

[First Reprint]

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STATE OF NEW JERSEY
212th LEGISLATURE

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Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator ROBERT J. MARTIN

District 26 (Morris and Passaic)

SYNOPSIS

"Recycling Enhancement Act."

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on
December 10, 2007, with amendments.

(Sponsorship Updated As Of: 2/10/2006)

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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted December 10, 2007.

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

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

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

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

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

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

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

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

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

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

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

42 "Post-consumer waste material" means a material or product that
43 would otherwise become solid waste, having completed its intended
44 end use and product life cycle; except that "post-consumer waste
45 material" shall not include secondary waste material or materials
46 and by-products generated from, and commonly used within, an
47 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
47 rights therein and appurtenances necessary or useful and convenient
48 for the collection or disposal of solid waste in a sanitary manner.

1 4. (New section) a. (1) There is levied upon the owner or
2 operator of every solid waste facility a recycling tax of '~~[\$3.00]~~
3 ~~\$2.00~~¹' per ton on all solid waste accepted for disposal or transfer at
4 the solid waste facility.

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

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

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

16 ¹(c) The recycling tax shall not be imposed on the owner or
17 operator of a solid waste facility for the acceptance for disposal of
18 solid waste originating from out-of-state sources under a contract
19 awarded prior to December 31, 2007 if the contract expressly
20 prohibits the imposition of a fee or surcharge on the rates and
21 charges set forth in the contract.

22 The recycling tax shall be imposed on the owner or operator of a
23 solid waste facility for the acceptance for disposal of solid waste
24 originating from out-of-state sources under any contract awarded
25 after December 31, 2007.¹

26 (2) There is levied upon every solid waste collector that
27 transports solid waste for transshipment or direct transportation to
28 an out-of-state disposal site a recycling tax. The recycling tax shall
29 be levied on the solid waste collector at the rate of '~~[\$3.00]~~ ~~\$2.00~~¹
30 per ton on all solid waste collected for transportation to a railroad
31 transfer station or other facility designed to transport waste on
32 railroads or directly to an out-of-state disposal site.

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

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

43 c. If a return required by this section is not filed, or if a return
44 when filed is incorrect or insufficient in the opinion of the director,
45 the amount due shall be determined by the director from such
46 information as may be available. Notice of the determination shall
47 be given to the person subject to the recycling tax. The
48 determination shall finally and irrevocably fix the amount due,

1 unless the person on whom it is imposed, within 90 days after the
2 giving of the notice of the determination, shall file a protest in
3 writing as provided in R.S.54:49-18 and request a hearing, or unless
4 the director on the director's own motion shall redetermine the
5 same. After the hearing the director shall give notice of the
6 determination to the person on whom the recycling tax is imposed.

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

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

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

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

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

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

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

44 (3) Every solid waste collector subject to the recycling tax is
45 hereby authorized to calculate, charge and collect rates, fees or
46 surcharges from all solid waste generators serviced by the solid
47 waste collector sufficient to recover the recycling tax imposed by
48 this section.

1 h. The recycling tax imposed by this section shall be governed
2 in all respects by the provisions of the "State Tax Uniform
3 Procedure Law," R.S.54:48-1 et seq., except only to the extent that
4 a specific provision of this section may be in conflict therewith.

5 i. (1) The recycling tax imposed by this section shall not be
6 imposed on the owner or operator of a materials recovery facility
7 for the acceptance of Type 13C Construction and Demolition waste,
8 provided that the facility meets or exceeds recyclable materials
9 extraction rates as established by the department.

10 (2) The recycling tax imposed by this section shall not be
11 imposed on a solid waste collector or the owner or operator of a
12 solid waste facility for the collection or acceptance for disposal or
13 transfer of residue resulting from the operations of a scrap
14 processing facility as defined in section 2 of P.L.1987, c.102
15 (C.13:1E-99.12).

16 j. The recycling tax imposed by this section shall not be
17 imposed on a solid waste collector or the owner or operator of a
18 solid waste facility for the collection or acceptance for disposal or
19 transfer of residue, provided that the residue is generated as a result
20 of the use of post-consumer waste material in the manufacture of a
21 recycled product which constitutes at least 75% of total annual sales
22 dollar volume of the products manufactured by a manufacturer in
23 this State as determined by the director.

24 k. The registration issued to any person subject to the recycling
25 tax who violates the provisions of this section may be subject to
26 revocation or suspension pursuant to section 12 of P.L.1970, c.39
27 (C.13:1E-12).

28 l. Subsections a. through k. of this section shall be without
29 effect on and after the tenth day following a certification by the
30 Director of the Division of Budget and Accounting in the
31 Department of the Treasury pursuant to subsection b. of section 6 of
32 P.L. , c. (C.)(pending in the Legislature as this bill).

33
34 5. (New section) The recycling tax imposed pursuant to
35 section 4 of P.L. , c. (C.)(pending in the Legislature as
36 this bill) shall not be due and payable if, and as long as, any State of
37 New Jersey or federal law, or any rule or regulation adopted
38 pursuant thereto, requiring a deposit on, or establishing a refund
39 value for, any beverage container shall be in effect.

40
41 6. (New section) a. The annual appropriations act for each
42 State fiscal year shall, without other conditions, limitations or
43 restrictions on the following:

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

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

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

16
17 7. Section 5 of P.L.1981, c.278 (C.13:1E-96) is amended to
18 read as follows:

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

30 b. '[Unless otherwise expressly provided by the specific
31 appropriation thereof by the Legislature, which shall take the form
32 of a discrete legislative appropriations act and shall not be included
33 within the annual appropriations act, all available moneys]
34 Moneys¹ in the fund shall be [allocated and used as follows:

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

39 (1) 60% of the estimated annual balance of the fund shall be
40 used for the annual expenses of a program for direct recycling
41 grants to municipalities or counties in those instances where a
42 county, at its own expense, provides for the collection, processing
43 and marketing of recyclable materials on a regional basis. The
44 amount of [these grants] a direct recycling grant shall be calculated
45 on the basis of the total number of tons of recyclable materials
46 annually recycled from residential, commercial and institutional
47 sources within [that] a particular municipality, or group of

1 municipalities in the case of a county recycling program[, except
2 that no such]. No direct recycling grant shall exceed \$10 per ton of
3 recyclable materials recycled. All grant moneys received by a
4 municipality shall be expended only for its recycling program. The
5 department may allocate a portion of [these] the direct recycling
6 grant moneys as bonus grants to municipalities and counties [in
7 those instances where] whenever a municipality or county, at its
8 own expense, provides for the collection of recyclable materials in
9 its recycling program. The department shall announce each year the
10 total amount of moneys available in the bonus grant fund.

11 A municipality may distribute a portion of its direct recycling
12 grant moneys to nonprofit groups that are located within that
13 municipality and which have contributed to the receipt of the direct
14 recycling grant, except that this distribution shall not exceed the
15 value of approved documented tonnage contributed by a nonprofit
16 group.

17 A municipality may designate any nonprofit group as a recycling
18 agent. A recycling agent shall receive that part of the municipality's
19 direct recycling grant under this [subsection] paragraph that
20 represents the percentage of the grant received by the municipality
21 due to the documented tonnage contributed by that recycling agent.
22 Moneys received by a recycling agent shall be expended only for its
23 recycling program. Any moneys not used for recycling shall be
24 returned by the recycling agent to the municipality.

25 To be eligible for a direct recycling grant pursuant to this
26 [subsection] paragraph, a municipality or county in the case of a
27 county recycling program shall demonstrate that the recyclable
28 materials recycled by the municipal or county recycling program
29 were not diverted from a commercial recycling program already in
30 existence on the effective date of the ordinance or resolution
31 establishing the municipal or county recycling program.

32 To remain eligible for a direct recycling grant pursuant to this
33 paragraph, a municipality or county in the case of a county
34 recycling program shall submit an annual recycling tonnage report
35 to the department in accordance with rules and regulations adopted
36 by the department therefor. Following the designation of a district
37 certified recycling coordinator pursuant to section 3 of P.L.1987,
38 c.102 (C.13:1E-99.13) and the designation of a municipal certified
39 recycling coordinator pursuant to section 6 of P.L.1987, c.102
40 (C.13:1E-99.16), the department shall not accept an annual
41 recycling tonnage report from a county or municipality unless the
42 report has been signed by a certified recycling coordinator.

43 No direct recycling grant to any municipality shall be used for
44 constructing or operating any facility for the baling of wastepaper
45 or for the shearing, baling or shredding of ferrous or nonferrous
46 materials.

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

11 (2) '10%' 5% of the estimated annual balance of the fund
12 shall be used for State recycling program planning and program
13 funding, including the administrative expenses thereof;

14 (3) 25% of the estimated annual balance of the fund shall be
15 used to provide State aid to counties for preparing, revising, and
16 implementing solid waste management plans, including the
17 implementation of the goals of the State Recycling Plan. The
18 moneys may also be used by the counties to support community
19 oversight projects and to establish a citizens' advisory committee. A
20 county receiving State aid shall not expend more than 2% of the
21 amount of aid received in any year for the costs of administering the
22 aid. The State aid shall be distributed to the counties on the basis of
23 the total amount of solid waste generated from within each county
24 during the previous calendar year as determined by the department.
25 In the event that the department determines that any county has
26 failed to fulfill its district solid waste management planning
27 responsibilities, the department may withhold for an entire year or
28 until the county fulfills its responsibilities, all or a portion of the
29 amount of moneys that county would have received in any year
30 pursuant to this paragraph. Any moneys withheld for an entire year
31 shall be distributed among the remaining counties in the same
32 proportion as the other moneys were distributed. The moneys may
33 also be used by the counties for household hazardous waste
34 collection, and for recycling program planning and program
35 funding, including the administrative expenses thereof; 'and']'

36 (4) 5% of the estimated annual balance of the fund shall be used
37 by counties for public information and education programs
38 concerning recycling activities'; and

39 (5) 5% of the estimated annual balance of the fund shall be used
40 by the department to provide grants to institutions of higher
41 education to conduct research on recycling'.

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

43
44 8. Section 3 of P.L.1987, c.102 (C.13:1E-99.13) is amended to
45 read as follows:

46 3. a. Each county shall prepare and adopt a district recycling
47 plan to implement the State Recycling Plan goals. Each district
48 recycling plan shall be adopted as an amendment to the district

1 solid waste management plan required pursuant to the provisions of
2 the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et
3 seq.) and subject to the approval of the department. Each district
4 recycling plan may be modified after adoption pursuant to a
5 procedure set forth in the adopted plan as approved by the
6 department.

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

9 (1) Designation of a district recycling coordinator;

10 (2) Designation of the recyclable materials to be source
11 separated in each municipality which shall include, in addition to
12 leaves, at least three other recyclable materials separated from the
13 municipal solid waste stream;

14 (3) Designation of the strategy for the collection, marketing and
15 disposition of designated source separated recyclable materials in
16 each municipality;

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

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

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

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

28 (5) Designation of countywide recovery targets to achieve the
29 maximum feasible recovery of recyclable materials from the total
30 solid waste stream which shall include, at a minimum, the recycling
31 of at least 60% of the total solid waste stream by December 31,
32 1995.

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

37 For the purposes of this subsection, "district certified recycling
38 coordinator" means a person who shall have completed the
39 requirements of a course of instruction in various aspects of
40 recycling program management, as determined and administered by
41 the department; "total municipal solid waste stream" means the sum
42 of the municipal solid waste stream disposed of as solid waste, as
43 measured in tons, plus the total number of tons of recyclable
44 materials recycled; and "total solid waste stream" means the
45 aggregate amount of solid waste generated within the boundaries of
46 any county from all sources of generation, including the municipal
47 solid waste stream.

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

9 [Each district recycling plan may be modified after adoption
10 pursuant to a procedure set forth in the adopted plan as approved by
11 the department.]

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

18
19 9. Section 6 of P.L.1987, c.102 (C.13:1E-99.16) is amended to
20 read as follows:

21 6. Each municipality in this State shall, within 24 months of
22 the effective date of P.L. , c. (C.)(pending in the
23 Legislature as this bill), designate one or more persons as the
24 municipal certified recycling coordinator. For the purposes of this
25 section, "municipal certified recycling coordinator" means a person
26 who shall have completed the requirements of a course of
27 instruction in various aspects of recycling program management, as
28 determined and administered by the department.

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

31 a. Each municipality shall provide for a collection system for the
32 recycling of the recyclable materials designated in the district
33 recycling plan as may be necessary to achieve the designated
34 recovery targets set forth in the plan in those instances where a
35 recycling collection system is not otherwise provided for by the
36 generator or by the county, interlocal service agreement or joint
37 service program, or other private or public recycling program
38 operator.

39 b. The governing body of each municipality shall adopt an
40 ordinance which requires persons generating municipal solid waste
41 within its municipal boundaries to source separate from the
42 municipal solid waste stream, in addition to leaves, the specified
43 recyclable materials for which markets have been secured and,
44 unless recycling is otherwise provided for by the generator, place
45 these specified recyclable materials for collection in the manner
46 provided by the ordinance.

47 c. The governing body of each municipality shall, at least once
48 every 36 months, conduct a review and make necessary revisions to

1 the master plan and development regulations adopted pursuant to
2 P.L.1975, c.291 (C.40:55D-1 et seq.), which revisions shall reflect
3 changes in federal, State, county and municipal laws, policies and
4 objectives concerning the collection, disposition and recycling of
5 designated recyclable materials.

6 The revised master plan shall include provisions for the
7 collection, disposition and recycling of recyclable materials
8 designated in the municipal recycling ordinance adopted pursuant to
9 subsection b. of this section, and for the collection, disposition and
10 recycling of designated recyclable materials within any
11 development proposal for the construction of 50 or more units of
12 single-family residential housing or 25 or more units of
13 multi-family residential housing and any commercial or industrial
14 development proposal for the utilization of 1,000 square feet or
15 more of land.

16 d. The governing body of a municipality may exempt persons
17 occupying commercial and institutional premises within its
18 municipal boundaries from the source separation requirements of
19 the ordinance adopted pursuant to subsection b. of this section if
20 those persons have otherwise provided for the recycling of the
21 recyclable materials designated in the district recycling plan from
22 solid waste generated at those premises. To be eligible for an
23 exemption pursuant to this subsection, a commercial or institutional
24 solid waste generator annually shall provide written documentation
25 to the municipality of the total number of tons recycled.

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

30 f. The governing body of each municipality shall, at least once
31 every six months, notify all persons occupying residential,
32 commercial, and institutional premises within its municipal
33 boundaries of local recycling opportunities, and the source
34 separation requirements of the ordinance. In order to fulfill the
35 notification requirements of this subsection, the governing body of
36 a municipality may, in its discretion, place an advertisement in a
37 newspaper circulating in the municipality, post a notice in public
38 places where public notices are customarily posted, include a notice
39 with other official notifications periodically mailed to residential
40 taxpayers, or any combination thereof, as the municipality deems
41 necessary and appropriate.

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

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

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

3 2. As used in this **amendatory and supplementary** act:

4 **[a.]** "Contract file" means a file established and maintained by a
5 contracting unit, in which the contracting unit shall maintain a copy
6 of its request for qualifications issued pursuant to section 19 of
7 **[this amendatory and supplementary act]** P.L.1985, c.38
8 (C.13:1E-154), a list of vendors responding to its request for
9 qualifications, a copy of its request for proposals issued pursuant to
10 section 20 of **[this amendatory and supplementary act]** P.L.1985,
11 c.38 (C.13:1E-155), a list of qualified vendors submitting proposals,
12 and a document outlining the general criteria used by the
13 contracting unit in selecting a proposal;

14 **[b.]** "Contracting unit" means any county; any municipality;
15 any bistate authority; or any **[board, commission, committee,**
16 **authority or agency, which is not a State board, commission,**
17 **committee, authority or agency, and which has administrative**
18 **jurisdiction over any district other than a school district, project, or**
19 **facility, included or operating in whole or in part, within the**
20 **territorial boundaries of any county or municipality, which**
21 **exercises functions which are appropriate for the exercise by one or**
22 **more units of local government, and]** public authority which has
23 statutory power to **[make purchases and]** enter into contracts or
24 agreements **[for the performance of any work or the furnishing or**
25 **hiring of any materials or supplies usually required]** for the design,
26 financing, construction, operation, or maintenance, or any
27 combination thereof, of a resource recovery facility;

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

29 **[d.]** "Department" means the Department of Environmental
30 Protection;

31 **[e.]** "Director" means the Director of the Division of Taxation
32 in the Department of Treasury;

33 **[f.]** "District" means a solid waste management district as
34 designated by section 10 of P.L.1975, c.326 (C.13:1E-19), except
35 that, as used in the provisions of this amendatory and
36 supplementary act, "district" shall not include the Hackensack
37 Meadowlands District;

38 **[g.]** "District investment tax fund" means a District Resource
39 Recovery Investment Tax Fund established pursuant to subsection
40 a. of section 15 of this amendatory and supplementary act;

41 **[h.]** "Division" means the Division of Taxation in the
42 Department of Treasury;

43 **[i.]** "Division of Local Government Services" means the
44 Division of Local Government Services in the Department of
45 Community Affairs;

1 **[j. "Division of Rate Counsel" means the Division of Rate**
2 **Counsel in the Department of the Public Advocate;]**

3 **[k.] "Franchise" means the exclusive right to control and**
4 **provide for the disposal of solid waste, except for recyclable**
5 **material whenever markets for those materials are available, within**
6 **a district [or districts] as awarded by the Board of Public Utilities**
7 **or the department prior to November 10, 1997;**

8 **[l.] "Independent public accountant" means a certified public**
9 **accountant, a licensed public accountant or a registered municipal**
10 **accountant;**

11 **[m. "Investment tax" means the resource recovery investment**
12 **tax imposed pursuant to subsection b. of section 3 of this**
13 **amendatory and supplementary act;]**

14 **[n. "Investment tax fund" means the Resource Recovery**
15 **Investment Tax Fund containing sub-accounts for each county**
16 **established pursuant to the provisions of section 14 of this**
17 **amendatory and supplementary act;]**

18 **[o. "Out-of-district solid waste" means any solid waste accepted**
19 **for disposal in a district which was generated outside the receiving**
20 **district;]**

21 **[p.] "Person or party" means any individual, public or private**
22 **corporation, company, partnership, firm, association, political**
23 **subdivision of this State, or any State, bistate, or interstate agency**
24 **or public authority;**

25 **[q.] "Proposed contract" means a contract negotiated by a**
26 **contracting unit pursuant to the provisions of [this amendatory and**
27 **supplementary act, or a substantial renegotiation of a contract**
28 **approved pursuant to the provisions of this amendatory and**
29 **supplementary act if the renegotiation is determined to be**
30 **substantial by the department, the Board of Public Utilities, or the**
31 **Division of Local Government Services] P.L.1985, c.38 (C.13:1E-**
32 **136 et al.);**

33 "Public authority" means any municipal or county utilities
34 authority created pursuant to the "municipal and county utilities
35 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); county
36 improvement authority created pursuant to the "county
37 improvement authorities law," P.L.1960, c.183 (C.40:37A-44 et
38 seq.); pollution control financing authority created pursuant to the
39 "New Jersey Pollution Control Financing Law," P.L.1973, c.376
40 (C.40:37C-1 et seq.), or any other public body corporate and politic
41 created for solid waste management purposes in any county,
42 pursuant to the provisions of any law;

43 **[r.] "Qualified vendor" means any person or party financially**
44 **qualified for, and technically and administratively capable of,**
45 **undertaking the design, financing, construction, operation, or**
46 **maintenance, or any combination thereof, of a resource recovery**

1 facility or of providing resource recovery services, as provided in
2 section 19 of [this amendatory and supplementary act] P.L.1985,
3 c.38 (C.13:1E-154);

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

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

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

16 [v.] "Resource recovery facility" means a solid waste facility
17 constructed and operated for the incineration of solid waste for
18 energy production and the recovery of metals and other materials
19 for reuse; or a mechanized composting facility, or any other solid
20 waste facility constructed or operated for the collection, separation,
21 recycling, and recovery of metals, glass, paper, and other materials
22 for reuse or for energy production;

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

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

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

34 [z.] "Vendor" means any person or party proposing to undertake
35 the design, financing, construction, operation, or maintenance, or
36 any combination thereof, of a resource recovery facility or of
37 providing resource recovery services;

38 [aa. "Waste importation tax" means the solid waste importation
39 tax imposed pursuant to subsection c. of section 3 of this
40 amendatory and supplementary act.]

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

42
43 11. Section 3 of P.L.1985, c.38 (C.13:1E-138) is amended to
44 read as follows:

45 3. a. There is levied upon the owner or operator of every
46 sanitary landfill facility a solid waste services tax. The services tax
47 shall be imposed on the owner or operator at the [initial] rate of

1 ~~[\$0.50]~~ \$1.55 per ton of ~~[solids and \$0.002 per gallon of liquids]~~
2 solid waste on all solid waste accepted for disposal at a sanitary
3 landfill facility. ~~[On the first day of the first calendar year~~
4 ~~following the imposition of the services tax, and annually~~
5 ~~thereafter, the rate of the services tax shall be increased by \$0.05~~
6 ~~per ton of solids.]~~ No services tax shall be levied on the owner or
7 operator of a sanitary landfill facility for the acceptance for disposal
8 of the waste products resulting from the operation of a resource
9 recovery facility.

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

26 b. ~~[(1) There is levied upon the owner or operator of every~~
27 ~~sanitary landfill facility a resource recovery investment tax. The~~
28 ~~investment tax shall be levied on the owner or operator at the initial~~
29 ~~rate of \$1.00 per ton of solids and \$0.004 per gallon of liquids on~~
30 ~~all solid waste accepted for disposal at a sanitary landfill facility.~~
31 ~~No investment tax shall be levied on the owner or operator of a~~
32 ~~sanitary landfill facility for the acceptance for disposal of the waste~~
33 ~~products resulting from the operation of a resource recovery~~
34 ~~facility.~~

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

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

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

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

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

4 (Deleted by amendment, P.L. , c.)

5 c. 【There is levied upon the owner or operator of every
6 sanitary landfill facility which accepts out-of-district solid waste a
7 solid waste importation tax. The waste importation tax shall be
8 imposed on the owner or operator at the initial rate of \$1.00 per ton
9 of solids and \$0.004 per gallon of liquids on all out-of-district solid
10 waste accepted for disposal at a sanitary landfill facility. On the
11 first day of the third calendar year following the imposition of the
12 waste importation tax, the rate of the waste importation tax shall be
13 increased to \$4.00 per ton of solids, and annually thereafter the rate
14 of the waste importation tax shall be increased by \$2.00 per ton of
15 solids. No waste importation tax shall be levied on the owner or
16 operator of a sanitary landfill facility for the acceptance for disposal
17 of the waste products resulting from the operation of a resource
18 recovery facility.

19 The waste importation tax shall no longer be levied on the owner
20 or operator of a sanitary landfill facility which accepts
21 out-of-district solid waste on or after the first day of the 11th
22 calendar year following the imposition of the waste importation
23 tax.】 (Deleted by amendment, P.L. , c.)

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

29 e. No taxes shall be levied on the owner or operator of a
30 sanitary landfill facility for the acceptance of solid waste generated
31 exclusively by an agency of the federal government if a solid waste
32 collector submits to the owner or operator an itemized invoice,
33 signed and verified by an authorized officer of the federal agency,
34 indicating the number of tons of solid waste to be disposed of, and a
35 copy of the contract with the federal agency for the collection of
36 solid waste with an effective date prior to 【the effective date of this
37 amendatory and supplementary act】 May 1, 1985. Taxes shall be
38 levied on the owner or operator for acceptance of solid waste
39 generated by a federal agency if the contract between the federal
40 agency and the solid waste collector was entered into, or renewed,
41 on or after 【the effective date of this amendatory and
42 supplementary act】 May 1, 1985.

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

44
45 12. Section 12 of P.L.1985, c.38 (C.13:1E-147) is amended to
46 read as follows:

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

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

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

14
15 13. Section 1 of P.L.2002, c.128 (C.13:1E-213) is amended to
16 read as follows:

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

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

21
22 14. Section 2 of P.L.2002, c.128 (C.13:1E-214) is amended to
23 read as follows:

24 2. The Legislature finds that an uncluttered landscape is among
25 the most priceless heritages which New Jersey can bequeath to
26 posterity; that it is the duty of government to promote and
27 encourage a clean and safe environment; that the proliferation and
28 accumulation of carelessly discarded litter may pose a threat to the
29 public health and safety; that the litter problem is especially serious
30 in a State as densely populated and heavily traveled as New Jersey;
31 and that unseemly litter has an adverse economic effect on New
32 Jersey by making the State less attractive to tourists and new
33 industry and residents.

34 **[**The Legislature further finds that the recycling of waste
35 materials decreases waste flow to county solid waste facilities and
36 out-of-State disposal sites, reduces waste flow to the State's solid
37 waste incinerators while contributing to their overall combustion
38 efficiency through the removal of noncombustible and
39 nonprocessable materials at the source, recovers valuable resources,
40 conserves energy in the manufacturing process, and offers a supply
41 of domestic raw materials for the State's industries; that
42 economically viable municipal and county recycling programs are
43 necessary to achieve the maximum practicable recovery of reusable
44 materials from solid waste in this State; and that such programs will
45 reduce the amount of solid waste disposed at county solid waste
46 facilities, result in more efficient solid waste incinerators, conserve
47 energy and resources, and recover materials for industrial uses.**]**

1 The Legislature, therefore, declares it to be in the aesthetic,
2 environmental, and economic interests of the State of New Jersey to
3 support a Clean Communities Program [and to maintain support for
4 municipal and county recycling programs].

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

6
7 15. Section 5 of P.L.2002, c.128 (C.13:1E-217) is amended to
8 read as follows:

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

25 a. 10% of the estimated annual balance of the Clean
26 Communities Program Fund shall be used for a State program of
27 litter pickup and removal and of enforcement of litter-related laws
28 and ordinances in State owned places and areas that are accessible
29 to the public. 'Moneys in the fund may also be used by the State to
30 abate graffiti.'¹

31 b. 50% of the estimated annual balance of the Clean
32 Communities Program Fund shall be distributed as State aid to
33 eligible municipalities with total housing units of 200 or more for
34 programs of litter pickup and removal, including establishing an
35 "Adopt-A-Highway" program, of public education and information
36 relating to litter abatement and of enforcement of litter-related laws
37 and ordinances. The amount of State aid due each municipality
38 shall be solely calculated based on the proportion which the housing
39 units of a qualifying municipality bear to the total housing units in
40 the State. Total housing units shall be determined using the most
41 recent federal decennial population estimates for New Jersey and its
42 municipalities, filed in the office of the Secretary of State. Moneys
43 in the fund may also be used by an eligible municipality to abate
44 graffiti;

45 c. 30% of the estimated annual balance of the Clean
46 Communities Program Fund shall be distributed as State aid to
47 eligible municipalities with total housing units of 200 or more for
48 programs of litter pickup and removal, including establishing an

1 "Adopt-A-Highway" program, of public education and information
2 relating to litter abatement and of enforcement of litter-related laws
3 and ordinances. The amount of State aid due each municipality
4 shall be solely calculated based on the proportion which the
5 municipal road mileage of a qualifying municipality bears to the
6 total municipal road mileage within the State. For the purposes of
7 this subsection, "municipal road mileage" means that road mileage
8 under the jurisdiction of municipalities, as determined by the
9 Department of Transportation. Moneys in the fund may also be
10 used by an eligible municipality to abate graffiti;

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

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

28 f. Prior to the distribution of funds pursuant to subsections a.
29 through d. of this section [

30 (1) 25% of the estimated annual balance of the Clean
31 Communities Program Fund shall be annually appropriated to the
32 State Recycling Fund established pursuant to section 5 of P.L.1981,
33 c.278 (C.13:1E-96). These moneys shall be used by the Department
34 of Environmental Protection for direct recycling grants to counties
35 and municipalities, up to a maximum appropriation of \$4,000,000
36 per year. The moneys made available to the department from the
37 Clean Communities Program Fund for direct recycling grants shall
38 be annually appropriated to the State Recycling Fund until such
39 time as an alternative funding mechanism for direct recycling grants
40 is enacted into law; and

41 (2) \$300,000] ,\$375,000 of the estimated annual balance of the
42 Clean Communities Program Fund shall be annually appropriated to
43 the department and made available on July 1 of every year to the
44 organization under contract with the department pursuant to section
45 6 of P.L.2002, c.128 (C.13:1E-218) for a Statewide public
46 information and education program concerning antilittering
47 activities and other aspects of responsible solid waste handling
48 behavior , of which up to \$75,000 shall be used exclusively to

1 finance an annual statewide television, radio, newspaper and other
2 media advertising campaign to promote antilittering and responsible
3 solid waste handling behavior .

4 The organization under contract with the department pursuant to
5 section 6 of P.L.2002, c.128 (C.13:1E-218) shall, no later than the
6 date on which the contract period concludes, submit a report to the
7 Governor and the Legislature concerning its activities during the
8 contract period and any recommendations concerning improving the
9 program. Every eligible municipality and county shall cooperate
10 with the organization under contract with the department pursuant
11 to section 6 of P.L.2002, c.128 (C.13:1E-218) in providing
12 information concerning its program of litter pickup and removal.

13 No later than '【May 31, 2006】 May 31, 2008' , 25% of the
14 estimated annual balance of the Clean Communities Program Fund
15 shall be appropriated to the State Recycling Fund established
16 pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96). These
17 moneys shall be used by the Department of Environmental
18 Protection for direct recycling grants to counties and municipalities,
19 up to a maximum appropriation of \$4,000,000.

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

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

27
28 16. Section 13 of P.L.2002, c.128 (C.13:1E-223) is amended to
29 read as follows:

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

33 (1) 【appropriate the amounts specified pursuant to paragraph (1)
34 of subsection f. of section 5 of P.L.2002, c.128 (C.13:1E-217) to the
35 State Recycling Fund established pursuant to section 5 of P.L.1981,
36 c.278 (C.13:1E-96) for use by the Department of Environmental
37 Protection for direct recycling grants to counties and
38 municipalities;】 (Deleted by amendment, P.L. , c.)(pending in
39 the Legislature as this bill)

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

47 (3) appropriate the balance of the Clean Communities Program
48 Fund established pursuant to section 5 of P.L.2002, c.128

1 (C.13:1E-217) for the purposes set forth in subsections a., b., c. and
2 d. of that section.

3 b. If the requirements of subsection a. of this section are not
4 met on the effective date of an annual appropriations act for the
5 State fiscal year, or if an amendment or supplement to an annual
6 appropriations act for the State fiscal year should violate any of the
7 requirements of subsection a. of this section, the Director of the
8 Division of Budget and Accounting in the Department of the
9 Treasury shall, not later than five days after the enactment of the
10 annual appropriations act, or an amendment or supplement thereto,
11 that violates any of the requirements of subsection a. of this section,
12 certify to the Director of the Division of Taxation that the
13 requirements of subsection a. of this section have not been met.
14 (cf: P.L.2002, c.128, s.13)

15

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

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

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

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

28 c. (1) An increase based upon emergency temporary
29 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent
30 situation or event which immediately endangers the health, safety or
31 property of the residents of the municipality, and over which the
32 governing body had no control and for which it could not plan and
33 emergency appropriations made pursuant to N.J.S.40A:4-46.
34 Emergency temporary appropriations and emergency appropriations
35 shall be approved by at least two-thirds of the governing body and
36 by the Director of the Division of Local Government Services, and
37 shall not exceed in the aggregate 3% of the previous year's final
38 current operating appropriations.

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

40 The approval procedure in this subsection shall not apply to
41 appropriations adopted for a purpose referred to in subsection d. or
42 j. below;

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

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

47 f. Amounts reserved for uncollected taxes;

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

- 1 h. Expenditure of amounts derived from new or increased
- 2 construction, housing, health or fire safety inspection or other
- 3 service fees imposed by State law, rule or regulation or by local
- 4 ordinance;
- 5 i. Any amount approved by any referendum;
- 6 j. Amounts required to be paid pursuant to (1) any contract
- 7 with respect to use, service or provision of any project, facility or
- 8 public improvement for water, sewerage, parking, senior citizen
- 9 housing or any similar purpose, or payments on account of debt
- 10 service therefor, between a municipality and any other municipality,
- 11 county, school or other district, agency, authority, commission,
- 12 instrumentality, public corporation, body corporate and politic or
- 13 political subdivision of this State; (2) the provisions of article 9 of
- 14 P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent
- 15 municipality to the intermunicipal account; (3) any lease of a
- 16 facility owned by a county improvement authority when the lease
- 17 payment represents the proportionate amount necessary to amortize
- 18 the debt incurred by the authority in providing the facility which is
- 19 leased, in whole or in part; and (4) any repayments under a loan
- 20 agreement entered into in accordance with the provisions of section
- 21 5 of P.L.1992, c.89;
- 22 k. (Deleted by amendment, P.L.1987, c.74.)
- 23 l. Appropriations of federal, county, independent authority or
- 24 State funds, or by grants from private parties or nonprofit
- 25 organizations for a specific purpose, and amounts received or to be
- 26 received from such sources in reimbursement for local
- 27 expenditures. If a municipality provides matching funds in order to
- 28 receive the federal, county, independent authority or State funds, or
- 29 the grants from private parties or nonprofit organizations for a
- 30 specific purpose, the amount of the match which is required by law
- 31 or agreement to be provided by the municipality shall be excepted;
- 32 m. (Deleted by amendment, P.L.1987, c.74.)
- 33 n. (Deleted by amendment, P.L.1987, c.74.)
- 34 o. (Deleted by amendment, P.L.1990, c.89.)
- 35 p. (Deleted by amendment, P.L.1987, c.74.)
- 36 q. (Deleted by amendment, P.L.1990, c.89.)
- 37 r. Amounts expended to fund a free public library established
- 38 pursuant to the provisions of R.S.40:54-1 through 40:54-29,
- 39 inclusive;
- 40 s. (Deleted by amendment, P.L.1990, c.89.)
- 41 t. Amounts expended in preparing and implementing a housing
- 42 element and fair share plan pursuant to the provisions of P.L.1985,
- 43 c.222 (C.52:27D-301 et al.) and any amounts received by a
- 44 municipality under a regional contribution agreement pursuant to
- 45 section 12 of that act;
- 46 u. (Deleted by amendment, P.L.2004, c.74.)
- 47 v. (Deleted by amendment, P.L.1990, c.89.)
- 48 w. (Deleted by amendment, P.L.2004, c.74.)

- 1 x. Amounts expended to aid privately owned libraries and
- 2 reading rooms, pursuant to R.S.40:54-35;
- 3 y. (Deleted by amendment, P.L.1990, c.89.)
- 4 z. (Deleted by amendment, P.L.1990, c.89.)
- 5 aa. Extraordinary expenses, approved by the Local Finance
- 6 Board, required for the implementation of an interlocal services
- 7 agreement;
- 8 bb. Any expenditure mandated as a result of a natural disaster,
- 9 civil disturbance or other emergency that is specifically authorized
- 10 pursuant to a declaration of an emergency by the President of the
- 11 United States or by the Governor;
- 12 cc. Expenditures for the cost of services mandated by any order
- 13 of court, by any federal or State statute, or by administrative rule,
- 14 directive, order, or other legally binding device issued by a State
- 15 agency which has identified such cost as mandated expenditures on
- 16 certification to the Local Finance Board by the State agency;
- 17 dd. Expenditures of amounts actually realized in the local
- 18 budget year from the sale of municipal assets in extraordinary cases
- 19 and with the permission of the Local Finance Board;
- 20 ee. Any local unit which is determined to be experiencing fiscal
- 21 distress pursuant to the provisions of P.L.1987, c.75
- 22 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible
- 23 municipality" as defined in section 3 of P.L.1987, c.75
- 24 (C.52:27D-118.26), and which has available surplus pursuant to the
- 25 spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et
- 26 seq.), may appropriate and expend an amount of that surplus
- 27 approved by the director and the Local Finance Board as an
- 28 exception to the spending limitation. Any determination approving
- 29 the appropriation and expenditure of surplus as an exception to the
- 30 spending limitations shall be based upon:
 - 31 1) the local unit's revenue needs for the current local budget year
 - 32 and its revenue raising capacity;
 - 33 2) the intended actions of the governing body of the local unit to
 - 34 meet the local unit's revenue needs;
 - 35 3) the intended actions of the governing body of the local unit to
 - 36 expand its revenue generating capacity for subsequent local budget
 - 37 years;
 - 38 4) the local unit's ability to demonstrate the source and existence
 - 39 of sufficient surplus as would be prudent to appropriate as an
 - 40 exception to the spending limitations to meet the operating expenses
 - 41 for the local unit's current budget year; and
 - 42 5) the impact of utilization of surplus upon succeeding budgets
 - 43 of the local unit;
 - 44 ff. Newly authorized operating appropriations for the municipal
 - 45 court or violation's bureau when approved by the vicinage Presiding
 - 46 Judge of the Municipal Court after consultation with the mayor and
 - 47 governing body of the municipality;
 - 48 gg. (Deleted by amendment, P.L.2004, c.74.)

1 hh. (Deleted by amendment, P.L.2004, c.74.)

2 ii. Subject to the approval of the Local Finance Board,
3 expenditures related to the cost of conducting and implementing a
4 total property tax levy sale pursuant to section 16 of P.L.1997, c.99
5 (C.54:5-113.5);

6 jj. Amounts expended for a length of service award program
7 pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);

8 kk. Amounts expended to provide municipal services or
9 reimbursement amounts to multifamily dwellings for the collection
10 and disposal of solid waste generated by the residents of the
11 multifamily dwellings. This subsection shall cease to be operative
12 at the end of the first local budget year in which the municipality
13 has fully phased in its reimbursement amount expenses;

14 ll. Amounts expended by a municipality under an interlocal
15 services agreement entered into pursuant to the "Interlocal Services
16 Act," P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the
17 effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The
18 governing body of the municipality that will receive the service
19 may choose to allow the amount of projected annual savings to be
20 added to the amount of final appropriations upon which its
21 permissible expenditures are calculated pursuant to section 2 of
22 P.L.1976, c.68 (C.40A:4-45.2);

23 mm. Amounts expended under a joint contract pursuant to the
24 "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1
25 et seq.) entered into after the effective date of P.L.2000, c.126
26 (C.52:13H-21 et al.). The governing body of each participating
27 municipality may choose to allow the amount of projected annual
28 savings to be added to the amount of final appropriations upon
29 which its permissible expenditures are calculated pursuant to
30 section 2 of P.L.1976, c.68 (C.40A:4-45.2);

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

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

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

40 qq. Amounts required to be paid by a municipality pursuant to
41 the provisions of section 4 of P.L. , c. (C.)(pending in the
42 Legislature as this bill)';

43 rr. Any expenditures of amounts received by a municipality
44 pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96)']'.

45 In the first full year when an existing appropriation or
46 expenditure that is subject to budget limitations is made an
47 exception to budget limitations, a municipality shall deduct from its
48 final appropriations upon which its permissible expenditures are

1 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),
2 the amount which the municipality expended for that purpose
3 during the last full budget year, or portion thereof, in which the
4 purpose so excepted was funded from appropriations in the
5 municipal budget.

6 In the first full year when an existing appropriation or
7 expenditure that is not subject to budget limitations is made subject
8 to budget limitations, a municipality shall add to its final
9 appropriations upon which its permissible expenditures are
10 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),
11 the amount which the municipality expended for that purpose
12 during the last full budget year, or portion thereof, in which the
13 purpose so excepted was funded from appropriations in the
14 municipal budget.
15 (cf: P.L.2004, c.74, s.3)

16

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

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

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

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

34 c. (1) An increase based upon emergency temporary
35 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent
36 situation or event which immediately endangers the health, safety or
37 property of the residents of the county, and over which the
38 governing body had no control and for which it could not plan and
39 emergency appropriations made pursuant to N.J.S.40A:4-46.
40 Emergency temporary appropriations and emergency appropriations
41 shall be approved by at least two-thirds of the governing body and
42 by the Director of the Division of Local Government Services, and
43 shall not exceed in the aggregate 3% of the previous year's final
44 current operating appropriations.

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

46 The approval procedure in this subsection shall not apply to
47 appropriations adopted for a purpose referred to in subsection d. or
48 f. below;

- 1 d. All debt service;
- 2 e. (Deleted by amendment, P.L.1990, c.89.)
- 3 f. Amounts required to be paid pursuant to (1) any contract
- 4 with respect to use, service or provision of any project, facility or
- 5 public improvement for water, sewerage, parking, senior citizen
- 6 housing or any similar purpose, or payments on account of debt
- 7 service therefor, between a county and any other county,
- 8 municipality, school or other district, agency, authority,
- 9 commission, instrumentality, public corporation, body corporate
- 10 and politic or political subdivision of this State; and (2) any lease of
- 11 a facility owned by a county improvement authority when the lease
- 12 payment represents the proportionate amount necessary to amortize
- 13 the debt incurred by the authority in providing the facility which is
- 14 leased, in whole or in part;
- 15 g. That portion of the county tax levy which represents funding
- 16 to participate in any federal or State aid program and amounts
- 17 received or to be received from federal, State or other funds in
- 18 reimbursement for local expenditures. If a county provides
- 19 matching funds in order to receive the federal or State or other
- 20 funds, only the amount of the match which is required by law or
- 21 agreement to be provided by the county shall be excepted;
- 22 h. (Deleted by amendment, P.L.1987, c.74.)
- 23 i. (Deleted by amendment, P.L.1990, c.89.)
- 24 j. (Deleted by amendment, P.L.1990, c.89.)
- 25 k. (Deleted by amendment, P.L.1990, c.89.)
- 26 l. (Deleted by amendment, P.L.2004, c.74.)
- 27 m. (Deleted by amendment, P.L.1990, c.89.)
- 28 n. (Deleted by amendment, P.L.1990, c.89.)
- 29 o. (Deleted by amendment, P.L.1990, c.89.)
- 30 p. Extraordinary expenses, approved by the Local Finance
- 31 Board, required for the implementation of an interlocal services
- 32 agreement;
- 33 q. Any expenditure mandated as a result of a natural disaster,
- 34 civil disturbance or other emergency that is specifically authorized
- 35 pursuant to a declaration of an emergency by the President of the
- 36 United States or by the Governor;
- 37 r. Expenditures for the cost of services mandated by any order
- 38 of court, by any federal or State statute, or by administrative rule,
- 39 directive, order, or other legally binding device issued by a State
- 40 agency which has identified such cost as mandated expenditures on
- 41 certification to the Local Finance Board by the State agency;
- 42 s. That portion of the county tax levy which represents funding
- 43 to a county college in excess of the county tax levy required to fund
- 44 the county college in local budget year 1992;
- 45 t. (Deleted by amendment, P.L.2004, c.74.)
- 46 u. Expenditures for the administration of general public
- 47 assistance pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);

1 v. Amounts in a separate line item of a county budget that are
2 expended on tick-borne disease vector management activities
3 undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.);

4 w. Amounts expended by a county under an interlocal services
5 agreement entered into pursuant to the "Interlocal Services Act,"
6 P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the effective
7 date of P.L.2000, c.126 (C.52:13H-21 et al.) or amounts expended
8 under a joint contract pursuant to the "Consolidated Municipal
9 Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after
10 the effective date of P.L.2000, c.126 (C.52:13H-21 et al.);

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

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

19 z. Expenditures of amounts received pursuant to section 5 of
20 P.L.1981, c.278 (C.13:1E-96).

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

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

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

38
39 19. (New section) There is appropriated from the General Fund
40 to the State Recycling Fund established pursuant to section 5 of
41 P.L.1981, c.278 (C.13:1E-96) the sum of \$8,000,000. These
42 moneys shall be used by the Department of Environmental
43 Protection to provide direct recycling grants to counties and
44 municipalities within 12 months following the effective date of
45 P.L. , c. (C.) (pending in the Legislature as this bill). The
46 grants shall be used solely for the purposes set forth in the adopted
47 and approved district solid waste management plans required
48 pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) and the district

1 recycling plans required pursuant to section 3 of P.L.1987, c.102
2 (C.13:1E-99.13), including the municipal source separation and
3 recycling ordinances required pursuant to section 6 of P.L.1987,
4 c.102 (C.13:1E-99.16), as those plans and ordinances may be
5 revised or modified pursuant to the Statewide Solid Waste
6 Management Plan. The amount appropriated pursuant to this
7 section shall be repaid to the General Fund from moneys deposited
8 in the State Recycling Fund in annual installments not to exceed
9 \$1,000,000 per fiscal year beginning ~~'[January 1, 2007]~~ July 1,
10 2009¹ and annually thereafter until the full amount is repaid
11 according to a schedule of repayments determined by the State
12 Treasurer.

13

14 20. The following are repealed:

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

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

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

20 Sections 30 and 31 of P.L.1985, c.38 (C.13:1E-165 and
21 13:1E-166).

22

23 21. This act shall take effect immediately.