

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1886**

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

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ADOPTED DECEMBER 6, 2007

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman REED GUSCIORA**

**District 15 (Mercer)**

**Co-Sponsored by:**

**Assemblymen Hackett, Giblin, Diegnan, Chivukula, Epps and  
Assemblywoman Evans**

**SYNOPSIS**

“Recycling Enhancement Act.”

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Environment and Solid Waste  
Committee.



**(Sponsorship Updated As Of: 12/14/2007)**

1 **AN ACT** concerning the recycling of solid waste, imposing a  
 2 recycling tax on solid waste generation, amending,  
 3 supplementing and repealing various sections of statutory law,  
 4 and making an appropriation.

5

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

8

9 1. (New section) This act shall be known and may be cited as  
 10 the "Recycling Enhancement Act."

11

12 2. (New section) The Legislature finds and declares that the  
 13 State Recycling plan goals, which provide for the recycling of 50%  
 14 of the municipal solid waste stream and 60% of the total solid  
 15 waste stream, are perhaps the most ambitious in the nation; that  
 16 since the expiration of the recycling tax on December 31, 1996 the  
 17 State of New Jersey provides less public support to recycling than  
 18 at least 25 other states; that this lack of public financial support,  
 19 especially for local public information and recycling education  
 20 programs, is at least partly responsible for the steady decline in the  
 21 New Jersey's recycling rates over the past decade, from a high of  
 22 45% recycling of the municipal solid waste stream in 1995 to a  
 23 recycling rate of 33% in 2003; and that it is unacceptable that the  
 24 State which enacted the nation's first statewide mandatory recycling  
 25 law has been unable to sustain its heretofore exemplary recycling  
 26 efforts due to inadequate public funding.

27 The Legislature further finds that the recycling of waste  
 28 materials decreases waste flow to county solid waste facilities and  
 29 out-of-State disposal sites, and that by achieving the statutory  
 30 recycling goals a disposal facility capacity savings equal to the  
 31 annual utilization of 3.5 solid waste incinerators or 4.5 solid waste  
 32 landfills can be realized; that recycling reduces waste flow to the  
 33 State's solid waste incinerators while contributing to their overall  
 34 combustion efficiency through the removal of noncombustible and  
 35 nonprocessable materials at the source, recovers or saves valuable  
 36 resources, including over 3 million tons of iron, coal and limestone  
 37 in the production of new ferrous metals and over 9 million trees in  
 38 the production of virgin paper from the ferrous metals and paper  
 39 recycling by New Jersey residents and businesses in 2003 alone,  
 40 conserves an estimated 86 trillion BTU's, or the equivalent of 700  
 41 million gallons of gasoline in the manufacturing process, and offers  
 42 a supply of domestic raw materials for the State's recycling-related  
 43 industries, which include over 2,000 businesses with over 27,000  
 44 employees; that recycling reduces air and water pollutants emitted  
 45 during the manufacturing process by more than 134,000 metric  
 46 tons; that economically viable municipal and county recycling

**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 programs are necessary to achieve the maximum practicable  
2 recovery of reusable materials from solid waste in this State; and  
3 that such programs will reduce the amount of solid waste disposed  
4 at county solid waste facilities, result in more efficient solid waste  
5 incinerators, conserve energy and resources, and recover materials  
6 for industrial uses.

7 The Legislature, therefore, declares it to be in the environmental  
8 and economic interests of the State of New Jersey to provide  
9 financial support for municipal and county recycling programs  
10 through the imposition of a tax on solid waste generation.

11  
12 3. (New section) For the purposes of this act:

13 "Beverage container" means an individual, separate, hermetically  
14 sealed, or made airtight with a metal or plastic cap, bottle or can  
15 composed of glass, metal, plastic or any combination thereof,  
16 containing a beverage.

17 "Certified recycling coordinator" means a person or persons  
18 designated as such pursuant to section 3 of P.L.1987, c.102  
19 (C.13:1E-99.13) or section 6 of P.L.1987, c.102 (C.13:1E-99.16).

20 "Commissioner" means the Commissioner of Environmental  
21 Protection.

22 "Department" means the Department of Environmental  
23 Protection.

24 "Director" means the Director of the Division of Taxation in the  
25 Department of the Treasury.

26 "Division" means the Division of Taxation in the Department of  
27 the Treasury.

28 "Materials recovery" means the processing and separation of  
29 solid waste utilizing manual or mechanical methods for the  
30 purposes of recovering recyclable materials for disposition and  
31 recycling prior to the disposal of the residual solid waste at an  
32 authorized solid waste facility.

33 "Materials recovery facility" means a transfer station or other  
34 authorized solid waste facility at which nonhazardous solid waste,  
35 which material is not source separated by the generator thereof prior  
36 to collection, is received for onsite processing and separation  
37 utilizing manual or mechanical methods for the purposes of  
38 recovering recyclable materials for disposition and recycling prior  
39 to the disposal of the residual solid waste at an authorized solid  
40 waste facility.

41 "Post-consumer waste material" means a material or product that  
42 would otherwise become solid waste, having completed its intended  
43 end use and product life cycle; except that "post-consumer waste  
44 material" shall not include secondary waste material or materials  
45 and by-products generated from, and commonly used within, an  
46 original manufacturing and fabrication process.

1 "Recycled product" means any product or commodity which is  
2 manufactured or produced in whole or in part from post-consumer  
3 waste material and which meets the recycled content standard of the  
4 United States Environmental Protection Agency as published in the  
5 Comprehensive Procurement Guidelines for Products Containing  
6 Recovered Material.

7 "Residue" means any solid waste generated as a result of the use  
8 of post-consumer waste material in the manufacture of a recycled  
9 product.

10 "Resource recovery facility" means a solid waste facility  
11 constructed and operated for the incineration of solid waste for  
12 energy production and the recovery of metals and other materials  
13 for reuse; or a mechanized composting facility, or any other solid  
14 waste facility constructed or operated for the collection, separation,  
15 recycling, and recovery of metals, glass, paper, and other materials  
16 for reuse or for energy production.

17 "Secondary waste material" means waste material generated after  
18 the completion of a manufacturing process.

19 "Solid waste" means the same as that term is defined in section 3  
20 of P.L.1970, c.39 (C.13:1E-3), except that, as used in the provisions  
21 of P.L. , c. (C. ) (pending in the Legislature as this bill),  
22 "solid waste" shall be limited to the following solid waste ID types:  
23 Type 10 Municipal; Type 12 Dry sewage sludge; Type 13 Bulky  
24 waste; Type 13C Construction and Demolition waste; Type 23  
25 Vegetative waste; Type 25 Animal and food processing wastes; and  
26 Type 27 Dry industrial waste, as set forth in N.J.A.C.7:26-1.6 and  
27 N.J.A.C.7:26-2.13.

28 "Solid waste collection" means the activity related to pick-up and  
29 transportation of solid waste from its source or location to a solid  
30 waste facility or other destination.

31 "Solid waste collector" means a person engaged in the collection  
32 of solid waste and registered pursuant to sections 4 and 5 of  
33 P.L.1970, c.39 (C.13:1E-4 and 13:1E-5); or any municipality  
34 wherein the municipal governing body has established and operates  
35 a municipal service system for solid waste collection pursuant to  
36 R.S.40:66-1.

37 "Solid waste disposal" means the storage, treatment, utilization,  
38 processing, transfer, or final disposal of solid waste.

39 "Solid waste facilities" means and includes the plants, structures  
40 and other real and personal property acquired, constructed or  
41 operated or to be acquired, constructed or operated by, or on behalf  
42 of, any person, public authority or county pursuant to the provisions  
43 of P.L.1970, c.39 (C.13:1E-1 et seq.) or any other act, including  
44 transfer stations, incinerators, resource recovery facilities, sanitary  
45 landfill facilities or other plants for the disposal of solid waste, and  
46 all vehicles, equipment and other real and personal property and

1 rights therein and appurtenances necessary or useful and convenient  
2 for the collection or disposal of solid waste in a sanitary manner.

3  
4 4. (New section) a. (1) There is levied upon the owner or  
5 operator of every solid waste facility a recycling tax of \$3.00 per  
6 ton on all solid waste accepted for disposal or transfer at the solid  
7 waste facility.

8 The recycling tax shall not be imposed on solid waste transported  
9 from an in-state transfer station from which the recycling tax has  
10 been levied on the owner or operator thereof to an in-state solid  
11 waste facility for final disposal.

12 (a) The recycling tax shall not be imposed on the owner or  
13 operator of a railroad transfer station or other facility designed  
14 exclusively to transport waste on railroads.

15 (b) The recycling tax shall not be imposed on the owner or  
16 operator of a sanitary landfill facility for the acceptance for disposal  
17 of the ash residue resulting from the incineration of solid waste at a  
18 resource recovery facility.

19 (c) The recycling tax shall not be imposed on the owner or  
20 operator of a solid waste facility for the acceptance for disposal of  
21 solid waste originating from out-of-state sources under a contract  
22 awarded prior to December 31, 2007 if the contract expressly  
23 prohibits the imposition of a fee or surcharge on the rates and  
24 charges set forth in the contract.

25 The recycling tax shall be imposed on the owner or operator of a  
26 solid waste facility for the acceptance for disposal of solid waste  
27 originating from out-of-state sources under any contract awarded  
28 after December 31, 2007.

29 (2) There is levied upon every solid waste collector that  
30 transports solid waste for transshipment or direct transportation to  
31 an out-of-state disposal site a recycling tax. The recycling tax shall  
32 be levied on the solid waste collector at the rate of \$3.00 per ton on  
33 all solid waste collected for transportation to a railroad transfer  
34 station or other facility designed to transport waste on railroads or  
35 directly to an out-of-state disposal site.

36 b. (1) Every person subject to the recycling tax shall, within 30  
37 days of the effective date of this act, register with the director on  
38 forms prescribed by the director.

39 (2) Every person subject to the recycling tax shall, on or before  
40 the first day of the first full fiscal quarter following the effective  
41 date of this act, and quarterly thereafter, render a return under oath  
42 to the director, on such forms as may be prescribed by the director,  
43 indicating the number of tons of solid waste accepted for disposal  
44 or transfer, or collected, as appropriate, and at that time shall pay  
45 the full amount due.

46 c. If a return required by this section is not filed, or if a return  
47 when filed is incorrect or insufficient in the opinion of the director,

1 the amount due shall be determined by the director from such  
2 information as may be available. Notice of the determination shall  
3 be given to the person subject to the recycling tax. The  
4 determination shall finally and irrevocably fix the amount due,  
5 unless the person on whom it is imposed, within 90 days after the  
6 giving of the notice of the determination, shall file a protest in  
7 writing as provided in R.S.54:49-18 and request a hearing, or unless  
8 the director on the director's own motion shall redetermine the  
9 same. After the hearing the director shall give notice of the  
10 determination to the person on whom the recycling tax is imposed.

11 d. Any person subject to the recycling tax who fails to file a  
12 return when due or to pay any tax when it becomes due, as herein  
13 provided, shall be subject to such penalties and interest as provided  
14 in the "State Tax Uniform Procedure Law," R.S.54:48-1 et seq. If  
15 the director determines that the failure to comply with any provision  
16 of this section was excusable under the circumstances, the director  
17 may remit that part or all of the penalty as shall be appropriate  
18 under the circumstances.

19 e. The director shall deposit all revenues collected pursuant to  
20 this section in the State Recycling Fund established pursuant to  
21 section 5 of P.L.1981, c.278 (C.13:1E-96).

22 f. In addition to the other powers granted to the director in this  
23 section, the director is authorized:

24 (1) To delegate to any officer or employee of the division those  
25 powers and duties as the director deems necessary to carry out  
26 efficiently the provisions of this section, and the person to whom  
27 the power has been delegated shall possess and may exercise all of  
28 these powers and perform all of the duties delegated by the director;

29 (2) To prescribe and distribute all necessary forms for the  
30 implementation of this section.

31 g. (1) Every owner or operator of a solid waste facility may  
32 collect the recycling tax imposed by this section by (a) including  
33 the amount of recycling tax due as a separate line item on every  
34 customer bill or other statement presented to a solid waste collector  
35 or solid waste generator; (b) including the amount of recycling tax  
36 due as a fee or surcharge on any amount collected under a contract  
37 awarded pursuant to the "Local Public Contracts Law," P.L.1971,  
38 c.198 (C.40A:11-1 et seq.) or any other law for the provision of  
39 solid waste collection or solid waste disposal services; or (c)  
40 imposing an automatic surcharge on any tariff established pursuant  
41 to law for the solid waste disposal or transfer operations of the solid  
42 waste facility.

43 (2) Every solid waste collector is hereby authorized to calculate,  
44 charge and collect rates, fees or surcharges from all solid waste  
45 generators serviced by the solid waste collector sufficient to recover  
46 the recycling tax collected by the owner or operator of the solid  
47 waste facility.

- 1 (3) Every solid waste collector subject to the recycling tax is  
2 hereby authorized to calculate, charge and collect rates, fees or  
3 surcharges from all solid waste generators serviced by the solid  
4 waste collector sufficient to recover the recycling tax imposed by  
5 this section.
- 6 h. The recycling tax imposed by this section shall be governed  
7 in all respects by the provisions of the "State Tax Uniform  
8 Procedure Law," R.S.54:48-1 et seq., except only to the extent that  
9 a specific provision of this section may be in conflict therewith.
- 10 i. (1) The recycling tax imposed by this section shall not be  
11 imposed on the owner or operator of a materials recovery facility  
12 for the acceptance of Type 13C Construction and Demolition waste,  
13 provided that the facility meets or exceeds recyclable materials  
14 extraction rates as established by the department.
- 15 (2) The recycling tax imposed by this section shall not be  
16 imposed on a solid waste collector or the owner or operator of a  
17 solid waste facility for the collection or acceptance for disposal or  
18 transfer of residue resulting from the operations of a scrap  
19 processing facility as defined in section 2 of P.L.1987, c.102  
20 (C.13:1E-99.12).
- 21 j. The recycling tax imposed by this section shall not be imposed  
22 on a solid waste collector or the owner or operator of a solid waste  
23 facility for the collection or acceptance for disposal or transfer of  
24 residue, provided that the residue is generated as a result of the use  
25 of post-consumer waste material in the manufacture of a recycled  
26 product which constitutes at least 75% of total annual sales dollar  
27 volume of the products manufactured by a manufacturer in this  
28 State as determined by the director.
- 29 k. The registration issued to any person subject to the recycling  
30 tax who violates the provisions of this section may be subject to  
31 revocation or suspension pursuant to section 12 of P.L.1970, c.39  
32 (C.13:1E-12).
- 33 l. Subsections a. through k. of this section shall be without effect  
34 on and after the tenth day following a certification by the Director  
35 of the Division of Budget and Accounting in the Department of the  
36 Treasury pursuant to subsection b. of section 6 of P.L. ,  
37 c. (C. ) (pending in the Legislature as this bill).
- 38
- 39 5. (New section) The recycling tax imposed pursuant to section  
40 4 of P.L. , c. (C. ) (pending in the Legislature as this bill)  
41 shall not be due and payable if, and as long as, any State of New  
42 Jersey or federal law, or any rule or regulation adopted pursuant  
43 thereto, requiring a deposit on, or establishing a refund value for,  
44 any beverage container shall be in effect.

1       6. (New section) a. The annual appropriations act for each  
2 State fiscal year shall, without other conditions, limitations or  
3 restrictions on the following:

4       (1) appropriate the amounts specified pursuant to paragraph (1)  
5 of subsection b. of section 5 of P.L.1981, c.278 (C.13:1E-96) for  
6 use by the Department of Environmental Protection for direct  
7 recycling grants to counties and municipalities; and

8       (2) appropriate the balance of the State Recycling Fund  
9 established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96)  
10 for the purposes set forth in paragraphs (2), (3) and (4) of  
11 subsection b. of that section.

12       b. If the requirements of subsection a. of this section are not met  
13 on the effective date of an annual appropriations act for the State  
14 fiscal year, or if an amendment or supplement to an annual  
15 appropriations act for the State fiscal year should violate any of the  
16 requirements of subsection a. of this section, the Director of the  
17 Division of Budget and Accounting in the Department of the  
18 Treasury shall, not later than five days after the enactment of the  
19 annual appropriations act, or an amendment or supplement thereto,  
20 that violates any of the requirements of subsection a. of this section,  
21 certify to the Director of the Division of Taxation that the  
22 requirements of subsection a. of this section have not been met.

23  
24       7. Section 5 of P.L.1981, c.278 (C.13:1E-96) is amended to read  
25 as follows:

26       5. a. The State Recycling Fund (hereinafter referred to as the  
27 "fund") is established as a nonlapsing, revolving fund. The fund  
28 shall be administered by the Department of Environmental  
29 Protection, and shall be credited with all [sums received from the  
30 Clean Communities Program Fund established pursuant to section 5  
31 of P.L.2002, c.128 (C.13:1E-217)] recycling tax revenue collected  
32 pursuant to section 4 of P.L. , c. (C. ) (pending in the  
33 Legislature as this bill), and all interest received on moneys in the  
34 fund . [Interest received on moneys in the fund and sums received  
35 as repayment of principal and interest on outstanding loans made  
36 from the fund shall be credited to the fund.]

37       b. Unless otherwise expressly provided by the specific  
38 appropriation thereof by the Legislature, which shall take the form  
39 of a discrete legislative appropriations act and shall not be included  
40 within the annual appropriations act, all available moneys in the  
41 fund shall be [allocated and used as follows:

42       Moneys in the fund received from the Clean Communities  
43 Program Fund established pursuant to section 5 of P.L.2002, c.128  
44 (C.13:1E-217)] appropriated annually solely for the following  
45 purposes and no others:

46       (1) 60% of the estimated annual balance of the fund shall be used  
47 for the annual expenses of a program for direct recycling grants to

1 municipalities or counties in those instances where a county, at its  
2 own expense, provides for the collection, processing and marketing  
3 of recyclable materials on a regional basis. The amount of [these  
4 grants] a direct recycling grant shall be calculated on the basis of  
5 the total number of tons of recyclable materials annually recycled  
6 from residential, commercial and institutional sources within [that]  
7 a particular municipality, or group of municipalities in the case of a  
8 county recycling program[, except that no such]. No direct  
9 recycling grant shall exceed \$10 per ton of recyclable materials  
10 recycled. All grant moneys received by a municipality shall be  
11 expended only for its recycling program. The department may  
12 allocate a portion of [these] the direct recycling grant moneys as  
13 bonus grants to municipalities and counties [in those instances  
14 where] whenever a municipality or county, at its own expense,  
15 provides for the collection of recyclable materials in its recycling  
16 program. The department shall announce each year the total  
17 amount of moneys available in the bonus grant fund.

18 A municipality may distribute a portion of its direct recycling  
19 grant moneys to nonprofit groups that are located within that  
20 municipality and which have contributed to the receipt of the direct  
21 recycling grant, except that this distribution shall not exceed the  
22 value of approved documented tonnage contributed by a nonprofit  
23 group.

24 A municipality may designate any nonprofit group as a recycling  
25 agent. A recycling agent shall receive that part of the municipality's  
26 direct recycling grant under this [subsection] paragraph that  
27 represents the percentage of the grant received by the municipality  
28 due to the documented tonnage contributed by that recycling agent.  
29 Moneys received by a recycling agent shall be expended only for its  
30 recycling program. Any moneys not used for recycling shall be  
31 returned by the recycling agent to the municipality.

32 To be eligible for a direct recycling grant pursuant to this  
33 [subsection] paragraph, a municipality or county in the case of a  
34 county recycling program shall demonstrate that the recyclable  
35 materials recycled by the municipal or county recycling program  
36 were not diverted from a commercial recycling program already in  
37 existence on the effective date of the ordinance or resolution  
38 establishing the municipal or county recycling program.

39 To remain eligible for a direct recycling grant pursuant to this  
40 paragraph, a municipality or county in the case of a county  
41 recycling program shall submit an annual recycling tonnage report  
42 to the department in accordance with rules and regulations adopted  
43 by the department therefor. Following the designation of a district  
44 certified recycling coordinator pursuant to section 3 of P.L.1987,  
45 c.102 (C.13:1E-99.13) and the designation of a municipal certified  
46 recycling coordinator pursuant to section 6 of P.L.1987, c.102  
47 (C.13:1E-99.16), the department shall not accept an annual

1 recycling tonnage report from a county or municipality unless the  
2 report has been signed by a certified recycling coordinator.

3 No direct recycling grant to any municipality shall be used for  
4 constructing or operating any facility for the baling of wastepaper  
5 or for the shearing, baling or shredding of ferrous or nonferrous  
6 materials.

7 Whenever a municipality operates a municipal service system for  
8 solid waste collection pursuant to R.S.40:66-1, or provides for  
9 regular solid waste collection service under a contract awarded  
10 pursuant to the "Local Public Contracts Law," P.L.1971, c.198  
11 (C.40A:11-1 et seq.), the amount of grant moneys received by the  
12 municipality shall not be less than the annual amount of recycling  
13 tax paid by the municipality pursuant to section 4 of P.L. \_\_\_\_\_,  
14 c. (C. \_\_\_\_\_) (pending in the Legislature as this bill), except that  
15 all grant moneys received by the municipality shall be expended  
16 only for its recycling program;

17 (2) 5% of the estimated annual balance of the fund shall be used  
18 for State recycling program planning and program funding,  
19 including the administrative expenses thereof;

20 (3) 25% of the estimated annual balance of the fund shall be used  
21 to provide State aid to counties for preparing, revising, and  
22 implementing solid waste management plans, including the  
23 implementation of the goals of the State Recycling Plan. The  
24 moneys may also be used by the counties to support community  
25 oversight projects and to establish a citizens' advisory committee. A  
26 county receiving State aid shall not expend more than 2% of the  
27 amount of aid received in any year for the costs of administering the  
28 aid. The State aid shall be distributed to the counties on the basis of  
29 the total amount of solid waste generated from within each county  
30 during the previous calendar year as determined by the department.  
31 In the event that the department determines that any county has  
32 failed to fulfill its district solid waste management planning  
33 responsibilities, the department may withhold for an entire year or  
34 until the county fulfills its responsibilities, all or a portion of the  
35 amount of moneys that county would have received in any year  
36 pursuant to this paragraph. Any moneys withheld for an entire year  
37 shall be distributed among the remaining counties in the same  
38 proportion as the other moneys were distributed. The moneys may  
39 also be used by the counties for household hazardous waste  
40 collection, and for recycling program planning and program  
41 funding, including the administrative expenses thereof;

42 (4) 5% of the estimated annual balance of the fund shall be used  
43 by counties for public information and education programs  
44 concerning recycling activities; and

45 (5) 5% of the estimated annual balance of the fund shall be used  
46 by the department to provide grants to institutions of higher

1 education to conduct research in recycling.

2 (cf: P.L.2002, c.128, s.11)

3

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

6 3. a. Each county shall prepare and adopt a district recycling  
7 plan to implement the State Recycling Plan goals. Each district  
8 recycling plan shall be adopted as an amendment to the district  
9 solid waste management plan required pursuant to the provisions of  
10 the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et  
11 seq.) and subject to the approval of the department. Each district  
12 recycling plan may be modified after adoption pursuant to a  
13 procedure set forth in the adopted plan as approved by the  
14 department.

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

17 (1) Designation of a district recycling coordinator;

18 (2) Designation of the recyclable materials to be source separated  
19 in each municipality which shall include, in addition to leaves, at  
20 least three other recyclable materials separated from the municipal  
21 solid waste stream;

22 (3) Designation of the strategy for the collection, marketing and  
23 disposition of designated source separated recyclable materials in  
24 each municipality;

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

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

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

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

36 (5) Designation of countywide recovery targets to achieve the  
37 maximum feasible recovery of recyclable materials from the total  
38 solid waste stream which shall include, at a minimum, the recycling  
39 of at least 60% of the total solid waste stream by December 31,  
40 1995.

41 Within 24 months of the effective date of P.L. , c. (C. )  
42 (pending in the Legislature as this bill), each district recycling plan  
43 shall be modified to include the designation of a district certified  
44 recycling coordinator.

45 For the purposes of this subsection, "district certified recycling  
46 coordinator" means a person who shall have completed the  
47 requirements of a course of instruction in various aspects of

1 recycling program management, as determined and administered by  
2 the department; "total municipal solid waste stream" means the sum  
3 of the municipal solid waste stream disposed of as solid waste, as  
4 measured in tons, plus the total number of tons of recyclable  
5 materials recycled; and "total solid waste stream" means the  
6 aggregate amount of solid waste generated within the boundaries of  
7 any county from all sources of generation, including the municipal  
8 solid waste stream.

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

17 **【Each district recycling plan may be modified after adoption**  
18 **pursuant to a procedure set forth in the adopted plan as approved by**  
19 **the department.】**

20 d. A district recycling plan may be modified to require that each  
21 municipality within the county revise the ordinance adopted  
22 pursuant to subsection b. of section 6 of P.L.1987, c.102  
23 (C.13:1E-99.16) to provide for the source separation and collection  
24 of used dry cell batteries as a designated recyclable material.  
25 (cf: P.L.2001, c.92, s.7)

26  
27 9. Section 6 of P.L.1987, c.102 (C.13:1E-99.16) is amended to  
28 read as follows:

29 6. Each municipality in this State shall, within 24 months of the  
30 effective date of P.L. , c. (C. ) (pending in the Legislature  
31 as this bill), designate one or more persons as the municipal  
32 certified recycling coordinator. For the purposes of this section,  
33 "municipal certified recycling coordinator" means a person who  
34 shall have completed the requirements of a course of instruction in  
35 various aspects of recycling program management, as determined  
36 and administered by the department.

37 Each municipality shall establish and implement a municipal  
38 recycling program in accordance with the following requirements:

39 a. Each municipality shall provide for a collection system for the  
40 recycling of the recyclable materials designated in the district  
41 recycling plan as may be necessary to achieve the designated  
42 recovery targets set forth in the plan in those instances where a  
43 recycling collection system is not otherwise provided for by the  
44 generator or by the county, interlocal service agreement or joint  
45 service program, or other private or public recycling program  
46 operator.

1       b. The governing body of each municipality shall adopt an  
2 ordinance which requires persons generating municipal solid waste  
3 within its municipal boundaries to source separate from the  
4 municipal solid waste stream, in addition to leaves, the specified  
5 recyclable materials for which markets have been secured and,  
6 unless recycling is otherwise provided for by the generator, place  
7 these specified recyclable materials for collection in the manner  
8 provided by the ordinance.

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

16       The revised master plan shall include provisions for the  
17 collection, disposition and recycling of recyclable materials  
18 designated in the municipal recycling ordinance adopted pursuant to  
19 subsection b. of this section, and for the collection, disposition and  
20 recycling of designated recyclable materials within any  
21 development proposal for the construction of 50 or more units of  
22 single-family residential housing or 25 or more units of  
23 multi-family residential housing and any commercial or industrial  
24 development proposal for the utilization of 1,000 square feet or  
25 more of land.

26       d. The governing body of a municipality may exempt persons  
27 occupying commercial and institutional premises within its  
28 municipal boundaries from the source separation requirements of  
29 the ordinance adopted pursuant to subsection b. of this section if  
30 those persons have otherwise provided for the recycling of the  
31 recyclable materials designated in the district recycling plan from  
32 solid waste generated at those premises. To be eligible for an  
33 exemption pursuant to this subsection, a commercial or institutional  
34 solid waste generator annually shall provide written documentation  
35 to the municipality of the total number of tons recycled.

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

40       f. The governing body of each municipality shall, at least once  
41 every six months, notify all persons occupying residential,  
42 commercial, and institutional premises within its municipal  
43 boundaries of local recycling opportunities, and the source  
44 separation requirements of the ordinance. In order to fulfill the  
45 notification requirements of this subsection, the governing body of  
46 a municipality may, in its discretion, place an advertisement in a  
47 newspaper circulating in the municipality, post a notice in public

1 places where public notices are customarily posted, include a notice  
2 with other official notifications periodically mailed to residential  
3 taxpayers, or any combination thereof, as the municipality deems  
4 necessary and appropriate.

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

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

11  
12 10. Section 2 of P.L.1985, c.38 (C.13:1E-137) is amended to  
13 read as follows:

14 2. As used in this [amendatory and supplementary] act:

15 [a.] "Contract file" means a file established and maintained by a  
16 contracting unit, in which the contracting unit shall maintain a copy  
17 of its request for qualifications issued pursuant to section 19 of  
18 [this amendatory and supplementary act] P.L.1985, c.38  
19 (C.13:1E-154), a list of vendors responding to its request for  
20 qualifications, a copy of its request for proposals issued pursuant to  
21 section 20 of [this amendatory and supplementary act] P.L.1985,  
22 c.38 (C.13:1E-155), a list of qualified vendors submitting proposals,  
23 and a document outlining the general criteria used by the  
24 contracting unit in selecting a proposal;

25 [b.] "Contracting unit" means any county; any municipality;  
26 any bistate authority; or any [board, commission, committee,  
27 authority or agency, which is not a State board, commission,  
28 committee, authority or agency, and which has administrative  
29 jurisdiction over any district other than a school district, project, or  
30 facility, included or operating in whole or in part, within the  
31 territorial boundaries of any county or municipality, which  
32 exercises functions which are appropriate for the exercise by one or  
33 more units of local government, and] public authority which has  
34 statutory power to [make purchases and] enter into contracts or  
35 agreements [for the performance of any work or the furnishing or  
36 hiring of any materials or supplies usually required] for the design,  
37 financing, construction, operation, or maintenance, or any  
38 combination thereof, of a resource recovery facility;

39 [c.] "County" means any county of this State of whatever class;

40 [d.] "Department" means the Department of Environmental  
41 Protection;

42 [e.] "Director" means the Director of the Division of Taxation  
43 in the Department of Treasury;

44 [f.] "District" means a solid waste management district as  
45 designated by section 10 of P.L.1975, c.326 (C.13:1E-19), except  
46 that, as used in the provisions of this amendatory and

1 supplementary act, "district" shall not include the Hackensack  
2 Meadowlands District;】

3 【g. "District investment tax fund" means a District Resource  
4 Recovery Investment Tax Fund established pursuant to subsection  
5 a. of section 15 of this amendatory and supplementary act;】

6 【h.】 "Division" means the Division of Taxation in the  
7 Department of Treasury;

8 【i.】 "Division of Local Government Services" means the  
9 Division of Local Government Services in the Department of  
10 Community Affairs;

11 【j. "Division of Rate Counsel" means the Division of Rate  
12 Counsel in the Department of the Public Advocate;】

13 【k.】 "Franchise" means the exclusive right to control and  
14 provide for the disposal of solid waste, except for recyclable  
15 material whenever markets for those materials are available, within  
16 a district 【or districts】 as awarded by the Board of Public Utilities  
17 or the department prior to November 10, 1997;

18 【l.】 "Independent public accountant" means a certified public  
19 accountant, a licensed public accountant or a registered municipal  
20 accountant;

21 【m. "Investment tax" means the resource recovery investment  
22 tax imposed pursuant to subsection b. of section 3 of this  
23 amendatory and supplementary act;】

24 【n. "Investment tax fund" means the Resource Recovery  
25 Investment Tax Fund containing sub-accounts for each county  
26 established pursuant to the provisions of section 14 of this  
27 amendatory and supplementary act;】

28 【o. "Out-of-district solid waste" means any solid waste accepted  
29 for disposal in a district which was generated outside the receiving  
30 district;】

31 【p.】 "Person or party" means any individual, public or private  
32 corporation, company, partnership, firm, association, political  
33 subdivision of this State, or any State, bistate, or interstate agency  
34 or public authority;

35 【q.】 "Proposed contract" means a contract negotiated by a  
36 contracting unit pursuant to the provisions of 【this amendatory and  
37 supplementary act, or a substantial renegotiation of a contract  
38 approved pursuant to the provisions of this amendatory and  
39 supplementary act if the renegotiation is determined to be  
40 substantial by the department, the Board of Public Utilities, or the  
41 Division of Local Government Services】 P.L.1985, c.38 (C.13:1E-  
42 136 et al.);

43 "Public authority" means any municipal or county utilities  
44 authority created pursuant to the "municipal and county utilities  
45 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); county

1 improvement authority created pursuant to the "county  
2 improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et  
3 seq.); pollution control financing authority created pursuant to the  
4 "New Jersey Pollution Control Financing Law," P.L.1973, c.376  
5 (C.40:37C-1 et seq.), or any other public body corporate and politic  
6 created for solid waste management purposes in any county,  
7 pursuant to the provisions of any law;

8 [r.] "Qualified vendor" means any person or party financially  
9 qualified for, and technically and administratively capable of,  
10 undertaking the design, financing, construction, operation, or  
11 maintenance, or any combination thereof, of a resource recovery  
12 facility or of providing resource recovery services, as provided in  
13 section 19 of [this amendatory and supplementary act] P.L.1985,  
14 c.38 (C.13:1E-154);

15 [s.] "Recyclable material" means those materials which would  
16 otherwise become solid waste, which may be collected, separated or  
17 processed and returned to the economic mainstream in the form of  
18 raw materials or products;

19 [t.] "Recycling" means any process by which materials which  
20 would otherwise become solid waste are collected, separated or  
21 processed and returned to the economic mainstream in the form of  
22 raw materials or products;

23 [u.] "Recycling facility" means a facility at which materials  
24 which would otherwise become solid waste are collected, separated  
25 or processed and returned to the economic mainstream in the form  
26 of raw materials or products;]

27 [v.] "Resource recovery facility" means a solid waste facility  
28 constructed and operated for the incineration of solid waste for  
29 energy production and the recovery of metals and other materials  
30 for reuse; or a mechanized composting facility, or any other solid  
31 waste facility constructed or operated for the collection, separation,  
32 recycling, and recovery of metals, glass, paper, and other materials  
33 for reuse or for energy production;

34 [w.] "Sanitary landfill facility" means a solid waste facility at  
35 which solid waste is deposited on or in the land as fill for the  
36 purpose of permanent disposal or storage for a period exceeding six  
37 months, except that it shall not include any waste facility approved  
38 for disposal of hazardous waste;

39 [x.] "Services tax" means the solid waste services tax imposed  
40 pursuant to subsection a. of section 3 of this amendatory and  
41 supplementary act;]

42 [y.] "Services tax fund" means the Solid Waste Services Tax  
43 Fund established pursuant to section 12 of this amendatory and  
44 supplementary act;]

45 [z.] "Vendor" means any person or party proposing to  
46 undertake the design, financing, construction, operation, or

1 maintenance, or any combination thereof, of a resource recovery  
2 facility or of providing resource recovery services;

3     【aa. "Waste importation tax" means the solid waste importation  
4 tax imposed pursuant to subsection c. of section 3 of this  
5 amendatory and supplementary act.】

6 (cf: P.L.1985, c.38, s.2)

7  
8     11. Section 3 of P.L.1985, c.38 (C.13:1E-138) is amended to  
9 read as follows:

10     3. a. There is levied upon the owner or operator of every  
11 sanitary landfill facility a solid waste services tax. The services tax  
12 shall be imposed on the owner or operator at the 【initial】 rate of  
13 【\$0.50】 \$1.55 per ton of 【solids and \$0.002 per gallon of liquids】  
14 solid waste on all solid waste accepted for disposal at a sanitary  
15 landfill facility. 【On the first day of the first calendar year  
16 following the imposition of the services tax, and annually  
17 thereafter, the rate of the services tax shall be increased by \$0.05  
18 per ton of solids.】 No services tax shall be levied on the owner or  
19 operator of a sanitary landfill facility for the acceptance for disposal  
20 of the waste products resulting from the operation of a resource  
21 recovery facility.

22     The services tax imposed by this subsection shall expire on the  
23 first day of the first month after the effective date of P.L. ,  
24 c. (C. ) (pending in the Legislature as this bill). However, this  
25 expiration shall not affect any obligation, lien or duty to pay taxes  
26 that may be due with respect to the imposition of any levy, or  
27 interest or penalties that may accrue by virtue of any assessment,  
28 which may be made with respect to taxes levied for any taxable year  
29 or part of a taxable year, prior to the first day of the first month  
30 after the effective date of P.L. , c. (C. ) (pending in the  
31 Legislature as this bill), nor shall this expiration affect the legal  
32 authority to assess and collect the taxes that may be due and  
33 payable under subsection a. of section 3 of P.L.1985, c.38  
34 (C.13:1E-138), as the case may be, together with such interest and  
35 penalties as would accrue thereon under section 6 of P.L.1985, c.38  
36 (C.13:1E-141), nor shall the expiration invalidate any assessment or  
37 affect any proceeding for the enforcement thereof.

38     b. 【(1) There is levied upon the owner or operator of every  
39 sanitary landfill facility a resource recovery investment tax. The  
40 investment tax shall be levied on the owner or operator at the initial  
41 rate of \$1.00 per ton of solids and \$0.004 per gallon of liquids on  
42 all solid waste accepted for disposal at a sanitary landfill facility.  
43 No investment tax shall be levied on the owner or operator of a  
44 sanitary landfill facility for the acceptance for disposal of the waste  
45 products resulting from the operation of a resource recovery  
46 facility.

1 (2) Unless the rate is otherwise adjusted pursuant to section 11 of  
2 this amendatory and supplementary act, the rate of the investment  
3 tax shall be increased in accordance with the following schedule:

4 (a) On the first day of the first calendar year following the  
5 imposition of the investment tax, the rate of the investment tax shall  
6 increase to \$2.00 per ton of solids;

7 (b) On the first day of the second calendar year following the  
8 imposition of the investment tax, the rate of the investment tax shall  
9 increase to \$3.00 per ton of solids; and

10 (c) On the first day of the third calendar year following the  
11 imposition of the investment tax, the rate of the investment tax shall  
12 increase to \$4.00 per ton of solids.

13 The investment tax shall no longer be levied on the owner or  
14 operator of a sanitary landfill on and after the first day of the 11th  
15 calendar year following the imposition of the investment tax.】

16 (Deleted by amendment, P.L. \_\_, c. \_\_)

17 c. 【There is levied upon the owner or operator of every sanitary  
18 landfill facility which accepts out-of-district solid waste a solid  
19 waste importation tax. The waste importation tax shall be imposed  
20 on the owner or operator at the initial rate of \$1.00 per ton of solids  
21 and \$0.004 per gallon of liquids on all out-of-district solid waste  
22 accepted for disposal at a sanitary landfill facility. On the first day  
23 of the third calendar year following the imposition of the waste  
24 importation tax, the rate of the waste importation tax shall be  
25 increased to \$4.00 per ton of solids, and annually thereafter the rate  
26 of the waste importation tax shall be increased by \$2.00 per ton of  
27 solids. No waste importation tax shall be levied on the owner or  
28 operator of a sanitary landfill facility for the acceptance for disposal  
29 of the waste products resulting from the operation of a resource  
30 recovery facility.

31 The waste importation tax shall no longer be levied on the owner  
32 or operator of a sanitary landfill facility which accepts  
33 out-of-district solid waste on or after the first day of the 11th  
34 calendar year following the imposition of the waste importation  
35 tax.】 (Deleted by amendment, P.L. \_\_, c. \_\_)

36 d. If any owner or operator of a sanitary landfill facility  
37 determines the quantity of solid waste accepted for disposal by a  
38 measure other than tons 【or gallons】, the taxes imposed pursuant to  
39 the provisions of this section shall be levied at an equivalent rate as  
40 determined by the director.

41 e. No taxes shall be levied on the owner or operator of a sanitary  
42 landfill facility for the acceptance of solid waste generated  
43 exclusively by an agency of the federal government if a solid waste  
44 collector submits to the owner or operator an itemized invoice,  
45 signed and verified by an authorized officer of the federal agency,  
46 indicating the number of tons of solid waste to be disposed of, and a  
47 copy of the contract with the federal agency for the collection of

1 solid waste with an effective date prior to [the effective date of this  
2 amendatory and supplementary act] May 1, 1985. Taxes shall be  
3 levied on the owner or operator for acceptance of solid waste  
4 generated by a federal agency if the contract between the federal  
5 agency and the solid waste collector was entered into, or renewed,  
6 on or after [the effective date of this amendatory and  
7 supplementary act] May 1, 1985.

8 (cf: P.L.1985, c.38, s.3)

10 12. Section 12 of P.L.1985, c.38 (C.13:1E-147) is amended to  
11 read as follows:

12 12. The Solid Waste Services Tax Fund is established as a  
13 nonlapsing, revolving fund in the Department of Environmental  
14 Protection. The services tax fund shall be administered by the  
15 department and shall be the depository for the revenues generated  
16 by the solid waste services tax levied and imposed pursuant to  
17 section 3 of P.L.1985, c.38 (C.13:1E-138), and any interest earned  
18 thereon.

19 No later than 30 days following the effective date of P.L. \_\_\_\_\_,  
20 c. (C. \_\_\_\_\_) (pending in the Legislature as this bill), the remaining  
21 moneys in the services tax fund shall be appropriated to the State  
22 Recycling Fund established pursuant to section 5 of P.L.1981, c.278  
23 (C.13:1E-96).

24 (cf: P.L.1985, c.38, s.12)

26 13. Section 1 of P.L.2002, c.128 (C.13:1E-213) is amended to  
27 read as follows:

28 1. Sections 1 through 10 and section 13 of P.L.2002, c.128  
29 (C.13:1E-213 et seq.) shall be known and may be cited as the  
30 "Clean Communities [and Recycling Grant] Program Act."

31 (cf: P.L.2002, c.128, s.1)

33 14. Section 2 of P.L.2002, c.128 (C.13:1E-214) is amended to  
34 read as follows:

35 2. The Legislature finds that an uncluttered landscape is among  
36 the most priceless heritages which New Jersey can bequeath to  
37 posterity; that it is the duty of government to promote and  
38 encourage a clean and safe environment; that the proliferation and  
39 accumulation of carelessly discarded litter may pose a threat to the  
40 public health and safety; that the litter problem is especially serious  
41 in a State as densely populated and heavily traveled as New Jersey;  
42 and that unseemly litter has an adverse economic effect on New  
43 Jersey by making the State less attractive to tourists and new  
44 industry and residents.

45 [The Legislature further finds that the recycling of waste  
46 materials decreases waste flow to county solid waste facilities and  
47 out-of-State disposal sites, reduces waste flow to the State's solid

1 waste incinerators while contributing to their overall combustion  
2 efficiency through the removal of noncombustible and  
3 nonprocessable materials at the source, recovers valuable resources,  
4 conserves energy in the manufacturing process, and offers a supply  
5 of domestic raw materials for the State's industries; that  
6 economically viable municipal and county recycling programs are  
7 necessary to achieve the maximum practicable recovery of reusable  
8 materials from solid waste in this State; and that such programs will  
9 reduce the amount of solid waste disposed at county solid waste  
10 facilities, result in more efficient solid waste incinerators, conserve  
11 energy and resources, and recover materials for industrial uses.】

12 The Legislature, therefore, declares it to be in the aesthetic,  
13 environmental, and economic interests of the State of New Jersey to  
14 support a Clean Communities Program 【and to maintain support for  
15 municipal and county recycling programs】.

16 (cf: P.L.2002, c.128, s.2)

17

18 15. Section 5 of P.L.2002, c.128 (C.13:1E-217) is amended to  
19 read as follows:

20 5. The Clean Communities Program Fund is established as a  
21 nonlapsing, revolving fund in the Department of the Treasury. The  
22 Clean Communities Program Fund shall be administered by the  
23 Department of Environmental Protection and credited, in addition to  
24 any appropriations made thereto, with all user fees imposed  
25 pursuant to section 4 of P.L.2002, c.128 (C.13:1E-216) or penalties  
26 imposed pursuant to section 10 of P.L.2002, c.128 (C.13:1E-222),  
27 and any sums received as voluntary contributions from private  
28 sources. Interest received on moneys in the Clean Communities  
29 Program Fund shall be credited to the fund. Unless otherwise  
30 expressly provided by the specific appropriation thereof by the  
31 Legislature, which shall take the form of a discrete legislative  
32 appropriations act and shall not be included within the annual  
33 appropriations act, all available moneys in the Clean Communities  
34 Program Fund shall be appropriated annually solely for the  
35 following purposes and no others:

36 a. 10% of the estimated annual balance of the Clean  
37 Communities Program Fund shall be used for a State program of  
38 litter pickup and removal and of enforcement of litter-related laws  
39 and ordinances in State owned places and areas that are accessible  
40 to the public. Moneys in the fund may also be used by the State to  
41 abate graffiti;

42 b. 50% of the estimated annual balance of the Clean  
43 Communities Program Fund shall be distributed as State aid to  
44 eligible municipalities with total housing units of 200 or more for  
45 programs of litter pickup and removal, including establishing an  
46 "Adopt-A-Highway" program, of public education and information  
47 relating to litter abatement and of enforcement of litter-related laws

1 and ordinances. The amount of State aid due each municipality  
2 shall be solely calculated based on the proportion which the housing  
3 units of a qualifying municipality bear to the total housing units in  
4 the State. Total housing units shall be determined using the most  
5 recent federal decennial population estimates for New Jersey and its  
6 municipalities, filed in the office of the Secretary of State. Moneys  
7 in the fund may also be used by an eligible municipality to abate  
8 graffiti;

9 c. 30% of the estimated annual balance of the Clean  
10 Communities Program Fund shall be distributed as State aid to  
11 eligible municipalities with total housing units of 200 or more for  
12 programs of litter pickup and removal, including establishing an  
13 "Adopt-A-Highway" program, of public education and information  
14 relating to litter abatement and of enforcement of litter-related laws  
15 and ordinances. The amount of State aid due each municipality  
16 shall be solely calculated based on the proportion which the  
17 municipal road mileage of a qualifying municipality bears to the  
18 total municipal road mileage within the State. For the purposes of  
19 this subsection, "municipal road mileage" means that road mileage  
20 under the jurisdiction of municipalities, as determined by the  
21 Department of Transportation. Moneys in the fund may also be  
22 used by an eligible municipality to abate graffiti;

23 d. 10% of the estimated annual balance of the Clean  
24 Communities Program Fund shall be distributed as State aid to  
25 eligible counties for programs of litter pickup and removal,  
26 including establishing an "Adopt-A-Highway" program, of public  
27 education and information relating to litter abatement and of  
28 enforcement of litter-related laws and ordinances. The amount of  
29 State aid due each county shall be solely calculated based on the  
30 proportion which the county road mileage of an eligible county  
31 bears to the total county road mileage within the State. For the  
32 purposes of this subsection, "county road mileage" means that road  
33 mileage under the jurisdiction of counties, as determined by the  
34 Department of Transportation. Moneys in the fund may also be  
35 used by an eligible county to abate graffiti;

36 e. No eligible municipality shall receive less than \$4,000 in  
37 State aid as apportioned pursuant to subsections b. and c. of this  
38 section. A municipality or county may use up to 5% of its State aid  
39 for administrative expenses;

40 f. Prior to the distribution of funds pursuant to subsections a.  
41 through d. of this section [:

42 (1) 25% of the estimated annual balance of the Clean  
43 Communities Program Fund shall be annually appropriated to the  
44 State Recycling Fund established pursuant to section 5 of P.L.1981,  
45 c.278 (C.13:1E-96). These moneys shall be used by the Department  
46 of Environmental Protection for direct recycling grants to counties  
47 and municipalities, up to a maximum appropriation of \$4,000,000

1 per year. The moneys made available to the department from the  
2 Clean Communities Program Fund for direct recycling grants shall  
3 be annually appropriated to the State Recycling Fund until such  
4 time as an alternative funding mechanism for direct recycling grants  
5 is enacted into law; and

6 (2) \$300,000 ] , \$375,000 of the estimated annual balance of the  
7 Clean Communities Program Fund shall be annually appropriated to  
8 the department and made available on July 1 of every year to the  
9 organization under contract with the department pursuant to section  
10 6 of P.L.2002, c.128 (C.13:1E-218) for a Statewide public  
11 information and education program concerning antilittering  
12 activities and other aspects of responsible solid waste handling  
13 behavior , of which up to \$75,000 shall be used exclusively to  
14 finance an annual statewide television, radio, newspaper and other  
15 media advertising campaign to promote antilittering and responsible  
16 solid waste handling behavior .

17 The organization under contract with the department pursuant to  
18 section 6 of P.L.2002, c.128 (C.13:1E-218) shall, no later than the  
19 date on which the contract period concludes, submit a report to the  
20 Governor and the Legislature concerning its activities during the  
21 contract period and any recommendations concerning improving the  
22 program. Every eligible municipality and county shall cooperate  
23 with the organization under contract with the department pursuant  
24 to section 6 of P.L.2002, c.128 (C.13:1E-218) in providing  
25 information concerning its program of litter pickup and removal.

26 No later than May 31, 2008, 25% of the estimated annual balance  
27 of the Clean Communities Program Fund shall be appropriated to  
28 the State Recycling Fund established pursuant to section 5 of  
29 P.L.1981, c.278 (C.13:1E-96). These moneys shall be used by the  
30 Department of Environmental Protection for direct recycling grants  
31 to counties and municipalities, up to a maximum appropriation of  
32 \$4,000,000.

33 g. As used in this section, "graffiti" means any inscription  
34 drawn, painted or otherwise made on a bridge, building, public  
35 transportation vehicle, rock, wall, sidewalk, street or other exposed  
36 surface on public property.

37 The department may carry forward any unexpended balances in  
38 the Clean Communities Program Fund as of June 30 of each year.  
39 (cf: P.L.2006, c.31, s.3)

40  
41 16. Section 13 of P.L.2002, c.128 (C.13:1E-223) is amended to  
42 read as follows:

43 13. a. The annual appropriations act for each State fiscal year  
44 shall, without other conditions, limitations or restrictions on the  
45 following:

46 (1) [appropriate the amounts specified pursuant to paragraph (1)  
47 of subsection f. of section 5 of P.L.2002, c.128 (C.13:1E-217) to the

1 State Recycling Fund established pursuant to section 5 of P.L.1981,  
2 c.278 (C.13:1E-96) for use by the Department of Environmental  
3 Protection for direct recycling grants to counties and  
4 municipalities;] (Deleted by amendment, P.L. , c. ) (pending in  
5 the Legislature as this bill)

6 (2) appropriate the amount specified pursuant to paragraph (2) of  
7 subsection f. of section 5 of P.L.2002, c.128 (C.13:1E-217) to the  
8 Department of Environmental Protection for use by the organization  
9 under contract with the department pursuant to section 6 of  
10 P.L.2002, c.128 (C.13:1E-218) for a Statewide public information  
11 and education program concerning antilittering activities and other  
12 aspects of responsible solid waste handling behavior; and

13 (3) appropriate the balance of the Clean Communities Program  
14 Fund established pursuant to section 5 of P.L.2002, c.128  
15 (C.13:1E-217) for the purposes set forth in subsections a., b., c. and  
16 d. of that section.

17 b. If the requirements of subsection a. of this section are not met  
18 on the effective date of an annual appropriations act for the State  
19 fiscal year, or if an amendment or supplement to an annual  
20 appropriations act for the State fiscal year should violate any of the  
21 requirements of subsection a. of this section, the Director of the  
22 Division of Budget and Accounting in the Department of the  
23 Treasury shall, not later than five days after the enactment of the  
24 annual appropriations act, or an amendment or supplement thereto,  
25 that violates any of the requirements of subsection a. of this section,  
26 certify to the Director of the Division of Taxation that the  
27 requirements of subsection a. of this section have not been met.

28 (cf: P.L.2002, c.128, s.13)

29

30 17. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to  
31 read as follows:

32 3. In the preparation of its budget a municipality shall limit any  
33 increase in said budget to 2.5% or the cost-of-living adjustment,  
34 whichever is less, over the previous year's final appropriations  
35 subject to the following exceptions:

36 a. (Deleted by amendment, P.L.1990, c.89.)

37 b. Capital expenditures, including appropriations for current  
38 capital expenditures, whether in the capital improvement fund or as  
39 a component of a line item elsewhere in the budget, provided that  
40 any such current capital expenditure would be otherwise bondable  
41 under the requirements of N.J.S.40A:2-21 and 40A:2-22;

42 c. (1) An increase based upon emergency temporary  
43 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent  
44 situation or event which immediately endangers the health, safety or  
45 property of the residents of the municipality, and over which the  
46 governing body had no control and for which it could not plan and  
47 emergency appropriations made pursuant to N.J.S.40A:4-46.

1 Emergency temporary appropriations and emergency appropriations  
2 shall be approved by at least two-thirds of the governing body and  
3 by the Director of the Division of Local Government Services, and  
4 shall not exceed in the aggregate 3% of the previous year's final  
5 current operating appropriations.

6 (2) (Deleted by amendment, P.L.1990, c.89.)

7 The approval procedure in this subsection shall not apply to  
8 appropriations adopted for a purpose referred to in subsection d. or  
9 j. below;

10 d. All debt service, including that of a Type I school district;

11 e. Upon the approval of the Local Finance Board in the Division  
12 of Local Government Services, amounts required for funding a  
13 preceding year's deficit;

14 f. Amounts reserved for uncollected taxes;

15 g. (Deleted by amendment, P.L.1990, c.89.)

16 h. Expenditure of amounts derived from new or increased  
17 construction, housing, health or fire safety inspection or other  
18 service fees imposed by State law, rule or regulation or by local  
19 ordinance;

20 i. Any amount approved by any referendum;

21 j. Amounts required to be paid pursuant to (1) any contract with  
22 respect to use, service or provision of any project, facility or public  
23 improvement for water, sewerage, parking, senior citizen housing or  
24 any similar purpose, or payments on account of debt service  
25 therefor, between a municipality and any other municipality,  
26 county, school or other district, agency, authority, commission,  
27 instrumentality, public corporation, body corporate and politic or  
28 political subdivision of this State; (2) the provisions of article 9 of  
29 P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent  
30 municipality to the intermunicipal account; (3) any lease of a  
31 facility owned by a county improvement authority when the lease  
32 payment represents the proportionate amount necessary to amortize  
33 the debt incurred by the authority in providing the facility which is  
34 leased, in whole or in part; and (4) any repayments under a loan  
35 agreement entered into in accordance with the provisions of section  
36 5 of P.L.1992, c.89;

37 k. (Deleted by amendment, P.L.1987, c.74.)

38 l. Appropriations of federal, county, independent authority or  
39 State funds, or by grants from private parties or nonprofit  
40 organizations for a specific purpose, and amounts received or to be  
41 received from such sources in reimbursement for local  
42 expenditures. If a municipality provides matching funds in order to  
43 receive the federal, county, independent authority or State funds, or  
44 the grants from private parties or nonprofit organizations for a  
45 specific purpose, the amount of the match which is required by law  
46 or agreement to be provided by the municipality shall be excepted;

47 m. (Deleted by amendment, P.L.1987, c.74.)

- 1 n. (Deleted by amendment, P.L.1987, c.74.)
- 2 o. (Deleted by amendment, P.L.1990, c.89.)
- 3 p. (Deleted by amendment, P.L.1987, c.74.)
- 4 q. (Deleted by amendment, P.L.1990, c.89.)
- 5 r. Amounts expended to fund a free public library established
- 6 pursuant to the provisions of R.S.40:54-1 through 40:54-29,
- 7 inclusive;
- 8 s. (Deleted by amendment, P.L.1990, c.89.)
- 9 t. Amounts expended in preparing and implementing a housing
- 10 element and fair share plan pursuant to the provisions of P.L.1985,
- 11 c.222 (C.52:27D-301 et al.) and any amounts received by a
- 12 municipality under a regional contribution agreement pursuant to
- 13 section 12 of that act;
- 14 u. (Deleted by amendment, P.L.2004, c.74.)
- 15 v. (Deleted by amendment, P.L.1990, c.89.)
- 16 w. (Deleted by amendment, P.L.2004, c.74.)
- 17 x. Amounts expended to aid privately owned libraries and
- 18 reading rooms, pursuant to R.S.40:54-35;
- 19 y. (Deleted by amendment, P.L.1990, c.89.)
- 20 z. (Deleted by amendment, P.L.1990, c.89.)
- 21 aa. Extraordinary expenses, approved by the Local Finance
- 22 Board, required for the implementation of an interlocal services
- 23 agreement;
- 24 bb. Any expenditure mandated as a result of a natural disaster,
- 25 civil disturbance or other emergency that is specifically authorized
- 26 pursuant to a declaration of an emergency by the President of the
- 27 United States or by the Governor;
- 28 cc. Expenditures for the cost of services mandated by any order
- 29 of court, by any federal or State statute, or by administrative rule,
- 30 directive, order, or other legally binding device issued by a State
- 31 agency which has identified such cost as mandated expenditures on
- 32 certification to the Local Finance Board by the State agency;
- 33 dd. Expenditures of amounts actually realized in the local
- 34 budget year from the sale of municipal assets in extraordinary cases
- 35 and with the permission of the Local Finance Board;
- 36 ee. Any local unit which is determined to be experiencing fiscal
- 37 distress pursuant to the provisions of P.L.1987, c.75
- 38 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible
- 39 municipality" as defined in section 3 of P.L.1987, c.75
- 40 (C.52:27D-118.26), and which has available surplus pursuant to the
- 41 spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et
- 42 seq.), may appropriate and expend an amount of that surplus
- 43 approved by the director and the Local Finance Board as an
- 44 exception to the spending limitation. Any determination approving
- 45 the appropriation and expenditure of surplus as an exception to the
- 46 spending limitations shall be based upon:

- 1       1) the local unit's revenue needs for the current local budget year
- 2       and its revenue raising capacity;
- 3       2) the intended actions of the governing body of the local unit to
- 4       meet the local unit's revenue needs;
- 5       3) the intended actions of the governing body of the local unit to
- 6       expand its revenue generating capacity for subsequent local budget
- 7       years;
- 8       4) the local unit's ability to demonstrate the source and existence
- 9       of sufficient surplus as would be prudent to appropriate as an
- 10      exception to the spending limitations to meet the operating expenses
- 11      for the local unit's current budget year; and
- 12      5) the impact of utilization of surplus upon succeeding budgets
- 13      of the local unit;
- 14      ff. Newly authorized operating appropriations for the municipal
- 15      court or violation's bureau when approved by the vicinage Presiding
- 16      Judge of the Municipal Court after consultation with the mayor and
- 17      governing body of the municipality;
- 18      gg. (Deleted by amendment, P.L.2004, c.74.)
- 19      hh. (Deleted by amendment, P.L.2004, c.74.)
- 20      ii. Subject to the approval of the Local Finance Board,
- 21      expenditures related to the cost of conducting and implementing a
- 22      total property tax levy sale pursuant to section 16 of P.L.1997, c.99
- 23      (C.54:5-113.5);
- 24      jj. Amounts expended for a length of service award program
- 25      pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);
- 26      kk. Amounts expended to provide municipal services or
- 27      reimbursement amounts to multifamily dwellings for the collection
- 28      and disposal of solid waste generated by the residents of the
- 29      multifamily dwellings. This subsection shall cease to be operative
- 30      at the end of the first local budget year in which the municipality
- 31      has fully phased in its reimbursement amount expenses;
- 32      ll. Amounts expended by a municipality under an interlocal
- 33      services agreement entered into pursuant to the "Interlocal Services
- 34      Act," P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the
- 35      effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The
- 36      governing body of the municipality that will receive the service
- 37      may choose to allow the amount of projected annual savings to be
- 38      added to the amount of final appropriations upon which its
- 39      permissible expenditures are calculated pursuant to section 2 of
- 40      P.L.1976, c.68 (C.40A:4-45.2);
- 41      mm. Amounts expended under a joint contract pursuant to the
- 42      "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1
- 43      et seq.) entered into after the effective date of P.L.2000, c.126
- 44      (C.52:13H-21 et al.). The governing body of each participating
- 45      municipality may choose to allow the amount of projected annual
- 46      savings to be added to the amount of final appropriations upon

1 which its permissible expenditures are calculated pursuant to  
2 section 2 of P.L.1976, c.68 (C.40A:4-45.2);

3 nn. (Deleted by amendment, P.L.2004, c.74.)

4 oo. Amounts appropriated in the first three years after the  
5 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability  
6 insurance, workers' compensation insurance and employee group  
7 insurance;

8 pp. Amounts appropriated in the first three years after the  
9 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of  
10 domestic security preparedness and responses to incidents and  
11 threats to domestic security;

12 qq. Amounts required to be paid by a municipality pursuant to  
13 the provisions of section 4 of P.L. , c. (C. ) (pending in the  
14 Legislature as this bill).

15 In the first full year when an existing appropriation or  
16 expenditure that is subject to budget limitations is made an  
17 exception to budget limitations, a municipality shall deduct from its  
18 final appropriations upon which its permissible expenditures are  
19 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),  
20 the amount which the municipality expended for that purpose  
21 during the last full budget year, or portion thereof, in which the  
22 purpose so excepted was funded from appropriations in the  
23 municipal budget.

24 In the first full year when an existing appropriation or  
25 expenditure that is not subject to budget limitations is made subject  
26 to budget limitations, a municipality shall add to its final  
27 appropriations upon which its permissible expenditures are  
28 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),  
29 the amount which the municipality expended for that purpose  
30 during the last full budget year, or portion thereof, in which the  
31 purpose so excepted was funded from appropriations in the  
32 municipal budget.

33 (cf: P.L.2004, c.74, s.3)

34  
35 18. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to  
36 read as follows:

37 4. In the preparation of its budget, a county may not increase the  
38 county tax levy to be apportioned among its constituent  
39 municipalities in excess of 2.5% or the cost-of-living adjustment,  
40 whichever is less, of the previous year's county tax levy, subject to  
41 the following exceptions:

42 a. The amount of revenue generated by the increase in  
43 valuations within the county, based solely on applying the  
44 preceding year's county tax rate to the apportionment valuation of  
45 new construction or improvements within the county, and such  
46 increase shall be levied in direct proportion to said valuation;

1       b. Capital expenditures, including appropriations for current  
2 capital expenditures, whether in the capital improvement fund or as  
3 a component of a line item elsewhere in the budget, provided that  
4 any such current capital expenditures would be otherwise bondable  
5 under the requirements of N.J.S.40A:2-21 and 40A:2-22;

6       c. (1) An increase based upon emergency temporary  
7 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent  
8 situation or event which immediately endangers the health, safety or  
9 property of the residents of the county, and over which the  
10 governing body had no control and for which it could not plan and  
11 emergency appropriations made pursuant to N.J.S.40A:4-46.  
12 Emergency temporary appropriations and emergency appropriations  
13 shall be approved by at least two-thirds of the governing body and  
14 by the Director of the Division of Local Government Services, and  
15 shall not exceed in the aggregate 3% of the previous year's final  
16 current operating appropriations.

17       (2) (Deleted by amendment, P.L.1990, c.89.)

18       The approval procedure in this subsection shall not apply to  
19 appropriations adopted for a purpose referred to in subsection d. or  
20 f. below;

21       d. All debt service;

22       e. (Deleted by amendment, P.L.1990, c.89.)

23       f. Amounts required to be paid pursuant to (1) any contract with  
24 respect to use, service or provision of any project, facility or public  
25 improvement for water, sewerage, parking, senior citizen housing or  
26 any similar purpose, or payments on account of debt service  
27 therefor, between a county and any other county, municipality,  
28 school or other district, agency, authority, commission,  
29 instrumentality, public corporation, body corporate and politic or  
30 political subdivision of this State; and (2) any lease of a facility  
31 owned by a county improvement authority when the lease payment  
32 represents the proportionate amount necessary to amortize the debt  
33 incurred by the authority in providing the facility which is leased, in  
34 whole or in part;

35       g. That portion of the county tax levy which represents funding  
36 to participate in any federal or State aid program and amounts  
37 received or to be received from federal, State or other funds in  
38 reimbursement for local expenditures. If a county provides  
39 matching funds in order to receive the federal or State or other  
40 funds, only the amount of the match which is required by law or  
41 agreement to be provided by the county shall be excepted;

42       h. (Deleted by amendment, P.L.1987, c.74.)

43       i. (Deleted by amendment, P.L.1990, c.89.)

44       j. (Deleted by amendment, P.L.1990, c.89.)

45       k. (Deleted by amendment, P.L.1990, c.89.)

46       l. (Deleted by amendment, P.L.2004, c.74.)

47       m. (Deleted by amendment, P.L.1990, c.89.)

- 1 n. (Deleted by amendment, P.L.1990, c.89.)
- 2 o. (Deleted by amendment, P.L.1990, c.89.)
- 3 p. Extraordinary expenses, approved by the Local Finance
- 4 Board, required for the implementation of an interlocal services
- 5 agreement;
- 6 q. Any expenditure mandated as a result of a natural disaster,
- 7 civil disturbance or other emergency that is specifically authorized
- 8 pursuant to a declaration of an emergency by the President of the
- 9 United States or by the Governor;
- 10 r. Expenditures for the cost of services mandated by any order of
- 11 court, by any federal or State statute, or by administrative rule,
- 12 directive, order, or other legally binding device issued by a State
- 13 agency which has identified such cost as mandated expenditures on
- 14 certification to the Local Finance Board by the State agency;
- 15 s. That portion of the county tax levy which represents funding
- 16 to a county college in excess of the county tax levy required to fund
- 17 the county college in local budget year 1992;
- 18 t. (Deleted by amendment, P.L.2004, c.74.)
- 19 u. Expenditures for the administration of general public
- 20 assistance pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);
- 21 v. Amounts in a separate line item of a county budget that are
- 22 expended on tick-borne disease vector management activities
- 23 undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.);
- 24 w. Amounts expended by a county under an interlocal services
- 25 agreement entered into pursuant to the "Interlocal Services Act,"
- 26 P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the effective
- 27 date of P.L.2000, c.126 (C.52:13H-21 et al.) or amounts expended
- 28 under a joint contract pursuant to the "Consolidated Municipal
- 29 Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after
- 30 the effective date of P.L.2000, c.126 (C.52:13H-21 et al.);
- 31 x. Amounts appropriated in the first three years after the
- 32 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability
- 33 insurance, workers' compensation insurance and employee group
- 34 insurance;
- 35 y. Amounts appropriated in the first three years after the
- 36 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of
- 37 domestic security preparedness and responses to incidents and
- 38 threats to domestic security;
- 39 z. Expenditures of amounts received pursuant to section 5 of
- 40 P.L.1981, c.278 (C.13:1E-96).
- 41 In the first full year where an existing appropriation or
- 42 expenditure that is subject to budget limitations is made an
- 43 exception to budget limitations, a county shall deduct from its final
- 44 appropriations upon which its permissible expenditures are
- 45 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2)
- 46 the amount which the county expended for that purpose during the

1 last full budget year, or portion thereof, in which the purpose so  
2 excepted was funded from appropriations in the county budget.

3 In the first full year where an existing appropriation or  
4 expenditure that is not subject to budget limitations is made subject  
5 to budget limitations, a county shall add to its final appropriations  
6 upon which its permissible expenditures are calculated pursuant to  
7 section 2 of P.L.1976, c.68 (C.40A:4-45.2) the amount which the  
8 county expended for that purpose during the last full budget year, or  
9 portion thereof, in which the purpose so excepted was funded from  
10 appropriations in the county budget.

11 (cf: P.L.2004, c.74, s.7)

12  
13 19. (New section) There is appropriated from the General Fund  
14 to the State Recycling Fund established pursuant to section 5 of  
15 P.L.1981, c.278 (C.13:1E-96) the sum of \$8,000,000. These  
16 moneys shall be used by the Department of Environmental  
17 Protection to provide direct recycling grants to counties and  
18 municipalities within 12 months following the effective date  
19 of P.L. , c. (C. ) (pending in the Legislature as this bill). The  
20 grants shall be used solely for the purposes set forth in the adopted  
21 and approved district solid waste management plans required  
22 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) and the district  
23 recycling plans required pursuant to section 3 of P.L.1987, c.102  
24 (C.13:1E-99.13), including the municipal source separation and  
25 recycling ordinances required pursuant to section 6 of P.L.1987,  
26 c.102 (C.13:1E-99.16), as those plans and ordinances may be  
27 revised or modified pursuant to the Statewide Solid Waste  
28 Management Plan. The amount appropriated pursuant to this  
29 section shall be repaid to the General Fund from moneys deposited  
30 in the State Recycling Fund in annual installments not to exceed  
31 \$1,000,000 per fiscal year beginning July 1, 2009 and annually  
32 thereafter until the full amount is repaid according to a schedule of  
33 repayments determined by the State Treasurer.

34  
35 20. The following are repealed:

36 Sections 4 through 9 inclusive of P.L.1985, c.38 (C.13:1E-139  
37 through 13:1E-144);

38 Section 11 of P.L.1985, c.38 (C.13:1E-146);

39 Sections 13 through 17 inclusive of P.L.1985, c.38 (C.13:1E-148  
40 through 13:1E-152);

41 Sections 30 and 31 of P.L.1985, c.38 (C.13:1E-165 and  
42 13:1E-166).

43  
44 21. This act shall take effect immediately.