

[First Reprint]

**ASSEMBLY, No. 2528**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

INTRODUCED MARCH 16, 2010

**Sponsored by:**

**Assemblyman UPENDRA J. CHIVUKULA**

**District 17 (Middlesex and Somerset)**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**SYNOPSIS**

Provides for allocation of societal benefits charge among residential, small commercial and large commercial and industrial utility customers; establishes a credit against societal benefits charge.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on November 22, 2010.



**(Sponsorship Updated As Of: 5/21/2010)**

1 AN ACT concerning societal benefits charge revenues, providing for  
2 a credit against the societal benefits charge, and amending and  
3 supplementing P.L.1999, c.23 (C.48:3-49 et al.).  
4

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

8 1. Section 12 of P.L.1999, c.23 (C.48:3-60) is amended to read  
9 as follows:

10 12. a. Simultaneously with the starting date for the  
11 implementation of retail choice as determined by the board pursuant  
12 to subsection a. of section 5 of **[this act]** P.L.1999, c.23 (C.48:3-  
13 53) and consistent with the provisions of P.L. , c. (C. )  
14 (pending before the Legislature as this bill), the board shall permit  
15 each electric public utility and gas public utility to recover some or  
16 all of the following costs through a societal benefits charge that  
17 shall be collected as a non-bypassable charge imposed on all  
18 electric public utility customers and gas public utility customers, as  
19 appropriate:

20 (1) The costs for the social programs for which rate recovery  
21 was approved by the board prior to April 30, 1997. For the purpose  
22 of establishing initial unbundled rates pursuant to section 4 of **[this**  
23 **act]** P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall  
24 be set to recover the same level of social program costs as is being  
25 collected in the bundled rates of the electric public utility on the  
26 effective date of **[this act]** P.L.1999, c.23 (C.48:3-49 et al.). The  
27 board may subsequently order, pursuant to its rules and regulations,  
28 an increase or decrease in the societal benefits charge to reflect  
29 changes in the costs to the utility of administering existing social  
30 programs. Nothing in **[this act]** P.L.1999, c.23 shall be construed  
31 to abolish or change any social program required by statute or board  
32 order or rule or regulation to be provided by an electric public  
33 utility. Any such social program shall continue to be provided by  
34 the utility until otherwise provided by law, unless the board  
35 determines that it is no longer appropriate for the electric public  
36 utility to provide the program, or the board chooses to modify the  
37 program;

38 (2) Nuclear plant decommissioning costs;

39 (3) The costs of demand side management programs that were  
40 approved by the board pursuant to its demand side management  
41 regulations prior to April 30, 1997. For the purpose of establishing  
42 initial unbundled rates pursuant to section 4 of **[this act]** P.L.1999,  
43 c.23 (C.48:3-52), the societal benefits charge shall be set to recover  
44 the same level of demand side management program costs as is

**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>Assembly floor amendments adopted November 22, 2010.

1 being collected in the bundled rates of the electric public utility on  
2 the effective date of **【this act】** P.L.1999, c.23 (C.48:3-49 et al.).  
3 Within four months of the effective date of **【this act】** P.L.1999,  
4 c.23, and every four years thereafter, the board shall initiate a  
5 proceeding and cause to be undertaken a comprehensive resource  
6 analysis of energy programs, and within eight months of initiating  
7 such proceeding and after notice, provision of the opportunity for  
8 public comment, and public hearing, the board, in consultation with  
9 the Department of Environmental Protection, shall determine the  
10 appropriate level of funding for energy efficiency and Class I  
11 renewable energy programs that provide environmental benefits  
12 above and beyond those provided by standard offer or similar  
13 programs in effect as of the effective date of **【this act】** P.L.1999,  
14 c.23; provided that the funding for such programs be no less than  
15 50% of the total Statewide amount being collected in public electric  
16 and gas utility rates for demand side management programs on the  
17 effective date of **【this act】** P.L.1999, c.23 for an initial period of  
18 four years from the issuance of the first comprehensive resource  
19 analysis following the effective date of **【this act】** P.L.1999, c.23,  
20 and provided that 25% of this amount shall be used to provide  
21 funding for Class I renewable energy projects in the State. In each  
22 of the following fifth through eighth years, the Statewide funding  
23 for such programs shall be no less than 50 percent of the total  
24 Statewide amount being collected in public electric and gas utility  
25 rates for demand side management programs on the effective date  
26 of **【this act】** P.L.1999, c.23, except that as additional funds are  
27 made available as a result of the expiration of past standard offer or  
28 similar commitments, the minimum amount of funding for such  
29 programs shall increase by an additional amount equal to 50 percent  
30 of the additional funds made available, until the minimum amount  
31 of funding dedicated to such programs reaches \$140,000,000 total.  
32 After the eighth year the board shall make a determination as to the  
33 appropriate level of funding for these programs. Such programs  
34 shall include a program to provide financial incentives for the  
35 installation of Class I renewable energy projects in the State, and  
36 the board, in consultation with the Department of Environmental  
37 Protection, shall determine the level and total amount of such  
38 incentives as well as the renewable technologies eligible for such  
39 incentives which shall include, at a minimum, photovoltaic, wind,  
40 and fuel cells. The board shall simultaneously determine, as a result  
41 of the comprehensive resource analysis, the programs to be funded  
42 by the societal benefits charge, the level of cost recovery and  
43 performance incentives for old and new programs and whether the  
44 recovery of demand side management programs' costs currently  
45 approved by the board may be reduced or extended over a longer  
46 period of time. The board shall make these determinations taking  
47 into consideration existing market barriers and environmental

1 benefits, with the objective of transforming markets, capturing lost  
2 opportunities, making energy services more affordable for low  
3 income customers and eliminating subsidies for programs that can  
4 be delivered in the marketplace without electric public utility and  
5 gas public utility customer funding;

6 (4) Manufactured gas plant remediation costs, which shall be  
7 determined initially in a manner consistent with mechanisms in the  
8 remediation adjustment clauses for the electric public utility and gas  
9 public utility adopted by the board; and

10 (5) The cost, of consumer education, as determined by the  
11 board, which shall be in an amount that, together with the consumer  
12 education surcharge imposed on electric power supplier license fees  
13 pursuant to subsection h. of section 29 of **[this act]** P.L.1999, c.23  
14 (C.48:3-78) and the consumer education surcharge imposed on gas  
15 supplier license fees pursuant to subsection g. of section 30 of **[this**  
16 **act]** P.L.1999, c.23 (C.48:3-79), shall be sufficient to fund the  
17 consumer education program established pursuant to section 36 of  
18 **[this act]** P.L.1999, c.23 (C.48:3-85).

19 b. There is established in the Board of Public Utilities a  
20 nonlapsing fund to be known as the "Universal Service Fund." The  
21 board shall determine: the level of funding and the appropriate  
22 administration of the fund; the purposes and programs to be funded  
23 with monies from the fund; which social programs shall be provided  
24 by an electric public utility as part of the provision of its regulated  
25 services which provide a public benefit; whether the funds  
26 appropriated to fund the "Lifeline Credit Program" established  
27 pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.), the "Tenants'  
28 Lifeline Assistance Program" established pursuant to P.L.1981,  
29 c.210 (C.48:2-29.31 et seq.), the funds received pursuant to the Low  
30 Income Home Energy Assistance Program established pursuant to  
31 42 U.S.C. s. 8621 et seq., and funds collected by electric and natural  
32 gas utilities, as authorized by the board, to offset uncollectible  
33 electricity and natural gas bills should be deposited in the fund; and  
34 whether new charges should be imposed to fund new or expanded  
35 social programs.

36 c. (1) The board shall establish an "Energy Efficiency, Clean  
37 Energy and Renewable Energy Programs Fund," which fund shall  
38 consist of '【an "Energy Assistance Account – Residential”】' an  
39 "Energy Efficiency, Clean Energy and Renewable Energy Programs  
40 Account – Residential”; an "Energy Efficiency, Clean Energy and  
41 Renewable Energy Programs Account – Small Commercial”; and an  
42 "Energy Efficiency, Clean Energy and Renewable Energy Programs  
43 Account - Large Commercial and Industrial." In establishing the  
44 fund and the accounts, the board shall follow any guidelines for the  
45 establishment of such fund and accounts as the State Treasurer, in  
46 consultation with the Director of the Division of Budget and  
47 Accounting in the Department of the Treasury, may recommend to

1 the board. After June 30, 2010, all expenditures by the board to pay  
2 any of the costs or to support any of the programs described in  
3 paragraph (3) of subsection a. of this section, whether those costs  
4 are incurred or those programs are administered directly by the  
5 board or by others reimbursed by the board, shall be made solely  
6 from the fund. Expenditures funding the costs or programs under  
7 paragraph (3) of that subsection a. that benefit residential customers  
8 of electric public utilities and gas public utilities shall be made from  
9 the “Energy Efficiency, Clean Energy and Renewable Energy  
10 Programs Account – Residential”; expenditures funding the costs or  
11 programs under paragraph (3) of that subsection a. that benefit  
12 small commercial customers of electric public utilities and gas  
13 public utilities shall be made from the “Energy Efficiency, Clean  
14 Energy and Renewable Energy Programs Account – Small  
15 Commercial”; and expenditures funding the costs or programs  
16 under paragraph (3) of that subsection a. that benefit large  
17 commercial or industrial customers of electric public utilities and  
18 gas public utilities shall be made from the “Energy Efficiency,  
19 Clean Energy and Renewable Energy Programs Account - Large  
20 Commercial and Industrial.”

21 (2) On and after July 1, 2010, each electric public utility and  
22 each gas public utility shall include, with its remittance to the board  
23 of any payment of monies collected as a societal benefits charge  
24 under subsection a. of this section, a statement identifying the  
25 portion of the payment so remitted that is derived from charges  
26 imposed upon residential customers of the utility, the portion of the  
27 payment derived from charges imposed upon small commercial  
28 customers of the utility, and the portion of the payment derived  
29 from charges imposed upon large commercial and industrial  
30 customers of the utility. The board shall adopt regulations, pursuant  
31 to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-  
32 1 et seq.), delineating for each type of utility the class of residential  
33 customers, the class of small commercial customers, and the class  
34 of large commercial and industrial customers, and prescribing  
35 uniform rules under which the utilities shall compute the amount of  
36 societal benefits charge paid by each class of customers for  
37 purposes of preparing the statement.

38 (3) The board shall, prior to the commencement of each State  
39 fiscal year, determine the amount of revenue from the societal  
40 benefits charge anticipated to be required during that State fiscal  
41 year to pay the costs and to support the programs described in  
42 paragraph (3) of subsection a. of this section. The total amount of  
43 such revenue deposited during that State fiscal year into the Energy  
44 Efficiency, Clean Energy and Renewable Energy Programs Fund  
45 shall not be less than the amount so determined. After <sup>1</sup>[such  
46 amount has been deposited into the “Energy Assistance Account –  
47 Residential”, the balance remaining from<sup>1</sup>] <sup>1</sup>the <sup>1</sup>amount of funds  
48 determined by the board as sufficient to fund the programs set forth

1 in subsection b. of this section has been deposited into the Universal  
2 Services Fund, the<sup>1</sup> total amount deposited into the Energy  
3 Efficiency, Clean Energy and Renewable Energy Programs Fund  
4 pursuant to this paragraph shall be deposited during the State fiscal  
5 year in the following accounts: (a) there shall be deposited into the  
6 “Energy Efficiency, Clean Energy and Renewable Energy Programs  
7 Account – Residential” an amount bearing the same proportion to  
8 that balance as the proportion between the amount of revenue from  
9 the societal benefits charge, remitted to the board in the preceding  
10 State fiscal year, that was identified to the board as having been  
11 collected from residential customers and the total amount of such  
12 revenue so remitted in that preceding State fiscal year; (b) there  
13 shall be deposited into the “Energy Efficiency, Clean Energy and  
14 Renewable Energy Programs Account – Small Commercial” an  
15 amount bearing the same proportion to that balance as the  
16 proportion between the amount of revenue from the societal  
17 benefits charge, remitted to the board in the preceding State fiscal  
18 year, that was identified to the board as having been collected from  
19 small commercial customers and the total amount of such revenue  
20 so remitted in that preceding State fiscal year; and (c) there shall be  
21 deposited into the “Energy Efficiency, Clean Energy and  
22 Renewable Energy Programs Account – Large Commercial and  
23 Industrial” an amount bearing the same proportion to that balance  
24 as the proportion between the amount of revenue from the societal  
25 benefits charge, remitted to the board in the preceding State fiscal  
26 year, that was identified to the board as having been collected from  
27 large commercial and industrial customers and the total amount of  
28 such revenue so remitted in that preceding State fiscal year.

29 (cf: P.L.1999, c.23, s.12)

30

31 2. (New section) a. For the purpose of determining, under  
32 paragraph (3) of subsection c. of section 12 of P.L.1999, c.23  
33 (C.48:3-60), for the State fiscal year commencing July 1, 2010, the  
34 amount of revenue from the societal benefits charge that is to be  
35 deposited during that fiscal year into the "Energy Efficiency, Clean  
36 Energy and Renewable Energy Programs Account – Residential";  
37 the "Energy Efficiency, Clean Energy and Renewable Energy  
38 Programs Account – Small Commercial"; and the "Energy  
39 Efficiency, Clean Energy and Renewable Energy Programs Account  
40 – Large Commercial and Industrial," the board shall estimate the  
41 proportion of the total revenue from that charge, remitted to the  
42 board in the fiscal year commencing July 1, 2009, that was  
43 collected from residential, from small commercial and from large  
44 commercial and industrial customers, respectively.

45 b. For the purpose of determining, under paragraph (3) of  
46 subsection c. of section 12 of P.L.1999, c.23 (C.48:3-60), for the  
47 State fiscal year commencing July 1, 2011, the amount of revenue  
48 from the societal benefits charge that is to be deposited during that

1 fiscal year into the "Energy Efficiency, Clean Energy and  
2 Renewable Energy Programs Account – Residential"; the "Energy  
3 Efficiency, Clean Energy and Renewable Energy Programs Account  
4 – Small Commercial"; and the "Energy Efficiency, Clean Energy  
5 and Renewable Energy Programs Account – Large Commercial and  
6 Industrial," the board shall, if necessary, estimate the proportion of  
7 the total revenue from that charge, remitted to the board in the fiscal  
8 year commencing July 1, 2010, that was collected from residential,  
9 from small commercial and from large commercial and industrial  
10 customers, respectively.

11

12 3. (New section) a. On and after January 1 next following the  
13 enactment of P.L. , c. (C. ) (pending before the Legislature  
14 as this bill), a corporation shall be allowed a credit against the  
15 societal benefits charge imposed pursuant to section 12 of P.L.1999,  
16 c.23 (C.48:3-60), and collected as a non-bypassable charge by the  
17 electric public utility or gas public utility, as appropriate, providing  
18 service to the corporation.

19 b. The amount of the credit authorized pursuant to subsection  
20 a. of this section shall be equal to that portion of the costs incurred  
21 by the corporation during the preceding calendar year for the  
22 purchase and installation of products or services that are intended  
23 for energy efficiency or renewable energy purposes, that would be  
24 eligible for incentives under programs that the board shall have  
25 determined to fund by the societal benefits charge pursuant to  
26 paragraph (3) of subsection a. of section 12 of P.L.1999, c.23  
27 (C.48:3-60).

28 c. The amount of the credit to be allowed under this section in  
29 any calendar year against the societal benefits charge for each  
30 corporation that is subject to such charge pursuant to section 12 of  
31 P.L.1999, c.23 (C.48:3-60) shall be determined by the board.

32 d. The maximum amount of the credit to be applied under this  
33 section against the societal benefits charge imposed pursuant to  
34 section 12 of P.L.1999, c.23 (C.48:3-60) shall not exceed 100  
35 percent of the corporation's liability for such charge that would  
36 otherwise be due in each calendar year.

37 e. The amount of the credit against the societal benefits charge  
38 otherwise allowable under this section which cannot be applied for  
39 the calendar year due to the limitations of subsection b. and  
40 subsection d. of this section may be carried over, if necessary, to a  
41 maximum of ten calendar years immediately following the initial  
42 year in which the credit is first applied to a corporation's liability  
43 for societal benefits charges.

44 f. The electric or gas public utility providing service to a  
45 corporation shall disclose in a written notice to the corporation,  
46 upon request from the corporation, the amount of societal benefits  
47 charges collected by the utility from the corporation pursuant to

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8

1 section 12 of P.L.1999, c.23 (C.48:3-60) for each calendar year  
2 specified in the request from the corporation.

3

4 4. This act shall take effect immediately, and sections 1 and 2  
5 shall be applicable for State fiscal years commencing on or after  
6 July 1, 2010.