

# 13:1E-99.94

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2007      **CHAPTER:** 347  
**NJSA:** 13:1E-99.94 ("Electronic Waste Recycling Act")  
**BILL NO:** A3572 (Substituted for S554)  
**SPONSOR(S)** Gusciora and Others  
**DATE INTRODUCED:** October 23, 2006  
**COMMITTEE:**      **ASSEMBLY:** Appropriations; Environment and Solid Waste  
**SENATE:**  
**AMENDED DURING PASSAGE:** Yes  
**DATE OF PASSAGE:**      **ASSEMBLY:** January 7, 2008  
**SENATE:** January 7, 2008  
**DATE OF APPROVAL:** January 13, 2008  
**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (Assembly Committee Substitute enacted)

### A3572

[SPONSOR'S STATEMENT](#): (Begins on page 11 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**      **ASSEMBLY:** Yes [Environment 1-22-07](#)  
[Approp. 1-3-08](#)

**SENATE:** No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

[LEGISLATIVE FISCAL ESTIMATE:](#) [Yes](#)

### S554

[SPONSOR'S STATEMENT](#): (Begins on page 11 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**      **ASSEMBLY:** No

**SENATE:** Yes [Environment 1-30-06](#)  
[Budget 12-10-07](#)

**FLOOR AMENDMENT STATEMENT:** Yes

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

[GOVERNOR'S PRESS RELEASE ON SIGNING:](#) [Yes](#)

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** Yes

**NEWSPAPER ARTICLES:** No

974.90 P777, 2007a

Committee meeting of Senate Environment Committee the committee will take testimony from the public on how to structure an electronic waste management program in New Jersey. February 8, 2007. Trenton, New Jersey.

LAW/RWH 6/20/08

P.L. 2007, CHAPTER 347, *approved January 13, 2008*  
Assembly Committee Substitute for  
Assembly, No. 3572

1 AN ACT concerning electronic waste management, and amending  
2 P.L.1987, c.102, and supplementing Title 13 of the Revised  
3 Statutes.

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

7  
8 1. (New section) Sections 1 through 21 of P.L. ,  
9 c. (C. ) (pending before the Legislature as this bill) shall be  
10 known and may be cited as the “Electronic Waste Management  
11 Act.”

12  
13 2. (New section) As used in sections 1 through 21 of P.L. ,  
14 c. (C. ) (pending before the Legislature as this bill):

15 “Brand” means symbols, words, or marks that identify a covered  
16 electronic device, rather than any of its components.

17 “Cathode ray tube” means a vacuum tube or picture tube used to  
18 convert an electronic signal into a visual image.

19 “Computer” means an electronic, magnetic, optical,  
20 electrochemical, or other high-speed data processing device  
21 performing logical, arithmetic, or storage function, and may include  
22 both a computer central processing unit and a monitor, but the term  
23 shall not include an automated typewriter or typesetter, a portable  
24 handheld calculator, a portable digital assistant, or other similar  
25 device.

26 “Consumer” means a person who purchases a covered electronic  
27 device in a transaction that is a retail sale.

28 “Covered electronic device” means a desktop or personal  
29 computer, computer monitor, portable computer, or television sold  
30 to a consumer. A “covered electronic device” shall not include any  
31 of the following: (1) an electronic device that is a part of a motor  
32 vehicle or any component part of a motor vehicle assembled by, or  
33 for, a vehicle manufacturer or franchised dealer, including  
34 replacement parts for use in a motor vehicle; (2) an electronic  
35 device that is functionally or physically a part of a larger piece of  
36 equipment designed and intended for use in an industrial,  
37 commercial, or medical setting, including diagnostic, monitoring, or  
38 control equipment; (3) an electronic device that is contained within  
39 a clothes washer, clothes dryer, refrigerator, refrigerator and  
40 freezer, microwave oven, conventional oven or range, dishwasher,  
41 room air conditioner, dehumidifier, or air purifier; or (4) a

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

**Matter underlined thus is new matter.**

1 telephone of any type unless it contains a video display area greater  
2 than four inches measured diagonally.

3 “Department” means the Department of Environmental  
4 Protection.

5 “Manufacturer” means any person: (1) who manufactures or  
6 manufactured covered electronic devices under a brand that it owns  
7 or owned or is or was licensed to use, other than a license to  
8 manufacture covered electronic devices for delivery exclusively to  
9 or at the order of the licensor; (2) who sells or sold covered  
10 electronic devices manufactured by others under a brand that the  
11 seller owns or owned or is or was licensed to use, other than a  
12 license to manufacture covered electronic devices for delivery  
13 exclusively to or at the order of the licensor; (3) who manufactures  
14 or manufactured covered electronic devices without affixing a  
15 brand; (4) who manufactures or manufactured covered electronic  
16 devices to which the person affixes or affixed a brand that the  
17 person neither owns or owned nor is or was licensed to use; or (5)  
18 for whose account covered electronic devices manufactured outside  
19 the United States are or were imported into the United States,  
20 provided however, if, at the time such covered electronic devices  
21 are or were imported into the United States, another person has  
22 registered as the manufacturer of the brand of the covered electronic  
23 devices pursuant to subsection b. of section 9 of this act, then  
24 paragraph (5) of this definition shall not apply.

25 “Monitor” means a separate video display component of a  
26 computer, whether sold separately or together with a computer  
27 central processing unit and computer box, and includes a cathode  
28 ray tube, liquid crystal display, gas plasma, digital light processing,  
29 or other image projection technology, greater than four inches  
30 measured diagonally, and its case, interior wires and circuitry, cable  
31 to the central processing unit, and power cord.

32 “Obligation” means the return share in weight, identified for an  
33 individual manufacturer, as determined by the department pursuant  
34 to subsection a. of section 12 of this act.

35 “Orphan device” means a covered electronic device for which no  
36 manufacturer can be identified, or for which the original  
37 manufacturer no longer exists.

38 “Person” means an individual, trust firm, joint stock company,  
39 business concern, and corporation, including, but not limited to, a  
40 government department, partnership, limited liability company, or  
41 association.

42 “Portable computer” means a computer and video display greater  
43 than four inches in size that can be carried as one unit by an  
44 individual, including a laptop computer.

45 “Program year” means a full calendar year beginning on or after  
46 January 1, 2010.

47 “Purchase” means the taking, by sale, of title in exchange for  
48 consideration.

1       “Recycling” means any process by which materials which would  
2 otherwise become solid waste are collected, separated or processed  
3 and returned to the economic mainstream in the form of raw  
4 materials or products. “Recycling” shall not include energy  
5 recovery or energy generation by means of incinerating electronic  
6 waste whether apart or in combination with other wastes.

7       “Registrant” means a manufacturer of covered electronic devices  
8 that is in full compliance with the requirements of this act.

9       “Retail sales” means the sale of covered electronic devices  
10 through sales outlets, via the Internet, mail order, or other means,  
11 whether or not the retailer has a physical presence in this State.

12       “Retailer” means a person who owns or operates a business that  
13 sells new covered electronic devices in this State by any means to a  
14 consumer.

15       “Return share” means the proportion of covered electronic  
16 devices for which an individual manufacturer is responsible to  
17 collect, transport, and recycle, as determined by the department  
18 pursuant to subsection a. of section 12 of this act.

19       “Return share in weight” means the total weight of covered  
20 electronic devices for which an individual manufacturer is  
21 responsible to collect, transport, and recycle, as determined by the  
22 department pursuant to subsection a. of section 12 of this act.

23       “Sale” or “sell” means any transfer for consideration of title,  
24 including, but not limited to, transactions conducted through sales  
25 outlets, catalogs, or the Internet, or any other, similar electronic  
26 means, and excluding leases.

27       “Television” means a stand-alone display system containing a  
28 cathode ray tube or any other type of display primarily intended to  
29 receive video programming via broadcast, having a viewable area  
30 greater than four inches measured diagonally, able to adhere to  
31 standard consumer video formats and having the capability of  
32 selecting different broadcast channels and support sound capability.

33       “Video display” means an output surface having a viewable area  
34 greater than four inches when measured diagonally that displays  
35 moving graphical images or a visual representation of image  
36 sequences or pictures, showing a number of quickly changing  
37 images on a screen in fast succession to create the illusion of  
38 motion, including, if applicable, a device that is an integral part of  
39 the display and cannot be easily removed from the display by the  
40 consumer that produces the moving image on the screen. A “video  
41 display” typically uses a cathode ray tube, liquid crystal display,  
42 gas plasma, digital light processing, or other image projection  
43 technology.

1       3. (New section) a. Beginning on January 1, 2009, and each  
2 January 1 thereafter, each manufacturer of televisions offered for  
3 sale for delivery in this State shall register with the department and  
4 pay a registration fee of \$5,000. Each television manufacturer's  
5 registration and renewal shall include a list of all of the brands  
6 under which its televisions are sold.

7       b. Each registered television manufacturer shall submit an  
8 annual renewal of its registration to the department and pay to the  
9 department a registration renewal fee of \$5,000 by January 1 of  
10 each program year. Each television manufacturer's renewal shall  
11 include an annual report.

12       c. In addition to reporting all brands under which its televisions  
13 are sold, regardless of whether the brand is owned or licensed, the  
14 manufacturer's annual report shall include the total weight of all  
15 televisions sold in the State in the previous program year. In lieu of  
16 providing this information, a registered television manufacturer  
17 may request the department to calculate the total weight of new  
18 televisions sold in the State by using prorated national sales data  
19 based on State population.

20       d. A registered television manufacturer shall inform the  
21 department, in writing, as soon as it becomes aware that it will  
22 cease selling televisions in the State.

23       e. By January 1, 2010, each registered television manufacturer  
24 shall participate in a statewide used television recycling program to  
25 implement and finance the collection, transportation, and recycling  
26 of used televisions. The statewide recycling program shall accept  
27 all types and all brands of used televisions.

28       f. A registered television manufacturer or group of registered  
29 television manufacturers may conduct its own collection,  
30 transportation, and used television recycling program. The recycling  
31 program shall accept all types and all brands of used televisions.  
32 The registered television manufacturer or group of manufacturers  
33 shall submit a report to the department annually by January 30,  
34 beginning the year after the program is initiated. The report shall  
35 include the total weight of used televisions collected from  
36 consumers in this State by the manufacturer or group of  
37 manufacturers during the previous program year and documentation  
38 verifying collection and recycling of these used televisions.

39  
40       4. (New section) a. Beginning January 1, 2010, each  
41 registered television manufacturer shall pay to the department its  
42 portion of the reasonable costs incurred by an authorized recycler  
43 for the collection, transportation and recycling of used televisions  
44 based on the television manufacturer's market share multiplied by  
45 the total, in pounds, of used televisions collected under the used  
46 television recycling and management programs pursuant to  
47 subsection b. of this section.

48       (1) The department may suspend the registration of any

1 registered television manufacturer in arrears for more than 90 days.

2 (2) A television manufacturer that has had its registration  
3 suspended pursuant to this subsection shall demonstrate that all past  
4 due payments and a penalty equivalent to 10% of the past due  
5 payments has been paid to the department prior to seeking  
6 reinstatement of its registration.

7 b. By July 1, 2009, the department shall establish criteria for  
8 county or municipal used television recycling and management  
9 programs. The county or municipality shall maintain records of the  
10 volume of used televisions collected and recycled and to report to  
11 the department the name and address of each authorized recycler  
12 and the number of pounds of used televisions delivered to each  
13 authorized recycler. The department shall make payments to the  
14 county or municipality, as the case may be, based upon the costs  
15 incurred by each county and municipality for its used television  
16 recycling and management program.

17 In those instances where a county or municipal used television  
18 recycling and management program has not been adopted, the  
19 department shall establish a used television recycling and  
20 management program. The department shall identify, and enter into  
21 agreements with, authorized recyclers who shall be authorized to  
22 accept used televisions from county and municipal collection sites  
23 as designated pursuant to sections 3 and 6 of P.L.1987, c.102  
24 (C.13:1E-99.13 and 13:1E-99.16). The department shall require the  
25 county or municipality to maintain records of the volume of used  
26 televisions collected by each authorized recycler. The department  
27 may make payments for the collection and recycling of used  
28 televisions to an authorized recycler upon receipt of a completed  
29 and verified invoice submitted to the department by the authorized  
30 recycler in the form and manner determined by the department. The  
31 department may determine a per unit payment for the recycling and  
32 proper disposal of a used television pursuant to the program.

33 For the purposes of this subsection, "authorized recycler" means  
34 a person who: (1) engages in the manual or mechanical separation  
35 of covered electronic devices to recover components and  
36 commodities contained therein for the purpose of re-use or  
37 recycling; or (2) changes the physical or chemical composition of a  
38 covered electronic device by deconstructing, size reduction,  
39 crushing, cutting, sawing, compacting, shredding, or refining for the  
40 purpose of segregating components, and for the purpose of  
41 recovering or recycling those components, and who arranges for the  
42 transport of those components to an end user.

43 Covered electronic devices shall not be sent to prisons for  
44 recycling either directly or through intermediaries and nothing in  
45 this section shall be construed to allow for the recycling of covered  
46 electronic devices by prisoners. Any person committed to a jail,  
47 prison, or other institution for the detention of persons charged with

1 or convicted of an offense shall be disqualified from being an  
2 authorized recycler.

3

4 5. (New section) a. The Used Television Recycling and  
5 Management Program Fund is established as a nonlapsing,  
6 revolving fund in the Department of the Treasury. The fund shall be  
7 administered by the Department of Environmental Protection and  
8 credited with all registration and renewal fees paid pursuant to  
9 section 3 of this act and all market share payments made pursuant to  
10 section 4 of this act. Interest received on moneys in the fund shall  
11 be credited to the fund.

12 b. All available moneys in the Used Television Recycling and  
13 Management Program Fund shall be appropriated annually solely  
14 for the following purposes and no others:

15 (1) To make payments to counties or municipalities based upon  
16 the costs incurred by each county and municipality for its used  
17 television recycling and management program;

18 (2) To provide funding for a State used television recycling and  
19 management program, including the administrative expenses  
20 thereof; and

21 (3) To make payments to authorized recyclers for the recycling  
22 of used televisions.

23

24 6. (New section) a. Any manufacturer that is not in compliance  
25 with all financial and other requirements of this act shall be  
26 prohibited from selling or offering for sale in this State a covered  
27 electronic device.

28 b. Beginning on January 1, 2010, it shall be unlawful for any  
29 person to sell or offer for sale in this State a new covered electronic  
30 device from a manufacturer that is not in full compliance with the  
31 requirements of this act.

32 c. The department shall maintain a list of all manufacturers in  
33 compliance with the requirements of this act and shall post the list  
34 on the department's Internet website.

35 d. Sellers of products in or into the State shall consult the list  
36 established by the department pursuant to subsection c. of this  
37 section prior to selling covered electronic devices in this State. A  
38 seller shall be considered to have complied with this responsibility  
39 if, on the date that the product was ordered from the manufacturer  
40 or its agent, the manufacturer was listed as being in compliance on  
41 the aforementioned website.

42 The provisions of this section shall not apply to any  
43 manufacturer or retailer of televisions offered for sale for delivery  
44 in this State.

45

46 7. (New section) Beginning on January 1, 2009, a manufacturer  
47 or retailer may not sell or offer for sale a covered electronic device  
48 in this State unless the covered electronic device is labeled with the



1 manufacturer's brand, and the label is permanently affixed and  
2 readily visible.

3 The provisions of this section shall not apply to any  
4 manufacturer or retailer of televisions offered for sale for delivery  
5 in this State.

6  
7 8. (New section) Beginning on January 1, 2010, it shall be  
8 unlawful for any person to sell or offer for sale in this State any  
9 new covered electronic devices, including televisions, unless those  
10 products comply with the applicable provisions of Directive  
11 2002/95/EC of the European Union, adopted by the European  
12 Parliament and the Council of the European Union on January 27,  
13 2003, as implemented and interpreted through the decisions of the  
14 Technical Adaptation Committee established by Directive  
15 2002/95/EC.

16  
17 9. (New section) a. (1) By January 30, 2011, and by each  
18 January 30 thereafter, the department shall:

19 (a) have completed an auditable, statistically significant  
20 sampling of covered electronic devices collected from consumers in  
21 this State by the department during the previous program year. The  
22 sampling information collected shall consist of a list of brands of  
23 covered electronic devices and the weight of covered electronic  
24 devices that are identified for each brand. The department's  
25 sampling shall be conducted in accordance with a procedure  
26 established by the department and may be conducted by a third-  
27 party organization including a recycler, to be determined by the  
28 department. The department may, at its discretion, be present at the  
29 sampling and may audit the methodology and the results of the  
30 third-party organization. The costs associated with the sampling  
31 shall be recovered from the fees paid by manufacturers to the  
32 department; and

33 (b) determine the total weight of covered electronic devices,  
34 including orphan devices, collected from consumers in this State by  
35 the department during the previous program year.

36 (2) If a manufacturer or group of manufacturers conducts its  
37 own collection, transportation, and recycling program for covered  
38 electronic devices, the manufacturer or group of manufacturers shall  
39 submit a report to the department annually by January 30, beginning  
40 the year after the program is initiated. The report shall include:

41 (a) the results of an auditable, statistically significant sampling  
42 of covered electronic devices collected from consumers in this State  
43 by the manufacturer or group of manufacturers during the previous  
44 program year. The sampling information reported shall consist of a  
45 list of brands of covered electronic devices and the weight of  
46 covered electronic devices that are identified for each brand; and

47 (b) the total weight of covered electronic devices, including  
48 orphan devices, collected from consumers in this State by the

1 manufacturer or group of manufacturers during the previous  
2 program year and documentation verifying collection and recycling  
3 of such devices.

4 b. By February 1, 2009, and each January 1 thereafter, each  
5 manufacturer of covered electronic devices offered for sale for  
6 delivery in this State shall register with the department and pay a  
7 registration fee of \$5,000. Any manufacturer to whom the  
8 department provides notification of a return share and return share  
9 in weight pursuant to subsection a. of section 12 of this act and who  
10 has not previously filed a registration shall file a registration with  
11 the department within 30 days of receiving such notification from  
12 the department. Each manufacturer's registration and renewal shall  
13 include a list of all of the manufacturer's brands of covered  
14 electronic devices.

15 The provisions of this section shall not apply to any  
16 manufacturer or retailer of televisions offered for sale for delivery  
17 in this State.

18

19 10. (New section) a. By June 1, 2009, each manufacturer to  
20 whom the department provides, by April 2, 2009, a return share in  
21 weight that is greater than zero shall:

22 (1) submit an additional fee to the department based on its  
23 return share in weight of covered electronic devices. The fee shall  
24 be calculated using the following formula: the manufacturer's  
25 return share in weight multiplied by no more than \$0.50 per pound;  
26 or

27 (2) submit a plan to the department to collect, transport and  
28 recycle covered electronic devices.

29 b. Each manufacturer to whom the department provides, by  
30 February 15, 2011 or by February 15 of any year thereafter, a return  
31 share in weight that is greater than zero shall, by March 15 of that  
32 year, comply with the requirements of paragraphs (1) or (2) of  
33 subsection a. of this section.

34 c. An individual manufacturer submitting a plan in lieu of  
35 payment of the fee set forth in subsection a. of this section shall  
36 collect, transport, and recycle its return share in weight.

37 d. A group of manufacturers jointly submitting a plan in lieu of  
38 payment of the fee set forth in subsection a. of this section shall  
39 collect, transport, and recycle the sum of the obligations of each  
40 participating manufacturer.

41 e. Every plan shall be filed with a manufacturer's annual  
42 registration, and shall include:

43 (1) Methods that will be used to collect the covered electronic  
44 devices including proposed collection services;

45 (2) The processes and methods that will be used to recycle  
46 recovered covered electronic devices including a description of the  
47 recycling processes that will be used, including the name and  
48 location of all recyclers to be directly utilized by the plan;

1 (3) Means that will be utilized to publicize the collection  
2 services, including specification of a website or toll-free telephone  
3 number that provides information about the manufacturer's program  
4 in sufficient detail to allow consumers to learn how to return their  
5 covered electronic devices for recycling; and

6 (4) The intention of the registrant to fulfill its obligation through  
7 operation of its own plan, either individually or with other  
8 manufacturers.

9 Recovered covered electronic devices shall not be sent to prisons  
10 for recycling either directly or through intermediaries and nothing  
11 in this section shall be construed to allow for the recycling of  
12 covered electronic devices by prisoners. Any person committed to a  
13 jail, prison, or other institution for the detention of persons charged  
14 with or convicted of an offense shall be disqualified from engaging  
15 in the manual or mechanical separation of covered electronic  
16 devices to recover components and commodities contained therein  
17 for the purpose of re-use or recycling.

18 f. Before the fee set forth in subsection a. of this section may  
19 be waived by the department, the plan shall be reviewed to  
20 determine its compliance with subsection e. of this section and  
21 approved by the department. Upon approval of the plan by the  
22 department, the payment of the annual fee set forth in subsection a.  
23 of this section shall be waived. The department may reject the plan,  
24 in whole or in part, and may impose additional requirements as a  
25 condition of approval.

26 g. If a manufacturer fails to comply with all the conditions and  
27 terms of an approved plan, the manufacturer shall be required to  
28 submit the following:

29 (1) A payment to the department to cover the cost of collecting,  
30 transporting, and recycling the unmet portion of its obligation. The  
31 payment shall be equal to the following formula: the quantity of the  
32 outstanding portion, in pounds, multiplied by no more than \$0.50;  
33 and

34 (2) A penalty in the form of a payment equal to the cost of  
35 collecting, transporting, and recycling 10% of the manufacturer's  
36 total obligation.

37 h. Manufacturers that collect, transport, and recycle covered  
38 electronic devices in excess of their obligation may sell credits to  
39 another registrant or apply that excess to the following year's  
40 recycling obligation.

41 i. Whenever more than one person is within the definition of  
42 manufacturer of a brand of a covered electronic device pursuant to  
43 section 2 of this act, any one or more such persons may assume  
44 responsibility for and satisfy the obligations of a manufacturer  
45 under this act with respect to covered electronic devices bearing  
46 that brand. In the event that no person assumes responsibility for  
47 and satisfies the obligations of a manufacturer under this act with  
48 respect to covered electronic devices bearing that brand, the

1 department may consider any one or more persons within such  
2 definition to be the manufacturer of that brand.

3 j. The obligations under this act for a manufacturer who  
4 manufactures or manufactured covered electronic devices, or who  
5 sells or sold covered electronic devices manufactured by others,  
6 under a brand that was previously used by a different person in the  
7 manufacture of covered electronic devices shall extend to all  
8 covered electronic devices bearing that brand.

9 k. Nothing in this act is intended to exempt any person from  
10 liability the person would otherwise have under applicable law.

11 l. The provisions of this section shall not apply to any  
12 manufacturer or retailer of televisions offered for sale for delivery  
13 in this State.

14

15 11. (New section) a. A retailer shall provide information  
16 provided by the department that describes where and how to recycle  
17 the covered electronic device and opportunities and locations for  
18 the collection or return of the device, through the use of a toll-free  
19 telephone number and website, information included in the  
20 packaging, or information provided accompanying the sale of the  
21 covered electronic device. This information shall be provided in  
22 clear written form in English and any other languages deemed to be  
23 primary languages by the State Department of Education.

24 b. Beginning January 1, 2010, a retailer shall only sell products  
25 from registrants. Retailers shall consult the list posted on the  
26 department's Internet website pursuant to section 6 of this act prior  
27 to selling covered electronic devices in this State. A retailer shall  
28 be considered to have complied with this responsibility if on the  
29 date that the product was ordered from the manufacturer or its  
30 agent, the manufacturer was listed as being in compliance on the  
31 aforementioned website.

32 The provisions of this section shall not apply to any  
33 manufacturer or retailer of televisions offered for sale for delivery  
34 in this State.

35

36 12. (New section) a. (1) The department shall determine the  
37 return share for each program year for each manufacturer by  
38 dividing the weight of covered electronic devices identified for each  
39 manufacturer by the total weight of covered electronic devices  
40 identified for all manufacturers. For the first program year, the  
41 return share of covered electronic devices identified for each  
42 manufacturer shall be based on the best available public return  
43 share data from the United States, including data from other states,  
44 for covered electronic devices from consumers. For the second and  
45 each subsequent program year, the return share of covered  
46 electronic devices identified for each manufacturer shall be based  
47 on the most recent samplings of covered electronic devices

1 conducted in this State pursuant to subsection a. of section 9 of this  
2 act.

3 (2) The department shall determine the return share in weight  
4 for each program year for each manufacturer for whom a return  
5 share is determined pursuant to paragraph (1) of this subsection by  
6 multiplying the return share for each such manufacturer by the total  
7 weight in pounds of covered electronic devices, including orphan  
8 devices, collected from consumers the previous program year. For  
9 the first program year, the total weight in pounds of covered  
10 electronic devices shall be based on the best available public weight  
11 data from the United States, including data from other states, for  
12 covered electronic devices from consumers. For the second and  
13 each subsequent program year, the total weight in pounds of  
14 covered electronic devices shall be based on the total weight of  
15 covered electronic devices, including orphan devices, determined  
16 by the department pursuant to subsection a. of section 9 of this act.

17 (3) By April 2, 2010, the department shall provide each  
18 manufacturer for whom a return share is determined pursuant to  
19 paragraph (1) of this subsection with its return share and its return  
20 share in weight for the first program year. Annually thereafter, by  
21 February 15, beginning in 2012, the department shall provide each  
22 manufacturer for whom a return share is determined pursuant to  
23 paragraph (1) of this subsection with its return share and its return  
24 share in weight for the second and subsequent program years.

25 b. The department shall receive fees from manufacturers as  
26 provided in section 10 of this act.

27 c. (1) The department shall organize, administer, and ensure  
28 that at least one electronics collection opportunity is available in  
29 each county throughout the State and in such a manner as to be  
30 convenient, to the maximum extent practicable and feasible, to all  
31 consumers in the county.

32 (2) The department shall ensure that collection sites do not place  
33 limits on the number of covered electronic devices permitted for  
34 drop-off by consumers.

35 d. (1) Beginning on April 1, 2010, the department shall  
36 maintain a list of registrants and the brands reported in each  
37 manufacturer's registration, and post the list on the department's  
38 Internet website that is updated at least once a month.

39 (2) The department shall organize and coordinate public  
40 education and outreach.

41 e. The department shall prepare a plan every three years that:  
42 (1) establishes per-capita collection and recycling goals; and (2)  
43 identifies any necessary State actions to expand collection  
44 opportunities to achieve the per-capita collection and recycling  
45 goals. The plan shall be posted on the department's Internet  
46 website and submitted, pursuant to section 2 of P.L.1991, c.164  
47 (C.52:14-19.1), to the Legislature.

1 f. The department shall prepare an annual report, which shall  
2 be posted on the department's Internet website and submitted,  
3 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the  
4 Legislature.

5 The annual report shall include the following:

6 (1) A list of all parties that the department has designated as  
7 approved to receive payments for collection, transportation, or  
8 recycling, the amount of payments it has made to those parties, and  
9 the purpose of those payments;

10 (2) The total weight of covered electronic devices collected in  
11 the State the previous calendar year;

12 (3) Progress toward achieving the overall annual total recovery  
13 and recycling goals described in the plan prepared pursuant to  
14 subsection e. of this section;

15 (4) A complete listing of all collection sites operating in the  
16 State in the prior calendar year, the parties that operated them, and  
17 the amount of material by weight collected at each site;

18 (5) An evaluation of the effectiveness of the education and  
19 outreach program; and

20 (6) An evaluation of the existing collection and processing  
21 infrastructure.

22 g. The program implemented to effectuate the provisions of  
23 this act and its associated regulations shall be fully audited by an  
24 independent, certified public accountant at the end of each calendar  
25 year and the audit report shall be submitted, pursuant to section 2 of  
26 P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

27 h. The provisions of this section shall not apply to any  
28 manufacturer or retailer of televisions offered for sale for delivery  
29 in this State.

30  
31 13. (New section) a. The department shall maintain an Internet  
32 website and toll-free number complete with up-to-date listings of  
33 where consumers can bring covered electronic devices for recycling  
34 under the provisions of this act.

35 b. The department shall not be held financially liable or  
36 responsible for any violation of federal, State, or local law by any  
37 person to whom the department makes payment pursuant to section  
38 14 of this act.

39 c. No more frequently than annually and no less frequently  
40 than biennially, the department shall review, at a public hearing, the  
41 covered electronic device recycling rate and registration fees.  
42 Recommended changes to the covered electronic device recycling  
43 rate and registration fees shall be included in the annual report  
44 required pursuant to subsection f. of section 12 of this act.

45 d. No fees or costs may be charged to consumers for the  
46 collection, transportation, or recycling of covered electronic  
47 devices.

1 14. (New section) The department shall engage in competitive  
2 bidding for the collection, transportation, and recycling of covered  
3 electronic devices in accordance with the procedures concerning the  
4 awarding of public contracts provided in P.L.1954, c.48 (C.52:34-6  
5 et seq.).

6 a. The department shall make payments for the collection,  
7 transportation, and recycling of covered electronic devices to an  
8 authorized or approved person, pursuant to this section, upon  
9 receipt of a completed and verified invoice submitted to the  
10 department in the form and manner determined by the department.

11 b. In order to receive payment, proof will be required that:

12 (1) the covered electronic device was collected from a consumer  
13 who is a resident of the State or is otherwise located in the State, or  
14 who provides evidence that the device was purchased in this State  
15 after the effective date of this act;

16 (2) the collection, transportation, and recycling of the covered  
17 electronic devices was conducted in accordance with all federal,  
18 State, and local laws, including the requirements established under  
19 this act, and any rules or regulations adopted pursuant thereto; and

20 (3) no fees or costs were charged to the consumer.  
21

22 15. (New section) a. Covered electronic devices collected  
23 through any program in this State, whether by manufacturers,  
24 retailers, for-profit or not-for profit corporations, or units of  
25 government, or organized by the department, shall be recycled in a  
26 manner that is in compliance with all applicable federal, State, and  
27 local laws, regulations, and ordinances, and shall not be exported  
28 for disposal in a manner that poses a significant risk to the public  
29 health or the environment.

30 The provisions of this subsection shall apply to the collection  
31 and recycling of used televisions.

32 b. The department shall establish performance requirements in  
33 order for collectors, transporters, and recyclers to be eligible to  
34 receive funds from the department. Every collector, transporter,  
35 and recycler shall, at a minimum, demonstrate compliance with the  
36 United States Environmental Protection Agency's Plug-In to  
37 eCycling Guidelines for Materials Management as issued and  
38 available on the United States Environmental Protection Agency's  
39 Internet website in addition to any other requirements mandated by  
40 federal or State law. The department shall maintain an Internet  
41 website that shall include a list of collectors, transporters, and  
42 recyclers that it has determined have met these performance  
43 requirements.  
44

45 16. (New section) On and after January 1, 2010, no person shall  
46 knowingly dispose of a used covered electronic device, or any of  
47 the components or subassemblies thereof, as solid waste.

1       17. (New section) a. The State, including the Attorney General  
2 and the department, shall be authorized to initiate independent  
3 action to enforce any provision of this act, including failure by a  
4 manufacturer to remit the registration fee required pursuant to  
5 section 9 of this act, the fee required pursuant to section 10 of this  
6 act, or any fee required pursuant to subsection b. of section 18 of  
7 this act to the department. Any funds awarded by the court shall be  
8 used first to offset enforcement expenses. Money in excess of the  
9 enforcement expenses shall be deposited into a separate account,  
10 and shall be dedicated for use by the department solely for the  
11 purposes of administering and enforcing the provisions of this act  
12 and any rules or regulations adopted pursuant thereto.

13       b. Violations of the act include, but are not limited to:

14       (1) the sale of a new covered electronic device by any person  
15 that is not in full compliance with the provisions of this act;

16       (2) the application for compensation for the collection,  
17 transportation, and recycling of covered electronic devices not  
18 collected within the State, or region as provided in section 19 of this  
19 act;

20       (3) the use of a qualified collection program to recycle covered  
21 electronic devices not discarded within the State, or region as  
22 provided in section 19 of this act;

23       (4) the knowing failure to report or accurately report any data  
24 required to be reported to the department pursuant to this act; and

25       (5) the non-payment of any fee required pursuant to this act.  
26

27       18. (New section) a. The department shall adopt, pursuant to  
28 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
29 seq.), rules and regulations as are necessary to effectuate the  
30 purposes of this act.

31       b. The department may, in accordance with a fee schedule  
32 adopted as a rule or regulation pursuant to the provisions of the  
33 "Administrative Procedure Act," establish and charge reasonable  
34 fees for any of the services to be performed in connection with this  
35 act, which shall cover the full costs incurred by the department for  
36 the review of plans and for other costs incurred by the department  
37 for implementation of this act.  
38

39       19. (New section) The department is authorized to participate  
40 in the establishment and implementation of a regional, multi-state  
41 organization or compact that is consistent with the requirements  
42 of this act.  
43

44       20. (New section) This act is intended to govern all aspects of  
45 the collection and recycling of covered electronic devices as those  
46 terms are defined in this act. Upon a determination by the  
47 Department of Environmental Protection of an equivalent national  
48 program to collect or recycle covered electronic devices, the  
49 Commissioner of Environmental Protection shall notify, in writing,



1 the Governor, the President of the Senate and the Speaker of the  
2 General Assembly, and the members of the Senate Environment  
3 Committee and the Assembly Environment and Solid Waste  
4 Committee, or their successors, of this determination.

5 The provisions of this act shall expire 60 days after the date of  
6 the notification required pursuant to this section or within the  
7 timeframe provided by federal law, as appropriate.

8 The department shall provide notice in the New Jersey Register  
9 of any determination made pursuant to this section, and shall take  
10 any administrative action necessary in order to implement the  
11 national program.

12

13 21. (New section) By January 1, 2013, the department shall  
14 prepare a report, which shall be posted on the department's Internet  
15 website and submitted, pursuant to section 2 of P.L.1991, c.164  
16 (C.52:14-19.1), to the Legislature, assessing the success or failure  
17 of the electronic waste management system implemented pursuant  
18 to the provisions of this act relative to the statutory management of  
19 covered electronic devices in other states, including jurisdictions  
20 that have adopted a producer responsibility model versus those that  
21 have adopted an advance recovery fee approach, or both, with  
22 respect to the recycling of used televisions and other covered  
23 electronic devices.

24

25 22. Section 3 of P.L.1987, c.102 (C.13:1E-99.13) is amended to  
26 read as follows:

27 3. a. Each county shall prepare and adopt a district recycling  
28 plan to implement the State Recycling Plan goals. Each district  
29 recycling plan shall be adopted as an amendment to the district  
30 solid waste management plan required pursuant to the provisions of  
31 the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et  
32 seq.) and subject to the approval of the department.

33 b. Each district recycling plan required pursuant to this section  
34 shall include, but need not be limited to:

35 (1) Designation of a district recycling coordinator;

36 (2) Designation of the recyclable materials to be source  
37 separated in each municipality which shall include, in addition to  
38 leaves, at least three other recyclable materials separated from the  
39 municipal solid waste stream;

40 (3) Designation of the strategy for the collection, marketing and  
41 disposition of designated source separated recyclable materials in  
42 each municipality;

43 (4) Designation of recovery targets in each municipality to  
44 achieve the maximum feasible recovery of recyclable materials  
45 from the municipal solid waste stream which shall include, at a  
46 minimum, the following schedule:

47 (a) The recycling of at least 15% of the total municipal solid  
48 waste stream by December 31, 1989;

1 (b) The recycling of at least 25% of the total municipal solid  
2 waste stream by December 31, 1990; and

3 (c) The recycling of at least 50% of the total municipal solid  
4 waste stream, including yard waste and vegetative waste, by  
5 December 31, 1995; and

6 (5) Designation of countywide recovery targets to achieve the  
7 maximum feasible recovery of recyclable materials from the total  
8 solid waste stream which shall include, at a minimum, the recycling  
9 of at least 60% of the total solid waste stream by December 31,  
10 1995.

11 For the purposes of this subsection, "total municipal solid waste  
12 stream" means the sum of the municipal solid waste stream  
13 disposed of as solid waste, as measured in tons, plus the total  
14 number of tons of recyclable materials recycled; and "total solid  
15 waste stream" means the aggregate amount of solid waste generated  
16 within the boundaries of any county from all sources of generation,  
17 including the municipal solid waste stream.

18 c. Each district recycling plan, in designating a strategy for the  
19 collection, marketing and disposition of designated recyclable  
20 materials in each municipality, shall authorize municipalities that  
21 adopt a recycling ordinance pursuant to subsection b. of section 6 of  
22 P.L.1987, c.102 (C.13:1E-99.16) to limit the collection of  
23 designated recyclable materials to specified operating hours in order  
24 to preserve the peace and quiet in neighborhoods during the hours  
25 when most residents are asleep.

26 Each district recycling plan may be modified after adoption  
27 pursuant to a procedure set forth in the adopted plan as approved by  
28 the department.

29 d. A district recycling plan may be modified to require that  
30 each municipality within the county revise the ordinance adopted  
31 pursuant to subsection b. of section 6 of P.L.1987, c.102 (C.13:1E-  
32 99.16) to provide for the source separation and collection of used  
33 dry cell batteries as a designated recyclable material.

34 e. Within 12 months of the effective date of P.L. \_\_\_\_\_,  
35 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill), each  
36 district recycling plan shall be modified to include the designation  
37 of collection sites for the delivery of used televisions, and may be  
38 modified to include the designation of collection sites for the  
39 delivery of other covered electronic devices.

40 For the purposes of this subsection, "television" and "covered  
41 electronic device," respectively, mean the same as those terms are  
42 defined in section 2 of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the  
43 Legislature as this bill).

44 (cf: P.L.2001, c.92, s.7)

45

46 23. Section 6 of P.L.1987, c.102 (C.13:1E-99.16) is amended to  
47 read as follows:

1       6. Each municipality in this State shall designate one or more  
2 persons as the municipal recycling coordinator. Each municipality  
3 shall establish and implement a municipal recycling program in  
4 accordance with the following requirements:

5       a. (1) Each municipality shall provide for a collection system  
6 for the recycling of the recyclable materials designated in the  
7 district recycling plan as may be necessary to achieve the  
8 designated recovery targets set forth in the plan in those instances  
9 where a recycling collection system is not otherwise provided for  
10 by the generator or by the county, interlocal service agreement or  
11 joint service program, or other private or public recycling program  
12 operator.

13       (2) Each municipality shall provide for collection sites for the  
14 delivery of used televisions by consumers, and the delivery of other  
15 covered electronic devices if designated in the district recycling  
16 plan.

17       For the purposes of this paragraph, "television" and "covered  
18 electronic device," respectively, mean the same as those terms are  
19 defined in section 2 of P.L.     , c. (C.     )(pending before the  
20 Legislature as this bill).

21       b. The governing body of each municipality shall adopt an  
22 ordinance which requires persons generating municipal solid waste  
23 within its municipal boundaries to source separate from the  
24 municipal solid waste stream, in addition to leaves, the specified  
25 recyclable materials for which markets have been secured and,  
26 unless recycling is otherwise provided for by the generator, place  
27 these specified recyclable materials for collection in the manner  
28 provided by the ordinance.

29       c. The governing body of each municipality shall, at least once  
30 every 36 months, conduct a review and make necessary revisions to  
31 the master plan and development regulations adopted pursuant to  
32 P.L.1975, c.291 (C.40:55D-1 et seq.), which revisions shall reflect  
33 changes in federal, State, county and municipal laws, policies and  
34 objectives concerning the collection, disposition and recycling of  
35 designated recyclable materials.

36       The revised master plan shall include provisions for the  
37 collection, disposition and recycling of recyclable materials  
38 designated in the municipal recycling ordinance adopted pursuant to  
39 subsection b. of this section, and for the collection, disposition and  
40 recycling of designated recyclable materials within any  
41 development proposal for the construction of 50 or more units of  
42 single-family residential housing or 25 or more units of multi-  
43 family residential housing and any commercial or industrial  
44 development proposal for the utilization of 1,000 square feet or  
45 more of land.

46       d. The governing body of a municipality may exempt persons  
47 occupying commercial and institutional premises within its  
48 municipal boundaries from the source separation requirements of

1 the ordinance adopted pursuant to subsection b. of this section if  
2 those persons have otherwise provided for the recycling of the  
3 recyclable materials designated in the district recycling plan from  
4 solid waste generated at those premises. To be eligible for an  
5 exemption pursuant to this subsection, a commercial or institutional  
6 solid waste generator annually shall provide written documentation  
7 to the municipality of the total number of tons recycled.

8 e. The governing body of each municipality shall, on or before  
9 July 1 of each year, submit a recycling tonnage report to the New  
10 Jersey Office of Recycling in accordance with rules and regulations  
11 adopted by the department therefor.

12 f. The governing body of each municipality shall, at least once  
13 every six months, notify all persons occupying residential,  
14 commercial, and institutional premises within its municipal  
15 boundaries of local recycling opportunities, and the source  
16 separation requirements of the ordinance. In order to fulfill the  
17 notification requirements of this subsection, the governing body of  
18 a municipality may, in its discretion, place an advertisement in a  
19 newspaper circulating in the municipality, post a notice in public  
20 places where public notices are customarily posted, include a notice  
21 with other official notifications periodically mailed to residential  
22 taxpayers, or any combination thereof, as the municipality deems  
23 necessary and appropriate.

24 The governing body of a municipality that adopts a recycling  
25 ordinance pursuant to subsection b. of this section may limit the  
26 collection of designated recyclable materials to specified operating  
27 hours in order to preserve the peace and quiet in neighborhoods  
28 during the hours when most residents are asleep.

29 (cf: P.L.2001, c.92, s.8)

30

31 24. This act shall take effect immediately.

32

33

34

35 \_\_\_\_\_  
“Electronic Waste Recycling Act.”

# ASSEMBLY, No. 3572

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED OCTOBER 23, 2006

**Sponsored by:**

**Assemblyman REED GUSCIORA**

**District 15 (Mercer)**

**Assemblyman PETER J. BARNES, JR.**

**District 18 (Middlesex)**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman UPENDRA J. CHIVUKULA**

**District 17 (Middlesex and Somerset)**

**Assemblyman ROBERT M. GORDON**

**District 38 (Bergen)**

**Co-Sponsored by:**

**Assemblymen Diegnan, Stack, Vas, Assemblywoman Quigley,  
Assemblymen Payne, Wisniewski, Giblin, Assemblywoman Greenstein,  
Assemblyman Fisher, Assemblywomen Oliver, Lampitt, Assemblymen  
Greenwald and Epps**

**SYNOPSIS**

“Electronic Waste Recycling Act.”

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 1/23/2007)

1 AN ACT concerning electronic waste recycling, and supplementing  
2 P.L.1987, c.102.

3

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

6

7 1. This act shall be known and may be cited as the "Electronic  
8 Waste Recycling Act."

9

10 2. As used in this act:

11 "Cathode ray tube" means a vacuum tube or picture tube used to  
12 convert an electronic signal into a visual image;

13 "Computer" means an electronic, magnetic, optical,  
14 electrochemical, or other high-speed data processing device  
15 performing logical, arithmetic, or storage function, and may include  
16 both a computer central processing unit and a monitor, but the term  
17 shall not include an automated typewriter or typesetter, a portable  
18 handheld calculator, a portable digital assistant, or other similar  
19 device;

20 "Consumer" means an individual who purchases a covered  
21 electronic device in a transaction that is a retail sale;

22 "Covered electronic device" means desktop or personal  
23 computers, computer monitors, portable computers, and televisions  
24 sold to consumers. A "covered electronic device" shall not include  
25 any of the following: (1) an electronic device that is a part of a  
26 motor vehicle or any component part of a motor vehicle assembled  
27 by, or for, a vehicle manufacturer or franchised dealer, including  
28 replacement parts for use in a motor vehicle; (2) an electronic  
29 device that is functionally or physically a part of a larger piece of  
30 equipment designed and intended for use in an industrial,  
31 commercial, or medical setting, including diagnostic, monitoring, or  
32 control equipment; (3) an electronic device that is contained within  
33 a clothes washer, clothes dryer, refrigerator, refrigerator and  
34 freezer, microwave oven, conventional oven or range, dishwasher,  
35 room air conditioner, dehumidifier, or air purifier; or (4) a  
36 telephone of any type unless it contains a video display area greater  
37 than four inches measured diagonally;

38 "Department" means the Department of Environmental  
39 Protection;

40 "Manufacturer" means any person that, irrespective of the selling  
41 technique used, including by means of remote sale: (1)  
42 manufactures covered electronic devices under its own brand for  
43 sale in this State; (2) manufactures covered electronic devices for  
44 sale in this State without affixing a brand, (3) resells in this State  
45 covered electronic devices produced by other suppliers under its  
46 own brand or label; (4) imports or exports covered electronic  
47 devices into the United States for sale in this State; provided,  
48 however, that if a company from whom an importer purchases the

1 merchandise has a presence or assets within the United States, that  
2 company shall be deemed to be the manufacturer; or (5)  
3 manufactures covered electronic devices, supplies them to any  
4 person or persons within a distribution network that includes  
5 wholesalers or retailers in this State, and benefits from the sale in  
6 this State of those covered electronic devices through that  
7 distribution network;

8 "Manufacturer's brands" means a manufacturer's name, brand  
9 name, or brand label, and all manufacturer's names, brand names,  
10 and brand labels for which the manufacturer has legal  
11 responsibility, including those names, brand names, and brand  
12 labels of companies that have been acquired by the manufacturer;

13 "Monitor" means a separate video display component of a  
14 computer, whether sold separately or together with a computer  
15 central processing unit and computer box, and includes a cathode  
16 ray tube, liquid crystal display, gas plasma, digital light processing,  
17 or other image projection technology, greater than four inches  
18 measured diagonally, and its case, interior wires and circuitry, cable  
19 to the central processing unit, and power cord;

20 "Obligation" means the quantity of covered electronic devices,  
21 by weight, identified for an individual manufacturer, as defined by  
22 the department pursuant to section 8 of this act;

23 "Person" means an individual, trust firm, joint stock company,  
24 business concern, and corporation, including, but not limited to, a  
25 government department, partnership, limited liability company, or  
26 association;

27 "Portable computer" means a computer and video display greater  
28 than four inches in size that can be carried as one unit by an  
29 individual, including a laptop computer;

30 "Purchase" means the taking, by sale, of title in exchange for  
31 consideration;

32 "Recycling" means any process by which materials which would  
33 otherwise become solid waste are collected, separated or processed  
34 and returned to the economic mainstream in the form of raw  
35 materials or products. "Recycling" shall not include energy  
36 recovery or energy generation by means of incinerating electronic  
37 waste whether apart or in combination with other wastes;

38 "Registrant" means a manufacturer of covered electronic devices  
39 that is in full compliance with the requirements of this act;

40 "Retail sales" includes sales of products through sales outlets, via  
41 the Internet, mail order, or other means, whether or not the seller  
42 has a physical presence in this State;

43 "Retailer" means a person who owns or operates a business that  
44 sells new covered electronic devices in this State by any means to a  
45 consumer;

46 "Sell" or "sale" means any transfer for consideration of title,  
47 including, but not limited to, transactions conducted through sales

1 outlets, catalogs, or the Internet, or any other, similar electronic  
2 means, and excluding leases;

3 "State recycling rate" means the ratio of the weight of total  
4 overall returns of covered electronic devices in the State to the  
5 weight of total overall sales of covered electronic devices in the  
6 State during the previous calendar year;

7 "Television" means a stand-alone display system containing a  
8 cathode ray tube or any other type of display primarily intended to  
9 receive video programming via broadcast, having a viewable area  
10 greater than four inches measured diagonally, able to adhere to  
11 standard consumer video formats and having the capability of  
12 selecting different broadcast channels and support sound capability;

13 "Video display" means an output surface having a viewable area  
14 greater than four inches when measured diagonally that displays  
15 moving graphical images or a visual representation of image  
16 sequences or pictures, showing a number of quickly changing  
17 images on a screen in fast succession to create the illusion of  
18 motion, including, if applicable, a device that is an integral part of  
19 the display and cannot be easily removed from the display by the  
20 consumer that produces the moving image on the screen. Displays  
21 typically use a cathode ray tube, liquid crystal display, gas plasma,  
22 digital light processing, or other image projection technology.

23

24 3. a. Any manufacturer that is not in compliance with all  
25 financial and other requirements of this act shall be prohibited from  
26 selling or offering a covered electronic device for sale in this State.

27 b. It shall be unlawful for any person to sell or offer for sale in  
28 this State a new covered electronic device from a manufacturer that  
29 is not in full compliance with the requirements of this act. The  
30 department shall maintain a list of all manufacturers in compliance  
31 with the requirements of this act and shall post the list on the  
32 department's Internet website. Sellers of products in or into the  
33 State shall consult the list prior to selling covered electronic devices  
34 in this State. A seller shall be considered to have complied with  
35 this responsibility if, on the date that the product was ordered from  
36 the manufacturer or its agent, the manufacturer was listed as being  
37 in compliance on the aforementioned website.

38

39 4. On and after the effective date of this act, a manufacturer or  
40 retailer may not sell or offer for sale a covered electronic product in  
41 this State unless it is labeled with the manufacturer's brand, and the  
42 label is permanently affixed and readily visible.

43

44 5. a. Every manufacturer shall report to the department by  
45 January 30 of each year the total weight of covered electronic  
46 devices sold in this State the previous calendar year. In lieu of  
47 providing the total weight of covered electronic devices sold in this  
48 State the previous calendar year, a manufacturer may request that



1 the department calculate the total weight of covered electronic  
2 devices sold in this State by using prorated national sales data based  
3 on State population.

4 b. Every manufacturer shall register with the department by  
5 January 30 of each year and pay a registration fee of \$5,000.

6  
7 6. a. Every manufacturer shall submit an additional fee based  
8 on sales in this State to the department. The fee shall be calculated  
9 using the following formula: the State recycling rate multiplied by  
10 the weight of sales of the manufacturer's covered electronic devices  
11 sold in this State during the previous calendar year, multiplied by  
12 no more than \$0.50 per pound.

13 b. In lieu of payment of the fee set forth in subsection a. of this  
14 section, a manufacturer or a group of manufacturers may submit a  
15 plan to collect, transport, and recycle covered electronic devices.

16 c. An individual manufacturer submitting a plan in lieu of  
17 payment of the fee set forth in subsection a. of this section shall  
18 collect, transport, and recycle a quantity of covered electronic  
19 devices equal to the weight of sales of the manufacturer's covered  
20 electronic devices in this State during the previous calendar year  
21 multiplied by the State recycling rate.

22 d. A group of manufacturers jointly submitting a plan in lieu of  
23 payment of the fee set forth in subsection a. of this section shall  
24 collect, transport, and recycle the sum of the obligations of each  
25 participating manufacturer.

26 e. Every plan shall be filed with a manufacturer's annual  
27 registration, and shall include at a minimum:

28 (1) Methods that will be used to collect the covered electronic  
29 devices including the name and locations of all collection and  
30 consolidation points;

31 (2) An estimate of the amount of covered electronic devices that  
32 will be collected annually;

33 (3) The processes and methods that will be used to recycle  
34 recovered covered electronic devices including a description of the  
35 disassembly, physical recovery operation, including crushing,  
36 shredding, grinding, glass-to-glass recycling, and for other  
37 operations that will be used, including the name and location of all  
38 facilities to be utilized;

39 (4) Documentation of audits of each processor used in the plan  
40 and compliance with processing standards established under section  
41 11 of this act;

42 (5) A description of the accounting and reporting systems that  
43 will be employed to track progress toward fulfilling the plan's  
44 obligations;

45 (6) Means that will be utilized to publicize the collection  
46 opportunities;

1 (7) The intention of the registrant to fulfill its obligations  
2 through operation of its own program, either individually or in  
3 partnership with other manufacturers; and

4 (8) The total weight of covered electronic devices collected,  
5 transported and recycled the previous year.

6 f. Before the fee set forth in subsection a. of this section may be  
7 waived, the plan shall be reviewed and approved by the department.  
8 Upon approval of the plan by the department, the payment of the  
9 annual fees based upon sales by the manufacturer shall be waived.  
10 The department may reject the plan, in whole or in part, and may  
11 impose additional requirements as a condition of approval.

12 g. If a manufacturer fails to comply with all the conditions and  
13 terms of an approved plan, the manufacturer shall be required to  
14 submit the following:

15 (1) A payment to the department to cover the cost of collecting,  
16 transporting, and recycling the unmet portion of its obligation. The  
17 payment shall be equal to the following formula: the quantity of the  
18 outstanding portion, in pounds, multiplied by no more than \$0.50,  
19 and;

20 (2) A penalty in the form of a payment equal to the cost of  
21 collecting, transporting and recycling 10% of the manufacturer's  
22 total obligation.

23 h. Manufacturers that collect, transport, and recycle covered  
24 electronic devices in excess of their obligation may sell credits to  
25 another registrant or apply that excess to the following year's  
26 recycling obligation.

27  
28 7. a. A retailer shall clearly post and provide information  
29 provided by the department that describes where and how to recycle  
30 the covered electronic device and opportunities and locations for  
31 the collection or return of the device, through the use of a toll-free  
32 telephone number and website, information included in the  
33 packaging, or information provided accompanying the sale of the  
34 covered electronic device. This information shall be provided in  
35 clear written form in English and any other languages deemed to be  
36 primary languages by the State Department of Education.

37 b. A retailer shall only sell products from registrants. Retailers  
38 shall consult the list posted on the department's Internet website  
39 pursuant to section 3 of this act prior to selling covered electronic  
40 devices in this State. A retailer shall be considered to have  
41 complied with this responsibility if on the date that the product was  
42 ordered from the manufacturer or its agent, the manufacturer was  
43 listed as being in compliance on the aforementioned website.

44  
45 8. a. (1) By February 15 of each year, the department shall  
46 establish the State recycling rate, by calculating the ratio of the  
47 weight of total overall returns of covered electronic devices in the

1 State to the weight of total overall sales of covered electronic  
2 devices in the State during the previous calendar year.

3 (2) By March 1 of each year, the department shall provide each  
4 registrant with its responsibility for fees from sales or for  
5 collection, recycling, and transportation in pounds for that year.

6 b. The department shall receive fees as provided in section 6 of  
7 this act from manufacturers for the sale of covered electronic  
8 devices.

9 c. (1) The department shall organize, administer, and ensure  
10 that at least one electronics collection opportunity is available at  
11 least 5 days a week in each county throughout the State and in such  
12 a manner as to be convenient, to the maximum extent practicable  
13 and feasible, to all consumers in the county.

14 (2) The department shall ensure that collection sites do not place  
15 limits on the number of covered electronic devices permitted for  
16 drop-off by consumers.

17 (3) The department shall encourage the use of existing  
18 collection and consolidation infrastructures for handling covered  
19 electronic devices to the extent that this infrastructure is accessible  
20 on a regular and ongoing basis to at least 85% of the population of  
21 the State, is cost effective, and meets the environmentally sound  
22 management requirements of section 11 of this act.

23 d. (1) The department shall maintain a list of registrants and  
24 post the list on the department's Internet website that is updated at  
25 least once a month.

26 (2) The department shall organize and coordinate public  
27 education and outreach.

28 e. The department shall use the revenues received from  
29 registrants for the sole purpose of fulfilling its responsibilities under  
30 this act. In the event that expenses from administration, education,  
31 collection, transportation, and recycling activities exceed receipts,  
32 the department may borrow up to 10% of the projected annual State  
33 revenues from fees submitted under this act from outside sources.  
34 Borrowed funds shall be repaid within two years.

35 f. The department shall prepare a plan every three years that: (1)  
36 establishes per-capita collection and recycling goals; and (2)  
37 identifies any necessary State actions to expand collection  
38 opportunities to achieve the per-capita collection and recycling  
39 goals. The plan shall be posted on the department's Internet  
40 website and submitted to the Legislature.

41 g. The department shall prepare an annual report, which shall be  
42 posted on the department's Internet website and submitted to the  
43 Legislature.

44 The annual report shall include the following:

45 (1) A list of all parties that the department has designated as  
46 approved to receive payments for collection, transportation, or  
47 recycling, the amount of payments it has made to those parties, and  
48 the purpose of those payments;

- 1 (2) The total weight of covered electronic devices collected in  
2 the State the previous calendar year;
- 3 (3) The total weight of covered electronic devices sold in the  
4 State the previous calendar year;
- 5 (4) Progress toward achieving the overall annual total recovery  
6 and recycling goals described in the plan prepared pursuant to  
7 subsection f. of this section;
- 8 (5) A complete listing of all collection sites operating in the  
9 State in the prior calendar year, the parties that operated them, and  
10 the amount of material by weight collected at each site;
- 11 (6) An evaluation of the effectiveness of the education and  
12 outreach program;
- 13 (7) An evaluation of the existing collection and processing  
14 infrastructure.
- 15 h. The program implemented to effectuate the provisions of this  
16 act and its associated regulations shall be fully audited by an  
17 independent, certified public accountant at the end of each calendar  
18 year and the audit report shall be submitted to the Legislature.  
19
- 20 9. a. The department shall maintain a website and toll-free  
21 number complete with up-to-date listings of where consumers can  
22 bring covered electronics products for recycling under the  
23 provisions of this act.
- 24 b. The department shall not be held financially liable or  
25 responsible for any violation of Federal, state, or local law by any  
26 person to whom the department makes payment pursuant to section  
27 10 of this act.
- 28 c. No more frequently than annually and no less frequently than  
29 biennially, the department shall review, at a public hearing, the  
30 covered electronic device recycling and registration fees.  
31 Recommended changes to the covered electronic device recycling  
32 rate and registration fees shall be included in the annual report  
33 required pursuant to subsection g. of section 8 of this act.
- 34 d. No fees or costs may be charged to consumers for the  
35 collection, transportation, or recycling of covered electronic  
36 products.  
37
- 38 10. The department shall engage in competitive bidding for the  
39 collection, transportation, and recycling of covered electronic  
40 devices in accordance with the procedures concerning the awarding  
41 of public contracts provided in P.L.1954, c.48 (C.52:34-6 et seq.).
- 42 a. The department shall make covered electronic device  
43 payments for the collection, transportation, and recycling of  
44 covered electronic devices to an authorized or approved person  
45 upon receipt of a completed and verified invoice submitted to the  
46 department in the form and manner determined by the department.
- 47 b. In order to receive payment, proof will be required that:

1 (1) the covered electronic device was collected from a consumer  
2 who is a resident of the State or is otherwise located in the State, or  
3 who provides evidence that the device was purchased in this State  
4 after the effective date of this act;

5 (2) the collection, transportation, and recycling of the covered  
6 electronic devices was conducted in accordance with all local, state,  
7 and Federal laws, including the requirements established under this  
8 act, and any rules or regulations adopted pursuant thereto; and

9 (3) no fees or costs were charged to the consumer.

10  
11 11. a. Covered electronic devices collected through any  
12 program in this State, whether by manufacturers, retailers, for-profit  
13 or not-for profit corporations, units of government, or organized by  
14 the department, shall be recycled in a manner that is in compliance  
15 with all applicable Federal, state, and local laws, regulations, and  
16 ordinances, and shall not be exported for disposal in a manner that  
17 poses a significant risk to the public health or the environment.

18 b. The department shall establish performance requirements in  
19 order for collectors, transporters, and recyclers to be eligible to  
20 receive funds from the department. Every collector, transporter and  
21 recycler shall, at a minimum, demonstrate compliance with the  
22 United States Environmental Protection Department's Plug-In to  
23 eCycling Guidelines for Materials Management as issued and  
24 available on the EPA's Internet website in addition to any other  
25 requirements mandated by state or Federal law. The department  
26 shall maintain an Internet website that shall include a list of  
27 collectors, transporters, and recyclers that it has determined have  
28 met these performance standards.

29  
30 12. On and after January 1, 2009, no person shall knowingly  
31 dispose of a used covered electronic device, or any of the  
32 components or subassemblies thereof, as solid waste.

33  
34 13. a. The State, including the Attorney General and the  
35 department, shall be authorized to initiate independent action to  
36 enforce any provision of this law, including failure by the  
37 manufacturer to remit the fee to the department. Any funds  
38 awarded by the court shall be used first to offset enforcement  
39 expenses. Money in excess of the enforcement expenses shall be  
40 deposited with the department.

41 b. An offense shall be considered:

42 (1) the sale of a new covered electronic device by any person  
43 that is not in full compliance with the provisions of this act;

44 (2) application for compensation for the collection,  
45 transportation and recycling of covered electronic products not  
46 collected within the State, or region as provided in section 16 of this  
47 act;

1 (3) use of a qualified collection program to recycle covered  
2 electronic products not discarded within the State, or region as  
3 provided in section 15 of this act;

4 (4) the knowing failure to report or accurately report any data  
5 required to be reported to the department pursuant to this act;

6 (5) non-payment of fees.  
7

8 14. a. The department shall adopt, pursuant to the  
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
10 seq.), rules and regulations as are necessary to effectuate the  
11 purposes of this act.

12 b. The department may, in accordance with a fee schedule  
13 adopted as a rule or regulation pursuant to the provisions of the  
14 "Administrative Procedure Act," establish and charge reasonable  
15 fees for any of the services to be performed in connection with this  
16 act, which shall cover the full costs incurred by the department for  
17 the review of plans and for other costs incurred by the department  
18 for implementation of this act.  
19

20 15. The department is authorized to participate in the  
21 establishment and implementation of a regional, multi-state  
22 organization or compact to assist in carrying out the requirements  
23 of this act.  
24

25 16. This act is intended to govern all aspects of the collection  
26 and recycling of covered electronic devices as those terms are  
27 defined herein. Upon the implementation of an acceptable  
28 national program to collect or recycle covered electronic devices,  
29 the provisions of this act shall expire within the timeframe  
30 determined by Federal law.  
31

32 17. a. It is the intent of the Legislature that, except as otherwise  
33 specifically provided in this act, in the event of any conflict or  
34 inconsistency in the provisions of this act and any other acts  
35 pertaining to matters herein established or provided for or in any  
36 rules and regulations adopted under this act and under any other  
37 acts, to the extent of such conflict or inconsistency, the provisions  
38 of this act and the rules and regulations adopted hereunder shall be  
39 enforced and the provisions of such other acts and rules and  
40 regulations adopted pursuant thereto shall be of no effect.

41 b. The provisions of this act shall be severable, and if any  
42 section, part, phrase, or provision of this act or the application  
43 thereof to any person be adjudged invalid by any court of competent  
44 jurisdiction, such judgment shall be confined in its operation to the  
45 section, part, phrase, provision, or application directly involved in  
46 the controversy in which the judgment shall have been rendered and  
47 it shall not affect or impair the validity of the remainder of this act  
48 or the application thereof to other persons.

1 c. The object, design and purpose of this act being the protection  
2 of the environment and public health through the proper and  
3 environmentally-sound management of electronic waste in this  
4 State, and the maintenance of a proper balance, as provided herein,  
5 between competing public and private interests, this act shall be  
6 liberally construed to give effect to the purposes thereof.  
7

8 18. This act shall take effect on January 1, 2007.  
9  
10

11 STATEMENT  
12

13 This bill is based on Model Electronic Recycling Legislation  
14 prepared by the Eastern Regional Conference of the Council of  
15 State Governments, in conjunction with the Northeast Recycling  
16 Council, Inc. The model bill, as revised in July 2006, establishes a  
17 comprehensive recycling system that ensures the safe and  
18 environmentally-sound management of electronic devices and  
19 components; encourages the design of electronic devices and  
20 components that are less toxic and more recyclable; and promotes  
21 the development of a statewide infrastructure for collection and  
22 recycling of so-called end-of-life electronics.

23 The bill provides that any manufacturer of covered electronic  
24 devices that is not in compliance with all financial and other  
25 requirements of this bill would be prohibited from selling or  
26 offering a covered electronic device for sale in this State.

27 A "covered electronic device" means all desktop or personal  
28 computers, computer monitors, portable computers, and televisions  
29 sold to consumers.

30 A "covered electronic device" does not include any of the  
31 following: (1) an electronic device that is a part of a motor vehicle  
32 or any component part of a motor vehicle assembled by, or for, a  
33 vehicle manufacturer or franchised dealer, including replacement  
34 parts for use in a motor vehicle; (2) an electronic device that is  
35 functionally or physically a part of a larger piece of equipment  
36 designed and intended for use in an industrial, commercial, or  
37 medical setting, including diagnostic, monitoring, or control  
38 equipment; (3) an electronic device that is contained within a  
39 clothes washer, clothes dryer, refrigerator, refrigerator and freezer,  
40 microwave oven, conventional oven or range, dishwasher, room air  
41 conditioner, dehumidifier, or air purifier; or (4) a telephone of any  
42 type unless it contains a video display area greater than four inches  
43 measured diagonally.

44 The bill provides further that it would be unlawful for any person  
45 to sell or offer for sale in this State a new covered electronic device  
46 from a manufacturer that is not in full compliance with the  
47 requirements of this bill. The Department of Environmental  
48 Protection (DEP) must maintain a list of all manufacturers in

1 compliance with these requirements post the list on the DEP's  
2 Internet website. Sellers of products in or into the State must  
3 consult the list prior to selling covered electronic devices in this  
4 State. A seller shall be considered to have complied with this  
5 responsibility if, on the date that the product was ordered from the  
6 manufacturer or its agent, the manufacturer was listed as being in  
7 compliance on the aforementioned website.

8 In addition, a manufacturer or retailer may not sell or offer for  
9 sale a covered electronic product in this State unless it is labeled  
10 with the manufacturer's brand, and the label is permanently affixed  
11 and readily visible.

12 Under the bill, every manufacturer must report to the DEP by  
13 January 30 of each year the total weight of covered electronic  
14 devices sold in this State the previous calendar year. Alternatively,  
15 a manufacturer may request that the DEP calculate the total weight  
16 of covered electronic devices sold in this State by using prorated  
17 national sales data based on State population.

18 Every manufacturer must register with the DEP by January 30 of  
19 each year and pay a registration fee of \$5,000.

20 Further, every manufacturer must submit an additional fee based  
21 on sales in this State to the DEP, which would be calculated using  
22 the following formula: the State recycling rate multiplied by the  
23 weight of sales of the manufacturer's covered electronic devices  
24 sold in this State during the previous calendar year, multiplied by  
25 no more than \$0.50 per pound.

26 In lieu of paying an additional fee, a manufacturer or a group of  
27 manufacturers may submit a plan to collect, transport, and recycle  
28 covered electronic devices. The plan must include the collection,  
29 transportation, and recycling of a quantity of covered electronic  
30 devices equal to the weight of sales of the manufacturer's covered  
31 electronic devices in this State during the previous calendar year  
32 multiplied by the State recycling rate. A group of manufacturers  
33 jointly submitting a plan must collect, transport, and recycle the  
34 sum of the obligations of each participating manufacturer.

35 Every plan shall be filed with a manufacturer's annual  
36 registration, and must include, at a minimum, the following  
37 information:

38 (1) Methods that will be used to collect the covered electronic  
39 devices including the name and locations of all collection and  
40 consolidation points;

41 (2) An estimate of the amount of covered electronic devices that  
42 will be collected annually;

43 (3) The processes and methods that will be used to recycle  
44 recovered covered electronic devices including a description of the  
45 disassembly, physical recovery operation, including crushing,  
46 shredding, grinding, glass-to-glass recycling, and for other  
47 operations that will be used, including the name and location of all  
48 facilities to be utilized;



1 (4) Documentation of audits of each processor used in the plan  
2 and compliance with processing standards established under the  
3 bill;

4 (5) A description of the accounting and reporting systems that  
5 will be employed to track progress toward fulfilling the plan's  
6 obligations;

7 (6) Means that will be utilized to publicize the collection  
8 opportunities;

9 (7) The intention of the registrant to fulfill its obligations  
10 through operation of its own program, either individually or in  
11 partnership with other manufacturers; and

12 (8) The total weight of covered electronic devices collected,  
13 transported and recycled the previous year.

14 Upon approval of the plan by the DEP, the payment of the annual  
15 fees based upon sales by the manufacturer would be waived. The  
16 DEP may reject the plan, in whole or in part, and may impose  
17 additional requirements as a condition of approval.

18 Any manufacturer that fails to comply with all the conditions and  
19 terms of an approved plan would be required to submit the  
20 following:

21 (1) A payment to the DEP to cover the cost of collecting,  
22 transporting, and recycling the unmet portion of its obligation. The  
23 payment shall be equal to the following formula: the quantity of the  
24 outstanding portion, in pounds, multiplied by no more than \$0.50,  
25 and;

26 (2) A penalty in the form of a payment equal to the cost of  
27 collecting, transporting and recycling 10% of the manufacturer's  
28 total obligation.

29 Manufacturers that collect, transport, and recycle covered  
30 electronic devices in excess of their obligation may sell credits to  
31 another registrant or apply that excess to the following year's  
32 recycling obligation.

33 The bill provides that every retailer must clearly post and  
34 provide information provided by the DEP that describes where and  
35 how to recycle the covered electronic device and opportunities and  
36 locations for the collection or return of the device, through the use  
37 of a toll-free telephone number and website, information included  
38 in the packaging, or information provided accompanying the sale of  
39 the covered electronic device. This information must be provided  
40 in clear written form in English and any other languages deemed to  
41 be primary languages by the State Department of Education.

42 A retailer may only sell products from registrants. Retailers  
43 must consult the list posted on the DEP's Internet website prior to  
44 selling covered electronic devices in this State. A retailer shall be  
45 considered to have complied with this responsibility if on the date  
46 that the product was ordered from the manufacturer or its agent, the  
47 manufacturer was listed as being in compliance on the website.

1 By February 15 of each year, the DEP must establish the State  
2 recycling rate, by calculating the ratio of the weight of total overall  
3 returns of covered electronic devices in the State to the weight of  
4 total overall sales of covered electronic devices in the State during  
5 the previous calendar year.

6 By March 1 of each year, the DEP must provide each registrant  
7 with its responsibility for fees from sales or for collection,  
8 recycling, and transportation in pounds for that year.

9 The DEP must organize, administer, and ensure that at least one  
10 electronics collection opportunity is available at least 5 days a week  
11 in each county throughout the State and in such a manner as to be  
12 convenient, to the maximum extent practicable and feasible, to all  
13 consumers in the county.

14 The DEP must ensure that collection sites do not place limits on  
15 the number of covered electronic devices permitted for drop-off by  
16 consumers.

17 The DEP must encourage the use of existing collection and  
18 consolidation infrastructures for handling covered electronic  
19 devices to the extent that this infrastructure is accessible on a  
20 regular and ongoing basis to at least 85% of the population of the  
21 State, is cost effective, and meets the environmentally sound  
22 management requirements of the bill.

23 In addition,. the DEP must: (1) maintain a list of registrants and  
24 post the list on the DEP's Internet website that is updated at least  
25 once a month; (2) organize and coordinate public education and  
26 outreach; and (3) use the revenues received from registrants for the  
27 sole purpose of fulfilling its responsibilities under the bill. In the  
28 event that expenses from administration, education, collection,  
29 transportation, and recycling activities exceed receipts, the DEP  
30 may borrow up to 10% of the projected annual State revenues from  
31 fees submitted under the bill from outside sources. Borrowed funds  
32 must be repaid within two years.

33 The DEP must prepare a plan every three years that: (1)  
34 establishes per-capita collection and recycling goals; and (2)  
35 identifies any necessary State actions to expand collection  
36 opportunities to achieve the per-capita collection and recycling  
37 goals. The plan must be posted on the DEP's Internet website and  
38 submitted to the Legislature.

39 The DEP must also prepare an annual report, which shall be  
40 posted on the DEP's Internet website and submitted to the  
41 Legislature. The annual report must include the following:

42 (1) A list of all parties that the DEP has designated as approved  
43 to receive payments for collection, transportation, or recycling, the  
44 amount of payments it has made to those parties, and the purpose of  
45 those payments;

46 (2) The total weight of covered electronic devices collected in  
47 the State the previous calendar year;

1 (3) The total weight of covered electronic devices sold in the  
2 State the previous calendar year;

3 (4) Progress toward achieving the overall annual total recovery  
4 and recycling goals described in the three-year plan prepared by the  
5 DEP;

6 (5) A complete listing of all collection sites operating in the  
7 State in the prior calendar year, the parties that operated them, and  
8 the amount of material by weight collected at each site;

9 (6) An evaluation of the effectiveness of the education and  
10 outreach program;

11 (7) An evaluation of the existing collection and processing  
12 infrastructure.

13 The DEP is required to maintain a website and toll-free number  
14 complete with up-to-date listings of where consumers can bring  
15 covered electronics products for recycling.

16 No more frequently than annually and no less frequently than  
17 biennially, the DEP must review, at a public hearing, the covered  
18 electronic device recycling and registration fees. Recommended  
19 changes to the covered electronic device recycling rate and  
20 registration fees must be included in the annual report required  
21 under the bill.

22 No fees or costs may be charged to consumers for the collection,  
23 transportation, or recycling of covered electronic products.

24 The DEP must engage in competitive bidding for the collection,  
25 transportation, and recycling of covered electronic devices in  
26 accordance with the procedures concerning the awarding of public  
27 contracts provided by law.

28 The DEP would make covered electronic device payments for  
29 the collection, transportation, and recycling of covered electronic  
30 devices to an authorized or approved person upon receipt of a  
31 completed and verified invoice.

32 In order to receive payment, proof will be required that:

33 (1) the covered electronic device was collected from a consumer  
34 who is a resident of the State or is otherwise located in the State, or  
35 who provides evidence that the device was purchased in this State  
36 after the bill's effective date;

37 (2) the collection, transportation, and recycling of the covered  
38 electronic devices was conducted in accordance with all local, state,  
39 and Federal laws, including the requirements established under this  
40 bill, and any rules or regulations adopted pursuant thereto; and

41 (3) no fees or costs were charged to the consumer.

42 The DEP must establish performance requirements in order for  
43 collectors, transporters, and recyclers to be eligible to receive funds.  
44 Every collector, transporter and recycler must, at a minimum,  
45 demonstrate compliance with the United States Environmental  
46 Protection Department's Plug-In to eCycling Guidelines for  
47 Materials Management as issued and available on the EPA's  
48 Internet website in addition to any other requirements mandated by

1 state or Federal law. The DEP must maintain an Internet website  
2 that includes a list of collectors, transporters, and recyclers that it  
3 has determined have met these performance standards.

4 The bill imposes a ban on the disposal of used covered electronic  
5 devices, or any of their components or subassemblies, as solid  
6 waste two years after the bill's effective date.

7 The State, including the Attorney General and the DEP, is  
8 authorized to initiate independent action to enforce the bill's  
9 provisions, including failure by the manufacturer to remit the fee to  
10 the DEP. Any funds awarded by the court shall be used first to  
11 offset enforcement expenses.

12 An offense would be considered:

13 (1) the sale of a new covered electronic device by any person  
14 that is not in full compliance with the bill's provisions;

15 (2) application for compensation for the collection,  
16 transportation and recycling of covered electronic products not  
17 collected within the State, or region;

18 (3) use of a qualified collection program to recycle covered  
19 electronic products not discarded within the State, or region;

20 (4) the knowing failure to report or accurately report any data  
21 required to be reported to the DEP pursuant to this act;

22 (5) non-payment of fees.

23 The DEP is authorized to participate in the establishment and  
24 implementation of a regional, multi-state organization or compact  
25 to assist in carrying out the requirements of this bill.

26 This bill is intended to govern all aspects of the collection and  
27 recycling of covered electronic devices in New Jersey. Upon the  
28 implementation of an acceptable national program to collect or  
29 recycle covered electronic devices, the provisions of this  
30 legislation, if enacted, would expire within the timeframe  
31 determined by Federal law.

ASSEMBLY ENVIRONMENT AND SOLID WASTE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3572**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JANUARY 22, 2007

The Assembly Environment and Solid Waste Committee reports favorably and with committee amendments Assembly Bill No. 3572.

This bill, the "Electronic Waste Recycling Act," establishes a recycling system for the safe and environmentally-sound management of electronic devices and components; encourages the design of electronic devices and components that are less toxic and more recyclable; and promotes the development of a Statewide infrastructure for collection and recycling of so-called end-of-life electronics.

This bill provides that any manufacturer of covered electronic devices that is not in full compliance with the requirements of this bill as enacted would be prohibited from selling or offering a covered electronic device for sale in the State. In addition, as amended, the bill provides that beginning on January 1, 2009 it would be unlawful for any person to sell or offer for sale in the State a new covered electronic device from a manufacturer that is not in full compliance with the requirements of this bill as enacted. The Department of Environmental Protection (DEP) would maintain a list of all manufacturers in compliance with these requirements and post the list on the DEP's Internet website. Sellers of products in or into the State would be required to consult the list prior to selling covered electronic devices in the State. A seller would be considered to have complied with this responsibility if, on the date that the product was ordered from the manufacturer or its agent, the manufacturer was listed as being in compliance on the DEP's website.

In addition, a manufacturer or retailer may not sell or offer for sale a covered electronic device in the State unless the device is labeled with the manufacturer's brand, and the label is permanently affixed and readily visible.

The bill imposes a ban on the disposal of used covered electronic devices, or any of their components or subassemblies, as solid waste beginning on January 1, 2009.

As used in the bill, “covered electronic device” means all desktop or personal computers, computer monitors, portable computers, and televisions sold to consumers. “Covered electronic device” does not include: (1) an electronic device that is a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle; (2) an electronic device that is functionally or physically a part of a larger piece of equipment designed and intended for use in an industrial, commercial, or medical setting, including diagnostic, monitoring, or control equipment; (3) an electronic device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or (4) a telephone of any type unless it contains a video display area greater than four inches measured diagonally.

As amended by the committee, the bill would require the DEP, by January 30, 2010, and annually thereafter, to: complete an auditable, statistically significant sampling of covered electronic devices collected from consumers in the State by the DEP during the previous program year, including a list of brands of covered electronic devices and the weight of covered electronic devices that are identified for each brand; and determine the total weight of covered electronic devices, including orphan devices, collected from consumers in the State by the DEP during the previous program year. The bill provides that the costs associated with the sampling would be recovered from the fees paid by manufacturers to the DEP.

The bill, as amended, provides that if a manufacturer or group of manufacturers conducts its own collection, transportation, and recycling program for covered electronic devices, the manufacturer or group of manufacturers would be required to submit a report to the DEP annually by January 30, beginning the year after the program is initiated. The report would include: the results of an auditable, statistically significant sampling of covered electronic devices collected from consumers in the State by the manufacturer or group of manufacturers during the previous program year, including a list of brands of covered electronic devices and the weight of covered electronic devices that are identified for each brand; and the total weight of covered electronic devices, including orphan devices, collected from consumers in the State by the manufacturer or group of manufacturers during the previous program year and documentation verifying collection and recycling of such devices.

By January 1, 2008 and each January 1 thereafter, every manufacturer of covered electronic devices offered for sale for delivery in the State would be required to register with the DEP and pay a registration fee of \$5,000.

As amended, the bill would require, by June 1, 2008, each manufacturer to whom the DEP provides, by April 2, 2008, a return

share in weight that is greater than zero to either submit an additional fee to the DEP based on its return share in weight of covered electronic devices or submit a plan to the DEP to collect, transport, and recycle covered electronic devices.

Each manufacturer to whom the DEP provides, by February 15, 2010 or by February 15 of any year thereafter, a return share in weight that is greater than zero would be required, by March 15 of that year, to submit an additional fee to the DEP based on its return share in weight of covered electronic devices, or submit a plan to the DEP to collect, transport, and recycle covered electronic devices.

As amended, the bill would require that a plan to collect, transport, and recycle covered electronic devices be filed with a manufacturer's annual registration. The plan would include, at a minimum:

(1) the methods that will be used to collect the covered electronic devices including the name and location of proposed collection services;

(2) the processes and methods that will be used to recycle recovered covered electronic devices including a description of the recycling processes that will be used, including the name and location of all recyclers to be directly utilized by the plan;

(3) the means that will be utilized to publicize the collection services; and

(4) the intention of the registrant to fulfill its obligation through operation of its own plan, either individually or with other manufacturers.

Upon approval of the plan by the DEP, the payment of the annual fees based upon return share in weight by the manufacturer would be waived. The bill provides that the DEP may reject the plan, in whole or in part, and may impose additional requirements as a condition of approval.

Any manufacturer that fails to comply with all the conditions and terms of an approved plan would be required to submit: a payment to the DEP to cover the cost of collecting, transporting, and recycling the unmet portion of its obligation calculated according to a formula prescribed in the bill; and a penalty in the form of a payment equal to the cost of collecting, transporting, and recycling 10% of the manufacturer's total obligation.

Manufacturers that collect, transport, and recycle covered electronic devices in excess of their obligation may sell credits to another registrant or apply that excess to the following year's recycling obligation.

The bill provides that every retailer must clearly post and provide information provided by the DEP that describes where and how to recycle the covered electronic device and opportunities and locations for the collection or return of the device. This would be accomplished through the use of a toll-free telephone number and website,

information included in the packaging, or information provided accompanying the sale of the covered electronic device.

As amended, the bill provides that, beginning January 1, 2009, a retailer may only sell products from registrants. Retailers must consult the list posted on the DEP's Internet website prior to selling covered electronic devices in the State. A retailer would be considered to have complied with this responsibility if on the date that the product was ordered from the manufacturer or its agent, the manufacturer was listed as being in compliance on the website.

As amended, the bill requires the DEP to determine the return share for each program year for each manufacturer by dividing the weight of covered electronic devices identified for each manufacturer by the total weight of covered electronic devices identified for all manufacturers. For the first program year, the return share of covered electronic devices identified for each manufacturer would be based on the best available public return share data from the United States, including data from other states, for covered electronic devices from consumers. For the second and each subsequent program year, the return share of covered electronic devices identified for each manufacturer would be based on the most recent samplings of covered electronic devices conducted in the State.

As amended, the bill would require the DEP to determine the return share in weight for each program year for each manufacturer for whom a return share is determined pursuant to the bill by multiplying the return share for each such manufacturer by the total weight in pounds of covered electronic devices, including orphan devices, collected from consumers the previous program year. As amended, the bill requires the DEP, by April 2, 2008, to provide each manufacturer for whom a return share is determined pursuant to the bill with its return share and its return share in weight for the first program year. Annually thereafter, by February 15, beginning in 2010, the DEP would be required to provide each manufacturer for whom a return share is determined pursuant to the bill with its return share and its return share in weight for the second and subsequent program years.

The DEP would be required to organize, administer, and ensure that at least one electronics collection opportunity is available at least five days a week in each county throughout the State and in such a manner as to be convenient, to the maximum extent practicable and feasible, to all consumers in the county. The DEP would also be required to ensure that collection sites do not place limits on the number of covered electronic devices permitted for drop-off by consumers.

In addition, the DEP would be required to encourage the use of existing collection and consolidation infrastructures for handling covered electronic devices to the extent that this infrastructure is



accessible on a regular and ongoing basis to at least 85% of the population of the State, is cost effective, and meets the environmentally sound management requirements of the bill.

In addition, the bill would require the DEP to: maintain a list of registrants, including the brands reported in each manufacturer's registration, and post the list on the DEP's Internet website that is updated at least once a month; organize and coordinate public education and outreach; and use the revenues received from registrants for the sole purpose of fulfilling its responsibilities under the bill. In the event that expenses from administration, education, collection, transportation, and recycling activities exceed receipts, the DEP may borrow from outside sources up to 10% of the projected annual State revenues from fees submitted under the bill. Borrowed funds must be repaid within two years.

The DEP would be required to prepare a plan every three years that: establishes per-capita collection and recycling goals; and identifies any necessary State actions to expand collection opportunities to achieve the per-capita collection and recycling goals. The plan is to be posted on the DEP's Internet website and submitted to the Legislature.

The DEP is also required to prepare an annual report to be posted on the DEP's Internet website and submitted to the Legislature. As amended, the bill requires the annual report to include:

- (1) a list of all parties that the DEP has designated as approved to receive payments for collection, transportation, or recycling, the amount of payments it has made to those parties, and the purpose of those payments;
- (2) the total weight of covered electronic devices collected in the State the previous calendar year;
- (3) the progress toward achieving the overall annual total recovery and recycling goals described in the three-year plan prepared by the DEP;
- (4) a complete listing of all collection sites operating in the State in the prior calendar year, the parties that operated them, and the amount of material by weight collected at each site;
- (5) an evaluation of the effectiveness of the education and outreach program; and
- (6) an evaluation of the existing collection and processing infrastructure.

In addition, the DEP would be required to maintain a website and toll-free number complete with up-to-date listings of where consumers can bring covered electronic devices for recycling.

No more frequently than annually and no less frequently than biennially, the DEP is to review, at a public hearing, the covered electronic device recycling rate and registration fees. Any recommendations for changes to the covered electronic device

recycling rate and registration fees are to be included in the annual report.

The bill provides that no fees or costs may be charged to consumers for the collection, transportation, or recycling of covered electronic devices.

The DEP must engage in competitive bidding for the collection, transportation, and recycling of covered electronic devices in accordance with the procedures concerning the awarding of public contracts provided by law. The DEP would make payments for the collection, transportation, and recycling of covered electronic devices to an authorized or approved person upon receipt of a completed and verified invoice. In order to receive payment, proof will be required that:

- (1) the covered electronic device was collected from a consumer who is a resident of the State or is otherwise located in the State, or who provides evidence that the device was purchased in the State after the bill's effective date;
- (2) the collection, transportation, and recycling of the covered electronic devices was conducted in accordance with all federal, State, and local laws, including the requirements established under this bill, and any rules or regulations adopted pursuant thereto; and
- (3) no fees or costs were charged to the consumer.

The bill requires the DEP to establish performance requirements in order for collectors, transporters, and recyclers to be eligible to receive funds. Every collector, transporter, and recycler must, at a minimum, demonstrate compliance with the United States Environmental Protection Agency's Plug-In to eCycling Guidelines for Materials Management in addition to any other requirements mandated by federal or State law. The DEP is to maintain an Internet website that includes a list of collectors, transporters, and recyclers that it has determined have met these performance requirements.

The bill authorizes the State, including the Attorney General and the DEP, to initiate independent action to enforce the bill's provisions. Any funds awarded by the court are to be used first to offset enforcement expenses. As amended, the bill provides that any funds in excess of enforcement expenses are to be deposited into a separate account, and dedicated for use by the DEP solely for the purposes of administering and enforcing the provisions of the bill. The bill specifies that violations include but are not limited to:

- (1) the sale of a new covered electronic device by any person that is not in full compliance with the bill's provisions;
- (2) the application for compensation for the collection, transportation, and recycling of covered electronic devices not collected within the State, or region as provided in section 15 of the bill;

(3) the use of a qualified collection program to recycle covered electronic devices not discarded within the State, or region as provided in section 15 of the bill;

(4) the knowing failure to report or accurately report any data required to be reported to the DEP; and

(5) the non-payment of fees required to be submitted to the DEP.

The bill authorizes the DEP to participate in the establishment and implementation of a regional, multi-state organization or compact to assist in carrying out the requirements of this bill.

Lastly, as amended, the bill provides that the DEP Commissioner would notify, in writing, the Governor, the President of the Senate and the Speaker of the General Assembly, and the members of the Senate Environment Committee and the Assembly Environment and Solid Waste Committee, or their successors, at such time as the DEP determines that there is an acceptable national program to collect or recycle covered electronic devices. The bill, as amended, provides that the provisions of this legislation, if enacted, would expire 60 days after the date of the DEP's notification or within the timeframe provided by federal law, as appropriate. The bill, as amended, requires the DEP to provide notice in the New Jersey Register of this determination, and authorizes the DEP to take any administrative action necessary in order to implement the national program.

#### COMMITTEE AMENDMENTS:

The committee amendments:

1) revise the definitions of manufacturer and obligation as used in the bill;

2) add definitions for orphan devices, program year, return share, and return share in weight;

3) change a manufacturer's responsibility for the collection, transportation, and recycling of covered electronic devices from being based on a market share to being based on a return share, and require the DEP to complete, by January 30, 2010, and annually thereafter, an auditable, statistically significant sampling of covered electronic devices collected from consumers in the State;

4) require the DEP to determine the return share for each manufacturer for each program year;

5) revise the minimum information required to be included in a manufacturer's plan to collect, transport, and recycle covered electronic devices;

6) delete the requirement that the DEP report the total weight of covered electronic devices sold in the State during the previous calendar year in the DEP's annual report;

7) specify that any funds in excess of enforcement expenses shall be deposited into a separate account, and dedicated for use by the DEP

solely for the purposes of administering and enforcing the provisions of the bill;

8) clarify what would be considered violations;

9) amend section 16 of the bill to require the DEP Commissioner to notify, in writing, the Governor, the President of the Senate and the Speaker of the General Assembly, and the members of the Senate Environment Committee and the Assembly Environment and Solid Waste Committee, or their successors, at such time as the DEP determines that there is an acceptable national program to collect or recycle covered electronic devices, and provide that the provisions of this legislation, if enacted, would expire 60 days after the date of the DEP's notification or within the timeframe provided by federal law, as appropriate;

10) change the effective date of the bill from January 1, 2007 to January 1, 2008; and

11) make technical amendments throughout the bill.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 3572**

# **STATE OF NEW JERSEY**

DATED: JANUARY 3, 2008

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 3572.

This Assembly Committee Substitute for Assembly Bill No. 3572, the "Electronic Waste Management Act," establishes a recycling system for the safe and environmentally-sound management of electronic devices and components, including televisions.

The substitute provides for the collection and recycling of used televisions by imposing a registration fee on television manufacturers and authorizing that district recycling plans provide for the collection, recycling and disposal of discarded televisions to be paid for by the manufacturers currently selling new televisions in this State, with each television manufacturer paying its share of the cost to collect and recycle used televisions based on the manufacturer's market share. If a county or municipality has not adopted a used television recycling and management program, the Department of Environmental Protection (DEP) will establish a State program in which it will identify and enter into agreements with authorized recyclers to accept used televisions from county and municipal collection sites.

The substitute allows a television manufacturer or group of manufacturers to conduct its own collection, transportation, and used television recycling program. The manufacturer or group of manufacturers must submit a report to the DEP annually by January 30, beginning the year after the program is initiated. The report must include the total weight of used televisions collected from consumers in this State by the manufacturer or group of manufacturers during the previous program year and documentation verifying collection and recycling of these used televisions.

The substitute establishes the Used Television Recycling and Management Program Fund as a nonlapsing, revolving fund in the Department of the Treasury. The fund will be administered by the DEP and credited with all registration and renewal fees and all market share payments made by television manufacturers. Moneys in the fund must be appropriated annually solely:

(1) To make payments to counties or municipalities based upon the costs incurred by each county and municipality for its used television recycling and management program;

(2) To provide funding for a State used television recycling and management program, including the administrative expenses thereof; and

(3) To make payments to authorized recyclers for the recycling of used televisions.

Any person committed to a jail, prison, or other institution for the detention of persons charged with or convicted of an offense will be disqualified from being an authorized used television recycler.

The substitute requires the DEP to establish criteria for county or municipal television recycling and management programs by July 1, 2009. The DEP will require the county or municipality to maintain records of the volume of used televisions collected and recycled and to report to the DEP the name and address of each authorized recycler and the number of pounds of used televisions delivered to each authorized recycler. The DEP will make payments to the county or municipality based upon the costs incurred by each county and municipality for its television recycling and management program. These payments will be made from the payments made by television manufacturers currently selling televisions in this State and are based on each manufacturer's market share.

Within 12 months of the effective date of the substitute, each district recycling plan must be modified to include the designation of collection sites for the delivery of used televisions, and may be modified to include other covered electronic devices. Further, each municipality must provide for collection sites for the delivery of used televisions by consumers, and the delivery of other covered electronic devices if designated in the district recycling plan. If a county or municipality has not adopted a television recycling and management program, the DEP will establish a State used television recycling and management program. The DEP will identify and enter into agreements with authorized used televisions recyclers to accept used televisions from county and municipal collection sites.

The substitute provides that any manufacturer of covered electronic devices that is not in full compliance with the requirements of this bill as enacted will be prohibited from selling or offering a covered electronic device for sale in the State. The substitute provides that beginning on January 1, 2010 it will be unlawful for any person to sell or offer for sale in the State a new covered electronic device from a manufacturer that is not in full compliance with the requirements of this bill as enacted. The DEP will maintain a list of all manufacturers in compliance with these requirements and post the list on the DEP's Internet website.

Beginning on January 1, 2009, a manufacturer or retailer may not sell or offer for sale a covered electronic device in the State unless the

device is labeled with the manufacturer's brand, and the label is permanently affixed and readily visible.

The substitute imposes a ban on the disposal of used covered electronic devices, or any of their components or subassemblies, as solid waste beginning on January 1, 2010.

The substitute requires the DEP, by January 30, 2011, and annually thereafter, to: complete an auditable, statistically significant sampling of covered electronic devices collected from consumers in the State by the DEP during the previous program year, including a list of brands of covered electronic devices and the weight of covered electronic devices that are identified for each brand; and determine the total weight of covered electronic devices, including orphan devices, collected from consumers in the State by the DEP during the previous program year. The substitute provides that the costs associated with the sampling would be recovered from the fees paid by manufacturers to the DEP.

The substitute provides that if a manufacturer or group of manufacturers conducts its own collection, transportation, and recycling program for covered electronic devices, the manufacturer or group of manufacturers will be required to submit a report to the DEP annually by January 30, beginning the year after the program is initiated. The report will include: the results of an auditable, statistically significant sampling of covered electronic devices collected from consumers in the State by the manufacturer or group of manufacturers during the previous program year, including a list of brands of covered electronic devices and the weight of covered electronic devices that are identified for each brand; and the total weight of covered electronic devices, including orphan devices, collected from consumers in the State by the manufacturer or group of manufacturers during the previous program year and documentation verifying collection and recycling of such devices.

By February 1, 2009 and each January 1 thereafter, every manufacturer of covered electronic devices offered for sale for delivery in the State must register with the DEP and pay a registration fee of \$5,000.

The substitute requires, by June 1, 2009, each manufacturer to whom the DEP provides, by April 2, 2009, a return share in weight that is greater than zero to either submit an additional fee to the DEP based on its return share in weight of covered electronic devices or submit a plan to the DEP to collect, transport, and recycle covered electronic devices.

Each manufacturer to whom the DEP provides, by February 15, 2011 or by February 15 of any year thereafter, a return share in weight that is greater than zero is required, by March 15 of that year, to submit an additional fee to the DEP based on its return share in weight of covered electronic devices, or submit a plan to the DEP to collect, transport, and recycle covered electronic devices.

The substitute requires that a plan to collect, transport, and recycle covered electronic devices be filed with a manufacturer's annual registration. Upon approval of the plan by the DEP, the payment of the annual fees based upon return share in weight by the manufacturer would be waived. The substitute provides that the DEP may reject the plan, in whole or in part, and may impose additional requirements as a condition of approval.

Recovered covered electronic devices may not be sent to prisons for recycling either directly or through intermediaries and the substitute prohibits the recycling of covered electronic devices by prisoners.

Any manufacturer that fails to comply with all the conditions and terms of an approved plan would be required to submit: a payment to the DEP to cover the cost of collecting, transporting, and recycling the unmet portion of its obligation calculated according to a formula prescribed in the substitute bill; and a penalty in the form of a payment equal to the cost of collecting, transporting, and recycling 10% of the manufacturer's total obligation.

Manufacturers that collect, transport, and recycle covered electronic devices in excess of their obligation may sell credits to another registrant or apply that excess to the following year's recycling obligation.

The substitute provides that every retailer must provide information provided by the DEP that describes where and how to recycle the covered electronic device and opportunities and locations for the collection or return of the device. This will be accomplished through the use of a toll-free telephone number and Internet website, information included in the packaging, or information provided accompanying the sale of the covered electronic device.

The substitute provides that, beginning January 1, 2010, a retailer may only sell products from registrants.

The substitute requires the DEP to determine the return share for each program year for each manufacturer by dividing the weight of covered electronic devices identified for each manufacturer by the total weight of covered electronic devices identified for all manufacturers. For the first program year, the return share of covered electronic devices identified for each manufacturer would be based on the best available public return share data from the United States, including data from other states, for covered electronic devices from consumers. For the second and each subsequent program year, the return share of covered electronic devices identified for each manufacturer would be based on the most recent samplings of covered electronic devices conducted in the State.

The substitute requires the DEP to determine the return share in weight for each program year for each manufacturer for whom a return share is determined pursuant to the substitute by multiplying the return share for each such manufacturer by the total weight in pounds of



covered electronic devices, including orphan devices, collected from consumers the previous program year. The substitute requires the DEP, by April 2, 2009, to provide each manufacturer for whom a return share is determined pursuant to the provisions of the substitute with its return share and its return share in weight for the first program year. Annually thereafter, by February 15, beginning in 2011, the DEP is required to provide each manufacturer for whom a return share is determined pursuant to the provisions of the substitute with its return share and its return share in weight for the second and subsequent program years.

The substitute requires the DEP to organize, administer, and ensure that at least one electronics collection opportunity is available at least five days a week in each county throughout the State and in such a manner as to be convenient, to the maximum extent practicable and feasible, to all consumers in the county. The DEP must also ensure that collection sites do not place limits on the number of covered electronic devices permitted for drop-off by consumers.

In addition, the substitute requires the DEP to (1) maintain a list of registrants, including the brands reported in each manufacturer's registration, and post the list on the DEP's Internet website that is updated at least once a month; and (2) organize and coordinate public education and outreach.

The substitute requires the DEP to prepare a plan every three years that: establishes per-capita collection and recycling goals; and identifies any necessary State actions to expand collection opportunities to achieve the per-capita collection and recycling goals. The plan is to be posted on the DEP's Internet website and submitted to the Legislature.

The DEP is also required to prepare an annual report to be posted on the DEP's Internet website and submitted to the Legislature.

In addition, the DEP is required to maintain an Internet website and toll-free number complete with up-to-date listings of where consumers can bring covered electronic devices for recycling.

No more frequently than annually, and no less frequently than biennially, the DEP is to review, at a public hearing, the covered electronic device recycling rate and registration fees. Any recommendations for changes to the covered electronic device recycling rate and registration fees are to be included in the annual report.

The substitute provides that no fees or costs may be charged to consumers for the collection, transportation, or recycling of covered electronic devices.

The DEP must engage in competitive bidding for the collection, transportation, and recycling of covered electronic devices in accordance with the procedures concerning the awarding of public contracts provided by law. The DEP will make payments for the collection, transportation, and recycling of covered electronic devices

to an authorized or approved person upon receipt of a completed and verified invoice.

The substitute requires the DEP to establish performance requirements in order for collectors, transporters, and recyclers to be eligible to receive funds. Every collector, transporter, and recycler must, at a minimum, demonstrate compliance with the United States Environmental Protection Agency's Plug-In to eCycling Guidelines for Materials Management in addition to any other requirements mandated by federal or State law. The DEP is to maintain an Internet website that includes a list of collectors, transporters, and recyclers that it has determined have met these performance requirements.

The substitute authorizes the State, including the Attorney General and the DEP, to initiate independent action to enforce the substitute bill's provisions. Any funds awarded by the court are to be used first to offset enforcement expenses. The substitute provides that any funds in excess of enforcement expenses are to be deposited into a separate account, and dedicated for use by the DEP solely for the purposes of administering and enforcing the provisions of the substitute.

The substitute authorizes the DEP to participate in the establishment and implementation of a regional, multi-state organization or compact that is consistent with the requirements in this substitute.

Lastly, the substitute requires the DEP, by January 1, 2013, to prepare a report, which must be posted on the department's Internet website and submitted pursuant to law to the Legislature, assessing the success or failure of the electronic waste management system implemented pursuant to this substitute relative to the statutory management of covered electronic devices in other states, including jurisdictions that have adopted a producer responsibility model versus those that have adopted an advance recovery fee approach, or both, with respect to the recycling of used televisions and other covered electronic devices.

The Assembly Committee Substitute for Assembly Bill No. 3572 is identical to the Senate Substitute for SCS for Senate Bill No. 554 SCS.

FISCAL IMPACT:

The Office of Legislative Services has no data available to it at this time that would allow the estimation of program costs or revenues from fees.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

**ASSEMBLY, No. 3572**

## **STATE OF NEW JERSEY 212th LEGISLATURE**

DATED: FEBRUARY 26, 2007

### SUMMARY

- Synopsis:** “Electronic Waste Recycling Act”
- Type of Impact:** The General Fund will receive revenues from fees imposed under the bill and incur program cost expenditures.
- Agencies Affected:** Department of Environmental Protection

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>			
<b>State Revenue</b>	Indeterminate - See Comments Below		

- The “Electronic Waste Recycling Act,” establishes a collection and recycling system for end-of-life desktop or personal computers and monitors, portable computers, and televisions.
- The bill encourages the design of these electronic devices that is less toxic and more recyclable, and imposes a ban on the disposal of used electronic devices in the solid waste stream.
- The Department of Environmental Protection (DEP) is directed to establish and manage a program whereby manufacturers of these electronic devices would be required to comply with regulations governing their sale and proper disposal. The DEP is authorized to impose fees on the subject manufacturers to support program costs.
- The Office of Legislative Services cannot provide estimates of program costs or revenues from fees imposed under the bill due to the lack of available data at this time.

### BILL DESCRIPTION

Assembly Bill No. 3572 (1R) of 2006, the “Electronic Waste Recycling Act,” establishes a recycling system for the safe and environmentally-sound management of electronic devices and

components, primarily desktop or personal computers, computer monitors, portable computers, and televisions. The bill encourages the design of electronic devices and components covered under the bill that are less toxic and more recyclable, and promotes the development of a Statewide infrastructure for collection and recycling of these types of “end-of-life” electronics.

Beginning on January 1, 2009, the bill makes it unlawful for any person to sell in the State a new electronic device (i.e. computer or TV) that is not in full compliance with the requirements of the bill. The DEP is directed to maintain a list of all manufacturers in compliance with these requirements and post the list on its Internet website. In addition, on the aforementioned date, a ban on the disposal of those used electronic devices, or any of their components or subassemblies, in the solid waste stream would be imposed.

The bill requires the DEP, by January 30, 2010 and annually thereafter, to complete an auditable, statistically significant sampling of covered electronic devices collected from consumers in the State during the previous program year. The sampling would include the brands and weight of these devices. The bill provides that the costs associated with the sampling would be recovered from the fees paid by manufacturers to the DEP. By January 1, 2008 and each January 1 thereafter, every manufacturer of covered electronic devices offered for sale in the State would be required to register with the DEP and pay a registration fee of \$5,000.

The bill also requires, by June 1, 2008, each manufacturer to whom the DEP provides, by April 2, 2008, a return share in weight that is greater than zero to either submit an additional fee to the DEP based on its return share in weight of covered electronic devices or submit a plan to the DEP to collect, transport, and recycle covered electronic devices. Upon approval of the plan by the DEP, the payment of the annual fees based upon return share in weight by the manufacturer would be waived.

The bill directs the DEP to prepare a plan every three years that establishes per-capita collection and recycling goals, and identifies any necessary State actions to expand collection opportunities to achieve these goals. The plan is to be posted on the DEP’s Internet website and submitted to the Legislature.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services cannot provide estimates of program costs or revenues from fees imposed under the bill due to the lack of data available at this time.

*Section: Environment, Agriculture, Energy and Natural Resources*

*Analyst: Richard M. Handelman  
Senior Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

**SENATE, No. 554**

**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**SYNOPSIS**

"Electronic Waste Producer Responsibility Act."

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning electronic waste management, supplementing  
2 P.L.1987, c.102 and amending P.L.1991, c.521.

3

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

6

7 1. (New section) This act shall be known and may be cited as  
8 the "Electronic Waste Producer Responsibility Act."

9

10 2. (New section) The Legislature finds and declares that:

11 (1) Electronic waste contains lead, mercury, chromium,  
12 cadmium, polyvinyl chloride, mixed plastics, beryllium, brominated  
13 flame retardants and other hazardous substances, and therefore  
14 poses a threat to human health and the environment if improperly  
15 disposed of at the end of their useful life;

16 (2) Less than ten percent of discarded electronic equipment are  
17 currently recycled, with the remainder stockpiled or improperly  
18 disposed of, while large quantities of the toxic equipment intended  
19 for recycling are shipped overseas for dismantling under horrific  
20 conditions and many domestic processors can not attest to the  
21 ultimate disposition of the materials collected;

22 (3) The full extent of the public health threat and environmental  
23 contamination resulting from electronic equipment entering the  
24 waste stream through disposal into solid waste landfills or  
25 incinerators is unknown, but is estimated that forty percent of the  
26 heavy metals in solid waste landfills come from electronic discards;  
27 and

28 (4) Currently, producers of electronic equipment bear none of the  
29 burden or responsibility for safely managing discarded electronic  
30 equipment at the end of its useful life, burdening State taxpayers,  
31 local governments and end users with these costs and  
32 responsibilities;

33 The Legislature therefore determines that it is in the public  
34 interest to shift the financial responsibility for the collection and  
35 recycling of discarded electronic waste from the taxpayers of New  
36 Jersey to the producers of electronic products, as hereinafter  
37 provided.

38

39 3. (New section) As used in this act:

40 "Business concern" means any corporation, association, firm,  
41 partnership, sole proprietorship, trust or other form of commercial  
42 organization;

43 "Commissioner" means the Commissioner of Environmental  
44 Protection;

45 "Department" means the Department of Environmental

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

**Matter underlined thus is new matter.**

1 Protection;

2 "Electronic equipment" means equipment that is dependent on  
3 electric currents electromagnetic fields in order to work properly  
4 and contains one or more printed circuit boards, including, but not  
5 limited to, computer equipment including cathode ray tubes, display  
6 monitors, central processing units, keyboards, printers, computer  
7 peripherals; display monitors, and displays; telecommunication  
8 equipment including telephones, cellular telephones, facsimile  
9 machines, answering machines; small electronic devices and  
10 appliances containing one or more circuit boards; video and stereo  
11 equipment; televisions, toys, games and educational devices  
12 containing one or more printed circuit boards; and major household  
13 appliances containing one or more printed circuit boards;

14 "Electronic waste" means electronic equipment which has been  
15 discarded, become obsolete, ceased to function, is no longer wanted  
16 by its owner, or for any other reason has become available for  
17 recycling or disposal;

18 "Historic electronic waste" means electronic equipment which  
19 became electronic waste prior to the effective date of this act, the  
20 producer of which is a business concern still in business as of the  
21 effective date of this act;

22 "Orphan electronic waste" means electronic waste manufactured  
23 by or bearing the brand name of a business concern which is no  
24 longer in business as of the effective date of this act;

25 "Person" means any individual or business concern;

26 "Producer" means any person that, either as of the effective date  
27 of this act or thereafter, and regardless of the selling technique used,  
28 including by means of distance communication: (1) manufactures  
29 and sells electronic equipment under its own brand; (2)  
30 manufactures and sells electronic equipment without affixing a  
31 brand; (3) resells electronic equipment produced by other suppliers  
32 under its own brand and label; or (4) imports or exports electronic  
33 equipment into this State;

34 "Recycling" means any process by which materials which would  
35 otherwise become solid waste are collected, separated or processed  
36 and returned to the economic mainstream in the form of raw  
37 materials or products; "recycling" shall not include energy recovery  
38 or energy generation by means of incinerating electronic waste  
39 whether apart or in combination with other wastes;

40 "Resource recovery facility" means a solid waste facility  
41 constructed and operated for the incineration of solid waste for  
42 energy production and the recovery of metals and other materials  
43 for reuse;

44 "Re-use" means any operation by which electronic waste or  
45 components thereof are used for the same purpose for which they  
46 were conceived, including the continued use of the electronic  
47 equipment or components thereof which are returned to recyclers or  
48 producers;



1 "Sanitary landfill facility" means a solid waste facility at which  
2 solid waste is deposited on or in the land as fill for the purpose of  
3 permanent disposal or storage for a period exceeding six months,  
4 except that it shall not include any waste facility approved for  
5 disposal of hazardous waste.

6  
7 4. (New section) a. Within 24 months of the effective date of  
8 this act, every producer of electronic equipment sold, offered for  
9 sale, or offered for promotional purposes in this State shall prepare  
10 and submit an electronic waste management plan, in writing, to the  
11 department for implementing a program for financing the  
12 environmentally-sound management of discarded and obsolete  
13 electronic equipment, including orphan electronic waste and  
14 historic electronic waste.

15 b. Every producer of electronic equipment sold, offered for sale,  
16 or offered for promotional purposes in this State shall be  
17 responsible for financing the environmentally-sound management  
18 of the electronic waste from its own products, but may execute this  
19 obligation through individual financing schemes or in cooperation  
20 with other producers.

21 c. Consumers and electronic equipment end users may be  
22 responsible for delivering electronic waste into the collection  
23 system, as may be provided for in the electronic waste management  
24 plan; provided, however, that a producer may include direct  
25 collection, reverse delivery systems, or reverse logistics systems in  
26 the electronic waste management plan.

27 d. Consumers shall not be charged to return electronic waste.

28 e. Any producer that fails to implement a financial responsibility  
29 program within the time provided for in this section shall be  
30 prohibited from selling its products in this State.

31  
32 5. (New section) a. Within 6 months of the effective date of  
33 this act, every producer of electronic equipment sold, offered for  
34 sale, or offered for promotional purposes in this State shall prepare  
35 and submit an electronic waste management plan, in writing, to the  
36 department, which is designed to meet the producer's  
37 responsibilities under this act.

38 b. Each electronic waste management plan submitted by a  
39 producer shall provide, at a minimum, that the producer will  
40 participate in a national collection program for computer products  
41 and cathode ray tubes that will be fully implemented in this State no  
42 later than 6 months following the effective date of this act and that  
43 the collection program will be consistent with the requirements of  
44 this section and with the performance standards established by the  
45 department.

46 The department shall not approve an electronic waste  
47 management plan unless the department finds, in writing, that the  
48 plan, or the collection program, will provide:

1 (1) An effective system for financing the collection, treatment,  
2 recovery, re-use, and disposition of all electronic equipment sold,  
3 offered for sale, or offered for promotional purposes in this State by  
4 the producer;

5 (2) A plan for financing that producer's share of orphan  
6 electronic waste and historic electronic waste in this State, as  
7 determined by the department, as of the effective date of the  
8 producer's financial obligation;

9 (3) A plan for complying with the labeling, consumer  
10 notification, and public education requirements of this act that are  
11 necessary to ensure the protection of electronic equipment users,  
12 processors and recyclers, and ensure participation in the producer's  
13 plan;

14 (4) Documentation of the willingness of all necessary parties  
15 involved to implement the proposed plan, and assurances that the  
16 plan will comply with all applicable State and local environmental  
17 laws and regulations;

18 (5) A description of the performance measures to be used and  
19 reported by the producer to the department to demonstrate that the  
20 collection system is meeting the measures of the collection  
21 program's effectiveness required by the department; and

22 (6) A description of the alternative or additional actions that will  
23 be implemented by the producer to improve the collection, recovery  
24 and recycling systems in the event that the collection program  
25 targets are not met.

26 c. The department may, in accordance with a fee schedule  
27 adopted as a rule or regulation pursuant to the provisions of the  
28 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
29 seq.), establish and charge reasonable fees for any of the services to  
30 be performed in connection with this section, which shall cover the  
31 full costs incurred by the department for the review of proposed  
32 plans and for other costs incurred by the department for  
33 implementation of this section.

34 d. Upon a determination by the department that a producer is not  
35 meeting the performance standards established pursuant to this act  
36 relating to the reduction or elimination of hazardous materials and  
37 to the collection and recycling of electronic waste, the department  
38 may order the producer to take actions the department deems  
39 necessary to achieve the performance standards.

40 e. Any producer that fails to meet any of the requirements of this  
41 section within the time frame required shall be prohibited from  
42 selling electronic equipment in this State.

43

44 6. (New section) a. No person shall knowingly dispose of  
45 electronic waste, including the constituent sub-units or materials  
46 comprising the waste, including, but not limited to, lead, mercury,  
47 chromium, cadmium, polyvinyl chloride, mixed plastics, beryllium,  
48 brominated flame retardants and other hazardous substances, as

1 solid waste.

2 b. No solid waste collector registered pursuant to sections 4 and  
3 5 of P.L.1970, c.39 (C.13:1E-4 and 13:1E-5) shall, at any time,  
4 knowingly collect electronic waste, including the constituent sub-  
5 units or materials comprising the waste, including, but not limited  
6 to, lead, mercury, chromium, cadmium, polyvinyl chloride, mixed  
7 plastics, beryllium, brominated flame retardants and other  
8 hazardous substances, placed for collection and disposal as solid  
9 waste.

10 c. A solid waste collector may refuse to collect the contents of a  
11 solid waste container containing a visible quantity of electronic  
12 waste, including the constituent sub-units or materials comprising  
13 the waste, including, but not limited to, lead, mercury, chromium,  
14 cadmium, polyvinyl chloride, mixed plastics, beryllium, brominated  
15 flame retardants and other hazardous substances.

16 d. No sanitary landfill facility or resource recovery facility in  
17 this State shall knowingly accept for disposal any truckload or roll-  
18 off container of solid waste containing a visible quantity of  
19 electronic waste, including the constituent sub-units or materials  
20 comprising the waste, including, but not limited to, lead, mercury,  
21 chromium, cadmium, polyvinyl chloride, mixed plastics, beryllium,  
22 brominated flame retardants and other hazardous substances, at any  
23 time.

24 e. The owner or operator of a sanitary landfill facility or  
25 resource recovery facility may refuse to accept for disposal any  
26 truckload or roll-off container of solid waste containing a visible  
27 quantity of electronic waste, including the constituent sub-units or  
28 materials comprising the waste, including, but not limited to, lead,  
29 mercury, chromium, cadmium, polyvinyl chloride, mixed plastics,  
30 beryllium, brominated flame retardants and other hazardous  
31 substances.

32

33 7. (New section) a. Within 12 months of the effective date of  
34 this act, every producer of electronic equipment sold, offered for  
35 sale, or offered for promotional purposes in this State shall phase-  
36 out the use of lead, mercury, cadmium, hexavalent chromium,  
37 brominated flame retardants, and polyvinyl chloride and only offer  
38 for sale electronic equipment that contain less harmful alternatives.

39 b. If a producer provides sufficient demonstration to the  
40 department that it is technically impossible to use an alternative  
41 substance, a limited term exemption may be issued by the  
42 department. An exemption shall be rescinded by the department  
43 when the department determines, in writing, that a less harmful  
44 alternative for the substance can be used.

45 c. If the exemption is granted by the department, the department  
46 may assign a limited amount of time before the exemption expires  
47 to ensure that producers are investing in research and development  
48 to identify an appropriate less harmful alternative.

1       8. (New section) a. Within 12 months of the effective date of  
2 this act, all electronic equipment sold, offered for sale, or offered  
3 for promotional purposes in this State shall be clearly marked or  
4 labeled, or informational materials shall be provided with the new  
5 product, which provide consumers and end users with information  
6 relating to the following:

7       (1) the hazardous materials contained in the electronic equipment  
8 and the parts or sub-units which contain the particular substances;

9       (2) the requirements not to dispose of electronic equipment in  
10 sanitary landfill facilities, resource recovery facilities or any other  
11 means not approved as part of the producer's electronic waste  
12 management plan; and

13       (3) a toll-free phone number and Internet web site address where  
14 consumers can obtain information and instructions about the safe  
15 collection of the electronic product through the producer's  
16 electronic waste management plan.

17       b. As part of an approved electronic waste management plan, a  
18 producer shall implement a consumer education plan that will  
19 provide consumers with information about:

20       (1) the prohibition on disposal of electronic waste by any means  
21 not included as part of the producer' approved electronic waste  
22 management plan;

23       (2) the electronic waste return and collection systems available  
24 to them;

25       (3) the potential effects on the environment and human health as  
26 a result of the presence of hazardous substances contained in  
27 electronic equipment and the dangers of improper disposal; and

28       (4) the consumers' and electronic equipment users' roles in  
29 contributing to the re-use, recycling, and other forms of electronic  
30 waste recovery.

31       c. Within 24 months following implementation of the producer's  
32 electronic waste management plan, each producer must demonstrate  
33 to the department that it has achieved a level of 85% public  
34 awareness of the program for each of its covered product categories  
35 through independent public polling. Producers may collectively  
36 undertake such a demonstration of public awareness provided that  
37 the polling instrument is designed to identify public awareness of a  
38 majority of producers' programs or a majority of the electronic  
39 equipment types covered by this act. The design, protocols and  
40 implementation plan for the opinion polling required in this section  
41 must be approved by the department.

42       d. As part of an approved electronic waste management plan,  
43 and to facilitate the environmentally-sound management of  
44 electronic waste, every producer shall demonstrate to the  
45 department that adequate measures have been taken to provide  
46 information to recyclers concerning the producer's electronic  
47 equipment. No later than 12 months after new electronic equipment  
48 enters the market, producers shall provide new information to

1 recyclers regarding the end-of-life treatment of the new product  
2 relating to disassembly, material content, and safety concerns.

3

4 9. (New section) a. All persons collecting, recovering, and  
5 recycling electronic waste as part of an approved electronic waste  
6 management plan shall protect the health and safety of their  
7 workers and contractors by:

8 (1) providing clear evidence to the department, in writing, of  
9 compliance with all State and federal occupational safety and health  
10 laws and regulations;

11 (2) performing routine industrial hygiene monitoring and  
12 quarterly reporting for all facilities for all hazardous materials of  
13 concern, including, but not limited to, monitoring for airborne lead  
14 and bromine, chlorine, and mercury compounds; and

15 (3) performing routine human health monitoring and quarterly  
16 reporting in accordance with all applicable privacy protections for  
17 all workers and contractors, including, but not limited to, blood  
18 testing for exposure to lead and bromine, chlorine, and mercury  
19 compounds.

20 b. No approved electronic waste management plan may include  
21 reliance on prison labor unless all incarcerated workers involved in  
22 the processing and recycling of electronic waste are provided with  
23 compensation equivalent to market rate wages for the work  
24 performed and are afforded the protections of federal and State  
25 occupational safety and health laws and regulations, as well as the  
26 additional worker safety and health protections required by this act.

27

28 10. (New section) a. No person who collects, recovers, treats,  
29 processes, or recycles electronic waste shall export electronic waste  
30 to any country where the export of hazardous waste is prohibited by  
31 the Basel Ban Amendment decision (Decision III/1) of the Basel  
32 Convention on the Control of Transboundary Movement of  
33 Hazardous Waste and Their Disposal.

34 b. No later than January 1 of each year, every producer shall  
35 submit to the department written documentation, in a form and  
36 manner determined by the department, that the implementation of  
37 the producer's approved electronic waste management plan has not  
38 resulted in the overseas export of electronic waste to any country  
39 prohibited by this section.

40

41 11. (New section) a. The provisions of P.L.1971, c.257  
42 (C.52:34-21 et seq.) or any rules and regulations adopted pursuant  
43 thereto to the contrary notwithstanding, no later than 6 months  
44 following the effective date of this act the Director of the Division  
45 of Purchase and Property in the Department of the Treasury shall  
46 establish purchasing and procurement policies requiring vendors of  
47 electronic equipment sold to the State to take back electronic waste  
48 when the equipment becomes obsolete, is discarded or is otherwise

1 taken out of service.

2 b. Notwithstanding other policies or guidelines for the  
3 procurement of equipment, supplies and other products, the  
4 Director of the Division of Purchase and Property in the Department  
5 of the Treasury shall, upon consultation with the department, review  
6 and modify all bid and product specifications relating to the  
7 purchase of electronic equipment so that the specifications do not  
8 discriminate against, but encourage the maximum purchase of  
9 electronic equipment that meets the environmental performance  
10 standards established pursuant to this act relating to the reduction or  
11 elimination of hazardous materials.

12  
13 12. (New section) a. The electronic waste management plans  
14 required pursuant to this act shall be submitted to, reviewed by, and  
15 approved or disapproved by the department on a timely basis.  
16 Plans shall be evaluated based upon their sufficiency in light of all  
17 the required elements and the department shall develop a means for  
18 scoring initial submission and providing feedback to producers for  
19 integration into their final approved electronic waste management  
20 plans.

21 b. Reports detailing performance of the producer's financial  
22 responsibility program and detailing compliance with all the  
23 requirements set forth herein shall be submitted to the department  
24 no later than January 1 of each year. All such reports shall be  
25 reviewed within 6 months of their submission and notices of  
26 deficiency or noncompliance provided by the department to  
27 producers by the end of the following quarter.

28 c. Annual reports required under this section, and all other  
29 reports outlining the results of the implementation of a producer's  
30 electronic waste management plan for the current year and 2 prior  
31 years, shall be made available to the general public through the  
32 Internet, or upon request, at cost.

33  
34 13. (New section) Each person has the right to a healthful  
35 environment and protection from contamination resulting from the  
36 disposal of electronic waste. Any person may enforce this right, as  
37 well as enforce the provisions and requirements of this act, against  
38 any party, government or private, through appropriate legal  
39 proceedings, including declaratory and equitable relief, civil  
40 penalties, and restoration damages, to protect the public health and  
41 environment of the State of New Jersey from pollution, impairment  
42 or destruction resulting from the unlawful disposal of electronic  
43 waste. The court may award the full costs of litigation, including,  
44 but not limited to, reasonable expert witness and attorneys' fees, to  
45 the plaintiffs should they prevail. This provision is supplementary  
46 to existing rights and procedures provided by law.

47  
48 14. (New section) The department shall adopt, pursuant to the

1 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
2 seq.), rules and regulations as are necessary to effectuate the  
3 purposes of this act.

4  
5 15. (New section) It is the intent of the Legislature that, except  
6 as otherwise specifically provided in this act, in the event of any  
7 conflict or inconsistency in the provisions of this act and any other  
8 acts pertaining to matters herein established or provided for or in  
9 any rules and regulations adopted under this act and under any other  
10 acts, to the extent of such conflict or inconsistency, the provisions  
11 of this act and the rules and regulations adopted hereunder shall be  
12 enforced and the provisions of such other acts and rules and  
13 regulations adopted thereunder shall be of no effect.

14  
15 16. (New section) The provisions of this act shall be severable,  
16 and if any section, part, phrase, or provision of this act or the  
17 application thereof to any person be adjudged invalid by any court  
18 of competent jurisdiction, such judgment shall be confined in its  
19 operation to the section, part, phrase, provision, or application  
20 directly involved in the controversy in which the judgment shall  
21 have been rendered and it shall not affect or impair the validity of  
22 the remainder of this act or the application thereof to other persons.

23  
24 17. (New section) The object, design and purpose of this act  
25 being the protection of the environment and public health through  
26 the proper and environmentally-sound management of electronic  
27 waste in this State, and the maintenance of a proper balance, as  
28 provided herein, between competing public and private interests,  
29 this act shall be liberally construed to give effect to the purposes  
30 thereof.

31  
32 18. Section 16 of P.L.1991, c.521 (C.13:1E-99.74) is amended  
33 to read as follows:

34 16. Whenever a county prepares and adopts a district household  
35 hazardous waste management plan, the commissioner may require  
36 the plan to be adopted as an amendment to the district solid waste  
37 management plan required pursuant to the "Solid Waste  
38 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.). Any district  
39 household hazardous waste management plan adopted by a county  
40 shall be subject to approval by the department.

41 a. Each district household hazardous waste management plan,  
42 subject to approval by the department, shall identify the county  
43 strategy or strategies for the collection and disposal of household  
44 hazardous waste, which shall, at a minimum:

45 (1) provide for the collection and disposal of used mercuric  
46 oxide batteries, nickel-cadmium rechargeable batteries and sealed  
47 lead rechargeable batteries at least once every 90 days;

48 (2) be consistent with the provisions of the district recycling plan

1 required pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13);  
2 (3) designate, if necessary, one or more collection sites within  
3 the county for household hazardous waste collection and disposal;  
4 and  
5 (4) include such other information as may be prescribed in rules  
6 or regulations of the department.  
7 b. A district household hazardous waste management plan,  
8 subject to approval by the department, may provide for the  
9 collection and disposal of any used dry cell batteries, cathode ray  
10 tubes from used computer monitors or television sets, or other  
11 forms of electronic waste. For the purposes of this section,  
12 "electronic equipment" means equipment that is dependent on  
13 electric currents electromagnetic fields in order to work properly  
14 and contains one or more printed circuit boards, including, but not  
15 limited to, computer equipment including cathode ray tubes, display  
16 monitors, central processing units, keyboards, printers, computer  
17 peripherals; display monitors, and displays; telecommunication  
18 equipment including telephones, cellular telephones, facsimile  
19 machines, answering machines; small electronic devices and  
20 appliances containing one or more circuit boards; video and stereo  
21 equipment; televisions, toys, games and educational devices  
22 containing one or more printed circuit boards; and major household  
23 appliances containing one or more printed circuit boards; and  
24 "electronic waste" means electronic equipment which has been  
25 discarded, become obsolete, ceased to function, is no longer wanted  
26 by its owner, or for any other reason has become available for  
27 recycling or disposal.  
28 c. Household hazardous waste shall be collected, stored and  
29 transported in accordance with all applicable standards for such  
30 wastes adopted as rules or regulations by the department pursuant to  
31 P.L.1970, c.39, or as prescribed under any other applicable federal  
32 or State law.  
33 d. The department may use a portion of the moneys available in  
34 the State Recycling Fund pursuant to paragraph (2) of subsection b.  
35 of section 5 of P.L.1981, c.278 (C.13:1E-96) for the purposes of  
36 providing to counties technical assistance and training in proper  
37 used dry cell battery management.  
38 (cf: P.L.2002, c.106, s.6)

39  
40 19. This act shall take effect immediately.  
41  
42

43 STATEMENT  
44

45 This bill, the "Electronic Waste Producer Responsibility Act,"  
46 shifts the financial responsibility for the collection and recycling of  
47 discarded electronic waste from the taxpayers of New Jersey to the  
48 producers of electronic equipment.



1 "Electronic equipment" is defined as equipment that is dependent  
2 on electric currents electromagnetic fields in order to work properly  
3 and contains one or more printed circuit boards, including, but not  
4 limited to, computer equipment including cathode ray tubes, display  
5 monitors, central processing units, keyboards, printers, computer  
6 peripherals; display monitors, and displays; telecommunication  
7 equipment including telephones, cellular telephones, facsimile  
8 machines, answering machines; small electronic devices and  
9 appliances containing one or more circuit boards; video and stereo  
10 equipment; televisions, toys, games and educational devices  
11 containing one or more printed circuit boards; and major household  
12 appliances containing one or more printed circuit boards.

13 "Electronic waste" is defined as electronic equipment which has  
14 been discarded, become obsolete, ceased to function, is no longer  
15 wanted by its owner, or for any other reason has become available  
16 for recycling or disposal.

17 Within 24 months of the effective date of the act, every producer  
18 of electronic equipment sold, offered for sale, or offered for  
19 promotional purposes in New Jersey must prepare and submit an  
20 electronic waste management plan, in writing, to the Department of  
21 Environmental Protection (DEP) for implementing a program for  
22 financing the environmentally-sound management of discarded and  
23 obsolete electronic equipment, including orphan electronic waste  
24 and historic electronic waste.

25 A "producer" is defined as any person that, either as of the  
26 effective date of the act or thereafter, and regardless of the selling  
27 technique used, including by means of distance communication: (1)  
28 manufactures and sells electronic equipment under its own brand;  
29 (2) manufactures and sells electronic equipment without affixing a  
30 brand; (3) resells electronic equipment produced by other suppliers  
31 under its own brand and label; or (4) imports or exports electronic  
32 equipment into this State.

33 "Historic electronic waste" is defined as electronic equipment  
34 which became electronic waste prior to the effective date of this act,  
35 the producer of which is a business concern still in business as of  
36 the effective date of this act.

37 "Orphan electronic waste" is defined as electronic waste  
38 manufactured by or bearing the brand name of a business concern  
39 which is no longer in business as of the effective date of this act.

40 Every producer shall be responsible for financing the  
41 environmentally-sound management of the electronic waste from its  
42 own products, but may execute this obligation through individual  
43 financing schemes or in cooperation with other producers.

44 Consumers and electronic equipment end users may be  
45 responsible for delivering electronic waste into the collection  
46 system, as may be provided for in the producer's electronic waste  
47 management plan. Consumers will not be charged to return  
48 electronic waste.

1 Any producer that fails to implement a financial responsibility  
2 program within the time provided for in the act shall be prohibited  
3 from selling its products in this State.

4 Within 6 months of the effective date of the act, every producer  
5 must prepare and submit an electronic waste management plan, in  
6 writing, to the DEP, which is designed to meet the producer's  
7 responsibilities under the act.

8 Each electronic waste management plan submitted by a producer  
9 must provide, at a minimum, that the producer will participate in a  
10 national collection program for computer products and cathode ray  
11 tubes that will be fully implemented in this State no later than 6  
12 months following the effective date of the act, and that the  
13 collection program will be consistent with the requirements of the  
14 act and with the performance standards established by the DEP.

15 The DEP cannot approve an electronic waste management plan  
16 unless it finds, in writing, that the plan, or the collection program,  
17 will provide:

18 (1) An effective system for financing the collection, treatment,  
19 recovery, re-use, and disposition of all electronic equipment sold,  
20 offered for sale, or offered for promotional purposes in this State by  
21 the producer;

22 (2) A plan for financing that producer's share of orphan  
23 electronic waste and historic electronic waste in this State, as  
24 determined by the DEP, as of the effective date of the producer's  
25 financial obligation;

26 (3) A plan for complying with the labeling, consumer  
27 notification, and public education requirements of the act that are  
28 necessary to ensure the protection of electronic equipment users,  
29 processors and recyclers, and ensure participation in the producer's  
30 plan;

31 (4) Documentation of the willingness of all necessary parties  
32 involved to implement the proposed plan, and assurances that the  
33 plan will comply with all applicable State and local environmental  
34 laws and regulations;

35 (5) A description of the performance measures to be used and  
36 reported by the producer to the DEP to demonstrate that the  
37 collection system is meeting the measures of the collection  
38 program's effectiveness required by the DEP; and

39 (6) A description of the alternative or additional actions that will  
40 be implemented by the producer to improve the collection, recovery  
41 and recycling systems in the event that the collection program  
42 targets are not met.

43 The DEP may, in accordance with a fee schedule adopted as a  
44 rule or regulation, establish and charge reasonable fees for any of  
45 its services, which shall cover the full costs incurred by the DEP for  
46 the review of proposed plans and for other costs incurred by the  
47 DEP for implementation of the act.

48 Upon a determination by the DEP that a producer is not meeting

1 the performance standards established under the act relating to the  
2 reduction or elimination of hazardous materials and to the  
3 collection and recycling of electronic waste, the DEP may order the  
4 producer to take actions the DEP deems necessary to achieve the  
5 performance standards. Any producer that fails to meet any of  
6 these requirements within the time frame required will be prohibited  
7 from selling electronic equipment in this State.

8 Within 12 months of the effective date of the act, every producer  
9 must phase-out the use of lead, mercury, cadmium, hexavalent  
10 chromium, brominated flame retardants, and polyvinyl chloride and  
11 only offer for sale electronic equipment that contain less harmful  
12 alternatives. If a producer provides sufficient demonstration to the  
13 DEP that it is technically impossible to use an alternative substance,  
14 the DEP may issue a limited term exemption. The exemption will  
15 be rescinded when the DEP determines, in writing, that a less  
16 harmful alternative for the substance can be used. If the DEP grants  
17 an exemption, the DEP may assign a limited amount of time before  
18 the exemption expires to ensure that producers are investing in  
19 research and development to identify an appropriate less harmful  
20 alternative.

21 Within 12 months of the effective date of the act, all electronic  
22 equipment sold, offered for sale, or offered for promotional  
23 purposes in New Jersey must be clearly marked or labeled, or  
24 informational materials must be provided with the new product,  
25 which provide consumers and end users with information relating to  
26 the following:

27 (1) the hazardous materials contained in the electronic equipment  
28 and the parts or sub-units which contain the particular substances;

29 (2) the requirements not to dispose of electronic equipment in  
30 sanitary landfill facilities, resource recovery facilities or any other  
31 means not approved as part of the producer's electronic waste  
32 management plan; and

33 (3) a toll-free phone number and Internet web site address where  
34 consumers can obtain information and instructions about the safe  
35 collection of the electronic product through the producer's  
36 electronic waste management plan.

37 As part of an approved electronic waste management plan, a  
38 producer must implement a consumer education plan that will  
39 provide consumers with information about:

40 (1) the prohibition on disposal of electronic waste by any means  
41 not included as part of the producer' approved electronic waste  
42 management plan;

43 (2) the electronic waste return and collection systems available  
44 to them;

45 (3) the potential effects on the environment and human health as  
46 a result of the presence of hazardous substances contained in  
47 electronic equipment and the dangers of improper disposal; and

48 (4) the consumers' and electronic equipment users' roles in

1 contributing to the re-use, recycling, and other forms of electronic  
2 waste recovery.

3       Within 24 months following implementation of the producer's  
4 electronic waste management plan, each producer must demonstrate  
5 to the DEP that it has achieved a level of 85% public awareness of  
6 the program for each of its covered product categories through  
7 independent public polling. Producers may collectively undertake  
8 such a demonstration of public awareness provided that the polling  
9 instrument is designed to identify public awareness of a majority of  
10 producers' programs or a majority of the electronic equipment types  
11 covered by the act. The DEP must approve the design, protocols  
12 and implementation plan for the opinion polling.

13       As part of an approved electronic waste management plan, and to  
14 facilitate the environmentally-sound management of electronic  
15 waste, every producer must demonstrate to the DEP that adequate  
16 measures have been taken to provide information to recyclers  
17 concerning the producer's electronic equipment. No later than 12  
18 months after new electronic equipment enters the market, producers  
19 must provide new information to recyclers regarding the end-of-life  
20 treatment of the new product relating to disassembly, material  
21 content, and safety concerns.

22       This bill is based on substantially similar legislation currently  
23 pending in the Rhode Island Legislature.

# SENATE ENVIRONMENT COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 554**

# **STATE OF NEW JERSEY**

DATED: JANUARY 30, 2006

The Senate Environment Committee reports favorably a Senate Committee Substitute for Senate Bill No. 554.

This committee substitute would require that manufacturers of certain electronic devices provide for the collection and recycling of discarded electronic waste. The committee substitute would also provide for the collection and recycling of used televisions by imposing an advanced recovery fee on the sale of new television sets and authorizing that district recycling plans provide a plan for the collection, recycling and disposal of discarded televisions. Grants would be provided to fund the county or municipal television recycling programs. In those instances where a county or municipal television recycling and management program has not been adopted, the Department of Environmental Protection (DEP) shall establish a used television recycling and management program in which the department shall identify and enter into agreements with authorized used televisions recyclers who shall be authorized to accept used televisions from county and municipal collection sites.

A "covered electronic device" means a computer central processing unit, a cathode ray tube, a cathode ray tube device, a flat panel display or similar video display device with a screen that is greater than four inches measured diagonally and that contains one or more circuit boards, but would not include television sets.

The committee substitute excludes from the definition of "covered electronic device" the following: an automobile or service replacement parts built by or for an automobile manufacturer for use in an automobile, a household appliance, a large piece of commercial or industrial equipment, such as commercial medical equipment, that contains a cathode ray tube, a cathode ray tube device, a flat panel display or similar video display device that is contained within, and is not separate from, the larger piece of equipment, or other medical devices as defined under the "Federal Food, Drug, and Cosmetic Act," 21 U.S.C s.301 et seq.

The committee substitute imposes an advance recovery fee of \$10 upon the sale of each new television sold at retail. The advance recovery fee would be added to the total cost to the purchaser at retail

after all applicable sales taxes on the television have been computed and must be separately stated on the invoice or bill of sale.

The substitute bill establishes the Used Television Management Fund as a nonlapsing, revolving fund in the Department of the Treasury. The Fund will be administered by the DEP and credited with all advance recovery fees collected by the Director of the Division of Taxation in the Department of the Treasury. Moneys in the fund must be appropriated annually solely for the following purposes:

(1) To provide grants to counties or municipalities to fund a used television recycling and management program, including the administrative expenses thereof;

(2) For the DEP's actual expenses in administering the grant program;

(3) To provide funding for a State used television recycling and management program, including the administrative expenses thereof; and

(4) To make recycling payments to authorized used television recyclers.

Within six months of the effective date of the committee substitute, the DEP must establish criteria for county or municipal television recycling and management programs. The DEP must also develop a grant program to pay for the county and municipal costs of the programs. The DEP may require the county or municipality, as appropriate, to maintain records of the volume of used televisions collected and recycled and to report to the DEP the name and address of each authorized recycler and the number of used televisions delivered to each authorized recycler. The DEP will make grant awards to the county or municipality, as the case may be, based upon the costs incurred by each county and municipality for its television recycling and management program.

The committee substitute requires that, within 12 months of the bill's effective date, each district recycling plan must be modified to include the designation of collection sites for the delivery of used televisions, electronic waste by consumers and covered electronic device end users, and may be modified to include a television recycling and management program. Further, each municipality must provide for collection sites for the delivery of used televisions by consumers, and the delivery of electronic waste by consumers and covered electronic device end users if designated in the district recycling plan. In those instances where a county or municipal television recycling and management program has not been adopted, the department shall establish a used television recycling and management program. The department shall identify and enter into agreements with authorized used televisions recyclers who shall be authorized to accept used televisions from county and municipal collection sites.

The committee substitute requires every manufacturer of covered electronic devices sold, offered for sale, or offered for promotional purposes in this State to prepare and submit an electronic waste management plan, in writing, to the DEP within 12 months of the bill's effective date. The plan is designed to meet the manufacturer's financial responsibilities under the substitute bill, and sets forth a strategy for financing the environmentally-sound management of discarded and obsolete covered electronic devices, including orphan electronic waste and historic electronic waste.

"Historic electronic waste" means a covered electronic device which became electronic waste prior to the substitute bill's effective date, the manufacturer of which is a business concern still in business as of the effective date of the substitute bill.

"Manufacturer" means any person that, either as of the substitute bill's effective date or thereafter, and regardless of the selling technique used, including, but not limited to, transactions conducted through sales outlets, catalogs or the Internet: (1) manufactures and sells covered electronic devices under its own brand or sells covered electronic devices produced by other suppliers under its own brand and label; (2) manufactures and sells covered electronic devices without affixing a brand; (3) resells covered electronic devices produced by other suppliers under its own brand and label; or (4) imports or exports covered electronic devices into this State.

"Orphan electronic waste" means a covered electronic device, the manufacturer of which cannot be identified, or a covered electronic device manufactured by or bearing the brand name of a business concern which is no longer in business as of the substitute bill's effective date.

Every manufacturer shall be responsible for financing the environmentally-sound management of the electronic waste from its own products, as well as its proportionate share of orphan electronic waste and historic electronic waste in this State, as determined by the DEP, but may execute this obligation through individual financing schemes or in cooperation with other manufacturers.

Consumers and covered electronic device end users may be responsible for delivering electronic waste into the collection system, including collection sites designated in district recycling plans as required under the committee substitute, as may be provided for in the electronic waste management plan. A manufacturer may include direct collection, reverse delivery systems, or reverse logistics systems in the electronic waste management plan.

Consumers shall not be charged to return electronic waste.

Any manufacturer that fails to submit an electronic waste management plan within the time provided for in the substitute bill is subject to a fine of not more than the equivalent of \$25 per individual covered electronic device sold by that manufacturer during the previous calendar year.

Each electronic waste management plan submitted by a manufacturer shall provide, at a minimum, that the manufacturer will participate in a national collection program for used computer monitors or television sets that will be fully implemented in this State and that the collection program will be consistent with the requirements and performance standards established by the DEP.

The DEP shall not approve an electronic waste management plan unless the department finds, in writing, that the plan, or the collection program, will provide:

(1) An effective system for financing the collection, treatment, recovery, re-use, and disposition of all covered electronic devices sold, offered for sale, or offered for promotional purposes in this State by the manufacturer;

(2) A plan for financing that manufacturer's share of orphan electronic waste and historic electronic waste in this State, as determined by the DEP, as of the effective date of the manufacturer's financial obligation;

(3) A plan for complying with the labeling, consumer notification, and public education requirements of the substitute bill that are necessary to ensure the protection of covered electronic device users, processors and recyclers, and ensure participation in the manufacturer's plan;

(4) Documentation of the willingness of all necessary parties involved to implement the proposed plan, and assurances that the plan will comply with all applicable State and local environmental laws and regulations;

(5) A description of the performance measures to be used and reported by the manufacturer to the DEP to demonstrate that the collection system is meeting the measures of the collection program's effectiveness required by the DEP; and

(6) A description of the alternative or additional actions that will be implemented by the manufacturer to improve the collection, recovery and recycling systems in the event that the collection program targets are not met.

The DEP may establish and charge reasonable fees for the review of proposed electronic waste management plans and for other costs incurred by the DEP for implementation of the committee substitute.

Upon a determination by the DEP that a manufacturer is not meeting the performance standards relating to the reduction or elimination of hazardous materials and to the collection and recycling of electronic waste, the DEP may order the manufacturer to take actions the department deems necessary to achieve the performance standards.

Any manufacturer that fails to meet any of these requirements within the time frame required shall be prohibited from selling covered electronic devices in this State. A manufacturer not in compliance with the requirements of the substitute bill is required to provide the



necessary support to retailers to ensure the manufacturer's covered electronic devices are not offered for sale in this State.

A retailer may not offer for sale in this State a covered electronic device of a manufacturer that is not in compliance with the provisions of the substitute bill.

Within 12 months of the substitute bill's effective date, every manufacturer must phase-out the use of lead, mercury, cadmium, hexavalent chromium, brominated flame retardants, and polyvinyl chloride and only offer for sale covered electronic devices that contain less harmful alternatives.

If a manufacturer provides sufficient demonstration to the DEP that it is technically impossible to use an alternative substance, the DEP may issue a limited term exemption. An exemption shall be rescinded by the DEP when it determines, in writing, that a less harmful alternative for the substance can be used. If the exemption is granted by the DEP, the DEP may assign a limited amount of time before the exemption expires to ensure that manufacturers are investing in research and development to identify an appropriate less harmful alternative.

Within 12 months of the substitute bill's effective date, all covered electronic devices sold, offered for sale, or offered for promotional purposes in this State shall be clearly marked or labeled, or informational materials shall be provided with the new product, which provide consumers and end users with information relating to the following:

(1) the visible, permanent label affixed to the covered electronic device clearly identifies the manufacturer;

(2) the hazardous materials contained in the covered electronic devices and the parts or sub-units which contain the particular substances;

(3) the requirements not to dispose of covered electronic devices in sanitary landfill facilities, resource recovery facilities or any other means not approved as part of the manufacturer's electronic waste management plan; and

(4) a toll-free phone number and Internet web site address where consumers can obtain information and instructions about the safe collection of the covered electronic device through the manufacturer's electronic waste management plan.

As part of an approved electronic waste management plan, a manufacturer shall implement a consumer education plan.

The substitute bill prohibits the knowing disposal of used televisions and electronic waste, including the constituent sub-units or materials comprising the waste, as solid waste. Any person convicted of a violation of this prohibition shall be subject to a penalty of not less than \$500 nor more than \$1,000 for each offense, to be collected in a civil action by a summary proceeding under the "Penalty Enforcement Law of 1999." If the violation is of a continuing nature, each day

during which it continues constitutes an additional, separate, and distinct offense.

The committee substitute prohibits a solid waste collector from knowingly collecting used televisions and electronic waste, including the constituent sub-units or materials comprising the waste, placed for collection and disposal as solid waste. A solid waste collector may refuse to collect the contents of a solid waste container containing a visible quantity of electronic waste or used televisions. Similarly, no sanitary landfill facility or resource recovery facility shall knowingly accept for disposal any truckload or roll-off container of solid waste containing a visible quantity of used televisions or electronic waste, including the constituent sub-units or materials comprising the waste, at any time. The owner or operator of a sanitary landfill facility or resource recovery facility may refuse to accept for disposal any truckload or roll-off container of solid waste containing a visible quantity of used televisions or electronic waste.

Any solid waste collector or solid waste facility owner-operator who violates these provisions commits a disorderly persons offense. Anyone convicted of a violation of these provisions is subject to a fine of not less than \$2,500 for a first offense, not more than \$5,000 for a second offense and not more than \$10,000 for a third and every subsequent offense. Each day during which the violation continues constitutes an additional, separate and distinct offense.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR

### SENATE COMMITTEE SUBSTITUTE FOR

### **SENATE, No. 554**

# **STATE OF NEW JERSEY**

DATED: DECEMBER 10, 2007

The Senate Committee Substitute for Senate Bill No. 554 (SCS), the “Electronic Waste Management Act,” establishes a recycling system for the safe and environmentally-sound management of electronic devices and components, including televisions.

The committee substitute provides for the collection and recycling of used televisions by imposing an advanced recovery fee (ARF) on the sale of new television sets and authorizing that district recycling plans provide for the collection, recycling and disposal of discarded televisions to be funded under a grant program. If a county or municipality has not adopted a used television recycling and management program, the Department of Environmental Protection (DEP) would establish a State program in which it will identify and enter into agreements with authorized recyclers to accept used televisions from county and municipal collection sites.

Beginning on July 1, 2008, an ARF of \$10 is imposed on the sale of each new television sold at retail. The ARF would be added to the total cost to the purchaser at retail after all applicable sales taxes on the television have been computed and must be separately stated on the invoice or substitute bill of sale. Every retailer that charges and collects the ARF on the sale of new televisions may use up to 4% of all fees collected to defray the costs of administration and collection of the ARF.

The committee substitute also provides that beginning on January 1, 2011 and every 24 months thereafter, the DEP may, in accordance with a fee schedule adopted as a rule or regulation pursuant to law, increase or decrease the amount of the ARF. Any increase in the amount of the ARF would take effect on March 15 of the calendar year in which the increase is made.

The committee substitute establishes the Used Television Management Fund as a nonlapsing, revolving fund in the Department of the Treasury. The Fund will be administered by the DEP and credited with all advance recovery fees collected by the Director of the

Division of Taxation in the Department of the Treasury. Moneys in the fund must be appropriated annually solely:

(1) To provide grants to counties or municipalities to fund a used television recycling and management program, including the administrative expenses thereof;

(2) For the DEP's actual expenses in administering the grant program;

(3) To provide funding for a State used television recycling and management program, including the administrative expenses thereof; and

(4) To make recycling payments to authorized used television recyclers.

The committee substitute provides a "poison pill" mechanism to ensure that the ARF revenues in the Used Television Management Fund are used solely for the aforementioned purposes. The annual appropriations act must appropriate the moneys in the Used Television Management Fund as specified. If these requirements are not met on the effective date of an annual appropriations act for the State fiscal year, or if an amendment or supplement to an annual appropriations act for the State fiscal year should violate any of the requirements, the Director of the Division of Budget and Accounting is directed to certify to the Director of the Division of Taxation, not later than five days after the enactment of the annual appropriations act, or an amendment or supplement thereto, that violates any of the requirements, that the requirements have not been met. Thereupon, section 3 of the committee substitute, which imposes the ARF, would be without effect beginning on the tenth day following the certification by the Director of the Division of Budget and Accounting.

Within six months of the effective date in the committee substitute, the DEP must establish criteria for county or municipal television recycling and management programs. The DEP must also develop a grant program to pay for the county and municipal costs of the programs. The DEP may require the county or municipality to maintain records of the volume of used televisions collected and recycled and to report to the DEP the name and address of each authorized recycler and the number of used televisions delivered to each authorized recycler. The DEP will make grant awards to the county or municipality based upon the costs incurred by each county and municipality for its television recycling and management program.

Within 12 months of the effective date in the committee substitute, each district recycling plan must be modified to include the designation of collection sites for the delivery of used televisions, and may be modified to include other covered electronic devices. Further, each municipality must provide for collection sites for the delivery of used televisions by consumers, and the delivery of other covered electronic devices if designated in the district recycling plan. If a county or municipality has not adopted a television recycling and

management program, the DEP will establish a State used television recycling and management program. The DEP will identify and enter into agreements with authorized used televisions recyclers to accept used televisions from county and municipal collection sites.

This committee substitute provides that any manufacturer of covered electronic devices that is not in full compliance with the requirements of this bill as enacted would be prohibited from selling or offering a covered electronic device for sale in the State. The committee substitute provides that beginning on January 1, 2010 it would be unlawful for any person to sell or offer for sale in the State a new covered electronic device from a manufacturer that is not in full compliance with the requirements of this bill as enacted. The DEP would maintain a list of all manufacturers in compliance with these requirements and post the list on the DEP's Internet website.

Beginning on January 1, 2009, a manufacturer or retailer may not sell or offer for sale a covered electronic device in the State unless the device is labeled with the manufacturer's brand, and the label is permanently affixed and readily visible.

The committee substitute imposes a ban on the disposal of used covered electronic devices, or any of their components or subassemblies, as solid waste beginning on January 1, 2010.

The committee substitute requires the DEP, by January 30, 2011, and annually thereafter, to: complete an auditable, statistically significant sampling of covered electronic devices collected from consumers in the State by the DEP during the previous program year, including a list of brands of covered electronic devices and the weight of covered electronic devices that are identified for each brand; and determine the total weight of covered electronic devices, including orphan devices, collected from consumers in the State by the DEP during the previous program year. The committee substitute provides that the costs associated with the sampling would be recovered from the fees paid by manufacturers to the DEP.

The committee substitute provides that if a manufacturer or group of manufacturers conducts its own collection, transportation, and recycling program for covered electronic devices, the manufacturer or group of manufacturers would be required to submit a report to the DEP annually by January 30, beginning the year after the program is initiated. The report would include: the results of an auditable, statistically significant sampling of covered electronic devices collected from consumers in the State by the manufacturer or group of manufacturers during the previous program year, including a list of brands of covered electronic devices and the weight of covered electronic devices that are identified for each brand; and the total weight of covered electronic devices, including orphan devices, collected from consumers in the State by the manufacturer or group of manufacturers during the previous program year and documentation verifying collection and recycling of such devices.

By February 1, 2009 and each January 1 thereafter, every manufacturer of covered electronic devices offered for sale for delivery in the State must register with the DEP and pay a registration fee of \$5,000.

The committee substitute would require, by June 1, 2009, each manufacturer to whom the DEP provides, by April 2, 2009, a return share in weight that is greater than zero to either submit an additional fee to the DEP based on its return share in weight of covered electronic devices or submit a plan to the DEP to collect, transport, and recycle covered electronic devices.

Each manufacturer to whom the DEP provides, by February 15, 2011 or by February 15 of any year thereafter, a return share in weight that is greater than zero would be required, by March 15 of that year, to submit an additional fee to the DEP based on its return share in weight of covered electronic devices, or submit a plan to the DEP to collect, transport, and recycle covered electronic devices.

The committee substitute would require that a plan to collect, transport, and recycle covered electronic devices be filed with a manufacturer's annual registration. Upon approval of the plan by the DEP, the payment of the annual fees based upon return share in weight by the manufacturer would be waived. The committee substitute provides that the DEP may reject the plan, in whole or in part, and may impose additional requirements as a condition of approval.

Any manufacturer that fails to comply with all the conditions and terms of an approved plan would be required to submit: a payment to the DEP to cover the cost of collecting, transporting, and recycling the unmet portion of its obligation calculated according to a formula prescribed in the substitute bill; and a penalty in the form of a payment equal to the cost of collecting, transporting, and recycling 10% of the manufacturer's total obligation.

Manufacturers that collect, transport, and recycle covered electronic devices in excess of their obligation may sell credits to another registrant or apply that excess to the following year's recycling obligation.

The committee substitute provides that every retailer must provide information provided by the DEP that describes where and how to recycle the covered electronic device and opportunities and locations for the collection or return of the device. This would be accomplished through the use of a toll-free telephone number and Internet website, information included in the packaging, or information provided accompanying the sale of the covered electronic device.

The committee substitute provides that, beginning January 1, 2010, a retailer may only sell products from registrants.

The committee substitute requires the DEP to determine the return share for each program year for each manufacturer by dividing the weight of covered electronic devices identified for each manufacturer by the total weight of covered electronic devices identified for all

manufacturers. For the first program year, the return share of covered electronic devices identified for each manufacturer would be based on the best available public return share data from the United States, including data from other states, for covered electronic devices from consumers. For the second and each subsequent program year, the return share of covered electronic devices identified for each manufacturer would be based on the most recent samplings of covered electronic devices conducted in the State.

The committee substitute requires the DEP to determine the return share in weight for each program year for each manufacturer for whom a return share is determined pursuant to the committee substitute by multiplying the return share for each such manufacturer by the total weight in pounds of covered electronic devices, including orphan devices, collected from consumers the previous program year. The committee substitute requires the DEP, by April 2, 2009, to provide each manufacturer for whom a return share is determined pursuant to the provisions of the committee substitute with its return share and its return share in weight for the first program year. Annually thereafter, by February 15, beginning in 2011, the DEP is required to provide each manufacturer for whom a return share is determined pursuant to the provisions of the committee substitute with its return share and its return share in weight for the second and subsequent program years.

The DEP must organize, administer, and ensure that at least one electronics collection opportunity is available at least five days a week in each county throughout the State and in such a manner as to be convenient, to the maximum extent practicable and feasible, to all consumers in the county. The DEP must also ensure that collection sites do not place limits on the number of covered electronic devices permitted for drop-off by consumers.

In addition, the committee substitute requires the DEP to: (1) maintain a list of registrants, including the brands reported in each manufacturer's registration, and post the list on the DEP's Internet website that is updated at least once a month; and (2) organize and coordinate public education and outreach.

The DEP must prepare a plan every three years that: establishes per-capita collection and recycling goals; and identifies any necessary State actions to expand collection opportunities to achieve the per-capita collection and recycling goals. The plan is to be posted on the DEP's Internet website and submitted to the Legislature.

The DEP is also required to prepare an annual report to be posted on the DEP's Internet website and submitted to the Legislature.

In addition, the DEP is required to maintain an Internet website and toll-free number complete with up-to-date listings of where consumers can bring covered electronic devices for recycling.

No more frequently than annually and no less frequently than biennially, the DEP is to review, at a public hearing, the covered electronic device recycling rate and registration fees. Any

recommendations for changes to the covered electronic device recycling rate and registration fees are to be included in the annual report.

The committee substitute provides that no fees or costs may be charged to consumers for the collection, transportation, or recycling of covered electronic devices.

The DEP must engage in competitive bidding for the collection, transportation, and recycling of covered electronic devices in accordance with the procedures concerning the awarding of public contracts provided by law. The DEP would make payments for the collection, transportation, and recycling of covered electronic devices to an authorized or approved person upon receipt of a completed and verified invoice.

The committee substitute requires the DEP to establish performance requirements in order for collectors, transporters, and recyclers to be eligible to receive funds. Every collector, transporter, and recycler must, at a minimum, demonstrate compliance with the United States Environmental Protection Agency's Plug-In to eCycling Guidelines for Materials Management in addition to any other requirements mandated by federal or State law. The DEP is to maintain an Internet website that includes a list of collectors, transporters, and recyclers that it has determined have met these performance requirements.

The committee substitute authorizes the State, including the Attorney General and the DEP, to initiate independent action to enforce the substitute bill's provisions. Any funds awarded by the court are to be used first to offset enforcement expenses. The committee substitute provides that any funds in excess of enforcement expenses are to be deposited into a separate account, and dedicated for use by the DEP solely for the purposes of administering and enforcing the provisions of the committee substitute.

The committee substitute authorizes the DEP to participate in the establishment and implementation of a regional, multi-state organization or compact that is consistent with the requirements in this committee substitute.

Lastly, the committee substitute requires the DEP, by January 1, 2013, to prepare a report, which must be posted on the department's Internet website and submitted pursuant to law to the Legislature, assessing the success or failure of the electronic waste management system implemented pursuant to this committee substitute relative to the statutory management of covered electronic devices in other states, including jurisdictions that have adopted a producer responsibility model versus those that have adopted an advance recovery fee approach, or both, with respect to the recycling of used televisions and other covered electronic devices.



## Jan-15-08 Governor Corzine Takes Action on Legislation

### NEWS RELEASE

Governor Jon S. Corzine  
January 15, 2008

### FOR MORE INFORMATION:

Press Office  
609-777-2600

### GOVERNOR CORZINE TAKES ACTION ON LEGISLATION

**TRENTON-** Governor Jon S. Corzine signed the following bills into law on Sunday, January 13, with related statements:

**S-502/A-1011 w/Statement** (Gill/Prieto, Stack, Cohen, Panter) - Requires health benefits coverage by health insurers and SHBP for orthotic and prosthetic appliances and provides reimbursement therefore.

*"I commend the sponsors of Senate Bill No. 502 (First Reprint), which I signed today, for recognizing the importance of making sure that persons in need of orthotic or prosthetic appliances obtain them.*

*"While I have signed this measure in light of the critical nature of the issue for persons who need these appliances, I do have several concerns about elements of the bill which would have led me to conditionally veto the bill had it been presented to me in other circumstances. First, I have a general concern with bills that mandate specific insurance coverage. These bills deal piecemeal with issues of cost and coverage that might better be addressed more comprehensively. In that regard, I commend the work of the New Jersey Mandated Health Insurance Advisory Commission, and I will continue to read its reports with interest.*

*"In addition, I am concerned that the bill will be read as deviating from standard practice in the health care delivery system by precluding utilization review, which is designed to ensure the medical necessity for such appliances and thereby prevent unnecessary costs. Accordingly, I have asked the Departments of Health and Senior Services and Human Services to periodically review the utilization of orthotic or prosthetic appliances statewide to ensure that those who need such devices obtain them and that the public is bearing no unnecessary costs.*

*"Finally, I am concerned that the bill sets the reimbursement level for these services at that set by Medicare. While I appreciate the importance of assuring that these appliances are readily available for those who require them, I am*

*concerned that this aspect of the bill will limit insurers' ability to negotiate price reductions under circumstances that will not reduce access. Accordingly, I am requesting the Departments of Health and Senior Services and Human Services, consulting with the Department of Banking and Insurance, to monitor the effects of this aspect of the bill and report periodically to me."*

**S-3043/A-4666 w/Statement** (Codey, Rice/Pou) - "Urban Transit Hub Tax Credit Act"; allows tax credits to certain businesses for certain capital investments in urban transit hubs.

*"Senate Bill No. 3043 (First Reprint), which I approved today, establishes a new tax credit program to spur new capital investment and increased employment in targeted urban rail transit hubs and to catalyze economic development in those areas. The bill supports the revitalization of New Jersey's urban centers by leveraging valuable transit assets that provide a strong foundation for economic growth, while encouraging increased transit ridership.*

*"This bill provides one more tool to promote economic development in the State. I intend that the bill will serve as a model for our economic development efforts by focusing our resources on targeted, well-defined areas with express job-creation requirements. Because I believe this approach can work in other areas as well, I am asking the Office of Economic Growth to work with the Legislature and craft similar approaches for other appropriate areas in the State."*

**ACS for A-3572/SCS for SCS for SS for S-554 w/Statement** (Gusciora, Barnes, McKeon, Chivukula, Gordon/B.Smith) - "Electronic Waste Recycling Act."

*"Assembly Committee Substitute for Assembly Bill No. 3572, which I signed today, establishes a new program for the disposal of electronic devices, including televisions, computers, and related components and subcomponents in New Jersey.*

*"I commend the sponsors of this bill for putting forward legislation that is designed to address a significant and growing problem, both in New Jersey and nationally. The type of waste generated by televisions and computers, while relatively small in volume, accounts for a significant percentage of this nation's toxic waste. The electronic waste stream that will be required to be recycled*

*under this bill can contain significant and dangerous levels of a wide variety of materials, including lead, mercury, cadmium, and PCBs.*

*"In signing this bill, I am cognizant of its impact on a variety of manufacturers, both situated in New Jersey and located elsewhere. It is my understanding and expectation that technical concerns with this legislation, which I would have addressed through a conditional veto had that option been available, will be addressed in the coming session. Notwithstanding these concerns, I know the sponsors share with me a desire not only to move forward on this difficult issue but also to ensure fairness and equity in the application and administration of this important environmental initiative. In this connection, I have asked the Department of Environmental Protection to work with this bill's sponsors in order to further craft and refine this measure."*

**A-4314/S-2123 w/Statement** (Wisniewski, Stack, Vas/Coniglio) - Establishes pilot program for traffic control signal monitoring system.

*"Assembly Bill No. 4314 (Second Reprint), which I approved today, establishes a pilot program for traffic control signal monitoring systems. Supporters of this measure point to research showing that traffic control monitoring systems have been successfully employed in numerous other jurisdictions around the country. Many local officials in New Jersey, particularly mayors of our largest municipalities, believe these systems will help reduce traffic accidents at dangerous intersections.*

*"In light of this support, I believe that it is appropriate to initiate this pilot program to determine the extent to which these systems advance public safety. In doing so, however, I believe that it is important that this be done in a fashion that allows us to assess its value. In particular, I believe that the test should be whether these systems reduce traffic accidents rather than whether they generate local revenue from fines and penalties.*

*"To that end, I have asked the Commissioner of Transportation to implement the program in a careful and deliberate manner. It is appropriate that implementation be undertaken in a staged fashion so that the number of jurisdictions that utilize these systems may be limited at the outset until we have further information to assess their utility. In addition, I expect that that the*

*Commissioner of Transportation will evaluate the effectiveness of these systems on a periodic basis and include the status of such evaluations in the annual reports he will be submitting. Finally, I have asked the Commissioner to develop the program so that appropriate action can be taken in the event that operation of the system no longer serves to promote public safety."*

Governor Corzine signed the following bills into law on Monday, January 14, with statements:

**S-507/A-2730 w/Statement** (Gill/Gusciora) - Requires mandatory audit of election results in randomly selected election districts.

*"Today, I am signing into law this measure because it furthers the public confidence in the accuracy and conduct of our election process. There is no more important element in our democratic system than the integrity of our elections, and I wholeheartedly support the establishment of an audit team to review the accuracy and conduct of elections in the state. This law contains many critical elements, including (a) that the audit team include independent individuals and professionals capable of ensuring an appropriate statistical approach, (b) that the audits cover federal and statewide elections as well as a selected number of county and municipal elections, and (c) that the audits not prevent or compromise the ability of candidates or other applicant from requesting a recount.*

*"While I firmly believe that this measure is intended to and will further the integrity of our election system, I do have a number of concerns which I will work with the legislative leadership and sponsors to address, and which would have led me to conditionally veto the bill had it been presented to me in other circumstances. Most significantly, I believe it is important to review the most appropriate method of sampling and selection of election districts to best realize the purposes of election auditing. While cost is not a determinative factor here, it is important that we expend our resources in those races where there is the greatest need to review the integrity of the electoral process. To this end, it will be important to assess whether the approach undertaken by this measure requires sampling at a level that exceeds what is necessary to provide confidence in the electoral result. Finally, it appears that further refinement may*

*be appropriate to ensure that the audit process can be completed in a timely fashion and not cause problems related to the certification of election results.*

*"In raising these concerns, I note that no other state has provided an independent audit team with the level of responsibilities and expectations set forth in this legislation. Given that New Jersey will be the first to do so, it is particularly appropriate that we commit to reexamining the approach taken in this legislation, and I will work with the Legislature to do so after we have had an opportunity to learn from the experience of the audit team in at least one statewide primary and general election. In this regard, I also observe that in light of my recent signing of Senate Bill No. 2949 (First Reprint) the deadline for the State to provide voting machines that shall produce an individual permanent paper record for each vote cast has been extended until June 3, 2008, and thus the application of this measure is unlikely to be possible at least until that date.*

*"Again, I applaud the sponsors and the Legislature for their commitment to ensuring public confidence in the integrity of the electoral process and look forward to working with them to ensure that New Jersey is a leader in this area."*

**A-2135/S-2748 w/Statement** (Cohen/Scutari, Gill) - Increases judicial salaries and prosecutors' salaries.

*"Assembly Bill No. 2135 (First Reprint), which I signed today, represents the completion of a three-step increase in judicial salaries that first began with provisions of the FY 2008 Appropriations Act, which was approved last year. Under the legislation I signed today, judicial salaries would increase by five percent effective January 1, 2008, and five percent effective January 1, 2009.*

*"The bill also would have the effect of increasing the salaries of Administrative Law Judges, Workers' Compensation Judges, and County Sheriffs, Clerks, Surrogates, and Registers of Deeds and Mortgages because the salaries of these officials are statutorily set at a percentage of the salary of a Judge of the Superior Court. This bill also would increase the annual salaries of County Prosecutors. Those salaries would increase from \$141,000 to \$153,000 effective January 1, 2008, and to \$165,000 effective January 1, 2009.*

*"I support increasing judicial salaries and commend the Legislature for approving an increase in those salaries. As noted in the recent report of the Public Officers Salary Review Commission, which is the statutory body created to study these issues every four years and which recommended an increase in judicial salaries, this increase is vital to ensuring the continued exceptional quality of our Judiciary and the retention of our experienced judges.*

*"I also recognize that we need to attract and retain high quality professionals to serve as County Prosecutors. Though the additional cost of the salary increase for County Prosecutors is relatively modest, I am concerned that this salary increase will create greater unfairness in the overall compensation structure for State and local government. I note that County Prosecutors now will have salaries that exceed those of State government cabinet officers, including the Attorney General, who is charged under statute with oversight of County Prosecutor offices. This salary differential has the potential over time of making it more difficult to attract and retain high quality prosecutors to serve in the Division of Criminal Justice. I would have tried to address this problem through a conditional veto had circumstances permitted that approach.*

*"Along with the problem of salary differential among similarly situated officials is the problem created by the fact that salaries of cabinet-level and sub-cabinet officials have remained unchanged for five years. This issue is undermining the stability of leadership of the cabinet departments of State government. We should be addressing this problem, and we would be addressing it now were it not for the financial emergency now confronting State government.*

*"In the interim, with regard to the specific issues facing the Department of Law and Public Safety, I have asked the Attorney General to work with the Department of the Treasury to develop appropriate recommendations to address those issues."*

Governor Corzine signed the following bill on Tuesday, January 15:

**S-2040/A-3280** (Sarlo, Sweeney/Cryan, Gregg) - Provides for special licenses to serve alcoholic beverages to smart growth development projects; allows for sale of certain plenary retail consumption licenses for use in such projects.

In addition, Governor Corzine decided not to sign the following bills, which are therefore pocket vetoed, and issued related statements:

**SCS for S-176/AS for A-1511** (Doria, Scutari/Oliver, Greenstein, Cruz-Perez, Bramnick) - **POCKET VETO** - Expands wrongful death act to allow recovery for mental anguish, emotional pain and suffering, loss of society and loss of companionship.

*"I am filing Senate Committee Substitute for Senate Bill No. 176 in the Division of Archives and Records Management without my approval.*

*"Under the provisions of Article V, Section I, Paragraph 14 of the Constitution, this bill, which was passed within 10 days preceding the expiration of the second legislative year, does not become law because it was not signed prior to the seventh day following such expiration. In this circumstance, there is no provision for the return of a bill to the Legislature for reconsideration, but I deem it to be in the public interest to state my reasons for deciding not to sign this bill.*

*"Senate Committee Substitute for Senate Bill No. 176 would expand the types of damages allowed in wrongful death actions beyond "pecuniary" losses to include injuries resulting from 'mental anguish, emotional pain and suffering, loss of society and loss of companionship.'"*

*"I commend the sponsors for recognizing the need to ensure that the lives of minors, parents who do not work outside the home, and the elderly are not significantly undervalued by a system that limits an individual's worth to his or her financial contribution to the family. On the other hand, unlimited damages based on emotional anguish or pain and suffering could have a significant impact on state and local budgets, since government entities are not infrequently named as defendants in wrongful death suits, and there are similar concerns as the State undertakes efforts to attract and grow businesses here.*

*"Unfortunately, I do not believe that this bill in its current form strikes a fair balance that would avoid using a strict monetary valuation of a person's life while also addressing the adverse effect of allowing unlimited and unpredictable damages.*

*"I encourage the Legislature to promptly revisit this important issue. Further, I recommend that the Legislature consider alternative means of striking an appropriate balance, especially by granting more flexibility for courts to reduce excessive non-pecuniary damage awards and defining non-pecuniary damages less expansively.*

*"Accordingly, I must file Senate Committee Substitute for Senate Bill No. 176 without my approval."*

**A-3153/S-2209** (Schaer, Scalera/Sarlo) - **POCKET VETO** - Provides certain law enforcement officers cannot be suspended without pay for more than 120 calendar days.

*"I am filing Assembly Bill No. 3153 (Third Reprint) in the Division of Archives and Records Management without my approval.*

*Under the provisions of Article V, Section I, Paragraph 14 of the Constitution, this bill, which was passed within 10 days preceding the expiration of the second legislative year, does not become law because it was not signed prior to the seventh day following such expiration. In this circumstance, there is no provision for the return of a bill to the Legislature for reconsideration, but I deem it to be in the public interest to state my reasons for deciding not to sign this bill.*

*"This bill would require State and local government agencies to pay salary to certain law enforcement officers and paid firefighters in their employ who have been suspended pending a determination of disciplinary charges against them after certain time periods have passed. Specifically, the bill would require such payment of salary to begin 181 days after the charge resulting in suspension. It further would require repayment from an employee against whom a charge was sustained. Moreover, the 180-day time period would be tolled during any period of postponement that occurs at the request of an employee covered by the bill.*

*"I certainly understand and agree with the intent of the sponsors of this bill, which is to ensure that law enforcement officers and paid firefighters do not suffer severe financial hardship or dire economic consequences due to the loss of their regular salary during the sometimes lengthy period of time required to determine disciplinary charges that ultimately were dismissed. I also agree that*



*the procedures currently in place for resolving these cases must be changed to reduce median processing times that in some cases now total nearly two years, and I am committed to working to bring about those changes.*

*"However, I also understand that cases in which a law enforcement officer or firefighter has been suspended without pay generally involve serious matters with serious implications for the employer and the career of the officer or firefighter. For these reasons, these cases legitimately require sufficient time in order for the appropriate outcome to be reached. I believe that imposition of the 180-day deadline called for in this bill would make it far more difficult to arrive at an appropriate resolution given the complexity of these matters and the stakes involved. I would support legislation that creates a more workable and realistic deadline, such as 365 days."*

**A-4393/S-2878** (Wisniewski, Cohen/Adler) - **POCKET VETO** - Requires certain public contract bid advertisements to contain certified cost estimates or estimate ranges of projected contract costs and specifies grounds for rejection of all bids.

***"I am filing Assembly Bill No. 4393 (Second Reprint) in the Division of Archives and Records Management without my approval.***

*"Under the provisions of Article V, Section I, Paragraph 14 of the Constitution, this bill, which was passed within 10 days preceding the expiration of the second legislative year, does not become law because it was not signed prior to the seventh day following such expiration. In this circumstance, there is no provision for the return of a bill to the Legislature for reconsideration, but I deem it to be in the public interest to state my reasons for deciding not to sign this bill.*

*"Assembly Bill No. 4393 would make significant changes to the current statutes governing the contracting process for public construction projects. While the bill has many strong proponents, it has generated a significant volume of passionate opposition from a broad spectrum of State and local government officials, entities, and organizations. These include, but are by no means limited to, the State Comptroller, the Attorney General, the League of Municipalities, the Association of Counties, the Governmental Purchasing Association of New Jersey, and many dozens of counties, municipalities, colleges, universities, school*

*districts, and other entities that passed resolutions or contacted my office to express serious concerns about this bill.*

*"While I generally support the sponsors' goals of making our public contracting processes more efficient and transparent, I am advised that this bill, as currently drafted, includes apparent technical errors and other flaws that I have no opportunity to address by way of a conditional veto because the bill was not passed by either House of the 212<sup>th</sup> Legislature until the last voting session. It is my hope that the proponents of similar future legislation will be willing to work in coordination with the Office of State Comptroller and the Division of Local Government Services in the Department of Community Affairs, as well as with affected public entities and their representatives, to craft an appropriate bill that addresses the concerns that motivated this bill while avoiding the problems associated with this bill.*

*"Accordingly, I must file Assembly Bill No. 4393 (Second Reprint) without my approval."*