



**LEGISLATIVE FISCAL ESTIMATE:**

No

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Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

Yes

"McGreevey revives litter tax, recycling grants," 12-21-2002 The Press, p.C1

"Litter tax reimposed on business," 12-21-2002 Asbury Park Press, p.A1

§§1-10,13 -  
C.13:1E-213  
to 13:1E-223  
§12 - Repealer  
§14 - Note to §4

P.L. 2002, CHAPTER 128, *approved December 20, 2002*  
Assembly Committee Substitute (*Second Reprint*) for  
Assembly, Nos. 2069 and 2110

1 **AN ACT** concerning the Clean Communities Program, and amending,  
2 supplementing and repealing parts of the statutory law.

3

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

6

7 1. (New section) Sections 1 through 10 <sup>1</sup>[inclusive] and  
8 section 13<sup>1</sup> of P.L. , c. (C.<sup>1</sup>[13:1E-208 through 13:1E-  
9 217]<sup>1</sup>)(pending in the Legislature as this bill) shall be known and may  
10 be cited as the "Clean Communities and Recycling Grant Act."

11

12 2. (New section) The Legislature finds that an uncluttered  
13 landscape is among the most priceless heritages which New Jersey can  
14 bequeath to posterity; that it is the duty of government to promote and  
15 encourage a clean and safe environment; that the proliferation and  
16 accumulation of carelessly discarded litter may pose a threat to the  
17 public health and safety; that the litter problem is especially serious in  
18 a State as densely populated and heavily traveled as New Jersey; and  
19 that unseemly litter has an adverse economic effect on New Jersey by  
20 making the State less attractive to tourists and new industry and  
21 residents.

22 The Legislature further finds that the recycling of waste materials  
23 decreases waste flow to county solid waste facilities and out-of-state  
24 disposal sites, reduces waste flow to the State's solid waste  
25 incinerators while contributing to their overall combustion efficiency  
26 through the removal of noncombustible and nonprocessable materials  
27 at the source, recovers valuable resources, conserves energy in the  
28 manufacturing process, and offers a supply of domestic raw materials  
29 for the State's industries; that economically viable municipal and  
30 county recycling programs are necessary to achieve the maximum  
31 practicable recovery of reusable materials from solid waste in this  
32 State; and that such programs will reduce the amount of solid waste  
33 disposed at county solid waste facilities, result in more efficient solid  
34 waste incinerators, conserve energy and resources, and recover  
35 materials for industrial uses.

**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:**

<sup>1</sup> Senate SEN committee amendments adopted September 19, 2002.

<sup>2</sup> Senate SBA committee amendments adopted October 24, 2002.

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  
6 3. (New section) As used in the provisions of P.L. , c.  
7 (C.<sup>1</sup>[13:1E-208 et seq.]<sup>1</sup>)(pending in the Legislature as this bill):

8 a. "Department" means the Department of Environmental  
9 Protection.

10 b. "Division" means the Division of Taxation in the Department of  
11 the Treasury.

12 c. "Director" means the Director of the Division of Taxation in the  
13 Department of the Treasury.

14 d. "Litter" means any used or unconsumed substance or waste  
15 material which has been discarded, whether made of aluminum, glass,  
16 plastic, rubber, paper, or other natural or synthetic material, or any  
17 combination thereof, including, but not limited to, any bottle, jar or  
18 can, or any top, cap or detachable tab of any bottle, jar or can, any  
19 unlighted cigarette, cigar, match or any flaming or glowing material or  
20 any garbage, trash, refuse, debris, rubbish, grass clippings or other  
21 lawn or garden waste, newspapers, magazines, glass, metal, plastic or  
22 paper containers or other packaging or construction material, but does  
23 not include the waste of the primary processes of mining or other  
24 extraction processes, logging, sawmilling, farming or manufacturing.

25 e. "Litter-generating products" means the following specific goods  
26 which are produced, distributed, or purchased in disposable containers,  
27 packages or wrappings; or which are not usually sold in packages,  
28 containers, or wrappings but which are commonly discarded in public  
29 places; or which are of an unsightly or unsanitary nature, commonly  
30 thrown, dropped, discarded, placed, or deposited by a person on  
31 public property, or on private property not owned by that person:

- 32 (1) Beer and other malt beverages;
- 33 (2) Cigarettes and tobacco products;
- 34 (3) Cleaning agents and toiletries;
- 35 (4) Distilled spirits;
- 36 (5) Food for human or pet consumption;
- 37 (6) Glass containers sold as such;
- 38 (7) Groceries;
- 39 (8) Metal containers sold as such;
- 40 (9) Motor vehicle tires;
- 41 (10) Newsprint and magazine paper stock;
- 42 (11) Drugstore sundry products, but not including prescription  
43 drugs or nonprescription drugs;
- 44 (12) Paper products and household paper, but not including roll  
45 stock produced by paper product manufacturers and wood pulp;
- 46 (13) Plastic or fiber containers made of synthetic material and sold

1 as such, but not including any container which is routinely reused, has  
2 a useful life of more than one year and is ordinarily sold empty at  
3 retail;

4 (14) Soft drinks and carbonated waters; and

5 (15) Wine.

6 f. "Litter receptacle" means a container suitable for the depositing  
7 of litter.

8 g. "Municipality" means any city, borough, town, township or  
9 village situated within the boundaries of this State.

10 h. "Person" means any individual or business concern.

11 i. "Public place" means any area that is used or held out for use by  
12 the public, whether owned or operated by public or private interests.

13 j. "Recycling" means any process by which materials which would  
14 otherwise become solid waste are collected, separated or processed  
15 and returned to the economic mainstream in the form of raw materials  
16 or products.

17 k. "Sold within the State" or "sales within the State" means all  
18 sales of retailers engaged in business within the State and, in the case  
19 of manufacturers, wholesalers and distributors, all sales of products for  
20 use and consumption within the State. It shall be presumed that all  
21 sales of manufacturers, wholesalers and distributors sold within the  
22 State are for use and consumption within the State unless it is  
23 determined by the director that the products are shipped out of State  
24 for out-of-State use.

25

26 4. (New section) a. There is imposed upon each person engaged  
27 in business in the State as a manufacturer, wholesaler, or distributor  
28 of litter-generating products a user fee of 3/100 of 1% (.0003) on sales  
29 of those products within the State, and each person engaged in  
30 business in the State as a retailer of litter-generating products a user  
31 fee of 2.25/100 of 1% (.000225) on sales of those products within the  
32 State, except any retailer with less than <sup>2</sup>[\$250,000.00] \$500,000.00<sup>2</sup>  
33 in annual retail sales of litter-generating products is exempt from the  
34 user fee imposed under this section. A sale by a wholesaler or  
35 distributor to another wholesaler or distributor, a sale by a company  
36 to another company owned wholly by the same individuals or  
37 companies, or a sale by a wholesaler or distributor owned  
38 cooperatively by retailers to those retailers is not subject to the user  
39 fee imposed under this section. For the purposes of this section,  
40 "retailer" includes the owner or operator of a take-out or drive-thru  
41 restaurant, the principal activity of which consists of selling for  
42 consumption off the premises of the restaurant a meal or food  
43 prepared and ready to be eaten. A retailer shall not include (1) the  
44 owner or operator of a restaurant with less than 10% in annual retail  
45 sales of meals or food prepared and ready to be eaten for consumption  
46 off the premises of the restaurant; or (2) the owner or operator of a

1 restaurant, the principal activity of which consists of preparing for  
2 consumption within the restaurant a meal or food to be eaten on the  
3 premises.

4 b. Every person subject to the user fee on the sale of  
5 litter-generating products imposed pursuant to subsection a. of this  
6 section shall file with the director a certificate of registration on a form  
7 prescribed by the director. Any person who is registered under any  
8 law administered by the division or who is subject to and files returns  
9 under any of these laws shall not be required to comply with the  
10 provisions of this subsection.

11 c. Every person subject to the user fee on the sale of  
12 litter-generating products imposed pursuant to subsection a. of this  
13 section shall, on or before March 15 of each year, prepare and file a  
14 return, under oath, for the preceding calendar year with the director  
15 on forms and containing any information as the director shall  
16 prescribe. The return shall indicate the dollar value of the sales within  
17 the State of litter-generating products and at the same time the person  
18 shall pay the full amount of user fees due.

19 d. If a return required by this section is not filed, or if a return  
20 when filed is incorrect or insufficient in the opinion of the director, the  
21 amount of user fees due shall be determined by the director based on  
22 collections from the person liable for the payment of the user fees  
23 during the previous five years. Notice of the determination shall be  
24 given to the person liable for the payment of the user fees. The  
25 determination shall finally and irrevocably fix the user fees unless the  
26 person against whom it is assessed, within 90 days after the giving of  
27 the notice of the determination, shall file a protest in writing as  
28 provided in R.S.54:49-18 and request a hearing, or unless the director  
29 on the director's own motion shall redetermine the same. After the  
30 hearing the director shall give notice of the determination to the  
31 person to whom the user fees are assessed.

32 e. Any person who shall fail to file a return when due or to pay  
33 any user fee when the user fee becomes due, as herein provided, shall  
34 be subject to such penalties and interest as may be provided by law.  
35 If the director determines that the failure to comply with any provision  
36 of this section was excusable under the circumstances, the director  
37 may remit any part of the penalty as shall be appropriate under the  
38 circumstances.

39 f. In addition to the other powers granted by this section, the  
40 director may:

41 (1) Delegate to any officer or employee of the division those  
42 powers and duties as the director may deem necessary to carry out  
43 efficiently the provisions of this section, and the person or persons to  
44 whom the powers have been delegated shall possess and may exercise  
45 all of the powers and perform all of the duties delegated by the  
46 director;

1 (2) Prescribe and distribute all necessary forms for the  
2 implementation of this section; and

3 (3) Adopt any rules and regulations necessary for the  
4 implementation of this section.

5 g. Notwithstanding the provisions of subparagraph (C) of  
6 paragraph (2) of subsection (k) of section 4 of P.L.1945, c.162  
7 (C.54:10A-4), if any, to the contrary, any deduction of the user fee  
8 imposed pursuant to subsection a. of this section allowed in computing  
9 a taxpayer's taxable income which the taxpayer is required to report to  
10 the United States Treasury Department for the purpose of computing  
11 its federal taxable income shall be allowed in determining the  
12 taxpayer's "entire net income" pursuant to subsection (k) of section 4  
13 of P.L.1945, c.162 (C.54:10A-4).

14 <sup>1</sup>h. Subsections a. through g. of this section shall be without effect  
15 on and after the tenth day following a certification by the Director of  
16 the Division of Budget and Accounting in the Department of the  
17 Treasury pursuant to subsection b. of section 13 of P.L. \_\_\_\_\_, c. \_\_\_\_\_  
18 (C. \_\_\_\_\_)(pending in the Legislature as this bill).<sup>1</sup>

19

20 5. (New section) The Clean Communities Program Fund is  
21 established as a nonlapsing, revolving fund in the Department of the  
22 Treasury. The Clean Communities Program Fund shall be  
23 administered by the Department of Environmental Protection and  
24 credited, in addition to any appropriations made thereto, with all user  
25 fees imposed pursuant to section 4 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C.<sup>1</sup>[13:1E-  
26 211]<sup>1</sup>)(pending in the Legislature as this bill) or penalties imposed  
27 pursuant to section 10 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C.<sup>1</sup>[13:1E-217]<sup>1</sup>)(pending in  
28 the Legislature as this bill), and any sums received as voluntary  
29 contributions from private sources. Interest received on moneys in the  
30 <sup>1</sup>[fund] Clean Communities Program Fund<sup>1</sup> shall be credited to the  
31 fund. Unless otherwise expressly provided by the specific  
32 appropriation thereof by the Legislature, which shall take the form of  
33 a discrete legislative appropriations act and shall not be included  
34 within the annual appropriations act, all available moneys in the Clean  
35 Communities Program Fund shall be appropriated annually solely for  
36 the following purposes and no others:

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

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

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

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

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

33 e. No eligible municipality shall receive less than <sup>1</sup>[\$4,000.00]  
34 \$4,000<sup>1</sup> in State aid as apportioned pursuant to subsections b. and c.  
35 of this section. A municipality or county may use up to 5% of its State  
36 aid for administrative expenses;

37 f. Prior to the distribution of funds pursuant to subsections a.  
38 through d. of this section:

39 (1) 25% of the estimated annual balance of the Clean Communities  
40 Program Fund shall be annually appropriated to the State Recycling  
41 Fund established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-  
42 96). These moneys shall be used by the Department of Environmental  
43 Protection for direct recycling grants to counties and municipalities,  
44 up to a maximum appropriation of \$4,000,000 per year. The moneys  
45 made available to the department from the Clean Communities  
46 Program Fund for direct recycling grants shall be annually



1 appropriated to the State Recycling Fund until such time as an  
2 alternative funding mechanism for direct recycling grants is enacted  
3 into law; and

4 (2) \$300,000 of the estimated annual balance of the Clean  
5 Communities Program Fund shall be annually appropriated to the  
6 department and made available on July 1 of every year to the  
7 organization under contract with the department pursuant to section  
8 6 of P.L. , c. (C.<sup>1</sup>[13:1E-213]<sup>1</sup>)(pending in the Legislature as this  
9 bill) for a statewide public information and education program  
10 concerning antilittering activities and other aspects of responsible solid  
11 waste handling behavior.

12 The organization under contract with the department pursuant to  
13 section 6 of P.L. , c. (C.<sup>1</sup>[13:1E-213]<sup>1</sup>)(pending in the Legislature  
14 as this bill) shall, no later than the date on which the contract period  
15 concludes, submit a report to the Governor and the Legislature  
16 concerning its activities during the contract period and any  
17 recommendations concerning improving the program. Every eligible  
18 municipality and county shall cooperate with the organization under  
19 contract with the department pursuant to section 6 of P.L. , c.  
20 (C.<sup>1</sup>[13:1E-213]<sup>1</sup>)(pending in the Legislature as this bill) in providing  
21 information concerning its program of litter pickup and removal.

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

26 The department may carry forward any unexpended balances in the  
27 Clean Communities Program Fund as of June 30 of each year.

28

29 6. (New section) a. The organization under contract with the  
30 department pursuant to section 2 of P.L.1999, c.418 (C.13:1E-99.2b  
31 et al.) on the effective date of P.L. , c. (C.<sup>1</sup>[13:1E-208 et  
32 seq.]<sup>1</sup>)(pending in the Legislature as this bill) shall administer a  
33 Statewide public information and education program concerning  
34 antilittering activities and other aspects of responsible solid waste  
35 handling behavior as part of the Clean Communities Program.

36 b. The contract to administer the Clean Communities Statewide  
37 public information and education program concerning antilittering  
38 activities and other aspects of responsible solid waste handling  
39 behavior shall provide (1) the terms and conditions of the contract; (2)  
40 conditions under which the contract may be terminated and grant funds  
41 recaptured by the Department of Environmental Protection; and (3)  
42 that the Commissioner of Environmental Protection and the State  
43 Treasurer, or their designees, are included as members on the Board  
44 of Trustees of the organization.

45 c. The contract shall be for a period of two years and a contract  
46 recipient shall be eligible for a subsequent contract unless the recipient

1 is otherwise disqualified or fails to meet the conditions provided in  
2 subsection d. of this section.

3 d. An organization may be awarded a contract with the  
4 department if it meets the following criteria:

5 (1) the organization is exempt from federal income tax under  
6 section 501(c)(3) of the United States Internal Revenue Code  
7 (26 U.S.C.s.501(c)(3));

8 (2) the organization qualifies for tax deductible contributions  
9 under section 170(b)(1)(A)(vi) or (viii) of the United States Internal  
10 Revenue Code (26 U.S.C.s.170(b)(1)(A)(vi) or (viii));

11 (3) the organization is incorporated under and subject to the  
12 provisions of Title 15 of the Revised Statutes or Title 15A of the New  
13 Jersey Statutes and the "Charitable Registration and Investigation  
14 Act," P.L.1994, c.16 (C.45:17A-18 et seq.);

15 (4) the sole purpose of the organization is the funding and  
16 administration of a statewide public information and education  
17 program concerning antilittering activities and other aspects of  
18 responsible solid waste handling behavior as part of the Clean  
19 Communities Program;

20 (5) the organization demonstrates that it has raised funds or has  
21 the capability to raise funds from the private sector for the same  
22 purposes moneys in the Clean Communities Program Fund are  
23 appropriated; and

24 (6) the membership of the governing board of the organization  
25 consists of representatives of private sector companies or  
26 organizations that were subject to the provisions of section 6 of  
27 P.L.1985, c.533 (C.13:1E-99.1) prior to December 31, 2000,  
28 representatives of the public sector who are local clean community  
29 coordinators duly appointed by their county or municipal governing  
30 bodies, the Commissioner of Environmental Protection and the State  
31 Treasurer or their designees, and representatives of community  
32 organizations, academia and organizations that have an interest in litter  
33 prevention and education.

34  
35 7. (New section) a. (1) No contract shall be required as a  
36 prerequisite to the distribution of State aid to eligible municipalities  
37 and counties for programs of litter pickup and removal pursuant to  
38 section 5 of P.L. , c. (C.<sup>1</sup>[13:1E-212]<sup>1</sup>)(pending in the Legislature  
39 as this bill). All State aid funds for each fiscal year for which these  
40 funds are to be distributed shall be distributed by May 31 of the  
41 following year.

42 (2) Every eligible municipality and county shall submit a brief  
43 annual report to the department summarizing the uses and expenditure  
44 of funds received for its program of litter pickup and removal.

45 b. The department shall report to the Governor and the  
46 Legislature on the success of the county and municipal litter pickup

1 and removal programs in reducing litter in New Jersey not later than  
2 August 30 of each year.

3 c. Additional expenditures or incremental costs necessary and  
4 reasonably incurred by a municipality or county for the abatement and  
5 control of litter or any other antilittering activities as a direct result of  
6 the implementation of the provisions of P.L. , c. (C.<sup>1</sup>[13:1E-208  
7 et seq.]<sup>1</sup>)(pending in the Legislature as this bill) shall, for the purposes  
8 of P.L.1976, c.68 (C.40A:4-45.1 et seq.), be considered expenditures  
9 mandated by State law.

10

11 8. (New section) In addition to the duties and responsibilities  
12 imposed pursuant to P.L. , c. (C.<sup>1</sup>[13:1E-208 et seq.]<sup>1</sup>)(pending  
13 in the Legislature as this bill), the Department of Environmental  
14 Protection shall:

15 a. Coordinate the various industry and business organizations  
16 seeking to aid in the antilitter effort;

17 b. Conduct periodic litter surveys or random inspections in various  
18 parts of the State to ensure the satisfactory implementation of the  
19 county and municipal litter pickup and removal programs required  
20 pursuant to section 5 of P.L. , c. (C.<sup>1</sup>[13:1E-212]<sup>1</sup>)(pending in  
21 the Legislature as this bill);

22 c. Encourage and cooperate with all local voluntary and  
23 government antilitter campaigns attempting to focus public attention  
24 on the statewide public information and education program concerning  
25 antilittering activities and other aspects of responsible solid waste  
26 handling behavior as part of the Clean Communities Program;

27 d. Investigate the availability of, and apply for, funds available  
28 from any private or public source to be used in the Clean Communities  
29 Program;

30 e. Investigate the successful methods of litter pickup and removal  
31 programs in other states or jurisdictions, encourage the use of litter  
32 receptacles, and evaluate their possible incorporation into the New  
33 Jersey Clean Communities Program.

34

35 9. (New section) Every person convicted of a violation of the  
36 provisions of P.L. , c. (C.<sup>1</sup>[13:1E-208 et seq.]<sup>1</sup>)(pending in the  
37 Legislature as this bill) for which no penalty is specifically provided is  
38 subject to a fine of not more than \$100 for each violation. If the  
39 violation is of a continuing nature, each day during which it continues  
40 constitutes a separate and distinct offense.

41

42 10. (New section) a. The Commissioner of Environmental  
43 Protection shall adopt, pursuant to the "Administrative Procedure  
44 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as  
45 are necessary to effectuate the provisions of P.L. , c. (C.<sup>1</sup>[.13:1E-  
46 208 et seq.]<sup>1</sup>)(pending in the Legislature as this bill).

1        b. The director shall adopt, pursuant to the "Administrative  
2 Procedure Act," rules and regulations as are necessary to effectuate  
3 the provisions of section 4 of P.L.   , c. (C.<sup>1</sup>[13:1E-211]<sup>1</sup>)(pending  
4 in the Legislature as this bill).

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

8        5 a. The State Recycling Fund (hereinafter referred to as the  
9 "fund") is established as a nonlapsing, revolving fund. The fund shall  
10 be administered by the Department of Environmental Protection, and  
11 shall be credited with all [tax revenue collected by the division  
12 pursuant to section 4 of P.L.1981, c.278 (C.13:1E-95)] sums received  
13 from the Clean Communities Program Fund established pursuant to  
14 section 5 of P.L.   , c. (C.<sup>1</sup>[13:1E-212]<sup>1</sup>)(pending in the Legislature  
15 as this bill). Interest received on moneys in the fund and sums  
16 received as repayment of principal and interest on outstanding loans  
17 made from the fund shall be credited to the fund. [The Department of  
18 Environmental Protection, in the administration of the fund, is  
19 authorized to assign to the New Jersey Economic Development  
20 Authority the responsibility for making credit evaluations of applicants  
21 for loans, for servicing loans on behalf of the department, and, the  
22 provisions of any other law to the contrary notwithstanding, for  
23 making recommendations as to the approval or denial of loans  
24 pursuant to this section. The department is further authorized to pay  
25 or reimburse the authority in the amounts as the department agrees are  
26 appropriate for all services rendered by the authority in connection  
27 with any assignment of responsibility under the terms of this section  
28 out of moneys held in the fund for loans and the loan guarantee  
29 program.]

30        b. [Moneys] Unless otherwise expressly provided by the specific  
31 appropriation thereof by the Legislature, moneys in the fund shall be  
32 allocated and used [for the following purposes and no others] as  
33 follows:

34        [(1) Not less than 40% of the estimated annual balance of the  
35 fund] Moneys in the fund received from the Clean Communities  
36 Program Fund established pursuant to section 5 of P.L.   , c.     
37 (C.<sup>1</sup>[13:1E-212]<sup>1</sup>)(pending in the Legislature as this bill) shall be used  
38 for the annual expenses of a program for direct recycling grants to  
39 municipalities or counties in those instances where a county, at its own  
40 expense, provides for the collection, processing and marketing of  
41 recyclable materials on a regional basis. The amount of these grants  
42 shall be calculated on the basis of the total number of tons of  
43 recyclable materials annually recycled from residential, commercial and  
44 institutional sources within that municipality, or group of  
45 municipalities in the case of a county recycling program, except that

1 no such grant shall exceed ~~[\$10.00]~~ \$10 per ton of recyclable  
2 materials recycled. The department may allocate a portion of these  
3 grant moneys as bonus grants to municipalities and counties in those  
4 instances where a municipality or county, at its own expense, provides  
5 for the collection of recyclable materials in its recycling program. The  
6 department shall announce each year the total amount of moneys  
7 available in the bonus grant fund.

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

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

21 To be eligible for a grant pursuant to this subsection, a  
22 municipality or county in the case of a county recycling program shall  
23 demonstrate that the recyclable materials recycled by the municipal or  
24 county recycling program were not diverted from a commercial  
25 recycling program already in existence on the effective date of the  
26 ordinance or resolution establishing the municipal or county recycling  
27 program.

28 No recycling grant to any municipality shall be used for  
29 constructing or operating any facility for the baling of wastepaper or  
30 for the shearing, baling or shredding of ferrous or nonferrous  
31 materials[;].

32 **[(2) Not less than 35% of the estimated annual balance of the fund  
33 shall be used to provide low interest loans or loan guarantees to  
34 recycling businesses and industries, and to provide moneys for  
35 research into collection, market stimulation and reuse techniques  
36 applicable to recycling or the disposition of recyclable materials, or to  
37 contract for market studies, and to establish a sufficient reserve for a  
38 loan guarantee program for recycling businesses and industries;]**

39 **[(3) Not more than 7% of the estimated annual balance of the  
40 fund shall be used for State recycling program planning and program  
41 funding, including the administrative expenses thereof;]**

42 **[(4) Not more than 8% of the estimated annual balance of the  
43 fund shall be used for county recycling program planning and program  
44 funding, including the administrative expenses thereof; and]**

45 **[(5) Not less than 10% of the estimated annual balance of the fund**

1 shall be used for a public information and education program  
2 concerning recycling activities.]

3 (cf: P.L.1990, c.117, s.1)

4

5 12. The following are repealed:

6 Sections 1 through 4 inclusive of P.L.1981, c.278

7 (C.13:1E-92 through 13:1E-95);

8 Sections 6 and 7 of P.L.1981, c.278

9 (C.13:1E-97 and 13:1E-98);

10 Sections 6 and 7 of P.L.1985, c.533

11 (C.13:1E-99.1 and 13:1E-99.2);

12 Section 2 of P.L.1989, c.108 (C.13:1E-99.2a);

13 Section 2 of P.L.1999, c.418 (C.13:1E-99.2b);

14 Sections 10 through 12 inclusive of P.L.1985, c.533

15 (C.13:1E-99.5 through 13:1E-99.7); and

16 Sections 7 through 9 inclusive of P.L.1986, c.187

17 (C.13:1E-99.8 through 13:1E-99.10).

18

19 <sup>1</sup>13. (New section) a. The annual appropriations act for each  
20 State fiscal year shall, without other conditions, limitations or  
21 restrictions on the following:

22 (1) appropriate the amounts specified pursuant to paragraph (1)  
23 of subsection f. of section 5 of P.L. , c. (C. )(pending in the  
24 Legislature as this bill) to the State Recycling Fund established  
25 pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96) for use by the  
26 Department of Environmental Protection for direct recycling grants to  
27 counties and municipalities;

28 (2) appropriate the amount specified pursuant to paragraph (2) of  
29 subsection f. of section 5 of P.L. , c. (C. )(pending in the  
30 Legislature as this bill) to the Department of Environmental Protection  
31 for use by the organization under contract with the department  
32 pursuant to section 6 of P.L. , c. (C. )(pending in the  
33 Legislature as this bill) for a statewide public information and  
34 education program concerning antilittering activities and other aspects  
35 of responsible solid waste handling behavior; and

36 (3) appropriate the balance of the Clean Communities Program  
37 Fund established pursuant to section 5 of P.L. , c.   
38 (C. )(pending in the Legislature as this bill) for the purposes set  
39 forth in subsections a., b., c. and d. of that section.

40 b. If the requirements of subsection a. of this section are not met  
41 on the effective date of an annual appropriations act for the State fiscal  
42 year, or if an amendment or supplement to an annual appropriations  
43 act for the State fiscal year should violate any of the requirements of  
44 subsection a. of this section, the Director of the Division of Budget  
45 and Accounting in the Department of the Treasury shall, not later than  
46 five days after the enactment of the annual appropriations act, or an

1 amendment or supplement thereto, that violates any of the  
2 requirements of subsection a. of this section, certify to the Director of  
3 the Division of Taxation that the requirements of subsection a. of this  
4 section have not been met.<sup>1</sup>

5

6 <sup>1</sup>[13.] 14.<sup>1</sup> This act shall take effect immediately and section 4  
7 shall be retroactive to January 1, 2002.

8

9

10

11

12 \_\_\_\_\_  
13 Revises Clean Communities Program and makes available recycling  
grants to counties and municipalities.

# ASSEMBLY, No. 2069

## STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED MARCH 18, 2002

**Sponsored by:**

**Assemblyman JOSEPH V. DORIA, JR.**

**District 31 (Hudson)**

**Assemblyman JOSEPH AZZOLINA**

**District 13 (Middlesex and Monmouth)**

**Co-Sponsored by:**

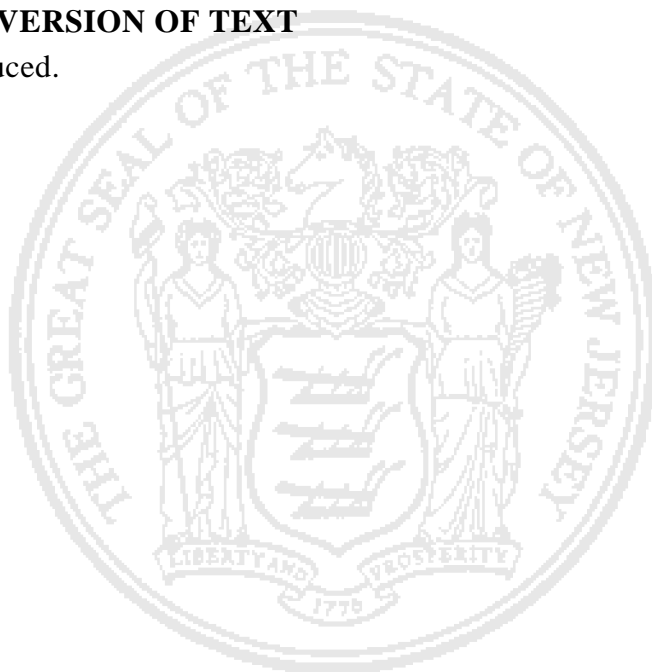
**Assemblymen Eagler and Edwards**

**SYNOPSIS**

Extends tax on litter-generating products; makes available recycling grants to counties and municipalities.

**CURRENT VERSION OF TEXT**

As introduced.





1 AN ACT concerning litter abatement and recycling, amending  
2 P.L.1981, c.278, P.L.1985, c.533 and P.L.1986, c.187, and  
3 supplementing P.L.1945, c.162 (C.54:10A-1 et seq.).  
4

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

7  
8 1. Section 2 of P.L.1981, c.278 (C.13:1E-93) is amended to read  
9 as follows:

10 2. The Legislature finds that New Jersey must continue to seek  
11 solutions to its energy, environmental and economic problems; that  
12 solutions to these problems require proper solid waste and resource  
13 recovery management; that the generation of municipal solid waste is  
14 increasing while landfill capacity is decreasing; that the siting of  
15 environmentally secure landfills is an area of serious concern and  
16 limited choice; that the planning and construction of waste-to-energy  
17 resource recovery facilities requires substantial capital expenditures  
18 and a guaranteed flow of processible and combustible waste; and that  
19 the disposal of reusable waste materials is wasteful of valuable  
20 resources.

21 The Legislature further finds that the recycling of waste materials  
22 decreases waste flow to landfill sites, substantially reduces the  
23 required capacity and cost of proposed waste-to-energy resource  
24 recovery facilities while contributing to their overall combustion  
25 efficiency through the removal of noncombustible and nonprocessible  
26 materials at the source, recovers valuable resources, conserves energy  
27 in the manufacturing process, and offers a supply of domestic raw  
28 materials for the State's industries; that a comprehensive recycling plan  
29 and program is necessary to achieve the maximum practicable recovery  
30 of reusable materials from solid waste in this State; and that such a  
31 plan will reduce the amount of waste to landfills, result in significant  
32 cost savings in the planning and construction of waste-to-energy  
33 resource recovery facilities, conserve energy and resources, and  
34 recover materials for industrial uses.

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

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

**Matter underlined thus is new matter.**

1 The Legislature, therefore, declares it to be in the [energy]  
2 aesthetic, environmental, and economic interests of the State of New  
3 Jersey to [implement a comprehensive Statewide recycling plan and  
4 to] maintain State support for municipal and county recycling  
5 programs and to establish and maintain a clean communities account  
6 to develop resources to be used in a litter abatement and removal  
7 pickup plan as provided for by law.

8 (cf: P.L.1987, c.102, s.33)

9  
10 2. Section 3 of P.L.1981, c.278 (C.13:1E-94) is amended to read  
11 as follows:

12 3. As used in this act:

13 a. "Department" means the State Department of Environmental  
14 Protection;

15 b. "Division" means the Division of Taxation in the Department of  
16 the Treasury;

17 c. "Director" means the Director of the Division of Taxation in the  
18 Department of the Treasury;

19 d. "Litter" means any used or unconsumed substance or waste  
20 material which has been discarded, whether made of aluminum, glass,  
21 plastic, rubber, paper, or other natural or synthetic material, or any  
22 combination thereof, including, but not limited to, any bottle, jar or  
23 can, or any top, cap or detachable tab of any bottle, jar or can, any  
24 unlighted cigarette, cigar, match or any flaming or glowing material or  
25 any garbage, trash, refuse, debris, rubbish, grass clippings or other  
26 lawn or garden waste, newspapers, magazines, glass, metal, plastic or  
27 paper containers or other packaging or construction material, but does  
28 not include the waste of the primary processes of mining or other  
29 extraction processes, logging, sawmilling, farming or manufacturing;

30 e. "Litter-generating products" means the following specific goods  
31 which are produced, distributed, or purchased in disposable containers,  
32 packages or wrappings; or which are not usually sold in packages,  
33 containers, or wrappings but which are commonly discarded in public  
34 places; or which are of an unsightly or unsanitary nature, commonly  
35 thrown, dropped, discarded, placed, or deposited by a person on  
36 public property, or on private property not owned by him:

37 (1) Beer and other malt beverages;

38 (2) Cigarettes and tobacco products;

39 (3) Cleaning agents and toiletries;

40 (4) Distilled spirits;

41 (5) Food for human or pet consumption;

42 (6) Glass containers sold as such;

43 (7) Groceries;

44 (8) Metal containers sold as such;

45 (9) Motor vehicle tires;

46 (10) Newsprint and magazine paper stock;

- 1 (11) Drugstore sundry products, but not including prescription  
2 drugs or nonprescription drugs;
- 3 (12) Paper products and household paper, but not including roll  
4 stock produced by paper product manufacturers and wood pulp;
- 5 (13) Plastic or fiber containers made of synthetic material and sold  
6 as such, but not including any container which is routinely reused, has  
7 a useful life of more than one year and is ordinarily sold empty at  
8 retail;
- 9 (14) Soft drinks and carbonated waters; and
- 10 (15) Wine;
- 11 f. "Litter receptacle" means a container suitable for the depositing  
12 of litter;
- 13 g. "Municipality" means any city, borough, town, township or  
14 village situated within the boundaries of this State;
- 15 h. "Public place" means any area that is used or held out for use by  
16 the public, whether owned or operated by public or private interests;
- 17 i. "Recycling" means any process by which materials which would  
18 otherwise become solid waste are collected, separated or processed  
19 and returned to the economic mainstream in the form of raw materials  
20 or products;
- 21 j. "Sold within the State" or "sales within the State" means all sales  
22 of retailers engaged in business within the State and, in the case of  
23 manufacturers, wholesalers and distributors, all sales of products for  
24 use and consumption within the State. It shall be presumed that all  
25 sales of manufacturers, wholesalers and distributors sold within the  
26 State are for use and consumption within the State unless the taxpayer  
27 shows that the products are shipped out of State for out-of-State use;
- 28 k. ["Tax period" means every calendar month or any other period  
29 as may be prescribed by rule and regulation adopted by the director,  
30 on the basis of which the owner or operator of a solid waste facility is  
31 required to report to the director pursuant to section 4 of P.L. 1981,  
32 c. 278 (C. 13:1E-95);] (deleted by amendment, P.L. , c. )
- 33 l. "Taxpayer" means the [owner or operator of a solid waste  
34 facility or the] manufacturer, wholesaler, distributor, or retailer of  
35 litter-generating products subject to the tax provisions of [section 4  
36 of P.L.1981, c.278 (C.13:1E-95) or] section 6 of P.L.1985, c.533  
37 (C.13:1E-99.1)[, as the case may be].  
38 (cf: P.L.1987, c.102, s.34)  
39
- 40 3. Section 6 of P.L.1985, c.533 (C.13:1E-99.1) is amended to read  
41 as follows:
- 42 6. a. There is levied upon each person engaged in business in the  
43 State as a manufacturer, wholesaler, or distributor of litter-generating  
44 products a tax of 3/100 of 1% (.0003) on sales of those products  
45 within the State, and each person engaged in business in the State as  
46 a retailer of litter-generating products a tax of 2.25/100 of 1%

1 (.000225) on sales of those products within the State, except any  
2 retailer with less than \$250,000.00 in annual retail sales of  
3 litter-generating products is exempt from this tax. A sale by a  
4 wholesaler or distributor to another wholesaler or distributor, a sale  
5 by a company to another company owned wholly by the same  
6 individuals or companies, or a sale by a wholesaler or distributor  
7 owned cooperatively by retailers to those retailers is not subject to tax  
8 under this act. For the purposes of this act, "retailer" includes  
9 restaurants one of the principal activities of which consists of selling  
10 for consumption off the premises of the restaurant a meal or food  
11 prepared and ready to be eaten.

12 [The tax on the sale of litter-generating products imposed by this  
13 subsection shall expire December 31, 2000. However, this expiration  
14 shall not affect any obligation, lien or duty to pay taxes which may be  
15 due with respect to the imposition of any levy, or interest or penalties  
16 which may accrue by virtue of any assessment, which may be made  
17 with respect to taxes levied for any taxable year or part of a taxable  
18 year, prior to January 1, 2001, nor shall this expiration affect the legal  
19 authority to assess and collect the taxes which may be due and payable  
20 under section 6 of P.L.1985, c.533 (C.13:1E-99.1), as the case may  
21 be, together with such interest and penalties as would accrue thereon  
22 under section 6 of P.L.1985, c.533 (C.13:1E-99.1), nor shall this  
23 expiration invalidate any assessment or affect any proceeding for the  
24 enforcement thereof.]

25 b. Every person subject to the tax on the sale of litter-generating  
26 products imposed pursuant to subsection a. of this [act] section shall  
27 file with the director a certificate of registration on a form prescribed  
28 by the director. Any person who is registered under any law  
29 administered by the division or who is subject to and files returns  
30 under any of these laws shall not be required to comply with the  
31 provisions of this subsection.

32 c. Every person subject to [this] the tax on the sale of  
33 litter-generating products imposed pursuant to subsection a. of this  
34 section shall, on or before March 15 of each year, prepare and file a  
35 return, under oath, for the preceding calendar year with the director  
36 on forms and containing any information as the director shall  
37 prescribe. The return shall indicate the dollar value of the sales within  
38 the State of litter-generating products and at the same time the person  
39 shall pay the full amount of tax due.

40 d. If a return required by this [act] section is not filed, or if a  
41 return when filed is incorrect or insufficient in the opinion of the  
42 director, the amount of tax due shall be determined by the director  
43 from whatever information may be available. Notice of the  
44 determination shall be given to the taxpayer liable for the payment of  
45 the tax. The determination shall finally and irrevocably fix the tax  
46 unless the person against whom it is assessed, within [30 days after

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

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

14 f. (1) (Deleted by amendment, P.L.1987, c.76.)

15 (2) Deleted by amendment, P.L.1987, c.76.)

16 g. In addition to the other powers granted by this section, the  
17 director may:

18 (1) Delegate to any officer or employee of [his] the division those  
19 powers and duties as [he] the director may deem necessary to carry  
20 out efficiently the provisions of this section, and the person or persons  
21 to whom the powers have been delegated shall possess and may  
22 exercise all of the powers and perform all of the duties delegated by  
23 the director;

24 (2) Prescribe and distribute all necessary forms for the  
25 implementation of this section; and

26 (3) Adopt any rules and regulations necessary for the  
27 implementation of [this act] section 6 of P.L.1985, c.533  
28 (C.13:1E-99.1).

29 h. The tax imposed by this section shall be governed in all respects  
30 by the provisions of the State Tax Uniform Procedure Law,  
31 R.S.54:48-1 et seq., unless otherwise provided by a specific provision  
32 of this section.

33 (cf: P.L.1995, c.301, s.1)

34

35 4. Section 10 of P.L.1985, c.533 (C.13:1E-99.5) is amended to  
36 read as follows:

37 10. Every person convicted of a violation of [this amendatory and  
38 supplementary act] the provisions of P.L.1985, c.533 (C.13:1E-99.1  
39 et al.) for which no penalty is specifically provided is subject to a fine  
40 of not more than \$100.00 for each violation. If the violation is of a  
41 continuing nature, each day during which it continues constitutes a  
42 separate and distinct offense.

43 (cf: P.L.1985, c.533, s.10)

1       5. Section 9 of P.L.1986, c.187 (C.13:1E-99.10) is amended to  
2 read as follows:

3       9. The [Departments] Department of Environmental Protection  
4 and the Department of the Treasury may enter into contracts with  
5 other State agencies, local agencies, or local governing bodies, and  
6 shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968,  
7 c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to  
8 implement the provisions of [this amendatory and supplementary act  
9 and] P.L.1986, c.187 (C.13:1E-99.8 et al.) or the provisions of  
10 P.L.1985, c.533 (C.13:1E-99.1 et al.).  
11 (cf: P.L.1986, c.187, s.9)  
12

13       6. (New section) Notwithstanding the provisions of subparagraph  
14 (C) of paragraph (2) of subsection (k) of section 4 of P.L.1945, c.162  
15 (C.54:10A-4), if any, to the contrary, any deduction of the tax  
16 imposed pursuant to section 6 of P.L.1985, c.533 (C.13:1E-99.1)  
17 allowed in computing a taxpayer's taxable income which the taxpayer  
18 is required to report to the United States Treasury Department for the  
19 purpose of computing its federal taxable income shall be allowed in  
20 determining the taxpayer's "entire net income" pursuant to subsection  
21 (k) of section 4 of P.L.1945, c.162 (C.54:10A-4).  
22

23       7. Section 7 of P.L.1985, c.533 (C.13:1E-99.2) is amended to read  
24 as follows:

25       7. The Clean Communities Account is established as a nonlapsing,  
26 revolving fund in the Department of the Treasury to carry out the  
27 purposes of this act. The Clean Communities Account shall be  
28 administered by the Department of Environmental Protection and  
29 credited, in addition to any appropriations made thereto, with all taxes  
30 and penalties levied or imposed pursuant to sections 6 and 10 of  
31 P.L.1985, c.533 (C.13:1E-99.1 and 13:1E-99.5), and any sums  
32 received as voluntary contributions from private sources. Interest  
33 received on moneys in the account shall be credited to the account.  
34 Unless otherwise expressly provided by the specific appropriation  
35 thereof by the Legislature, which shall take the form of a discrete  
36 legislative appropriations act and shall not be included within the  
37 annual appropriations act, all available moneys in the Clean  
38 Communities Account shall be appropriated annually solely for the  
39 following purposes and no others:

40       a. 10% of the estimated annual balance of the account shall be used  
41 for a State program of litter pickup and removal and of enforcement  
42 of litter-related laws and ordinances in State owned places and areas  
43 that are accessible to the public;

44       b. 50% of the estimated annual balance of the account shall be  
45 distributed as State aid to eligible municipalities with total housing  
46 units of 200 or more for programs of litter pickup and removal,

1 including establishing an "Adopt-A-Highway" program, of public  
2 education and information relating to litter abatement and of  
3 enforcement of litter-related laws and ordinances. The amount of State  
4 aid due each municipality shall be solely calculated based on the  
5 proportion which the housing units of a qualifying municipality bear to  
6 the total housing units in the State. Total housing units shall be  
7 determined using the most recent federal decennial population  
8 estimates for New Jersey and its municipalities, filed in the office of  
9 the Secretary of State. Moneys in the account may also be used by an  
10 eligible municipality to abate graffiti;

11 c. 30% of the estimated annual balance of the account shall be  
12 distributed as State aid to eligible municipalities with total housing  
13 units of 200 or more 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 State  
17 aid due each municipality shall be solely calculated based on the  
18 proportion which the municipal road mileage of a qualifying  
19 municipality bears to the total municipal road mileage within the State.  
20 For the purposes of this subsection, "municipal road mileage" means  
21 that road mileage under the jurisdiction of municipalities, as  
22 determined by the Department of Transportation. Moneys in the  
23 account may also be used by an eligible municipality to abate graffiti;

24 d. 10% of the estimated annual balance of the account shall be  
25 distributed as State aid to eligible counties for programs of litter  
26 pickup and removal, including establishing an "Adopt-A-Highway"  
27 program, of public education and information relating to litter  
28 abatement and of enforcement of litter-related laws and ordinances.  
29 The amount of State aid due each county shall be solely calculated  
30 based on the proportion which the county road mileage of an eligible  
31 county 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 account may also be  
35 used by an eligible county to abate graffiti;

36 e. No eligible municipality shall receive less than \$4,000.00 in State  
37 aid as apportioned pursuant to subsections b. and c. of this section. A  
38 municipality or county may use up to 5% of its State aid for  
39 administrative expenses;

40 f. Prior to the distribution of funds pursuant to subsections a.  
41 through d. of this section, 30% of the estimated annual balance of the  
42 account shall be annually appropriated to the Department of  
43 Environmental Protection for a statewide recycling promotion and  
44 education program and for recycling grants to counties and  
45 municipalities up to a maximum appropriation of \$4,000,000 per year  
46 and \$200,000 of the estimated annual balance of the account shall be

1 annually appropriated to the department and made available on July 1  
2 of every year to the organization under contract with the department  
3 pursuant to section 2 of P.L.1999, c.418 (C.13:1E-99.2b) for a  
4 Statewide public information and education program concerning  
5 antilittering activities and other aspects of responsible solid waste  
6 handling behavior. The organization under contract with the  
7 department pursuant to section 2 of P.L.1999, c.418 (C.13:1E-99.2b)  
8 shall, no later than the date on which the contract period concludes,  
9 submit a report to the Governor and the Legislature concerning its  
10 activities during the contract period and any recommendations  
11 concerning improving the program;

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

16 The department may carry forward any unexpended balances in the  
17 Clean Communities Account as of June 30 of each year.

18 (cf: P.L.1999, c.418, s.1)

19

20 8. This act shall take effect immediately and section 3 shall be  
21 retroactive to December 30, 2000 and section 6 shall apply to privilege  
22 periods ending after its enactment.

23

24

25

#### STATEMENT

26

27 This bill makes the tax on litter-generating products permanent,  
28 eliminating the "sunset" provision or expiration date that has led to the  
29 periodic expiration or near-expiration of the tax.

30 P.L.1985, c.533 imposed a tax on the sale of litter-generating  
31 products to provide funds to finance a Statewide anti-litter program.  
32 The manufacturers, wholesalers, and distributors of litter-generating  
33 products are taxed at the rate of \$300 per \$1,000,000 in sales per year;  
34 retailers, including restaurants, are taxed at the rate of \$225 per  
35 \$1,000,000 in annual sales. The fifteen categories of litter-generating  
36 products include alcoholic beverages, soft drinks, cigarettes, paper  
37 products, food and groceries, among others.

38 The litter tax revenues are distributed by the Department of  
39 Environmental Protection (DEP) to counties and municipalities as  
40 State aid for litter abatement programs. In FY 1998, the litter tax  
41 generated \$14.2 million. In FY 2000, the Division of Taxation  
42 estimated that approximately \$17.2 million will be collected in litter  
43 tax revenue.

44 The provisions of P.L.1985, c.533 also provided that the litter tax  
45 would expire on December 31, 1989.

46 As enacted, P.L.1985, c.533 did not establish an anti-litter program,



1 nor provide for the distribution of the revenues generated by the litter  
2 tax. In response to this problem, implementing legislation to establish  
3 an anti-litter program, and provide for the distribution of the litter tax  
4 revenues deposited in the Clean Communities Account  
5 in the Department of the Treasury commencing July 1, 1987, was  
6 enacted into law as P.L.1986, c.187 (C.13:1E-99.8 et seq.).

7 The provisions of P.L.1986, c.187 provided for the development of  
8 Statewide standards for anti-litter programs. The act provided that the  
9 Clean Communities Account is to be administered by the DEP, at an  
10 annual cost of approximately \$450,000, and that 90 percent of the  
11 estimated annual balance of the account must be used for grants to  
12 counties and municipalities for local litter control programs and  
13 activities. The act also extended the "sunset" provision of the litter tax  
14 from December 31, 1989 to December 31, 1991. In addition,  
15 P.L.1986, c.187 required the DEP to submit a report to the  
16 Legislature on its anti-litter program within two years of the effective  
17 date of the bill, and each 18 months thereafter.

18 Under the provisions of P.L.1986, c.187, all municipalities with  
19 more than 200 housing units may receive an annual grant to finance  
20 local anti-litter programs and activities. 50% of the estimated annual  
21 litter tax revenues are used by the DEP to make grants to eligible  
22 municipalities on the basis of housing units, the amount of the grant  
23 reflecting the proportion which the housing units of a qualifying  
24 municipality bears to the total housing units in the State. Another  
25 30% of the estimated annual revenues are used by the DEP to make  
26 grants to eligible municipalities on the basis of road mileage, the  
27 amount of the grant reflecting the proportion which the municipal road  
28 mileage of a qualifying municipality bears to the total municipal road  
29 mileage within the State. No municipality may receive less than  
30 \$4,000 in grant funds. Approximately 558 municipalities are eligible  
31 to receive grants from the Clean Communities Account. 10% of the  
32 estimated revenues in the Clean Communities Account are used by the  
33 DEP to make grants to counties on the basis of county road mileage,  
34 the amount of the grant reflecting the proportion which the county  
35 road mileage of a qualifying county bears to the total county road  
36 mileage within the State. A municipality or county may use up to 5%  
37 of its grant for administrative expenses. Five percent of the moneys  
38 in the account may be used for anti-litter programs for State-owned  
39 property, and 5% may be used by the DEP for administrative expenses  
40 and a public information and education program concerning anti-  
41 littering activities.

42 To administer the Statewide anti-litter program, the DEP is directed  
43 to develop model municipal and county litter control programs, which  
44 a municipality or county must adopt to qualify for a grant. The  
45 department is required to audit all county grants and each municipal  
46 grant of \$30,000 or more. The DEP would only approve a municipal

1 or county anti-litter program which: (1) provides new employment; (2)  
2 would supplement existing anti-litter activities; and (3) certifies that  
3 the portion of the litter picked up which is recyclable will be recycled.

4 The provisions of P.L.1989, c.108 changed the administration of  
5 the Clean Communities Account. The act provided that the funds  
6 allocated for municipalities and counties would be distributed as State  
7 aid, as opposed to grants (which required individual contracts between  
8 DEP and the municipality or county). The act also provided that  
9 contracts would not be required as a condition of receiving this State  
10 aid. To qualify for State aid from the Clean Communities Account, a  
11 county or municipality would be required to adopt one of the model  
12 litter programs established by DEP. The act also provided that  
13 moneys to be distributed from the Clean Communities Account must  
14 be distributed by May 31 of each year. Further, the act directed the  
15 DEP to submit an annual report to the Governor and the Legislature  
16 detailing the administration of the Clean Communities Account.

17 The provisions of P.L.1992, c.150 extended the "sunset" provision  
18 of the tax upon litter-generating products imposed pursuant to  
19 P.L.1985, c.533 an additional four years, from December 31, 1991 to  
20 December 31, 1995. This legislation, which was approved on  
21 November 24, 1992, made the extension retroactive to December 30,  
22 1991 in order to provide for administrative continuity. In 1996,  
23 similar legislation was enacted as P.L.1995, c.301 to extend the litter  
24 tax for an additional five years, from December 31, 1995 to  
25 December 31, 2000.

26 P.L.1992, c.150 also requires the DEP to: (1) include a detailed  
27 explanation of the uses and expenditure of the moneys appropriated to  
28 the department from the Clean Communities Account within its annual  
29 report to the Governor and the Legislature; (2) conduct periodic litter  
30 surveys or random inspections in various parts of the State to ensure  
31 the satisfactory implementation of the model county and municipal  
32 litter control programs; and (3) submit its report to the Governor and  
33 the Legislature on the success of the model county and municipal litter  
34 control programs in reducing litter in New Jersey not later than May  
35 31 of each year.

36 In addition, P.L.1992, c.150 deletes the exemption from the  
37 requirement to submit an annual report to the DEP for municipalities  
38 that receive less than \$30,000 in State aid moneys from the Clean  
39 Communities Account, and allows counties and municipalities to use  
40 moneys received to establish an "Adopt-A-Highway" program.

41 The provisions of P.L.1995, c.301 also make several changes to the  
42 administration of the Clean Communities Program. These statutory  
43 changes: (1) prohibit the diversion of moneys in the Clean  
44 Communities Account unless expressly provided by the enactment of  
45 a discrete appropriations act by the Legislature, other than the annual  
46 appropriations act (It should be noted that the FY1995 Appropriations

1 Act (P.L.1994, c.67) diverted approximately \$10.6 million from the  
2 Clean Communities Account to help reduce the General Fund deficit);  
3 (2) remove the requirement that unused moneys in the Clean  
4 Communities Account must be redistributed among all eligible  
5 recipients, thereby removing the ability of DEP to deny aid to a county  
6 or municipality that does not adopt the model litter control program  
7 by a certain date; (3) provide that the DEP may carry forward any  
8 unexpended balances in the Clean Communities Account as of June 30  
9 of each fiscal year; and (4) provide that the annual report to be  
10 submitted by the department to the Governor and the Legislature on  
11 the success of the litter control program would be due by August 30  
12 rather than by May 31 of each year.

13 The provisions of P.L.1999, c.418 make further changes to the  
14 administration of the Clean Communities Account and revise the  
15 allocation of moneys in the account. Specifically, the act directs the  
16 DEP to negotiate and enter into a contract with an organization to  
17 administer a Clean Communities Statewide public information and  
18 education program concerning anti-littering activities and other  
19 aspects of responsible solid waste handling behavior.

20 Under the provisions of P.L.1995, c.301, at least 90% of the  
21 estimated annual balance of the Clean Communities Account must be  
22 used for grants to counties and municipalities for local litter control  
23 programs and activities, 5% for a State program of litter pickup and  
24 removal and 5% for DEP's administrative expenses and a State public  
25 information and education program concerning anti-littering activities.

26 The provisions of P.L.1999, c.418 set the State expenditure on the  
27 Statewide public information and education program concerning anti-  
28 littering activities at \$200,000 annually, and directs the DEP to  
29 negotiate and enter into a two-year contract with an organization to  
30 administer a Clean Communities Statewide public information and  
31 education program, reallocating the remaining funds. The 5% of the  
32 account formerly allocated for a State program of litter pickup and  
33 removal is increased to 10% of the estimated annual balance of the  
34 account, and no longer includes the costs of State public education and  
35 information programs relating to litter abatement. The act also  
36 expands the permitted uses of funds from the account by eligible  
37 municipalities and counties to include the abatement of graffiti.

38 The provisions of P.L.1999, c.418 made several other statutory  
39 changes to the Clean Communities Program. These statutory changes:  
40 (1) remove the requirements that the DEP and participating counties  
41 or municipalities must develop and adopt model litter control  
42 programs; and (2) eliminate all other non-demographic eligibility  
43 criteria for State aid under the Clean Communities Program.

44 In addition to making the tax permanent, this bill creates an  
45 exemption from taxation for roll stock produced by paper product  
46 manufacturers and wood pulp.

1       The bill also adds a section to the tax on litter generating products  
2 that clarifies that the tax is a deductible business expense for  
3 corporation business tax purposes. In 1993, a provision was added to  
4 the corporation business tax to disallow the deduction of the taxes of  
5 other United States taxing jurisdictions in calculating the "entire net  
6 income" of a corporation that is allocated to New Jersey for  
7 corporation business tax purposes. New Jersey uses a formula to  
8 determine the percentage of the total income of a corporation that is  
9 fairly related to the corporation's activity in New Jersey. Only that  
10 part of the total of a corporation's income that is related to activities  
11 in New Jersey is subject to tax; effectively, the rest of the corporation's  
12 income is exempt from New Jersey tax. When the deduction of the  
13 taxes of other jurisdictions was allowed, corporations that did  
14 business in several states paid a lower effective rate of tax on their  
15 New Jersey activities than did corporations that only did business in  
16 New Jersey. This disallowance provision, which was intended to  
17 disallow (for example) deduction of Pennsylvania and New York  
18 corporate income tax, has been interpreted to disallow deduction of  
19 New Jersey taxes. The amendment corrects this misinterpretation as  
20 regards this specific tax.

21       The bill makes the effective date retroactive to December 30, 2000  
22 (the day before the tax expired, to assure continuity), and makes an  
23 amendment to an appeal provision that extends from 30 days to 90  
24 days the time allowed to protest a deficiency assessment (conforming  
25 the tax to changes made to other taxes under P.L.1992, c.175, the  
26 Taxpayers' Bill of Rights).

27       The bill also provides that before the distribution of any of the  
28 funds from the Clean Communities Account, 30% of the annual  
29 amount in the fund, but not more than \$4 million per year, would be  
30 appropriated annually to the Department of Environmental Protection  
31 for a statewide recycling promotion and education program and to  
32 provide recycling grants to counties and municipalities for local  
33 recycling programs.

# ASSEMBLY, No. 2110

## STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED MARCH 18, 2002

**Sponsored by:**

**Assemblyman JOSEPH V. EGAN**  
**District 17 (Middlesex and Somerset)**  
**Assemblyman PETER C. EAGLER**  
**District 34 (Essex and Passaic)**

**Co-Sponsored by:**

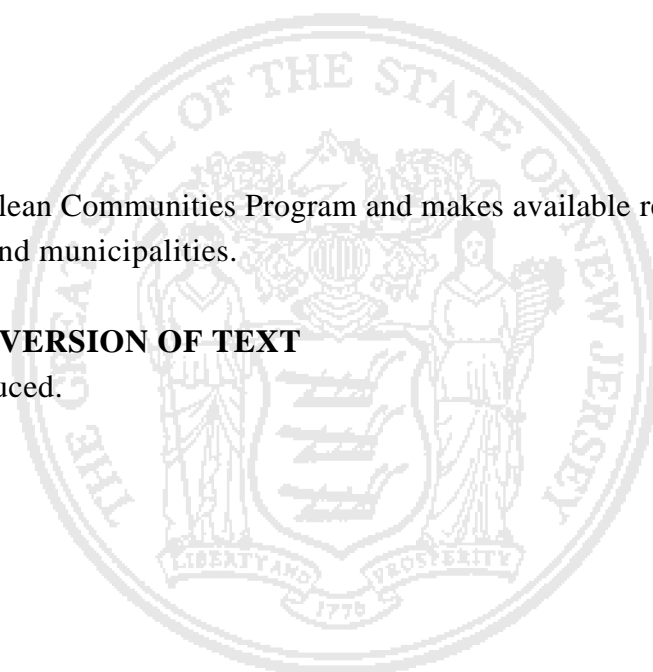
**Assemblymen Chivukula, Gusciora, Green, Assemblywoman Stender,**  
**Assemblymen Diegnan, Barnes, Edwards, McKeon, Guear,**  
**Assemblywomen Greenstein, Watson Coleman, Assemblymen Fraguela,**  
**Asselta, Biondi, Burzichelli, Malone, Assemblywoman Previte,**  
**Assemblymen R.Smith, Steele, Thompson, Assemblywoman Weinberg,**  
**Assemblyman Wisniewski, Assemblywoman Quigley, Assemblyman**  
**Bateman, Assemblywoman Cruz-Perez, Assemblyman Fisher,**  
**Assemblywoman Friscia, Assemblymen Hackett, Johnson and Chatzidakis**

**SYNOPSIS**

Revises Clean Communities Program and makes available recycling grants to counties and municipalities.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 5/14/2002)

A2110 EGAN, EAGLER

2

1 AN ACT concerning the Clean Communities Program, and amending,  
2 supplementing and repealing parts of the statutory law.

3

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

6

7 1. (New section) Sections 1 through 10 inclusive of P.L. , c.  
8 (C.13:1E-208 through 13:1E-217)(pending in the Legislature as this  
9 bill) shall be known and may be cited as the "Clean Communities and  
10 Recycling Grant Act."

11

12 2. (New section) The Legislature finds that an uncluttered  
13 landscape is among the most priceless heritages which New Jersey can  
14 bequeath to posterity; that it is the duty of government to promote and  
15 encourage a clean and safe environment; that the proliferation and  
16 accumulation of carelessly discarded litter may pose a threat to the  
17 public health and safety; that the litter problem is especially serious in  
18 a State as densely populated and heavily traveled as New Jersey; and  
19 that unseemly litter has an adverse economic effect on New Jersey by  
20 making the State less attractive to tourists and new industry and  
21 residents.

22 The Legislature further finds that the recycling of waste materials  
23 decreases waste flow to county solid waste facilities and out-of-state  
24 disposal sites, reduces waste flow to the State's solid waste  
25 incinerators while contributing to their overall combustion efficiency  
26 through the removal of noncombustible and nonprocessable materials  
27 at the source, recovers valuable resources, conserves energy in the  
28 manufacturing process, and offers a supply of domestic raw materials  
29 for the State's industries; that economically viable municipal and  
30 county recycling programs are necessary to achieve the maximum  
31 practicable recovery of reusable materials from solid waste in this  
32 State; and that such programs will reduce the amount of solid waste  
33 disposed at county solid waste facilities, result in more efficient solid  
34 waste incinerators, conserve energy and resources, and recover  
35 materials for industrial uses.

36 The Legislature, therefore, declares it to be in the aesthetic,  
37 environmental, and economic interests of the State of New Jersey to  
38 support a Clean Communities Program and to maintain support for  
39 municipal and county recycling programs.

40

41 3. (New section) As used in the provisions of P.L. , c.  
42 (C.13:1E-208 et seq.)(pending in the Legislature as this bill):

43 a. "Department" means the State Department of Environmental

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

**Matter underlined thus is new matter.**

- 1 Protection.
- 2 b. "Division" means the Division of Taxation in the Department of  
3 the Treasury.
- 4 c. "Director" means the Director of the Division of Taxation in the  
5 Department of the Treasury.
- 6 d. "Litter" means any used or unconsumed substance or waste  
7 material which has been discarded, whether made of aluminum, glass,  
8 plastic, rubber, paper, or other natural or synthetic material, or any  
9 combination thereof, including, but not limited to, any bottle, jar or  
10 can, or any top, cap or detachable tab of any bottle, jar or can, any  
11 unlighted cigarette, cigar, match or any flaming or glowing material or  
12 any garbage, trash, refuse, debris, rubbish, grass clippings or other  
13 lawn or garden waste, newspapers, magazines, glass, metal, plastic or  
14 paper containers or other packaging or construction material, but does  
15 not include the waste of the primary processes of mining or other  
16 extraction processes, logging, sawmilling, farming or manufacturing.
- 17 e. "Litter-generating products" means the following specific goods  
18 which are produced, distributed, or purchased in disposable containers,  
19 packages or wrappings; or which are not usually sold in packages,  
20 containers, or wrappings but which are commonly discarded in public  
21 places; or which are of an unsightly or unsanitary nature, commonly  
22 thrown, dropped, discarded, placed, or deposited by a person on  
23 public property, or on private property not owned by him:
- 24 (1) Beer and other malt beverages;  
25 (2) Cigarettes and tobacco products;  
26 (3) Cleaning agents and toiletries;  
27 (4) Distilled spirits;  
28 (5) Food for human or pet consumption;  
29 (6) Glass containers sold as such;  
30 (7) Groceries;  
31 (8) Metal containers sold as such;  
32 (9) Motor vehicle tires;  
33 (10) Newsprint and magazine paper stock;  
34 (11) Drugstore sundry products, but not including prescription  
35 drugs or nonprescription drugs;  
36 (12) Paper products and household paper, but not including roll  
37 stock produced by paper product manufacturers and wood pulp;  
38 (13) Plastic or fiber containers made of synthetic material and sold  
39 as such, but not including any container which is routinely reused, has  
40 a useful life of more than one year and is ordinarily sold empty at  
41 retail;  
42 (14) Soft drinks and carbonated waters; and  
43 (15) Wine.
- 44 f. "Litter receptacle" means a container suitable for the depositing  
45 of litter.
- 46 g. "Municipality" means any city, borough, town, township or

1 village situated within the boundaries of this State.

2 h. "Person" means any individual or business concern.

3 i. "Public place" means any area that is used or held out for use by  
4 the public, whether owned or operated by public or private interests.

5 j. "Recycling" means any process by which materials which would  
6 otherwise become solid waste are collected, separated or processed  
7 and returned to the economic mainstream in the form of raw materials  
8 or products.

9 k. "Sold within the State" or "sales within the State" means all  
10 sales of retailers engaged in business within the State and, in the case  
11 of manufacturers, wholesalers and distributors, all sales of products for  
12 use and consumption within the State. It shall be presumed that all  
13 sales of manufacturers, wholesalers and distributors sold within the  
14 State are for use and consumption within the State unless it is  
15 determined by the director that the products are shipped out of State  
16 for out-of-State use.

17

18 4. (New section) a. There is imposed upon each person engaged  
19 in business in the State as a manufacturer, wholesaler, or distributor  
20 of litter-generating products a user fee of 3/100 of 1% (.0003) on sales  
21 of those products within the State, and each person engaged in  
22 business in the State as a retailer of litter-generating products a user  
23 fee of 2.25/100 of 1% (.000225) on sales of those products within the  
24 State, except any retailer with less than \$250,000.00 in annual retail  
25 sales of litter-generating products is exempt from the user fee imposed  
26 under this section. A sale by a wholesaler or distributor to another  
27 wholesaler or distributor, a sale by a company to another company  
28 owned wholly by the same individuals or companies, or a sale by a  
29 wholesaler or distributor owned cooperatively by retailers to those  
30 retailers is not subject to the user fee imposed under this section. For  
31 the purposes of this section, "retailer" includes the owner or operator  
32 of a take-out or drive-thru restaurant, the principal activity of which  
33 consists of selling for consumption off the premises of the restaurant  
34 a meal or food prepared and ready to be eaten. A retailer shall not  
35 include (1) the owner or operator of a restaurant with less than 10%  
36 in annual retail sales of meals or food prepared and ready to be eaten  
37 for consumption off the premises of the restaurant; or (2) the owner  
38 or operator of a restaurant, the principal activity of which consists of  
39 preparing for consumption within the restaurant a meal or food to be  
40 eaten on the premises.

41 b. Every person subject to the user fee on the sale of  
42 litter-generating products imposed pursuant to subsection a. of this  
43 section shall file with the director a certificate of registration on a form  
44 prescribed by the director. Any person who is registered under any  
45 law administered by the division or who is subject to and files returns  
46 under any of these laws shall not be required to comply with the



1 provisions of this subsection.

2 c. Every person subject to the user fee on the sale of  
3 litter-generating products imposed pursuant to subsection a. of this  
4 section shall, on or before March 15 of each year, prepare and file a  
5 return, under oath, for the preceding calendar year with the director  
6 on forms and containing any information as the director shall  
7 prescribe. The return shall indicate the dollar value of the sales within  
8 the State of litter-generating products and at the same time the person  
9 shall pay the full amount of user fees due.

10 d. If a return required by this section is not filed, or if a return  
11 when filed is incorrect or insufficient in the opinion of the director, the  
12 amount of user fees due shall be determined by the director based on  
13 collections from the person liable for the payment of the user fees  
14 during the previous five years. Notice of the determination shall be  
15 given to the person liable for the payment of the user fees. The  
16 determination shall finally and irrevocably fix the user fees unless the  
17 person against whom it is assessed, within 90 days after the giving of  
18 the notice of the determination, shall file a protest in writing as  
19 provided in R.S.54:49-18 and request a hearing, or unless the director  
20 on the director's own motion shall redetermine the same. After the  
21 hearing the director shall give notice of the determination to the  
22 person to whom the user fees are assessed.

23 e. Any person who shall fail to file a return when due or to pay any  
24 user fee when the user fee becomes due, as herein provided, shall be  
25 subject to such penalties and interest as may be provided by law. If  
26 the director determines that the failure to comply with any provision  
27 of this section was excusable under the circumstances, the director  
28 may remit any part of the penalty as shall be appropriate under the  
29 circumstances.

30 f. In addition to the other powers granted by this section, the  
31 director may:

32 (1) Delegate to any officer or employee of the division those  
33 powers and duties as the director may deem necessary to carry out  
34 efficiently the provisions of this section, and the person or persons to  
35 whom the powers have been delegated shall possess and may exercise  
36 all of the powers and perform all of the duties delegated by the  
37 director;

38 (2) Prescribe and distribute all necessary forms for the  
39 implementation of this section; and

40 (3) Adopt any rules and regulations necessary for the  
41 implementation of this section.

42 g. Notwithstanding the provisions of subparagraph (C) of  
43 paragraph (2) of subsection (k) of section 4 of P.L.1945, c.162  
44 (C.54:10A-4), if any, to the contrary, any deduction of the user fee  
45 imposed pursuant to subsection a. of this section allowed in computing  
46 a taxpayer's taxable income which the taxpayer is required to report to

1 the United States Treasury Department for the purpose of computing  
2 its federal taxable income shall be allowed in determining the  
3 taxpayer's "entire net income" pursuant to subsection (k) of section 4  
4 of P.L.1945, c.162 (C.54:10A-4).

5  
6 5. (New section) The Clean Communities Program Fund is  
7 established as a nonlapsing, revolving fund in the Department of the  
8 Treasury. The Clean Communities Program Fund shall be administered  
9 by the Department of Environmental Protection and credited, in  
10 addition to any appropriations made thereto, with all user fees imposed  
11 pursuant to section 4 of P.L. , c. (C.13:1E-211)(pending in the  
12 Legislature as this bill) or penalties imposed pursuant to section 10 of  
13 P.L. , c. (C.13:1E-217)(pending in the Legislature as this bill), and  
14 any sums received as voluntary contributions from private sources.  
15 Interest received on moneys in the account shall be credited to the  
16 account. Unless otherwise expressly provided by the specific  
17 appropriation thereof by the Legislature, which shall take the form of  
18 a discrete legislative appropriations act and shall not be included  
19 within the annual appropriations act, all available moneys in the Clean  
20 Communities Program Fund shall be appropriated annually solely for  
21 the following purposes and no others:

22 a. 10% of the estimated annual balance of the account shall be used  
23 for a State program of litter pickup and removal and of enforcement  
24 of litter-related laws and ordinances in State owned places and areas  
25 that are accessible to the public;

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

39 c. 30% of the estimated annual balance of the account shall be  
40 distributed as State aid to eligible municipalities with total housing  
41 units of 200 or more for programs of litter pickup and removal,  
42 including establishing an "Adopt-A-Highway" program, of public  
43 education and information relating to litter abatement and of  
44 enforcement of litter-related laws and ordinances. The amount of State  
45 aid due each municipality shall be solely calculated based on the  
46 proportion which the municipal road mileage of a qualifying

1 municipality bears to the total municipal road mileage within the State.  
2 For the purposes of this subsection, "municipal road mileage" means  
3 that road mileage under the jurisdiction of municipalities, as  
4 determined by the Department of Transportation. Moneys in the  
5 account may also be used by an eligible municipality to abate graffiti;

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

18 e. No eligible municipality shall receive less than \$4,000.00 in State  
19 aid as apportioned pursuant to subsections b. and c. of this section. A  
20 municipality or county may use up to 5% of its State aid for  
21 administrative expenses;

22 f. Prior to the distribution of funds pursuant to subsections a.  
23 through d. of this section:

24 (1) 25% of the estimated annual balance of the account shall be  
25 annually appropriated to the State Recycling Fund established pursuant  
26 to section 5 of P.L.1981, c.278 (C.13:1E-96). These moneys shall be  
27 used by the Department of Environmental Protection for direct  
28 recycling grants to counties and municipalities, up to a maximum  
29 appropriation of \$4,000,000 per year. The moneys made available to  
30 the department from the Clean Communities Program Fund for direct  
31 recycling grants shall be annually appropriated to the State Recycling  
32 Fund until such time as an alternative funding mechanism for direct  
33 recycling grants is enacted into law; and

34 (2) \$300,000 of the estimated annual balance of the account shall  
35 be annually appropriated to the department and made available on July  
36 1 of every year to the organization under contract with the department  
37 pursuant to section 6 of P.L. , c. (C.13:1E-213)(pending in the  
38 Legislature as this bill) for a statewide public information and  
39 education program concerning antilittering activities and other aspects  
40 of responsible solid waste handling behavior.

41 The organization under contract with the department pursuant to  
42 section 6 of P.L. , c. (C.13:1E-213)(pending in the Legislature as  
43 this bill) shall, no later than the date on which the contract period  
44 concludes, submit a report to the Governor and the Legislature  
45 concerning its activities during the contract period and any  
46 recommendations concerning improving the program. Every eligible

1 municipality and county shall cooperate with the organization under  
2 contract with the department pursuant to section 6 of P.L. , c.  
3 (C.13:1E-213)(pending in the Legislature as this bill) in providing  
4 information concerning its program of litter pickup and removal.

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

9 The department may carry forward any unexpended balances in the  
10 Clean Communities Program Fund as of June 30 of each year.

11  
12 6. (New section) a. The organization under contract with the  
13 department pursuant to section 2 of P.L.1999, c.418 (C.13:1E-99.2b  
14 et al.) on the effective date of P.L. , c. (C.13:1E-208 et  
15 seq.)(pending in the Legislature as this bill) shall administer a  
16 Statewide public information and education program concerning  
17 antilittering activities and other aspects of responsible solid waste  
18 handling behavior as part of the Clean Communities Program.

19 b. The contract to administer the Clean Communities Statewide  
20 public information and education program concerning antilittering  
21 activities and other aspects of responsible solid waste handling  
22 behavior shall provide (1) the terms and conditions of the contract; (2)  
23 conditions under which the contract may be terminated and grant funds  
24 recaptured by the Department of Environmental Protection; and (3)  
25 that the Commissioner of the Department of Environmental Protection  
26 and the State Treasurer, or their designees, are included as members  
27 on the Board of Trustees of the organization.

28 c. The contract shall be for a period of two years and a contract  
29 recipient shall be eligible for a subsequent contract unless the recipient  
30 is otherwise disqualified or fails to meet the conditions provided in  
31 subsection d. of this section.

32 d. An organization may be awarded a contract with the department  
33 if it meets the following criteria:

34 (1) the organization is exempt from federal income tax under  
35 section 501(c)(3) of the United States Internal Revenue Code (26  
36 U.S.C.s.501(c)(3));

37 (2) the organization qualifies for tax deductible contributions under  
38 section 170(b)(1)(A)(vi) or (viii) of the United States Internal Revenue  
39 Code (26 U.S.C.s.170(b)(1)(A)(vi) or (viii));

40 (3) the organization is incorporated under and subject to the  
41 provisions of Title 15 of the Revised Statutes or Title 15A of the New  
42 Jersey Statutes and the "Charitable Registration and Investigation  
43 Act," P.L.1994, c.16 (C.45:17A-18 et seq.);

44 (4) the sole purpose of the organization is the funding and  
45 administration of a statewide public information and education  
46 program concerning antilittering activities and other aspects of

1 responsible solid waste handling behavior as part of the Clean  
2 Communities Program;

3 (5) the organization demonstrates that it has raised funds or has the  
4 capability to raise funds from the private sector for the same purposes  
5 moneys in the Clean Communities Program Fund are appropriated; and

6 (6) the membership of the governing board of the organization  
7 consists of representatives of private sector companies or  
8 organizations that were subject to the provisions of section 6 of  
9 P.L.1985, c.533 (C.13:1E-99.1) prior to December 31, 2000,  
10 representatives of the public sector who are local clean community  
11 coordinators duly appointed by their county or municipal governing  
12 bodies, the Commissioner of the Department of Environmental  
13 Protection and the State Treasurer or their designees, and  
14 representatives of community organizations, academia and  
15 organizations that have an interest in litter prevention and education.

16

17 7. (New section) a. (1) No contract shall be required as a  
18 prerequisite to the distribution of State aid to eligible municipalities  
19 and counties for programs of litter pickup and removal pursuant to  
20 section 5 of P.L. , c. (C.13:1E-212)(pending in the Legislature as  
21 this bill). All State aid funds for each fiscal year for which these funds  
22 are to be distributed shall be distributed by May 31 of the following  
23 year.

24 (2) Every eligible municipality and county shall submit a brief  
25 annual report to the department summarizing the uses and expenditure  
26 of funds received for its program of litter pickup and removal.

27 b. The department shall report to the Governor and the Legislature  
28 on the success of the county and municipal litter pickup and removal  
29 programs in reducing litter in New Jersey not later than August 30 of  
30 each year.

31 c. Additional expenditures or incremental costs necessary and  
32 reasonably incurred by a municipality or county for the abatement and  
33 control of litter or any other antilittering activities as a direct result of  
34 the implementation of the provisions of P.L. , c. (C.13:1E-208 et  
35 seq.)(pending in the Legislature as this bill) shall, for the purposes of  
36 P.L.1976, c.68 (C.40A:4-45.1 et seq.), be considered expenditures  
37 mandated by State law.

38

39 8. (New section) In addition to the duties and responsibilities  
40 imposed pursuant to P.L. , c. (C.13:1E-208 et seq.)(pending in the  
41 Legislature as this bill), the Department of Environmental Protection  
42 shall:

43 a. Coordinate the various industry and business organizations  
44 seeking to aid in the antilitter effort;

45 b. Conduct periodic litter surveys or random inspections in various  
46 parts of the State to ensure the satisfactory implementation of the

1 county and municipal litter pickup and removal programs required  
2 pursuant to section 5 of P.L. , c. (C.13:1E-212)(pending in the  
3 Legislature as this bill);

4 c. Encourage and cooperate with all local voluntary and  
5 government antilitter campaigns attempting to focus public attention  
6 on the statewide public information and education program concerning  
7 antilittering activities and other aspects of responsible solid waste  
8 handling behavior as part of the Clean Communities Program;

9 d. Investigate the availability of, and apply for, funds available  
10 from any private or public source to be used in the Clean Communities  
11 Program;

12 e. Investigate the successful methods of litter pickup and removal  
13 programs in other states or jurisdictions, encourage the use of litter  
14 receptacles, and evaluate their possible incorporation into the New  
15 Jersey Clean Communities Program.

16  
17 9. (New section) Every person convicted of a violation of the  
18 provisions of P.L. , c. (C.13:1E-208 et seq.)(pending in the  
19 Legislature as this bill) for which no penalty is specifically provided is  
20 subject to a fine of not more than \$100.00 for each violation. If the  
21 violation is of a continuing nature, each day during which it continues  
22 constitutes a separate and distinct offense.

23  
24 10. (New section) a. The Commissioner of the Department of  
25 Environmental Protection shall adopt, pursuant to the "Administrative  
26 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and  
27 regulations as are necessary to effectuate the provisions of P.L. , c.  
28 (C.13:1E-208 et seq.)(pending in the Legislature as this bill).

29 b. The director shall adopt, pursuant to the "Administrative  
30 Procedure Act," rules and regulations as are necessary to effectuate  
31 the provisions of section 4 of P.L. , c. (C.13:1E-211)(pending in  
32 the Legislature as this bill).

33  
34 11. Section 5 of P.L.1981, c.278 (C.13:1E-96) is amended to read  
35 as follows:

36 5 a. The State Recycling Fund (hereinafter referred to as the  
37 "fund") is established as a nonlapsing, revolving fund. The fund shall  
38 be administered by the Department of Environmental Protection, and  
39 shall be credited with all [tax revenue collected by the division  
40 pursuant to section 4 of P.L.1981, c.278 (C.13:1E-95)] sums received  
41 from the Clean Communities Program Fund established pursuant to  
42 section 5 of P.L. , c. (C.13:1E-212)(pending in the Legislature as  
43 this bill). Interest received on moneys in the fund [and sums received  
44 as repayment of principal and interest on outstanding loans made from  
45 the fund] shall be credited to the fund. [The Department of  
46 Environmental Protection, in the administration of the fund, is

1 authorized to assign to the New Jersey Economic Development  
2 Authority the responsibility for making credit evaluations of applicants  
3 for loans, for servicing loans on behalf of the department, and, the  
4 provisions of any other law to the contrary notwithstanding, for  
5 making recommendations as to the approval or denial of loans  
6 pursuant to this section. The department is further authorized to pay  
7 or reimburse the authority in the amounts as the department agrees are  
8 appropriate for all services rendered by the authority in connection  
9 with any assignment of responsibility under the terms of this section  
10 out of moneys held in the fund for loans and the loan guarantee  
11 program.]

12 b. [Moneys] Unless otherwise expressly provided by the specific  
13 appropriation thereof by the Legislature, moneys in the fund shall be  
14 allocated and used [for the following purposes and no others] as  
15 follows:

16 [(1) Not less than 40% of the estimated annual balance of the  
17 fund] Moneys in the fund received from the Clean Communities  
18 Program Fund established pursuant to section 5 of P.L. \_\_\_\_\_, c.  
19 (C.13:1E-212)(pending in the Legislature as this bill) shall be used for  
20 the annual expenses of a program for direct recycling grants to  
21 municipalities or counties in those instances where a county, at its own  
22 expense, provides for the collection, processing and marketing of  
23 recyclable materials on a regional basis. The amount of these grants  
24 shall be calculated on the basis of the total number of tons of  
25 recyclable materials annually recycled from residential, commercial and  
26 institutional sources within that municipality, or group of  
27 municipalities in the case of a county recycling program, except that  
28 no such grant shall exceed \$10.00 per ton of recyclable materials  
29 recycled. The department may allocate a portion of these grant moneys  
30 as bonus grants to municipalities and counties in those instances where  
31 a municipality or county, at its own expense, provides for the  
32 collection of recyclable materials in its recycling program. The  
33 department shall announce each year the total amount of moneys  
34 available in the bonus grant fund.

35 A municipality may distribute a portion of its grant moneys to  
36 nonprofit groups that are located within that municipality and which  
37 have contributed to the receipt of the recycling grant, except that this  
38 distribution shall not exceed the value of approved documented  
39 tonnage contributed by a nonprofit group.

40 A municipality may designate any nonprofit group as a recycling  
41 agent. A recycling agent shall receive that part of the municipality's  
42 recycling grant under this subsection that represents the percentage of  
43 the grant received by the municipality due to the documented tonnage  
44 contributed by that recycling agent. Moneys received by a recycling  
45 agent shall be expended only for its recycling program. Any moneys  
46 not used for recycling shall be returned by the recycling agent to the

1 municipality.

2 To be eligible for a grant pursuant to this subsection, a municipality  
3 or county in the case of a county recycling program shall demonstrate  
4 that the recyclable materials recycled by the municipal or county  
5 recycling program were not diverted from a commercial recycling  
6 program already in existence on the effective date of the ordinance or  
7 resolution establishing the municipal or county recycling program.

8 No recycling grant to any municipality shall be used for  
9 constructing or operating any facility for the baling of wastepaper or  
10 for the shearing, baling or shredding of ferrous or nonferrous  
11 materials[;].

12 [(2) Not less than 35% of the estimated annual balance of the fund  
13 shall be used to provide low interest loans or loan guarantees to  
14 recycling businesses and industries, and to provide moneys for  
15 research into collection, market stimulation and reuse techniques  
16 applicable to recycling or the disposition of recyclable materials, or to  
17 contract for market studies, and to establish a sufficient reserve for a  
18 loan guarantee program for recycling businesses and industries;]

19 [(3) Not more than 7% of the estimated annual balance of the fund  
20 shall be used for State recycling program planning and program  
21 funding, including the administrative expenses thereof;]

22 [(4) Not more than 8% of the estimated annual balance of the fund  
23 shall be used for county recycling program planning and program  
24 funding, including the administrative expenses thereof; and]

25 [(5) Not less than 10% of the estimated annual balance of the fund  
26 shall be used for a public information and education program  
27 concerning recycling activities.]

28 (cf: P.L.1990, c.117, s.1)

29

30 12. The following are repealed:

31 Sections 1 through 4 inclusive of P.L.1981, c.278

32 (C.13:1E-92 through 13:1E-95);

33 Sections 6 and 7 of P.L.1981, c.278

34 (C.13:1E-97 and 13:1E-98);

35 Sections 6 and 7 of P.L.1985, c.533

36 (C.13:1E-99.1 and 13:1E-99.2);

37 Section 2 of P.L.1989, c.108 (C.13:1E-99.2a);

38 Section 2 of P.L.1999, c.418 (C.13:1E-99.2b);

39 Sections 10 through 12 inclusive of P.L.1985, c.533

40 (C.13:1E-99.5 through 13:1E-99.7); and

41 Sections 7 through 9 inclusive of P.L.1986, c.187

42 (C.13:1E-99.8 through 13:1E-99.10).

43

44 13. This act shall take effect immediately and section 4 shall be  
45 retroactive to January 1, 2002.



1 STATEMENT

2

3 This bill imposes a user fee on sales of litter-generating products to  
4 furnish support to the Clean Communities Program and to provide  
5 recycling grants to counties and municipalities. The user fee is a  
6 deductible business expense for corporation business tax purposes.

7 Prior to the distribution of any of the funds from the Clean  
8 Communities Program Fund, 25% of the annual amount in the fund,  
9 but not more than \$4 million per year, would be appropriated to the  
10 State Recycling Fund to provide recycling grants to municipalities and  
11 counties for local recycling programs, until such time as an alternative  
12 funding mechanism for direct recycling grants is enacted into law.

13 The user fee imposed under this bill would be retroactive to January  
14 1, 2002.

ASSEMBLY ENVIRONMENT AND SOLID WASTE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2110**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 13, 2002

The Assembly Environment and Solid Waste Committee reports favorably and with committee amendments Assembly Bill No. 2110.

This bill imposes a user fee on sales of litter-generating products to furnish support to the Clean Communities Program and to provide recycling grants to counties and municipalities. The user fee is a deductible business expense for corporation business tax purposes.

Prior to the distribution of any of the funds from the Clean Communities Program Fund, 25% of the annual amount in the fund, but not more than \$4 million per year, would be appropriated to the State Recycling Fund to provide recycling grants to municipalities and counties for local recycling programs, until such time as an alternative funding mechanism for direct recycling grants is enacted into law.

The user fee imposed under this bill would be retroactive to January 1, 2002.

COMMITTEE AMENDMENTS

Committee amendments to the bill:

Restore language that was inadvertently removed from the statute to provide that sums received as repayment of principal and interest on outstanding loans made from the State Recycling Fund would be credited to the Fund.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, Nos. 2069 and 2110**

**STATE OF NEW JERSEY**

DATED: JUNE 6, 2002

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 2069 and 2110.

This Assembly Committee Substitute for Assembly Bill Nos. 2069 and 2110 imposes a user fee on sales of litter-generating products to furnish support to the Clean Communities Program and to provide recycling grants to counties and municipalities. The user fee is a deductible business expense for corporation business tax purposes.

Prior to the distribution of any of the funds from the Clean Communities Program Fund, the substitute requires that 25% of the annual amount in the fund, but not more than \$4 million per year, shall be appropriated to the State Recycling Fund to provide recycling grants to municipalities and counties for local recycling programs, until such time as an alternative funding mechanism for direct recycling grants is enacted into law.

The user fee imposed under this substitute is retroactive to January 1, 2002.

FISCAL IMPACT:

The Office of Legislative Services has estimated that the institution of the user fee under the substitute will generate the same level of revenues as collected under the expired tax on litter-generating products, between \$12 million to \$14 million per year. As the substitute is retroactive to January 1, 2002 about half that amount, or between \$6 million and \$7 million, would be available for the current fiscal year.

# SENATE ENVIRONMENT COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 2069 and 2110**

with committee amendments

# STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 2002

The Senate Environment Committee reports favorably and with committee amendments Assembly Bill Nos. 2069 and 2110 (ACS).

As amended, the Assembly Committee Substitute for Assembly Bill Nos. 2069 and 2110 imposes a user fee on sales of litter-generating products to furnish support to the Clean Communities Program and to provide recycling grants to counties and municipalities. The user fee is a deductible business expense for corporation business tax purposes.

Prior to the distribution of any of the funds from the Clean Communities Program Fund, the substitute requires that 25% of the annual amount in the fund, but not more than \$4 million per year, shall be appropriated to the State Recycling Fund to provide recycling grants to municipalities and counties for local recycling programs, until such time as an alternative funding mechanism for direct recycling grants is enacted into law.

The user fee imposed under this substitute is retroactive to January 1, 2002.

The committee amendments provide a mechanism to ensure that the funds in the Clean Communities Program Fund are used solely for the dedicated purposes specified in the substitute.

Specifically, the provisions of section 13 provide that the annual appropriations act for each State fiscal year must appropriate, without other conditions, limitations or restrictions:

(1) the amounts specified to be deposited in the State Recycling Fund for use by the Department of Environmental Protection (DEP) for direct recycling grants to counties and municipalities, as provided in paragraph (1) of subsection f. of section 5 of the substitute;

(2) the amount specified to be allocated to the DEP for use by the organization under contract with the DEP pursuant to section 6 of the substitute for a statewide public information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior, as provided in paragraph (2) of subsection f. of section 5 of the substitute; and

(3) the balance of the Clean Communities Program Fund established pursuant to section 5 of the substitute for the purposes of providing funding for the State and local components of the Clean Communities Program as set forth in that section.

If the aforementioned requirements are not met on the effective date of an annual appropriations act for the State fiscal year, or if an amendment or supplement to an annual appropriations act for the State fiscal year should violate any of the requirements, the Director of the Division of Budget and Accounting is directed to certify to the Director of the Division of Taxation, not later than five days after the enactment of the annual appropriations act, or an amendment or supplement thereto, that violates any of the requirements, that the requirements have not been met.

Thereupon, the provisions of section 4 of the substitute, which imposes the user fee on sales of litter-generating products, would be without effect beginning on the tenth day following the certification by the Director of the Division of Budget and Accounting.

The committee amendments also make a number of technical changes and corrections to the substitute.

As amended, Assembly Bill Nos. A2069 and A2110 (ACS) is identical to Senate Bill No. 1373 Sca.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 2069 and 2110**

with committee amendments

## **STATE OF NEW JERSEY**

DATED: OCTOBER 24, 2002

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Assembly Bill Nos. 2069 and 2110 ACS (1R).

This bill imposes a user fee on sales of litter-generating products to furnish support to the Clean Communities Program and to provide recycling grants to counties and municipalities. The user fee is a deductible business expense for corporation business tax purposes.

Prior to the distribution of any of the funds from the Clean Communities Program Fund, 25% of the annual amount in the fund, but not more than \$4 million per year, would be appropriated to the State Recycling Fund to provide recycling grants to municipalities and counties for local recycling programs, until such time as an alternative funding mechanism for direct recycling grants is enacted into law.

The user fee imposed under this bill would be retroactive to January 1, 2002.

The bill provides a mechanism to ensure that the funds in the Clean Communities Program Fund are used solely for the dedicated purposes specified in the bill. Specifically, the provisions of section 13 provide that the annual appropriations act for each State fiscal year must appropriate, without other conditions, limitations or restrictions:

(1) the amounts specified to be deposited in the State Recycling Fund for use by the Department of Environmental Protection (DEP) for direct recycling grants to counties and municipalities, as provided in paragraph (1) of subsection f. of section 5 of the bill;

(2) the amount specified to be allocated to the DEP for use by the organization under contract with the DEP pursuant to section 6 of the bill for a statewide public information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior, as provided in paragraph (2) of subsection f. of section 5 of the bill; and

(3) the balance of the Clean Communities Program Fund established pursuant to section 5 of the bill for the purposes of providing funding for the State and local components of the Clean Communities Program as set forth in that section.

If these requirements are not met on the effective date of an annual appropriations act for the State fiscal year, or if an amendment or supplement to an annual appropriations act for the State fiscal year should violate any of the requirements, the Director of the Division of Budget and Accounting is directed to certify to the Director of the Division of Taxation, not later than five days after the enactment of the annual appropriations act, or an amendment or supplement thereto, that violates any of the requirements, that the requirements have not been met. Thereupon, the provisions of section 4 of the bill, which imposes the user fee on sales of litter-generating products, would be without effect beginning on the tenth day following the certification by the Director of the Division of Budget and Accounting.

In reporting this bill, the committee recommends and advocates that the annual report, submitted to the Department of Environmental Protection by every municipality and county eligible for State aid under the legislation summarizing the uses and expenditure of funds received for its program of litter pickup and removal, shall include the total number of litter violations issued, total fines assessed, and total fines collected.

The provisions of this bill are identical to those of Senate Bill No. 1373 (1R) Sca, which the committee also reports this day.

#### COMMITTEE AMENDMENTS

Committee amendments to the bill increase the "business size" threshold, above which a retailer of litter-generating products becomes subject to the user fee applicable to the sale of such products, from \$250,000 to \$500,000 in annual retail sales.

#### FISCAL IMPACT

The Division of Taxation estimates that the reinstatement of the anti-litter user fee under the bill will generate approximately \$14 million to \$16 million annually. The level of revenue collected under the previous litter tax averaged between \$13 million and \$15 million annually.

The Office of Legislative Services (OLS) concurs with the Division's estimates but notes that the estimated increase in yearly revenue levels from previous levels is not substantiated. The OLS also notes that the bill's provision to furnish up to \$4 million annually to finance recycling tonnage grants allows this program to continue without the benefit of its previous (and now expired) revenue source, the State Recycling Tax and, in FY2002, the Sanitary Landfill Facility Contingency Fund. Thus, the bill essentially provides a stable funding source for both programs, albeit at lower individual funding levels than previously budgeted due to the shared revenue allocations.

Although the bill does not provide specific funding to administer the Clean Communities or recycling grants programs, the existing Clean Communities Account Fund is projected to have a balance of \$2.4 million at the end of FY2003. In previous years, approximately \$250,000 was budgeted annually for program administration. Assuming the projected balance is transferred to the proposed Clean Communities Program Fund, it should be able to cover the administrative costs of the Clean Communities program for several years provided it is not used for other purposes.

Likewise, the DEP's FY2003 budget appropriates up to \$1,394,000 from the State Recycling Fund to carry out various State recycling activities, which includes the management of the recycling grants program. The State Recycling Fund is projected to have a balance of \$2.8 million at the end of FY2003. Assuming that the recommended spending level as cited above is maintained, administrative funding for the recycling grants program should be available through the end of FY 2005.



**FISCAL NOTE**  
 [First Reprint]  
 ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, Nos. 2069 and 2110**  
**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

DATED: NOVEMBER 8, 2002

**SUMMARY**

- Synopsis:** Revises Clean Communities Program and makes available recycling grants to counties and municipalities.
- Type of Impact:** Revenue gains to the Clean Communities Program Fund and the State Recycling Fund.
- Agencies Affected:** Participating counties and municipalities, and the Department of Environmental Protection.

**Executive Estimate**

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
<b>State Revenue</b>	\$7,000,000 to \$8,000,000	\$14,000,000 to \$16,000,000	\$14,000,000 to \$16,000,000

- ! The Office of Legislative Services (OLS) **concurs** with the Executive Branch estimates.
- ! The bill restores the user fee on sales of litter-generating products to reestablish support for the Clean Communities Program and to finance the State Recycling Grants program.
- ! The bill repeals and replaces existing State statutes governing the tax on sales of litter-generating products and activities mandated under the Clean Communities program.
- ! The existing taxes supporting the Clean Communities and State Recycling Grants programs expired at the end of calendar 2000 and 1996, respectively.

**BILL DESCRIPTION**

Assembly Committee Substitute for Assembly Bill Nos. 2069 and 2110 (1R) of 2002 restores funding for the State Clean Communities Program by reinstating the user fee on sales of litter-generating products, retroactive to January 1, 2002. The previous litter tax expired at the end of calendar 2000. The proposed fee revenues would be deposited in a newly established Clean Communities Program Fund, replacing the existing Clean Communities Account Fund as repealed under the bill. These revenues would serve to revive the Clean Communities grants

program, continue support of the Department of Environmental Protection's (DEP) anti-litter activities, and provide funding for the State Recycling Grants program. Specifically, the bill provides that 25 percent of the annual amount in the Fund, up to \$4 million per year, be appropriated to the State Recycling Fund to continue the State's recycling tonnage grants program for municipalities and counties. The State Recycling Tax expired at the end of calendar 1996 but the grants program was funded from other sources in FY2001 and FY2002.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Division of Taxation estimates that the reinstatement of the anti-litter user fee under the bill will generate approximately \$14 million to \$16 million annually. The level of revenue collected under the previous litter tax averaged between \$13 million and \$15 million annually. Since the bill is retroactive to January 1, 2002, the estimate for **Year 1** on the previous page reflects one-half of FY2002 fee collections.

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

The Office of Legislative Services (OLS) concurs with the Division's estimates but notes that the estimated increase in yearly revenue levels from previous levels is not substantiated. The OLS also notes that the bill's provision to furnish up to \$4 million annually to finance recycling tonnage grants allows this program to continue without the benefit of its previous (and now expired) revenue source, the State Recycling Tax and, in FY2002, the Sanitary Landfill Facility Contingency Fund. Hence, the bill essentially provides a stable funding source for both programs, albeit at lower individual funding levels than previously budgeted due to the shared revenue allocations.

Although the bill does not provide specific funding to administer the Clean Communities or recycling grants programs, the existing Clean Communities Account Fund is projected to have a balance of \$2.4 million at the end of FY2003. In previous years, approximately \$250,000 was budgeted annually for program administration. Assuming the projected balance is transferred to the proposed Clean Communities Program Fund, it should be able to cover the administrative costs of the Clean Communities program for several years provided it is not used for other purposes.

Likewise, the DEP's FY2003 Budget appropriates up to \$1,394,000 from the State Recycling Fund to carry out various State recycling activities, which includes the management of the recycling grants program. The State Recycling Fund is projected to have a balance of \$2.8 million at the end of FY2003. Assuming the recommended spending level as cited above is maintained, administrative funding for the recycling grants program should be available through the end of FY 2005.

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

Analyst: *Richard M. Handelman*  
*Senior Fiscal Analyst*

Approved: *Alan R. Kooney*  
*Legislative Budget and Finance Officer*

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

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY COMMITTEE SUBSTITUTE FOR**  
**ASSEMBLY, Nos. 2069 and 2110**  
**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

DATED: JULY 3, 2002

**SUMMARY**

- Synopsis:** Revises Clean Communities Program and makes available recycling grants to counties and municipalities.
- Type of Impact:** Revenue gains to the Clean Communities Program Fund and the State Recycling Fund.
- Agencies Affected:** Participating counties and municipalities, and the Department of Environmental Protection.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Revenue</b>	\$6,000,000 to \$7,000,000	\$12,000,000 to \$14,000,000	\$12,000,000 to \$14,000,000

- ! The bill restores the user fee on sales of litter-generating products to reestablish support for the Clean Communities Program and to finance the State Recycling Grants program.
- ! The bill repeals and replaces existing State statutes governing the tax on sales of litter-generating products and activities mandated under the Clean Communities program.
- ! The existing taxes supporting the Clean Communities and State Recycling Grants programs expired at the end of calendar 2000 and 1996, respectively.
- ! The Office of Legislative Services (OLS) estimates that revenues generated under the bill will approximate the same level of revenues generated under the previous anti-litter tax.

**BILL DESCRIPTION**

Assembly Committee Substitute for Assembly Bill Nos. 2069 and 2110 of 2002 restores funding for the State Clean Communities Program by reinstating the user fee on sales of litter-generating products, retroactive to January 1, 2002. The previous tax expired at the end of calendar 2000. The proposed fee revenues would be deposited in a newly established Clean Communities Program Fund, replacing the existing Clean Communities Account Fund as repealed under the bill. These revenues would serve to revive the Clean Communities grants

program, continue support of the Department of Environmental Protection's (DEP) anti-litter activities, and provide funding for the State Recycling Grants program. Specifically, the bill provides that 25 percent of the annual amount in the Fund, up to \$4 million per year, be appropriated to the State Recycling Fund to continue the State's recycling tonnage grants program for municipalities and counties. The State Recycling Tax expired at the end of calendar 1996 but the grants program was funded in FY2001 and FY2002.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

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

The Office of Legislative Services (OLS) estimates that the reinstatement of the anti-litter user fee under the bill will generate the same level of revenue as collected under the previous tax, approximately \$12 million to \$14 million annually. Since the bill is retroactive to January 1, 2002, the OLS estimate for **Year 1** on the previous page reflects one-half of FY 2002 collections. This revenue source would not only restore funding for the Clean Communities formula grant program, which last awarded grants in April, 2001, it would continue support of State-mandated activities pursuant to the proposed anti-litter statutes under the bill.

The bill's provision to furnish up to \$4 million annually to finance recycling tonnage grants allows this program to continue without the benefit of its previous (and now expired) revenue source, the State Recycling Tax and, in FY 2002, the Sanitary Landfill Facility Contingency Fund. Hence, the bill essentially provides a stable funding source for both programs, albeit at lower individual funding levels than previously budgeted due to the shared revenue allocations.

Although the bill does not provide specific funding to administer the Clean Communities or recycling grants programs, the existing Clean Communities Account Fund is projected to have a balance of \$2.4 million at the end of FY2003. In previous years, approximately \$250,000 was budgeted annually for program administration. Assuming the projected balance is transferred to the proposed Clean Communities Program Fund in the final version of the bill (no such provision is included in the current version), it should be able to cover the administrative costs of the Clean Communities program for several years provided it is not used for other purposes.

Likewise, the DEP's current and recommended State Budgets contain language that appropriates up to \$1,394,000 from the State Recycling Fund to carry out various State recycling activities, which includes the management of the recycling grants program. The State Recycling Fund is projected to have a balance of \$2.8 million at the end of FY 2003. Assuming the recommended spending level as cited above is maintained, administrative funding for the recycling grants program should be available through the end of FY 2005.

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

Analyst: *Richard M. Handelman*  
*Senior Fiscal Analyst*

Approved: *Alan R. Kooney*  
*Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the

failure of the Executive Branch to respond to our request for a fiscal note.

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

**SENATE, No. 1373**

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**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

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INTRODUCED MARCH 25, 2002

**Sponsored by:**

**Senator JAMES S. CAFIERO**

**District 1 (Cape May, Atlantic and Cumberland)**

**Senator ANTHONY R. BUCCO**

**District 25 (Morris)**

**Co-Sponsored by:**

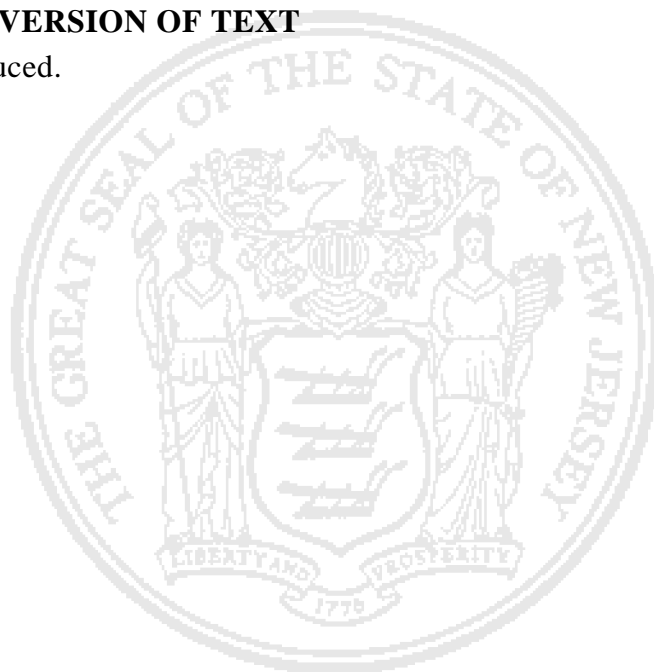
**Senators Lance, Palaia, Bagger, Bark, B.Smith and Gill**

**SYNOPSIS**

Revises Clean Communities Program and makes available recycling grants to counties and municipalities.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/25/2002)**

1 AN ACT concerning the Clean Communities Program, and amending,  
2 supplementing and repealing parts of the statutory law.

3

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

6

7 1. (New section) Sections 1 through 10 inclusive of P.L. , c.  
8 (C.13:1E-208 through 13:1E-217)(pending in the Legislature as this  
9 bill) shall be known and may be cited as the "Clean Communities and  
10 Recycling Grant Act."

11

12 2. (New section) The Legislature finds that an uncluttered  
13 landscape is among the most priceless heritages which New Jersey can  
14 bequeath to posterity; that it is the duty of government to promote and  
15 encourage a clean and safe environment; that the proliferation and  
16 accumulation of carelessly discarded litter may pose a threat to the  
17 public health and safety; that the litter problem is especially serious in  
18 a State as densely populated and heavily traveled as New Jersey; and  
19 that unseemly litter has an adverse economic effect on New Jersey by  
20 making the State less attractive to tourists and new industry and  
21 residents.

22 The Legislature further finds that the recycling of waste materials  
23 decreases waste flow to county solid waste facilities and out-of-state  
24 disposal sites, reduces waste flow to the State's solid waste  
25 incinerators while contributing to their overall combustion efficiency  
26 through the removal of noncombustible and nonprocessable materials  
27 at the source, recovers valuable resources, conserves energy in the  
28 manufacturing process, and offers a supply of domestic raw materials  
29 for the State's industries; that economically viable municipal and  
30 county recycling programs are necessary to achieve the maximum  
31 practicable recovery of reusable materials from solid waste in this  
32 State; and that such programs will reduce the amount of solid waste  
33 disposed at county solid waste facilities, result in more efficient solid  
34 waste incinerators, conserve energy and resources, and recover  
35 materials for industrial uses.

36 The Legislature, therefore, declares it to be in the aesthetic,  
37 environmental, and economic interests of the State of New Jersey to  
38 support a Clean Communities Program and to maintain support for  
39 municipal and county recycling programs.

40

41 3. (New section) As used in the provisions of P.L. , c.  
42 (C.13:1E-208 et seq.)(pending in the Legislature as this bill):

43 a. "Department" means the State Department of Environmental

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

**Matter underlined thus is new matter.**

- 1 Protection.
- 2 b. "Division" means the Division of Taxation in the Department of  
3 the Treasury.
- 4 c. "Director" means the Director of the Division of Taxation in the  
5 Department of the Treasury.
- 6 d. "Litter" means any used or unconsumed substance or waste  
7 material which has been discarded, whether made of aluminum, glass,  
8 plastic, rubber, paper, or other natural or synthetic material, or any  
9 combination thereof, including, but not limited to, any bottle, jar or  
10 can, or any top, cap or detachable tab of any bottle, jar or can, any  
11 unlighted cigarette, cigar, match or any flaming or glowing material or  
12 any garbage, trash, refuse, debris, rubbish, grass clippings or other  
13 lawn or garden waste, newspapers, magazines, glass, metal, plastic or  
14 paper containers or other packaging or construction material, but does  
15 not include the waste of the primary processes of mining or other  
16 extraction processes, logging, sawmilling, farming or manufacturing.
- 17 e. "Litter-generating products" means the following specific goods  
18 which are produced, distributed, or purchased in disposable containers,  
19 packages or wrappings; or which are not usually sold in packages,  
20 containers, or wrappings but which are commonly discarded in public  
21 places; or which are of an unsightly or unsanitary nature, commonly  
22 thrown, dropped, discarded, placed, or deposited by a person on  
23 public property, or on private property not owned by him:
- 24 (1) Beer and other malt beverages;  
25 (2) Cigarettes and tobacco products;  
26 (3) Cleaning agents and toiletries;  
27 (4) Distilled spirits;  
28 (5) Food for human or pet consumption;  
29 (6) Glass containers sold as such;  
30 (7) Groceries;  
31 (8) Metal containers sold as such;  
32 (9) Motor vehicle tires;  
33 (10) Newsprint and magazine paper stock;  
34 (11) Drugstore sundry products, but not including prescription  
35 drugs or nonprescription drugs;  
36 (12) Paper products and household paper, but not including roll  
37 stock produced by paper product manufacturers and wood pulp;  
38 (13) Plastic or fiber containers made of synthetic material and sold  
39 as such, but not including any container which is routinely reused, has  
40 a useful life of more than one year and is ordinarily sold empty at  
41 retail;  
42 (14) Soft drinks and carbonated waters; and  
43 (15) Wine.
- 44 f. "Litter receptacle" means a container suitable for the depositing  
45 of litter.
- 46 g. "Municipality" means any city, borough, town, township or



1 village situated within the boundaries of this State.

2 h. "Person" means any individual or business concern.

3 i. "Public place" means any area that is used or held out for use by  
4 the public, whether owned or operated by public or private interests.

5 j. "Recycling" means any process by which materials which would  
6 otherwise become solid waste are collected, separated or processed  
7 and returned to the economic mainstream in the form of raw materials  
8 or products.

9 k. "Sold within the State" or "sales within the State" means all  
10 sales of retailers engaged in business within the State and, in the case  
11 of manufacturers, wholesalers and distributors, all sales of products for  
12 use and consumption within the State. It shall be presumed that all  
13 sales of manufacturers, wholesalers and distributors sold within the  
14 State are for use and consumption within the State unless it is  
15 determined by the director that the products are shipped out of State  
16 for out-of-State use.

17

18 4. (New section) a. There is imposed upon each person engaged  
19 in business in the State as a manufacturer, wholesaler, or distributor  
20 of litter-generating products a user fee of 3/100 of 1% (.0003) on sales  
21 of those products within the State, and each person engaged in  
22 business in the State as a retailer of litter-generating products a user  
23 fee of 2.25/100 of 1% (.000225) on sales of those products within the  
24 State, except any retailer with less than \$250,000.00 in annual retail  
25 sales of litter-generating products is exempt from the user fee imposed  
26 under this section. A sale by a wholesaler or distributor to another  
27 wholesaler or distributor, a sale by a company to another company  
28 owned wholly by the same individuals or companies, or a sale by a  
29 wholesaler or distributor owned cooperatively by retailers to those  
30 retailers is not subject to the user fee imposed under this section. For  
31 the purposes of this section, "retailer" includes the owner or operator  
32 of a take-out or drive-thru restaurant, the principal activity of which  
33 consists of selling for consumption off the premises of the restaurant  
34 a meal or food prepared and ready to be eaten. A retailer shall not  
35 include (1) the owner or operator of a restaurant with less than 10%  
36 in annual retail sales of meals or food prepared and ready to be eaten  
37 for consumption off the premises of the restaurant; or (2) the owner  
38 or operator of a restaurant, the principal activity of which consists of  
39 preparing for consumption within the restaurant a meal or food to be  
40 eaten on the premises.

41 b. Every person subject to the user fee on the sale of  
42 litter-generating products imposed pursuant to subsection a. of this  
43 section shall file with the director a certificate of registration on a form  
44 prescribed by the director. Any person who is registered under any  
45 law administered by the division or who is subject to and files returns  
46 under any of these laws shall not be required to comply with the

1 provisions of this subsection.

2 c. Every person subject to the user fee on the sale of  
3 litter-generating products imposed pursuant to subsection a. of this  
4 section shall, on or before March 15 of each year, prepare and file a  
5 return, under oath, for the preceding calendar year with the director  
6 on forms and containing any information as the director shall  
7 prescribe. The return shall indicate the dollar value of the sales within  
8 the State of litter-generating products and at the same time the person  
9 shall pay the full amount of user fees due.

10 d. If a return required by this section is not filed, or if a return  
11 when filed is incorrect or insufficient in the opinion of the director, the  
12 amount of user fees due shall be determined by the director based on  
13 collections from the person liable for the payment of the user fees  
14 during the previous five years. Notice of the determination shall be  
15 given to the person liable for the payment of the user fees. The  
16 determination shall finally and irrevocably fix the user fees unless the  
17 person against whom it is assessed, within 90 days after the giving of  
18 the notice of the determination, shall file a protest in writing as  
19 provided in R.S.54:49-18 and request a hearing, or unless the director  
20 on the director's own motion shall redetermine the same. After the  
21 hearing the director shall give notice of the determination to the  
22 person to whom the user fees are assessed.

23 e. Any person who shall fail to file a return when due or to pay any  
24 user fee when the user fee becomes due, as herein provided, shall be  
25 subject to such penalties and interest as may be provided by law. If  
26 the director determines that the failure to comply with any provision  
27 of this section was excusable under the circumstances, the director  
28 may remit any part of the penalty as shall be appropriate under the  
29 circumstances.

30 f. In addition to the other powers granted by this section, the  
31 director may:

32 (1) Delegate to any officer or employee of the division those  
33 powers and duties as the director may deem necessary to carry out  
34 efficiently the provisions of this section, and the person or persons to  
35 whom the powers have been delegated shall possess and may exercise  
36 all of the powers and perform all of the duties delegated by the  
37 director;

38 (2) Prescribe and distribute all necessary forms for the  
39 implementation of this section; and

40 (3) Adopt any rules and regulations necessary for the  
41 implementation of this section.

42 g. Notwithstanding the provisions of subparagraph (C) of  
43 paragraph (2) of subsection (k) of section 4 of P.L.1945, c.162  
44 (C.54:10A-4), if any, to the contrary, any deduction of the user fee  
45 imposed pursuant to subsection a. of this section allowed in computing  
46 a taxpayer's taxable income which the taxpayer is required to report to

1 the United States Treasury Department for the purpose of computing  
2 its federal taxable income shall be allowed in determining the  
3 taxpayer's "entire net income" pursuant to subsection (k) of section 4  
4 of P.L.1945, c.162 (C.54:10A-4).

5  
6 5. (New section) The Clean Communities Program Fund is  
7 established as a nonlapsing, revolving fund in the Department of the  
8 Treasury. The Clean Communities Program Fund shall be administered  
9 by the Department of Environmental Protection and credited, in  
10 addition to any appropriations made thereto, with all user fees imposed  
11 pursuant to section 4 of P.L. , c. (C.13:1E-211)(pending in the  
12 Legislature as this bill) or penalties imposed pursuant to section 10 of  
13 P.L. , c. (C.13:1E-217)(pending in the Legislature as this bill), and  
14 any sums received as voluntary contributions from private sources.  
15 Interest received on moneys in the account shall be credited to the  
16 account. Unless otherwise expressly provided by the specific  
17 appropriation thereof by the Legislature, which shall take the form of  
18 a discrete legislative appropriations act and shall not be included  
19 within the annual appropriations act, all available moneys in the Clean  
20 Communities Program Fund shall be appropriated annually solely for  
21 the following purposes and no others:

22 a. 10% of the estimated annual balance of the account shall be used  
23 for a State program of litter pickup and removal and of enforcement  
24 of litter-related laws and ordinances in State owned places and areas  
25 that are accessible to the public;

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

39 c. 30% of the estimated annual balance of the account shall be  
40 distributed as State aid to eligible municipalities with total housing  
41 units of 200 or more for programs of litter pickup and removal,  
42 including establishing an "Adopt-A-Highway" program, of public  
43 education and information relating to litter abatement and of  
44 enforcement of litter-related laws and ordinances. The amount of State  
45 aid due each municipality shall be solely calculated based on the  
46 proportion which the municipal road mileage of a qualifying

1 municipality bears to the total municipal road mileage within the State.  
2 For the purposes of this subsection, "municipal road mileage" means  
3 that road mileage under the jurisdiction of municipalities, as  
4 determined by the Department of Transportation. Moneys in the  
5 account may also be used by an eligible municipality to abate graffiti;

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

18 e. No eligible municipality shall receive less than \$4,000.00 in State  
19 aid as apportioned pursuant to subsections b. and c. of this section. A  
20 municipality or county may use up to 5% of its State aid for  
21 administrative expenses;

22 f. Prior to the distribution of funds pursuant to subsections a.  
23 through d. of this section:

24 (1) 25% of the estimated annual balance of the account shall be  
25 annually appropriated to the State Recycling Fund established pursuant  
26 to section 5 of P.L.1981, c.278 (C.13:1E-96). These moneys shall be  
27 used by the Department of Environmental Protection for direct  
28 recycling grants to counties and municipalities, up to a maximum  
29 appropriation of \$4,000,000 per year. The moneys made available to  
30 the department from the Clean Communities Program Fund for direct  
31 recycling grants shall be annually appropriated to the State Recycling  
32 Fund until such time as an alternative funding mechanism for direct  
33 recycling grants is enacted into law; and

34 (2) \$300,000 of the estimated annual balance of the account shall  
35 be annually appropriated to the department and made available on July  
36 1 of every year to the organization under contract with the department  
37 pursuant to section 6 of P.L. , c. (C.13:1E-213)(pending in the  
38 Legislature as this bill) for a statewide public information and  
39 education program concerning antilittering activities and other aspects  
40 of responsible solid waste handling behavior.

41 The organization under contract with the department pursuant to  
42 section 6 of P.L. , c. (C.13:1E-213)(pending in the Legislature as  
43 this bill) shall, no later than the date on which the contract period  
44 concludes, submit a report to the Governor and the Legislature  
45 concerning its activities during the contract period and any  
46 recommendations concerning improving the program. Every eligible

1 municipality and county shall cooperate with the organization under  
2 contract with the department pursuant to section 6 of P.L. , c.  
3 (C.13:1E-213)(pending in the Legislature as this bill) in providing  
4 information concerning its program of litter pickup and removal.

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

9 The department may carry forward any unexpended balances in the  
10 Clean Communities Program Fund as of June 30 of each year.

11  
12 6. (New section) a. The organization under contract with the  
13 department pursuant to section 2 of P.L.1999, c.418 (C.13:1E-99.2b  
14 et al.) on the effective date of P.L. , c. (C.13:1E-208 et  
15 seq.)(pending in the Legislature as this bill) shall administer a  
16 Statewide public information and education program concerning  
17 antilittering activities and other aspects of responsible solid waste  
18 handling behavior as part of the Clean Communities Program.

19 b. The contract to administer the Clean Communities Statewide  
20 public information and education program concerning antilittering  
21 activities and other aspects of responsible solid waste handling  
22 behavior shall provide (1) the terms and conditions of the contract; (2)  
23 conditions under which the contract may be terminated and grant funds  
24 recaptured by the Department of Environmental Protection; and (3)  
25 that the Commissioner of the Department of Environmental Protection  
26 and the State Treasurer, or their designees, are included as members  
27 on the Board of Trustees of the organization.

28 c. The contract shall be for a period of two years and a contract  
29 recipient shall be eligible for a subsequent contract unless the recipient  
30 is otherwise disqualified or fails to meet the conditions provided in  
31 subsection d. of this section.

32 d. An organization may be awarded a contract with the department  
33 if it meets the following criteria:

34 (1) the organization is exempt from federal income tax under  
35 section 501(c)(3) of the United States Internal Revenue Code (26  
36 U.S.C.s.501(c)(3));

37 (2) the organization qualifies for tax deductible contributions under  
38 section 170(b)(1)(A)(vi) or (viii) of the United States Internal Revenue  
39 Code (26 U.S.C.s.170(b)(1)(A)(vi) or (viii));

40 (3) the organization is incorporated under and subject to the  
41 provisions of Title 15 of the Revised Statutes or Title 15A of the New  
42 Jersey Statutes and the "Charitable Registration and Investigation  
43 Act," P.L.1994, c.16 (C.45:17A-18 et seq.);

44 (4) the sole purpose of the organization is the funding and  
45 administration of a statewide public information and education  
46 program concerning antilittering activities and other aspects of

1 responsible solid waste handling behavior as part of the Clean  
2 Communities Program;

3 (5) the organization demonstrates that it has raised funds or has the  
4 capability to raise funds from the private sector for the same purposes  
5 moneys in the Clean Communities Program Fund are appropriated; and

6 (6) the membership of the governing board of the organization  
7 consists of representatives of private sector companies or  
8 organizations that were subject to the provisions of section 6 of  
9 P.L.1985, c.533 (C.13:1E-99.1) prior to December 31, 2000,  
10 representatives of the public sector who are local clean community  
11 coordinators duly appointed by their county or municipal governing  
12 bodies, the Commissioner of the Department of Environmental  
13 Protection and the State Treasurer or their designees, and  
14 representatives of community organizations, academia and  
15 organizations that have an interest in litter prevention and education.

16

17 7. (New section) a. (1) No contract shall be required as a  
18 prerequisite to the distribution of State aid to eligible municipalities  
19 and counties for programs of litter pickup and removal pursuant to  
20 section 5 of P.L. , c. (C.13:1E-212)(pending in the Legislature as  
21 this bill). All State aid funds for each fiscal year for which these funds  
22 are to be distributed shall be distributed by May 31 of the following  
23 year.

24 (2) Every eligible municipality and county shall submit a brief  
25 annual report to the department summarizing the uses and expenditure  
26 of funds received for its program of litter pickup and removal.

27 b. The department shall report to the Governor and the Legislature  
28 on the success of the county and municipal litter pickup and removal  
29 programs in reducing litter in New Jersey not later than August 30 of  
30 each year.

31 c. Additional expenditures or incremental costs necessary and  
32 reasonably incurred by a municipality or county for the abatement and  
33 control of litter or any other antilittering activities as a direct result of  
34 the implementation of the provisions of P.L. , c. (C.13:1E-208 et  
35 seq.)(pending in the Legislature as this bill) shall, for the purposes of  
36 P.L.1976, c.68 (C.40A:4-45.1 et seq.), be considered expenditures  
37 mandated by State law.

38

39 8. (New section) In addition to the duties and responsibilities  
40 imposed pursuant to P.L. , c. (C.13:1E-208 et seq.)(pending in the  
41 Legislature as this bill), the Department of Environmental Protection  
42 shall:

43 a. Coordinate the various industry and business organizations  
44 seeking to aid in the antilitter effort;

45 b. Conduct periodic litter surveys or random inspections in various  
46 parts of the State to ensure the satisfactory implementation of the

1 county and municipal litter pickup and removal programs required  
2 pursuant to section 5 of P.L. , c. (C.13:1E-212)(pending in the  
3 Legislature as this bill);

4 c. Encourage and cooperate with all local voluntary and  
5 government antilitter campaigns attempting to focus public attention  
6 on the statewide public information and education program concerning  
7 antilittering activities and other aspects of responsible solid waste  
8 handling behavior as part of the Clean Communities Program;

9 d. Investigate the availability of, and apply for, funds available  
10 from any private or public source to be used in the Clean Communities  
11 Program;

12 e. Investigate the successful methods of litter pickup and removal  
13 programs in other states or jurisdictions, encourage the use of litter  
14 receptacles, and evaluate their possible incorporation into the New  
15 Jersey Clean Communities Program.

16  
17 9. (New section) Every person convicted of a violation of the  
18 provisions of P.L. , c. (C.13:1E-208 et seq.)(pending in the  
19 Legislature as this bill) for which no penalty is specifically provided is  
20 subject to a fine of not more than \$100.00 for each violation. If the  
21 violation is of a continuing nature, each day during which it continues  
22 constitutes a separate and distinct offense.

23  
24 10. (New section) a. The Commissioner of the Department of  
25 Environmental Protection shall adopt, pursuant to the "Administrative  
26 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and  
27 regulations as are necessary to effectuate the provisions of P.L. , c.  
28 (C.13:1E-208 et seq.)(pending in the Legislature as this bill).

29 b. The director shall adopt, pursuant to the "Administrative  
30 Procedure Act," rules and regulations as are necessary to effectuate  
31 the provisions of section 4 of P.L. , c. (C.13:1E-211)(pending in  
32 the Legislature as this bill).

33  
34 11. Section 5 of P.L.1981, c.278 (C.13:1E-96) is amended to read  
35 as follows:

36 5. a. The State Recycling Fund (hereinafter referred to as the  
37 "fund") is established as a nonlapsing, revolving fund. The fund shall  
38 be administered by the Department of Environmental Protection, and  
39 shall be credited with all [tax revenue collected by the division  
40 pursuant to section 4 of P.L.1981, c.278 (C.13:1E-95)] sums received  
41 from the Clean Communities Program Fund established pursuant to  
42 section 5 of P.L. , c. (C.13:1E-212)(pending in the Legislature as  
43 this bill). Interest received on moneys in the fund [and sums received  
44 as repayment of principal and interest on outstanding loans made from  
45 the fund] shall be credited to the fund. [The Department of  
46 Environmental Protection, in the administration of the fund, is

1 authorized to assign to the New Jersey Economic Development  
2 Authority the responsibility for making credit evaluations of applicants  
3 for loans, for servicing loans on behalf of the department, and, the  
4 provisions of any other law to the contrary notwithstanding, for  
5 making recommendations as to the approval or denial of loans  
6 pursuant to this section. The department is further authorized to pay  
7 or reimburse the authority in the amounts as the department agrees are  
8 appropriate for all services rendered by the authority in connection  
9 with any assignment of responsibility under the terms of this section  
10 out of moneys held in the fund for loans and the loan guarantee  
11 program.]

12 b. [Moneys] Unless otherwise expressly provided by the specific  
13 appropriation thereof by the Legislature, moneys in the fund shall be  
14 allocated and used [for the following purposes and no others] as  
15 follows:

16 [(1) Not less than 40% of the estimated annual balance of the  
17 fund] Moneys in the fund received from the Clean Communities  
18 Program Fund established pursuant to section 5 of P.L. \_\_\_\_\_, c.  
19 (C.13:1E-212)(pending in the Legislature as this bill) shall be used for  
20 the annual expenses of a program for direct recycling grants to  
21 municipalities or counties in those instances where a county, at its own  
22 expense, provides for the collection, processing and marketing of  
23 recyclable materials on a regional basis. The amount of these grants  
24 shall be calculated on the basis of the total number of tons of  
25 recyclable materials annually recycled from residential, commercial and  
26 institutional sources within that municipality, or group of  
27 municipalities in the case of a county recycling program, except that  
28 no such grant shall exceed \$10.00 per ton of recyclable materials  
29 recycled. The department may allocate a portion of these grant moneys  
30 as bonus grants to municipalities and counties in those instances where  
31 a municipality or county, at its own expense, provides for the  
32 collection of recyclable materials in its recycling program. The  
33 department shall announce each year the total amount of moneys  
34 available in the bonus grant fund.

35 A municipality may distribute a portion of its grant moneys to  
36 nonprofit groups that are located within that municipality and which  
37 have contributed to the receipt of the recycling grant, except that this  
38 distribution shall not exceed the value of approved documented  
39 tonnage contributed by a nonprofit group.

40 A municipality may designate any nonprofit group as a recycling  
41 agent. A recycling agent shall receive that part of the municipality's  
42 recycling grant under this subsection that represents the percentage of  
43 the grant received by the municipality due to the documented tonnage  
44 contributed by that recycling agent. Moneys received by a recycling  
45 agent shall be expended only for its recycling program. Any moneys  
46 not used for recycling shall be returned by the recycling agent to the



1 municipality.

2 To be eligible for a grant pursuant to this subsection, a municipality  
3 or county in the case of a county recycling program shall demonstrate  
4 that the recyclable materials recycled by the municipal or county  
5 recycling program were not diverted from a commercial recycling  
6 program already in existence on the effective date of the ordinance or  
7 resolution establishing the municipal or county recycling program.

8 No recycling grant to any municipality shall be used for  
9 constructing or operating any facility for the baling of wastepaper or  
10 for the shearing, baling or shredding of ferrous or nonferrous  
11 materials[;].

12 [(2) Not less than 35% of the estimated annual balance of the fund  
13 shall be used to provide low interest loans or loan guarantees to  
14 recycling businesses and industries, and to provide moneys for  
15 research into collection, market stimulation and reuse techniques  
16 applicable to recycling or the disposition of recyclable materials, or to  
17 contract for market studies, and to establish a sufficient reserve for a  
18 loan guarantee program for recycling businesses and industries;]

19 [(3) Not more than 7% of the estimated annual balance of the fund  
20 shall be used for State recycling program planning and program  
21 funding, including the administrative expenses thereof;]

22 [(4) Not more than 8% of the estimated annual balance of the fund  
23 shall be used for county recycling program planning and program  
24 funding, including the administrative expenses thereof; and]

25 [(5) Not less than 10% of the estimated annual balance of the fund  
26 shall be used for a public information and education program  
27 concerning recycling activities.]

28 (cf: P.L.1990, c.117, s.1)

29

30 12. The following are repealed:

31 Sections 1 through 4 inclusive of P.L.1981, c.278

32 (C.13:1E-92 through 13:1E-95);

33 Sections 6 and 7 of P.L.1981, c.278

34 (C.13:1E-97 and 13:1E-98);

35 Sections 6 and 7 of P.L.1985, c.533

36 (C.13:1E-99.1 and 13:1E-99.2);

37 Section 2 of P.L.1989, c.108 (C.13:1E-99.2a);

38 Section 2 of P.L.1999, c.418 (C.13:1E-99.2b);

39 Sections 10 through 12 inclusive of P.L.1985, c.533

40 (C.13:1E-99.5 through 13:1E-99.7); and

41 Sections 7 through 9 inclusive of P.L.1986, c.187

42 (C.13:1E-99.8 through 13:1E-99.10).

43

44 13. This act shall take effect immediately and section 4 shall be  
45 retroactive to January 1, 2002.



# SENATE ENVIRONMENT COMMITTEE

## STATEMENT TO

### **SENATE, No. 1373**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: SEPTEMBER 19, 2002

The Senate Environment Committee reports favorably and with committee amendments Senate Bill No. 1373.

As amended, this bill imposes a user fee on sales of litter-generating products to furnish support to the Clean Communities Program and to provide recycling grants to counties and municipalities. The user fee is a deductible business expense for corporation business tax purposes.

Prior to the distribution of any of the funds from the Clean Communities Program Fund, 25% of the annual amount in the fund, but not more than \$4 million per year, would be appropriated to the State Recycling Fund to provide recycling grants to municipalities and counties for local recycling programs, until such time as an alternative funding mechanism for direct recycling grants is enacted into law.

The user fee imposed under this bill would be retroactive to January 1, 2002.

The committee amendments provide a mechanism to ensure that the funds in the Clean Communities Program Fund are used solely for the dedicated purposes specified in the bill.

Specifically, the provisions of section 13 provide that the annual appropriations act for each State fiscal year must appropriate, without other conditions, limitations or restrictions:

(1) the amounts specified to be deposited in the State Recycling Fund for use by the Department of Environmental Protection (DEP) for direct recycling grants to counties and municipalities, as provided in paragraph (1) of subsection f. of section 5 of the bill;

(2) the amount specified to be allocated to the DEP for use by the organization under contract with the DEP pursuant to section 6 of the bill for a statewide public information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior, as provided in paragraph (2) of subsection f. of section 5 of the bill; and

(3) the balance of the Clean Communities Program Fund established pursuant to section 5 of the bill for the purposes of providing funding for the State and local components of the Clean Communities Program as set forth in that section.

If the aforementioned requirements are not met on the effective date of an annual appropriations act for the State fiscal year, or if an amendment or supplement to an annual appropriations act for the State fiscal year should violate any of the requirements, the Director of the Division of Budget and Accounting is directed to certify to the Director of the Division of Taxation, not later than five days after the enactment of the annual appropriations act, or an amendment or supplement thereto, that violates any of the requirements, that the requirements have not been met.

Thereupon, the provisions of section 4 of the bill, which imposes the user fee on sales of litter-generating products, would be without effect beginning on the tenth day following the certification by the Director of the Division of Budget and Accounting.

The committee amendments also make a number of technical changes and corrections to the bill.

As amended, Senate Bill No. 1373 is identical to the Assembly Committee Substitute for A2069/A-2110 Sca.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## **SENATE, No. 1373**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: OCTOBER 24, 2002

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 1373 (1R).

This bill imposes a user fee on sales of litter-generating products to furnish support to the Clean Communities Program and to provide recycling grants to counties and municipalities. The user fee is a deductible business expense for corporation business tax purposes.

Prior to the distribution of any of the funds from the Clean Communities Program Fund, 25% of the annual amount in the fund, but not more than \$4 million per year, would be appropriated to the State Recycling Fund to provide recycling grants to municipalities and counties for local recycling programs, until such time as an alternative funding mechanism for direct recycling grants is enacted into law.

The user fee imposed under this bill would be retroactive to January 1, 2002.

The bill provides a mechanism to ensure that the funds in the Clean Communities Program Fund are used solely for the dedicated purposes specified in the bill. Specifically, the provisions of section 13 provide that the annual appropriations act for each State fiscal year must appropriate, without other conditions, limitations or restrictions:

(1) the amounts specified to be deposited in the State Recycling Fund for use by the Department of Environmental Protection (DEP) for direct recycling grants to counties and municipalities, as provided in paragraph (1) of subsection f. of section 5 of the bill;

(2) the amount specified to be allocated to the DEP for use by the organization under contract with the DEP pursuant to section 6 of the bill for a statewide public information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior, as provided in paragraph (2) of subsection f. of section 5 of the bill; and

(3) the balance of the Clean Communities Program Fund established pursuant to section 5 of the bill for the purposes of providing funding for the State and local components of the Clean Communities Program as set forth in that section.

If these requirements are not met on the effective date of an annual appropriations act for the State fiscal year, or if an amendment or supplement to an annual appropriations act for the State fiscal year should violate any of the requirements, the Director of the Division of Budget and Accounting is directed to certify to the Director of the Division of Taxation, not later than five days after the enactment of the annual appropriations act, or an amendment or supplement thereto, that violates any of the requirements, that the requirements have not been met. Thereupon, the provisions of section 4 of the bill, which imposes the user fee on sales of litter-generating products, would be without effect beginning on the tenth day following the certification by the Director of the Division of Budget and Accounting.

In reporting this bill, the committee recommends and advocates that the annual report, submitted to the Department of Environmental Protection by every municipality and county eligible for State aid under the legislation summarizing the uses and expenditure of funds received for its program of litter pickup and removal, shall include the total number of litter violations issued, total fines assessed, and total fines collected.

The provisions of this bill, as amended, are identical to those of Assembly Bill Nos. 2069 and 2110 ACS (1R) Sca, which the committee also reports this day.

#### COMMITTEE AMENDMENTS

Committee amendments to the bill increase the "business size" threshold, above which a retailer of litter-generating products becomes subject to the user fee applicable to the sale of such products, from \$250,000 to \$500,000 in annual retail sales.

#### FISCAL IMPACT

The Division of Taxation estimates that the reinstatement of the anti-litter user fee under the bill will generate approximately \$14 million to \$16 million annually. The level of revenue collected under the previous litter tax averaged between \$13 million and \$15 million annually.

The Office of Legislative Services (OLS) concurs with the Division's estimates but notes that the estimated increase in yearly revenue levels from previous levels is not substantiated. The OLS also notes that the bill's provision to furnish up to \$4 million annually to finance recycling tonnage grants allows this program to continue without the benefit of its previous (and now expired) revenue source, the State Recycling Tax and, in FY2002, the Sanitary Landfill Facility Contingency Fund. Thus, the bill essentially provides a stable funding source for both programs, albeit at lower individual funding levels than previously budgeted due to the shared revenue allocations.

Although the bill does not provide specific funding to administer the Clean Communities or recycling grants programs, the existing Clean Communities Account Fund is projected to have a balance of

\$2.4 million at the end of FY2003. In previous years, approximately \$250,000 was budgeted annually for program administration. Assuming the projected balance is transferred to the proposed Clean Communities Program Fund, it should be able to cover the administrative costs of the Clean Communities program for several years provided it is not used for other purposes.

Likewise, the DEP's FY2003 budget appropriates up to \$1,394,000 from the State Recycling Fund to carry out various State recycling activities, which includes the management of the recycling grants program. The State Recycling Fund is projected to have a balance of \$2.8 million at the end of FY2003. Assuming that the recommended spending level as cited above is maintained, administrative funding for the recycling grants program should be available through the end of FY 2005.

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**Press Releases**

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Contact: Kevin Davitt  
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RELEASE: December 20, 2002

[Previous Screen](#)

## **McGreevey Signs Clean Communities Bill Into Law**

### ***Reinstates Successful Program to Support Local Government Litter Control and Recycling***

(NEW BRUNSWICK) – To help keep New Jersey's communities clean and promote recycling, Governor James E. McGreevey today signed into law the Clean Communities bill, which will fund local and statewide litter abatement and education programs, adopt-a-highway campaigns and graffiti cleanup.

“This bill reaffirms the state’s commitment to partner with local governments to keep our communities clean and protect our environment,” said Governor McGreevey. “I want to thank the legislature, the business community, the League of Municipalities, and the environmental community for their overwhelming support in bringing this program back to life.”

“During its first incarnation, the Clean Communities Program provided millions of dollars for local anti-litter, highway clean-up and recycling programs,” said Assemblyman Joseph V. Doria Jr. “Now that we’ve revived this important funding mechanism, local programs can return to what they do best: keeping New Jersey’s landscape clean.”

“As it did previously, the Clean Communities Program will support many county and municipal litter patrols and recycling programs that enhance our quality of life and state image,” said Assemblyman Joseph Egan. “The program had broad-based support throughout New Jersey, and it’s about time we welcomed it back.”

“Clean communities are proud communities,” said Assemblyman Peter C. Eagler. “The money raised under this program helps to keep the state clean without further burdening property taxpayers. Without this revenue source, residents could have faced higher property tax bills or possible elimination of local Clean Communities initiatives.”

"We applaud the Governor's signing of the Clean Communities Act, which ensures that local and county governments will receive their Clean Communities funding by the summer of 2003," said William Dressel, Executive Director of the New Jersey State League of Municipalities. "This is a major policy initiative that not only benefits the environment, but also signifies a commitment to property tax relief by helping municipalities pay for necessary recycling and litter abatement programs in their communities."



From 1988 until the program lapsed in 2000, the statewide Clean Communities program had been funded by an assessment on the manufacture of "litter generating" products. Today's signing reinstates the Clean Communities program and the assessment that funded it. The law is expected to generate approximately \$14 million annually, and the majority of these funds will be allocated to local and county governments.

The law also makes county and municipal governments eligible for grants, totaling up to \$4 million statewide, designed to reinvigorate New Jersey's recycling programs and to promote source reduction.

"This funding provides communities with the resources to better manage our state's solid waste in an environmentally responsible manner," added McGreevey. "The Clean Communities Act is part of a broader commitment to make source reduction and recycling our primary strategies for managing solid waste."

In addition, the Clean Communities Council, a non-profit advisory group made up of members of the Food Council and local Clean Communities coordinators, will receive \$300,000 for public education and awareness. The State will also receive funding for park maintenance.

In the past, all 21 counties and 553 of the State's 566 municipalities received annual Clean Communities grants. Future grant amounts, which will start with a statutory minimum of \$4,000, will be calculated using a formula that accounts for the population and total street miles of participating municipalities.

The Clean Communities bill, an Assembly Committee Substitute for A2069 and A2110, had broad bipartisan support with four primary sponsors -- Assemblyman Joseph Doria (D-Hudson), Assemblyman Joseph Azzolina (R-Middlesex, Monmouth), Assemblyman Joseph Egan (D-Middlesex, Somerset) and Assemblyman Peter Eagler (D-Essex, Passaic). Senator James Cafiero (R-Atlantic, Cape May, Cumberland) was the prime Senate sponsor of the bill.

