

ASSEMBLY, No. 629

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

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District 25 (Morris and Somerset)

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District 24 (Morris, Sussex and Warren)

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SYNOPSIS

Repeals “Global Warming Response Act” and related sections of Regional Greenhouse Gas Initiative implementing law.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT repealing the “Global Warming Response Act,” P.L.2007,
2 c.112, repealing various sections of P.L.2007, c.340, and
3 amending various sections of the statutory law.
4

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

7
8 1. The “Global Warming Response Act,” P.L.2007, c.112,
9 (C.26:2C-37 et al.) is repealed.
10

11 2. Sections 1 through 11, and sections 14 and 15 of P.L.2007,
12 c.340 (C.26:2C-45 through C.26:2C-55, and C.26:2C-56 through
13 C.26:2C-57) are repealed.
14

15 3. (New section) All of the unencumbered moneys in the
16 “Global Warming Solutions Fund,” established pursuant to section
17 6 of P.L.2007, c.340 (C.26:2C-50), are hereby transferred to the
18 General Fund to be made available for general appropriations
19 purposes.
20

21 4. Section 5 of P.L.2009, c.256 (C.13:1L-33) is amended to
22 read as follows:

23 5. a. There is established in the General Fund a special
24 nonlapsing fund, to be known as the "Forest Stewardship Incentive
25 Fund." Moneys in the fund shall be dedicated to:

26 (1) providing grants to persons for the purpose of developing
27 and implementing a forest stewardship plan pursuant to section 3 of
28 P.L.2009, c.256 (C.13:1L-31);

29 (2) paying the costs of the department to develop, implement,
30 and administer the provisions of P.L.2009, c.256 (C.13:1L-29 et
31 al.); and

32 (3) providing for the stewardship and management of State
33 forests.

34 b. The fund shall be credited with:

35 (1) [the amount allocated for programs that enhance the
36 stewardship and restoration of the State's forests pursuant to section
37 7 of P.L.2007, c.340 (C.26:2C-51) from the "Global Warming
38 Solutions Fund," established pursuant to section 6 of P.L.2007,
39 c.340 (C.26:2C-50);

40 (2)] any [other] moneys as may be appropriated to the fund by
41 the Legislature or otherwise provided to the fund; and

42 [(3)] (2) any return on the investment of moneys deposited in
43 the fund.

44 c. In each State fiscal year, the amount credited to the Forest
45 Stewardship Incentive Fund shall be appropriated to the fund for the
46 purposes set forth in this section.

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 d. The department may award individual grants of up to \$1,500
2 from the fund to pay for the cost of developing a forest stewardship
3 plan pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31). If the
4 cost of developing a forest stewardship plan exceeds \$1,500, the
5 department may also award 80 percent of the cost that exceeds
6 \$1,500 to the owner, up to a maximum grant of \$2,500. Grants
7 from the fund may be made to local government units, nonprofit
8 organizations, and private owners of forest land. Notwithstanding
9 the provisions of this subsection to the contrary, the amount of the
10 grants prescribed by this subsection may be adjusted annually by
11 the department in direct proportion to the increase in the Consumer
12 Price Index for all urban consumers in the New York City area as
13 reported by the United States Department of Labor.

14 e. The department may award individual grants through a cost-
15 sharing program established pursuant to subsection c. of section 8
16 of P.L.2009, c.256 (C.13:1L-36) to private owners who have
17 obtained a forest stewardship plan approved by the department
18 pursuant to section 3 of P.L.2009, c.256 (C.13:1L-31). The
19 department shall expend no more than \$150,000 in any State fiscal
20 year for grants awarded through the cost-sharing program.
21 (cf: P.L.2009, c.256, s.5)

22
23 5. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read
24 as follows:

25 3. As used in P.L.1999, c.23 (C.48:3-49 et al.):

26 "Assignee" means a person to which an electric public utility or
27 another assignee assigns, sells or transfers, other than as security,
28 all or a portion of its right to or interest in bondable transition
29 property. Except as specifically provided in P.L.1999, c.23
30 (C.48:3-49 et al.), an assignee shall not be subject to the public
31 utility requirements of Title 48 or any rules or regulations adopted
32 pursuant thereto;

33 "Base load electric power generation facility" means an electric
34 power generation facility intended to be operated at a greater than
35 50 percent capacity factor including, but not limited to, a combined
36 cycle power facility and a combined heat and power facility;

37 "Base residual auction" means the auction conducted by PJM, as
38 part of PJM's reliability pricing model, three years prior to the start
39 of the delivery year to secure electrical capacity as necessary to
40 satisfy the capacity requirements for that delivery year;

41 "Basic gas supply service" means gas supply service that is
42 provided to any customer that has not chosen an alternative gas
43 supplier, whether or not the customer has received offers as to
44 competitive supply options, including, but not limited to, any
45 customer that cannot obtain such service for any reason, including
46 non-payment for services. Basic gas supply service is not a
47 competitive service and shall be fully regulated by the board;

1 "Basic generation service" or "BGS" means electric generation
2 service that is provided, to any customer that has not chosen an
3 alternative electric power supplier, whether or not the customer has
4 received offers for competitive supply options, including, but not
5 limited to, any customer that cannot obtain such service from an
6 electric power supplier for any reason, including non-payment for
7 services. Basic generation service is not a competitive service and
8 shall be fully regulated by the board;

9 "Basic generation service provider" or "provider" means a
10 provider of basic generation service;

11 "Basic generation service transition costs" means the amount by
12 which the payments by an electric public utility for the procurement
13 of power for basic generation service and related ancillary and
14 administrative costs exceeds the net revenues from the basic
15 generation service charge established by the board pursuant to
16 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,
17 together with interest on the balance at the board-approved rate, that
18 is reflected in a deferred balance account approved by the board in
19 an order addressing the electric public utility's unbundled rates,
20 stranded costs, and restructuring filings pursuant to P.L.1999, c.23
21 (C.48:3-49 et al.). Basic generation service transition costs shall
22 include, but are not limited to, costs of purchases from the spot
23 market, bilateral contracts, contracts with non-utility generators,
24 parting contracts with the purchaser of the electric public utility's
25 divested generation assets, short-term advance purchases, and
26 financial instruments such as hedging, forward contracts, and
27 options. Basic generation service transition costs shall also include
28 the payments by an electric public utility pursuant to a competitive
29 procurement process for basic generation service supply during the
30 transition period, and costs of any such process used to procure the
31 basic generation service supply;

32 "Board" means the New Jersey Board of Public Utilities or any
33 successor agency;

34 "Bondable stranded costs" means any stranded costs or basic
35 generation service transition costs of an electric public utility
36 approved by the board for recovery pursuant to the provisions of
37 P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the
38 board: (1) the cost of retiring existing debt or equity capital of the
39 electric public utility, including accrued interest, premium and other
40 fees, costs and charges relating thereto, with the proceeds of the
41 financing of bondable transition property; (2) if requested by an
42 electric public utility in its application for a bondable stranded costs
43 rate order, federal, State and local tax liabilities associated with
44 stranded costs recovery or basic generation service transition cost
45 recovery or the transfer or financing of such property or both,
46 including taxes, whose recovery period is modified by the effect of
47 a stranded costs recovery order, a bondable stranded costs rate order
48 or both; and (3) the costs incurred to issue, service or refinance

1 transition bonds, including interest, acquisition or redemption
2 premium, and other financing costs, whether paid upon issuance or
3 over the life of the transition bonds, including, but not limited to,
4 credit enhancements, service charges, overcollateralization, interest
5 rate cap, swap or collar, yield maintenance, maturity guarantee or
6 other hedging agreements, equity investments, operating costs and
7 other related fees, costs and charges, or to assign, sell or otherwise
8 transfer bondable transition property;

9 "Bondable stranded costs rate order" means one or more
10 irrevocable written orders issued by the board pursuant to P.L.1999,
11 c.23 (C.48:3-49 et al.) which determines the amount of bondable
12 stranded costs and the initial amount of transition bond charges
13 authorized to be imposed to recover such bondable stranded costs,
14 including the costs to be financed from the proceeds of the
15 transition bonds, as well as on-going costs associated with servicing
16 and credit enhancing the transition bonds, and provides the electric
17 public utility specific authority to issue or cause to be issued,
18 directly or indirectly, transition bonds through a financing entity
19 and related matters as provided in P.L.1999, c.23 (C.48:3-49 et al.),
20 which order shall become effective immediately upon the written
21 consent of the related electric public utility to such order as
22 provided in P.L.1999, c.23 (C.48:3-49 et al.);

23 "Bondable transition property" means the property consisting of
24 the irrevocable right to charge, collect and receive, and be paid
25 from collections of, transition bond charges in the amount necessary
26 to provide for the full recovery of bondable stranded costs which
27 are determined to be recoverable in a bondable stranded costs rate
28 order, all rights of the related electric public utility under such
29 bondable stranded costs rate order including, without limitation, all
30 rights to obtain periodic adjustments of the related transition bond
31 charges pursuant to subsection b. of section 15 of P.L.1999,
32 c.23 (C.48:3-64), and all revenues, collections, payments, money
33 and proceeds arising under, or with respect to, all of the foregoing;

34 "British thermal unit" or "Btu" means the amount of heat
35 required to increase the temperature of one pound of water by one
36 degree Fahrenheit;

37 "Broker" means a duly licensed electric power supplier that
38 assumes the contractual and legal responsibility for the sale of
39 electric generation service, transmission or other services to end-use
40 retail customers, but does not take title to any of the power sold, or
41 a duly licensed gas supplier that assumes the contractual and legal
42 obligation to provide gas supply service to end-use retail customers,
43 but does not take title to the gas;

44 "Brownfield" means any former or current commercial or
45 industrial site that is currently vacant or underutilized and on which
46 there has been, or there is suspected to have been, a discharge of a
47 contaminant;

1 "Buydown" means an arrangement or arrangements involving the
2 buyer and seller in a given power purchase contract and, in some
3 cases third parties, for consideration to be given by the buyer in
4 order to effectuate a reduction in the pricing, or the restructuring of
5 other terms to reduce the overall cost of the power contract, for the
6 remaining succeeding period of the purchased power arrangement
7 or arrangements;

8 "Buyout" means an arrangement or arrangements involving the
9 buyer and seller in a given power purchase contract and, in some
10 cases third parties, for consideration to be given by the buyer in
11 order to effectuate a termination of such power purchase contract;

12 "Class I renewable energy" means electric energy produced from
13 solar technologies, photovoltaic technologies, wind energy, fuel
14 cells, geothermal technologies, wave or tidal action, small scale
15 hydropower facilities with a capacity of three megawatts or less and
16 put into service after the effective date of P.L.2012, c.24, and
17 methane gas from landfills or a biomass facility, provided that the
18 biomass is cultivated and harvested in a sustainable manner;

19 "Class II renewable energy" means electric energy produced at a
20 hydropower facility with a capacity of greater than three megawatts
21 or a resource recovery facility, provided that such facility is located
22 where retail competition is permitted and provided further that the
23 Commissioner of Environmental Protection has determined that
24 such facility meets the highest environmental standards and
25 minimizes any impacts to the environment and local communities;

26 "Co-generation" means the sequential production of electricity
27 and steam or other forms of useful energy used for industrial or
28 commercial heating and cooling purposes;

29 "Combined cycle power facility" means a generation facility that
30 combines two or more thermodynamic cycles, by producing electric
31 power via the combustion of fuel and then routing the resulting
32 waste heat by-product to a conventional boiler or to a heat recovery
33 steam generator for use by a steam turbine to produce electric
34 power, thereby increasing the overall efficiency of the generating
35 facility;

36 "Combined heat and power facility" or "co-generation facility"
37 means a generation facility which produces electric energy and
38 steam or other forms of useful energy such as heat, which are used
39 for industrial or commercial heating or cooling purposes. A
40 combined heat and power facility or co-generation facility shall not
41 be considered a public utility;

42 "Competitive service" means any service offered by an electric
43 public utility or a gas public utility that the board determines to be
44 competitive pursuant to section 8 or section 10 of P.L.1999,
45 c.23 (C.48:3-56 or C.48:3-58) or that is not regulated by the board;

46 "Commercial and industrial energy pricing class customer" or
47 "CIEP class customer" means that group of non-residential
48 customers with high peak demand, as determined by periodic board

1 order, which either is eligible or which would be eligible, as
2 determined by periodic board order, to receive funds from the Retail
3 Margin Fund established pursuant to section 9 of P.L.1999,
4 c.23 (C.48:3-57) and for which basic generation service is hourly-
5 priced;

6 "Comprehensive resource analysis" means an analysis including,
7 but not limited to, an assessment of existing market barriers to the
8 implementation of energy efficiency and renewable technologies
9 that are not or cannot be delivered to customers through a
10 competitive marketplace;

11 "Connected to the distribution system" means, for a solar electric
12 power generation facility, that the facility is: (1) connected to a net
13 metering customer's side of a meter, regardless of the voltage at
14 which that customer connects to the electric grid, (2) an on-site
15 generation facility, (3) qualified for net metering aggregation as
16 provided pursuant to paragraph (4) of subsection e. of section 38 of
17 P.L.1999, c.23 (C.48:3-87), (4) owned or operated by an electric
18 public utility and approved by the board pursuant to section 13 of
19 P.L.2007, c.340 (C.48:3-98.1), (5) directly connected to the electric
20 grid at 69 kilovolts or less, regardless of how an electric public
21 utility classifies that portion of its electric grid, and is designated as
22 "connected to the distribution system" by the board pursuant to
23 subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-
24 87), or (6) is certified by the board, in consultation with the
25 Department of Environmental Protection, as being located on a
26 brownfield, on an area of historic fill, or on a properly closed
27 sanitary landfill facility. Any solar electric power generation
28 facility, other than that of a net metering customer on the customer's
29 side of the meter, connected above 69 kilovolts shall not be
30 considered connected to the distribution system;

31 "Customer" means any person that is an end user and is
32 connected to any part of the transmission and distribution system
33 within an electric public utility's service territory or a gas public
34 utility's service territory within this State;

35 "Customer account service" means metering, billing, or such
36 other administrative activity associated with maintaining a customer
37 account;

38 "Delivery year" or "DY" means the 12-month period from June
39 1st through May 31st, numbered according to the calendar year in
40 which it ends;

41 "Demand side management" means the management of customer
42 demand for energy service through the implementation of cost-
43 effective energy efficiency technologies, including, but not limited
44 to, installed conservation, load management and energy efficiency
45 measures on and in the residential, commercial, industrial,
46 institutional and governmental premises and facilities in this State;

47 "Electric generation service" means the provision of retail
48 electric energy and capacity which is generated off-site from the

1 location at which the consumption of such electric energy and
2 capacity is metered for retail billing purposes, including agreements
3 and arrangements related thereto;

4 "Electric power generator" means an entity that proposes to
5 construct, own, lease or operate, or currently owns, leases or
6 operates, an electric power production facility that will sell or does
7 sell at least 90 percent of its output, either directly or through a
8 marketer, to a customer or customers located at sites that are not on
9 or contiguous to the site on which the facility will be located or is
10 located. The designation of an entity as an electric power generator
11 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in
12 and of itself, affect the entity's status as an exempt wholesale
13 generator under the Public Utility Holding Company Act of 1935,
14 15 U.S.C. s.79 et seq., or its successor;

15 "Electric power supplier" means a person or entity that is duly
16 licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et
17 al.) to offer and to assume the contractual and legal responsibility to
18 provide electric generation service to retail customers, and includes
19 load serving entities, marketers and brokers that offer or provide
20 electric generation service to retail customers. The term excludes an
21 electric public utility that provides electric generation service only
22 as a basic generation service pursuant to section 9 of P.L.1999,
23 c.23 (C.48:3-57);

24 "Electric public utility" means a public utility, as that term is
25 defined in R.S.48:2-13, that transmits and distributes electricity to
26 end users within this State;

27 "Electric related service" means a service that is directly related
28 to the consumption of electricity by an end user, including, but not
29 limited to, the installation of demand side management measures at
30 the end user's premises, the maintenance, repair or replacement of
31 appliances, lighting, motors or other energy-consuming devices at
32 the end user's premises, and the provision of energy consumption
33 measurement and billing services;

34 "Electronic signature" means an electronic sound, symbol or
35 process, attached to, or logically associated with, a contract or other
36 record, and executed or adopted by a person with the intent to sign
37 the record;

38 "Eligible generator" means a developer of a base load or mid-
39 merit electric power generation facility including, but not limited to,
40 an on-site generation facility that qualifies as a capacity resource
41 under PJM criteria and that commences construction after the
42 effective date of P.L.2011, c.9 (C.48:3-98.2 et al.);

43 "Energy agent" means a person that is duly registered pursuant to
44 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), that arranges the
45 sale of retail electricity or electric related services or retail gas
46 supply or gas related services between government aggregators or
47 private aggregators and electric power suppliers or gas suppliers,
48 but does not take title to the electric or gas sold;

1 "Energy consumer" means a business or residential consumer of
2 electric generation service or gas supply service located within the
3 territorial jurisdiction of a government aggregator;

4 "Energy efficiency portfolio standard" means a requirement to
5 procure a specified amount of energy efficiency or demand side
6 management resources as a means of managing and reducing energy
7 usage and demand by customers;

8 "Energy year" or "EY" means the 12-month period from June 1st
9 through May 31st, numbered according to the calendar year in
10 which it ends;

11 "Existing business relationship" means a relationship formed by
12 a voluntary two-way communication between an electric power
13 supplier, gas supplier, broker, energy agent, marketer, private
14 aggregator, sales representative, or telemarketer and a customer
15 regardless of an exchange of consideration, on the basis of an
16 inquiry, application, purchase, or transaction initiated by the
17 customer regarding products or services offered by the electric
18 power supplier, gas supplier, broker, energy agent, marketer,
19 private aggregator, sales representative, or telemarketer; however, a
20 consumer's use of electric generation service or gas supply service
21 through the consumer's electric public utility or gas public utility
22 shall not constitute or establish an existing business relationship for
23 the purpose of P.L.2013, c.263;

24 "Farmland" means land actively devoted to agricultural or
25 horticultural use that is valued, assessed, and taxed pursuant to the
26 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et
27 seq.);

28 "Federal Energy Regulatory Commission" or "FERC" means the
29 federal agency established pursuant to 42 U.S.C. s.7171 et seq. to
30 regulate the interstate transmission of electricity, natural gas, and
31 oil;

32 "Final remediation document" shall have the same meaning as
33 provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b);

34 "Financing entity" means an electric public utility, a special
35 purpose entity, or any other assignee of bondable transition
36 property, which issues transition bonds. Except as specifically
37 provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity
38 which is not itself an electric public utility shall not be subject to
39 the public utility requirements of Title 48 or any rules or regulations
40 adopted pursuant thereto;

41 "Gas public utility" means a public utility, as that term is defined
42 in R.S.48:2-13, that distributes gas to end users within this State;

43 "Gas related service" means a service that is directly related to
44 the consumption of gas by an end user, including, but not limited to,
45 the installation of demand side management measures at the end
46 user's premises, the maintenance, repair or replacement of
47 appliances or other energy-consuming devices at the end user's

1 premises, and the provision of energy consumption measurement
2 and billing services;

3 "Gas supplier" means a person that is duly licensed pursuant to
4 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and
5 assume the contractual and legal obligation to provide gas supply
6 service to retail customers, and includes, but is not limited to,
7 marketers and brokers. A non-public utility affiliate of a public
8 utility holding company may be a gas supplier, but a gas public
9 utility or any subsidiary of a gas utility is not a gas supplier. In the
10 event that a gas public utility is not part of a holding company legal
11 structure, a related competitive business segment of that gas public
12 utility may be a gas supplier, provided that related competitive
13 business segment is structurally separated from the gas public
14 utility, and provided that the interactions between the gas public
15 utility and the related competitive business segment are subject to
16 the affiliate relations standards adopted by the board pursuant to
17 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58);

18 "Gas supply service" means the provision to customers of the
19 retail commodity of gas, but does not include any regulated
20 distribution service;

21 "Government aggregator" means any government entity subject
22 to the requirements of the "Local Public Contracts Law," P.L.1971,
23 c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law,"
24 N.J.S.18A:18A-1 et seq., or the "County College Contracts Law,"
25 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written
26 contract with a licensed electric power supplier or a licensed gas
27 supplier for: (1) the provision of electric generation service, electric
28 related service, gas supply service, or gas related service for its own
29 use or the use of other government aggregators; or (2) if a
30 municipal or county government, the provision of electric
31 generation service or gas supply service on behalf of business or
32 residential customers within its territorial jurisdiction;

33 "Government energy aggregation program" means a program and
34 procedure pursuant to which a government aggregator enters into a
35 written contract for the provision of electric generation service or
36 gas supply service on behalf of business or residential customers
37 within its territorial jurisdiction;

38 "Governmental entity" means any federal, state, municipal, local
39 or other governmental department, commission, board, agency,
40 court, authority or instrumentality having competent jurisdiction;

41 ["Greenhouse gas emissions portfolio standard" means a
42 requirement that addresses or limits the amount of carbon dioxide
43 emissions indirectly resulting from the use of electricity as applied
44 to any electric power suppliers and basic generation service
45 providers of electricity;]

46 "Historic fill" means generally large volumes of non-indigenous
47 material, no matter what date they were emplaced on the site, used
48 to raise the topographic elevation of a site, which were

1 contaminated prior to emplacement and are in no way connected
2 with the operations at the location of emplacement and which
3 include, but are not limited to, construction debris, dredge spoils,
4 incinerator residue, demolition debris, fly ash, and non-hazardous
5 solid waste. "Historic fill" shall not include any material which is
6 substantially chromate chemical production waste or any other
7 chemical production waste or waste from processing of metal or
8 mineral ores, residues, slags, or tailings;

9 "Incremental auction" means an auction conducted by PJM, as
10 part of PJM's reliability pricing model, prior to the start of the
11 delivery year to secure electric capacity as necessary to satisfy the
12 capacity requirements for that delivery year, that is not otherwise
13 provided for in the base residual auction;

14 ["Leakage" means an increase in greenhouse gas emissions
15 related to generation sources located outside of the State that are not
16 subject to a state, interstate or regional greenhouse gas emissions
17 cap or standard that applies to generation sources located within the
18 State;]

19 "Locational deliverability area" or "LDA" means one or more of
20 the zones within the PJM region which are used to evaluate area
21 transmission constraints and reliability issues including electric
22 public utility company zones, sub-zones, and combinations of
23 zones;

24 "Long-term capacity agreement pilot program" or "LCAPP"
25 means a pilot program established by the board that includes
26 participation by eligible generators, to seek offers for financially-
27 settled standard offer capacity agreements with eligible generators
28 pursuant to the provisions of P.L.2011, c.9 (C.48:3-98.2 et al.);

29 "Market transition charge" means a charge imposed pursuant to
30 section 13 of P.L.1999, c.23 (C.48:3-61) by an electric public
31 utility, at a level determined by the board, on the electric public
32 utility customers for a limited duration transition period to recover
33 stranded costs created as a result of the introduction of electric
34 power supply competition pursuant to the provisions of P.L.1999,
35 c.23 (C.48:3-49 et al.);

36 "Marketer" means a duly licensed electric power supplier that
37 takes title to electric energy and capacity, transmission and other
38 services from electric power generators and other wholesale
39 suppliers and then assumes the contractual and legal obligation to
40 provide electric generation service, and may include transmission
41 and other services, to an end-use retail customer or customers, or a
42 duly licensed gas supplier that takes title to gas and then assumes
43 the contractual and legal obligation to provide gas supply service to
44 an end-use customer or customers;

45 "Mid-merit electric power generation facility" means a
46 generation facility that operates at a capacity factor between
47 baseload generation facilities and peaker generation facilities;

1 "Net metering aggregation" means a procedure for calculating
2 the combination of the annual energy usage for all facilities owned
3 by a single customer where such customer is a State entity, school
4 district, county, county agency, county authority, municipality,
5 municipal agency, or municipal authority, and which are served by
6 a solar electric power generating facility as provided pursuant to
7 paragraph (4) of subsection e. of section 38 of P.L.1999,
8 c.23 (C.48:3-87);

9 "Net proceeds" means proceeds less transaction and other related
10 costs as determined by the board;

11 "Net revenues" means revenues less related expenses, including
12 applicable taxes, as determined by the board;

13 "Offshore wind energy" means electric energy produced by a
14 qualified offshore wind project;

15 "Offshore wind renewable energy certificate" or "OREC" means
16 a certificate, issued by the board or its designee, representing the
17 environmental attributes of one megawatt hour of electric
18 generation from a qualified offshore wind project;

19 "Off-site end use thermal energy services customer" means an
20 end use customer that purchases thermal energy services from an
21 on-site generation facility, combined heat and power facility, or co-
22 generation facility, and that is located on property that is separated
23 from the property on which the on-site generation facility,
24 combined heat and power facility, or co-generation facility is
25 located by more than one easement, public thoroughfare, or
26 transportation or utility-owned right-of-way;

27 "On-site generation facility" means a generation facility,
28 including, but not limited to, a generation facility that produces
29 Class I or Class II renewable energy, and equipment and services
30 appurtenant to electric sales by such facility to the end use customer
31 located on the property or on property contiguous to the property on
32 which the end user is located. An on-site generation facility shall
33 not be considered a public utility. The property of the end use
34 customer and the property on which the on-site generation facility is
35 located shall be considered contiguous if they are geographically
36 located next to each other, but may be otherwise separated by an
37 easement, public thoroughfare, transportation or utility-owned
38 right-of-way, or if the end use customer is purchasing thermal
39 energy services produced by the on-site generation facility, for use
40 for heating or cooling, or both, regardless of whether the customer
41 is located on property that is separated from the property on which
42 the on-site generation facility is located by more than one easement,
43 public thoroughfare, or transportation or utility-owned right-of-
44 way;

45 "Person" means an individual, partnership, corporation,
46 association, trust, limited liability company, governmental entity or
47 other legal entity;

1 "PJM Interconnection, L.L.C." or "PJM" means the privately-
2 held, limited liability corporation that is a FERC-approved Regional
3 Transmission Organization, or its successor, that manages the
4 regional, high-voltage electricity grid serving all or parts of 13
5 states including New Jersey and the District of Columbia, operates
6 the regional competitive wholesale electric market, manages the
7 regional transmission planning process, and establishes systems and
8 rules to ensure that the regional and in-State energy markets operate
9 fairly and efficiently;

10 "Preliminary assessment" shall have the same meaning as
11 provided in section 3 of P.L.1976, c.141 (C.58:10-23.11b);

12 "Private aggregator" means a non-government aggregator that is
13 a duly-organized business or non-profit organization authorized to
14 do business in this State that enters into a contract with a duly
15 licensed electric power supplier for the purchase of electric energy
16 and capacity, or with a duly licensed gas supplier for the purchase
17 of gas supply service, on behalf of multiple end-use customers by
18 combining the loads of those customers;

19 "Properly closed sanitary landfill facility" means a sanitary
20 landfill facility, or a portion of a sanitary landfill facility, for which
21 performance is complete with respect to all activities associated
22 with the design, installation, purchase, or construction of all
23 measures, structures, or equipment required by the Department of
24 Environmental Protection, pursuant to law, in order to prevent,
25 minimize, or monitor pollution or health hazards resulting from a
26 sanitary landfill facility subsequent to the termination of operations
27 at any portion thereof, including, but not necessarily limited to, the
28 placement of earthen or vegetative cover, and the installation of
29 methane gas vents or monitors and leachate monitoring wells or
30 collection systems at the site of any sanitary landfill facility;

31 "Public utility holding company" means: (1) any company that,
32 directly or indirectly, owns, controls, or holds with power to vote,
33 ten percent or more of the outstanding voting securities of an
34 electric public utility or a gas public utility or of a company which
35 is a public utility holding company by virtue of this definition,
36 unless the Securities and Exchange Commission, or its successor,
37 by order declares such company not to be a public utility holding
38 company under the Public Utility Holding Company Act of 1935,
39 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
40 Securities and Exchange Commission, or its successor, determines,
41 after notice and opportunity for hearing, directly or indirectly, to
42 exercise, either alone or pursuant to an arrangement or
43 understanding with one or more other persons, such a controlling
44 influence over the management or policies of an electric public
45 utility or a gas public utility or public utility holding company as to
46 make it necessary or appropriate in the public interest or for the
47 protection of investors or consumers that such person be subject to

1 the obligations, duties, and liabilities imposed in the Public Utility
2 Holding Company Act of 1935 or its successor;

3 "Qualified offshore wind project" means a wind turbine
4 electricity generation facility in the Atlantic Ocean and connected
5 to the electric transmission system in this State, and includes the
6 associated transmission-related interconnection facilities and
7 equipment, and approved by the board pursuant to section 3 of
8 P.L.2010, c.57 (C.48:3-87.1);

9 "Registration program" means an administrative process
10 developed by the board pursuant to subsection u. of section 38 of
11 P.L.1999, c.23 (C.48:3-87) that requires all owners of solar electric
12 power generation facilities connected to the distribution system that
13 intend to generate SRECs, to file with the board documents
14 detailing the size, location, interconnection plan, land use, and other
15 project information as required by the board;

16 "Regulatory asset" means an asset recorded on the books of an
17 electric public utility or gas public utility pursuant to the Statement
18 of Financial Accounting Standards, No. 71, entitled "Accounting for
19 the Effects of Certain Types of Regulation," or any successor
20 standard and as deemed recoverable by the board;

21 "Related competitive business segment of an electric public
22 utility or gas public utility" means any business venture of an
23 electric public utility or gas public utility including, but not limited
24 to, functionally separate business units, joint ventures, and
25 partnerships, that offers to provide or provides competitive services;

26 "Related competitive business segment of a public utility holding
27 company" means any business venture of a public utility holding
28 company, including, but not limited to, functionally separate
29 business units, joint ventures, and partnerships and subsidiaries, that
30 offers to provide or provides competitive services, but does not
31 include any related competitive business segments of an electric
32 public utility or gas public utility;

33 "Reliability pricing model" or "RPM" means PJM's capacity-
34 market model, and its successors, that secures capacity on behalf of
35 electric load serving entities to satisfy load obligations not satisfied
36 through the output of electric generation facilities owned by those
37 entities, or otherwise secured by those entities through bilateral
38 contracts;

39 "Renewable energy certificate" or "REC" means a certificate
40 representing the environmental benefits or attributes of one
41 megawatt-hour of generation from a generating facility that
42 produces Class I or Class II renewable energy, but shall not include
43 a solar renewable energy certificate or an offshore wind renewable
44 energy certificate;

45 "Resource clearing price" or "RCP" means the clearing price
46 established for the applicable locational deliverability area by the
47 base residual auction or incremental auction, as determined by the

1 optimization algorithm for each auction, conducted by PJM as part
2 of PJM's reliability pricing model;

3 "Resource recovery facility" means a solid waste facility
4 constructed and operated for the incineration of solid waste for
5 energy production and the recovery of metals and other materials
6 for reuse, which the Department of Environmental Protection has
7 determined to be in compliance with current environmental
8 standards, including, but not limited to, all applicable requirements
9 of the federal "Clean Air Act" (42 U.S.C. s.7401 et seq.);

10 "Restructuring related costs" means reasonably incurred costs
11 directly related to the restructuring of the electric power industry,
12 including the closure, sale, functional separation and divestiture of
13 generation and other competitive utility assets by a public utility, or
14 the provision of competitive services as such costs are determined
15 by the board, and which are not stranded costs as defined in
16 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited
17 to, investments in management information systems, and which
18 shall include expenses related to employees affected by
19 restructuring which result in efficiencies and which result in
20 benefits to ratepayers, such as training or retraining at the level
21 equivalent to one year's training at a vocational or technical school
22 or county community college, the provision of severance pay of two
23 weeks of base pay for each year of full-time employment, and a
24 maximum of 24 months' continued health care coverage. Except as
25 to expenses related to employees affected by restructuring,
26 "restructuring related costs" shall not include going forward costs;

27 "Retail choice" means the ability of retail customers to shop for
28 electric generation or gas supply service from electric power or gas
29 suppliers, or opt to receive basic generation service or basic gas
30 service, and the ability of an electric power or gas supplier to offer
31 electric generation service or gas supply service to retail customers,
32 consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.);

33 "Retail margin" means an amount, reflecting differences in
34 prices that electric power suppliers and electric public utilities may
35 charge in providing electric generation service and basic generation
36 service, respectively, to retail customers, excluding residential
37 customers, which the board may authorize to be charged to
38 categories of basic generation service customers of electric public
39 utilities in this State, other than residential customers, under the
40 board's continuing regulation of basic generation service pursuant to
41 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the
42 purpose of promoting a competitive retail market for the supply of
43 electricity;

44 "Sales representative" means a person employed by, acting on
45 behalf of, or as an independent contractor for, an electric power
46 supplier, gas supplier, broker, energy agent, marketer, or private
47 aggregator who, by any means, solicits a potential residential

1 customer for the provision of electric generation service or gas
2 supply service;

3 "Sanitary landfill facility" shall have the same meaning as
4 provided in section 3 of P.L.1970, c.39 (C.13:1E-3);

5 "School district" means a local or regional school district
6 established pursuant to chapter 8 or chapter 13 of Title 18A of the
7 New Jersey Statutes, a county special services school district
8 established pursuant to article 8 of chapter 46 of Title 18A of the
9 New Jersey Statutes, a county vocational school district established
10 pursuant to article 3 of chapter 54 of Title 18A of the New Jersey
11 Statutes, and a district under full State intervention pursuant to
12 P.L.1987, c.399 (C.18A:7A-34 et al.);

13 "Shopping credit" means an amount deducted from the bill of an
14 electric public utility customer to reflect the fact that such customer
15 has switched to an electric power supplier and no longer takes basic
16 generation service from the electric public utility;

17 "Site investigation" shall have the same meaning as provided in
18 section 3 of P.L.1976, c.141 (C.58:10-23.11b);

19 "Small scale hydropower facility" means a facility located within
20 this State that is connected to the distribution system, and that
21 meets the requirements of, and has been certified by, a nationally
22 recognized low-impact hydropower organization that has
23 established low-impact hydropower certification criteria applicable
24 to: (1) river flows; (2) water quality; (3) fish passage and
25 protection; (4) watershed protection; (5) threatened and endangered
26 species protection; (6) cultural resource protection; (7) recreation;
27 and (8) facilities recommended for removal;

28 "Social program" means a program implemented with board
29 approval to provide assistance to a group of disadvantaged
30 customers, to provide protection to consumers, or to accomplish a
31 particular societal goal, and includes, but is not limited to, the
32 winter moratorium program, utility practices concerning "bad debt"
33 customers, low income assistance, deferred payment plans,
34 weatherization programs, and late payment and deposit policies, but
35 does not include any demand side management program or any
36 environmental requirements or controls;

37 "Societal benefits charge" means a charge imposed by an electric
38 public utility, at a level determined by the board, pursuant to, and in
39 accordance with, section 12 of P.L.1999, c.23 (C.48:3-60);

40 "Solar alternative compliance payment" or "SACP" means a
41 payment of a certain dollar amount per megawatt hour (MWh)
42 which an electric power supplier or provider may submit to the
43 board in order to comply with the solar electric generation
44 requirements under section 38 of P.L.1999, c.23 (C.48:3-87);

45 "Solar renewable energy certificate" or "SREC" means a
46 certificate issued by the board or its designee, representing one
47 megawatt hour (MWh) of solar energy that is generated by a facility

1 connected to the distribution system in this State and has value
2 based upon, and driven by, the energy market;

3 "Standard offer capacity agreement" or "SOCA" means a
4 financially-settled transaction agreement, approved by board order,
5 that provides for eligible generators to receive payments from the
6 electric public utilities for a defined amount of electric capacity for
7 a term to be determined by the board but not to exceed 15 years,
8 and for such payments to be a fully non-bypassable charge, with
9 such an order, once issued, being irrevocable;

10 "Standard offer capacity price" or "SOCP" means the capacity
11 price that is fixed for the term of the SOCA and which is the price
12 to be received by eligible generators under a board-approved
13 SOCA;

14 "State entity" means a department, agency, or office of State
15 government, a State university or college, or an authority created by
16 the State;

17 "Stranded cost" means the amount by which the net cost of an
18 electric public utility's electric generating assets or electric power
19 purchase commitments, as determined by the board consistent with
20 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the
21 market value of those assets or contractual commitments in a
22 competitive supply marketplace and the costs of buydowns or
23 buyouts of power purchase contracts;

24 "Stranded costs recovery order" means each order issued by the
25 board in accordance with subsection c. of section 13 of P.L.1999,
26 c.23 (C.48:3-61) which sets forth the amount of stranded costs, if
27 any, the board has determined an electric public utility is eligible to
28 recover and collect in accordance with the standards set forth in
29 section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery
30 mechanisms therefor;

31 "Telemarketer" shall have the same meaning as set forth in
32 section 2 of P.L.2003, c.76 (C.56:8-120);

33 "Telemarketing sales call" means a telephone call made by a
34 telemarketer to a potential residential customer as part of a plan,
35 program, or campaign to encourage the customer to change the
36 customer's electric power supplier or gas supplier. A telephone call
37 made to an existing customer of an electric power supplier, gas
38 supplier, broker, energy agent, marketer, private aggregator, or
39 sales representative, for the sole purpose of collecting on accounts
40 or following up on contractual obligations, shall not be deemed a
41 telemarketing sales call. A telephone call made in response to an
42 express written request of a customer shall not be deemed a
43 telemarketing sales call;

44 "Thermal efficiency" means the useful electric energy output of a
45 facility, plus the useful thermal energy output of the facility,
46 expressed as a percentage of the total energy input to the facility;

47 "Transition bond charge" means a charge, expressed as an
48 amount per kilowatt hour, that is authorized by and imposed on

1 electric public utility ratepayers pursuant to a bondable stranded
2 costs rate order, as modified at any time pursuant to the provisions
3 of P.L.1999, c.23 (C.48:3-49 et al.);

4 "Transition bonds" means bonds, notes, certificates of
5 participation or beneficial interest or other evidences of
6 indebtedness or ownership issued pursuant to an indenture, contract
7 or other agreement of an electric public utility or a financing entity,
8 the proceeds of which are used, directly or indirectly, to recover,
9 finance or refinance bondable stranded costs and which are, directly
10 or indirectly, secured by or payable from bondable transition
11 property. References in P.L.1999, c.23 (C.48:3-49 et al.) to
12 principal, interest, and acquisition or redemption premium with
13 respect to transition bonds which are issued in the form of
14 certificates of participation or beneficial interest or other evidences
15 of ownership shall refer to the comparable payments on such
16 securities;

17 "Transition period" means the period from August 1, 1999
18 through July 31, 2003;

19 "Transmission and distribution system" means, with respect to an
20 electric public utility, any facility or equipment that is used for the
21 transmission, distribution or delivery of electricity to the customers
22 of the electric public utility including, but not limited to, the land,
23 structures, meters, lines, switches and all other appurtenances
24 thereof and thereto, owned or controlled by the electric public
25 utility within this State;

26 "Universal service" means any service approved by the board
27 with the purpose of assisting low-income residential customers in
28 obtaining or retaining electric generation or delivery service; and

29 "Unsolicited advertisement" means any advertising claims of the
30 commercial availability or quality of services provided by an
31 electric power supplier, gas supplier, broker, energy agent,
32 marketer, private aggregator, sales representative, or telemarketer
33 which is transmitted to a potential customer without that customer's
34 prior express invitation or permission.

35 (cf: P.L.2013, c.263, s.1)

36

37 6. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to read
38 as follows:

39 38. a. The board shall require an electric power supplier or
40 basic generation service provider to disclose on a customer's bill or
41 on customer contracts or marketing materials, a uniform, common
42 set of information about the environmental characteristics of the
43 energy purchased by the customer, including, but not limited to:

44 (1) Its fuel mix, including categories for oil, gas, nuclear, coal,
45 solar, hydroelectric, wind and biomass, or a regional average
46 determined by the board;

47 (2) Its emissions, in pounds per megawatt hour, of sulfur
48 dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant

1 that the board may determine to pose an environmental or health
2 hazard, or an emissions default to be determined by the board; and

3 (3) Any discrete emission reduction retired pursuant to rules and
4 regulations adopted pursuant to P.L.1995, c.188.

5 b. Notwithstanding any provisions of the "Administrative
6 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
7 contrary, the board shall initiate a proceeding and shall adopt, in
8 consultation with the Department of Environmental Protection, after
9 notice and opportunity for public comment and public hearing,
10 interim standards to implement this disclosure requirement,
11 including, but not limited to:

12 (1) A methodology for disclosure of emissions based on output
13 pounds per megawatt hour;

14 (2) Benchmarks for all suppliers and basic generation service
15 providers to use in disclosing emissions that will enable consumers
16 to perform a meaningful comparison with a supplier's or basic
17 generation service provider's emission levels; and

18 (3) A uniform emissions disclosure format that is graphic in
19 nature and easily understandable by consumers. The board shall
20 periodically review the disclosure requirements to determine if
21 revisions to the environmental disclosure system as implemented
22 are necessary.

23 Such standards shall be effective as regulations immediately
24 upon filing with the Office of Administrative Law and shall be
25 effective for a period not to exceed 18 months, and may, thereafter,
26 be amended, adopted or readopted by the board in accordance with
27 the provisions of the "Administrative Procedure Act."

28 c. (1) The board may adopt, in consultation with the
29 Department of Environmental Protection, after notice and
30 opportunity for public comment, an emissions portfolio standard
31 applicable to all electric power suppliers and basic generation
32 service providers, upon a finding that:

33 (a) The standard is necessary as part of a plan to enable the
34 State to meet federal Clean Air Act or State ambient air quality
35 standards; and

36 (b) Actions at the regional or federal level cannot reasonably be
37 expected to achieve the compliance with the federal standards.

38 (2) [By July 1, 2009, the] The board shall adopt [, pursuant to
39 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
40 seq.), a greenhouse gas] an emissions portfolio standard [to mitigate
41 leakage or another regulatory mechanism to mitigate leakage]
42 applicable to all electric power suppliers and basic generation
43 service providers [that provide electricity to customers within the
44 State] , if two other states in the PJM power pool comprising at
45 least 40 percent of the retail electric usage in the PJM
46 Interconnection, L.L.C. independent system operator or its
47 successor adopt such standards. [The greenhouse gas emissions

1 portfolio standard or any other regulatory mechanism to mitigate
2 leakage shall:

3 (a) Allow a transition period, either before or after the effective
4 date of the regulation to mitigate leakage, for a basic generation
5 service provider or electric power supplier to either meet the
6 emissions portfolio standard or other regulatory mechanism to
7 mitigate leakage, or to transfer any customer to a basic generation
8 service provider or electric power supplier that meets the emissions
9 portfolio standard or other regulatory mechanism to mitigate
10 leakage. If the transition period allowed pursuant to this
11 subparagraph occurs after the implementation of an emissions
12 portfolio standard or other regulatory mechanism to mitigate
13 leakage, the transition period shall be no longer than three years;
14 and

15 (b) Exempt the provision of basic generation service pursuant to
16 a basic generation service purchase and sale agreement effective
17 prior to the date of the regulation.

18 Unless the Attorney General or the Attorney General's designee
19 determines that a greenhouse gas emissions portfolio standard
20 would unconstitutionally burden interstate commerce or would be
21 preempted by federal law, the adoption by the board of an electric
22 energy efficiency portfolio standard pursuant to subsection g. of this
23 section, a gas energy efficiency portfolio standard pursuant to
24 subsection h. of this section, or any other enhanced energy
25 efficiency policies to mitigate leakage shall not be considered
26 sufficient to fulfill the requirement of this subsection for the
27 adoption of a greenhouse gas emissions portfolio standard or any
28 other regulatory mechanism to mitigate leakage.]

29 d. Notwithstanding any provisions of the "Administrative
30 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
31 contrary, the board shall initiate a proceeding and shall adopt, after
32 notice, provision of the opportunity for comment, and public
33 hearing, renewable energy portfolio standards that shall require:

34 (1) that two and one-half percent of the kilowatt hours sold in
35 this State by each electric power supplier and each basic generation
36 service provider be from Class I or Class II renewable energy
37 sources;

38 (2) beginning on January 1, 2001, that one-half of one percent
39 of the kilowatt hours sold in this State by each electric power
40 supplier and each basic generation service provider be from Class I
41 renewable energy sources. The board shall increase the required
42 percentage for Class I renewable energy sources so that by January
43 1, 2006, one percent of the kilowatt hours sold in this State by each
44 electric power supplier and each basic generation service provider
45 shall be from Class I renewable energy sources and shall
46 additionally increase the required percentage for Class I renewable
47 energy sources by one-half of one percent each year until January 1,
48 2012, when four percent of the kilowatt hours sold in this State by

1 each electric power supplier and each basic generation service
 2 provider shall be from Class I renewable energy sources.

3 An electric power supplier or basic generation service provider
 4 may satisfy the requirements of this subsection by participating in a
 5 renewable energy trading program approved by the board in
 6 consultation with the Department of Environmental Protection;

7 (3) that the board establish a multi-year schedule, applicable to
 8 each electric power supplier or basic generation service provider in
 9 this State, beginning with the one-year period commencing on June
 10 1, 2010, and continuing for each subsequent one-year period up to
 11 and including, the one-year period commencing on June 1, 2028,
 12 that requires the following number or percentage, as the case may
 13 be, of kilowatt-hours sold in this State by each electric power
 14 supplier and each basic generation service provider to be from solar
 15 electric power generators connected to the distribution system in
 16 this State:

17	EY 2011	306 Gigawatthours (Gwhrs)
18	EY 2012	442 Gwhrs
19	EY 2013	596 Gwhrs
20	EY 2014	2.050%
21	EY 2015	2.450%
22	EY 2016	2.750%
23	EY 2017	3.000%
24	EY 2018	3.200%
25	EY 2019	3.290%
26	EY 2020	3.380%
27	EY 2021	3.470%
28	EY 2022	3.560%
29	EY 2023	3.650%
30	EY 2024	3.740%
31	EY 2025	3.830%
32	EY 2026	3.920%
33	EY 2027	4.010%

34 EY 2028 4.100%, and for every energy year thereafter, at least
 35 4.100% per energy year to reflect an increasing number of kilowatt-
 36 hours to be purchased by suppliers or providers from solar electric
 37 power generators connected to the distribution system in this State,
 38 and to establish a framework within which, of the electricity that the
 39 generators sell in this State, suppliers and providers shall each
 40 obtain at least 3.470% in the energy year 2021 and 4.100% in the
 41 energy year 2028 from solar electric power generators connected to
 42 the distribution system in this State, provided, however, that:

43 (a) The board shall determine an appropriate period of no less
 44 than 120 days following the end of an energy year prior to which a
 45 provider or supplier must demonstrate compliance for that energy
 46 year with the annual renewable portfolio standard;

47 (b) No more than 24 months following the date of enactment of
 48 P.L.2012, c.24, the board shall complete a proceeding to investigate

1 approaches to mitigate solar development volatility and prepare and
2 submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a
3 report to the Legislature, detailing its findings and
4 recommendations. As part of the proceeding, the board shall
5 evaluate other techniques used nationally and internationally;

6 (c) The solar renewable portfolio standards requirements in this
7 paragraph shall exempt those existing supply contracts which are
8 effective prior to the date of enactment of P.L.2012, c.24 from any
9 increase beyond the number of SRECs mandated by the solar
10 renewable portfolio standards requirements that were in effect on
11 the date that the providers executed their existing supply contracts.
12 This limited exemption for providers' existing supply contracts shall
13 not be construed to lower the Statewide solar sourcing requirements
14 set forth in this paragraph. Such incremental requirements that
15 would have otherwise been imposed on exempt providers shall be
16 distributed over the providers not subject to the existing supply
17 contract exemption until such time as existing supply contracts
18 expire and all providers are subject to the new requirement in a
19 manner that is competitively neutral among all providers and
20 suppliers. The board shall implement the provisions of this
21 subsection in a manner so as to prevent any subsidies between
22 suppliers and providers and to promote competition in the
23 electricity supply industry.

24 An electric power supplier or basic generation service provider
25 may satisfy the requirements of this subsection by participating in a
26 renewable energy trading program approved by the board in
27 consultation with the Department of Environmental Protection, or
28 compliance with the requirements of this subsection may be
29 demonstrated to the board by suppliers or providers through the
30 purchase of SRECs.

31 The renewable energy portfolio standards adopted by the board
32 pursuant to paragraphs (1) and (2) of this subsection shall be
33 effective as regulations immediately upon filing with the Office of
34 Administrative Law and shall be effective for a period not to exceed
35 18 months, and may, thereafter, be amended, adopted or readopted
36 by the board in accordance with the provisions of the
37 "Administrative Procedure Act."

38 The renewable energy portfolio standards adopted by the board
39 pursuant to this paragraph shall be effective as regulations
40 immediately upon filing with the Office of Administrative Law and
41 shall be effective for a period not to exceed 30 months after such
42 filing, and shall, thereafter, be amended, adopted or readopted by
43 the board in accordance with the "Administrative Procedure Act";
44 and

45 (4) within 180 days after the date of enactment of P.L.2010,
46 c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind
47 renewable energy certificate program to require that a percentage of
48 the kilowatt hours sold in this State by each electric power supplier

1 and each basic generation service provider be from offshore wind
2 energy in order to support at least 1,100 megawatts of generation
3 from qualified offshore wind projects.

4 The percentage established by the board pursuant to this
5 paragraph shall serve as an offset to the renewable energy portfolio
6 standard established pursuant to paragraphs (1) and (2) of this
7 subsection and shall reduce the corresponding Class I renewable
8 energy requirement.

9 The percentage established by the board pursuant to this
10 paragraph shall reflect the projected OREC production of each
11 qualified offshore wind project, approved by the board pursuant to
12 section 3 of P.L.2010, c.57 (C.48:3-87.1), for twenty years from the
13 commercial operation start date of the qualified offshore wind
14 project which production projection and OREC purchase
15 requirement, once approved by the board, shall not be subject to
16 reduction.

17 An electric power supplier or basic generation service provider
18 shall comply with the OREC program established pursuant to this
19 paragraph through the purchase of offshore wind renewable energy
20 certificates at a price and for the time period required by the board.
21 In the event there are insufficient offshore wind renewable energy
22 certificates available, the electric power supplier or basic generation
23 service provider shall pay an offshore wind alternative compliance
24 payment established by the board. Any offshore wind alternative
25 compliance payments collected shall be refunded directly to the
26 ratepayers by the electric public utilities.

27 The rules established by the board pursuant to this paragraph
28 shall be effective as regulations immediately upon filing with the
29 Office of Administrative Law and shall be effective for a period not
30 to exceed 18 months, and may, thereafter, be amended, adopted or
31 readopted by the board in accordance with the provisions of the
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.).

34 e. Notwithstanding any provisions of the "Administrative
35 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
36 contrary, the board shall initiate a proceeding and shall adopt, after
37 notice, provision of the opportunity for comment, and public
38 hearing:

39 (1) net metering standards for electric power suppliers and basic
40 generation service providers. The standards shall require electric
41 power suppliers and basic generation service providers to offer net
42 metering at non-discriminatory rates to industrial, large
43 commercial, residential and small commercial customers, as those
44 customers are classified or defined by the board, that generate
45 electricity, on the customer's side of the meter, using a Class I
46 renewable energy source, for the net amount of electricity supplied
47 by the electric power supplier or basic generation service provider
48 over an annualized period. Systems of any sized capacity, as

1 measured in watts, are eligible for net metering. If the amount of
2 electricity generated by the customer-generator, plus any kilowatt
3 hour credits held over from the previous billing periods, exceeds the
4 electricity supplied by the electric power supplier or basic
5 generation service provider, then the electric power supplier or
6 basic generation service provider, as the case may be, shall credit
7 the customer-generator for the excess kilowatt hours until the end of
8 the annualized period at which point the customer-generator will be
9 compensated for any remaining credits or, if the customer-generator
10 chooses, credit the customer-generator on a real-time basis, at the
11 electric power supplier's or basic generation service provider's
12 avoided cost of wholesale power or the PJM electric power pool's
13 real-time locational marginal pricing rate, adjusted for losses, for
14 the respective zone in the PJM electric power pool. Alternatively,
15 the customer-generator may execute a bilateral agreement with an
16 electric power supplier or basic generation service provider for the
17 sale and purchase of the customer-generator's excess generation.
18 The customer-generator may be credited on a real-time basis, so
19 long as the customer-generator follows applicable rules prescribed
20 by the PJM electric power pool for its capacity requirements for the
21 net amount of electricity supplied by the electric power supplier or
22 basic generation service provider. The board may authorize an
23 electric power supplier or basic generation service provider to cease
24 offering net metering whenever the total rated generating capacity
25 owned and operated by net metering customer-generators Statewide
26 equals 2.5 percent of the State's peak electricity demand;

27 (2) safety and power quality interconnection standards for Class
28 I renewable energy source systems used by a customer-generator
29 that shall be eligible for net metering.

30 Such standards or rules shall take into consideration the goals of
31 the New Jersey Energy Master Plan, applicable industry standards,
32 and the standards of other states and the Institute of Electrical and
33 Electronic Engineers. The board shall allow electric public utilities
34 to recover the costs of any new net meters, upgraded net meters,
35 system reinforcements or upgrades, and interconnection costs
36 through either their regulated rates or from the net metering
37 customer-generator;

38 (3) credit or other incentive rules for generators using Class I
39 renewable energy generation systems that connect to New Jersey's
40 electric public utilities' distribution system but who do not net
41 meter; and

42 (4) net metering aggregation standards to require electric public
43 utilities to provide net metering aggregation to single electric public
44 utility customers that operate a solar electric power generation
45 system installed at one of the customer's facilities or on property
46 owned by the customer, provided that any such customer is a State
47 entity, school district, county, county agency, county authority,
48 municipality, municipal agency, or municipal authority. The

1 standards shall provide that, in order to qualify for net metering
2 aggregation, the customer must operate a solar electric power
3 generation system using a net metering billing account, which
4 system is located on property owned by the customer, provided that:
5 (a) the property is not land that has been actively devoted to
6 agricultural or horticultural use and that is valued, assessed, and
7 taxed pursuant to the "Farmland Assessment Act of 1964,"
8 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
9 period prior to the effective date of P.L.2012, c.24, provided,
10 however, that the municipal planning board of a municipality in
11 which a solar electric power generation system is located may
12 waive the requirement of this subparagraph (a), (b) the system is not
13 an on-site generation facility, (c) all of the facilities of the single
14 customer combined for the purpose of net metering aggregation are
15 facilities owned or operated by the single customer and are located
16 within its territorial jurisdiction except that all of the facilities of a
17 State entity engaged in net metering aggregation shall be located
18 within five miles of one another, and (d) all of those facilities are
19 within the service territory of a single electric public utility and are
20 all served by the same basic generation service provider or by the
21 same electric power supplier. The standards shall provide that in
22 order to qualify for net metering aggregation, the customer's solar
23 electric power generation system shall be sized so that its annual
24 generation does not exceed the combined metered annual energy
25 usage of the qualified customer facilities, and the qualified
26 customer facilities shall all be in the same customer rate class under
27 the applicable electric public utility tariff. For the customer's
28 facility or property on which the solar electric generation system is
29 installed, the electricity generated from the customer's solar electric
30 generation system shall be accounted for pursuant to the provisions
31 of paragraph (1) of this subsection to provide that the electricity
32 generated in excess of the electricity supplied by the electric power
33 supplier or the basic generation service provider, as the case may
34 be, for the customer's facility on which the solar electric generation
35 system is installed, over the annualized period, is credited at the
36 electric power supplier's or the basic generation service provider's
37 avoided cost of wholesale power or the PJM electric power pool
38 real-time locational marginal pricing rate. All electricity used by
39 the customer's qualified facilities, with the exception of the facility
40 or property on which the solar electric power generation system is
41 installed, shall be billed at the full retail rate pursuant to the electric
42 public utility tariff applicable to the customer class of the customer
43 using the electricity. A customer may contract with a third party to
44 operate a solar electric power generation system, for the purpose of
45 net metering aggregation. Any contractual relationship entered into
46 for operation of a solar electric power generation system related to
47 net metering aggregation shall include contractual protections that
48 provide for adequate performance and provision for construction

1 and operation for the term of the contract, including any appropriate
2 bonding or escrow requirements. Any incremental cost to an
3 electric public utility for net metering aggregation shall be fully and
4 timely recovered in a manner to be determined by the board. The
5 board shall adopt net metering aggregation standards within 270
6 days after the effective date of P.L.2012, c.24.

7 Such rules shall require the board or its designee to issue a credit
8 or other incentive to those generators that do not use a net meter but
9 otherwise generate electricity derived from a Class I renewable
10 energy source and to issue an enhanced credit or other incentive,
11 including, but not limited to, a solar renewable energy credit, to
12 those generators that generate electricity derived from solar
13 technologies.

14 Such standards or rules shall be effective as regulations
15 immediately upon filing with the Office of Administrative Law and
16 shall be effective for a period not to exceed 18 months, and may,
17 thereafter, be amended, adopted or readopted by the board in
18 accordance with the provisions of the "Administrative Procedure
19 Act."

20 f. The board may assess, by written order and after notice and
21 opportunity for comment, a separate fee to cover the cost of
22 implementing and overseeing an emission disclosure system or
23 emission portfolio standard, which fee shall be assessed based on an
24 electric power supplier's or basic generation service provider's share
25 of the retail electricity supply market. [The board shall not impose
26 a fee for the cost of implementing and overseeing a greenhouse gas
27 emissions portfolio standard adopted pursuant to paragraph (2) of
28 subsection c. of this section, the electric energy efficiency portfolio
29 standard adopted pursuant to subsection g. of this section, or the gas
30 energy efficiency portfolio standard adopted pursuant to subsection
31 h. of this section.]

32 g. The board may adopt, pursuant to the "Administrative
33 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
34 energy efficiency portfolio standard that may require each electric
35 public utility to implement energy efficiency measures that reduce
36 electricity usage in the State by 2020 to a level that is 20 percent
37 below the usage projected by the board in the absence of such a
38 standard. Nothing in this section shall be construed to prevent an
39 electric public utility from meeting the requirements of this section
40 by contracting with another entity for the performance of the
41 requirements.

42 h. The board may adopt, pursuant to the "Administrative
43 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy
44 efficiency portfolio standard that may require each gas public utility
45 to implement energy efficiency measures that reduce natural gas
46 usage for heating in the State by 2020 to a level that is 20 percent
47 below the usage projected by the board in the absence of such a
48 standard. Nothing in this section shall be construed to prevent a gas

1 public utility from meeting the requirements of this section by
 2 contracting with another entity for the performance of the
 3 requirements.

4 i. After the board establishes a schedule of solar kilowatt-hour
 5 sale or purchase requirements pursuant to paragraph (3) of
 6 subsection d. of this section, the board may initiate subsequent
 7 proceedings and adopt, after appropriate notice and opportunity for
 8 public comment and public hearing, increased minimum solar
 9 kilowatt-hour sale or purchase requirements, provided that the
 10 board shall not reduce previously established minimum solar
 11 kilowatt-hour sale or purchase requirements, or otherwise impose
 12 constraints that reduce the requirements by any means.

13 j. The board shall determine an appropriate level of solar
 14 alternative compliance payment, and permit each supplier or
 15 provider to submit an SACP to comply with the solar electric
 16 generation requirements of paragraph (3) of subsection d. of this
 17 section. The value of the SACP for each Energy Year, for Energy
 18 Years 2014 through 2028 per megawatt hour from solar electric
 19 generation required pursuant to this section, shall be:

20 EY 2014	\$339
21 EY 2015	\$331
22 EY 2016	\$323
23 EY 2017	\$315
24 EY 2018	\$308
25 EY 2019	\$300
26 EY 2020	\$293
27 EY 2021	\$286
28 EY 2022	\$279
29 EY 2023	\$272
30 EY 2024	\$266
31 EY 2025	\$260
32 EY 2026	\$253
33 EY 2027	\$250
34 EY 2028	\$239.

35 The board may initiate subsequent proceedings and adopt, after
 36 appropriate notice and opportunity for public comment and public
 37 hearing, an increase in solar alternative compliance payments,
 38 provided that the board shall not reduce previously established
 39 levels of solar alternative compliance payments, nor shall the board
 40 provide relief from the obligation of payment of the SACP by the
 41 electric power suppliers or basic generation service providers in any
 42 form. Any SACP payments collected shall be refunded directly to
 43 the ratepayers by the electric public utilities.

44 k. The board may allow electric public utilities to offer long-
 45 term contracts through a competitive process, direct electric public
 46 utility investment and other means of financing, including but not
 47 limited to loans, for the purchase of SRECs and the resale of SRECs
 48 to suppliers or providers or others, provided that after such

1 contracts have been approved by the board, the board's approvals
2 shall not be modified by subsequent board orders. If the board
3 allows the offering of contracts pursuant to this subsection, the
4 board may establish a process, after hearing, and opportunity for
5 public comment, to provide that a designated segment of the
6 contracts approved pursuant to this subsection shall be contracts
7 involving solar electric power generation facility projects with a
8 capacity of up to 250 kilowatts.

9 1. The board shall implement its responsibilities under the
10 provisions of this section in such a manner as to:

11 (1) place greater reliance on competitive markets, with the
12 explicit goal of encouraging and ensuring the emergence of new
13 entrants that can foster innovations and price competition;

14 (2) maintain adequate regulatory authority over non-competitive
15 public utility services;

16 (3) consider alternative forms of regulation in order to address
17 changes in the technology and structure of electric public utilities;

18 (4) promote energy efficiency and Class I renewable energy
19 market development, taking into consideration environmental
20 benefits and market barriers;

21 (5) make energy services more affordable for low and moderate
22 income customers;

23 (6) attempt to transform the renewable energy market into one
24 that can move forward without subsidies from the State or public
25 utilities;

26 (7) achieve the goals put forth under the renewable energy
27 portfolio standards;

28 (8) promote the lowest cost to ratepayers; and

29 (9) allow all market segments to participate.

30 m. The board shall ensure the availability of financial incentives
31 under its jurisdiction, including, but not limited to, long-term
32 contracts, loans, SRECs, or other financial support, to ensure
33 market diversity, competition, and appropriate coverage across all
34 ratepayer segments, including, but not limited to, residential,
35 commercial, industrial, non-profit, farms, schools, and public entity
36 customers.

37 n. For projects which are owned, or directly invested in, by a
38 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-
39 98.1), the board shall determine the number of SRECs with which
40 such projects shall be credited; and in determining such number the
41 board shall ensure that the market for SRECs does not detrimentally
42 affect the development of non-utility solar projects and shall
43 consider how its determination may impact the ratepayers.

44 o. The board, in consultation with the Department of
45 Environmental Protection, electric public utilities, the Division of
46 Rate Counsel in, but not of, the Department of the Treasury,
47 affected members of the solar energy industry, and relevant
48 stakeholders, shall periodically consider increasing the renewable

1 energy portfolio standards beyond the minimum amounts set forth
2 in subsection d. of this section, taking into account the cost impacts
3 and public benefits of such increases including, but not limited to:

4 (1) reductions in air pollution, water pollution, and land
5 disturbance [, and greenhouse gas emissions];

6 (2) reductions in peak demand for electricity and natural gas,
7 and the overall impact on the costs to customers of electricity and
8 natural gas;

9 (3) increases in renewable energy development, manufacturing,
10 investment, and job creation opportunities in this State; and

11 (4) reductions in State and national dependence on the use of
12 fossil fuels.

13 p. Class I RECs and ORECs shall be eligible for use in
14 renewable energy portfolio standards compliance in the energy year
15 in which they are generated, and for the following two energy years.
16 SRECs shall be eligible for use in renewable energy portfolio
17 standards compliance in the energy year in which they are
18 generated, and for the following four energy years.

19 q. (1) During the energy years of 2014, 2015, and 2016, a solar
20 electric power generation facility project that is not: (a) net
21 metered; (b) an on-site generation facility; (c) qualified for net
22 metering aggregation; or (d) certified as being located on a
23 brownfield, on an area of historic fill or on a properly closed
24 sanitary landfill facility, as provided pursuant to subsection t. of this
25 section may file an application with the board for approval of a
26 designation pursuant to this subsection that the facility is connected
27 to the distribution system. An application filed pursuant to this
28 subsection shall include a notice escrow of \$40,000 per megawatt of
29 the proposed capacity of the facility. The board shall approve the
30 designation if: the facility has filed a notice in writing with the
31 board applying for designation pursuant to this subsection, together
32 with the notice escrow; and the capacity of the facility, when added
33 to the capacity of other facilities that have been previously
34 approved for designation prior to the facility's filing under this
35 subsection, does not exceed 80 megawatts in the aggregate for each
36 year. The capacity of any one solar electric power supply project
37 approved pursuant to this subsection shall not exceed 10 megawatts.
38 No more than 90 days after its receipt of a completed application
39 for designation pursuant to this subsection, the board shall approve,
40 conditionally approve, or disapprove the application. The notice
41 escrow shall be reimbursed to the facility in full upon either
42 rejection by the board or the facility entering commercial operation,
43 or shall be forfeited to the State if the facility is designated pursuant
44 to this subsection but does not enter commercial operation pursuant
45 to paragraph (2) of this subsection.

46 (2) If the proposed solar electric power generation facility does
47 not commence commercial operations within two years following
48 the date of the designation by the board pursuant to this subsection,

1 the designation of the facility shall be deemed to be null and void,
2 and the facility shall not be considered connected to the distribution
3 system thereafter.

4 r. (1) For all proposed solar electric power generation facility
5 projects except for those solar electric power generation facility
6 projects approved pursuant to subsection q. of this section, and for
7 all projects proposed in each energy year following energy year
8 2016, a proposed solar electric power generation facility that is
9 neither net metered nor an on-site generation facility, may be
10 considered "connected to the distribution system" only upon
11 designation as such by the board, after notice to the public and
12 opportunity for public comment or hearing. A proposed solar
13 power electric generation facility seeking board designation as
14 "connected to the distribution system" shall submit an application to
15 the board that includes for the proposed facility: the nameplate
16 capacity; the estimated energy and number of SRECs to be
17 produced and sold per year; the estimated annual rate impact on
18 ratepayers; the estimated capacity of the generator as defined by
19 PJM for sale in the PJM capacity market; the point of
20 interconnection; the total project acreage and location; the current
21 land use designation of the property; the type of solar technology to
22 be used; and such other information as the board shall require.

23 (2) The board shall approve the designation of the proposed
24 solar power electric generation facility as "connected to the
25 distribution system" if the board determines that:

26 (a) the SRECs forecasted to be produced by the facility do not
27 have a detrimental impact on the SREC market or on the
28 appropriate development of solar power in the State;

29 (b) the approval of the designation of the proposed facility
30 would not significantly impact the preservation of open space in
31 this State;

32 (c) the impact of the designation on electric rates and economic
33 development is beneficial; and

34 (d) there will be no impingement on the ability of an electric
35 public utility to maintain its property and equipment in such a
36 condition as to enable it to provide safe, adequate, and proper
37 service to each of its customers.

38 (3) The board shall act within 90 days of its receipt of a
39 completed application for designation of a solar power electric
40 generation facility as "connected to the distribution system," to
41 either approve, conditionally approve, or disapprove the
42 application. If the proposed solar electric power generation facility
43 does not commence commercial operations within two years
44 following the date of the designation by the board pursuant to this
45 subsection, the designation of the facility as "connected to the
46 distribution system" shall be deemed to be null and void, and the
47 facility shall thereafter be considered not "connected to the
48 distribution system."

1 s. In addition to any other requirements of P.L.1999, c.23 or
2 any other law, rule, regulation or order, a solar electric power
3 generation facility that is not net metered or an on-site generation
4 facility and which is located on land that has been actively devoted
5 to agricultural or horticultural use that is valued, assessed, and
6 taxed pursuant to the "Farmland Assessment Act of 1964,"
7 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
8 period prior to the effective date of P.L.2012, c.24, shall only be
9 considered "connected to the distribution system" if (1) the board
10 approves the facility's designation pursuant to subsection q. of this
11 section; or (2) (a) PJM issued a System Impact Study for the facility
12 on or before June 30, 2011, (b) the facility files a notice with the
13 board within 60 days of the effective date of P.L.2012, c.24,
14 indicating its intent to qualify under this subsection, and (c) the
15 facility has been approved as "connected to the distribution system"
16 by the board. Nothing in this subsection shall limit the board's
17 authority concerning the review and oversight of facilities, unless
18 such facilities are exempt from such review as a result of having
19 been approved pursuant to subsection q. of this section.

20 t. (1) No more than 180 days after the date of enactment of
21 P.L.2012, c.24, the board shall, in consultation with the Department
22 of Environmental Protection and the New Jersey Economic
23 Development Authority, and, after notice and opportunity for public
24 comment and public hearing, complete a proceeding to establish a
25 program to provide SRECs to owners of solar electric power
26 generation facility projects certified by the board, in consultation
27 with the Department of Environmental Protection, as being located
28 on a brownfield, on an area of historic fill or on a properly closed
29 sanitary landfill facility, including those owned or operated by an
30 electric public utility and approved pursuant to section 13 of
31 P.L.2007, c.340 (C.48:3-98.1). Projects certified under this
32 subsection shall be considered "connected to the distribution
33 system", shall not require such designation by the board, and shall
34 not be subject to board review required pursuant to subsections q.
35 and r. of this section. Notwithstanding the provisions of section 3
36 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or
37 order to the contrary, for projects certified under this subsection, the
38 board shall establish a financial incentive that is designed to
39 supplement the SRECs generated by the facility in order to cover
40 the additional cost of constructing and operating a solar electric
41 power generation facility on a brownfield, on an area of historic fill
42 or on a properly closed sanitary landfill facility. Any financial
43 benefit realized in relation to a project owned or operated by an
44 electric public utility and approved by the board pursuant to section
45 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a
46 financial incentive established by the board pursuant to this
47 subsection, shall be credited to ratepayers. The issuance of SRECs
48 for all solar electric power generation facility projects pursuant to

1 this subsection shall be deemed "Board of Public Utilities financial
2 assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-
3 29.47).

4 (2) Notwithstanding the provisions of the "Spill Compensation
5 and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any
6 other law, rule, regulation, or order to the contrary, the board, in
7 consultation with the Department of Environmental Protection, may
8 find that a person who operates a solar electric power generation
9 facility project that has commenced operation on or after the
10 effective date of P.L.2012, c.24, which project is certified by the
11 board, in consultation with the Department of Environmental
12 Protection pursuant to paragraph (1) of this subsection, as being
13 located on a brownfield for which a final remediation document has
14 been issued, on an area of historic fill or on a properly closed
15 sanitary landfill facility, which projects shall include, but not be
16 limited to projects located on a brownfield for which a final
17 remediation document has been issued, on an area of historic fill or
18 on a properly closed sanitary landfill facility owned or operated by
19 an electric public utility and approved pursuant to section 13 of
20 P.L.2007, c.340 (C.48:3-98.1), or a person who owns property
21 acquired on or after the effective date of P.L.2012, c.24 on which
22 such a solar electric power generation facility project is constructed
23 and operated, shall not be liable for cleanup and removal costs to
24 the Department of Environmental Protection or to any other person
25 for the discharge of a hazardous substance provided that:

26 (a) the person acquired or leased the real property after the
27 discharge of that hazardous substance at the real property;

28 (b) the person did not discharge the hazardous substance, is not
29 in any way responsible for the hazardous substance, and is not a
30 successor to the discharger or to any person in any way responsible
31 for the hazardous substance or to anyone liable for cleanup and
32 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-
33 23.11g);

34 (c) the person, within 30 days after acquisition of the property,
35 gave notice of the discharge to the Department of Environmental
36 Protection in a manner the Department of Environmental Protection
37 prescribes;

38 (d) the person does not disrupt or change, without prior written
39 permission from the Department of Environmental Protection, any
40 engineering or institutional control that is part of a remedial action
41 for the contaminated site or any landfill closure or post-closure
42 requirement;

43 (e) the person does not exacerbate the contamination at the
44 property;

45 (f) the person does not interfere with any necessary remediation
46 of the property;

47 (g) the person complies with any regulations and any permit the
48 Department of Environmental Protection issues pursuant to section

1 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
2 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

3 (h) with respect to an area of historic fill, the person has
4 demonstrated pursuant to a preliminary assessment and site
5 investigation, that hazardous substances have not been discharged;
6 and

7 (i) with respect to a properly closed sanitary landfill facility, no
8 person who owns or controls the facility receives, has received, or
9 will receive, with respect to such facility, any funds from any post-
10 closure escrow account established pursuant to section 10 of
11 P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of
12 the facility.

13 Only the person who is liable to clean up and remove the
14 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
15 23.11g) and who does not have a defense to liability pursuant to
16 subsection d. of that section shall be liable for cleanup and removal
17 costs.

18 u. No more than 180 days after the date of enactment of
19 P.L.2012, c.24, the board shall complete a proceeding to establish a
20 registration program. The registration program shall require the
21 owners of solar electric power generation facility projects
22 connected to the distribution system to make periodic milestone
23 filings with the board in a manner and at such times as determined
24 by the board to provide full disclosure and transparency regarding
25 the overall level of development and construction activity of those
26 projects Statewide.

27 v. The issuance of SRECs for all solar electric power
28 generation facility projects pursuant to this section, for projects
29 connected to the distribution system with a capacity of one
30 megawatt or greater, shall be deemed "Board of Public Utilities
31 financial assistance" as provided pursuant to section 1 of P.L.2009,
32 c.89 (C.48:2-29.47).

33 w. No more than 270 days after the date of enactment of
34 P.L.2012, c.24, the board shall, after notice and opportunity for
35 public comment and public hearing, complete a proceeding to
36 consider whether to establish a program to provide, to owners of
37 solar electric power generation facility projects certified by the
38 board as being three megawatts or greater in capacity and being net
39 metered, including facilities which are owned or operated by an
40 electric public utility and approved by the board pursuant to section
41 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is
42 designed to supplement the SRECs generated by the facility to
43 further the goal of improving the economic competitiveness of
44 commercial and industrial customers taking power from such
45 projects. If the board determines to establish such a program
46 pursuant to this subsection, the board may establish a financial
47 incentive to provide that the board shall issue one SREC for no less
48 than every 750 kilowatt-hours of solar energy generated by the

1 certified projects. Any financial benefit realized in relation to a
2 project owned or operated by an electric public utility and approved
3 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-
4 98.1), as a result of the provisions of a financial incentive
5 established by the board pursuant to this subsection, shall be
6 credited to ratepayers.

7 x. Solar electric power generation facility projects that are
8 located on an existing or proposed commercial, retail, industrial,
9 municipal, professional, recreational, transit, commuter,
10 entertainment complex, multi-use, or mixed-use parking lot with a
11 capacity to park 350 or more vehicles where the area to be utilized
12 for the facility is paved, or an impervious surface may be owned or
13 operated by an electric public utility and may be approved by the
14 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).
15 (cf: P.L.2012, c.24, s.2)

16

17 7. This act shall take effect immediately.

18

19

20

STATEMENT

21

22 This bill would repeal the “Global Warming Response Act,”
23 P.L.2007, c.112 (C.26:2C-37 et al.), and related sections of
24 P.L.2007, c.340 (C.26:2C-45 et al.), which is commonly referred to
25 as the “Regional Greenhouse Gas Initiative” or RGGI implementing
26 law. The bill would also amend various sections of the statutory
27 law in order to remove any references to the acts being repealed.

28 The bill would retain section 13 of the Regional Greenhouse Gas
29 Initiative implementing law, as well as subsections g. and h. of
30 P.L.1999, c.23 (C.48:3-87), which were added to that section of law
31 by the Global Warming Response Act, since these provisions do not
32 relate to the regulation of greenhouse gas emissions, and instead
33 provide only for the discretionary investment, funding, and
34 adoption of energy efficiency and renewable energy programs and
35 standards.

36 Finally, the bill would transfer to the General Fund all of the
37 unencumbered moneys in the “Global Warming Solutions Fund,”
38 which was established pursuant to the Regional Greenhouse Gas
39 Initiative implementing law. This transfer of funds would also have
40 the effect of reducing the amount of moneys available for the Forest
41 Stewardship Incentive Fund.