, you already have? OK, thank you very much.

UNIDENTIFIED AUDIENCE MEMBER: We can't hear.

SENATOR SMITH: Thank you for your comments.

GOVERNOR CODEY: What do you want to hear?

SENATOR SMITH: And, first of all, we don't do that at this Committee. You want to shout out, get up.

GOVERNOR CODEY: Are you for me or against me? It all depends. (laughter)

SENATOR SMITH: We've had a couple of committee meetings like that. Most interesting committees tend to get violent, and I know our issues are intense, but we don't shout. Not so much.

Governor, thank you for your comments. Now back to this bill. I'm going to tell you who has opinions and then decided they did not want to testify, OK.

So, first, Dan Oliveira, President of the State Troopers NCO Association -- opposed, no need to testify. Scott Mackey, American Petroleum Institute -- opposed, no need to testify. Ryan Berger, New Jersey Seed -- opposed, no need to testify. And, Mr. Berger points out we should look at his letter from the prior hearing in Toms River. Alex Ambrose, New Jersey Policy Perspective -- in favor, no need to testify. Tina Weishaus, Divest New Jersey -- in favor, no need to testify. Mike Egerton, New Jersey Chamber of Commerce -- opposed, no need to testify. Mark Longo, ELEC 825, the Operating Engineers -- opposed, no need to testify. Eric Benson, Clean Water Action -- in favor, no need to testify. Nicole Price, individually -- in favor, no need to testify. Felicity Carroll -- in favor, no need to testify. Doug O'Malley, Environment New Jersey -- in favor, no need to testify. Carol Gay, New Jersey State Industrial Union Council -- in favor, no need to testify.

Ms. Gay, are you here? Now, you're sure you're in favor? You've marked in favor on this. I just want to make sure the State Industrial Union Council--

MS. GAY: Yes.

SENATOR SMITH: OK, just double checking.

Holly Cox -- in favor, no need to testify.

So, those are all the people and their organizations who have taken positions. We now have a couple of witnesses who want to speak, and let's start with Ed Potosnak, New Jersey League of Conservation Voters.

SENATOR DURR: Senator, do we have any witnesses who want to testify who are opposed?

SENATOR SMITH: Oh, yeah. Oh, yeah.

SENATOR DURR: I'd love to hear from them.

SENATOR SMITH: We're going to do both. We're going to give everybody-- The great news is, it's six witnesses, not 600.

OK, Mr. Potosnak -- in favor.

EDWARD POTOSNAK III: Good morning, Chairman, members of the Committee; Ed Potosnak, Executive Director with New Jersey LCV. Glad to be here this morning.

We support this legislation, because we live in a capitalist society, and one of the ways that we shift what corporations do is by voting with our wallets, and the direction that we want to see them go into the future. And, this is really about our children and grandchildren, and this is not about the past and the punitive. It's sending a clear signal to fossil fuel companies -- the 200 dirtiest in America. And, if they're an American company, that we want you to succeed. And, to succeed in a future that is ever-increasingly ravaged by the effects of climate change, the negative health impacts of pollution is going to be contingent upon you getting a new operating model

and changing the things that you're investing in and the way that we get our energy.

And, that is possible. My background is I'm a chemist. We can do this, and you mentioned one particular company that is doing some of that work. But, you know, let's be honest, it's been well reported that fossil fuel companies did their own research, they knew their product -- oil and gas -- was causing climate change; was negatively impacting human health causing asthma and cancer; and they buried it; they hid it from the public; and they continue to make profits. And, in fact, with record gas prices as they are today, the fossil fuel companies are making record profits. So, when we're paying the most, they're making the most.

So, by divesting the pensions, we will send a signal we want them to prosper in the future in a different way. And, that is something that we can do, New Jersey, the State, is a customer, and we're very supportive of this measure.

Thank you for bringing it up.

SENATOR DURR: Excuse me, can I have--

SENATOR SMITH: Yes, sir. Senator Durr.

SENATOR DURR: And, this is not to pick on you. How did you get here today?

MR. POTOSNAK: I drove.

SENATOR DURR: Is that a gasoline car?

MR. POTOSNAK: No.

SENATOR DURR: You have an electric car?

MR. POTOSNAK: I do.

SENATOR DURR: All right. How did you heat your home?

MR. POTOSNAK: This morning?

SENATOR DURR: How do you heat your home?

MR. POTOSNAK: I heat my home with gas.

SENATOR DURR: OK. Is that a fossil fuel?

MR. POTOSNAK: Absolutely.

SENATOR DURR: I got a question. If you were a grocery store owner, and you said you don't want this customer to stop coming to your grocery store, would you care what that customer said, or would you care about the customers who came to your grocery store?

MR. POTOSNAK: I have a great example. When I was younger, I used to eat McDonald's, and it was a big thing in the '80s that they were packaging the Big Mac, which was a delight to eat, in polystyrene. And a number of young people, like myself, pushed back. And, if you go to McDonald's today, a Big Mac is in a cardboard box, something that can make its way through our landfill without having a negative impact. And, it was consumer pressure that drove that change. And I think--

SENATOR DURR: Did you stop going to McDonald's?

MR. POTOSNAK: We did. Yes.

SENATOR DURR: But, I don't think that *you* stopping going to McDonald's had a change.

MR. POTOSNAK: I can see--

SENATOR DURR: I think divesting in companies-- First off, it's the government picking winners and losers, I don't agree with that. Second off, you have a bigger voice when you're part of the company than when you're not in the company.

MR. POTOSNAK: But, those things can be true, but I think you can make choices in where to shop, where to eat. We're seeing this pushback under Citizens United, where companies are investing in more liberal or conservative causes, and customers are deciding whether or not they want to frequent those establishments, and some are controversial. And, I think we're seeing-- We do elections, a big pull back, and corporations getting involved in social issues because people are voting with their wallets, they're literally not coming into their store, and they just want to stay out of it.

I'm not on the Supreme Court, I didn't make that decision, but I think this is very similar. We have the power as a consumer here in New Jersey to send a message to the fossil fuel industry to make a change, to be successful, and to move to a healthier environment and cleaner air. And, you know, the most densely-populated state, every single county is failing and the American Lung Association.

This is a responsibility. It's a moral obligation for us to act, I believe, and this--

SENATOR DURR: Well, I want to congratulate you on having that electric car, because I'm sure it didn't take fossil fuels to make the electric battery or the car.

MR. POTOSNAK: Eighty percent less than an internal combustion engine, and I'm saving roughly around \$300 a month on gas price versus an (indiscernible) or fossil fuel car. So, it's a pretty good deal.

SENATOR DURR: It does take fossil fuels to make the electric.

MR. POTOSNAK: Yes, 80% less. But, yes.

SENATOR DURR: All right. Thank you.

SENATOR SMITH: Thank you, Senator. Thank you, Ed.

And, I'm going to try to do this pro-con-pro-con, OK.

So, in opposition, Dennis Hart from the Chemistry Council of New Jersey.

Mr. Hart.

D E N N I S H A R T: Good morning, Mr. Chairman, members of the Committee. Thank you for giving me this opportunity.

My name is Dennis Hart, Executive Director of the Chemistry Council of New Jersey. Our association member companies represent 45,000 direct employees, and we are the largest impact on New Jersey's economy as a business sector -- chemicals, pharmaceuticals, fossil fuels, flavors and fragrances.

Efforts to remove pension fund investments from fossil fuel companies is short-sighted, and removes New Jersey from influencing the direction of the fossil fuel industry. While Wall Street looks to increase corporate ESG efforts through their stock purchases and reporting requirements, New Jersey will be going in the opposite direction if this legislation becomes law.

It will be the fossil fuel industry that develops the leading technologies and solutions to our climate efforts. Mr. Chairman, you mentioned going to the Exxon facility where they're doing cutting-edge research right now in New Jersey to develop the new solutions for fuels. And, you said that New Jersey needs to send a signal -- I don't think they need a signal, I think that tour you took shows that our companies have that signal, and they're leading in development of the solutions we're going to have. And, I encourage everyone on the Committee to also take a tour, and not only that facility, but other facilities around the state where you can see our industries

are making biofuels for the airline industry. There's blue hydrogen being produced; there's green hydrogen being produced; and renewable natural gas.

These are all cutting-edge fuels for the future that will cut down on climate change impacts. Underway right now, BASF, SABIC, and Linde, have started construction of the world's first demonstration plant for large-scale electrically heated steam cracker furnaces. Steam cracker furnaces are used in the fossil fuel industry to break down crude oil into all the various chemicals and products that we need. And, the process of breaking them down is very energy intensive, and you can see the energy, the fossil fuel energy themselves are developing an electric cracker, which would greatly reduce the impact of the generation of these products. This new furnace will reduce emissions by 90% from conventional crackers. Steam crackers play a central role in the production of basic chemicals and break down hydrocarbons into olefins and aromatics.

Now is not the time to reduce investments in companies. The industries impacted by this legislation aren't just producing fuels, they produce the basic chemicals and fertilizers and things we need every day for the products that we use and the products that we need. Increasingly, investors are looking at demanding ESG efforts by corporations, and we're talking about taking a signal. But, the impact of this legislation is taking the State *away* from the table; taking the State away from the ability to influence these companies. It's similar to somebody saying, "I decided not to vote because I'm sending a personal message."

I think that's bad policy; I think it's bad for the State, and, Mr. Chairman, I'm willing to answer any questions, but we do oppose this legislation.

Thank you.

SENATOR SMITH: I noticed.

Any members with questions? (no response)

If not, in favor -- Barbara Pal, from Divest New Jersey, if you would come forward, Ms. Pal.

BARBARA PAL: Good morning.

SENATOR SMITH: Morning.

MS. PAL: My name is Barbara Pal, and I am the Co-Chair of the Divest New Jersey Coalition. Thank you for the opportunity to speak here today.

Last year, just two months after Hurricane Ida, that killed 96 including 30 in New Jersey and cost over \$75 billion in economic damages, the House Committee on Oversight and Reform held the historic hearing on Capitol Hill on big oil's role in this climate disinformation. Chief executives of Exxon Mobil, Chevron, BP, and Shell, were all asked the same question: Will you pledge to stop lobbying against efforts to reduce emissions? None of the executives have agreed to do so -- none of them. Oil majors like to claim that they want to be part of the solution, and they are actively working on transitioning to be sustainable energy companies, but in reality, nothing could be further from the truth.

Three weeks ago, the House Committee on Oversight and Reform released subpoenaed internal documents from these fossil fuel companies showing how they are gaslighting the public with expensive PR campaigns and have no real intentions to lower their carbon emissions. Exxon documents showed that the company spent at least \$68 million on advertising its research into algae-based biofuels, but notes from an investor

presentation obtained by the committee showed this technology is “still decades away from the scale we need.”

An internal Shell email in 2020 said the company’s announcement of the pathway to net zero emissions had, “Nothing to do with its business plans,” and another document included guidelines for employees which stated, “Please, do not give the impression that Shell is willing to reduce carbon dioxide emissions to levels that do not make business sense.”

The New Jersey State Pension Fund has billions invested in these very same deceitful fossil fuel companies, and, frankly, New Jersey pensioners and taxpayers deserve better. Public pension funds like New Jersey’s should be held to higher moral standards when it comes to investing taxpayer dollars. It is crystal clear that profits from investments in fossil fuel companies are negligible compared to exorbitant costs New Jersey continues to suffer from climate related disasters, which are, of course, caused by the very same fossil fuel companies.

The New Jersey Division of Investments’ position to stay invested in big oil so they can have a seat at the table and pressure them through shareholder engagement is a pipe dream. When these companies show us who they are, over and over again, we should believe them. The long-term economic outlook of the fossil fuel energy sector is not bright. No matter how hard big oil keeps fighting to stay relevant, the energy transition is already well underway, and eventually -- hopefully sooner rather than later -- sustainable energy sources will become the norm. Staying invested in a sector whose days are numbered is not a fiducially responsible policy.

The New Jersey State Pension Fund should divest from fossil fuels as soon as possible, but this will not happen unless the New Jersey Legislature mandates the New Jersey Division of Investments to do so. Which is why it is crucial to pass the New Jersey Fossil Fuel Divestment Act, S416.

Please do everything in your power to vote this bill out of Committee and pass it, so we can stop funding climate disasters in our own communities using our own hard-earned New Jersey taxpayer dollars.

Thank you.

SENATOR SMITH: Thank you, Ms. Pal.

Any questions for Ms. Pal? (no response)

All right, if not, in opposition -- Ray Cantor, NJBIA.

Mr. Cantor.

RAYMOND CANTOR, ESQ.: Thank you, Mr. Chairman, and members of the Committee.

My name is Ray Cantor, I am with the New Jersey Business and Industry Association. We are here today opposing this legislation. NJBIA is the state's largest business association. We not only represent companies -- many of them who will be impacted by this bill because they are fossil fuel companies -- but we also represent, you know, what you would call clean energy companies as well: wind, solar companies; those involved in a host of the clean energy side of the equation. And, we also represent those consumers of energy. So, we have a very keen interest in making sure that our energy policies are balanced and workable.

We have three reasons why-- Again, we submitted testimony to all the members of the Committee, we spoke over the summertime, so I'm

not going to go through a long testimony. I would just summarize what we said before, and make a few additional points. There are three reasons why we oppose this legislation.

First, from a fiduciary responsibility, the State should be making sure that its pension is invested in sound investments, legal investments, and should not be taking public policy and these types of concerns into that equation. By the way, I'm sure we all know that we have a long-standing pension deficit in this state. I think we're still \$95 billion in the hole. This is not the time where we should be doing anything other than making sound investments with our pension. Why does a business association care about our pension investments and making sure that they are sound? Because those pensions are guaranteed. The State is going to have to pay those pensions regardless if we make enough return on our investments or not, and if we don't make enough return on those investments, it means higher taxes for the business community and all of us. So, for that reason alone, we should not be doing this bill.

Fossil fuels are also still very much needed in New Jersey and in the country. If getting rid of fossil fuels was as simple as saying, "We don't want them anymore," we would do it tomorrow. It is not; they cannot be eliminated immediately -- or even in the foreseeable future. We've had the commissioner of DEP come and testify that natural gas will be around for decades to come. So, we know we're going to need fossil fuels in the future. To Senator Durr's point earlier about how we heat our homes, about 85% of homes in New Jersey are heated with either a natural gas or with oil. When you're powering up your Tesla, by the way, you're pulling energy from the PGM grid, which is powered by oil, natural gas, and coal, in addition to some

clean areas as well. So, we can't just get rid of our fossil fuels today, or in the future, so, again, this bill is heading in that wrong direction.

I read an article recently, I believe it was in *The Atlantic*, that made the point, as we do our conversion from a carbon economy to a greener economy, we're going to need a lot of investment. And, most of that investment is going to be coming from the private sector, and most of that private sector investment is going to be coming from fossil fuel companies who are changing -- these are energy companies -- they are changing how they do business. We are seeing advances right now being led by fossil fuel companies in hydrogen, in renewable natural gas, in carbon capture, in biofuels. You need only go to the Exxon Mobil facility in Clifton, New Jersey, to see this cutting-edge research. Trying to deny these companies the capital that they need to make the conversion to clean sources of energy is only counterproductive.

So, again, we oppose this bill because we believe it's going to harm the pension system. We still need fossil fuels, we should not be putting our head in the sand and saying that we do not. And, again, it's going to be counterproductive to our long-range goals.

We ask this Committee to hold this bill today, and I'm happy to take any questions that you may have.

SENATOR STANFIELD: Anyone have questions? (no response)

Thank you so much, no questions. Thank you, no questions.

MR. CANTOR: Thank you.

SENATOR STANFIELD: Next, I would like to call David Hughes from Rutgers.

DAVID HUGHES: Thank you very much. Can you hear me?

SENATOR STANFIELD: Yes, thank you.

MR. HUGHES: Very good.

I am David Hughes, I am representing Rutgers AAUP-AFT -- that is the faculty and grad union of teachers and researchers at Rutgers University statewide. You may have seen Todd Bashin's (phonetic spelling) testimony, which was submitted in written form; he is my colleague. I'll be amplifying many of his points.

And, to address one of Senator Durr's concerns, I took my bicycle -- rode my bicycle to the train station and took the train here. New Jersey Transit, powered by electricity, which in this state will increasingly be from wind power. I heat my home through natural gas, or methane, currently, but this wonderful collar meter legislation, if passed, would allow me to hook up my solar panels to a heat pump and a battery and then my heating would be powered by solar.

My local union, as well as AFT New Jersey -- the American Federation of Teachers, that is -- and the American Federation of Teachers nationally in the past two years have all endorsed fossil fuel divestment. Rutgers University is in the process of divesting its pension, its portfolio, its endowment from fossil fuels. The trustees of Princeton University just voted last week to divest from fossil fuels. Educators and their institutions have been leading in divestment, but, overall, 1,500 institutions with assets over \$39 trillion are in the process of divesting from fossil fuels.

So, I am going to present two sets of arguments that I think you should consider in supporting this bill. There is a moral argument and there's a fiduciary argument. The moral argument is that burning fossil fuels is

changing our climate. It's giving us disasters such as Hurricane Sandy, such as the hurricanes that now are burying Florida and Puerto Rico. Fossil fuel combustion undermines the conditions for life on planet Earth. If I can put this quite plainly: Fossil fuels are bad when burned. And, that's what fossil fuel companies do -- they dig them up and burn them.

We know that, and the Energy Master Plan of the State knows that and codifies a transition away from fossil fuels. That's why we're installing wind turbines off the shore. So, really, all this bill would do is bring the State's investment policy into harmony with its industrial policy, right? And, you wouldn't want to have the investment policy undermining the industrial policy of the State. We want to do the right thing across the board. And, you'd want to be in a position 20 years from now, when your children and grandchildren are thanking you for doing something good for planet Earth, rather than blaming you for wrecking planet Earth. That's the moral argument.

The fiduciary argument is that divestment is not "woke capitalism," or "woke policy." It represents responsible financial stewardship. BlackRock, which is not a left-wing firm, did a study a bunch of years ago which ultimately supported the New York State Pension Fund divestment, and they found that fossil fuel stocks are performing poorly over time, and that that pension fund would have done better if it had divested now, or seven or eight years ago. Fossil fuels are becoming stranded assets, where they will not be monetizable. There is the occasional war-induced bump, or bubble, which is what we're seeing this week. I haven't checked the stock prices today; maybe it's over already. That's not a reason to stay invested in this sector. In fact, that's a reason to get out while the going is good, and to

get out quickly. And, I'm glad this bill has a fairly accelerated timetable for divestment.

Now, let's think about, though, think about the fiduciary matter in very common-sense terms. We really have two options when it comes to these investments: We can continue putting capital into the extraction and combustion of fossil fuels in a business-as-usual way. And, if everybody does that, then we hit plus-2, plus-4, plus-6 degrees centigrade above pre-industrial levels. So, we have, of course, Hurricane Sandy and so on all the time, but we also have the collapse of agriculture in this country, which means the collapse of the economy, which means that those stocks are not worth very much anymore. So, those stocks tank under a business-as-usual scenario, which is not what I'm recommending.

I'm recommending a positive scenario, which is that we transition away from fossil fuels as those 1,500 institutions are already doing, and those stocks lose value -- which is, in fact, kind of what we're seeing already happening, right? And, in that case, again, we want to get out now; the going is not so good, but we want to get out now before the going for those stocks gets very bad. Either way, divestment is a better form of financial stewardship, the continued investment in fossil fuels, and the State has a responsibility to workers -- AFT members in particular. AFT members statewide and nationally are saying, "We want you to take our money out of this sector for these moral and fiduciary responsibilities."

Finally, I want to say a word about shareholder activism, because I think this is where Senator Durr was driving, and where a couple of the people speaking in favor of this bill was driving. Because of the question of, do we have a bigger voice? I think we support the transition away from fossil

fuels. Do we have a bigger voice if we retain stocks and access to shareholder meetings and so on in these corporations? That's true if we want a fairly limited reform. You know, if you want McDonald's to stop selling hamburgers in boxes, you might exercise your voice through a shareholder resolution. But, if you want McDonald's to stop selling hamburgers, that's not going to work. If you want Exxon Mobil to invest a little bit more in renewables, maybe you could do that through a shareholder resolution. If you want Exxon Mobil to stop producing oil, that's not going to work in a shareholder resolution. In fact, the Securities and Exchange Commission regulates shareholder resolutions, and they will not -- it is not legal for shareholders to propose, even to propose a resolution at a stockholder meeting, which causes for a complete change in the business model of a corporation. Shareholders cannot change the major product of a corporation.

And, what matters here is not whether Exxon Mobil is producing a little bit of green hydrogen on the side. What matters-- Because producing green hydrogen does not lower carbon emissions. In fact, solar panels and wind turbines do not lower carbon emissions. What lowers carbon emissions is, yes, burning less carbon. Producing less oil, gas, and coal, and burning less of it. And, the oil corporations on this list are committed to continuing their business as usual as their main business of burning hydrocarbons while they do something else on the side and try to distract us.

So, I would ask that you endorse this bill, please, and I thank you to Senator Smith for your support of it. Push it forward so that we can actually have an industrial policy and an investment policy in the State that is both morally and financially responsible.

SENATOR SMITH: Thank you, Mr. Hughes.

SENATOR DURR: First--

SENATOR SMITH: Senator Durr, you have a question.

SENATOR DURR: You do know that we are in the least amount of hurricanes recorded for the last 10-15 years, this year? You're talking about storms -- least amount.

When you're talking about greater damage and cost, we continue to grow this state. So, if you put somebody in a position where a storm is going to happen, naturally you're going to have cost and loss of life. There's nobody there, it's not being recorded. So, that point being made.

Do you know that oil produces a lot more than just gasoline for cars?

MR. HUGHES: I know that. I know you mentioned fertilizer--

SENATOR DURR: Your glasses, the pin you are wearing there, saying, "green." It has multiple aspects. So, to do away with it would be foolish.

MR. HUGHES: Well, I usually--

SENATOR DURR: You would be sitting there naked if you had no fossil fuel. So, to say--

MR. HUGHES: I know you might infer that--

SENATOR DURR: So, to say, "do away with it" is foolish. So, no, I'm not proposing, you know, do away with fossil fuels. I would never propose that--

MR. HUGHES: Listen--

SENATOR DURR: --And I think anybody who proposes that is foolish.

SENATOR SMITH: Senator, I agree that a little banter is good, but the visual is another conversation for me.

MR. HUGHES: I agree.

SENATOR SMITH: We appreciate your point of view, and Senator, we appreciate yours, and you're going to get a chance to vote on it very shortly.

Thank you, sir, for coming forward.

The last witness is Hannah Reynolds, individually -- in favor of S416.

H A N N A H R E Y N O L D S: Good morning, and thank you for convening this necessary dialogue today.

My name is Hannah Reynolds, and I am here to support the fossil fuel divestment bill presented here today, attending in my capacity both as long-time supporter of Divest New Jersey and also as Emeritus Co-Coordinator of the Divest Princeton campaign at Princeton University -- which recently divested its \$38 billion endowment from fossil fuels.

But, most importantly, at 22 years old, I am here on behalf of my entire generation -- the people who have to come of age in the climate that is here, that's been established and caused by the actions of the fossil fuel industry and those who are not willing to hold them accountable.

I am here to ask -- or rather to implore -- that you act now by supporting this divestment bill, which offers the opportunity to show a true commitment to environmental justice and bold climate action. In this historic moment, our eyes are on you.

By passing this bill, the egregious pollution and climate denial that has taken place since decades before I was born can be urgently

addressed and countered. Divesting means revoking the fossil fuel industry's social license to operate, and insisting instead that our industry meets our demands, putting an end to the continued imposition of its self-centered row upon the general public, despite the dire consequences of climate change. Just because we are currently relying on oil and gas does not mean we must always be. And, taking away the fossil fuels industry's financial control over our energy grid is one way, and investing in clean, renewable energy in frontline communities helps to push this forward.

Climate change has already reached New Jersey, as evidenced by the unrelenting rain that we've faced in the past week. I've lived this reality. Last fall, when I was a senior at Princeton, a tornado touched down just a few miles from campus. We sheltered in place in the basements, but then were made to evacuate because of the flash flooding that occurred there. The storm was caused by Hurricane Ida. This isn't and can't be taken as normal for New Jersey. Tornadoes are not normal in New Jersey; flash flooding and inches of standing water in basements is not normal in New Jersey. Central New Jersey is the kind of place we typically think of as "safe" from the impacts of climate change, but last fall it made it clear that nowhere is untouched by this planetary crisis that we've found ourselves in.

We cannot accept the damage and destruction and death that comes with climate change as normal. Communities across the state are already feeling the impacts of an industry that has profited off of the exploitation of our planet for far too long.

Recently, a team of leading researchers at Princeton University, where I went to college, determined that investing in companies like Exxon and (indiscernible) is fiscally irresponsible, which led to Princeton's

divestment. Many of these researchers receive funding for environmental research from Exxon and other oil companies. Even when their research depended on the funding of fossil fuel companies, our state's leading scientists know that fossil fuel companies have been involved in egregious pollution and harmful climate disinformation and determined that our ties to this industry needed to end.

I urge you to follow Princeton's lead. Follow the lead of Rutgers University over a year ago, and the lead of our neighbor, New York, not long before that. By taking this bold step, New Jersey would show leadership on climate change, but would be far from allowing this movement at large. By divesting from fossil fuels, New Jersey would join the over 1,500 institutions, governments, and entities that have already divested in fossil fuels -- totaling over \$40 trillion. That's a lot of money. That's doing a lot more than just a symbolic action.

Divestment provides the opportunity to invest in the resilience of our state. So I urge you, for the good of New Jersey, my generation, and the generations to come, to take this necessary step. Now more than ever, we look for you to lead.

Thank you.

SENATOR SMITH: Thank you for your comments.

Any questions? (no response)

That concludes our witnesses on the divestiture bill. Clearly, controversial. Senator Smith is going to move the bill for release, Governor Codey is going to second.

Let's take a roll call on the bill, and if anybody has comments, this is a great opportunity to make it.

MR. HANSEN: There are some technical amendments.

SENATOR SMITH: Oh, and there are technical amendments.
And they are?

MR. HANSEN: The Committee amendments would change the date by which divestment from non-coal-related companies is required from January 1, 2022, to 12 months after the bill's effective date and make technical corrections.

SENATOR SMITH: And, obviously, the reason for the change is that's the date that's already passed.

So, in any case, discussion -- or voting. Why don't you call each member and we'll go from there.

MR. HANSEN: OK.

On the motion to release Senate Bill Number 416 with Committee amendments.

Senator Stanfield.

SENATOR STANFIELD: Yes, thank you.

I appreciate the intent of this bill. I think it's very well intentioned. But, I do have concerns about unintended consequences. I don't want to discourage fossil fuel companies that may be looking towards cleaner avenues from pursuing that. And, I don't want to have an unintended consequence on our pension program right now that is already in serious straits.

So, because of that, I am no.

MR. HANSEN: Senator Durr.

SENATOR DURR: I think I made my point clear that I don't agree with this bill, that this bill has -- as Senator Stanfield said -- unintended consequences.

I think our voice is greater when we are invested into a company, and we have leverage. Plus, I believe it sends a signal picking winners and losers, and I disagree with that; the government, that's not their place. That's for the individual, the citizens to do, not for government. They have a responsibility.

So, with that, I'm going to vote no.

MR. HANSEN: Governor Codey left a yes vote.

Senator Zwicker left a yes vote.

Chairman Smith.

SENATOR SMITH: You're going to, I'm sure, leave ambivalent about it, but I'm not ambivalent about it.

The clock is ticking, and there's not that much time left. We've got to get our industry to change, and how we live -- we've got to make changes. So, I think this is absolutely critical to hopefully send the signal and get other entities -- government entities -- to follow through.

So, I vote yes. The bill is released.

So, the main event. You thought that was--

UNIDENTIFIED SPEAKER: (indiscernible)

SENATOR SMITH: Oh, I'm sorry, not the main event. We have a busy, busy list.

So, our next bill is S3102, which is a Singleton/Smith bill, and it establishes the uptime requirement for EV charging stations and the incentive programs administered by the BPU.

Now, there is -- this bill comes from a *New York Times* article which did an investigation of charging stations around the country. Some of the leading companies that do charging stations have charging stations that are out of commission 60% of the time. That's unacceptable. So, this bill sets a standard for the uptime -- meaning it has to be working a certain percentage of the time to get any kind of government support.

One of the comments that we received was, "Well, the Federal Government is going to set uptime standards, so wait." The problem with waiting is that you're usually waiting for Godot. We have a tough Legislature, but we get stuff done. National Legislature -- not so much.

What I asked Joey to do is prepare an amendment saying these would be the uptime requirements, but if the Federal Government adopts the standard, we immediately adopt that standard so that we're not going to be behind the curve. And, what is the uptime standard again in the bill?

MR. GURRENTZ: Around 95% of the time.

SENATOR SMITH: Ninety-five percent of the time they have to be working, OK.

Now, in terms of witnesses, we have Doug O'Malley, Environment New Jersey -- in favor, no need to testify. Ed Potosnak, New Jersey League of Conservation Voters -- in favor, no need to testify.

And, then we have opposition. Nick Kikis, New Jersey Apartment Association -- opposed. Mr. Kikis, why are you opposed?

MR. KIKIS: Mr. Chairman, I'll be brief to not get in the way of the main event of this Committee hearing.

We do oppose the bill as drafted. Our concern is that there is, right now, insufficient incentives to get to the point where we need to be to

develop the charging infrastructure. Our goal is as a State -- and clearly I look at this from the apartment perspective -- the goal is to have 30% of all multi-family apartments have electric vehicle chargers by 2030, is the goals adopted by the Legislature.

Right now, there is a \$4,000 incentive. These chargers cost \$40,000. So, there's really a gap in incentives right now. I know you have legislation that would increase the tax credit, and we support that and really appreciate that. Our concern is that 95% uptime is too high. If there are issues that come into play, you would have 18 and a half days to fix it or the incentive could be clawed back, and we think that would serve as a disincentive to participate in those incentive programs, and, as a result, really be counterproductive to the goal of getting the charging infrastructure that we need at the State.

SENATOR SMITH: Thank you for your comments.

MR. KIKIS: Thank you.

SENATOR SMITH: Ray Cantor, NJBIA -- opposed.

MR. CANTOR: Thank you, Mr. Chairman, members of the Committee.

Again, my name is Ray Cantor with the New Jersey Business Industry Association. I'll keep my remarks very brief.

We generally agree with everything that Mr. Kikis just said. We support incentives for charging stations. We think they are, you know, important to facilitate more charging stations, which are needed for more EVs being put around the state. We're just concerned that this sends a negative signal to the marketplace and disincentivizes people from taking those incentives. At a point in time where we're trying to incentivize people

installing charging stations, again, this places burdens on people. There's going to be reporting requirements, penalties, claw backs. It's just-- And, I'm not sure if 95% is the right number, either.

So, again, we appreciate what you're trying to do. I don't think anyone wants to or intends to take incentives, install these expensive systems, and then let them go to waste. There may be reasons why they're not operational, and I'm not sure how large a problem it is. So, again, we just think this may have those unintended consequences of providing a disincentive to taking necessary financial assistance, and for that reason, we oppose this bill.

SENATOR SMITH: Ray, I honestly don't get that. We're talking about private entities. We have a whole bunch of companies that are soliciting New Jersey for the opportunity to establish these charging stations. And, all we're saying here is they have to work. You want a government incentive? You want our taxpayers' money? This charging station has to work; it has to work 95% of the time.

MR. CANTOR: No--

SENATOR SMITH: I don't get where that's bad fiscal policy, or where it disincentivizes. We've got people knocking at the door, in lines, to set up these private charging stations around the state. They're going to be for our citizens, and they're going to get our tax breaks -- they should work.

MR. CANTOR: No, I totally agree with the policy objective that you're trying to achieve here.

We're just concerned that if you have a mandate of a certain percent being online, we look for the requirements with claw backs, people

just may be disincentivized, or not -- they may decline to take those incentives and install those facilities. Because of the consequences.

SENATOR SMITH: All right, we're going to find out.

Senator Durr.

SENATOR DURR: What about in the-- Say this law passed in California; I don't know, maybe it is, maybe it's not. I have no idea.

But, recently, you heard in the news how California had their mandated brownouts and shutdowns. So, if these charging stations go through that here in Jersey because, we both agree, our power grids need to be upgraded.

SENATOR SMITH: It needs help.

SENATOR DURR: Absolutely. So, if we were installing these charging stations, as Ray said, and then all of a sudden our power grid goes down, now the people who had the charging stations, they're not working 95% of the time.

SENATOR SMITH: I think if it's our fault, then they've got a greater--

SENATOR DURR: Well, I think that should definitely be something that should be considered in the bill.

SENATOR SMITH: OK, that's not a bad idea. I think the modification would be they have to work 95% of the time, unless--

SENATOR DURR: When power is available.

MR. GURRENTZ: Yes, there are certain definitions of uptime and downtime.

SENATOR SMITH: Go ahead.

MR. GURRENTZ: There are certain definitions that we've heard testimony -- or gotten written testimony about -- regarding uptime, downtime, and exempt time; certain definitions that could clarify what actually counts as uptime. That uptime, that would be the 95%. But if, you know--

SENATOR SMITH: So, in other words, there already is an exemption if it's through no fault of your own.

MR. GURRENTZ: Right.

SENATOR SMITH: OK.

MR. GURRENTZ: Well, not in the bill right now, but we've heard testimony on that, and there's room for change.

SENATOR SMITH: So, everybody is OK with that as an amendment?

SENATOR DURR: Very good.

SENATOR SMITH: OK.

Last witness is Zach Kahn -- in favor, with amendments.

Mr. Kahn.

MR. KAHN: Hello, again. Zach Kahn with Tesla.

I just wanted to say one -- make one comment on this, and I appreciate you raising it. I think Tesla takes pride in its super charger network, the largest network around the globe of fast chargers.

I think in that article you referenced, they actually talked about this is not the case for Tesla in terms of our uptime. We have made it a point to make sure that our chargers are available for customers when they need them. We would like to continue to work with your office to make some minor modifications to the bill language to ensure that the bill focuses on the

reliability and uptime of each charging site, as opposed to each charging port at larger sites.

Tesla builds a minimum of eight stalls at each site, so we have built-in resilience within the site. So, we are thinking about uptime as we design the sites from the get-go. That's why you see eight to 16 to upwards of over a hundred sites in some parts of the country.

That's all I wanted to share, and I look forward to continuing to work with your office on this bill.

SENATOR SMITH: So, the legislative process in New Jersey is a grinding, slow process. So, there's plenty of opportunities. We'd be happy to look at what language you might have, and see if it's appropriate, OK.

MR. KAHN: Thank you; appreciate it.

SENATOR SMITH: Thank you.

And, that is our last witness. Any comments from senators? (no response)

Motion to release from Senator Stanfield-- What's that? My mic is off.

Motion to release by Senator Stanfield, seconded by Senator Durr.

Can we take a roll call vote?

MR. HANSEN: On the motion to release Senate Bill Number 3102.

Senator Stanfield.

SENATOR STANFIELD: Yes.

MR. HANSEN: Senator Durr.

SENATOR DURR: I'm going to vote yes this time, (indiscernible) seeing these amendments moving forward.

MR. GURRENTZ: I'll share them with you.

SENATOR DURR: Thank you.

MR. HANSEN: Governor Codey left a yes vote.

Senator Zwicker left a yes vote.

And, Chairman Smith.

SENATOR SMITH: Yes. And the bill is released.

And, *now* the main event. So, it requires a lot of explanation.

The single-use plastic bag ban bill -- which also includes foam containers and some packing peanuts. You're going to find out, in our testimony, has been unbelievably, wildly successful. You're going to get some numbers -- they blew the top of my head off when I heard them this week. The bill is working well.

And, that being said, as in any big piece of legislation -- and this is the strongest single-use plastic bag ban bill in America -- you think you're getting it all, but you don't always. And, we have what I euphemistically call a glitch. Now, the glitch doesn't affect 98% of the people who do grocery shopping. It affects 2% who have home delivery of groceries. And, the complaint that was made, and the media being the media, focused on it very intensely, is that reusable bags have been increasing in number with those people who get the home delivery services.

So, we put together what we think is a pretty good temporary fix, but I can tell you we're going to go back to this in a year, whatever, because that's the nature of the beast, all right. We can always improve it.

So, what you have in this bill are four alternatives. The first alternative is that you can-- First of all, everything is by agreement; that's not even an alternative. The customer has to agree; the delivery service has to agree, OK. So, consumer choice.

Number one choice with regard to the reusable bags: If the stuff is delivered in reusable bags, you and the delivery service can agree that you want to continue getting the reusable bags. But, if the customer wants to return them to the delivery service, they can. And, the delivery service then has a responsibility to reuse, recycle, or donate to community food banks who are sorely in need of these bags, OK.

Second choice, for a limited period of time, there will be an exemption. Now, in the bill we say five years; I think we're going to get testimony today, "You know what, we don't need that much time. Three years would do the trick, our industry is innovative," and, you know, basically you're saying to the delivery services, "Find a better delivery product," in terms of the container that you use.

But the choice for three years-- The one other option, again with the mutual consent of the delivery service and the customer, is a paper bag. Paper bag with at least 40% post-consumer content. And, the reason for that is a point of getting paper bags out of supermarkets was to try not to generate more waste, even though paper is a biodegradable, compostable material. Nobody has anything against paper, but we are trying to reduce waste. If we say we're going to give an exemption for three years, we want you using bags that have recycled content, because that is in the thematic of the bill, which is increased recycling, OK. So, second alternative with the agreement of both parties is a paper bag, 40% -- at least 40% post-consumer content.

The third choice is the Costco model. If you go to Costco, you have the -- they don't give you a container, but they give you the alternative to take cardboard boxes that their groceries and goods were delivered in, and you can take the empty box and put your stuff in it. So, especially in the case where you have supermarket delivery services, they've got the boxes. That's a great way to get a second use out of the cardboard. So, a third alternative.

And, then the fourth alternative is the milkman alternative. If you're old enough to remember, we used to have milk delivered to our porch, our back porch, in a little container that had -- it wasn't very refrigerated, but it had maybe a tin inside, and it kept stuff cold. If the consumer wants it delivered to their house, and the vendors, the delivery service is willing to do it, and you want *no* packaging -- you don't want a bag, you don't want a reusable bag, you don't want a paper bag, you don't want a cardboard box -- you can deliver it in their container. But, again, by the agreement of both parties.

And, the point of this was to give alternatives on this one issue that affects about 2% of people in the state, give them choices, and hopefully provide enough choices that we solve this particular, very temporary issue. My belief is that the whole world of this is going to change over the course of the next 12 months, and I received very valid criticism, "You're reacting too soon. You've only had the bill in place for five months, and why not wait here before you do anything?" Well, first of all, I know the legislative process -- like we all do -- nothing happens instantaneously in this place. It may be a year before this bill actually gets out there. And, things may change, even in a year. But, I wanted to at least provide alternatives to customers.

And, that being said, we did receive-- By the way, take a look. Take a look at the room. And, you thought they were all here for divestiture. There's a pile of people here because, for whatever reason, this is one of the most interesting bills, or one of the most interesting problems that we have in the Legislature. But, a number of amendments have been proposed -- I'm not going to throw them out there because you're going to hear about them.

The one is that the bag and cardboard box exemptions be limited to three years, because within three years the industry will absolutely figure out alternatives, in terms of how they deliver. Another one is that we specifically put in the choices for the reusable bags, the first option, that people are encouraged to donate the reusable bags to community food banks. Community food banks need them tremendously. Another alternative is a request from the community food bank people that we extend their exemption for three months. I think sometime in November, the exemption ends--

MR. GURRENTZ: Yes, they said the holidays were coming up.

SENATOR SMITH: Yes, they say the holidays are their biggest time for moving food products, so they're saying, "Please give us three more months to do that." So, there's a proposed amendment to add the three months for the community food banks.

Any others that I'm missing?

MR. GURRENTZ: (indiscernible)

SENATOR SMITH: Yes. And, by the way, at some point we are going to be talking about that. But, not this bill, what bags are acceptable or not acceptable. We're not opening up the whole bill; it's just about the delivery, curbside pickup aspect of groceries.

So, with that introduction, there are 10,000 speakers signed up to speak. (laughter)

So, let me mention the three good souls who want to express their opinion but don't want to speak. Ryan Berger, New Jersey Seed -- opposed, no need to testify. And, then I don't have a name on it, but the Industrial Longshoremen's Association -- opposed, no need to testify. You really need to put a name on the slip so we know who you are, so we know that it's a real slip. Melissa Miles, New Jersey Environmental Justice Alliance -- in favor, no need to testify.

And, now we have lots of people on both sides of the issue. And, I'm not going to invite a pro up first, I'm going to invite a con up first, and you're going to know the reason why as soon as she comes up. Mary Ellen Peppard, New Jersey Food Council -- opposed.

Mary Ellen, I have a specific job for you. Did you have somebody with you?

MARY ELLEN PEPPARD: Yes (indiscernible) if that's OK, Chairman, thank you.

SENATOR SMITH: Sure, bring him up.

So, Mary Ellen, before you get started with your testimony, this was the knock-your-socks-off information last week. Mary Ellen, would you go through the calculations -- Mary Ellen is with the Food Council -- of what the Food Council estimates to be the impact of the bill over the last five months in terms of paper bags and plastic bags. And, then tell us what your assumptions were, OK?

MS. PEPPARD: Yes, thank you so much, Chairman. I appreciate the opportunity.

As you noted, we have surveyed our members on this issue and out of a sampling of 160 grocery stores, they showed a reduction in single-use paper bags from 1.1 million per month to zero, and then single-use plastic bags from 55 million per month to zero. So, if you extrapolate around 2,000 grocery stores in New Jersey, we can estimate that we've eliminated around 3 billion single-use plastic bags and 68 million single-use paper bags in New Jersey over the past five months since this law -- since this ban has taken effect.

SENATOR SMITH: I'm sorry, I didn't hear that. Would you please repeat it? Those final numbers.

MS. PEPPARD: The final numbers, Chairman? Yes.

So, if we look at what our members have told us in the 2,000 grocery stores, we're looking at approximately the elimination of 3 billion single-use plastic bags, and 68 million single-use paper bags for the past five months.

SENATOR SMITH: Anybody still have the top of their head still on their heads?

SENATOR DURR: Anybody do a study on how many bought and were taken into a store?

SENATOR SMITH: No. No, they were not the numbers that they-- But, that's not a bad thought.

Senator Durr would like to know how many single-use reusable bags were bought during that period. Maybe you can give us -- not today, of course -- but, maybe you can do a little calculation among your 160 members, and see if you'd like to know that number, too.

But, in terms of the prior waste, that number is mind blowing. It's mind blowing. This one bill is really working.

All right, now, Mary Ellen, you did a great service by telling us those numbers. Now, I'm going to beat you up a little bit.

MS. PEPPARD: (laughter)

SENATOR SMITH: You're in here to say we've only had five months, let's get more experience, pretty much, right?

MS. PEPPARD: I think that that's certainly part of it, Chairman, yes.

SENATOR SMITH: OK. So, continuing with the question, where was Food Council on the original bill?

MS. PEPPARD: We did, ultimately, support the original bill, Chairman.

SENATOR SMITH: But, I would say, for the record, you guys were the hardest opponents we had of the bill for that entire process. And, what I love about what you're doing today is you're saying, "This is the best bill that was ever done in the history of New Jersey, don't touch it, leave it alone."

So, with that preface, we would like your testimony.

MS. PEPPARD: That you so much, Chairman.

We are, indeed, saying please leave it alone, please don't touch it. I think there's a couple things-- And, you mentioned earlier, Chairman, that, in addition to the success we've had, the challenges with pickup, curbside, and delivery are only a small percentage, a very small percentage, of overall sales. So, we just wouldn't want to see the success of the overall program be undermined.

Our members are not looking to go back to paper for a variety of reasons. One, as of course you know, paper was included in the elimination of the ban because of its significant environmental impact. At this point, our members don't have paper bags; they have not purchased paper bags in many months, so they would not have a supply. From an operational standpoint, one of the really, I think, difficult provisions of that particular option that you've laid out is that there's different models of delivery. One of the delivery models is essentially the shoppers are independent contractors, they come into the store just like any other shopper and check out just like any other shopper.

So, if we were to, for example, provide those same shoppers with the paper bags that would create a system where maybe they got paper bags but because they happen to be part of that delivery service, but the customer behind them doesn't get paper bags, maybe that customer is upset, they're taking it out on our store associates. We see a lot of logistical problems with creating that type of system just, you know, based on that particular model. So, that's something that I think is really going to be logistically and operationally difficult. And, again, our members just don't think that paper is the best to go back to that, from a sustainability standpoint.

I know some of the other options, obviously, laid out, Chairman. The proposed reused recycling systems that are in the bill, they are very complicated, they would be very difficult to implement in terms of having that sort of infrastructure and storage to take back the large volume of bags and sanitize them. What that requires is a really overhaul of those store operations, it's not something that our members are able to do right now. And, having to do that for free -- you know, that's a provision in the bill --

that's really problematic. Just like all of the other residents and employers, with the really high inflation, with supply-chain costs, higher costs of energy, of transportation -- unfortunately, they would have to raise prices if there was an additional fee, they wouldn't be able to bear that cost. So, we really don't think that's a great solution, either. Certainly, we appreciate that you have -- we haven't seen the amendments, that you put the food bags back in the -- the food banks back in the bill, that's something that's of really huge significance to our members.

I'll just briefly touch upon some of the ideas and solutions that our members have, and then I'm sure I forgot some things that maybe Mike could add, Chairman. Our members for the last five months have been exploring different options and potential solutions to these challenges, and one of them certainly is working with the local food banks and some other partners to facilitate the collection and donation of the bags. That's something that we want to really increase our education and awareness of. Some of our members, for example, are also able to, under online checkout, they're able to offer options for pickup where the customer can check off that they don't want a reusable bag, they don't need any more. So, we think that's something that's good.

As you know, some of the members -- you've spoken with some of them -- that have some of these closed-loop recycling systems as well set up. There's not a one-size-fits-all solution, our members are doing what they're able to do for their stores, for their customers. But, there's a lot of innovation that's going on as well. I know you're going to hear today from GOATOTE as well, so I won't perhaps go into -- steal their thunder -- but, I think there's a lot of innovation, and we are working to solve this problem. I

think we've made a lot of strides, and we would like the opportunity to continue to improve upon that and, again, I just ask that you don't re-open the bill at this time.

Thank you so much.

SENATOR SMITH: Mike.

MICHAEL D. DeLORETO, Esq.: Thank you, Mr. Chairman.

Michael DeLoreto from Gibbons PC. We serve as government regulatory affairs council to the New Jersey Food Council.

I think Mary Ellen covered most of the points, there are just two things that I would state. To go back to your first point, Mr. Chairman, about the Food Council's evolution on this. Over, I would say a decade ago, the Food Council was adamantly opposed to a ban or any type of provision dealing with paper and plastic. And, the Food Council obviously evolved on that position, and, in 2018, the Food Council supported a bill which would have put a fee on both paper and plastic bags. That bill was vetoed by the Governor, and the consensus at that point in time from some was that the bill didn't go far enough, and the Food Council then supported a ban on both paper and plastic.

The only way that it works in order to reduce single-use products is that if you're going to ban plastic, there needs to be a fee or a ban on paper. Otherwise, single-use plastic bags are just going to be replaced by single-use paper bags. So, that's the first point I would make, just upon the evolution of the Food Council's view on this.

The second point I'd make is that, you know, there are questions as to the environmental sustainability of paper, and there's debates on both sides of this. And, I know, Chairman, that you said that we're not going to

re-open the debate or re-open the discussion at this time about what should be considered a reusable bag, but if there are changes that are going to happen I think we need to look at the sustainability of bags overall and what bags are best for the environment. That is lost here by just saying, "Well, we're going to allow single-use paper bags." There was a reason why they were included in the bill the first time, and those reasons have not changed.

The last point I would make is just related to the independent-contractor issue as it relates to certain delivery services. Food stores do not control them; they are not employees of the third-party delivery service. So, there is no way for us to be able to say that that third-party delivery service should be providing the bags to their shoppers. They look to the food stores in order to use whatever bags are available. That's their business model; they can't, as independent contractors, provide them bags. And, the way that the definition of third-party online delivery service is written is that it relates solely to employees, it would not cover those services. So, we're stuck in the same position that we would be, where those third-party delivery services may end up using reusable bags, simply because there's no way to mandate their use -- unless you put the burden on the food stores.

I'm happy to answer any questions.

SENATOR SMITH: Any questions? (no response)

All right, thank you very much for your contribution.

Ed Potosnak, New Jersey League of Conservation Voters -- in favor.

MR. POTOSNAK: Thank you, Mr. Chairman. Ed Potosnak, New Jersey League of Conservation Voters.

We supported the legislation when it passed, and it is the most comprehensive bag legislation in America, and it is doing its job. I think the Food Council lambasted me at one point when I said 4.4 billion bags were used a year, so, I did some quick math -- chemistry guy. So, the number actually is higher: 7.2 billion bags, plastic single-use bags that were being used. So, we didn't get the numbers from them, we did some general estimates. Turned out that we were conservative in that, which is fairly typical.

And then, in addition, we were cutting down about 1,300 football fields of trees to satiate our paper bag usage, and we also wanted to see paper bags also be banned; and that makes sense. We have gotten more calls about people who are getting home delivery -- particularly with the pandemic -- but other folks who have limited mobility or are immunocompromised, and their bags are piling up. And, of course we tell them, "Bring them to the food pantries, they need them," but, in a way, it's only kicking the can down the road, because these bags will last a long time. Eventually, the food pantries won't need them anymore as well.

The solutions that you've come up with -- and I'm sure there will be honing in the legislative process -- are more than reasonable. The real solution is to, you know, do the milk kind of example, or a bag that you would get and, like at my farm share, comes in a wax box. When the next one comes, I give them back the box, and then they wash it and they put more vegetables in and we just keep exchanging like that. And, grocery stores can do that, too, it just takes a washer and dryer. Bags come to me with food in it, next time they come, we give them back the bags, they wash them, they dry them, they use them again.

But, that would be the most environmental. We're an environmental organization. We might be negotiating with ourselves, saying we support paper in this interim while I figure out better systems, but we have to be reasonable, too. It's a small percentage of people that this is happening to, this is not everyone saying paper bags are OK for home delivery. It's not opening up a big can of worms, it's not going to be the end of the world. And, you know, paper bags in that limited sense are recyclable as well -- and they're very easily recyclable, unlike the plastic ones that they're currently delivering with.

So, we're supportive of the legislation, and want to thank you for your leadership. It is hard to open up a bill at all, and it's hard to know if this is a big enough problem to deal with all of the people you're about to talk to, but we think it is worth of this honing, and we appreciate your time on it.

Thank you.

SENATOR SMITH: Thank you.

Tony Russo, CIANJ -- in opposition.

ANTHONY RUSSO: Good afternoon, Mr. Chairman, and members of the Committee. Thanks for the opportunity to come and, again, Tony Russo with the Commerce and Industry Association of New Jersey. We represent about 900 members including grocers, restaurants, and also the issue that I wanted to raise today, Mike from Gibbons kind of touched on it, is in the bill, the third-party delivery service.

What we don't want to have happen here is a situation where the responsibility of the burden is shifted to them. Again, we represent many of them, and it always goes back to the restaurant or the grocer in terms of

what type of bag. So, we just want to be careful that responsibility is not shifted and the way that definition reads just needs to be clarified. And, we also share the same concerns that the Food Council brought up.

So, thank you for the opportunity to comment.

SENATOR SMITH: Thank you for your comments.

Adam Guziejewski. I'm sorry for mashing your name. You're from Katz Governmental Affairs, and you say seeking amendments but no need to testify.

So, we'll ask Carol Katz to come up, from Katz Governmental Affairs, who does want to testify -- seeking amendments.

Carol Katz, please.

C A R O L K A T Z: Mr. Chairman, I'm wondering if I can ask (indiscernible), my client is on her way.

SENATOR SMITH: You'd like to be put later in the batting order? Not a problem.

MS. KATZ: Thanks a lot.

SENATOR SMITH: Eric Benson, Clean Water Action -- in opposition.

E R I C B E N S O N: All right, thank you very much folks for having me up here today.

I do want to start off by repeating this has been a very successful program. I'm very proud of the work that we've all accomplished here. As things have been opening back up, I had a couple of family reunions this summer, folks say, "What have you been up to?" I explain, "When you forgot your bag in the car when you go grocery shopping? That was my fault." I

took an army. They've acknowledged it's frustrating, but they are glad that the law is in place, too.

I have two little kids at home, and I have found the convenience of online ordering and curbside pickup very convenient. I am part of a small minority facing the pile of flimsy bags. In my haste to run out the door, I forgot to bring one to wave to you all.

I appreciate the sponsor's sentiment and attempt to fix a niche problem, and I do appreciate your legislative expertise. But, I do think it's premature for a legislative fix. The law has been in place for less than a year, and--

SENATOR SMITH: Eric, hold on one second. I'm looking through the slips, we've got another slip from Clean Ocean Action, Kari Martin, who says -- it doesn't say pro or con, but it says, "with amendments."

MR. BENSON: Right, so--

SENATOR SMITH: But, since you're both Clean Ocean Action, Kari--

MR. BENSON: Clean *Water* Action, Clean *Ocean* Action.

SENATOR SMITH: Oh, oh--

MR. BENSON: But, we do have a joint letter.

SENATOR SMITH: Sorry, sorry.

MR. BENSON: It *is* complicated.

SENATOR SMITH: Different; go ahead.

MR. BENSON: So, the law has been in place for less than a year. Curbside pickup and delivery had over 18 months to prepare for this. The fact that they did not prepare is not my fault. Mandates like the 2020 single bag, foam, and straws-by-request law drive the need for remedies that lead to

innovation. The answer to a single-use bag problem is not more single-use bags, but a call for innovation in recovering and recirculating.

Keep your mandate bar high. Let businesses innovate, give the DEP and the Plastics Advisory Council a chance to do the work. I know that this issue is at the top of their minds.

So, thank you for the opportunity to comment in the most interesting legislative committee in the Legislature.

SENATOR SMITH: Thank you, Eric.

All right, next, who I mistakenly identified as representing the same group, Kari Martin, Clean Ocean Action -- not opposed or in favor, but with amendments.

Kari.

KARI MARTIN: Good morning, Chairman, and Committee members, thank you so much for letting people to speak to you on this important matter.

My name is Kari Martin, I am the Advocacy Campaign Manager for Clean Ocean Action, and I am speaking today on behalf of Clean Ocean Action; Beyond Plastics; Environment New Jersey; Surfrider Foundation Jersey Shore Chapter; Clean Water Action; Save Barnegat Bay; Sierra Club New Jersey Chapter; and the New Jersey Environmental Justice Alliance.

SENATOR SMITH: And, I believe you gave us this position in writing.

MS. MARTIN: Yes, I gave you the joint statements. It was emailed this morning.

I just want to highlight a few points from the testimony, from the organizations that have been working to ensure the implementation of

this law in a strong sense. But, we do celebrate the numbers that were revealed today, of course, of the success -- the five-month success with millions of bags not distributed. And, we want to celebrate that success and recognize that there are a couple of challenges, but overall a successful law is being implemented.

There are market solutions -- marketplace solutions -- that are underway that we need to give time for, but, also, they're at the ready, and more will come. We need to give it -- allow them to move forward with their ideas and innovation.

But, we believe at this time that S3114 should not -- I'm sorry, that the law should not be amended with S3114, because of some additional adverse consequences. For example, removing -- we suggest that we remove the recycling method for reusable bags. The purpose of the law as passed was to eliminate single-use items, specifically plastic film bags and then also paper bags. So, the amendment that would allow recycling of these reusable carryout bags is unacceptable, because the main point was to make sure that they're strong standards for these reusable bags, including being used 125 times.

So, offering the option to recycle would not only make the development of new systems for reusable bags, but also with renters, those recyclable bags, likely single-use. We've heard people throwing out some of these bags, so we want to make sure that those reusable bags are being put back into use for the grocery deliveries and grocery markets.

We also would like to promote reusables by removing the paper bag as an option at this time. There was some mention about the third parties. At this time, the law does not need to be reopened or amended for

third-party shoppers, because they could bring in paper bags as the third-party shopper to do their assigned shopping. Further, as we heard from the Food Council, the stores, they are not wanting the law to be opened at this time. We worked hard to get those single-use items out of the hands of customers so we could promote the reusables in our state.

So, the option of paper bags are given and we heard other concerns about being inequity or concerns at the checkout. Stores providing such an option would create in-store confusion for the in-store shoppers who are bringing their own bags. We also should be -- paper bag amendment -- be included and move forward. The provision -- the organizations would recommend no more than one year allowance for that. We are strongly opposed to five years allowance for the time of using paper bags.

From the passage of the law in 2020, third-party delivery services in stores had 18 months to prepare and come into compliance, and (indiscernible) five years is way too long. And, as you heard -- as you look here, and I know you've spoken to GOATOTE as one of the innovators that is available and can help to show that the information and the opportunities are here and waiting and need support.

Of course we support and would like to promote the donation of bags to food banks and pantries for those small amount of customers that are accumulating these bags. I for one have had a closet full of reusable bags for probably 15 years, and I just keep them in circulation and wash them and donate them as needed. But, for the food banks, they're a particular need around the holidays, so for bags, and they're not getting the bags now, so I think we could do a better job overall at all levels to promote the donation of reusable bags, informing shoppers that they need to be cleaned and not full

of rips and tears. But, we do support giving three more months for them to get more bags to them and in their hands.

And, as was mentioned, and, as you know, Chairman, the Plastics Advisory Council which was established by the Single-Use Waste Reduction Act -- they're monitoring and evaluating and assessing the implementation and the effectiveness of this law, and we're just five months in, and they're working very hard. And, after a year of review, they will issue a report with recommendations for legislative or administrative actions for those improvements. And, they had been taking up this issue just this week, of course.

So, if this bill moves forward, we'd like you to consider the two main points of reducing the timeline to one year for paper bags, and removing the recycling program amendment. The Legislature should be proud of all the environmental benefits of this law, which has been in place and saved money for stores by not having to purchase those single-use bags, whether paper or plastic. The home-delivery bag buildup is certainly a problem, but I think that could be addressed within a year. And, it's the recommendation of this group -- of the eight groups on this letter -- not to veer from the original intent of the law, the providing of provision for another type of single-use bag. I think companies are ramping up, and short-term solutions such as donating to food banks and food pantries already exist.

Thank you so much for your consideration and time on this matter.

SENATOR SMITH: Thank you for your comments.

Ray Cantor, in opposition. NJBIA.

Ray.

MR. CANTOR: Thank you again, Mr. Chairman, members of the Committee; Ray Cantor, NJBIA.

Just three quick points, we won't be long; I feel a lot has already been said.

One, we're not sure if this bill is needed at this point in time, but if you are going to pass the bill, there are some provisions in here which we do support, we think are helpful. But, then there are some others which are maybe unworkable, and I'm just going to quickly touch on all of this.

Again, as we've said before, this bill has only been in existence -- or implementation -- for a few months right now, and what we're talking about, what we're trying to address, is really only some complaints from some consumers who are accumulating bags and a very small percentage of your total bags that, you know, are being impacted by this legislation. This is a problem, we believe, that the industry will ultimately address. Business is very good at addressing consumer issues, and this, too, will work its way out. We don't necessarily need to have a whole new revelatory program to address this relatively minor issue.

To the extent that the bill does move forward, we do support the flexibility that's in here, allowing paper and cardboard and reusable bags as an option moving forward for the limited purposes of the home-delivery system. However, we don't understand, or we don't support, a five-year ban on that flexibility; we're talking about paper and cardboard, which are renewable products, they are recyclable, they are biodegradable. We're not sure why we want them banned for the first time -- and that's what this bill would do -- cardboard boxes from being used after five years. We think in

this limited circumstance, there's no harm to allow more flexibility in providing this type of service.

I would like to mention as well that the bill does now, for the first time, incorporate third-party delivery services into the bill. There are all different types of delivery services. They all have different models of how they operate, and we don't believe from what we're hearing that the way the bill is currently structured works for many of those companies. I think if you are going to move forward, I think you need to do more investigation as to how all these companies operate to make sure that, you know, it works for everyone. It was mentioned before that a lot of these third parties are really independent contractors, so, again, you can't have a one-size-fits-all regulatory program working in this industry without looking at it much more carefully and trying to craft a bill accordingly.

So, again, we don't think the bill is needed at this time. But, if you are going to do the bill, we do like the flexibility, we just don't like all the regulatory provisions that are coming along with it.

Thank you very much.

SENATOR SMITH: Thank you for your comments.

Doug O'Malley, Environment New Jersey -- with amendments.

MR. O'MALLEY: Thank you, Mr. Chairman; Doug O'Malley, Director of Environment New Jersey.

I think this is one of the rare moments where Ray and I never are singing exactly from the same song book, but there are some similarities with the concerns that are being raised.

We strongly support the testimony from Clean Water Action and Clean Ocean Action regarding proposed amendments we would like to see in this legislation if it does move forward.

But, before I talk about that, I just wanted to come back to your statements, Mr. Chairman, kicking off this bill. But this *has* been a wild success, and I wanted to thank you, not only for your work to pass this bill in the last session, but going back to the summer of 2018 and the hearing in Toms River where you convened a multitude of stakeholders -- including scientists from Rutgers University -- who testified on the impact that plastic pollution is having on our environment, and even on our public health because the amount of plastic particles don't just disappear. Something that exists for 15 minutes shouldn't impact not only our wildlife, but shouldn't impact our public health. And, that's what that testimony four years ago focused on, is that we are finding plastic particles in our bodies. We're finding plastic particles in our water supply and water bodies throughout the state, and obviously, a huge source of that was single-use plastic bags.

What you've heard in the testimony from the New Jersey Food Council was clearly a massive success. Whether you-- The fact that we're measuring the elimination in the billions of bags speaks to how this law is working. We also appreciate your fact to tweak the bill; want to make it better, want to make it stronger. That being said, you know, the amendments that were read in, I wanted to emphasize just a couple of them. You're going to hear testimony shortly from GOATOTE, who has been working with the Plastics Advisory Council that is run by DEP. The Advisory Council is the exact place that we need to be coming up with a solution -- ideally sooner rather than later.

And, so, you've already heard from multiple speakers that five years is too long; you, yourself, were saying that three years might be good. We would say one year, because nothing focuses the mind like a deadline. Obviously, the industry has had 18 months to prepare and now five months after a law has been implemented, we think we can come up with a solution within a year, and honestly, this shouldn't be rocket science.

I also want to emphasize the importance of the food banks themselves. In the law right now, the language that will extend the exemption another three months, we strongly support that. We're not sure that needs to be in the legislation, because DEP has the ability to do that, and food banks have already been indicating their desire to extend that deadline. We would just simply urge DEP to use its regulatory authority to extend that deadline.

I also want to emphasize, too, we've heard multiple folks talk about the need or the ability to donate to food banks. The Community Food Bank of New Jersey has a great website literally showing you food banks in your local neighborhood, and that's a reminder that that isn't the long-term solution, but it is a very good short-term solution.

I also wanted to read into the record a statement from an executive director from a local Central Jersey food bank who just emailed me this morning. She says, "I'm in full agreement with your position on the Senate bill tweaking the legislation. Why after only five months, and why five years? A non-profit providing meals to thousands every week can handle this, which we've done since early May, not taking the extra six months being allowed to non-profits. And truly businesses can accommodate." Obviously, that's not necessarily a universal position, but, it is a reminder that food

banks are changing. We obviously want to make sure that we're providing an opportunity, you know, not to tweak the law immediately, give this time if this bill does move forward to create a deadline of one year.

And, I wanted to end my testimony just by emphasizing one aspect of this bill that really doesn't sit right, which is the fact that reusable bags -- we should not be recycling a reusable bag after one time. That does not fit the definition for a reusable bag; that inherently becomes a single-use bag. We already have a problem right now with the public with recycling. If you go to any recycling center, one of their biggest issues, historically, has been plastic bags. We don't want to create an issue where reusable bags suddenly are "recyclable" and people start putting it in the blue bins. So, we would strongly encourage the removal of the recycling programs for reusable bags.

Thank you.

SENATOR SMITH: Thank you, Doug.

Next, in opposition -- John Holub, New Jersey Retail Merchants Association. John.

J O H N H O L U B: Good afternoon, Mr. Chairman, members of the Committee.

I'm John Holub with the New Jersey Retail Merchants Association. I won't be repetitive of our friends at the Food Council. We share their concerns along the operational lines with the third-party concern, challenges that this bill brings.

I do just want to put a little finer point on probably our biggest concern, which revolves around all the reusable bags, the provisions with reusable bags. Specifically, the return, the sanitation, and reuse. There

simply is no infrastructure in place to achieve that at this moment, and from what I understand my members, there was nothing in development -- currently in development. So, that's just simply not achievable in the short-term.

As far as the recycling, that's something that my members are interested in exploring further, but there are a whole host of challenges that come along with that as well. Mainly, there's no standardized recyclable reusable bag. So, they're all various different products, so obviously to recycle, you now have several different streams to try and recycle those products. So, there are a significant number of challenges.

So, I realize these provisions are optional, but I just want you to understand that none of them, in the short-term, we believe are achievable at this time.

SENATOR SMITH: Thank you for your comments.

MR. HOLUB: Great; thank you, sir.

SENATOR SMITH: Frank Brill.

Frank, you're not identifying yourself as the New Jersey Association of Recyclers. You have ISRF -- what is that?

F R A N K B R I L L: It's bad handwriting.

SENATOR SMITH: OK.

MR. BRILL: It's ISRI -- the Institute of Scrap Recycling Industries--

SENATOR SMITH: OK--

MR. BRILL: --Which is why we always use ISRI.

At any rate, I am here to offer ISRI's full support for the bill. There's three particular reasons why.

We want to let you know that -- or remind you -- that paper bags are 100% recyclable; 100%. They already are being recycled in the existing residential curbside infrastructure, and they are one of the most valuable materials in municipal recycling streams. We didn't think it was necessary to have them in the original bill, and we're glad to see that, at least for five years, you're going to reconsider that. We hope this sticks and remains in perpetuity, because these bills already are being recycled, they're put to the best environmental use possible already, and they're supporting recycling programs.

We also agree that creating reuse and recycling programs for reusable bags -- we also agree with that, if such programs include substantial input and participation from the recycling industry. The recycling industry's expertise is critical to ensure that recyclable bags provided by stores and delivery services are produced and handled responsibly and have viable end markets when recycled.

And, to counter something you heard a few minutes ago -- and I don't know if this is universal -- but, I know one company in New Jersey today that is recycling reusable bags, and they are in Piscataway/New Brunswick. So, I don't know-- And, I'm sure if they're doing it, other people are doing it as well. So, you've heard that they're not being recycled; that's not true.

SENATOR SMITH: So, if you wouldn't mind, I would appreciate more information about that.

MR. BRILL: Sure.

SENATOR SMITH: If you can email us a little info.

MR. BRILL: I would be glad to get that to you.

That's it. We support it enthusiastically.

SENATOR SMITH: Frank, thank you very much for your comments.

Phil Rozenski from Novolex -- in opposition.

PHILIP ROZENSKI: Good morning, Chairman, thank you for having me.

Besides giving testimony at the very end, just last night, we were able to complete polling -- we had an independent polling group poll this issue for the State of New Jersey, and I wasn't able to add that to my testimony, but I would like to use those highlights and we'll make sure we get a copy to all the Committee members.

SENATOR SMITH: Sure.

MR. ROZENSKI: Members of the Senate Environment and Energy Committee, good morning, and thank you for the opportunity to present testimony regarding S3114, concerning the use of paper bags for home delivery and store pickup.

My name is Phil Rozenski, and I represent Novolex, a leading producer of paper bags and sustainable food packaging here in New Jersey. As a matter of fact, we're a leading producer of paper bags in the United States, and one of our largest facilities is here in Elizabeth, where we employ 240 New Jerseyans that are members of the International Longshoremen's Association.

We agree with the Committee in that we don't want to see any packaging in waterways and in other habitats. We agree that the bill is a step in the right direction today, but if not amended it won't fully solve the challenges in the current law. The public has clearly demonstrated that home

delivery and pickup does not fit the reusable bag model, and there is a need for sustainable paper bag option. But, we should also recognize that many of the recently wasted reusable bags were also a product of store checkout counters.

We're all human. We all forget things. And, there's no exception with bringing bags to the store. We know that on the way home, we may need to pick up a few items, and didn't bring our bags. Or, when we're shopping, maybe you did bring your bags when you purchased five bags worth of stuff, and you only brought four. So, there are times where we are forced to purchase plastic reusable bags that typically can't be recycled, although they are designed to be reusable. But, in this scenario, they are now simply single use. Calling the bag reusable doesn't make it so. Rather, it's how its acquired and how its used that determines if it's single use or reusable. Allowing people to supplement reusable bags with sustainable paper bags would reduce this new and rapidly growing form of plastic waste.

Here are some of the highlights of why sustainable paper bags are a solution in this case. They are locally produced here in New Jersey, we do make them with greater than 40% recycled content. And, I will note that very little of our paper is used from trees. Actually, where we get our craft paper now is we've helped open two mills in the midwest that were shuttered, and when we recycle e-commerce boxes at home, that's what we're using to make that paper in a paper bag. So, from beginning to end, they are sustainable, they are reused at home, they're renewable, compostable, and they're the only grocery option we're talking about today that can go in a curbside recycling bin. A system to bring it back exists for almost everybody in New Jersey today.

There are many other great factors when it comes to paper. While reusable bags are part of a sustainable solution, any product used excessively or improperly is no longer a sustainable product; it's just a bag. Reusable bags are almost always imported from Asia, most often from China, and when it comes to recycling, by the way, the reason they're hard to recycle is we have to buy them for our customers and we've been buying them in the millions and tens of millions for New Jersey. But they're made of so many different materials with stitched handles -- that's what keeps them from being recyclable, is they're not consistently made.

One of Novolex's largest paper bag facilities, as I said, is actually located here in Elizabeth, where we employ over 240 people -- all union members. While New Jersey has banned paper bags, it's actually choosing to make jobs in China, and our head count is already down in Elizabeth; this had impacts, real impacts.

The takeaway is clear: Sustainable paper bags at the checkout counter are a win for the environment, for unionized jobs, for New Jerseyans at the store. So, on behalf of our employees, thank you for your time.

The polling that we did -- we had an independent poll in the agency to ask people in New Jersey what they thought of the law. Currently, 53% of New Jerseyans would like the bill repealed, and only 35% of it want it to remain as it is today. When asked about solutions, 90% of New Jerseyans would like to have paper bags at the checkout counter and for home delivery become a solution. There are other things in the polling I think you'll find very interesting, but I think it's important to highlight that the public has noticed this, and they do feel that paper at the checkout could be a solution. I think people have also brought up other things worthy of

discussion. I think if there's a fee to reduce consumption so, it's not excessive for that as well. But, we will make sure that everybody on the Committee gets this, and we hope that you will listen not only to us, but the public on behalf of our employees.

Thank you.

SENATOR SMITH: Thank you for your comments, and we look forward to seeing the study.

Mark Nathan, Plastic Tech Free. If I have that right. In opposition.

G E N E B E N F A T T I: Good afternoon, Chairman, and Committee members. Thank you for allowing us to speak today. Can everybody hear me OK? OK.

My name is Gene Benfatti, and my partner here is Mark Nathan. We are the co-founders of a company -- a New Jersey-based company -- called PlasTechFree. We are suppliers of all plant-based, non-plastic items.

Now, back in May, there was a ban on single-use plastic bags; that's great. But, then reusable bags came along and, in many supermarkets, retailers that are using or providing or selling reusable bags-- What's interesting that I found when I looked inside the reusable bag is that they're made of polypropylene. Polypropylene is a plastic. So, we went from a single-use, very thin bag, and then we allowed a very thick reusable plastic bag to take its place. Eventually, that bag is going to break. No one is going to sew the handle back on; they're going to take that bag and throw it away.

So, we went from one problem, and we now compounded it 10 times, because when it gets to the landfill, it's the forever bag; it's always going to be there. It's just going to pile up more in our environment.

Next, there was the possibility of going to paper bags, which everyone is speaking about today. Paper bags have a very negative impact on the environment. First of all, it takes them about 20 years to grow, they're not as sustainable -- yes, they're sustainable, but it takes very long for them to grow to maturity. It takes much resources and water and chemicals to process the wood into paper, which adds more harmful effects to our environment.

Now, I believe we're speaking-- You have mentioned about the possible thought of going to a plant-based bag, which is hemp. Well, hemp is great; hemp is a biodegradable, plant-based, compostable bag. But, what we're here to speak about today is corn plastic. Corn plastic is a, of course, plant-based, very durable, looks, acts like plastic, but is not plastic.

What's important also about corn-based bags is that they are certified, traceable certifications that will allow the consumer to look at a bag and know that it's a plant-based bag, and that it by being certified by a very reputable world-renowned testing facility called TUV Austria. They are the top of the line when it comes to, and everyone goes to them for the highest standards of testing bags for compostability. So, most corn bags, it is important to check that they are certified. Certified home-compostable bags will disintegrate in the ground within 180 days.

Hemp bags, I'm not sure if they have the certifications yet in that aspect. But, hemp bags are very limited in what they can do. It is a plant-based bag, but corn-based bags are very versatile. Corn-based materials made out of single-use plastic bags -- excuse me, single-use reusable bags; produce bags; Ziploc bags; garbage bags--

SENATOR SMTIH: So, listen. I appreciate the comments about this new product that you have.

Wrong forum. This is about the bill. So, if you have comments about the bill, we'd like to hear it. But, what I'd like you to do is take your presentation about this new product to the Plastics Council. They're going to give us recommendations about the legislation, whether or not we need to change the definition of a reusable bag.

But, really not the topic today, and we're only running into 1 p.m., and, at some point, we're all going to fall over.

So, if you have comments about the bill, we'd like to hear them. Otherwise, please save the presentation for the Plastics Council.

MARK NATHAN: Yes, we have a-- This is Mark Nathan.

We have-- The bill is great and we support the bill. But we have an alternative to that reusable bag. The materials that--

SENATOR SMTIH: Yes, but we're not doing that today.

MR. NATHAN: OK.

SENATOR SMITH: What about the bill itself are you asking -- are you asking for an amendment to the bill?

MR. NATHAN: Yes.

SENATOR SMITH: What is the amendment?

MR. NATHAN: The amendment is that you allow the use of cornstarch-based products to replace reusable bags.

SENATOR SMITH: It may be a terrific amendment, but we need a recommendation from the Plastics Council about that. I need you to go present your case there.

MR. NATHAN: OK.

SENATOR SMITH: We're all smart people, I think, but we need the real experts coming back to us.

So, we appreciate you taking the time to come in, but I'd save it for the Plastics Council, all right?

MR. NATHAN: OK.

SENATOR SMITH: Thanks, guys.

MR. BENFATTI: Thank you very much.

SENATOR SMITH: Jennifer Coffey, the Association of New Jersey Environmental Commissions -- in favor.

Is Ms. Coffey here?

JENNIFER M. COFFEY: I'm coming. (laughter)

SENATOR SMITH: Oh, I'm sorry, I didn't see you.

MS. COFFEY: It's hard to stand up after sitting for so long.

Good afternoon; thank you, Chairman, thank you, senators, for the opportunity to speak here today.

Jennifer Coffey, I'm the Executive Director of an organization known as ANJEC. The Association of New Jersey Environmental Commissions is a 53-year-old nonprofit organization that helps municipalities make good decisions about the environment.

I want to first thank you for starting today's most interesting hearing with the Rutgers Environmental Steward Program. We are big fans. We have been teaching at that program for about 10 years for the certifications, and we are proud partners of Dr. Chris Obropta in all of his stormwater-management work, and have helped coordinate dozens of those green infrastructure projects with environmental commissions. So, thank you for sharing that information today.

I also want to thank you for having this hearing. And, as you said at the beginning, this new law -- the Plastic Pollution Reduction Act -- has been a phenomenal success. We are very proud of it, we are proud of the more than 180 municipal ordinances that were cast in support of ending plastic pollution. And, also, like you said, Chairman, as with any big piece of new legislation, you do the best you can and you make provisions where you see there will be improvements; you evaluate how the law is being implemented; and then you go back and make improvements to make it even better.

So, we are supportive of the legislation introduced today with amendments. And, quickly, those amendments are: One of the things we haven't talked about yet in today's hearing is the third-party language, and we would suggest removing the provisions regarding the third-party language allowing for paper bags. And, that's simply because there's no way at this point in time to identify, for example, Jen Coffey shopping for her personal home in her kitchen, versus Jen Coffey shopping as a Doordash or an Instacart employee. And, how do I certify that I can get a paper bag when I'm acting as a Doordash or Instacart employee -- for the record I'm not, I'm using a hypothetical -- versus when I am my own personal self?

So, we think that language is a little confusing, and we suggest deleting, respectfully, the third-party grocery delivery language while allowing for grocery delivery services who have their own employees -- so, the Wakeferns, the ShopRites, the Whole Foods, who have their own employees -- to use a paper bag.

Next, we would appreciate if there was some additional language regarding a deposit, because, like some of our colleagues, we would love to

see moved -- this system moved towards a more reusable system -- and have a take back. So, we get grocery delivery, and then when you're done unloading, you go ahead and you hang your bag on your doorknob and they pick it up next time they come around. And, there may be a deposit for that, and we're OK with that, and we hope that that can change, be clarified--

SENATOR SMITH: Jen, just a quick response--

MS. COFFEY: Yes.

SENATOR SMITH: Not going to fly.

MS. COFFEY: OK.

SENATOR SMITH: It won't pass this legislature. I appreciate the comment, but--

MS. COFFEY: Yes, you know we're always--

SENATOR SMITH: --I don't know anybody who is going to be jumping up in this state to put deposits on this bill.

MS. COFFEY: We would appreciate a clarification with enforcement, to make sure that the same enforcement provisions from the original law carry forward with this law, regarding violations, so, just a clarification on that.

We share some of the same testimony that has been given from various people today about the lack of recyclability of reusable bags, because they are made from different materials. So, we think reusable and low impact for paper bags is a way to go, but we're not so sure that they can be recycled in an effective manner at this time.

And, second to last, we also think five years is a little bit long. We think five months -- we've seen tremendous success, and five years is probably a little too long to adapt, and I would love to see that shortened up.

One thing I do want to note is that we are firmly opposed to any suggestion to incorporate plastic film, and, so, I appreciate you running any suggestions through the Plastic Advisory Council, where we really have a suite of experts to analyze various plastic film products that may be emerging.

And, we continue to maintain concern about a particular reusable bag that's called a heat pressed, or an ultrasonically stitched bag. And, in our experience, we're seeing those bags rip pretty quickly, so we're also working with the Commissioner of the DEP to look at the DEP certification of those heat stitched or ultrasonic bags.

But, in general, we think this is a good thing to do to move forward and to look at how the law is going and try to make it even better, and we think an elegant and simple solution is to look at limited use of the paper bag as well as the boxes that you've talked about.

So, thank you, Chairman, and thank you Senators. If there's any questions.

SENATOR SMITH: Thank you, Ms. Coffey.

Gene Benfatti from PlasTechFree -- Mr. Benfatti, are you here?

(no response)

OK. Oh, he was a part of the three-person panel.

OK, Carol Katz, who asked to be a little later in the order. Carol does not mark -- she's from Katz Government Affairs, she's representing the American Forest and Paper Association, and she's indicated that she's seeking amendments.

Carol.

C A R O L K A T Z: Good morning, Mr. Chairman, and members of the Committee.

Thank you very much for the opportunity to speak with, along with Abigail Sztein from the American Forest and Paper Association, today. Thank you, also, for moving us to the back of the line, because that meant that Abby could be here and give you more expert testimony than I could have done on my own, so we appreciate that.

So, with that, I'll turn it over to Abby.

ABIGAIL SZTEIN: Yes, good afternoon; apologizes for my tardiness. I was sitting on a train that wasn't moving for 90 minutes before we got to get on our way, so, I was going to be here on time.

Thank you for allowing me to participate. Carol has introduced me; AF&PA is the national trade association representing the forest products manufacturing industry. In New Jersey, that's nearly 13,000 individuals in 125 facilities with an annual payroll of nearly \$1.13 billion, and a manufacturing output exceeding \$3.35 billion, annually.

So, unfortunately, the bill only temporarily and partially lifts the ban on paper bags which was, we believe, unnecessary. We are concerned that this bill will disrupt cardboard box recovery, and it also suggests that boxes cannot be continued to be used in five years, and it makes continued reference to the difference between pre- and post-consumer recycled content. And, so, for these reasons, we need to request an amendment to Senate Bill 3114.

We believe that paper bags did not belong in the bill to ban single-use plastics, and now New Jersey residents are paying the price. Removing the ban on paper bags can help to solve the problems that have arisen from the law. Paper bags are locally produced, reusable, sustainable, and the only grocery bag that consumers can recycle at home in their curbside

bin. Paper bag and forest product-related manufacturing supports thousands of family wage jobs and union jobs here in New Jersey.

For a little bit of context of paper bags or the paper industry's environmental stewardship, 68% of paper was recovered for recycling in 2021, and we have met or exceeded 63% every year since 2009. In fact, according to the U.S. EPA, more paper by weight is recovered for recycling from municipal waste streams than plastic, glass, steel, and aluminum combined. Not to mention, New Jersey-specific, 91% of New Jersey residents have access to curbside recycling, so they could be recycling their paper bags.

So, our key concerns with the bill. The issue that arose with reusable bags in delivery and pickup is not an isolated issue, but, it's a demonstration of the larger impact of shifting entirely to reusable bags, so that there is now no recyclable option for stores and customers to use. Every bag that's now introduced in New Jersey will remain in the environment with no end-of-life plan. Paper bags are 100% recyclable, made from a renewable resource, and they're made in New Jersey.

We propose that paper bags no longer be banned in New Jersey grocery stores, and we further propose that paper be added to the list of material options defining reusable bags. If polypropylene, PET non-woven fabric, nylon, cloth, and hemp are all acceptable materials for reusable bags, why is paper not allowed to accomplish that? We further recommend adding glued handles to the definition, as the state definition of stitched handles already includes certain other language.

The bill also makes reference to temporarily using cardboard boxes for grocery e-commerce. Cardboard boxes are not in the scope of the single-use plastics bill, they're not mentioned in the state law, and it's not

clear why cardboard boxes are brought up at all when there's currently no restriction on their use. We request an amendment to remove all reference to cardboard boxes in the bill. My reasons for this -- while cardboard boxes are widely used as a shipping option, and are great for that purpose, they're not widely used for carry-out packaging because they're heavier and stronger than necessary for the carry-out use. It's unclear why there would be any restriction on cardboard use in five years; they are recovered at 91.4% for 2021, and there is simply no need or reason to restrict their use should they be a necessary option in some stores.

On the other hand, if stores are incentivized to give out boxes as consumer carry-out packaging, then boxes would be removed from the commercial collection channel, where the recovery rate is very high, and shifted to the residential channel, where the recovery rate is still high but it is lower.

I direct you to AF&PA's written testimony for more detailed information and for sources to the information I cited.

Thank you very much for your time and consideration.

SENATOR SMITH: Thank you for your comments.

Questions? (no response)

All right, Zachary Taylor, American Recyclable Plastic Bag Alliance -- seeking amendments.

ZACHARY TAYLOR: Good afternoon, Chairman.

Good afternoon, I'm Zachary Taylor, I'm the Director of the American Recyclable Plastic Bag Alliance, we represent the U.S. manufacturers and recyclers of plastic bags. We're here today seeking amendments to the bill. We appreciate the recognition and some of the

hiccups that have happened since implementation. I want to share a stat with you.

Data from the U.S. ITC notes that the United States is on track to import an additional 500 million stitched-handle plastic bags in the year 2022. Products like this are made of plastics like polypropylene of the woven and nonwoven varieties, as well as nylon and polyester and PET. They cannot be recycled.

We appreciate the recognition that one solution to dealing with the home-delivery issue and the single-use crisis of these bags not being used the requisite number of times to be more environmentally friendly than a single-use plastic bag is recycling. As opposed to creating a new mandate that retailers and restaurants, some of which may be as small as 50 feet by 50 feet, figure out a way to sanitize these bags and return them to consumers, recycling through the store take-back program which we have pioneered with our partners in the retail sector, is available, and a solution that is worth looking at.

There are reusable film bags that are designed and manufactured to withstand 125 reuses. Whether you use them once, five times, or 10 times, they can be returned to the store to be recycled. This helps solve a problem of ensuring that we are not substituting one type of plastic bag that *can* be recycled with the type of plastic bag that *cannot*.

SENATOR SMITH: So, same advice we gave to the prior panel. Go to the Plastics Council.

We are not smart enough -- well, some of us are smart enough; I know at least two members who are smart enough to figure that out. But, we do want to see a recommendation from the New Jersey Plastics Council. As

a matter of fact, I think there are some members out there. We really -- one of the things we really want you to do is take a look at the bags and see if there's an improvement in it. But, you're not going to sell us today on changing it. Plastics still have a 9% recycling rate in the entire United States of America, and maybe even the world.

They're not-- We're trying to get away from plastic as much as we can, so it probably is a good reason to take a look at the bags that we've authorized with stitched handles. But, the Plastics Council. You've got to go through them if you have a good suggestion for an alternative. OK?

MR. TAYLOR: I appreciate that, Senator, and thank you for your time.

SENATOR SMITH: Thank you very much.

And our last speaker -- I'm sorry. Our last speaker is Chad Lundahl, who is the Co-Owner of GOATOTE.

Now, the-- And again, you maybe get the same advice, go to the Plastics Council. But, GOATOTE is now in New Jersey. They have set up what I think is a pretty unique approach to our bag issue, and you're in New Jersey. You're actually in New Jersey supermarkets, and it's working, and I think you'd like to hear this, because this shows you the kind of innovation that's out there, but not necessarily that we're going to adopt his product or adopt his way of doing business. It's just extremely interesting.

So, with that background, Chad, take it away.

CHAD LUNDAHL: Thank you very much.

Thank you, Chairman and esteemed members of the Committee.

Like the Chairman mentioned, my name is Chad Lundahl. I am the co-founder at GOATOTE. GOATOTE is a reusable-bag system operating right here in the State of New Jersey.

The State of New Jersey has set a new standard for bag laws across the country, being proactive leaders while laying out the blueprint for the rest of the country to follow suit, and it should be applauded. Providing my perspective today as a person who is extremely knowledgeable about reusable bags and the systems that accompany them, I have this knowledge because our company has been developing and innovating a reusable-bag system for the last seven years. We understood that policy change such as that in New Jersey is the driving force for the future of environmental innovation and the economy, and why we decided to roll our business out in New Jersey.

Amending the bill, allowing e-commerce platforms to revert back to single-use, would be a disservice for the amazing work put forth by everyone in this room today. The lack of effort from retailers and third-party services is why we're here today. They should not be rewarded with an extension of single-use waste, especially when supporting systems exist in New Jersey today. These hurdles we face were anticipated months prior to the bans going live. Retailers and third-party services saw these exact problems far in advance and willingly chose to disregard existing solutions.

What's needed are the same retailers and third-party delivery services to show corporate responsibility for doing business in the State of New Jersey. New Jersey cannot take steps forward without a true effort from retailers and third-party delivery services to engage the solutions that are out there, and integrate the foundation necessary for successful and sustainable

bag transition in e-commerce. Especially when there is no cost for the retailer or the third-party services to implement reuse systems like GOATOTE.

The focus needs to be on providing the people of New Jersey a system where they can access clean bags, return dirty bags no matter where, when, or how they shop. This ubiquitous approach and omni-channel approach is why we started GOATOTE. We are here to be the bridge for New Jersey during this inevitable transition away from single use.

It's time to take this negative surrounding the e-commerce and turn it into a positive. Looking at how to integrate reuse systems like GOATOTE is going to open up new streams of revenue for these third-party delivery services. Bring new sustainability data that doesn't exist today. Not just for saving a single-use plastic bag, that's already been done by the State of New Jersey. But, we're talking about saving reusable bags.

Chairman, Committee, we know not amending this bill will begin to attract more existing reuse companies and innovation into the New Jersey space. We know this because they reach out to us on a daily basis. The circular economy is here, and building out the interoperable reuse systems will set the economic base for long-term success and future economic growth within New Jersey.

I will leave you with this: Reuse systems work. And, what better way to bring positive press, visibility, and sustainability data than highlight the Number 1 item to leave retail every single day: a bag. New Jersey citizens have already showed you that they are ready for a reusable bag system. The fact that people have tens or hundreds of reusable bags at home now in their house shows they understand these bags are not to be thrown out and not to go down the waste stream. Now it's our job to give them the infrastructure

for what they're calling for: A way to get a clean bag, return a dirty one, let us sanitize them and put them back into the system for continued reuse.

Thank you for your time.

SENATOR SMITH: Oh, Chad, you disappointed me.

MR. LUNDAHL: I'm sorry.

SENATOR SMITH: I wanted you to tell the Committee how the system works.

MR. LUNDAHL: OK.

SENATOR SMITH: I'll explain.

MR. LUNDAHL: I thought I wasn't supposed to pitch my product. (laughter)

SENATOR SMITH: As I understand it, you pay a buck for unlimited reusable bags, and they have a kiosk set up in the supermarket. You pay a buck for unlimited -- you want 20 bags, you take the 20 bags.

As long as you turn the bags back within 30 days, no additional cost. Next time you go to the market-- And, by the way, they take them at the supermarket--

MR. LUNDAHL: I can give you that pitch if you would like.

SENATOR SMITH: --and they now clean them, and they reuse them. And, if there's any kind of a rip or whatever, you repair them, and they got reused how many times?

MR. LUNDAHL: We have not had an end-of-life on a bag yet.

SENATOR SMITH: But, so, some of them are over--

MR. LUNDAHL: Over 200.

SENATOR SMITH: So no waste, all right.

MR. LUNDAHL: And, at the end, bags -- we use a Number 5, nonwoven.

MR. GURRENTZ: Can you turn on your microphone please?

SENATOR SMITH: Say it again?

MR. LUNDAHL: We use a Number 5 nonwoven polypropylene for those exact reasons, so we can mend and repair. And, we actually use the material that we mend and repair with, we weigh it out prior to repairing the bag, and we can use that data to compare against what a brand new reusable bag would, you know, measure against.

So, a few grams of repair versus throwing that entire bag out and getting an entire new bag is a waste.

SENATOR SMITH: And, the way you make money is by not having to buy new bags.

MR. LUNDAHL: Correct.

SENATOR SMITH: So, it's like--

SENATOR DURR: I missed something here, maybe.

SENATOR SMITH: Well, I'll tell you what. You want to ask the question, what happens if somebody doesn't return the bag? And, the answer is then they get charged. And the charge is two bucks a bag?

MR. LUNDAHL: Two dollars a bag. If you return that bag at any point in time after--

SENATOR DURR: Are you not getting paid to clean them?

MR. LUNDAHL: Sorry, say that again?

SENATOR DURR: Are you not getting paid to clean them and repair them? Who is paying--

MR. LUNDAHL: Our customers are paying us.

SENATOR SMITH: That's the one buck, right?

MR. LUNDAHL: Yes. A dollar service fee; it's a flat service fee--

SENATOR SMITH: Because--

MR. LUNDAHL: --one dollar every order.

SENATOR SMITH: Because the bottom line is--

MR. LUNDAHL: So, you can get 10 bags for a dollar.

SENATOR SMITH: --there's no additional cost to them on the cleaning. They don't have to buy a new bag. But, if the customer doesn't return it, then they get charged for the bag, and I think you said it was two bucks a bag.

But, you're telling me that in your operating systems, you get more than 90% returned?

MR. LUNDAHL: We were at -- for the last two years, we ran at an 89.5% return rate, on time, within 30 days.

SENATOR SMITH: And--

SENATOR DURR: And, how wide are you spread right-- How far out are you right now?

MR. LUNDAHL: Sorry, can you say that again?

SENATOR SMITH: Yes, what do you mean, how far?

SENATOR DURR: How widespread are you in the state?

MR. LUNDAHL: We started in May, we're in six locations here in New Jersey. We're adding another four in about two weeks. We also operate in the Toronto area.

SENATOR SMITH: So, you're going to have 10 locations. And, what are the kinds of locations you're in? Give us examples.

MR. LUNDAHL: Target, Walmart, CVS, and we'll be rolling out with a grocer here in New Jersey in a couple weeks as well.

SENATOR SMITH: By the way, I'm not saying this is the world's greatest system. I'm just saying this is the kind of innovation that the market and the industry is going to develop. And, the one criticism that stings -- and it's true -- is why are we doing this after five months? Maybe we should wait two years before we do it.

The only thing is, we have this high acceptance by New Jersey citizens now. Giving them a couple alternatives is not the worst thing to do, and we're not backsliding; you're talking about 2% of New Jersey citizens that do it this way. And, even if they go to the paper option, it's recyclable. It's -- I mean, for 2%, you heard those numbers at the start of this hearing.

So, Chad, thank you for coming in. I know you had to do a little trek.

That's our last witness. So, couple of decisions. First of all, on the five-year exemption versus three-year, do we feel OK with the three years?

SENATOR DURR: I don't see any exemption.

SENATOR SMITH: What's that?

SENATOR DURR: I kind of agree with the speaker before, with-- First off, I don't believe cardboard should even be in the bill. I think it never was part of the ban, so, I don't think it should be in the bill at all. I think cardboard should be out, because it has nothing to do with it, it's--

SENATOR SMITH: Remember it's got to be accepted by both the delivery vendor and the customer. Just trying to provide alternatives. I always think a little choice for the citizens--

SENATOR DURR: I mean, I'm going to vote yes on the bill, but I just think that cardboard shouldn't be in it--

SENATOR SMITH: You're just telling me philosophically where you are.

SENATOR DURR: --and I think the paper bags are 100% recyclable, so.

SENATOR SMITH: You don't have a problem?

SENATOR DURR: No.

SENATOR SMITH: So, let me check the three months extension for the community food banks. Nobody has a problem with that, right?

Also, making it explicit that one of the alternatives with the reusable bags is a donation to a food bank. That's clearly a good alternative.

What else? And, then we said three years is the exemption -- cutting it down to three.

SENATOR DURR: And removing cardboard, too.

SENATOR SMITH: What's that?

SENATOR DURR: Remove the cardboard.

SENATOR SMITH: It's three -- for both paper bags and for cardboard.

SENATOR DURR: Just be removed out of the bill. The cardboard had nothing to do with the original thing that I had nothing to do with.

SENATOR SMITH: I don't want to take choices away from New Jersey citizens, so that one's not going to work.

So, that being said, I move the bill. Governor Codey seconds.

You'll have to tell him about all of the good work you did today.

(laughter)

Actually, Senator Zwicker seconds, just to be fair.

Let's take a roll call vote, and if anybody has any misgivings or whatever, this is the time to bring them up.

MR. HANSEN: On the motion to release Senate Bill Number 3114.

Senator Stanfield.

SENATOR STANFIELD: I appreciate that this is a work in progress, and I vote yes.

SENATOR SMITH: Thank you.

SENATOR DURR: Again, I strongly urge that the cardboard be removed from the bill altogether, and I will vote yes.

MR. HANSEN: Governor Codey left a no vote.

Senator Zwicker left a yes vote.

Chairman Smith.

SENATOR SMITH: Yes.

You'll probably see in a year or two, we'll do this again.

Everybody have a great day.

(MEETING CONCLUDED)

APPENDIX

RUTGERS

New Jersey Agricultural
Experiment Station

Briefing to the New Jersey Senate Environment and Energy Committee

New Jersey Agricultural Experiment Station and Rutgers Cooperative Extension *Climate Resilience Programs and Priorities*

Brian Schilling, Ph.D.

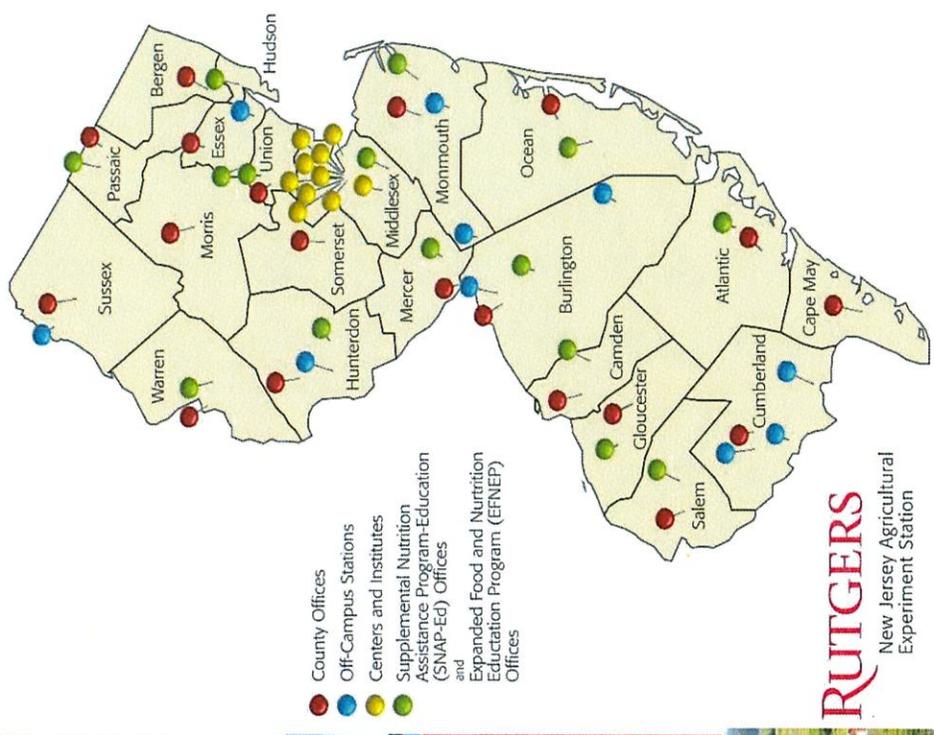
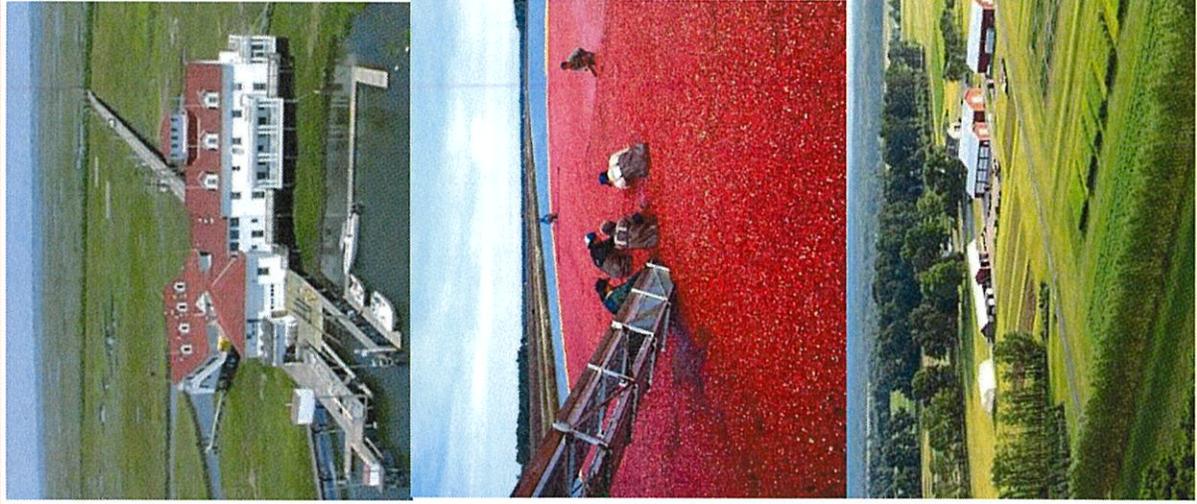
Director, Rutgers Cooperative Extension, NJAES

Peggy Brennan Tonetta, Ph.D.

Director, Resource and Economic Development, NJAES

October 6, 2022

- Established in 1880 to fulfill federal and state mandates to bring science-based solutions and education to NJ residents
- One of largest research units at RU
- Federal/State/County funding partnerships. Large grant & contract portfolio. **No tuition.**
- Cooperative Extension offices in all 21 counties
- Research farms, marine stations, incubators
- 300+ faculty and staff/ 6,800+ volunteers
- Economic engine for NJ



RUTGERS

New Jersey Agricultural
Experiment Station

Commercial Agriculture



Farm management, greenhouse, livestock, equine, landscape, nursery, turf, vegetable crops, fruit, pest management, ornamentals.

Environment and Natural Resources



Air quality and noise pollution, climate, weather, energy, disasters, emergencies, forestry, land use, soils, stewardship, conservation, water.

Fisheries and Aquaculture



Aquaculture, shellfish restoration, seafood safety, fishing industry, estuarine reserve, deep sea research, wetlands.

Food, Nutrition, and Health



Food, nutrition, food safety, fitness, school wellness, health, finance, obesity, disease prevention, workforce wellness, food security.

Home, Lawn, and Garden



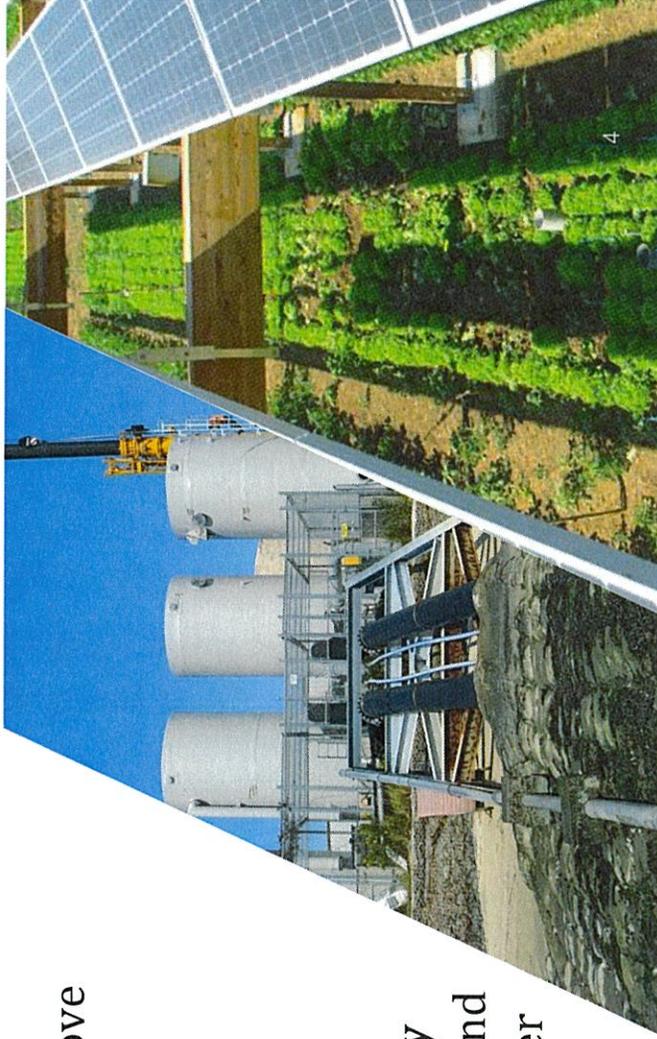
Gardening, tomatoes, insects, bed bugs, mosquitoes, ticks, wildlife management, deer resistant plants, bats, lawns, landscapes.

Youth and Community Development



4-H and other positive youth opportunities, childcare, community development, at-risk youth, parenting, elder caregiving, bullying.

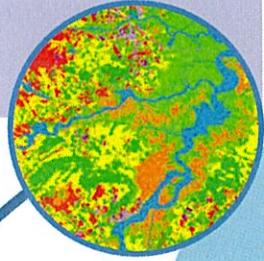
njaes.rutgers.edu



- Strategic investment initiative to improve NJAES farms, field stations, business incubators, centers, and programs.
- These investments and expanded engagement will provide a platform to **build greater programmatic capacity and capabilities** to address current and future needs of New Jersey and broader society!

NJAES Vision 2025 - Programmatic Focus Areas

Examples of ongoing research and outreach:



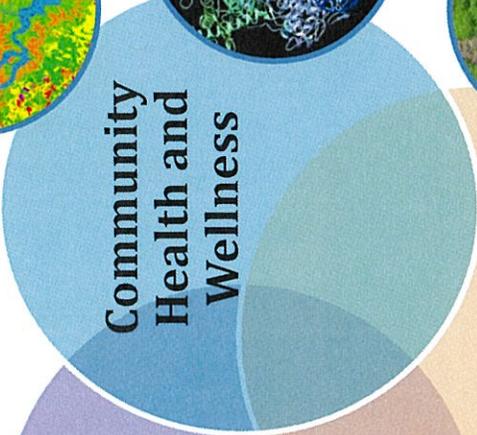
Climate adaptation management practices
Climate impact modeling tools
Agrivoltaics
Off-shore Wind



RCE programs in urban/suburban areas
Nutrition and public health
Delivery of positive youth development activities; STEM education



Breeding Programs - cranberries, hazelnuts,
ethnic crops, oysters, turf.
Farm Viability
Soil Health
Smart Agriculture

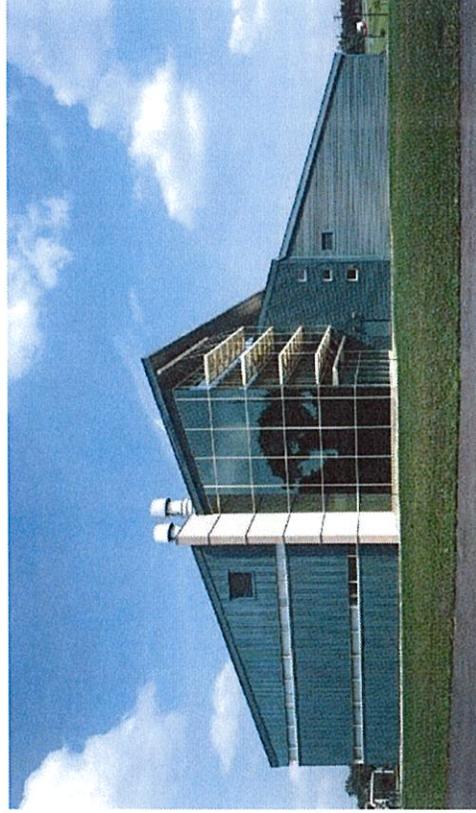


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New Jersey Agricultural
Experiment Station

Rutgers EcoComplex

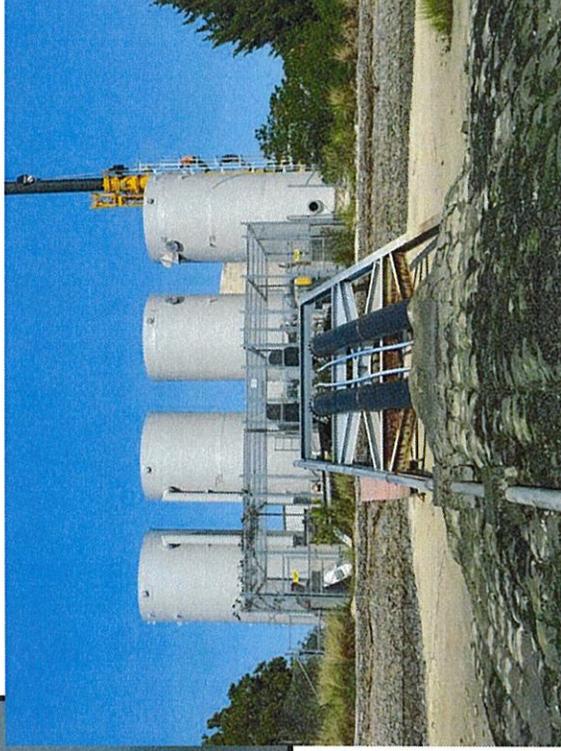
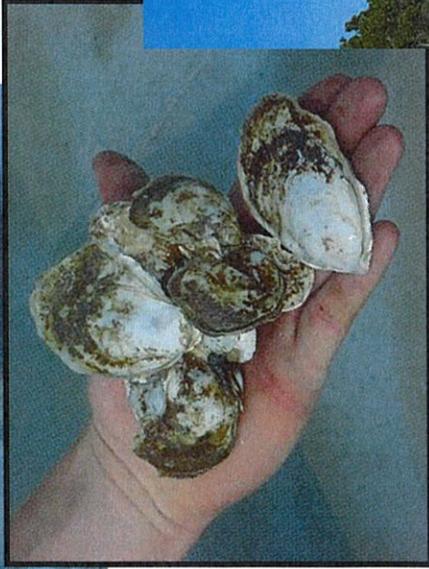
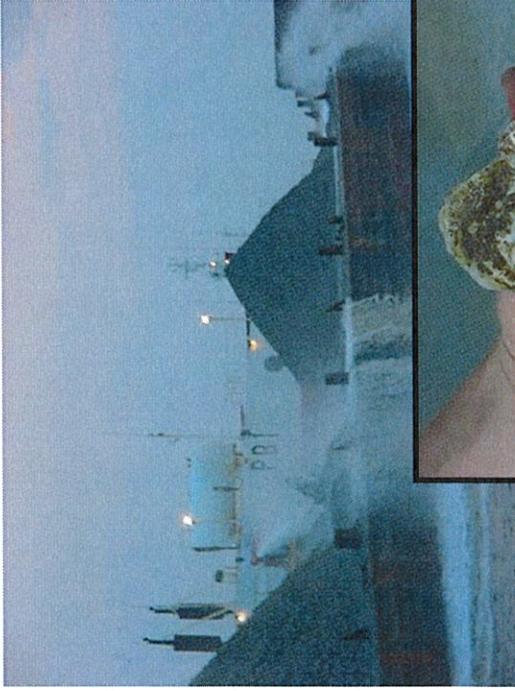
- Clean Energy Innovation Center
- Business Incubator dedicated to education, outreach and "green" business development
- Workforce and business developments for under-represented populations
- Food waste recycling, renewable energy, off-shore wind business development, alternative fuels



6x

Haskin Shellfish Research Laboratory

- Conducts research in the areas of fisheries and aquaculture science
- Ecosystem restoration and economic development
- Concentrates on species of commercial importance to New Jersey
- Aquaculture Innovation Center



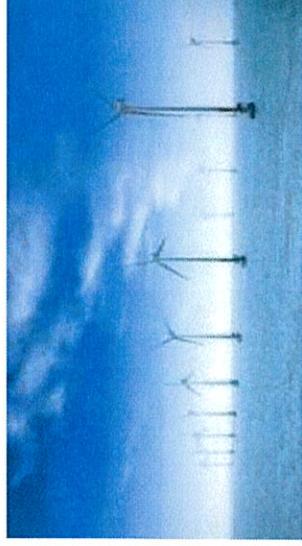
Renewable Energy

Off-shore Wind

- Key elements of off-shore wind energy research and outreach:
 - ✓ Environmental resource assessment and stewardship;
 - ✓ Materials Engineering, Manufacturing, and Infrastructure Engineering;
 - ✓ Energy economics, policy, and system analysis.
- Cross cutting elements:
 - ✓ Stakeholder Engagement
 - ✓ Education and workforce development.
- Federal, state and industry funding

Agrivoltaics

- Evaluation of Agrivoltaic systems
- Planning construction of Agrivoltaic systems at 3 NJAES Research Farms
- Mock-up systems installed for preliminary data collection
- Data collection plan –energy, economics, agricultural production
- Policy analysis
- BPU/NJDA roll-out of Dual-Use Pilot Program



Rutgers Environmental Stewards Program

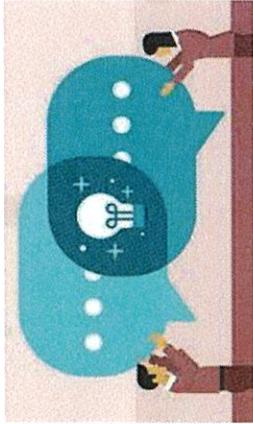
- **Educate** volunteers on the science underlying key environmental issues in NJ.
- **Enable** volunteers to help solve local environmental problems
- **Expose** to the network of professionals/resources to help achieve their goals.
- **Expand** the research/educational capacity of RCE in natural resource management/environmental protection through trained volunteers.

9x



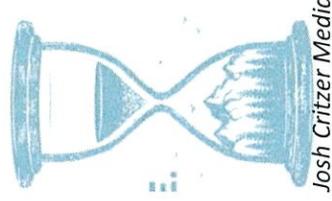
2021 Impact

123
Class
Graduates



Oneclass.com

20
Certified
Environmental
Stewards

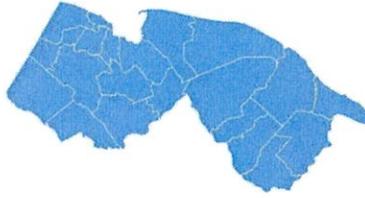


Josh Critzer Media

2457
Environmental
Stewards
Volunteer
Hours

200
recruited
volunteers,
1889
hours

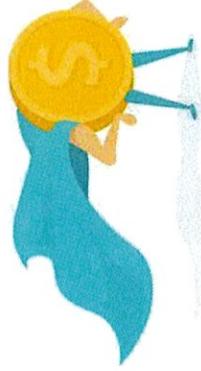
6307
People
Educated



Vectorstock.com

Projects
in
9
Countries
Across
the State

\$7000
grants/
donations



Fastweb.com

\$117,756

Value of Volunteer Time
by Environmental
Stewards and Additional
Recruits*

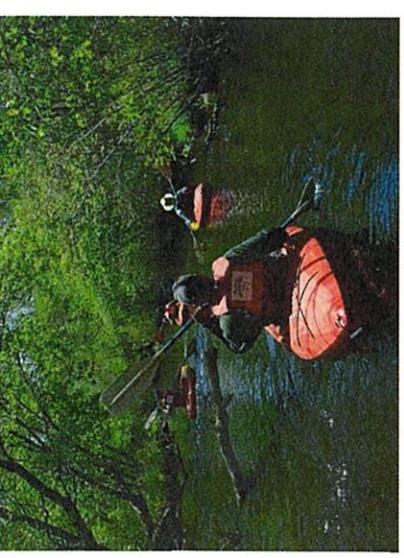
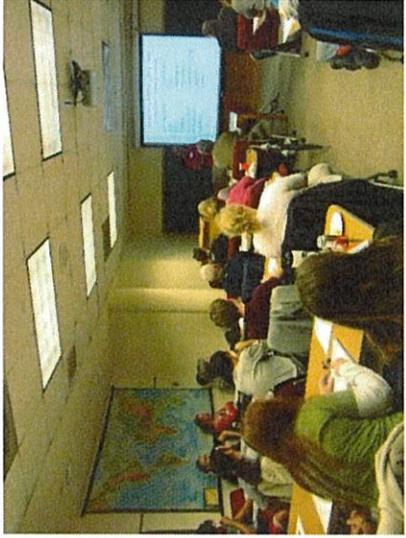
*Based on 2021 Independent Sector

A Rutgers Environmental Steward is a volunteer that is trained in the important environmental issues affecting New Jersey and works to help solve local environmental problems. Stewards attend weekly classes and complete an internship of their choosing to become certified. Visit envirostewards.rutgers.edu for more information about the program.

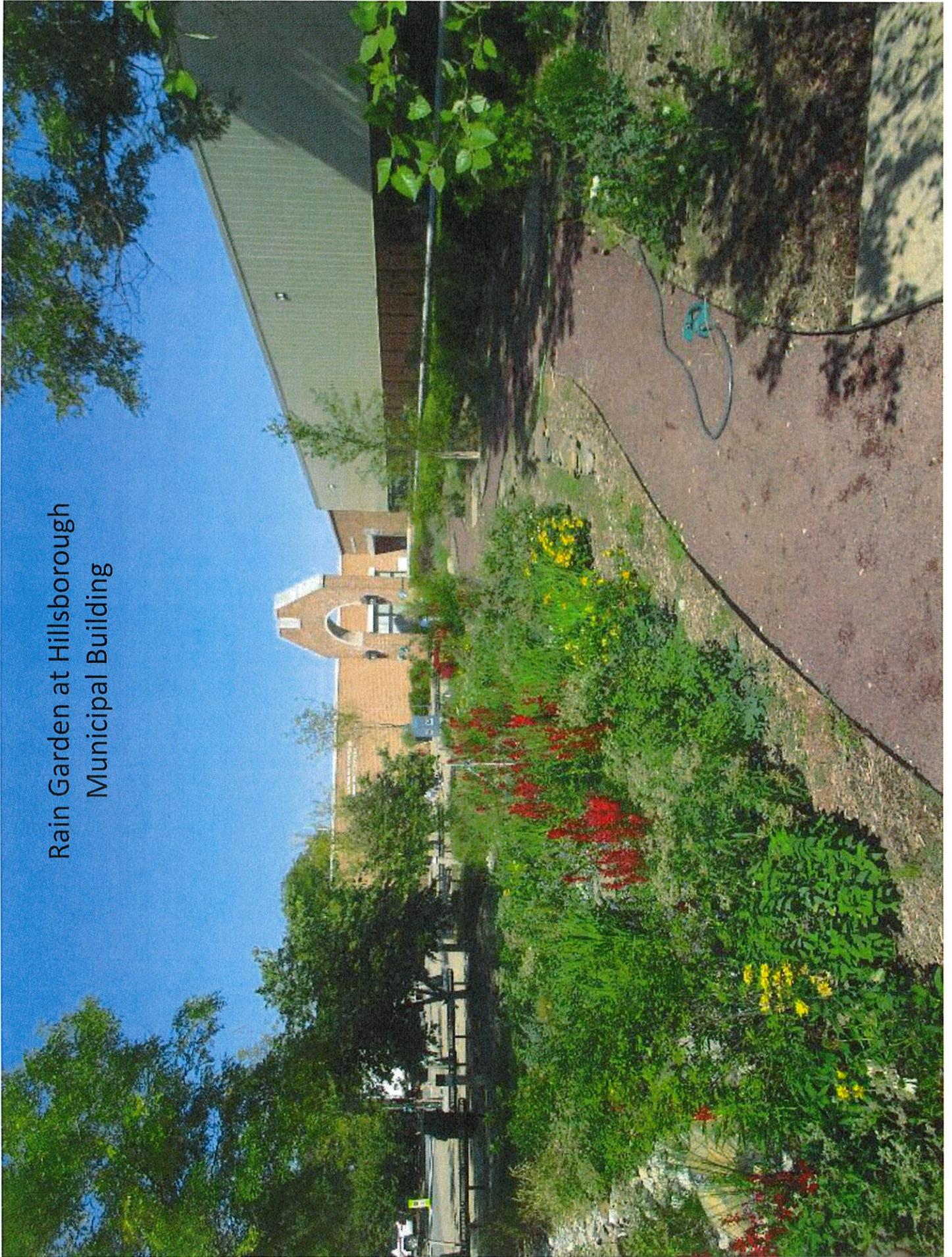
Rutgers Cooperative Extension Water Resources Program

water.rutgers.edu

Our mission is to identify and address water resources issues by engaging and empowering communities to employ practical science-based solutions to help create a more equitable and sustainable New Jersey.



Rain Garden at Hillsborough
Municipal Building



12x

Summary of RCE Water Resources Program Green Infrastructure Initiative

Over the past 10 years:

- Engaged with 239 municipalities
- Prepared green infrastructure plans for 183 municipalities
- Helped municipalities install 500+ green infrastructure projects
- Worked with over 100 schools to install rain gardens
- Installed rainwater harvesting systems to support community gardens in Newark, Camden, Perth Amboy, Paterson, et al. urban areas
- Trained over 70 undergraduate student interns
 - Experiential learning
- Secured over \$7.5 million to support this program
- Green Infrastructure Champions
 - 200+ certified “champions” since 2018

New Jersey Farm Viability

- Substantial threat to the economic viability of many New Jersey farms
 - Stagnant prices
 - Inflated input costs
 - Weather
 - Labor
 - Supply chains
- Heavy impact on 'commercial heart' of farming industry
- Paradox: plowing under crops and food insecurity
- Statewide farm viability initiative (NJAES, NJ Farm Bureau, NJ Dept. of Agriculture)

NJAES and Farm Viability

- Areas of needed innovation for farm viability and climate resilience/adaptation
 - Technology and modernization
 - AI, machine learning, sensors, autonomous vehicles, drones
 - Farm management
 - Farm business and risk management
 - Crop breeding programs
 - Integrated pest (crop) management
 - Weed, disease, pest management
 - Resource conservation
 - Water management
 - Climate-friendly practice incentives
 - Markets/marketing
 - Policy innovation and adaptation

And more...

- Vector biology (e.g., ticks, tick-borne disease)
- Pesticide training
- Food waste reduction
- Nutritional security
- Agricultural biosafety/biosurveillance
- On-farm food safety
- Planning and prediction tools
 - NJ Forest Adapt
 - NJ Flood Mapper
- Office of the New Jersey State Climatologist

For More Information

Brian Schilling

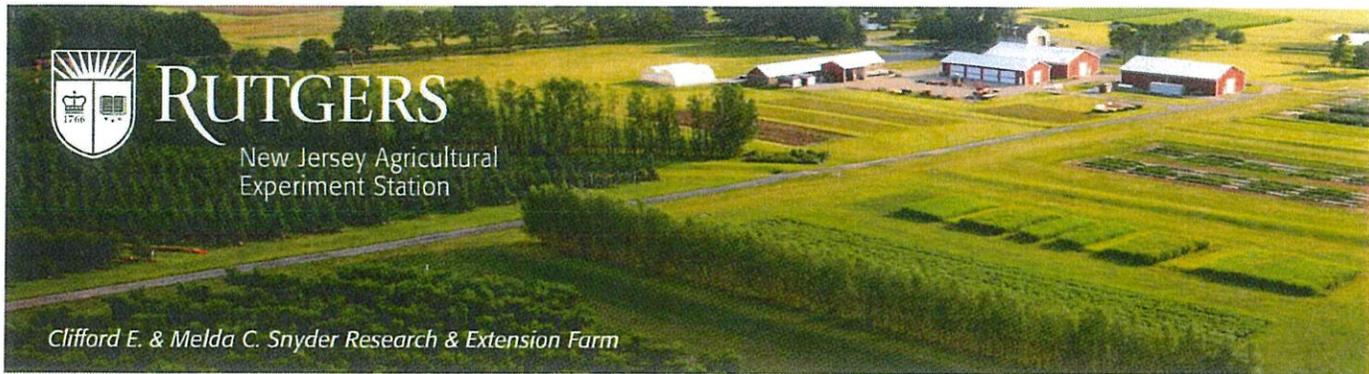
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New Jersey Agricultural Experiment Station (NJAES) Vision 2025

NJAES Vision 2025 is a strategic investment initiative to improve NJAES farms, field stations, business incubators, and programs with a goal to provide a platform to build greater capacity and capabilities at NJAES to address current and future needs of New Jersey and broader society!

Vision 2025 Program Development Areas

Climate Resilience & Adaptation

Identify climate risk for communities and resource-based industries and demonstrate/evaluate climate management practices, resiliency preparedness responses and clean energy technologies.



Interlocking concrete blocks called Oyster Castles® help mitigate erosion from waves and outflow pipe runoff at NJAES shoreline facilities and create a habitat that mimics an oyster reef.



Vision 2025 Grants Program in Soil Health Awarded funding to three soil health projects in research, training and team building.

Future of Agriculture and Food

Catalyze economic development in the agricultural and food sectors through innovation and entrepreneurship, new crop development, and diversity; support business succession of farm assets; support new farmers through agricultural incubation programs.



Rutgers Landmark™ Hazelnut Series on the market after nearly two decades of research, four new Eastern Filbert Blight-resistant cultivars, can now be grown in the Northeast for the first time.



Rutgers Hemp Initiative focuses on: Testing hemp varieties for yield/THC/CBD; Production systems; Monitoring insects & diseases; Economic analysis; and Analytical Chemistry.



Community Health and Wellness

Rutgers Cooperative Extension engagement and program delivery in urban and suburban communities that center on access, diversity, equity, and inclusion.



Promoting the physical and emotional well-being of youth and communities results in healthier lifestyles and more productive futures. RCE provides nutrition education and gardening programs for families. 4-H youth explore career pathways in emerging STEM fields.

◀ NJAES committee leading the science-based evaluation of Agrivoltaic (Dual Use) Systems Research will inform BPU and DOA roll-out of Dual Use Pilot Program.

For more information visit: <https://njaes.rutgers.edu/vision2025/>



18x

New Jersey Agricultural Experiment Station

What is the Experiment Station?

The New Jersey Agricultural Experiment Station (NJAES) is an integral component of Rutgers, The State University of New Jersey. The experiment station provides a diverse range of research, extension, and education programs that serve the people of New Jersey and the urban, suburban, and rural communities in which they live. Through its Cooperative Extension offices in all 21 New Jersey counties, dedicated 4-H agents, Extension specialists, Family & Community Health Sciences educators, and Agriculture and Natural Resources agents work to serve New Jersey residents in every area of the state.

<p>Commercial Agriculture</p> 	<p>Farm management, greenhouse, livestock, equine, landscape, nursery, turf, vegetable crops, fruit, pest management, ornamentals.</p>	<p>Environment and Natural Resources</p>  <p>Air quality and noise pollution, climate, weather, energy, disasters, emergencies, forestry, land use, soils, stewardship, conservation, water.</p>
<p>Fisheries and Aquaculture</p> 	<p>Aquaculture, shellfish restoration, seafood safety, fishing industry, estuarine reserve, deep sea research, wetlands.</p>	<p>Food, Nutrition, and Health</p>  <p>Food, nutrition, food safety, fitness, school wellness, health, finance, obesity, disease prevention, workforce wellness, food security.</p>
<p>Home, Lawn, and Garden</p> 	<p>Gardening, tomatoes, insects, bed bugs, mosquitoes, ticks, wildlife management, deer resistant plants, bats, lawns, landscapes.</p>	<p>Youth and Community Development</p>  <p>4-H and other positive youth opportunities, childcare, community development, at-risk youth, parenting, elder caregiving, bullying.</p>

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New Jersey Agricultural Experiment Station

New Jersey Agricultural Experiment Station
Rutgers, The State University of New Jersey
88 Lipman Drive, New Brunswick, NJ 08901-8525



19x

We have the state covered...

Statewide Off-Campus Research Stations

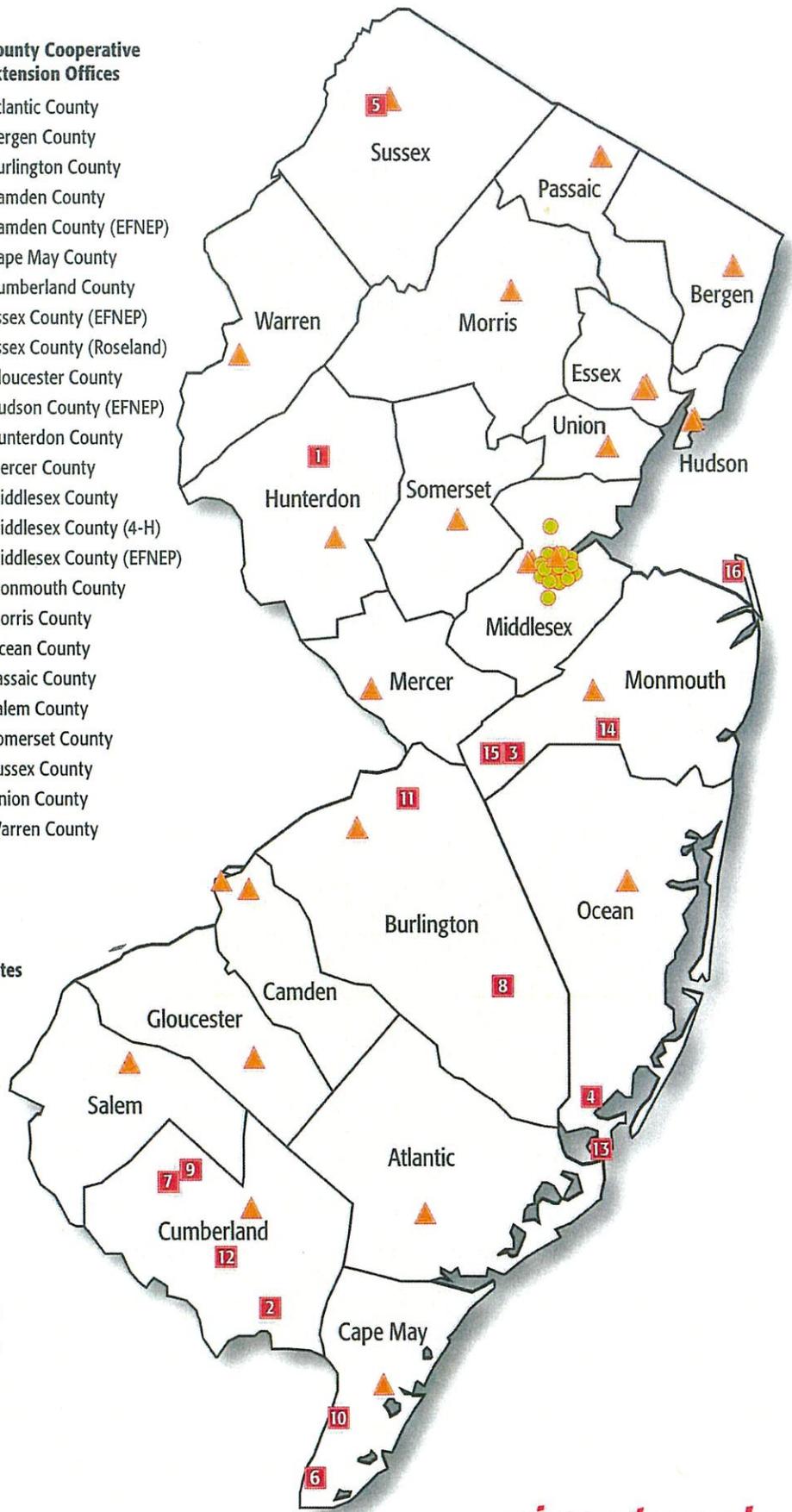
- 1 Clifford E. & Melda C. Snyder Research and Extension Farm
- 2 Haskin Shellfish Research Laboratory
- 3 IR-4 Project: Center for Minor Crop Pest Management
- 4 Jacques Cousteau Coastal Center
- 5 Lindley G. Cook 4-H Youth Center for Outdoor Education
- 6 New Jersey Aquaculture Innovation Center
- 7 New Jersey Center for Wine Research and Education
- 8 Philip E. Marucci Center for Blueberry and Cranberry Research and Extension
- 9 Rutgers Agricultural Research and Extension Center
- 10 Rutgers Cape Shore Laboratory
- 11 Rutgers EcoComplex - Clean Energy Innovation Center
- 12 Rutgers Food Innovation Center
- 13 Rutgers Marine Field Station
- 14 Rutgers Plant Science Research and Extension Farm
- 15 Rutgers Specialty Crop Research and Extension Center
- 16 Sandy Hook Cooperative Research Program

New Brunswick-Based NJAES Centers and Institutes

- Center for Environmental Prediction
- Center for Lipid Research
- Center for Turfgrass Science
- Center for Urban Environmental Sustainability
- Center for Urban Restoration Ecology
- Center for Vector Biology
- Equine Science Center
- Grant F. Walton Center for Remote Sensing and Spatial Analysis
- Hutcheson Memorial Forest (off-campus)
- Institute of Earth, Ocean, and Atmospheric Sciences
- New Jersey Institute for Food, Nutrition, and Health
- New Jersey Water Resources Research Institute
- Office of Continuing Professional Education
- Rutgers Climate Institute
- Rutgers Ecological Preserve (off-campus)
- Rutgers Energy Institute

County Cooperative Extension Offices

- Atlantic County
- Bergen County
- Burlington County
- Camden County
- Camden County (EFNEP)
- Cape May County
- Cumberland County
- Essex County (EFNEP)
- Essex County (Roseland)
- Gloucester County
- Hudson County (EFNEP)
- Hunterdon County
- Mercer County
- Middlesex County
- Middlesex County (4-H)
- Middlesex County (EFNEP)
- Monmouth County
- Morris County
- Ocean County
- Passaic County
- Salem County
- Somerset County
- Sussex County
- Union County
- Warren County





10 W Lafayette Street
Trenton, NJ 08608-
2002

609-393-7707
www.njbja.org

To: Members of the Assembly Environment and Solid Waste Committee & Members of the Senate Environment and Energy Committee

From: Raymond Cantor, Vice President Government Affairs

Date: August 11, 2022

RE: NJBIA Testimony on Assembly Bill No. 1733 & Senate Bill No. 416

Michele N. Siekerka,
Esq.

President and CEO

Christine Buteas
Chief Government
Affairs Officer

Raymond Cantor
Vice President

Christopher Emigholz
Vice President

Alexis Bailey
Director of
Government Affairs

Kyle Sullender
Director of Economic
Policy Research

On behalf of the New Jersey Business & Industry Association, the state's largest business association, I am submitting these comments on Assembly Bill No. 1733 and Senate Bill No. 416, sponsored by Assemblyman McKeon and Senator Smith, respectively. These bills would require that state pension and annuity funds divest themselves from the 200 largest fossil fuel companies. For the reasons set forth below, we strongly oppose this legislation.

Our members are some of the largest companies who produce or distribute fossil fuels as well as those engaged in renewable energy. We also represent the consumers of that energy. Given these diverse interests, we take seriously energy policy and the need to not only work toward decarbonization, but also to ensure that energy, in all its forms, remains affordable, and that our grid and other power sources remains reliable.

We oppose this legislation, while it may be well intended, for two main reasons. First, it is counterproductive and contrary to the policies we believe are essential to our economic and environmental well-being. Second, we also believe it is a dangerous fiscal policy and in abrogation of the state's role as fiduciary in the protection of its pension funds. Let me address the latter issue first.

The State of New Jersey is a Fiduciary of the Pension: The state is the fiduciary of the billions of dollars of pension funds it holds and invests on behalf of the millions of current and former employees who are the beneficiaries of those funds. As a fiduciary it has the responsibility to invest those funds wisely, prudently, and in the interests of the beneficiaries. It is a very dangerous precedent to use those funds to achieve political and social ends and such actions should only be taken in the most extreme cases, if at all.

Pension fund investments should be predicated on sound investment decisions, not politics or policies. We can all conjure up policies we prefer or companies whose behaviors we want to change by threatening divestment. We should resist doing so. Where do we draw the line? And would pension investment policies change with each change of Administration? Let's avoid going down this path from the start.

We have only in the past two budgets made our first full pension payment in decades. We are only now, after decades of running deficits, beginning to right our pension's balance sheet so that the promises made to our state employees can be kept without further impacting our state's finances. Please keep in mind we still have a net pension liability of more \$95.2 billion per the most recent State debt report issued earlier this summer and pursuing investments with the best ROI is critical to reduce that liability. Concern about eroding quality pension investment decisions can be seen from the opposition of public employee unions in New Jersey and whenever state and local governments have explored this idea. Now is not the time

to do anything other than require sound, prudent investments in legally traded companies. To do otherwise would be to jeopardize our pension funds and state's finances and abrogate our fiduciary responsibilities.

Targeting Fossil Fuel Companies is Counterproductive: This bill also improperly seeks to make a villain of the fossil fuel industry. As we continue to decarbonize our economy, let's not forget how our modern economy was built, the benefits carbon-based fuels have made to the world, and the need for these fuels as we responsibly make this transition.

Energy, in all its various forms and uses, constitutes the fundamental building block of the modern economy. Having reliable, abundant, and affordable energy to run our factories, heat and cool our homes, and power our transportation sector has transformed our economy from an animal-powered agrarian economy to the most advanced economic system known to man. It has provided us with the power to create millions of jobs, elevate people out of poverty, and provide a standard of living never before accomplished in human history. It generates tax revenues that support the services needed by our residents. We take our energy system for granted; we merely flip a switch and the lights turn on, we press the ignition and our cars power up, and we turn on the furnace and our homes and offices are heated. Since we stopped using whale blubber and trees as our primary sources of energy, our world has relied on cheap, abundant sources of fossil fuels, be it coal, oil or natural gas. Fossil fuels have been the energy source that has powered our economy. I would venture to say that more people have risen from poverty due to the use of fossil fuels than for any other reason.

Extreme poverty around the world has dropped to historic lows. In fact, the big success of the last generation was that the world made rapid progress against the very worst poverty. The number of people in extreme poverty has fallen from nearly 1.9 billion in 1990 to about 650 million in 2018. This happened as economic growth reached more and more parts of the world, and that economic growth was fueled primarily from fossil fuels. I think it is also obvious to say the by taking people out of poverty, especially extreme poverty, we are saving many, many lives. If our goal is to help lift people from poverty and save lives, if we favor policies that benefit humankind, we need to recognize the role that energy, and fossil fuels, play.

We continue to need fossil fuels today and will for many years to come. If the answer to climate change was so obvious, and the solution was merely to stop using fossil fuels, then we should stop today. It isn't and we can't. This Legislature or Congress has not banned fossil fuel use because the fact of the matter is there is no current realistic alternative available at the scale we need. Members of the Murphy administration, strong advocates for renewables and certainly not cheerleaders for the fossil fuel industry, have clearly and repeatedly said that we will need natural gas to power our homes and generate our electricity for at least the next three decades, if not longer.

The road to decarbonization needs to be a methodical and carefully planned transition, not a jump into cold waters. Current events around the world demonstrate the seriousness of trying to move too fast, too soon. Energy prices in Europe have exploded, brownouts are happening, and the possibility of blackouts and a cold winter looms. Germany finds itself digging for more coal, yes coal, because they refused to invest in cleaner, natural gas. Geopolitics and wars also remind us of the need for energy independence and a strong, reliable energy system.

Another key factor to keep in mind is that the very companies who this bill targets are the very companies that will lead us to a clean energy future. Let me give you a New Jersey example by highlighting one of the presumably key targets of this legislation.

- ExxonMobil's global technology center has been located in Clinton, New Jersey since 1985. At Clinton, nearly 800 scientists, engineers and technicians are working to develop the next generation of scalable, lower carbon energy solutions that address the hardest to decarbonize sectors: commercial transportation, power generation and manufacturing. These include: hydrogen, advanced biofuels;

carbon capture and storage for industrial operations; natural gas technologies; and new energy efficiency processes.

- The work being done by ExxonMobil at its Clinton facility, as well as other companies being targeted by this bill, may result in the breakthroughs we need to fully transition to a net zero economy and in a way that is both affordable and reliable. Yet, this legislation would seek to starve these companies of their capital for some odd notion that our climate change policies can only be accomplished by bankrupting fossil fuel companies. This policy prescription is counterproductive.

Other fossil fuels companies have and are leading the transition to a new energy economy. New Jersey Resources is the state's largest owner of solar facilities. Orsted, before it invested in wind technology, was a major developer of natural gas and oil. If these and the 200 companies being targeted in this bill are denied capital, they will not be able to invest in both new, green technology, but also will not be able to adequately maintain their current infrastructure. The result will be a slower transition to a decarbonized economy, higher gas prices, higher natural gas and oil prices, and instability in the energy marketplace and thus in our whole economy.

Progress Toward Carbon Reduction: We have made tremendous progress toward reducing carbon emissions. We have met the 2020 goals of the Global Warming Response Act primarily by shifting from coal to natural gas. We are developing our wind industry at a fast pace. Solar now accounts for over 6% of our electric energy mix, and we have taken steps to ensure that our nuclear fleet remains operational.

We need to focus on working together, investing in new technologies, and continuing to make progress in this energy transformation. We should not take rash measures that harm our pensioners, jeopardize our state budget, and limit the capital needed for new technology, all in the name of seeming to do something about climate change.

We ask that these committees not bring these bills to a vote and instead focus on working with the fossil fuel and financial industries in making positive, fundamental progress toward greater decarbonization.



ISRI is the voice of the recycling industry, promoting safe, economically sustainable and environmentally responsible recycling through networking, advocacy and education.



Thursday, October 6, 2022

Senator Bob Smith, Chair
Senate Environment and Energy Committee
Committee Room 4, 1st Floor, State House Annex
Trenton, NJ 08608

Re: New Jersey S3114 Eliminating prohibition of provision of single-use paper bags

Chair Smith and members of the Senate Environment and Energy Committee:

The New Jersey Chapter of the Institute of Scrap Recycling Industries (ISRI) fully endorses the elimination of, even if only temporarily, the prohibition on grocery stores from providing customers with paper bags. ISRI's support of S3114 is because paper bags are:

- 100% recyclable,
- Already being recycled in the existing residential curbside infrastructure, and
- Are among the most valuable materials in municipal recycling streams.

ISRI also agrees with creating reuse and recycling programs for reusable bags if such programs include substantive input and participation from the recycling industry. The recycling industry's expertise is critical to ensure that reusable bags provided by stores and delivery services are produced and handled responsibly and have viable end markets when recycled.

For these reasons, ISRI is pleased to support S3114 and welcomes the opportunity for future considerations of how paper bags and other packaging products can be responsibly designed, used, and collected to maximize their recyclability. ISRI and its member companies offer a vast network of reliable and diverse expertise that will help ensure the use of these materials as recycled content in the manufacture of new products, and this will create a positive contribution to part of New Jersey's goals in encouraging the growth of a truly circular economy.

ISRI is the trade association that represents approximately 1,500 companies that process, broker, industrially consume, and otherwise supply recyclable materials of commodities including metals, paper, plastics, glass, textiles, rubber, and electronics. In New Jersey, the recycling industry supports approximately 15,000 jobs, with wages more than \$1.1 billion per year. As an essential and green sector of the manufacturing supply chain, the recycling industry has a total economic impact in New Jersey of \$3.67 billion per year.

Thank you for your consideration,

Michael Miller
ISRI New Jersey Chapter President
George's Salvage Co, Inc.
10 S Park Dr
Newton, NJ 07860-1811
(973) 383-4471
Junkman@geosalvage.com

Frank Brill
ISRI New Jersey Chapter Lobbyist
Brill Public Affairs
(609) 577-9017
frankbrilljr@gmail.com

Danielle Waterfield
Chief Policy Officer
Institute of Scrap Recycling Industries
(202) 662-8516
DWaterfield@isri.org



24X



PlasTechFree™ P R O D U C T S www.PlasTechFree.world

PlasTechFree provides a 100% plant-based bag which is certified “HOME Compostable”

“HOME Compostable” products are plant-based, contain no plastic, no toxins, and biodegrade under natural conditions within 180 days of disposal leaving Rich Nutrients behind in the soil.

Compostable Bags provide a Sustainable Solution to the ever growing problem that other bags bring to our Environment. (Plastic and Paper)

Plastic Bags:

The major impact of single-use plastic bags on the environment is that it takes up to 1000 years for them to decompose. In addition, toxic substances are released into the soil when plastic bags perish under sunlight and, if plastic bags are burned, they release a toxic substance into the air causing ambient air pollution.

Paper Bags:

The production of paper has a heavy use of toxic chemicals in the process. Paper is responsible for 70 times more air pollution and 50 times more water pollution than plastic bag production according to a *Washington Post* analysis, resulting in more toxicity to humans and the environment than HDPE bags. And while 66% of paper and paperboard are recycled, the recycling process requires additional chemicals to remove the ink and return the paper to pulp, which adds to paper’s environmental negative impact.

Compostable Bags:

Compostable is the best type of sustainable packaging to use (and dispose of) because they are Earth-safe and environmentally-conscious. They never secrete harmful toxins, chemicals or byproducts back into our airways, waterways or soils. The compostable decomposition is a completely natural process. By choosing compostable, you’re not only helping to protect our planet by reducing waste, you’re also giving something back to the planet; you’re feeding the Earth natural, organic fertilizers which our plants and trees need to grow and thrive.

COMPOSTABLE IS CLEARLY THE BETTER CHOICE



25x

For Immediate Release:

A New Jersey Company files for a Patent on a Plant Based / Reusable / Anti-Microbial Bag

PlasTechFree LLC., a New Jersey based company has filed for a patent on a new innovative solution to the single use and multi-use plastic bag issue.

Retailers, Consumers and Legislators alike have been struggling with the effects of the recent single use plastic bag ban in New Jersey, and other U.S. states.

Many states have banned single use plastic bags, opting to replace them with multi-use bags which can be used 125 times and carry 22 pounds weight. After a few months another problem has come to the surface.

The current reusable bags found in many retail locations are made of (polypropylene) plastic, and while they can be used multiple times, they will eventually make their way to the landfills compounding the original issue. Consumers have become frustrated with the number of these bags they seem to collect in a short time.

PlasTechFree provides a 100% plant-based bag which is certified "home compostable". By definition "home compostable" products are plant-based, contain no plastic, and biodegrade under natural conditions within 180 days of disposal.

The bags can be disposed of in a home compost, garden or landfill leaving no adverse effects in the soil. "Our bags actually provide a natural humus when they disintegrate, leaving rich nutrients back into the soil" said Gene Benfatti, President of PlasTechFree.

"Our latest innovation is adding antimicrobials to our plant-based reusable carry bags," said Benfatti. "Merchants and clerks in stores have been expressing concerns over the repeated handling of the bags currently being sold and the potential of cross contamination. "Our new bag addresses this issue, and protects at a minimum of 99% against germs, viruses, surface mold, bacteria, and odor," said Benfatti.

He went on to say "Plant-Based bags are the way of the future. They have all the strength of plastic without the harmful side effects. They are made from Corn starch and other natural elements which is a regenerative solution. Unlike Paper bags which bring their own challenges. It takes up to 20 years to grow a Tree, and the return to paper may not be sustainable long term without devastating effects on the ecosystem from increased demand for paper products".

PlasTechFree is a North American company offering plant-based compostable bags with an anti-microbial patent pending additive. Many states have opted to ban "single use plastic bags" entirely which lumps these plant-based bags in with the rest. PlasTechFree offers both the single and multi-use options that should be set apart from the laws on plastics.

"Think of our bags as being like a banana peel" said Benfatti, "they disintegrate naturally over a short time, leaving nothing but non-toxic, rich nutrients behind, Clearly the better choice".

For more information please contact:

Ron Keller (631)276-5620
rwkeller138@gmail.com
www.plastechfree.world

26x

Plastic Bag Ban Law Enforcement

Issue: There is no uniform compliance testing process in place that allows bag manufacturers and distributors to obtain proof of certification that they are in compliance with the New Jersey plastic bag ban law.

Att: Senators Scutari, Smith, Greenstein, Stanfield, Codey & Durr

Proposed Solution:

- NJ Senate submits S3114 parameters to designated accredited lab(s) to perform testing.
- Bag manufacturers and distributors submit their bag for testing to secure a New Jersey compliance certification number.
- Once approved, the bag manufacturers and distributors will have their compliance certification sent to each county health department responsible for enforcement.
- The names of the New Jersey S3114 approved manufacturer certification numbers can be posted to online list as compliant and therefore acceptable for merchant access.
- Merchants may only sell or distribute reusable bags made by producers who are listed as certified on the website. This will allow a simple determination process for the field agent to issue warnings or fines.

This lab's bag certification system has been in place in California for over ten years. An automated-service bag certification process will streamline compliance and enforcement in New Jersey saving labor and saving time at a fraction of the cost. Further information or questions can be answered by calling Ron Keller at 631.276.5610.



October 6, 2022

Senate Committee on Environment and Energy
New Jersey Legislature
Trenton, NJ

RE: Senate Bill 3114 - An Act concerning bagging options for grocery stores and third-party grocery delivery services

On behalf of the American Forest & Paper Association¹ (AF&PA), we appreciate the opportunity to share our perspective on legislation under consideration by the Committee: Senate Bill 3114. In New Jersey, the forest products industry employs nearly 13,000 individuals, with an annual payroll of nearly \$1.13 billion and manufacturing output exceeding \$3.35 billion annually.

AF&PA must respectfully request amendments to the current draft of S.3114, which authorizes a third-party grocery delivery service or a grocery store to provide, or sell to customers for a fee, any of the following options for groceries prepared for delivery, pickup, or curbside pickup: 1) single-use paper carryout bags, provided that the bags contain at least 40 percent postconsumer recycled content; 2) cardboard boxes; or 3) reusable bags.

Unfortunately, the bill only temporarily and partially lifts the ban on paper bags, which was unnecessary; will disrupt cardboard box recovery and suggests boxes cannot continue to be used in five years; and continues to reinforce language differentiating between pre- and post-consumer recycled content. For these reasons, we must request amendments to S.3114.

Lifting the Ban on Paper Bags

Paper bags did not belong in the law to ban single-use plastics and now New Jersey residents are paying the price. Removing the ban on paper bags can help to solve problems that have arisen from the law. Paper bags are locally produced, reusable, sustainable and the only grocery bag that consumers can recycle at home in their curbside bin. Paper bag and forest product-related manufacturing supports thousands of family wage, union jobs here in New Jersey.

¹ AF&PA serves to advance U.S. paper and wood products manufacturers through fact-based public policy and marketplace advocacy. The forest products industry is circular by nature. AF&PA member companies make essential products from renewable and recycle resources, generate renewable bioenergy and are committed to continuous improvement through the industry's sustainability initiative — [Better Practices, Better Planet 2030: Sustainable Products for a Sustainable Future](#). The forest products industry accounts for approximately four percent of the total U.S. manufacturing GDP, manufactures nearly \$300 billion in products annually and employs approximately 950,000 people. The industry meets a payroll of approximately \$60 billion annually and is among the top 10 manufacturing sector employers in 45 states.

In every year since 2009, the U.S. paper recovery for recycling rate has met or exceeded 63 percent. And in 2021, 68 percent of all paper consumed in the U.S. was recovered for recycling.² Paper is a renewable, recyclable and biodegradable resource, with attributes that are hard to find in synthetic, fossil-fuel based materials.

S.3114 seeks to temporarily lift the ban on paper bags for five years in the specific instance of grocery delivery and pickup to address the problem of distributing excessive reusable bags – reusable bags being distributed with no end-of-life plan. This problem is likely not limited to the delivery and pickup portion, but it is most dramatic in that scenario. While paper bags do not need to be the only option, it is clear from the first few months with the ban in place they serve a purpose. Reusable bags are made to last, potentially multiple generations, but there continues to be a value in recyclable paper bags that have a future in making new bags, boxes, and many other items.

Impact to Cardboard Boxes

S.3114 also makes reference to temporary permission for grocery stores to follow the “Costco model” of skipping bags to use available cardboard boxes in the store.

Cardboard boxes are the preferred packaging material for shipping: strong, convenient, sustainable, and recyclable. The paper-based packaging industry delivers products to communities far and wide — packaging for medicine, produce and other food, along with hygiene and tissue products that support healthy living. While cardboard boxes are widely used as a shipping solution, boxes are not widely used for carryout packaging because they are heavier and stronger than necessary for the carryout use.

In 2021, the recycling rate for containerboard (corrugated cardboard) was 91.4 percent. If stores are incentivized to give out boxes as consumer carryout packaging, then boxes would be removed from the commercial collection channel where the recovery rate is very high and shifted to the residential channel where the recovery rate is lower.

Recycled Content

Setting a minimum post-consumer fiber content for recyclable paper bags may not achieve the goals of the legislation. Paper recovery for recycling has fostered a dynamic marketplace that allows recovered fiber to find its highest value end-use in manufacturing new products. That, in turn, helps to encourage more recycling.

The “post-consumer” recycled content requirement in SB 3114 is not beneficial or conducive to the goals of the legislation. The marketplace has shifted – third-party certification groups like the Forest Stewardship Council and the Sustainable Forestry Initiative count both “pre-” and “post-consumer” fiber toward recycled content. Mandating “post-consumer” fiber creates a misperception that certain recovered fiber is better than others, when in reality all recovered fiber that can be used should be used. The mandate acts as an artificial barrier to using equally environmentally beneficial recovered fiber, and increases the cost of manufacturing new paper

² <https://www.afandpa.org/news/2022/how-does-afpa-calculate-paper-and-cardboard-recycling-rates>

New Jersey Senate Environment and Energy Committee

October 6, 2022

Page 3

products without any additional environmental benefit in return. Post-consumer should be cut from the bill, leaving just the 40 percent recycled content mandate.

Conclusion

We encourage the Committee to avoid measures that might penalize paper. We look forward to continuing our work with you and the state of New Jersey. Please feel free to contact Abigail Sztejn, Director, Government Affairs at Abigail_sztejn@afandpa.org for further information.

Thank you.

30x



International Longshoremen's Association Local 1478-2

30 HENNESSEY STREET, NEWARK, NEW JERSEY 07105
(973) 344-1433 • FAX (973) 344-1236

JOHN CUOZZO

President

October 5, 2022

ORBITO DIAZ

Secretary
Treasurer

Dear Esteemed Members of the Environment Committee:

Affiliated with

New Jersey State AFL-CIO
Maritime Port Council of
Greater New York & Vicinity
Essex-West Hudson Labor Council
Building Construction Trades
Council of Middlesex County

My name is John Cuozzo and I am the President of the International Longshoremen's Association Local 1478-2. I would like to first apologize that my schedule did not allow me to address the Committee in person, but please accept this short statement on behalf of myself, the ILA Local 1478-2 Executive Board and our hardworking members.

ILA Local 1478-2 is a labor union that represents warehouse workers employed at companies located in the Port of New Jersey District. Approximately 170 of our members are employed by Novolex, the parent company to the Elizabeth, New Jersey based DuroBag. Our members at DuroBag tirelessly work manufacturing paper bags. DuroBag is one of the few remaining bag producers in the Tri-State area, let alone the United States, as it is well known that foreign made bag products have flooded the United States taking away countless jobs for New Jersey workers.

The law banning single use plastic bags and paper bags went too far when viewed both economically and environmentally. Economically, my union's members are bearing the brunt of last Spring's paper bag ban as they will continue to see decreasing hours and wages as result of the ban. These hard-working blue-collar men and women comprise a diverse workforce of nearly 95% minority workers and 30% female workers. They work 3 shifts, 24 hours per day in order in provide for their families that primarily live in Newark, Elizabeth, Linden, Rahway and

the surrounding communities. Moreover, the unforeseen negative environmental impact of the ban is affecting all of New Jersey's citizens. Most of us have been forced to use or purchase foreign made, carbon-intensive "reusable" bags that are filling our closets and garbage cans as they have become the "new single use bag."

Based upon the economic and environmental impact of the current ban, ILA Local 1478-2 joins Novolex and the AFL in asserting that the proper solution to New Jersey's "bag" problem is to allow the use of sustainable paper bags. These sustainable paper bags are made with at least 40% recyclable materials and could be used for both online orders and at brick-and-mortar locations. The ILA stands united with management at Novolex, the AFL and the citizens of New Jersey and requests the reintroduction of sustainable paper bags into the marketplace that will help save ILA jobs and the environment.

Very Truly Yours,



John Cuozzo

President

ILA Local 1478-2

Testimony on S3110 to the Senate Environment and Energy Committee
Submitted by High Garst, Coalition for the Delaware River Watershed
October 6, 2022

The Coalition of the Delaware River Watershed unites nearly 180 organizations, 38 in New Jersey, working together to protect the basin and, in turn, the communities within it. The Delaware River is an important source of drinking water, recreation, and ecological habitat, supporting 62,000 jobs and \$1.3 billion in wages in New Jersey alone.¹

Climate change has already brought more destructive storms to New Jersey, which has increased threats of flooding statewide. Coastal, stormwater, and riverine flooding can cause devastating effects to New Jersey residents and their homes. Sea level rise and an increase in heavy rain events make communities throughout New Jersey more vulnerable to flooding and thus more vulnerable to substantial financial burden. Already we have seen over \$5 Billion in flood insurance claims in New Jersey from the inception of the National Flood Insurance Program to 2019.² While we often think of flooding as a coastal issue, homes throughout the entirety of New Jersey have been impacted by severe flooding due to major rain events. In South Jersey and along the coasts in the watershed, sea level rise exacerbates saltwater migration into aquifers that serve as a critical source of drinking water. In New Jersey alone, sea levels have risen by 12 inches since 1950 and could rise another inch in the next five years,³ eroding beaches and wetlands and increasing damages from coastal storms. There's additional concern that climate change, along with nutrient pollution, may cause harmful algal blooms to be more extensive and frequent in our lakes.

Flood disclosure requirements protect home buyers and renters by ensuring that, before making an investment in purchasing or renting property, individuals are notified of any flood history or need for flood insurance. New Jersey is one of 21 states that does not currently have strong flood disclosure requirements,⁴ however, of these states, New Jersey's geography makes it one of the few that are impacted so greatly by inland and coastal flooding. The provisions within Senate Bill 3110 align with the Federal Emergency Management Agency's (FEMA) model requirements for strong state flood disclosure policies.⁵ The legislation ensures that buyers and renters are aware of the full risk of flooding in their potential new homes, including whether the property requires flood insurance, if there have been any flood insurance claims in the past, or whether the property is within the most recently defined FEMA flood zones.

Our Coalition supports Senate Bill 3110 as it would facilitate greater resilience to the looming threat of flooding in New Jersey. Passage of this legislation would ensure the protection of buyers and renters from moving themselves or their families into a property at risk of flooding or burdened with unexpected flood insurance costs. Flood disclosure requirements are a form of protection for communities and local economies, and we look forward to New Jersey's adoption of this proven policy.

Thank you for your attention to this important matter,

Please direct questions or inquiries to:

High Garst
State Policy Advocate
Coalition for the Delaware River Watershed
Email: high.garst@njudubon.org

¹ <https://www.state.nj.us/drbc/library/documents/SocioeconomicValueDRB-UDEL-FinalRpt.pdf>

² <https://njclimateresourcecenter.rutgers.edu/wp-content/uploads/2020/08/NFIP-V2.pdf>

³ <https://tidesandcurrents.noaa.gov/waterlevels.html?id=8534720&units=standard&bdate=19500101&edate=20171231&timezone=GMT&datum=MSL&interval=m&action=data>

⁴ <https://www.nrdc.org/flood-disclosure-map>

⁵ https://www.fema.gov/sites/default/files/documents/fema_state-flood-risk-disclosure-best-practices_07142022.pdf



11 Hardscrabble Road Bernardsville, NJ 07924
(908)396-7380 | www.DelRiverWatershed.org

Comments from the Vietnam Veterans of America, New Jersey State Council, Government Affairs for the October 6, 2022 Senate Environment and Energy Committee hearing.

S2576 Establishes certain requirements for award of contracts to service-disabled veterans for certain projects funded by NJ Infrastructure Bank.

This bill would include service-disabled veterans, as defined by the federal "Small Business Act," in the requirement for local government units to award no less than 10 percent of the amount of any contract for construction, materials, or services for a project that receives a loan or guarantee for a project from the NJIB to socially and economically disadvantaged individuals

We urge passage of this legislation.

Sincerely,

Robert E. McNulty, Sr.

Vietnam Veterans of America

New Jersey State Council

Government Affairs

"No trees were killed in the making of this email.....however, a large number of electrons were diverted from where they originally wanted to go."

Bob

TO: Chairman Smith and Members of the Senate Environment and Energy Committee

FR: Christina Farrell, Senior Director, Government and Public Affairs

DT: October 6, 2022

RE: S2973 - Requires electric public utilities to submit to BPU and implement integrated distribution plans

On behalf of the New Jersey Utilities Association (NJUA), the statewide trade association for New Jersey's investor-owned utilities that provide essential water, wastewater, electric, natural gas, and telecommunications services throughout the state, I write to express our concerns regarding Senate Bill 2973, that would require electric public utilities to submit to the Board of Public Utilities (BPU) and implement integrated distribution plans.

S-2973 requires electric distribution carriers (EDCs) to identify necessary investments in their transmission system that would address aging infrastructure; modernize technology; and provide safe, reliable, and affordable service. In accordance with these goals, the bill requires BPU to approve or reject those identified transmission projects as part of an integrated distribution plan. This process would create an overlap with the Federal Energy Regulatory Commission's (FERC) jurisdiction, as transmission planning and cost allocation falls underneath its purview. Additionally, the process that would be established by S2973 brings the potential to cause confusion as EDCs currently go through a similar planning process with PJM, one in which they identify potential planning projects. Confusion can come in an instance where PJM approves a needed reliability project and assigns the responsibility to an EDC. NJUA recommends that, under this bill, BPU be instructed to work with PJM to explore how BPU can use PJM's process to meet transmission reliability goals for New Jersey.

The bill as currently written does not mention confidentiality in the proposed language. Some transmission projects fall under confidentiality provisions and information concerning them is not fully public. Information regarding transmission projects, at times, is disclosed when they fall under PJM's normal process for baseline and market efficiency projects while other projects remain confidential. The bill's final language should include considerations that keep in place the current structures regarding transmission projects' confidentiality.

NJUA seeks clarity in the bill outlining the timeframe for identifying potential projects and specifics regarding the frequency of integrated distribution plans. Additionally, we seek more detail that describes coordination between EDCs and the BPU over the projects they should include in their integrated distribution plan, as well as the addition of a process for appeal should a plan get rejected. Our members

Page 2

seek a process which would allow for a transmission project, that is approved and deemed needed for reliability by PJM but is part of an integrated distribution plan that is rejected by the BPU, to still move forward. This appeal process would put safeguards in place that would better allow the goals of this bill to be achieved while allowing FERC to carry out its duties.

Thank you for your consideration of our comments. Please contact Christina Farrell, Senior Director of Government and Public Affairs at cfarrell@njua.com or at 856-207-0302 with any questions.

36x



State of New Jersey
DIVISION OF RATE COUNSEL
140 EAST FRONT STREET, 4TH FL.
P.O. BOX 003
TRENTON, NEW JERSEY 08625

PHIL MURPHY
Governor

SHEILA OLIVER
Lt. Governor

BRIAN O. LIPMAN
Director

October 5, 2022

Members of the Senate Environment and Energy Committee
Statehouse Annex
P.O. Box 068
Trenton, N. J. 08625

RE: S2973 (Requires electric public utilities to submit to the Board of Public Utilities and implement integrated distribution plans)

Members of the Senate Environment and Energy Committee:

I write on behalf of the Division of Rate Counsel regarding S2973 (Requires electric public utilities to submit to Board of Public Utilities ("BPU" or "Board") and implement integrated distribution plans), which is up before the Senate committee on October 6, 2022. **We have concerns about this bill as currently drafted due to the short review period, lack of stakeholder involvement, and the need to take the current BPU process into account. We urge you to not pass this bill out of committee without amendments.**

As you are aware, Rate Counsel represents and protects the interests of all utility customers – residential customers, small business customers, small and large industrial customers, schools, libraries, and other institutions in our communities. Rate Counsel is a party in cases where New Jersey utilities seek changes in their rates or services. Rate Counsel also gives consumers a voice in setting energy, water, and telecommunications policy that will affect the rendering of utility services well into the future.

This bill would require the Board to adopt criteria for integrated distribution plans ("IDP") within six months after the bill's effective date. Following establishment of IDP criteria, the state's electric public utilities would have a year to submit their plans. Following submission, the Board would have 90 days after it receives an IDP, to "approve, conditionally approve, or disapprove the plan." If the Board disapproves an IDP, it must state the reasons for the disapproval in its notification to the electric utility. Following disapproval, the electric public utility must submit a new plan within 90 days after it receives notification of the board's disapproval of the plan.

While Rate Counsel is supportive of integrated DER planning and integrated distribution planning, Rate Counsel has some concerns regarding the bill as it is currently written.

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Rate Counsel has previously filed comments under the Board's current grid modernization proceeding which states that a good integrated distribution plan should provide a roadmap and clarity of where and what distribution investments will be made that would improve the safety and reliability of the distribution grid and also allowing for increased and more thoughtful integration of distributed energy resources. However, Rate Counsel believes IDPs should be only approved if they are beneficial to the distribution system *at least cost and risk*.

Rate Counsel believes that the goals identified by the Lawrence Berkeley National Laboratory should be met by any IDP approved by the Board. These goals are:

- Makes transparent utility plans for distribution system investments holistically, before showing up individually in a rider or rate case
- Provides opportunities for meaningful BPU and stakeholder engagement
- Can improve outcomes — more data, community input, review
- Considers uncertainties under a range of possible futures
- Considers all solutions for least cost/risk
- Motivates utility to choose least cost/risk solutions
- Enables consumers and 3rd party providers to propose grid solutions and participate in providing grid services

Rate Counsel's concern about this bill as written is that it will not achieve these goals. For example, the bill only provides 90 days for review of the IDPs which does not leave enough time for sufficient review by BPU nor stakeholder engagement. Rate Counsel would prefer sufficient time for thoughtful deliberation of the issues involved in the of IDP approval process, and believes the Board and stakeholders should be afforded no less than 180 days for review and approval of the submitted IDPs.

It is also not clear what type of stakeholder engagement would be provided upon the Board's review of the utility-submitted IDPs. As written, it appears that the Board would only notify the electric utility of the reasons for disapproval of an IDP. The Board's disapproval of an IDP should be public and provide opportunities to involve stakeholders upon resubmission.

Rate Counsel also notes that the Board has already initiated a grid modernization proceeding which resulted in draft report from its consultant, Guidehouse. Further, a number of the state's electric utilities have already agreed to develop IDPs as part of their electric vehicle programs.¹

¹ See e.g. I/M/O The Petition of Public Service Electric and Gas Company for Approval of its Clean Energy Future – Electric Vehicle and Energy Storage (“CEF-EVES”) Program on a Regulated Basis, BPU Dkt. No. EO18101111 (January 27, 2021); I/M/O The Verified Petition Of Jersey Central Power & Light Company For Approval Of An Electric Vehicle Program And An Associated Cost Recovery Mechanism, BPU Docket No. EO21030630 (June 8, 2022).

Members of the Senate Environment and Energy Committee
October 5, 2022
Page 3

Last, Rate Counsel supports improvements to the infrastructure, but it must be done in the most cost-effective way. We continue to be concerned about the increased rate impacts on New Jersey's residents and businesses and their ability to pay for basic living necessities in addition to continued increases in their energy bill. As committee members are aware, in recent months energy prices have dramatically increased. While focus has been on the recent gas increases of as much as \$30 more per month, volatile market prices and Russia's war with Ukraine, has had a ripple effect on other energy costs including electric. In addition, as many committee members know, the COVID-19 pandemic is still impacting New Jersey households, families and businesses. There are still nearly 1 million electric and gas utility accounts that remain in arrears as of June 2022 and many ratepayers still face the possibility of having their utilities shut-off. The impacts of the COVID-19 pandemic serve as a stark reminder of the hardships that can result from increased energy costs and why affordability must be part of the equation. Higher prices for energy will also affect New Jersey businesses. New Jersey's high electric rates already are a disincentive for businesses to move to or remain in the State.

We encourage the Committee to look at the whole picture as legislation continues to layer dollars upon dollars in increases on New Jersey residents and businesses. We urge you not to pass this bill out of committee without changes to the deadlines, stakeholder involvement, and integration of the Lawrence Berkeley National Laboratory IDP goals.

We hope you will consider our comments. Please let us know if you have any questions. We very much appreciate the opportunity to share our comments on behalf of the State's ratepayers. Please feel free to contact our office if you have any questions. Thank you for your attention to these important matters.

Sincerely,

/s/ Brian O. Lipman

Brian O. Lipman
Director, Division of Rate Counsel

cc: Joey Guerrentz, Policy Analyst/Democratic Aide, Senate Environment & Energy Committee
Kevil Duhon, Deputy Executive Director at New Jersey Senate Democratic Office
Eric Hansen, OLS Committee Aide

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Christina Denney, OLS Committee Aide
Rebecca Panitch, Republican Aide, Senate Environment and Energy Committee
Christine Mosier, Chief of Staff, Senator Bob Smith
Pamela Cócroft, Committee Secretary
Jessica Murray, Chief of Staff, Senator Greenstein
Erin Rice, Senator Codey's Chief of Staff
Tina DeSilvio, Chief of Staff, Senator Durr
Brian Woods, Chief of Staff, Senator Stansfield
Assemblyman Kevin Rooney
Matt Conlon, Chief of Staff, Assemblyman Rooney
Maura Caroselli, Managing Attorney for Gas & Clean Energy, Rate Counsel
T. David Wand, Managing Attorney, Electric, Rate Counsel

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New Jersey Chamber of Commerce
216 West State Street, Trenton, NJ 08608
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#NJChamberNow

**Testimony before the Senate Environment and Energy Committee
S-416 (Smith, B/Greenstein)**

**Prohibits investment by State of pension and annuity funds in, and requires
Divestment from, 200 largest publicly traded fossil fuel companies**

October 6, 2022

**Submitted by
Michael A. Egenton
Executive Vice President, Government Relations
New Jersey State Chamber of Commerce**

Chairman Smith, Chairman Kennedy, members of the Senate Environment and Energy Committee and the Assembly Environment and Solid Waste Committee, I am Michael Egenton, Executive Vice President of the New Jersey State Chamber of Commerce. The State Chamber has major concerns regarding S-416, which prohibits the Director of the Division of Investment from investing any assets of the State retirement funds in any of the top 200 companies that hold the largest carbon content fossil fuel reserves.

Collectively, we all share in the goal of reducing greenhouse gas emissions, particularly in New Jersey where my association has been supportive of electric vehicles and school buses as we seek to reduce emissions from the mobile sector.

The natural gas and oil Industry continue to work on implementing cost-effective and achievable measures that drive greenhouse gas (GHG) emissions reductions while ensuring affordable and reliable energy to meet the growing energy needs of our State and nationally. They are investing in new technologies and lower carbon energy alternatives. Large investors are not divesting, but they are focused on working with industry to achieve achievable climate goals together.

As these discussions take place over this legislation, let us not omit that many of our member companies provide jobs and ratables to the New Jersey economy and they have state-of-the-art initiatives in place to go "green". For instance, ExxonMobil's global technology center, located in Clinton, New Jersey since 1985, is a good example. At Clinton, nearly 800 scientists, engineers and technicians are working to develop the next generation of scalable, lower carbon energy solutions that address the hardest to decarbonize sectors: commercial transportation, power generation and manufacturing. These include: hydrogen, advanced biofuels; carbon capture and storage for industrial operations; natural gas technologies; and new energy efficiency processes.

We should also learn from other states that have already attempted to address this issue. A report prepared by the Suffolk County Association of Municipal Employees and Foster & Foster Actuaries and Consultants provided a warning about our neighboring state New York: Divesting in fossil fuels could

cost New York state pension system and taxpayers more than \$33.4 billion over 30 years and lead to steep tax hikes, service cuts, or slashed pension benefits.

Statutory restrictions on investment options are bad public and financial policy in that they "hard wire" constraints on a fiduciaries' ability to adapt investment priorities to changing circumstances.

One of the intriguing areas of investing in recent years has been ESG: using environmental, social, and governance metrics as ways to assess potential investments. However, the idea that you can make profits with purpose has recently come under pressure.

According to the *Harvard Business Review*: "It's long past time we faced a hard truth -- despite a historic surge in popularity, ESG (environmental, social, and governance) investing will not tackle our generation's urgent environmental and social challenges. In their analysis, ESG investing confuses investors, it costs more and it has yet to prove that it delivers better returns.

So where should we focus? Try spurring private investment!

From the first half of 2020 to the comparable period last year, U.S. investment in climate tech is up over 200% year on year with deal size quadrupling. Investments in essential and unsettled key technologies ranging from fission to low duration battery storage to agricultural technology are accelerating. Transitioning away from fossil fuels in hard to abate sectors including air transport, steel, aluminum, and buildings will require unprecedented and creative **public private partnerships** to incentivize continued investment and discovery.

Finally ... I know we are quick to modal our bills from the west coast – specifically California ... but let us reflect on the current situation with their legislation, S-260, the *Climate Corporate Accountability Act*. The bill, scheduled to be heard in the Assembly Appropriations Committee, may face opposition from the state Department of Finance. They are concerned about ongoing costs of new mandates as California's finances are expected to decline in the next two budget years.

The State of New Jersey was very fortunate in this last budget cycle to receive American Rescue Plan funding – this was probably the first state budget in all my years that we had this kind of financial support placed at our doorstep. However, while the State's environmental issues are very important, we must keep that same level of importance focused on New Jersey's fiscal well-being ... especially since many economists are concerned with our next two budget cycles.

We respectfully oppose this legislation - based not only on the potential impact it will have on many companies and institutions that call New Jersey home, but also on the devastating impact this legislation could have on the future financial well-being of the State of New Jersey.

Thank you for considering our views.

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American Petroleum Institute
Northeast Region

October 6, 2022

Senator Bob Smith, Chair, and Senator Linda Greenstein, Vice Chair
Senate Environment and Energy Committee
125 West State Street
Trenton, New Jersey, 08608

Re: S. 416 - Prohibits investment by State of pension and annuity funds in, and requires divestment from, 200 largest publicly traded fossil fuel companies.

Dear Chair Smith, Vice Chair Greenstein, and Members of the Committee:

Thank you for the opportunity to offer comments relative to S. 416 on behalf of the American Petroleum Institute (API). API represents all segments of America's natural gas and oil industry, which supports more than 11 million U.S. jobs.¹ API believes that the Pension Investment Commission should continue to work with industries like ours who are working to reduce emissions and to help create the cutting-edge technology to solve the problems of our day. The pension system should continue its fiduciary duty of creating value for the employees who put their trust and livelihoods in its hands. On both these fronts, our industry has and will continue to be a valuable partner.

The Natural Gas & Oil Industry is Part of the Climate Solution

As described in our Climate Action Framework,² the industry believes in a lower carbon future, and its engineers and scientists are partnering with experts across the world on advanced technologies like Carbon Capture, Utilization and Storage (CCUS), hydrogen and lower carbon intensity fuels. As policymakers consider climate actions, it is essential to implement cost-effective and achievable measures that drive greenhouse gas (GHG) emissions reductions while helping ensure affordable and reliable energy to meet growing global needs.

Natural Gas and Oil Will Continue to be a Vital Part of the Everyday Life

Our modern society runs on natural gas and oil for power generation, transportation, and manufacturing. The country also relies on oil and natural gas for commercial and industrial uses, and heating apartment buildings and homes. The U.S. EIA's 2021 Annual Energy Outlook forecasts that, in all reference cases, the United States continues to be a globally significant producer of crude oil and refined liquids as well as domestic natural gas production to support domestic electricity demands for decades to come. The industry's goal is to meet these energy needs while continuing to lower overall emissions. We have achieved success in doing this already as, from 2005 to 2019, the U.S. economy grew by 28 percent while CO₂ emissions from energy consumption fell by 14 percent overall. The rise in natural gas used for power generation is responsible for 61 percent of the cumulative reductions of carbon dioxide emissions in the U.S. power sector during this timeframe. In addition,

¹ Our over 600 members produce, process, and distribute the majority of the nation's energy. API members participate in API Energy Excellence,¹ (see <https://www.api.org/oil-and-natural-gas/api-energy-excellence>), through which they commit to a systematic approach to safeguard our employees, environment and the communities in which they operate. API was formed in 1919 as a standards-setting organization, and has developed more than 700 standards to enhance operational and environmental safety, efficiency, and sustainability.

² See <https://www.api.org/climate>.



we continue to work to lower emissions while providing materials for the thousands of everyday household products that are derived from oil and natural gas, including fertilizers, plastics, nylon in clothing, PVC in pipes, synthetic rubber used in tires and athletic shoes, and most inks and paints.³

Natural Gas and Oil Companies are Investing in New Technologies and Energies

New technologies and lower carbon energy alternatives are a necessary part of a cleaner energy transition. Many of our member companies are investing in CCUS to mitigate emissions and are responsible for making the U.S. a world leader in deploying this technology, with a dozen commercial-scale operating facilities.⁴ Further, the industry has venture funding in low carbon solutions⁵ and investments in renewables and other newer energies such as hydrogen. Norway's Government Pension Fund analysts predict that 90 percent of renewable energy investments world-wide between now and 2030 will come from "integrated oil firms."⁶ This nexus between fossil fuel and renewable developments has caused many investors to decide not to divest holdings from those companies, arguing that major oil firms have the scale and technological ability to shift toward renewable energy.⁷

The Largest Investors are Working With our Industry

Natural gas and oil power our global economy, which is why the largest investors⁸ are not divesting but are focused on working with our industry to achieve ambitious climate goals together. API and our member companies continue to partner with the financial community on a diverse and broad set of energy solutions to achieve a lower-carbon future including increased private sector investment in innovative technologies and market-based government policies to further mitigate emissions. Additionally, natural gas and oil companies continue to work for more transparency in reporting climate-related financial risks and opportunities including unveiling a new climate reporting template⁹ for member companies to use to voluntarily disclose their GHG emissions data in a more consistent and clear manner.

Conclusion

We share in the goal of reducing GHG emissions across the broader economy and, specifically, those from energy production, transportation and use by society. On the issue of divestment, we see the choice to stay invested as the better course of action – working with companies in good faith on the shared goal to reduce emissions while supporting the needs and demands of consumers into the future.

Thank you for this opportunity to provide these comments.

³ See <https://www.eenews.net/energywire/2019/06/25/stories/1060650999>.

⁴ See <https://co2re.co/FacilityData>.

⁵ For example, OGCI Climate Investments Low Carbon Solutions at <https://www.ogci.com/climate-investments/>.

⁶ Norway's Massive Sovereign Wealth Fund Is Not Divesting Its Energy Shareholdings (forbes.com).

⁷ See <https://www.reuters.com/article/us-norway-swf-oil/norway-sovereign-wealth-fund-to-divest-oil-explorers-keep-refiners-idUSKBN1WG4R9>.

⁸ None of the world's 20 largest investors, per assets under management (AUM), have divested of oil and natural gas.

⁹ See <https://www.api.org/news-policy-and-issues/sustainability/ghg-reporting>.

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ChargePoint, Inc.
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October 4, 2022

The Honorable Bob Smith
Chair, Senate Environment and Energy Committee
216 Stelton Rd., Suite E-5
Piscataway, NJ 08854

Re: SB 3102 – Establishes Uptime Requirements for EV Charging Station Incentive Programs Administered by BPU

Dear Chair Smith,

On behalf of ChargePoint, we write to request additional language be added to Senate Bill 3102, that we believe will strengthen the intent of the bill. We very much support uptime standards to protect EV drivers and increase equitable access to reliable charging stations. We would, however, like the BPU to consider some very critical components of calculating uptime and hold an open, transparent process to engage stakeholders when creating these standards and enforcement mechanisms.

Since 2007, ChargePoint has created a new fueling network to move all people and goods on electricity. ChargePoint is committed to making it easy for businesses and drivers to go electric, with a world-leading electric vehicle (EV) charging network and a complete set of charging solutions available today. ChargePoint's cloud subscription platform and software-defined charging hardware are designed internally. They include options for every charging scenario from home and multifamily to the workplace, parking, hospitality, retail, and fleets. There are more than 200,000 ports on the ChargePoint network across North America and Europe and an additional 300,000 ports accessible via roaming agreements.

Reliable and convenient charging infrastructure is necessary to achieve the state goals related to EV charging infrastructure, and will help with the driver experience, which is also crucial to adoption. If an EV driver pulls up to a charging station only to find that it is broken, that experience creates consumer frustration and dampens consumer interest in purchasing EVs. It only takes one bad charging experience for drivers to amplify that their unsatisfactory experience to their family, friends, coworkers, and neighbors that charging is inconvenient and unreliable.

Currently, SB3102 requires electric vehicle service equipment to be operational 95% of the time via a process determined by the BPU. We recommend the BPU to align with [federal standards](#) in place for the National Electric Vehicle Infrastructure (NEVI) program. We believe that harmonizing state uptime requirements with those in place for the NEVI program will help create consistency for both consumers and EV charging operators and set a strong minimum standard for the industry. We have also proposed a start date of 12/23 in order to allow time for the federal guidelines to be finalized and implemented.

Additionally, we recommend that the BPU be required to conduct a public workshop on the implementation of uptime requirements. Again, when considering how to define and calculate uptime, we highly recommend that the BPU consider, the federal standards in place for NEVI that contain a specific calculation. As noted previously, we believe harmonizing with existing federal standards will help the industry with consistency. We believe that only through collecting and analyzing this data can the state truly understand the return on investment it is getting for using public funds to deploy charging stations – and thus increase EV adoption.

We are supportive of the intent of the legislation overall but would like to see harmonizing with existing federal standards take place and an open transparent process to allow for stakeholder engagement from industry leaders.

Below are our recommended edits in red for your consideration:

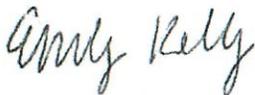
*The Board of Public Utilities shall require, as a condition of providing any incentive for the installation of publicly accessible electric vehicle service equipment installed **after December 31, 2023**, pursuant to P.L.2019, c.362 (C.48:25-1 et seq.) or any other State law, that the electric vehicle service equipment is operational at least 95 percent of the time, as measured on an annual basis. The board shall develop and implement a process to establish, monitor compliance with, and enforce this requirement **through a public workshop process, and consider the various use cases in which it applies. When establishing requirements for “uptime,” the board shall do both of the following:***

- (i) **Include the operability of both software and hardware.***
- (ii) **Consider alignment with federal definitions and calculations for uptime to ensure consistency between standards.***

The board shall determine what events that make a charging site inoperable constitute excluded time for purposes of developing the formula. In making this determination, the board shall only consider events that are outside a charging station operator’s control. This may include issues related to the electrical grid, WiFi connectivity, cellular connectivity, and vandalism, as defined by the board through a public workshop process.

We are more than happy to discuss these potential additions and edits with you at any time.

Thank you for your consideration,



Emily Kelly
Manager, Public Policy
ChargePoint



Maplebear Inc. d/b/a Instacart
50 Beale Street, Suite 600
San Francisco, CA 94105

October 5, 2022

The Honorable Bob Smith
Chair, Environment and Energy Committee
216 Stelton Rd.
Suite E-5
Piscataway, NJ 00854

Chairman Smith,

On behalf of Instacart, we write to applaud your leadership in successfully implementing policies that will protect the environment while also protecting the interests of everyday New Jerseyans and brick-and-mortar stores operating in this great state. We recognize that accomplishing these goals often require a delicate balance of interests, and we support your continued commitment to identifying workable solutions that are in the best interests of all. Sensible and minimal exceptions to the Single Use Plastics Law will help to mitigate some of the unavoidable consequences with regard to grocery delivery and we appreciate your leadership in re-examining this issue.

As you are aware, consumers who rely on grocery delivery are bearing the brunt of the consequences associated with the current law. Piles of heavy-duty reusable bags are stacking up in their homes, and grocery stores are unable to re-accept the bags after they've been used. We are concerned about the impact that this has had on those who rely on grocery delivery for access to nutritious food and everyday essentials. Grocery delivery services are relied upon by the elderly, those who lack reliable access to transportation, and EBT SNAP users seeking to avoid stigmas associated with using their benefits in person. Knowing this, we support sound policies that allow individuals and families to continue accessing fresh and nutritious foods without having to deal with an unavoidable stockpile of bags.

Authorizing the use of single-use paper bags by grocery stores fulfilling grocery delivery orders makes sense. Paper bags are an ideal compromise: they can be used multiple times by a customer, they are both recyclable and biodegradable, and they are made with recycled paper.

Since the bill was signed into law, Instacart has been working closely with our retail partners to support their compliance with the current law and identify solutions to mitigate the impact of excess bags in consumer's homes. Furthermore, we are working with the Community Food Bank of New Jersey to partner on a bag donation program, but are aware that participation will be wholly dependent on the same consumers who rely on grocery delivery because they lack access or time to shop in-person. As a narrowly tailored and limited exception, we believe that authorizing the use of single use paper bags to grocers fulfilling delivery orders is the meaningful solution.

We are appreciative of your continued consideration of these issues and opportunities for further discussion. We welcome the opportunity to speak with you and offer any insight into our customer's experience.

Sincerely,

Thomas McNeil
Thomas McNeil
Northeast Regional Policy Manager

47x

October 6, 2022



The Honorable Bob Smith
Senate Chair, Environment and Energy Committee
216 Stelton Road Suite E-5
Piscataway, NJ 00854

RE: Senate Bill 3114 - Amending New Jersey's law governing single use bags

Dear Chair Smith and Members of the Senate Environment and Energy Committee:

DoorDash is a third party delivery network company whose mission is to grow and empower local economies, including those in New Jersey. We do that by partnering with more than 18,000 restaurants and retailers throughout the state for online ordering, takeout, delivery, and marketing services. We also empower citizens of the state, from all walks of life, to earn money by delivering meals, groceries, and other essentials to their communities.

Thank you for the opportunity to comment on Senate Bill 3114, legislation that would amend New Jersey's law governing single use bags. We respectfully propose amendments to the bill to better reflect the role that third party delivery services play in facilitating the delivery of groceries.

DoorDash is committed to a sustainable future for the communities we serve. We are utilizing Project Dash, our social impact program to combat hunger and help reduce food waste. We are reducing our emissions by emphasizing bike deliveries. We have offered restaurants access to sustainable food packaging at reduced costs, and have helped reduce their reliance on plastic utensils. Finally, we have reached the first goal in reducing our carbon footprint by achieving net-zero status in our offices and buildings.

We support New Jersey's goals of minimizing the need for single use bags, shrinking the carbon footprint associated with shopping bags, and reducing microplastic contamination in our environment. Our primary concern with S3114 is its addition of third party delivery platforms into the bag ban statute, which does not reflect the way many delivery services work on the ground and we propose removing "third party grocery delivery services" from the bill. The current language treats these services identically to grocery stores, whereas there are significant and material differences in the roles they play.

Third party delivery services like DoorDash have little control over what packaging is used for grocery orders. In a typical delivery situation, a DoorDash driver, or Dasher, arrives at the grocery store, picks up the already packaged order, and takes it to its destination. The Dasher plays no

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role in selecting what packaging is used – this decision rests with the merchant. In some situations, a Dasher may actually enter the store to shop for the items. Even in this scenario, the Dasher will utilize the bagging option provided by the grocery store.

Dashers also differ significantly from workers at the grocery store in that after a delivery, a Dasher does not return to the store. They may accept another delivery from a completely different merchant, such as a local restaurant. They may not accept any other orders and instead return to school, childcare needs, or personal errands. Nor do Dashers start out at one central location; they may sign on to make deliveries when and where they choose. The average Dasher in New Jersey spends less than three hours per week active on the platform. They are not continuously moving to and from the same store for an entire day.

In short, our Dashers do not control what bags are available or used, and our operations are significantly different than that of a store. We respectfully request that the bill recognize the differences between these businesses and be amended to ensure the rules apply where the decision is made – in the store – and not overlay a regulatory system designed for retailers on to a very different industry.

We share the sponsor's and the committee's goal of creating more sustainable commerce, and we are committed to working with you, our grocery merchants and customers to get it right.

Thank you for considering our input on this important bill.

Sincerely,

Sascha Owen
Senior Manager Government Relations for New Jersey

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**Statement on Behalf of
Clean Ocean Action, Beyond Plastics, Environment New Jersey,
Surfrider Foundation - Jersey Shore Chapter, Clean Water Action, Save Barnegat Bay,
Sierra Club New Jersey Chapter, and New Jersey Environmental Justice Alliance before
the NJ Senate Energy & Environment Committee Regarding Senate Bill 3114
October 6, 2022**

On behalf of Clean Ocean Action, Beyond Plastics, Environment New Jersey, Surfrider Foundation - Jersey Shore Chapter, Clean Water Action, Save Barnegat Bay, Sierra Club New Jersey Chapter, and New Jersey Environmental Justice Alliance, thank you Chairperson Smith, and members of the Environment and Energy Committee for the opportunity to speak to you today on S3114. Our groups fully support the Single-use Waste Reduction Act, and are thrilled with its current five-month success of millions of bags not being distributed, while also recognizing a few limited challenges, specifically with food delivery systems. However, we do not believe the law needs amending. It should be noted that these problems could likely have been addressed if the industry had worked to implement solutions sooner, and left alone, companies will come into compliance. Already, there are marketplace solutions underway. That being said, S3114 seeks to amend the law to address these issues, however, our organizations have several significant concerns, including adverse consequences.

Immediate Extension Relief for Food Banks/Food Service Organizations: We strongly support a three-month extension on compliance through the holiday season for food banks and food pantries via regulatory actions, not by amending the enacted law. We have been informed that steps by the New Jersey Department of Environmental Protection (NJDEP) can be taken to extend this time period immediately without need for legislative change.

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Remove Recycling Amendment for Reusable Bags: The purpose of the law as passed is to eliminate single-use items, specifically plastic film bags. The amendment that would allow “recycling” after one use of reusable carryout bags is unacceptable. Reusable bags were specifically defined in the law to meet high standards including being used for 125 times. Offering the option of recycling would thereby also require the development of entirely new recycling programs for reusable bags. The result is also likely that the reusable bags will become waste, which is contrary to the law’s purpose, will become an added cost burden, and will confuse consumers.

Promote Reusables, Remove Paper Bag as Option: The law *does not* need to be amended to allow third party shoppers to bring in paper bags to do their assigned shopping. Further, it is our understanding that large grocery stores do not want to open the law to allow paper bags for their home delivery programs. However, if S3114 passes and allows stores to pack home delivery or instore pickup or curbside orders in paper bags, and stores decide to provide that option, it will create in-store confusion for in-store shoppers.

Adjust the Timeline Allowance

If S3114 should move forward with the provision allowing single-use paper bags intact, our groups recommend no more than a one-year allowance and are strongly opposed to a five-year allowance. From the passage of the law in 2020, third party delivery services and stores had 18 months to prepare and come into compliance. An additional year is adequate time to put solutions into place.

Donate Bags to Food Banks & Food Pantries

An immediate solution for the small percentage of customers with a build-up of reusable bags is donations to Food Banks and Food Pantries. There is an increasing need as we draw closer to the holiday season. An effective use of NJDEP time and energy would be to ramp up efforts informing shoppers where these centers are located and that the donated bags should be clean and free of rips or tears.

Moreover, the Plastics Advisory Council, which was established by the Single Use Waste Reduction Act, is monitoring and evaluating the implementation and effectiveness of the law, and after a year of review, will issue a report with recommendations for legislative or administrative actions for improvements.

In sum, the Legislature should be proud of the environmental benefits of this law, which is also saving stores money by not having to purchase single-use bags. The home delivery bag build-up problem certainly should be able to be addressed within the year. It is the recommendation of this group not to veer from the original intent of the law by adding a provision for another type of single-use bag, for a small percentage of customers, when companies are already ramping-up solutions to this issue, AND a short-term solution of donating to Food Banks and Food Pantries, who are greatly in need, exists.

Thank you for your consideration.



ISRI is the voice of the recycling industry, promoting safe, economically sustainable and environmentally responsible recycling through networking, advocacy and education.



Thursday, October 6, 2022

Senator Bob Smith, Chair
Senate Environment and Energy Committee
Committee Room 4, 1st Floor, State House Annex
Trenton, NJ 08608

Re: New Jersey S2145 DEP determination of whether products are widely recycled

Chair Smith and members of the Senate Environment and Energy Committee:

The New Jersey Chapter of the Institute of Scrap Recycling Industries (ISRI) is committed to increasing the recyclability of products and supporting technological innovations that increase the capacity of New Jersey's recycling infrastructure. However, the recycling industry does not believe that the labeling requirements and recyclability determinations set forth by S2145 would promote these goals. Instead, New Jersey would be better served by incorporating discussions of these goals into the forthcoming packaging Extended Producer Responsibility (EPR) proposals the New Jersey Senate may be considering, ensuring that all stakeholders are included in crafting requirements that further the growth of a circular economy for packaging products. Separate legislation addressing similar measures is likely to cause confusion and delay the implementation and furtherance of these goals.

The current draft of S426, a packaging EPR proposal also under consideration by this Committee, requires as part of its Public Outreach and Education Program that products include labels containing information necessary to help consumers responsibly manage and recycle the packaging products at the end of their useful lives. S426 also includes requirements that all Packaging Product Stewardship Plans address the recyclability of packaging products and requires product design modifications to both increase recyclability and to reduce materials used and waste generated from a product's use.

ISRI believes S426 encompasses the concerns raised by S2145 and is the more appropriate legislative vehicle to address them in context with overall sustainability and circular economy goals. Instead of pursuing separate legislation, ISRI encourages this Committee to include consideration of labeling and design for recycling concerns as part of a statewide recycling needs assessment that can be addressed in an amendment to S426.

ISRI is the trade association that represents approximately 1,500 member companies that process, broker, industrially consume, and otherwise supplies recyclable materials processors of commodities including metals, paper, plastics, glass, textiles, rubber, and electronics. In New Jersey, the recycling industry supports approximately 15,000 jobs, with wages more than \$1.1 billion per year. The recycling industry has a total economic impact in New Jersey of \$3.67 billion per year.

Thank you for your consideration,

Michael Miller
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October 4, 2022

Chairman Bob Smith
New Jersey Senate Environment and Energy Committee
Committee Room 4, 1st Floor
State House Annex
Trenton, NJ 08625-0099

SUBJECT: SB 2145 – An Act Concerning the Recyclability of Certain Products – OPPOSE

Dear Chairman Smith and Esteemed Members of the Committee:

On behalf of the members of the Plastics Industry Association (PLASTICS), I appreciate the opportunity to share our perspective on SB 2145 and why we are unfortunately opposed to the bill at this time. As the only association that represents the entire plastics manufacturing chain, with nearly 1 million jobs across the country, PLASTICS has a vested interest in this issue. Sustainability is a primary focus of our members, and we work every day to design and produce more recyclable materials and create end markets so that less plastic goes to landfills. Although unintentional, the bill as written could result in extensive negative environmental outcomes, less recycling, and more materials going to landfills- the exact opposite of the bill's intended purpose. Please allow me to elaborate on our concerns:

This legislation has spurred an important conversation on the use of the resin identification code (the RIC) in New Jersey. The current ASTM standard dictates this code should be placed inside a triangle and displayed inconspicuously on bottles and rigid plastic containers. Currently, 29 states including New Jersey still require the code to be placed inside three chasing arrows. PLASTICS supports repealing the requirement of chasing arrows as that would bring New Jersey into accordance with the ASTM standards. However, by then going further and deeming certain plastics products using chasing arrows as deceptive or misleading, this bill is penalizing manufacturers who are complying with New Jersey's law and the law in the 28 other states. The costs to replace molds or create manufacturing lines just for New Jersey will be substantial. Banning the use of chasing arrows in one state while requiring it in other states presents a host of problems. There may be inherent conflicts with how such labeling restrictions can coexist with current and future initiatives on extended producer responsibility, recycled content, and other packaging policy proposals. Specifically, challenges could arise pursuant to the recycled content bill passed earlier this year, SB 2515, which is already going to drastically change the recycling sector across the state. Implementing further legislation that will impact the availability of recycled materials before knowing the impacts of SB 2515 could prove detrimental. These unavoidable consequences could be prevented by simply repealing the chasing arrows requirement, allowing other states to see and follow the example set by New Jersey and not additionally deeming the use of them deceptive or misleading.

While PLASTICS certainly champions efforts to reduce contamination in the recycling stream, the criteria outlined in SB2145 to determine recyclability is severely restrictive. The requirement

mandating producers to demonstrate that 75% of their products are turned back into recycled content may very well be an impossible task to prove. Further, the bill would mean that only PET and HDPE bottles would be accepted as recyclable across the state. PET thermoforms, which package so many everyday items such as fresh produce would not be considered recyclable, and neither would polypropylene which has material qualities making it the preferred resin for a variety of food and safety products. These resins have received millions of dollars of investment in recent years, yet they would be landfilled under this bill's definitions.

Not only would highly recyclable materials be labeled as non-recyclable, but there are no substitutes with the performance capabilities provided by these recyclable plastic materials. Alternatives cost more for small businesses, the environmental impacts of alternatives like paper packaging or metal are more resource-intensive and emit more carbon emissions, and there is a lacking infrastructure for popular alternatives like compostables. Instead of imposing a severely restrictive labeling system, stakeholders should work together to advance a more modern recycling system that can capture and recycle more material. Real improvements in the system can only be achieved by an emphasis on developing end markets. Unfortunately, as written, this legislation would make it next to impossible to develop end markets for materials not designated recyclable on day one.

Thank you again for the opportunity to comment on this important issue. PLASTICS advocates for the responsible recycling, reuse, and recovery of all plastics products, and while we respectfully oppose this measure as it is currently written, we welcome any opportunity to work with policymakers and the committee to help ensure the recycling rate is increased in New Jersey, and more materials do not find their way into landfills.

If I can offer any further insight or clarification, please do not hesitate to reach out to me at dfortunato@plasticsindustry.org.

Sincerely,

Danielle Fortunato
Regional Director, State Government Affairs
Plastics Industry Association



To: Chairman Bob Smith and Members of the Senate Environment and Energy Committee
CC: Senator Fred Madden
From: Sandra Grance, American Beverage Association
Date: 10/6/2022
Re: S.2145 – An Act Concerning the Recyclability of Certain Products

Background

We are writing to express opposition to S.2145, An Act Concerning the Recyclability of Certain Products. Our industry recognizes the need for clear rules to ensure recyclability labels and associated claims are accurate and standardized however we have concerns with S.2145.

American Beverage Association (ABA) is the trade association representing the non-alcoholic beverage industry. ABA represents hundreds of beverage producers, distributors, franchise companies and supporting businesses that employ more than 233,000 people across the country. The beverage industry in New Jersey employs more than 6,000 people and provides over \$524 million in wages.

The beverage industry plays an important role in advancing the circular economy. Our packaging is specifically designed and optimized for recycling. In particular, our PET bottles and aluminum cans are purposefully designed to be 100 percent recyclable, have high commodity values, and when collected and recycled, can become new bottles and cans. Our industry launched its “Every Bottle Back” campaign in late 2019, recognizing that new programs, policies, and investments are needed to increase the recycling of our bottles and cans, and other valuable materials as well.

Well-designed Extended Producer Responsibility (EPR) programs provide a better solution to address recyclability through a systematic, data-driven approach that analyzes current and potential recycling infrastructure for collecting and processing material as well as current and potential end markets. An EPR program underpins this analysis through a comprehensive needs assessment leading to the development of a uniform recyclable materials list for the state that dictates the requirements for collection programs. That list is proposed by the producer organization in its implementation plan and approved by the state. A critical benefit of this approach is that it provides a process to incorporate new products and materials onto the list to achieve statewide goals and keep up with innovation in recycling technology and end markets. This holistic approach is a better way to create a system that recovers more materials while developing end markets to support a circular economy.

Considerations

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Rules regarding recyclability claims must be broad enough to allow for national labeling for products and packaging that move in interstate commerce and taking into account the collection realities where the product and packaging is sold. This is the approach the Federal Trade Commission's (FTC) Green Guides section on "Recyclable Claims" has taken when providing the industry guidance for labeling and making recyclability claims about packaging and products stating:

"A product or package should not be marketed as recyclable unless it can be collected, separated, or otherwise recovered from the waste stream through an established recycling program for reuse or use in manufacturing or assembling another item."

The FTC Green Guides allow for both unqualified and qualified claims based upon the level of access and availability to recycling facilities to consumers or communities where the item is sold. In July 2021, the FTC announced its intention to review the Green Guides in 2022. This is an opportunity for the FTC to provide increased clarity on this topic at a national level. We support this federal action to avoid the creation of a state-by-state patchwork of labeling laws.

ABA member companies all have individual goals related to 100% recyclability per the Association of Plastics Recyclers Design Guides by 2025 which is one year later than specified in S.4125. We request that, if it were to proceed with this legislation, the committee consider a 2025 deadline to coincide with the industry's commitment and California's [S.B 343](#) enacted in 2021.

Designating which materials are recyclable and therefore must be collected in all statewide programs is best accomplished through an EPR program. Under an EPR program, a product or package's recyclability is determined by its inclusion in the program and being subject to the program's performance standards. EPR programs should include a needs assessment, one purpose of which is proposing a minimum recyclable list that governs all programs funded by producers in the state. Those designated recyclables are uniformly known throughout the state, the producer plan will include numeric targets for their collection and recycling, and can even incorporate recycled content standards.

Standardizing material collection as well as promotion and education efforts statewide solve for some kind of state-specific labeling, which has the potential to disrupt interstate commerce and add substantially to costs and logistic challenges in the supply chain of consumer goods. Further, management of the recyclables list by the producer organization funding recycling allows for innovation in sorting, processing, and markets to bring new materials into the program and drive up recycling rates even further. Because the producers are responsible for performance and for making investments in infrastructure, EPR places the incentives in the right place to create a dynamic system that can grow and evolve, rather than being stuck with static definitions such as those proposed in this bill.

Conclusion

The beverage industry is committed to advancing the circular economy and ensuring the recyclability of our containers. We look forward to working with the committee on S.4125 and continuing our work together on advancing well designed EPR legislation that will efficiently achieve improvements in recycling, circularity, and reduced environmental impacts.

October 6, 2022 New Jersey Senate Environment and Energy Committee 101 S Broad St, Trenton, NJ 08608 (Submitted Electronically) Dear Chair and Honorable Members of the Committee: Amcor is submitting its opposition to Senate Bill 2145, which will only exacerbate the existing problems concerning consumer confusion on labeling and will not provide greater clarity concerning recycling within the state. Amcor is a global leader in developing and producing responsible packaging for food, beverage, pharmaceutical, medical, home- and personal care, and other products. With 48,000 employees, we operate in 250+ locations in 40-plus countries. We operate a manufacturing facility in Millville, New Jersey where we employ more than 150 people with a payroll exceeding \$9.4 million annually. Amcor works with leading consumer goods companies around the world to protect their products and the people who rely on them. Amcor is focused on making packaging that is increasingly light-weighted, recyclable and reusable, and made using a rising amount of recycled content. We believe this is the right approach to protect the environment while ensuring food, beverages and medicines are safe for consumer consumption. We are committed to a circular economy for flexible packaging – designing the right package for the product and utilizing less water and energy to do so; emitting less greenhouse gases in the manufacture and transportation of the package; using the least amount of packaging, plastic or multi-materials, necessary for the protection of the product; and creating less waste in the first place®. We are also working on solutions for more robust collection, processing, and recycling of flexible products as well as sustainable end markets. While we agree that consumer confusion as to the recyclability of certain products and materials is a major issue that needs to be addressed as we move towards the goal of a truly circular economy, we do not believe that SB 2145 is the correct vehicle. SB 2145 establishes onerous burdens on companies across the entire packaging supply chain and suggest a local solution to a national issue. However, creating a patchwork of different standards at the state level will not only be infeasible to comply with but will have a chilling effect on recycling and ultimately cause more materials to end up in landfills. Labeling standards should be uniform across the nation and need to be addressed at the federal level. Furthermore, SB 2145 also goes considerably beyond the scope of labeling and negatively targets entire classes of chemicals, regardless of the manner in which they are used or value of their application. Unfortunately, while well intentioned, this measure is underdeveloped and shortsighted in its current form. Thus, Amcor opposes SB 2145 and urges the Committee to not vote in favor of the legislation. Amcor is a member of the Flexible Packaging Association (FPA) and supports its testimony on this bill. We would be happy to provide further information or answer any questions, through FPA and Sam Schlaich, Counsel, Government Affairs, at SSchlaich@flexpack.org or 410-694-0800. Sincerely, Michael Hodges Vice President, Public Affairs Amcor

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The power of packaging in balance.

AMERIPEN
American Institute for Packaging and the Environment

Testimony with
Opposition to S.2145
Recyclable Labeling Claims

New Jersey Senate Environment and Energy Committee
October 6, 2022

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AMERIPEN.org

Chairman Smith, Senator Greenstein and Members of the Senate Environment and Energy Committee.

AMERIPEN – the American Institute for Packaging and the Environment – appreciates the opportunity to submit testimony on Senate Bill 2145 that would establish a New Jersey-specific labeling requirement for packaging recyclability claims and resin codes.

AMERIPEN supports clear and consistent labeling for packaging recovery and recycling. While we appreciate the intent of S.2145, we cannot support it in its current form. We would welcome the opportunity to work with Senator Madden, Chairman Smith, the entire Committee and stakeholders in New Jersey to address consumer education that will truly improve the quality of recyclable material in the state.

AMERIPEN is a coalition of stakeholders dedicated to improving packaging and the environment. We are the only material neutral packaging association in the United States. Our membership represents the entire packaging supply chain, including materials suppliers, packaging producers, consumer packaged goods companies and end-of-life materials managers. We focus on science and data to define and support our public policy positions and our comments are based on this rigorous research rooted in our commitment to achieve sustainable packaging, and effective and efficient recycling policies. We have several member companies with a significant presence in New Jersey, and many more who import packaging materials and products into the state. The packaging industry in New Jersey supports 16,873 jobs and accounts for more than \$12.5 billion in total economic output.

Packaging plays a vital role in New Jersey, ensuring the quality of consumer goods as they are manufactured, shipped, stored and consumed, protecting the health and safety of New Jerseyans who consume, use and handle those products. We need effective labeling to recover packaging to be recycled and reused, and no one knows better how to do that than the AMERIPEN members who design, supply, produce, distribute, collect and process it. They are driving innovation and designing packaging and labeling for a better environmental performance to boost recycling and improve the quality of materials in the recycling stream.

Concerns with S.2145 Recyclable Labeling Criteria

S.2145 will create a new definition of recyclability with unworkable criteria and a New Jersey-specific labeling requirement for packaging recyclability. As a result, products may not be able to carry valuable recycling instructions and uniform national labeling program standards under this approach. Under S.2145, the standards for materials collected curbside (60% recycling capacity in the state) and collected non-curbside (60% recycling rate and 75% after 2030) will effectively prevent new materials from being considered recyclable in locally controlled recycling programs.

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Materials collected outside curbside systems should not be required to meet a different and stricter criterion than curbside materials. No materials being collected outside of curbside are currently meeting a recovery rate of 60% as S.2145 proposes – much less 75% when the rate would increase in 2030. Non-curbside programs (e.g., store drop-off) exist to divert certain material types from landfills and move them to end markets. The labeling restrictions in S.2145 will not allow manufacturers to communicate with their consumers on how to properly recycle those materials, causing less materials to be recycled and manufactured into new packaging and products.

Additionally, S.2145 would restrict the use of a chasing arrows symbol or certain recycling claims/instructions and would create another conflict by changing the required chasing arrows symbol surrounding a resin identification code (RIC) to a triangle. This would be extremely problematic for any producers that must follow statutory chasing arrow requirements in nearly 30 states.

Restrictions on chasing arrows graphics also have a tremendous impact for those companies who voluntarily use [How2Recycle](#) labels, for example, with the chasing arrows symbols on labels to focus consumer attention on necessary recycling attributes. According to a 2020 survey by the Shelton Group, the vast majority (86%) of consumers always look for recycling labels and indicate that they know the How2Recycle label makes it easier to know which parts of a package are recyclable. S.2145 as currently drafted will prohibit these, and potentially other commonly used labeling standards that use chasing arrows, from identifying a package or product as recyclable and provide valuable environmental information to consumers under the U.S. Federal Trade Commission (FTC) Green Guides.

The state-specific requirements in S.2145 conflict with the necessity of uniform labeling standards for the free flow of interstate commerce. Manufacturers do not distribute products solely to New Jersey, and segregating New Jersey specifically labeled products, given the state's central location in commerce, will be nearly impossible. In contrast to S.2145, a uniform approach for effective enforcement of false labeling claims that has been approved in states like New York is adoption of the FTC Green Guides in conjunction with existing state truth-in-advertising statutes.

The net result of S.2145, as currently drafted, is that companies will be forced to remove recycling labels and instructions and more recyclable material will unfortunately be sent to landfill. We are seeing this now because of a similarly flawed law in California that has yet to be implemented and remains confusing and conflicting with other states.

In conclusion, AMERIPEN supports policy solutions, that create greater awareness of proper recycling practices and that improve packaging recovery and recycling. S.2145 will not improve the education of consumers for recyclability. Instead, it copies an unimplemented California law,



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that, as drafted will only result in more materials being sent to landfill and reduce the ability of local recycling systems to innovate and add materials to their recycling bins.

We would welcome the opportunity to collaborate with Senator Madden, Chairman Smith and this Committee and other stakeholders on legislative solutions to increase packaging recovery and recycling in New Jersey in a shared and responsible way. We have done and are currently doing this in good faith in multiple states throughout the country and would welcome the opportunity to do this in New Jersey as well. Please feel free to contact Dan Felton, Executive Director of AMERIPEN at: danf@ameripen.org, or Andy Hackman at: ahackman@serlinhaley.com for any questions or for stakeholder discussions on this important issue.

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**STATEMENT SEEKING LIMITED AMENDMENT TO
S2145 (MADDEN)**

The New Jersey Press Association (“NJPA”) is a non-profit organization incorporated in 1857 under the laws of the State of New Jersey. It has a membership of 16 daily newspapers, 2 affiliate newspapers, over 95 weekly newspapers, over 35 digital news websites, 1 specialty newspaper, as well as over 20 corporate and non-profit associate members. NJPA submits this position paper seeking a limited amendment to S2145.

S2145 prohibits the sale, distribution, and import of certain products marketed as recyclable, unless the DEP determines that the products are widely recycled. The Bill provides, in relevant part:

It shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any person to *offer for sale*, sell, distribute, or import into the State any product or packaging for which a deceptive or misleading claim about the recyclability of the product or packaging is made.

(Emphasis added). NJPA believes that the news media may be captured, perhaps unintentionally, within the language of the Bill.

The news media receive and publish a vast number of classified and display advertisements that cover a wide array of goods and services. It would be not only fundamentally unfair but also virtually impossible for the news media to be charged with the task of scrutinizing and researching every item placed in such advertisements to determine specific characteristics of the advertised items, what the advertised items are designed to do and/or how the items will ultimately be used. At the end of the day, that responsibility properly rests with the advertisers.

Thus, in order to clarify the scope of the Bill, NJPA respectfully seeks an amendment that reads as follows:

Nothing in this act shall be construed to impose liability on news media that accept and/or publish advertising that may fall within the scope of the statute.

Thank you for your consideration.

New Jersey Press Association
609-406-0600, ext. 14
September 30, 2022

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Written Testimony of Prof. Jesse D. Jenkins, Princeton University

Submitted to the Committee on Environment and Energy, New Jersey State Senate

October 6th, 2022

Chairman Smith, honorable members of the committee, I regret being unable to attend the October 6th hearing on Senate Bill 2978. I am submitting this written testimony to provide an update on the impact of recently enacted federal legislation (the *Inflation Reduction Act of 2022*, or IRA) on the affordability of rapid decarbonization of New Jersey's electricity supply and to offer a set of recommendations that would improve the structure and impact of the proposed revisions to the state renewable portfolio standards.

By way of background, my name is Dr. Jesse D. Jenkins. I am a macro-scale energy systems engineer and an assistant professor at Princeton University. I hold joint appointments in the Department of Mechanical and Aerospace Engineering and the Andlinger Center for Energy and Environment, and I lead the Princeton ZERO Lab (Zero-carbon Energy systems Research and Optimization Laboratory), which focuses on improving and applying optimization-based energy systems models to evaluate and optimize low-carbon energy technologies, guide investment and research in innovative energy technologies, and generate insights to improve energy and climate policy and planning decisions. I earned PhD and SM degrees from the Massachusetts Institute of Technology, worked previously as a postdoctoral fellow at the Harvard Kennedy School, and spent six years as an energy and climate policy analyst prior to embarking on my academic career. I recently served on the National Academies of Science Engineering and Medicine expert committee on [*Accelerating Decarbonization of the U.S. Energy System*](#), was a principal investigator and lead author of Princeton's landmark [*Net-Zero America*](#) study, and currently lead the REPEAT Project (repeatproject.org), which provides regular, timely, and independent environmental and economic evaluation of federal energy and climate policies as they're proposed and enacted. I must note that the views expressed in this testimony are my own, and I am not speaking as an official representative of Princeton University.

The Inflation Reduction Act puts the full financial weight of the federal government behind the clean energy transition. For the first time in history, comprehensive federal policy is in place that will reduce the cost of decarbonization for New Jersey and states across the country. The *IRA* (and the Bipartisan Infrastructure Law passed in November 2021) focuses on *making clean energy cheap*. The law enacts a series of tax credits, grants, rebate programs, loans, and loan guarantees that will substantially lower the cost of deploying the full portfolio of clean energy and climate mitigation solutions (for a detailed summary of provisions in the federal legislation, see <http://bit.ly/REPEAT-Policies>).

The most important provisions relevant to New Jersey's consideration of a 100% renewable and carbon-free electricity supply include:

- **Making clean electricity cheap:** The federal production tax credit (PTC) and investment tax credit (ITC) that spurred the growth of wind and solar over the past two decades are restored to their full value of \$26/MWh PTC (inflation adjusted 2022 dollars) and 30% ITC. Breaking the on-again, off-again cycle of short-term extensions and expirations that have plagued these credits in the past, *IRA* makes the PTC and ITC available for projects that *commence construction* until *the latter* of 2033 *or* the year after U.S. power sector CO₂ emissions fall to 25% of 2022 levels (the credit then phases down to 75% and 50% over the following two years). Beginning in 2025, either credit can be elected by *any* carbon-free electricity resource (including advanced nuclear power). The credits ensure projects pay prevailing wages and provide training and on-ramps to clean energy jobs through apprenticeship programs, and bonus credits provide an additional \$2.6/MWh increase in the PTC or 10 percentage point increase in the ITC if the projects use U.S. steel and aluminum and a sufficient fraction of manufactured content is Made in America. The same bonus is also available for projects built near abandoned coal plants or mines, at industrial brownfields, or in other communities historically dependent on fossil fuel extraction, processing, or transportation for employment or local tax revenues. The two bonuses can be stacked, resulting in an up to \$31.20/MWh PTC or 50% ITC. Finally, the bill makes the credits directly payable (as refundable credits) to non-profit and government entities and easily transferable from taxpaying

project owners to any other business with income tax liability, helping avoid the inefficient tax equity financing that currently permits big banks to siphon off some of the value of these tax credits.

- **Preserving existing nuclear power:** *IRA* provides a production tax credit of up to \$15/MWh for existing nuclear power plants, including New Jersey's reactors at Salem and Hope Creek, available from 2024 through the end of 2032. The credit value is reduced by 80 cents for every dollar of revenue reactors earn above \$25/MWh from wholesale electricity, capacity, and ancillary service markets (but not below \$0). Revenues from state support programs such as zero-emissions certificate (ZEC) programs are not counted in the revenues above (they do not reduce the federal payments).
- **Supporting nascent 'clean firm' electricity resources:** *IRA* builds on the demonstration and 'hubs' funding in the Bipartisan Infrastructure Law by providing early market deployment opportunities over the next decade that will drive innovation and maturation of important nascent clean firm generation technologies that need to be ready for wide-scale deployment in the 2030s and 2040s. This includes advanced nuclear, low-carbon hydrogen production, and carbon capture and storage. These policies can help replicate the cost reductions achieved in the wind, solar, and battery sectors, which have seen costs [fall by about 70% for wind and 90% for solar](#) and Lithium-ion batteries since 2009 thanks to the kind of supportive public policies now extended to a new generation of nascent clean energy technologies.
- **Making rooftop solar more affordable:** *IRA* renews the 30% residential energy property personal income tax credit that reduces the cost of rooftop and distributed solar PV adoption by households and extends the credit's availability for projects installed through the end of 2032. The tax credit steps down to 26% in 2033 and 22% in 2034. (Prior to *IRA*'s passage, the residential solar credit was worth 22% for projects installed in 2022 and eliminated entirely in 2023). According to the Department of Energy, the ITC will cut the cost of installing rooftop solar by more than \$7,500 for an average system.
- **Spurring electrification and efficiency:** The bill also contains a set of subsidies to encourage adoption of electric vehicles, including up to \$7,500 for personal vehicles, and 30% of the purchase cost for commercial/business vehicle purchases, up to \$7,500 for light vehicles and up to \$40,000 for medium and

heavy-duty vehicles. *IRA* also supports energy efficiency and electrification of buildings, including tax credits of up to \$2,000 for efficient heat pump space or water heaters and up to \$600 for other efficiency and electrification upgrades in homes, as well as \$8.5 billion for state-run rebate programs for whole home electrification and efficiency retrofits that target low- and middle-income households who don't have the income tax liability to take advantage of tax credits.

All of this federal funding effectively makes the entire clean energy transition that New Jersey has already committed to much cheaper, shifting costs from New Jersey energy bills to the more progressive federal tax base. In particular, *IRA*'s clean energy investments are funded not by average New Jersey taxpayers, but by tax cheats and by corporations that have not been paying their fair share of taxes (the bill is funded by a new 15% corporate minimum tax and funding for enhanced IRS enforcement to reduce tax evasion).

- The renewed and extended production tax credit and investment tax credit will **lower the cost of the state's push to deploy offshore wind and both distributed and utility-scale solar PV by approximately 30-50%**, a substantial reduction in the cost of New Jersey's clean energy transition.
- Based on [average annual generation](#) from the Salem and Hope Creek reactors from 2017-2022, the production tax credits for existing nuclear could be worth up to \$415 million (less if plants earn more than \$25/MWh in PJM markets) and are likely to fully offset the requirement for New Jersey state support, **saving New Jersey ratepayers up to \$300 million annually by reducing or eliminating required ZEC payments over the period 2024-2032.**

Federal incentives amount to billions of dollars of savings for New Jersey ratepayers, making decarbonization more affordable and paving the way for increased state policy ambition.

At a March 14th, 2022 hearing, I shared with this Committee the results of detailed electricity system modeling study that outlined affordable pathways for New Jersey to reach 100% renewable and carbon-free electricity by 2050, in line with Governor Murphy's [Executive Order 28](#). That report is available here

<https://zenodo.org/record/6386823>.

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Later this month, ZERO Lab will release an updated study that accounts for the impacts of the *Inflation Reduction Act* on the cost of decarbonizing electricity in New Jersey and across the PJM region. Given the subject of this hearing, I am pleased to reveal that the **updated modeling finds that across PJM, the passage of IRA will cut CO₂ emissions to 36% below 2021 levels by 2030** (sensitivity range from -1% to -66%) **while lowering PJM electricity supply costs to 33% below 2021 costs (-29% to -38%).**¹ Without *IRA*, we estimate PJM supply costs would have fallen 30% below 2021 levels (-22% to -32% sensitivity range) and emissions would have *increased* by 14% (+18% to -11%). In other words, *IRA* helps reduce emissions *and* energy costs.

We also find that states like New Jersey can take advantage of new federal support to increase policy ambition and cut electricity sector emissions even further while seeing costs remain comparable what they would have been without *IRA*. **Specifically, we conclude that New Jersey could reach a 100% renewable and carbon-free electricity supply by 2035 at costs comparable to or lower than those paid by New Jersey ratepayers in 2021.**

I thus commend Chairman Smith and Senator Stanfield for proposing to update and amend the state's renewable portfolio standard and seize this opportunity to transition faster to 100% renewable and carbon-free electricity while preserving affordability and reliability for New Jersey electricity consumers and businesses.

The remainder of this testimony offers some specific recommendations for improvement of the draft legislation S.2978.

- 1. Timeline to 100% renewable and carbon-free electricity supply.** The draft legislation increases the state's renewable portfolio standard to 100% of retail sales by 2045, while allowing contributions from existing nuclear reactors and new carbon-free non-renewable generators within the state. Expanding the

¹ PJM electricity supply cost includes payments for transmission, capacity, energy, and state RPS and technology specific subsidies and assumes congestion revenues are credited to LSEs. Ancillary service costs are not modeled. 2021 benchmark supply cost and emissions are from *PJM State of the Market 2021* report and exclude ancillary services and include state RPS payments for comparability to modeled results. Sensitivity range spans all combinations of high, mid and low capital costs for wind, solar and storage (from NREL *Annual Technology Baseline 2022*) and high, mid and low fuel price scenarios (from EIA *Annual Energy Outlook 2022*). Central reported values are mid-range fuel price and wind, solar, storage costs.

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portfolio of eligible resources beyond wind and solar PV is critical to cost-effectively reach 100% carbon-free electricity, as we concluded in [our March 2022 study](#). We find in our updated analysis and forthcoming study that *provided New Jersey's existing nuclear reactors remain operational through 2035, it is possible to reach 100% renewable and carbon-free electricity by that earlier date* (well before 2045 or 2050). We find that in this scenario, New Jersey ratepayers would pay comparable to or less than what they paid in 2021 for bulk electricity supply and related policy costs. Additionally, moving up the timeline to 2035 would take maximum advantage of available federal subsidies, ensuring that new renewable and carbon-free electricity supplies are eligible for the full value of the federal PTC or ITC (which currently sunset well before 2045).

- 2. Interaction of RPS and ZEC programs.** As currently drafted, beginning in 2030, the legislation would subtract the amount of generation from existing nuclear power plants located in the state from the renewable portfolio standard obligation established for retail suppliers. If this is the case, the overall 2030 RPS obligation needs to be immediately increased from the 50% level under current statute to 50% of retail sales *plus* the amount of electrical energy generated by existing nuclear power plants within the state (e.g., the total number of ZECs purchased by the state from Salem and Hope Creek reactors). If the overall obligation remains at 50%, then subtracting the generation from existing nuclear reactors would result in an immediate and significant decrease in the required renewable energy share from 50% to roughly 25% in 2030, due to the significant contribution from existing reactors. This would have damaging impacts on the market for Class I RECs. Instead, the overall 2030 obligation should be set to 50% plus the generation from existing reactors (e.g. ~75% in 2030), and then rise steadily to 100% by 2035 (as I recommend, or 2045 as currently drafted). This ensures that after subtracting the contribution from existing reactors, the share of New Jersey supply from qualifying renewables (and other zero-carbon resources) will be 50% in 2030 and rise steadily to fill the remainder of the state's supply needs after contributions from existing reactors.

- 3. Extension of ZEC program.** As stated above, the new federal PTC for existing nuclear power plants will substantially reduce if not eliminate the need for state ratepayers to support these plants via ZEC payments from 2024-2032. This will save up to \$300 million annually for New Jersey electricity consumers, helping offset the incremental costs of accelerating the state's transition to 100% carbon-free electricity. However, *it is not possible for the state to reach 100% renewable and carbon-free supply by 2035 (and considerably more expensive to do so by 2045) if the safe operation of the state's existing nuclear plants is not extended beyond the current 2030 sunset of the ZEC program.* Therefore, it would be necessary to accompany passage of this amended RPS with an extension of the ZEC program to 2035. Better yet, a commitment of state policy support could be extended through the end of the NRC operating licenses for each reactor (currently 08/13/2036 for Salem Unit 1, 04/18/2040 for Salem Unit 2, and 04/11/2046 for Hope Creek). This measure would provide long-term certainty to plant owners that investments to maintain continued operation of these plants will be remunerated as critical and affordable contributions to the state's 100% carbon-free electricity goals, even if the federal PTC is not extended beyond 2032. In the meantime, from 2024-2032, New Jersey ratepayers would pay little or nothing for the continued operation of these plants.
- 4. New zero-carbon firm generation.** The current draft extends eligibility for the RPS to new, non-renewable carbon-free electricity sources within the state constructed after passage of the act. However, the current language would subtract the electrical energy generated by these resources from the overall RPS obligations of each retail supplier. This has the effect of sharing the contribution of these resources to the RPS across all retail suppliers. While that is appropriate for existing reactors supported by the ZEC program (which all ratepayers contribute to), it is not workable to do so for *new* carbon-free generators. To secure financing, these resources must contract with one or more specific retail suppliers that will value the carbon-free generation from these resources at above the market rate. This will only be possible if these resources directly contribute to the retail supplier's New Jersey RPS obligations and not if the contribution is diluted and shared amongst all retailers, whether they pay for supply from the carbon-free generator or not. Instead, the RPS should be opened to a new class of 'environmental attribute

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certificates' that are awarded to qualifying carbon-free in-state generators for each MWh of generation, in a manner that parallels the current Class I renewable energy certificates (RECs) awarded to qualifying renewable generators. Retail suppliers should then be able to purchase these energy attribute certificates from qualifying carbon-free generators and submit them for compliance with the total RPS obligation. This will ensure the valuable emissions free contributions from these generators can be monetized and claimed by specific retailers to comply with the revised RPS law.

- 5. Role of gas generators.** The draft legislation requires 100% of annual retail sales to be matched by the sum of qualifying Class I and II RECs, offshore wind RECs, solar RECs, and generation from existing nuclear and new carbon-free generation in New Jersey. This ensures 100% of retail demand is met by renewable and carbon-free resources on *an annual, volumetric basis*, but it does *not* require that electricity consumption in New Jersey is met by corresponding qualifying generation *in every hour* of the year. In fact, *the draft legislation would permit New Jersey to continue to operate existing natural gas plants, at substantially reduced utilization rates, when necessary to meet reliability needs within the state or PJM's EMAAC capacity delivery region.* This flexibility should be considered a feature, not a bug, as it allows New Jersey to rapidly transition to 100% renewable and carbon-free supply by 2035 on an annual basis without depending on the commercialization and large-scale deployment of zero-carbon firm generators (such as advanced nuclear or 100% hydrogen combustion power plants). These technologies could eventually fully supplant existing gas plants and complement the state's wind, solar, and storage resources, but they are commercially nascent at this time and would be challenging to deploy at necessary scales by 2035 to replace all gas-fired generators. Furthermore, *it is important to remember that all of the environmental and public health impacts of natural gas-fired generation scale with the quantity of natural gas consumed for power generation, not the total installed natural gas-fired capacity.* Enacting a 100% carbon-free electricity requirement by 2035 would require new clean electricity generation that would reduce natural gas-fired power generation to a minimum, with gas-fired plants operated only during periods when it is essential for capacity and reliability needs. These periods would then be offset by excess renewable energy during other periods of time, ensuring total qualifying generation across the

year is equal to 100% of annual demand. In this manner, New Jersey could quickly transition to 100% renewable and carbon-free annual supply by 2035, dramatically reduce emissions and air pollution from power generation in the state, and ensure grid reliability—all at an affordable cost.

- 6. Going beyond 100%.** While ZERO Lab modeling finds that New Jersey can reach an affordable, reliable, 100% renewable and carbon-free supply by as soon as 2035, that should not be the end of the journey or the state's ambitions for its power sector. While relying on capacity contributions with limited generation from existing natural gas plants in the 2035 time frame is an expedient and cost-effective way to ensure reliability while slashing air pollutants and transitioning to 100% renewable carbon-free annual supply, *it will not be sufficient to fully eliminate the state's carbon footprint.* This is because remaining generation from gas-fired power plants will occur during periods with low wind and solar generation and *higher* than average marginal emissions rates. Due to the correlation of wind and solar output across the region, periods of excess renewable generation used to offset residual gas generation on an annual, volumetric (per MWh) basis will tend to occur during periods when there is already ample supply of renewables in the PJM system and the marginal emissions rate is *lower* than average. As such, while the current statute ensures each MWh of annual demand is matched with a MWh of renewable or carbon-free generation somewhere and at some time during the year, it will not ensure that the total emissions attributed to New Jersey consumption will be zero (or that pollution from gas power plants will be fully eliminated). To transition to a fully decarbonized grid, it will be necessary for New Jersey to ultimately replace its gas-fired power plants with new clean firm resources, such as advanced nuclear, hydrogen or other zero-carbon gas generators, or gas power plants with carbon capture and storage, and/or long duration energy storage resources. These technologies are all nascent today, but amply supported by the federal Bipartisan Infrastructure Law and Inflation Reduction Act and expected to see initial commercial scale deployment, scale-up, and improvement over the next decade. *These resources are likely to be ready for widespread deployment in the 2030s enabling New Jersey to push beyond 100% renewable and carbon-free supply on an annual basis and instead meet 100% of New Jersey consumption with carbon-free resources every hour of the year.* This would ensure truly zero emissions and the eventual

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replacement and retirement of all unmitigated gas-fired power plants while preserving reliability. If the 100% renewable and carbon-free target is advanced to 2035, as I recommend, then the state should consider also enacting a 100% hourly matching requirement by 2045 to encourage investment in clean firm generation in the state, replace existing gas power plants over time, and provide long-term certainty that the state will build a truly carbon-free electricity system.

I thank you for considering this testimony and I would be happy to answer any questions the Committee or its staff may have via further correspondence. Thank you for your Committee's continued leadership to protect New Jersey's environment and our public health.

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Senator Smith, Environment and Energy Chair
Committee Room 4, 1st Floor
State House Annex
Trenton, NJ

October 6, 2022

***Sol Systems Initial Testimony Supporting S.2978 with Revisions
Senate Environment and Energy Committee***

Dear Chair Smith and Committee Members:

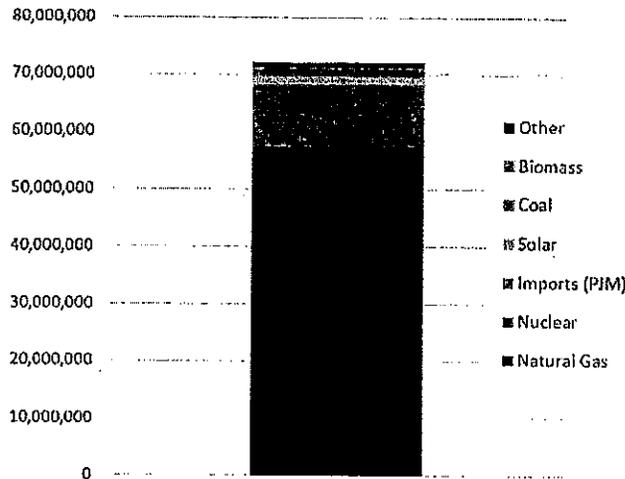
On behalf of Sol Systems and our over 3,300 New Jersey customers, we respectfully submit this testimony in support of S.2978 with revisions. Specifically, Sol Systems thanks Chair Smith and the committee for asking how to decarbonize the electricity system, promote clean energy, and protect New Jersey ratepayers. With the revisions discussed below, we believe this bill can be a strong step toward fully decarbonizing New Jersey's electrical consumption, with all the attendant climate, health, and economic benefits that entails.

Sol Systems is a national solar energy firm with an established reputation for integrity and reliability across its development, infrastructure, and environmental commodity businesses. To date, Sol has developed and financed over two gigawatts (GW) of solar projects valued at more than \$1 billion for Fortune 100 companies, municipalities, counties, utilities, universities, and schools and provides services over 18,500 customers across the U.S. Sol Systems has customers in 22 counties across New Jersey and has developed 31.5 megawatts (MW) of on-site solar projects for businesses around the State.

I. New Jersey is a Clean Energy Leader Vulnerable to Regional Pricing

New Jersey has long been a pioneer in clean energy, with one of the first renewable portfolio standards (RPS) in the country (1999).¹ However, the in-State electric generation fleet remains predominately powered by fossil fuel, with natural gas comprising over half of in-State generation (see chart below). In addition to emitting a range of harmful pollutants that disproportionately affect environmental justice communities, this exposure to volatile energy commodities threatens New Jersey ratepayers, as this summer's pricing has shown. Further, as an electricity importer, the third-largest electricity source in New Jersey is imported electricity from the rest of the PJM region. The second-largest, nuclear, has already required separate policy intervention to prevent misaligned regional incentives from closing New Jersey's largest source of emissions-free electricity.

2020 New Jersey Electricity (MWh)



II. A Clean Electricity Standard Would Help Meet New Jersey's Goals

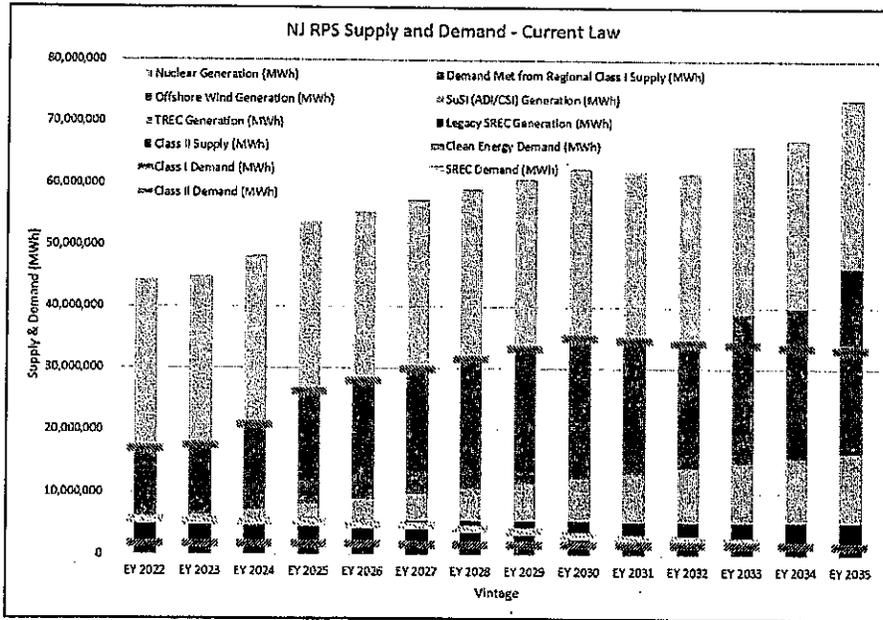
Instead, New Jersey could achieve 100 percent clean electricity while maintaining both the environmental and investment integrity of the RPS program and streamlining the process for accounting for zero-carbon electricity generated in New Jersey and the PJM region on New Jersey's behalf. Two policy principles are key:

- Maximize in-state and regional clean electricity additionality until 100 percent clean electricity consumption is achieved. *Without clear investment signals, private capital will decline.*
- Utilize lower-cost regional NJ Class I RECs to (A) mitigate ratepayer cost until the State achieves 100 percent clean electricity and (B) to continuously ensure 100 percent matching of clean electricity sales each year thereafter. *Because New Jersey is tightly woven into the regional electric grid, the composition of the grid matters, but allows New Jersey the flexibility to use out of state resources to fill in-state generation gaps.*

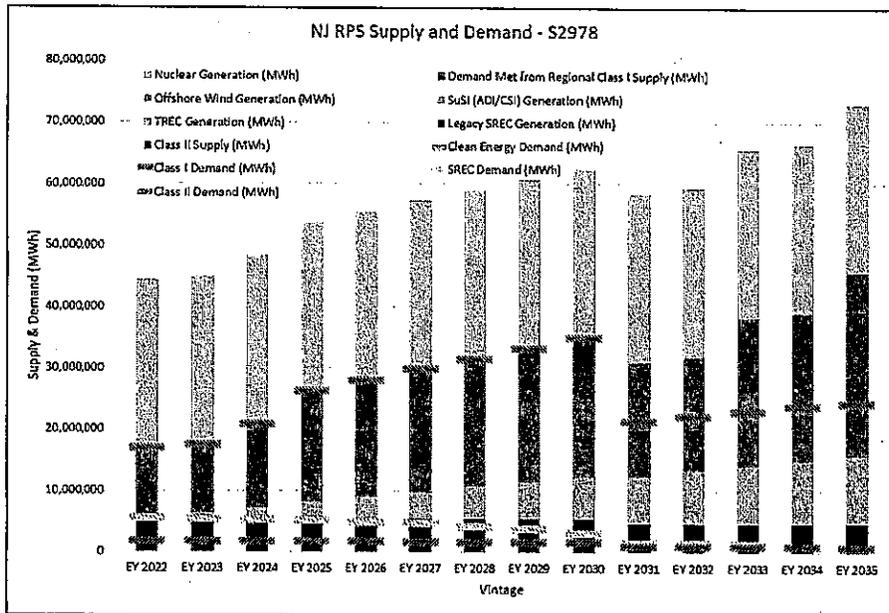
III. Current Senate Bill 2978 (S.2978) Creates Market Uncertainty and Reduces Renewable Generation

New Jersey Senate Bill 2978 (S.2978) purports to achieve 100 percent "Class I" clean electricity by 2045. However, as written, S.2978 would change the structure of the Renewable Portfolio Standard (RPS) in a way that would reduce actual renewable electricity demanded (i.e., it would be 100 percent of a much smaller number of megawatt-hours). By adjusting the amount of total retail sales (load) by the amount of generation from nuclear and other non-Class I, zero-carbon generating sources in Energy Year (EY) 2031 and beyond, the bill would dramatically lower demand for the tradeable NJ REC Classes (NJ Class I, including Legacy NJ SRECs, and NJ Class II), reducing the incentives to build and maintain renewables in and for New Jersey. This would result in less investment, job creation, and other economic benefits as well as a slower attainment of 100 percent clean electricity consumed in the State.

Below highlights RPS supply and demand assumed under current policy. Renewable electricity demanded would be much lower if S.2978 is enacted as written.



In contrast, below illustrates that renewable electricity demanded would be much lower under S.2978 if enacted as written.

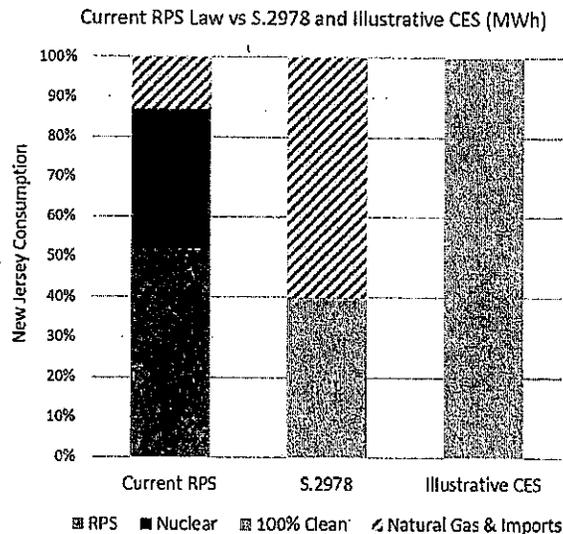


IV. A Clean Electricity Standard (CES) Would Align Goals and Methods

Rather than further deconstructing the RPS and reducing investment in clean generation resources, we recommend amending S.2978 to be a true 100 percent clean electricity standard. This would allow New Jersey to achieve its clean electricity goals in support of larger energy and climate ambitions.

Further, a CES creates an option for in-State nuclear plants to continue receiving incentives while being properly included as part of a 100 percent decarbonized electricity system. The ZEC program is already designed to account for future federal or other incentives, and its incorporation into a CES may be a cost-savings opportunity in light of new federal incentives for existing nuclear in the Inflation Reduction Act. Importantly, this would also avoid double-payment concerns regarding in-State nuclear.

An approach such as a CES that applies to all load would also offer an opportunity to address legacy SREC concerns, alleviating the need for additional market interventions such as proposed in S.439.ⁱⁱ



V. Conclusion

While New Jersey has long been a clean energy leader and has achieved a crucial milestone this year with the retirement of the last in-state coal plant, New Jersey's reliance on imported electricity (and other energy) necessitates intentional and thoughtful policy planning to take advantage of, rather than be undercut by, the regional electricity and commodity markets. As written, S.2978 would harm New Jerseyans by negatively affecting regional REC markets and will ultimately increase in-state electricity rates by increasing reliance on volatile (and polluting) natural gas as well as will reduce in-state renewable infrastructure investment by undercutting existing and long-used underwriting and investment assumptions.

Thank you again for the opportunity to testify in support of the goals of S.2978 and for the opportunity to provide amendments necessary to achieve these goals.

Respectfully submitted,

Kathleen Robertson
 Director – Policy, Government Affairs, and Markets
 Sol Systems

ⁱ Clean electricity generation is assigned to New Jersey, whether it is generated in New Jersey or not, by verified credits, known as Renewable Energy Credits (RECs). These may also be further delineated as Solar Renewable Energy Credits (SRECs) or Offshore Wind Renewable Energy Credits (ORECs). The nuclear zero-emission credits (ZECs) operate on a similar principle but are not (yet) included in New Jersey's RPS. However, this bill would reduce the total amount of applicable load to which that percentage applies by nearly halving the applicable load, thus only requiring 21 million megawatt-hours of renewables in 2031 as opposed to the current law's nearly 35 million. (Carveouts would be similarly reduced.) Particularly without a commensurate shift away from gas, this generation would be replaced by gas either from New Jersey plants or elsewhere in PJM, with New Jerseyans bearing the health costs of either given our location.

ⁱⁱ A CES that applies to all electric load would include that served by municipal and cooperative as well as investor-owned utilities.