

§§1-7  
C.48:3-114 to  
48:3-120  
§8  
C.13:1B-15.178

P.L. 2021, CHAPTER 169, *approved July 9, 2021*  
Assembly Committee Substitute for  
Assembly, No. 4554

1 **AN ACT** concerning certain solar energy projects, amending and  
2 supplementing P.L.1999, c.23, amending P.L.2016, c.12, and  
3 supplementing Title 13 of the Revised Statutes.

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

7  
8 1. (New section) The Legislature hereby finds and declares  
9 that:

10 a. In order to achieve the State's goal of securing 50 percent of  
11 its electricity supply from renewable energy by 2030 with the least  
12 cost and the greatest benefit to consumers, it is critical to promote  
13 investment in new solar electric power generation facilities,  
14 including grid supply solar facilities, community solar facilities,  
15 and net metered solar facilities;

16 b. The New Jersey 2019 Energy Master Plan, prepared pursuant  
17 to section 12 of P.L.1977, c.146 (C.52:27F-14), found that: (1) the  
18 State can achieve its 100 percent clean energy and 80 percent  
19 greenhouse gas reduction goals, which will likely lead to net  
20 savings when health benefits and climate change mitigation benefits  
21 are taken into account, in part by maximizing the development of  
22 renewable energy generation, including 17 gigawatts of solar power  
23 by 2035 and 32 gigawatts by 2050; and (2) under the least cost path  
24 identified by the plan, solar energy could meet 34 percent of the  
25 State's clean energy needs by 2050;

26 c. The development of grid supply solar should be directed  
27 toward marginal land and the built environment and away from  
28 open space, flood zones, and other areas especially vulnerable to  
29 climate change, and a coordinated land use policy for grid supply  
30 solar siting is needed to affordably expand New Jersey's  
31 commitment to renewable energy while not compromising the  
32 State's commitment to preserving and protecting open space and  
33 farmland;

34 d. New Jersey has the market potential to host thousands of  
35 megawatts of solar power generation facilities from grid supply,

**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 community solar, and net-metered solar installations, which will  
2 create solar jobs and improve the environment; and

3 e. It is therefore in the public interest to develop a new solar  
4 program that incentivizes new solar electric power generation  
5 facilities, including net metered solar facilities, community solar  
6 facilities, and grid supply solar facilities, which are capable of  
7 ensuring that clean and reliable solar energy is supplied to New  
8 Jersey consumers, and which contribute to meeting the State's  
9 energy goals.

10  
11 2. (New section) a. There is established in the Board of Public  
12 Utilities a program to be known as the SREC-II program, which  
13 shall serve as the successor program to the SREC program  
14 established pursuant to section 38 of P.L.1999, c.23 (C.48:3-87).  
15 The goal of the program shall be to provide incentives for the  
16 development of at least 3,750 megawatts of new solar power  
17 generation by 2026, although this goal may be extended or revised  
18 by the board as necessary to conform to the State's solar energy  
19 policies.

20 b. The board shall develop, as part of the SREC-II program, a  
21 process for the creation and distribution of renewable energy  
22 certificates, to be known as "SREC-IIs," for each megawatt hour of  
23 energy produced by a qualifying solar electric power generation  
24 facility for a duration established by the board. The board shall also  
25 establish a system by which to distribute a renewable energy  
26 incentive payment, to be known as the "SREC-II value per  
27 megawatt-hour," to the owner of an eligible solar electric power  
28 generation facility, which shall be measured in dollars-per-  
29 megawatt-hour of solar power generation, and which shall represent  
30 the value of the environmental attribute produced by the solar  
31 electric power generation facility. SREC-IIs shall be transferable  
32 and capable of being used by an electric power supplier or basic  
33 generation service provider to satisfy the State's renewable portfolio  
34 standards established pursuant to section 38 of P.L.1999, c.23  
35 (C.48:3-87). SREC-IIs shall be eligible for use in renewable energy  
36 portfolio standards compliance in the energy year in which they are  
37 generated, and for the following energy year.

38 c. No later than one year after the effective date of P.L. ,  
39 c. (C. ) (pending before the Legislature as this bill), the  
40 board shall adopt, pursuant to the "Administrative Procedure Act,"  
41 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations  
42 establishing the SREC-II program in accordance with the provisions  
43 of P.L. , c. (C. ) (pending before the Legislature as this  
44 bill).

45 d. The board is authorized to establish, impose, and collect fees,  
46 escrows, and other charges the board deems necessary and proper to  
47 implement the provisions of P.L. , c. (C. ) (pending before  
48 the Legislature as this bill).

1 e. The costs of the SREC-II program shall be apportioned to  
2 ratepayers using a methodology approved by the board. Except as  
3 provided in subsection h. of section 4 of P.L. , c. (C. )  
4 (pending before the Legislature as this bill), the methodology shall  
5 be similar to that by which the board apportions the costs of SRECs  
6 and other renewable energy certificates pursuant to section 38 of  
7 P.L.1999, c.23 (C.48:3-87) and consistent with the competitive  
8 retail market established by the "Energy Discount and Energy  
9 Competition Act," P.L.1999, c.23 (C.48:3-49 et al.).

10  
11 3. (New section) a. The board shall develop, as part of the  
12 SREC-II program, a small solar facilities incentive program to  
13 award SREC-IIs to the owners of community solar facilities and net  
14 metered solar facilities less than five megawatts in size, as  
15 measured in direct current, or another size specified by the board.  
16 The small solar facilities incentive program shall aim to provide  
17 SREC-IIs for the generation of at least 300 megawatts of net-  
18 metered solar facilities per year and 150 megawatts of community  
19 solar facilities per year, for each of the five years after the  
20 establishment of the SREC-II program.

21 b. The board shall establish eligibility criteria and an application  
22 process by which an owner of a solar electric power generation  
23 facility may apply to receive SREC-IIs pursuant to this section,  
24 until the program reaches the energy generation target established  
25 by subsection a. of this section, as determined by the board. Only  
26 solar electric power generation facilities that receive permission to  
27 operate from the appropriate regional grid operator after the  
28 effective date of P.L. , c. (C. ) (pending before the  
29 Legislature as this bill), shall be eligible to receive SREC-IIs  
30 pursuant to this section, unless otherwise specified by the board. A  
31 facility shall be eligible to receive SREC-IIs pursuant to this section  
32 for a duration established by the board if it is connected to the  
33 distribution or transmission system owned or operated by a New  
34 Jersey public utility or local government unit.

35 c. The small solar facilities incentive program shall include  
36 criteria by which to assign an SREC-II value per megawatt-hour to a  
37 solar electric power generation facility. The criteria shall be designed  
38 by the board to incentivize the development of new solar power  
39 projects sufficiently so that the goals for solar power development in  
40 the State's Energy Master Plan are met, to further other State goals,  
41 and to incentivize projects that are especially in the public interest.  
42 The SREC-II value per megawatt-hour may include the value of the  
43 environmental and other benefits to the State provided by the  
44 facility, as determined by the board. The criteria may include, but is  
45 not limited to, consideration of the following factors:

46 (1) the size of the facility;

47 (2) the costs and revenues associated with representative facilities;

1 (3) for community solar facilities, the economic and demographic  
2 characteristics of the area served by the facility, including whether it is  
3 located in an overburdened community, as that term is defined in  
4 section 2 of P.L.2020, c.92 (C.13:1D-158);

5 (4) whether the facility is located on already developed land or the  
6 built environment;

7 (5) the facility's eligibility for net metering pursuant to subsection  
8 e. of section 38 of P.L.1999, c.23 (C.48:3-87) or participation in the  
9 community solar program established pursuant to subsection f. of  
10 section 5 of P.L.2018, c.17 (C.48:3-87.11); and

11 (6) the rate class of the facility, as determined by the appropriate  
12 New Jersey electric public utility or local government unit.

13  
14 4. (New section) a. The board shall develop and administer, as  
15 part of the SREC-II program, a transparent, fair, and competitive  
16 solicitation process for awarding SREC-II contracts to promote the  
17 construction of solar electric power generation facilities.

18 (1) In order to be eligible to participate in the solicitation process, a  
19 solar electric power generation facility shall be:

20 (a) a grid supply solar facility or net metered solar facility  
21 greater than five megawatts in size, as measured in direct current, or  
22 another size specified by the board;

23 (b) constructed after the effective date of P.L. , c. (C. )  
24 (pending before the Legislature as this bill);

25 (c) interconnected to a distribution or transmission system  
26 operated by a New Jersey electric public utility or local government  
27 unit; and

28 (d) sited in conformance with the siting criteria established by  
29 the board pursuant to section 6 of P.L. , c. (C. ) (pending  
30 before the Legislature as this bill).

31 (2) The board shall develop additional eligibility criteria and  
32 application processes for participation in the solicitation process.

33 b. The board may establish a system of distinct bidding  
34 categories within the competitive solicitation process set forth in  
35 this section, such that only bids from the same category compete  
36 with one another. The category system may take into account the  
37 size of the facility, location of the facility on a contaminated site or  
38 landfill, as determined by the board in consultation with the  
39 Department of Environmental Protection, or any other feature of a  
40 facility, provided that the category system enhances the continued  
41 diversification of the energy resources used to meet consumer  
42 demand in this State and results in environmental and public health  
43 benefits to New Jersey residents, as determined by the board. The  
44 board may revise the category system as it deems appropriate after  
45 each solicitation round.

46 c. Solicitation rounds shall occur at least as frequently as once  
47 every 18 months, beginning on the effective date of P.L. ,  
48 c. (C. ) (pending before the Legislature as this bill) and

- 1 ending no earlier than January 1, 2026. The solicitation process  
2 shall:
- 3 (1) be open on a non-discriminatory basis to any entity seeking  
4 to construct a solar electric power generation facility that complies  
5 with the provisions of subsection a. of this section;
- 6 (2) be carried out in accordance with criteria developed by the  
7 board and applied equally to all responses to the solicitation;
- 8 (3) award contracts for SREC-IIs to promote the construction of  
9 solar electric power generation facilities for no less than an average  
10 of 300 megawatts per year, for five years, with the first awards  
11 made no later than 18 months after the effective date P.L. ,  
12 c. (C. ) (pending before the Legislature as this bill);
- 13 (4) award projects selected as part of the competitive solicitation  
14 process the right to receive a renewable energy incentive payment,  
15 in the form of an SREC-II value per megawatt-hour established by  
16 the board, for the environmental attribute produced by the solar  
17 electric power generation facility, for a duration to be established  
18 by the board. The SREC-II value per megawatt-hour may include  
19 the value of the environmental and other benefits to the State  
20 provided by the facility, as determined by the board;
- 21 (5) ensure that the length of any award is sufficient to encourage  
22 low financing rates, reasonable risks to ratepayers, and to enable the  
23 development of affordable renewable energy resources;
- 24 (6) mitigate price and delivery risks for consumers;
- 25 (7) include requirements designed to ensure successful  
26 completion of projects, including, but not limited to, the imposition  
27 of appropriate escrow fees, bid maturity requirements, required  
28 interconnection milestones, and conditions on when a project must  
29 achieve commercial operation; and
- 30 (8) ensure that the environmental and public health benefits of  
31 solar electric power generation facilities on contaminated sites or  
32 landfills are recognized, including accommodating the long  
33 development timescale for these projects.
- 34 d. The board may establish confidential high and low bid  
35 thresholds prior to conducting a competitive solicitation pursuant to  
36 this section, provided that the thresholds promote fiscal  
37 responsibility for the State and the likelihood of successful bids, as  
38 determined by the board. The thresholds may include a cap on the  
39 renewable energy incentive payments required pursuant to  
40 paragraph (4) of subsection c. of this section. The board may also  
41 procure more than the minimum quantity of solar power required by  
42 this section if bids are below the predetermined bid threshold.
- 43 e. The board shall determine, in consultation with the  
44 Department of Environmental Protection, if a solar electric power  
45 generation facility may be sited on a contaminated site or landfill  
46 for the purposes of this section. If the board authorizes a facility to  
47 be sited on a contaminated site or landfill, the facility shall be

1     afforded the protections provided in paragraph (2) of subsection t.  
2     of section 38 of P.L.1999, c.23 (C.48:3-87).

3     f.   At the end of each bidding round, the board shall:

4         (1) rank all bids received based on the bid price, or, pursuant to  
5         subsection b. of this section, based on the bid price within each  
6         category;

7         (2) select bids in ranked order, up to the procurement budget set  
8         by the board, or, pursuant to subsection b. of this section, the  
9         procurement budget of each category; and

10        (3) adjust quantities awarded if prices are above or below any  
11        confidential pre-determined thresholds established pursuant to  
12        subsection d. of this section.

13     g.   Any moneys placed in escrow by an applicant as part of the  
14     competitive solicitation process shall be reimbursed to the applicant  
15     in full or in part upon meeting the conditions set forth by the board  
16     when the board established the escrow requirement, including, but  
17     not limited to, selection in the competitive solicitation or  
18     commencement of commercial operation of the solar electric power  
19     generation facility. The escrow amount shall be forfeited to the  
20     General Fund if the facility does not meet the conditions set forth  
21     by the board when the board established the escrow requirement,  
22     including, but not limited to, commencing commercial operation  
23     within the term specified by the board's requirements established  
24     pursuant to paragraph (7) of subsection c. of this section, including  
25     any extensions as may be granted pursuant to procedures  
26     established by the board.

27     h.   The costs of the competitive solicitation process, including  
28     the issuance of renewable energy incentive payments pursuant to  
29     paragraph (4) of subsection c. of this section, shall not be subject to  
30     the Class I renewable energy requirement cost cap established by  
31     paragraph (2) of subsection d. of section 38 of P.L.1999, c.23  
32     (C.48:3-87).

33  
34     5. (New section) a. No solar electric power generation facility  
35     shall simultaneously receive SREC-IIs pursuant to P.L. ,  
36     c. (C. ) (pending before the Legislature as this bill) and  
37     Class I RECs, SRECs, or any other comparable certificates,  
38     including those issued under a program developed by the board  
39     pursuant to P.L.2018, c.17 (C.48:3-87.8 et al.).

40     b.   A solar electric power generation facility that receives an  
41     SREC-II pursuant to P.L. , c. (C. ) (pending before the  
42     Legislature as this bill) for a unit of energy produced shall not  
43     otherwise sell, alienate, or dispose of any of the environmental  
44     benefits or attributes associated with that energy.

45     c.   A solar electric power generation facility that is selected by  
46     the board pursuant to section 4 of P.L. , c. (C. ) (pending  
47     before the Legislature as this bill) shall be responsible for the  
48     payment of:

1 (1) an annual remuneration of one percent of the renewable  
2 energy incentive payments pursuant to paragraph (4) of subsection  
3 c. of section 4 of P.L. , c. (C. ) (pending before the  
4 Legislature as this bill), to be submitted to the State Treasurer for  
5 deposit into the "Preserve New Jersey Fund Account," established  
6 pursuant to section 4 of P.L.2016, c.12 (C.13:8C-46); and

7 (2) an annual administrative fee, in an amount to be determined  
8 by the board in the rules and regulations adopted by the board  
9 pursuant to section 2 of P.L. , c. (C. ) (pending before the  
10 Legislature as this bill).

11 d. Each worker employed in the State during the construction of  
12 a solar electric power generation facility greater than one megawatt  
13 in size, as measured in direct current, that participates in the SREC-  
14 II program shall be paid not less than the prevailing wage rate for  
15 the worker's craft or trade, as determined by the Commissioner of  
16 Labor and Workforce Development pursuant to P.L.1963, c.150  
17 (C.34:11-56.25 et seq.).

18 e. The issuance of SREC-IIs pursuant to P.L. , c. (C. )  
19 (pending before the Legislature as this bill) shall be deemed "Board  
20 of Public Utilities financial assistance" as provided under section 1  
21 of P.L.2009, c.89 (C.48:2-29.47).

22 f. The owner of a solar electric power generation facility that  
23 participates in the SREC-II program shall obtain all necessary  
24 permits and other approvals as may be required pursuant to federal,  
25 State, or local law, rule, regulation, or ordinance.

26 g. A solar electric power generation facility that is selected  
27 pursuant to section 4 of P.L. , c. (C. ) (pending before the  
28 Legislature as this bill) shall comply with the standards concerning  
29 vegetation adopted by the Department of Environmental Protection  
30 pursuant to section 8 of P.L. , c. (C. ) (pending before the  
31 Legislature as this bill).

32  
33 6. (New section) a. The board shall not authorize a grid  
34 supply solar facility or a net metered solar facility greater than five  
35 megawatts in size to commence operation, or to interconnect to an  
36 electric distribution or transmission system, unless it meets the  
37 siting criteria developed pursuant to this section.

38 b. The board shall develop, in consultation with the Department  
39 of Environmental Protection and the Secretary of Agriculture, siting  
40 criteria for grid supply solar facilities and net metered solar  
41 facilities greater than five megawatts in size. In addition to  
42 implementing the provisions of subsections c. through f. of this  
43 section, the siting criteria shall:

44 (1) facilitate the State's commitment to affordable, clean, and  
45 renewable energy, and the carbon dioxide emissions reduction goals  
46 established by P.L.2007, c.112 (C.26:2C-37 et al.);

47 (2) minimize, as much as is practicable, potential adverse  
48 environmental impacts; and

- 1 (3) where appropriate, include consideration of:
- 2 (a) existing and prior land uses of the property;
- 3 (b) whether the property contains a contaminated site or landfill;
- 4 (c) any conservation or agricultural designations associated with
- 5 the property;
- 6 (d) the amount of soil disturbance, impervious surface, and tree
- 7 cover on the property; and
- 8 (e) other site-specific criteria.
- 9 c. Unless authorized pursuant to subsection f. of this section, a
- 10 grid supply solar facility or a net metered solar facility greater than
- 11 five megawatts in size shall not be sited on:
- 12 (1) land preserved under the Green Acres Program;
- 13 (2) land located within the preservation area of the pinelands
- 14 area, as designated in subsection b. of section 10 of P.L.1979, c.111
- 15 (C.13:18A-11);
- 16 (3) land designated as forest area in the pinelands
- 17 comprehensive management plan adopted pursuant to P.L.1979,
- 18 c.111 (C.13:18A-1 et seq.);
- 19 (4) land designated as freshwater wetlands as defined pursuant
- 20 to P.L.1987, c.156 (C.13:9B-1 et seq.), or coastal wetlands as
- 21 defined pursuant to P.L.1970, c.272 (C.13:9A-1 et seq.);
- 22 (5) lands located within the Highlands preservation area as
- 23 designated in subsection b. of section 7 of P.L.2004, c.120
- 24 (C.13:20-7);
- 25 (6) forested lands, as defined by the board in consultation with
- 26 the Department of Environmental Protection; or
- 27 (7) prime agricultural soils and soils of Statewide importance, as
- 28 identified by the United States Department of Agriculture's Natural
- 29 Resources Conservation Service, which are located in Agricultural
- 30 Development Areas certified by the State Agriculture Development
- 31 Committee , in excess of the Statewide threshold of 2.5 percent of
- 32 such soils established by paragraph (1) of subsection d. of this
- 33 section.
- 34 d. (1) A grid supply solar facility or a net metered solar
- 35 facility greater than five megawatts in size sited on prime
- 36 agricultural soils or soils of Statewide importance, as identified by
- 37 the United States Department of Agriculture's Natural Resources
- 38 Conservation Service, which are located in Agricultural
- 39 Development Areas certified by the State Agriculture Development
- 40 Committee, shall not require a waiver pursuant to subsection f. of
- 41 this section until the board determines, pursuant to paragraph (2) of
- 42 this subsection, that 2.5 percent of such lands in the State have been
- 43 approved by the board pursuant to P.L. , c. (C. ) (pending
- 44 before the Legislature as this bill) to be utilized by a grid supply
- 45 solar facility or a net metered solar facility greater than five
- 46 megawatts in size. After the board makes this determination, a grid
- 47 supply solar facility or a net metered solar facility greater than five
- 48 megawatts in size shall not be sited on prime agricultural soils or



1 soils of Statewide importance, as identified by the United States  
2 Department of Agriculture's Natural Resources Conservation  
3 Service, which are located in Agricultural Development Areas  
4 certified by the State Agriculture Development Committee, unless  
5 authorized pursuant to subsection f. of this section.

6 (2) The board, in consultation with the Secretary of Agriculture,  
7 shall track and record the Statewide area of prime agricultural soils  
8 or soils of Statewide importance, which are located in Agricultural  
9 Development Areas certified by the State Agriculture Development  
10 Committee, and which are utilized for solar energy production by  
11 grid supply solar facilities and net metered solar facilities greater  
12 than five megawatts in size, in order to implement the provisions of  
13 this section.

14 e. (1) In no case shall a grid supply solar facility be located on  
15 preserved farmland.

16 (2) Nothing in P.L. , c. (C. ) (pending before the  
17 Legislature as this bill) shall be construed to affect the provisions of  
18 P.L.2009, c.213 (C.4:1C-32.4 et al.), including those related to the  
19 construction of solar electric power generation facilities on  
20 preserved farmland.

21 f. A developer may petition the board for a waiver to site a solar  
22 power electric generation facility in an area proscribed by  
23 subsection c. of this section. The petition shall set out the unique  
24 factors that make the project consistent with the character of the  
25 specific parcel, including whether the property is a contaminated  
26 site or landfill, otherwise marginal land, or whether the project  
27 utilizes existing development or existing areas of impervious  
28 coverage. The board shall, in consultation with the Department of  
29 Environmental Protection or Secretary of Agriculture, as  
30 appropriate, consider the petition and may grant a waiver to a  
31 project deemed to be in the public interest. However, in no case  
32 shall the projects approved by the board pursuant to this section  
33 occupy more than five percent of the unpreserved land containing  
34 prime agricultural soils and soils of Statewide importance, as  
35 identified by the United States Department of Agriculture's Natural  
36 Resources Conservation Service, located within any county's  
37 designated Agricultural Development Area, as determined by the  
38 State Agriculture Development Committee.

39 g. No later than five years after the adoption of rules and  
40 regulations pursuant to section 2 of P.L. , c. (C. ) (pending  
41 before the Legislature as this bill), the board, in consultation with  
42 the Department of Environmental Protection and the Secretary of  
43 Agriculture, shall conduct a review of the rules and regulations to  
44 assess program performance, identify problems, and recommend  
45 changes to the siting criteria to better effectuate the policy goals set  
46 forth in subsection a. of this section. The board shall prepare a  
47 report summarizing this review and submit it to the Governor and to

1 the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
2 19.1).

3  
4 7. (New section) The board shall submit a report on the SREC-  
5 II program to the Governor and, pursuant to section 2 of P.L.1991,  
6 c.164 (C.52:14-19.1), to the Legislature no later than 12 months  
7 after the adoption of rules and regulations pursuant to section 2 of  
8 P.L. , c. (C. ) (pending before the Legislature as this bill),  
9 and annually thereafter. The report shall include, but not be limited  
10 to:

11 a. information about the number and price of SREC-IIs  
12 distributed;

13 b. information about the progress of the program towards  
14 meeting its solar energy generation goals, including the individual  
15 goals for net-metered solar facilities, community solar facilities,  
16 and grid supply solar facilities;

17 c. an assessment of the competitive solicitation process,  
18 including any recommendations to improve the functioning of the  
19 program; and

20 d. a summary of the siting criteria developed pursuant to  
21 section 6 of P.L. , c. (C. ) (pending before the Legislature  
22 as this bill), including any recommendations to improve the criteria.  
23

24 8. (New section) No later than one year after the effective date  
25 of P.L. , c. (C. ) (pending before the Legislature as this  
26 bill), the Department of Environmental Protection, in consultation  
27 with the board, shall establish standards for the use of pollinator-  
28 friendly native plant species and seed mixes in grid supply solar  
29 facilities, which are designed to reduce stormwater runoff and  
30 erosion, and provide native perennial vegetation and foraging  
31 habitat beneficial to gamebirds, songbirds, and pollinators, and  
32 which consider compatibility with the security and reliability of  
33 grid supply solar facilities.  
34

35 9. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read  
36 as follows:

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

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

45 "Base load electric power generation facility" means an electric  
46 power generation facility intended to be operated at a greater than  
47 50 percent capacity factor including, but not limited to, a combined  
48 cycle power facility and a combined heat and power facility.

1 "Base residual auction" means the auction conducted by PJM, as  
2 part of PJM's reliability pricing model, three years prior to the start  
3 of the delivery year to secure electrical capacity as necessary to  
4 satisfy the capacity requirements for that delivery year.

5 "Basic gas supply service" means gas supply service that is  
6 provided to any customer that has not chosen an alternative gas  
7 supplier, whether or not the customer has received offers as to  
8 competitive supply options, including, but not limited to, any  
9 customer that cannot obtain such service for any reason, including  
10 non-payment for services. Basic gas supply service is not a  
11 competitive service and shall be fully regulated by the board.

12 "Basic generation service" or "BGS" means electric generation  
13 service that is provided, to any customer that has not chosen an  
14 alternative electric power supplier, whether or not the customer has  
15 received offers for competitive supply options, including, but not  
16 limited to, any customer that cannot obtain such service from an  
17 electric power supplier for any reason, including non-payment for  
18 services. Basic generation service is not a competitive service and  
19 shall be fully regulated by the board.

20 "Basic generation service provider" or "provider" means a  
21 provider of basic generation service.

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

43 "Board" means the New Jersey Board of Public Utilities or any  
44 successor agency.

45 "Bondable stranded costs" means any stranded costs or basic  
46 generation service transition costs of an electric public utility  
47 approved by the board for recovery pursuant to the provisions of  
48 P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the

1 board: (1) the cost of retiring existing debt or equity capital of the  
2 electric public utility, including accrued interest, premium and other  
3 fees, costs, and charges relating thereto, with the proceeds of the  
4 financing of bondable transition property; (2) if requested by an  
5 electric public utility in its application for a bondable stranded costs  
6 rate order, federal, State, and local tax liabilities associated with  
7 stranded costs recovery, basic generation service transition cost  
8 recovery, or the transfer or financing of the property, or both,  
9 including taxes, whose recovery period is modified by the effect of  
10 a stranded costs recovery order, a bondable stranded costs rate  
11 order, or both; and (3) the costs incurred to issue, service, or  
12 refinance transition bonds, including interest, acquisition, or  
13 redemption premium, and other financing costs, whether paid upon  
14 issuance or over the life of the transition bonds, including, but not  
15 limited to, credit enhancements, service charges,  
16 overcollateralization, interest rate cap, swap or collar, yield  
17 maintenance, maturity guarantee or other hedging agreements,  
18 equity investments, operating costs, and other related fees, costs,  
19 and charges, or to assign, sell, or otherwise transfer bondable  
20 transition property.

21 "Bondable stranded costs rate order" means one or more  
22 irrevocable written orders issued by the board pursuant to P.L.1999,  
23 c.23 (C.48:3-49 et al.) which determines the amount of bondable  
24 stranded costs and the initial amount of transition bond charges  
25 authorized to be imposed to recover the bondable stranded costs,  
26 including the costs to be financed from the proceeds of the  
27 transition bonds, as well as on-going costs associated with servicing  
28 and credit enhancing the transition bonds, and provides the electric  
29 public utility specific authority to issue or cause to be issued,  
30 directly or indirectly, transition bonds through a financing entity  
31 and related matters as provided in P.L.1999, c.23 (C.48:3-49 et al.),  
32 which order shall become effective immediately upon the written  
33 consent of the related electric public utility to the order as provided  
34 in P.L.1999, c.23 (C.48:3-49 et al.).

35 "Bondable transition property" means the property consisting of  
36 the irrevocable right to charge, collect, and receive, and be paid  
37 from collections of, transition bond charges in the amount necessary  
38 to provide for the full recovery of bondable stranded costs which  
39 are determined to be recoverable in a bondable stranded costs rate  
40 order, all rights of the related electric public utility under the  
41 bondable stranded costs rate order including, without limitation, all  
42 rights to obtain periodic adjustments of the related transition bond  
43 charges pursuant to subsection b. of section 15 of P.L.1999, c.23  
44 (C.48:3-64), and all revenues, collections, payments, money, and  
45 proceeds arising under, or with respect to, all of the foregoing.

46 "British thermal unit" or "Btu" means the amount of heat  
47 required to increase the temperature of one pound of water by one  
48 degree Fahrenheit.

1 "Broker" means a duly licensed electric power supplier that  
2 assumes the contractual and legal responsibility for the sale of  
3 electric generation service, transmission, or other services to end-  
4 use retail customers, but does not take title to any of the power sold,  
5 or a duly licensed gas supplier that assumes the contractual and  
6 legal obligation to provide gas supply service to end-use retail  
7 customers, but does not take title to the gas.

8 "Brownfield" means any former or current commercial or  
9 industrial site that is currently vacant or underutilized and on which  
10 there has been, or there is suspected to have been, a discharge of a  
11 contaminant.

12 "Buydown" means an arrangement or arrangements involving the  
13 buyer and seller in a given power purchase contract and, in some  
14 cases third parties, for consideration to be given by the buyer in  
15 order to effectuate a reduction in the pricing, or the restructuring of  
16 other terms to reduce the overall cost of the power contract, for the  
17 remaining succeeding period of the purchased power arrangement  
18 or arrangements.

19 "Buyout" means an arrangement or arrangements involving the  
20 buyer and seller in a given power purchase contract and, in some  
21 cases third parties, for consideration to be given by the buyer in  
22 order to effectuate a termination of such power purchase contract.

23 "Class I renewable energy" means electric energy produced from  
24 solar technologies, photovoltaic technologies, wind energy, fuel  
25 cells, geothermal technologies, wave or tidal action, small scale  
26 hydropower facilities with a capacity of three megawatts or less and  
27 put into service after the effective date of P.L.2012, c.24, methane  
28 gas from landfills, methane gas from a biomass facility provided  
29 that the biomass is cultivated and harvested in a sustainable manner,  
30 or methane gas from a composting or anaerobic or aerobic digestion  
31 facility that converts food waste or other organic waste to energy.

32 "Class II renewable energy" means electric energy produced at a  
33 hydropower facility with a capacity of greater than three megawatts,  
34 but less than 30 megawatts, or a resource recovery facility, provided  
35 that the facility is located where retail competition is permitted and  
36 provided further that the Commissioner of Environmental  
37 Protection has determined that the facility meets the highest  
38 environmental standards and minimizes any impacts to the  
39 environment and local communities. Class II renewable energy  
40 shall not include electric energy produced at a hydropower facility  
41 with a capacity of greater than 30 megawatts on or after the  
42 effective date of P.L.2015, c.51.

43 "Co-generation" means the sequential production of electricity  
44 and steam or other forms of useful energy used for industrial or  
45 commercial heating and cooling purposes.

46 "Combined cycle power facility" means a generation facility that  
47 combines two or more thermodynamic cycles, by producing electric  
48 power via the combustion of fuel and then routing the resulting

1 waste heat by-product to a conventional boiler or to a heat recovery  
2 steam generator for use by a steam turbine to produce electric  
3 power, thereby increasing the overall efficiency of the generating  
4 facility.

5 "Combined heat and power facility" or "co-generation facility"  
6 means a generation facility which produces electric energy and  
7 steam or other forms of useful energy such as heat, which are used  
8 for industrial or commercial heating or cooling purposes. A  
9 combined heat and power facility or co-generation facility shall not  
10 be considered a public utility.

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

15 "Commercial and industrial energy pricing class customer" or  
16 "CIEP class customer" means that group of non-residential  
17 customers with high peak demand, as determined by periodic board  
18 order, which either is eligible or which would be eligible, as  
19 determined by periodic board order, to receive funds from the Retail  
20 Margin Fund established pursuant to section 9 of P.L.1999, c.23  
21 (C.48:3-57) and for which basic generation service is hourly-priced.

22 "Comprehensive resource analysis" means an analysis including,  
23 but not limited to, an assessment of existing market barriers to the  
24 implementation of energy efficiency and renewable technologies  
25 that are not or cannot be delivered to customers through a  
26 competitive marketplace.

27 "Community solar facility" means a solar electric power generation  
28 facility participating in the Community Solar Energy Pilot Program or  
29 the Community Solar Energy Program developed by the board  
30 pursuant to section 5 of P.L.2018, c.17 (C.48:3-87.11).

31 "Connected to the distribution system" means, for a solar electric  
32 power generation facility, that the facility is: (1) connected to a net  
33 metering customer's side of a meter, regardless of the voltage at  
34 which that customer connects to the electric grid; (2) an on-site  
35 generation facility; (3) qualified for net metering aggregation as  
36 provided pursuant to paragraph (4) of subsection e. of section 38 of  
37 P.L.1999, c.23 (C.48:3-87); (4) owned or operated by an electric  
38 public utility and approved by the board pursuant to section 13 of  
39 P.L.2007, c.340 (C.48:3-98.1); (5) directly connected to the electric  
40 grid at 69 kilovolts or less, regardless of how an electric public  
41 utility classifies that portion of its electric grid, and is designated as  
42 "connected to the distribution system" by the board pursuant to  
43 subsections q. through s. of section 38 of P.L.1999, c.23 (C.48:3-  
44 87); or (6) is certified by the board, in consultation with the  
45 Department of Environmental Protection, as being located on a  
46 brownfield, on an area of historic fill, or on a properly closed  
47 sanitary landfill facility. Any solar electric power generation  
48 facility, other than that of a net metering customer on the customer's

1 side of the meter, connected above 69 kilovolts shall not be  
2 considered connected to the distribution system.

3 “Contaminated site or landfill” means: (1) any currently  
4 contaminated portion of a property on which industrial or  
5 commercial operations were conducted and a discharge occurred,  
6 and its associated disturbed areas, where “discharge” means the  
7 same as the term is defined in section 23 of P.L.1993, c.139  
8 (C.58:10B-1); or (2) a properly closed sanitary landfill facility and  
9 its associated disturbed areas.

10 "Customer" means any person that is an end user and is  
11 connected to any part of the transmission and distribution system  
12 within an electric public utility's service territory or a gas public  
13 utility's service territory within this State.

14 "Customer account service" means metering, billing, or such  
15 other administrative activity associated with maintaining a customer  
16 account.

17 "Delivery year" or "DY" means the 12-month period from June  
18 1st through May 31st, numbered according to the calendar year in  
19 which it ends.

20 "Demand side management" means the management of customer  
21 demand for energy service through the implementation of cost-  
22 effective energy efficiency technologies, including, but not limited  
23 to, installed conservation, load management, and energy efficiency  
24 measures on and in the residential, commercial, industrial,  
25 institutional, and governmental premises and facilities in this State.

26 "Electric generation service" means the provision of retail  
27 electric energy and capacity which is generated off-site from the  
28 location at which the consumption of such electric energy and  
29 capacity is metered for retail billing purposes, including agreements  
30 and arrangements related thereto.

31 "Electric power generator" means an entity that proposes to  
32 construct, own, lease, or operate, or currently owns, leases, or  
33 operates, an electric power production facility that will sell or does  
34 sell at least 90 percent of its output, either directly or through a  
35 marketer, to a customer or customers located at sites that are not on  
36 or contiguous to the site on which the facility will be located or is  
37 located. The designation of an entity as an electric power generator  
38 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in  
39 and of itself, affect the entity's status as an exempt wholesale  
40 generator under the Public Utility Holding Company Act of 1935,  
41 15 U.S.C. s.79 et seq., or its successor act.

42 "Electric power supplier" means a person or entity that is duly  
43 licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et  
44 al.) to offer and to assume the contractual and legal responsibility to  
45 provide electric generation service to retail customers, and includes  
46 load serving entities, marketers, and brokers that offer or provide  
47 electric generation service to retail customers. The term excludes  
48 an electric public utility that provides electric generation service

1 only as a basic generation service pursuant to section 9 of P.L.1999,  
2 c.23 (C.48:3-57).

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

6 "Electric related service" means a service that is directly related  
7 to the consumption of electricity by an end user, including, but not  
8 limited to, the installation of demand side management measures at  
9 the end user's premises, the maintenance, repair, or replacement of  
10 appliances, lighting, motors, or other energy-consuming devices at  
11 the end user's premises, and the provision of energy consumption  
12 measurement and billing services.

13 "Electronic signature" means an electronic sound, symbol, or  
14 process, attached to, or logically associated with, a contract or other  
15 record, and executed or adopted by a person with the intent to sign  
16 the record.

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

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

28 "Energy consumer" means a business or residential consumer of  
29 electric generation service or gas supply service located within the  
30 territorial jurisdiction of a government aggregator.

31 "Energy efficiency portfolio standard" means a requirement to  
32 procure a specified amount of energy efficiency or demand side  
33 management resources as a means of managing and reducing energy  
34 usage and demand by customers.

35 "Energy year" or "EY" means the 12-month period from June 1st  
36 through May 31st, numbered according to the calendar year in  
37 which it ends.

38 "Existing business relationship" means a relationship formed by  
39 a voluntary two-way communication between an electric power  
40 supplier, gas supplier, broker, energy agent, marketer, private  
41 aggregator, sales representative, or telemarketer and a customer,  
42 regardless of an exchange of consideration, on the basis of an  
43 inquiry, application, purchase, or transaction initiated by the  
44 customer regarding products or services offered by the electric  
45 power supplier, gas supplier, broker, energy agent, marketer,  
46 private aggregator, sales representative, or telemarketer; however, a  
47 consumer's use of electric generation service or gas supply service  
48 through the consumer's electric public utility or gas public utility



1 shall not constitute or establish an existing business relationship for  
2 the purpose of P.L.2013, c.263.

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

7 "Federal Energy Regulatory Commission" or "FERC" means the  
8 federal agency established pursuant to 42 U.S.C. s.7171 et seq. to  
9 regulate the interstate transmission of electricity, natural gas, and  
10 oil.

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

13 "Financing entity" means an electric public utility, a special  
14 purpose entity, or any other assignee of bondable transition  
15 property, which issues transition bonds. Except as specifically  
16 provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity  
17 which is not itself an electric public utility shall not be subject to  
18 the public utility requirements of Title 48 of the Revised Statutes or  
19 any rules or regulations adopted pursuant thereto.

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

22 "Gas related service" means a service that is directly related to  
23 the consumption of gas by an end user, including, but not limited to,  
24 the installation of demand side management measures at the end  
25 user's premises, the maintenance, repair or replacement of  
26 appliances or other energy-consuming devices at the end user's  
27 premises, and the provision of energy consumption measurement  
28 and billing services.

29 "Gas supplier" means a person that is duly licensed pursuant to  
30 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and  
31 assume the contractual and legal obligation to provide gas supply  
32 service to retail customers, and includes, but is not limited to,  
33 marketers and brokers. A non-public utility affiliate of a public  
34 utility holding company may be a gas supplier, but a gas public  
35 utility or any subsidiary of a gas utility is not a gas supplier. In the  
36 event that a gas public utility is not part of a holding company legal  
37 structure, a related competitive business segment of that gas public  
38 utility may be a gas supplier, provided that related competitive  
39 business segment is structurally separated from the gas public  
40 utility, and provided that the interactions between the gas public  
41 utility and the related competitive business segment are subject to  
42 the affiliate relations standards adopted by the board pursuant to  
43 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58).

44 "Gas supply service" means the provision to customers of the  
45 retail commodity of gas, but does not include any regulated  
46 distribution service.

47 "Government aggregator" means any government entity subject  
48 to the requirements of the "Local Public Contracts Law," P.L.1971,

1 c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law,"  
2 N.J.S.18A:18A-1 et seq., or the "County College Contracts Law,"  
3 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written  
4 contract with a licensed electric power supplier or a licensed gas  
5 supplier for: (1) the provision of electric generation service, electric  
6 related service, gas supply service, or gas related service for its own  
7 use or the use of other government aggregators; or (2) if a  
8 municipal or county government, the provision of electric  
9 generation service or gas supply service on behalf of business or  
10 residential customers within its territorial jurisdiction.

11 "Government energy aggregation program" means a program and  
12 procedure pursuant to which a government aggregator enters into a  
13 written contract for the provision of electric generation service or  
14 gas supply service on behalf of business or residential customers  
15 within its territorial jurisdiction.

16 "Governmental entity" means any federal, state, municipal, local,  
17 or other governmental department, commission, board, agency,  
18 court, authority, or instrumentality having competent jurisdiction.

19 "Green Acres program" means the program for the acquisition of  
20 lands for recreation and conservation purposes pursuant to  
21 P.L.1961, c.45 (C.13:8A-1 et seq.), P.L.1971, c.419 (C.13:8A-19 et  
22 seq.), P.L.1975, c.155 (C.13:8A-35 et seq.), any Green Acres bond  
23 act, P.L.1999, c.152 (C.13:8C-1 et seq.), and P.L.2016, c.12  
24 (C.13:8C-43 et seq.)

25 "Greenhouse gas emissions portfolio standard" means a  
26 requirement that addresses or limits the amount of carbon dioxide  
27 emissions indirectly resulting from the use of electricity as applied  
28 to any electric power suppliers and basic generation service  
29 providers of electricity.

30 "Grid supply solar facility" means a solar electric power  
31 generation facility that sells electricity at wholesale and is  
32 connected to the State's electric distribution or transmission  
33 systems. "Grid supply solar facility" does not include: (1) a net  
34 metered solar facility; (2) an on-site generation facility; (3) a  
35 facility participating in net metering aggregation pursuant to section  
36 38 of P.L.1999, c.23 (C.48:3-87); (4) a facility participating in  
37 remote net metering; or (5) a community solar facility.

38 "Historic fill" means generally large volumes of non-indigenous  
39 material, no matter what date they were emplaced on the site, used  
40 to raise the topographic elevation of a site, which were  
41 contaminated prior to emplacement and are in no way connected  
42 with the operations at the location of emplacement and which  
43 include, but are not limited to, construction debris, dredge spoils,  
44 incinerator residue, demolition debris, fly ash, and non-hazardous  
45 solid waste. "Historic fill" shall not include any material which is  
46 substantially chromate chemical production waste or any other  
47 chemical production waste or waste from processing of metal or  
48 mineral ores, residues, slags, or tailings.

1 "Incremental auction" means an auction conducted by PJM, as  
2 part of PJM's reliability pricing model, prior to the start of the  
3 delivery year to secure electric capacity as necessary to satisfy the  
4 capacity requirements for that delivery year, that is not otherwise  
5 provided for in the base residual auction.

6 "Leakage" means an increase in greenhouse gas emissions  
7 related to generation sources located outside of the State that are not  
8 subject to a state, interstate, or regional greenhouse gas emissions  
9 cap or standard that applies to generation sources located within the  
10 State.

11 "Locational deliverability area" or "LDA" means one or more of  
12 the zones within the PJM region which are used to evaluate area  
13 transmission constraints and reliability issues including electric  
14 public utility company zones, sub-zones, and combinations of  
15 zones.

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

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

28 "Marketer" means a duly licensed electric power supplier that  
29 takes title to electric energy and capacity, transmission, and other  
30 services from electric power generators and other wholesale  
31 suppliers and then assumes the contractual and legal obligation to  
32 provide electric generation service, and may include transmission  
33 and other services, to an end-use retail customer or customers, or a  
34 duly licensed gas supplier that takes title to gas and then assumes  
35 the contractual and legal obligation to provide gas supply service to  
36 an end-use customer or customers.

37 "Mid-merit electric power generation facility" means a  
38 generation facility that operates at a capacity factor between  
39 baseload generation facilities and peaker generation facilities.

40 "Net metered solar facility" means a solar electric power generation  
41 facility participating in the net metering program developed by the  
42 board pursuant to subsection e. of section 38 of P.L.1999, c.23  
43 (C.48:3-87) or in a substantially similar program operated by a  
44 utility owned or operated by a local government unit.

45 "Net metering aggregation" means a procedure for calculating  
46 the combination of the annual energy usage for all facilities owned  
47 by a single customer where such customer is a State entity, school  
48 district, county, county agency, county authority, municipality,

1 municipal agency, or municipal authority, and which are served by  
2 a solar electric power generating facility as provided pursuant to  
3 paragraph (4) of subsection e. of section 38 of P.L.1999, c.23  
4 (C.48:3-87).

5 "Net proceeds" means proceeds less transaction and other related  
6 costs as determined by the board.

7 "Net revenues" means revenues less related expenses, including  
8 applicable taxes, as determined by the board.

9 "Offshore wind energy" means electric energy produced by a  
10 qualified offshore wind project.

11 "Offshore wind renewable energy certificate" or "OREC" means  
12 a certificate, issued by the board or its designee, representing the  
13 environmental attributes of one megawatt hour of electric  
14 generation from a qualified offshore wind project.

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

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

40 "Open access offshore wind transmission facility" means an open  
41 access transmission facility, located either in the Atlantic Ocean or  
42 offshore, used to facilitate the collection of offshore wind energy or  
43 its delivery to the electronic transmission system in this State.

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

47 "PJM Interconnection, L.L.C." or "PJM" means the privately-  
48 held, limited liability corporation that serves as a FERC-approved

1 Regional Transmission Organization, or its successor, that manages  
2 the regional, high-voltage electricity grid serving all or parts of 13  
3 states including New Jersey and the District of Columbia, operates  
4 the regional competitive wholesale electric market, manages the  
5 regional transmission planning process, and establishes systems and  
6 rules to ensure that the regional and in-State energy markets operate  
7 fairly and efficiently.

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

10 "Preserved farmland" means land on which a development  
11 easement was conveyed to, or retained by, the State Agriculture  
12 Development Committee, a county agriculture development board,  
13 or a qualifying tax exempt nonprofit organization pursuant to the  
14 provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of  
15 P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-  
16 38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through  
17 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any  
18 other State law enacted for farmland preservation purposes.

19 "Private aggregator" means a non-government aggregator that is  
20 a duly-organized business or non-profit organization authorized to  
21 do business in this State that enters into a contract with a duly  
22 licensed electric power supplier for the purchase of electric energy  
23 and capacity, or with a duly licensed gas supplier for the purchase  
24 of gas supply service, on behalf of multiple end-use customers by  
25 combining the loads of those customers.

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

38 "Public utility holding company" means: (1) any company that,  
39 directly or indirectly, owns, controls, or holds with power to vote,  
40 10 percent or more of the outstanding voting securities of an  
41 electric public utility or a gas public utility or of a company which  
42 is a public utility holding company by virtue of this definition,  
43 unless the Securities and Exchange Commission, or its successor,  
44 by order declares such company not to be a public utility holding  
45 company under the Public Utility Holding Company Act of 1935,  
46 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the  
47 Securities and Exchange Commission, or its successor, determines,  
48 after notice and opportunity for hearing, directly or indirectly, to

1 exercise, either alone or pursuant to an arrangement or  
2 understanding with one or more other persons, such a controlling  
3 influence over the management or policies of an electric public  
4 utility or a gas public utility or public utility holding company as to  
5 make it necessary or appropriate in the public interest or for the  
6 protection of investors or consumers that such person be subject to  
7 the obligations, duties, and liabilities imposed in the Public Utility  
8 Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its  
9 successor act.

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

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

23 "Regulatory asset" means an asset recorded on the books of an  
24 electric public utility or gas public utility pursuant to the Statement  
25 of Financial Accounting Standards, No. 71, entitled "Accounting for  
26 the Effects of Certain Types of Regulation," or any successor  
27 standard and as deemed recoverable by the board.

28 "Related competitive business segment of an electric public  
29 utility or gas public utility" means any business venture of an  
30 electric public utility or gas public utility including, but not limited  
31 to, functionally separate business units, joint ventures, and  
32 partnerships, that offers to provide or provides competitive services.

33 "Related competitive business segment of a public utility holding  
34 company" means any business venture of a public utility holding  
35 company, including, but not limited to, functionally separate  
36 business units, joint ventures, and partnerships and subsidiaries, that  
37 offers to provide or provides competitive services, but does not  
38 include any related competitive business segments of an electric  
39 public utility or gas public utility.

40 "Reliability pricing model" or "RPM" means PJM's capacity-  
41 market model, and its successors, that secures capacity on behalf of  
42 electric load serving entities to satisfy load obligations not satisfied  
43 through the output of electric generation facilities owned by those  
44 entities, or otherwise secured by those entities through bilateral  
45 contracts.

46 "Renewable energy certificate" or "REC" means a certificate  
47 representing the environmental benefits or attributes of one  
48 megawatt-hour of generation from a generating facility that

1 produces Class I or Class II renewable energy, but shall not include  
2 a solar renewable energy certificate or an offshore wind renewable  
3 energy certificate.

4 "Resource clearing price" or "RCP" means the clearing price  
5 established for the applicable locational deliverability area by the  
6 base residual auction or incremental auction, as determined by the  
7 optimization algorithm for each auction, conducted by PJM as part  
8 of PJM's reliability pricing model.

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

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

33 "Retail choice" means the ability of retail customers to shop for  
34 electric generation or gas supply service from electric power or gas  
35 suppliers, or opt to receive basic generation service or basic gas  
36 service, and the ability of an electric power or gas supplier to offer  
37 electric generation service or gas supply service to retail customers,  
38 consistent with the provisions of P.L.1999, c.23 (C.48:3-49 et al.).

39 "Retail margin" means an amount, reflecting differences in  
40 prices that electric power suppliers and electric public utilities may  
41 charge in providing electric generation service and basic generation  
42 service, respectively, to retail customers, excluding residential  
43 customers, which the board may authorize to be charged to  
44 categories of basic generation service customers of electric public  
45 utilities in this State, other than residential customers, under the  
46 board's continuing regulation of basic generation service pursuant to  
47 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the

1 purpose of promoting a competitive retail market for the supply of  
2 electricity.

3 "Sales representative" means a person employed by, acting on  
4 behalf of, or as an independent contractor for, an electric power  
5 supplier, gas supplier, broker, energy agent, marketer, or private  
6 aggregator who, by any means, solicits a potential residential  
7 customer for the provision of electric generation service or gas  
8 supply service.

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

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

19 "Shopping credit" means an amount deducted from the bill of an  
20 electric public utility customer to reflect the fact that the customer  
21 has switched to an electric power supplier and no longer takes basic  
22 generation service from the electric public utility.

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

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

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

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

46 "Solar alternative compliance payment" or "SACP" means a  
47 payment of a certain dollar amount per megawatt hour (MWh)  
48 which an electric power supplier or provider may submit to the



1 board in order to comply with the solar electric generation  
2 requirements under section 38 of P.L.1999, c.23 (C.48:3-87).

3 "Solar renewable energy certificate" or "SREC" means a  
4 certificate issued by the board or its designee, representing one  
5 megawatt hour (MWh) of solar energy that is generated by a facility  
6 connected to the distribution system in this State and has value  
7 based upon, and driven by, the energy market.

8 "Solar renewable energy certificate II" or "SREC-II" means a  
9 transferable certificate, issued by the board or its designee pursuant to  
10 P.L. , c. (C. ) (pending before the Legislature as this bill),  
11 which is capable of counting towards the renewable energy portfolio  
12 standards of an electric power supplier or basic generation service  
13 provider in the State pursuant to section 38 of P.L.1999, c.23 (C.48:3-  
14 87).

15 "SREC-II program" means the program established pursuant to  
16 section 2 of P.L. , c. (C. ) (pending before the Legislature  
17 as this bill) to distribute SREC-IIs.

18 "SREC-II value per megawatt-hour" means the value, in dollars-  
19 per-megawatt-hour, assigned by the board to each solar electric  
20 power generation facility eligible to receive SREC-IIs, which is  
21 paid to the facility and which represents the environmental  
22 attributes of the facility.

23 "Standard offer capacity agreement" or "SOCA" means a  
24 financially-settled transaction agreement, approved by board order,  
25 that provides for eligible generators to receive payments from the  
26 electric public utilities for a defined amount of electric capacity for  
27 a term to be determined by the board but not to exceed 15 years,  
28 and for such payments to be a fully non-bypassable charge, with  
29 such an order, once issued, being irrevocable.

30 "Standard offer capacity price" or "SOCP" means the capacity  
31 price that is fixed for the term of the SOCA and which is the price  
32 to be received by eligible generators under a board-approved  
33 SOCA.

34 "State entity" means a department, agency, or office of State  
35 government, a State university or college, or an authority created by  
36 the State.

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

44 "Stranded costs recovery order" means each order issued by the  
45 board in accordance with subsection c. of section 13 of P.L.1999,  
46 c.23 (C.48:3-61) which sets forth the amount of stranded costs, if  
47 any, the board has determined an electric public utility is eligible to  
48 recover and collect in accordance with the standards set forth in

1 section 13 of P.L.1999, c.23 (C.48:3-61) and the recovery  
2 mechanisms therefor.

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

5 "Telemarketing sales call" means a telephone call made by a  
6 telemarketer to a potential residential customer as part of a plan,  
7 program, or campaign to encourage the customer to change the  
8 customer's electric power supplier or gas supplier. A telephone call  
9 made to an existing customer of an electric power supplier, gas  
10 supplier, broker, energy agent, marketer, private aggregator, or  
11 sales representative, for the sole purpose of collecting on accounts  
12 or following up on contractual obligations, shall not be deemed a  
13 telemarketing sales call. A telephone call made in response to an  
14 express written request of a customer shall not be deemed a  
15 telemarketing sales call.

16 "Thermal efficiency" means the useful electric energy output of a  
17 facility, plus the useful thermal energy output of the facility,  
18 expressed as a percentage of the total energy input to the facility.

19 "Transition bond charge" means a charge, expressed as an  
20 amount per kilowatt hour, that is authorized by and imposed on  
21 electric public utility ratepayers pursuant to a bondable stranded  
22 costs rate order, as modified at any time pursuant to the provisions  
23 of P.L.1999, c.23 (C.48:3-49 et al.).

24 "Transition bonds" means bonds, notes, certificates of  
25 participation, beneficial interest, or other evidences of indebtedness  
26 or ownership issued pursuant to an indenture, contract, or other  
27 agreement of an electric public utility or a financing entity, the  
28 proceeds of which are used, directly or indirectly, to recover,  
29 finance or refinance bondable stranded costs and which are, directly  
30 or indirectly, secured by or payable from bondable transition  
31 property. References in P.L.1999, c.23 (C.48:3-49 et al.) to  
32 principal, interest, and acquisition or redemption premium with  
33 respect to transition bonds which are issued in the form of  
34 certificates of participation or beneficial interest or other evidences  
35 of ownership shall refer to the comparable payments on such  
36 securities.

37 "Transition period" means the period from August 1, 1999  
38 through July 31, 2003.

39 "Transmission and distribution system" means, with respect to an  
40 electric public utility, any facility or equipment that is used for the  
41 transmission, distribution, or delivery of electricity to the customers  
42 of the electric public utility including, but not limited to, the land,  
43 structures, meters, lines, switches, and all other appurtenances  
44 thereof and thereto, owned or controlled by the electric public  
45 utility within this State.

46 "Universal service" means any service approved by the board  
47 with the purpose of assisting low-income residential customers in  
48 obtaining or retaining electric generation or delivery service.

1 "Unsolicited advertisement" means any advertising claims of the  
2 commercial availability or quality of services provided by an  
3 electric power supplier, gas supplier, broker, energy agent,  
4 marketer, private aggregator, sales representative, or telemarketer  
5 which is transmitted to a potential customer without that customer's  
6 prior express invitation or permission.

7 (cf: P.L.2020, c.24, s.7)

8  
9 10. Section 38 of P.L.1999, c.23 (C.48:3-87) is amended to read  
10 as follows:

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

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

19 (2) Its emissions, in pounds per megawatt hour, of sulfur  
20 dioxide, carbon dioxide, oxides of nitrogen, and any other pollutant  
21 that the board may determine to pose an environmental or health  
22 hazard, or an emissions default to be determined by the board; and

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

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

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

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

38 (3) A uniform emissions disclosure format that is graphic in  
39 nature and easily understandable by consumers. The board shall  
40 periodically review the disclosure requirements to determine if  
41 revisions to the environmental disclosure system as implemented  
42 are necessary.

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

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

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

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

11 (2) By July 1, 2009, the board shall adopt, pursuant to the  
12 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
13 seq.), a greenhouse gas emissions portfolio standard to mitigate  
14 leakage or another regulatory mechanism to mitigate leakage  
15 applicable to all electric power suppliers and basic generation  
16 service providers that provide electricity to customers within the  
17 State. The greenhouse gas emissions portfolio standard or any other  
18 regulatory mechanism to mitigate leakage shall:

19 (a) Allow a transition period, either before or after the effective  
20 date of the regulation to mitigate leakage, for a basic generation  
21 service provider or electric power supplier to either meet the  
22 emissions portfolio standard or other regulatory mechanism to  
23 mitigate leakage, or to transfer any customer to a basic generation  
24 service provider or electric power supplier that meets the emissions  
25 portfolio standard or other regulatory mechanism to mitigate  
26 leakage. If the transition period allowed pursuant to this  
27 subparagraph occurs after the implementation of an emissions  
28 portfolio standard or other regulatory mechanism to mitigate  
29 leakage, the transition period shall be no longer than three years;  
30 and

31 (b) Exempt the provision of basic generation service pursuant to  
32 a basic generation service purchase and sale agreement effective  
33 prior to the date of the regulation.

34 Unless the Attorney General or the Attorney General's designee  
35 determines that a greenhouse gas emissions portfolio standard  
36 would unconstitutionally burden interstate commerce or would be  
37 preempted by federal law, the adoption by the board of an electric  
38 energy efficiency portfolio standard pursuant to subsection g. of this  
39 section, a gas energy efficiency portfolio standard pursuant to  
40 subsection h. of this section, or any other enhanced energy  
41 efficiency policies to mitigate leakage shall not be considered  
42 sufficient to fulfill the requirement of this subsection for the  
43 adoption of a greenhouse gas emissions portfolio standard or any  
44 other regulatory mechanism to mitigate leakage.

45 d. Notwithstanding any provisions of the "Administrative  
46 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
47 contrary, the board shall initiate a proceeding and shall adopt, after

1 notice, provision of the opportunity for comment, and public  
2 hearing, renewable energy portfolio standards that shall require:

3 (1) that two and one-half percent of the kilowatt hours sold in  
4 this State by each electric power supplier and each basic generation  
5 service provider be from Class II renewable energy sources;

6 (2) beginning on January 1, 2020, that 21 percent of the kilowatt  
7 hours sold in this State by each electric power supplier and each  
8 basic generation service provider be from Class I renewable energy  
9 sources. The board shall increase the required percentage for Class  
10 I renewable energy sources so that by January 1, 2025, 35 percent  
11 of the kilowatt hours sold in this State by each electric power  
12 supplier and each basic generation service provider shall be from  
13 Class I renewable energy sources, and by January 1, 2030, 50  
14 percent of the kilowatt hours sold in this State by each electric  
15 power supplier and each basic generation service provider shall be  
16 from Class I renewable energy sources. Notwithstanding the  
17 requirements of this subsection, the board shall ensure that the cost  
18 to customers of the Class I renewable energy requirement imposed  
19 pursuant to this subsection shall not exceed nine percent of the total  
20 paid for electricity by all customers in the State for energy year  
21 2019, energy year 2020, and energy year 2021, respectively, and  
22 shall not exceed seven percent of the total paid for electricity by all  
23 customers in the State in any energy year thereafter ; provided that,  
24 if in energy years 2019 through 2021 the cost to customers of the  
25 Class I renewable energy requirement is less than nine percent of  
26 the total paid for electricity by all customers in the State, the board  
27 may increase the cost to customers of the Class I renewable energy  
28 requirement in energy years 2022 through 2024 to a rate greater  
29 than seven percent, as long as the total costs to customers for  
30 energy years 2019 through 2024 does not exceed the sum of nine  
31 percent of the total paid for electricity by all customers in the State  
32 in energy years 2019 through 2021 and seven percent of the total  
33 paid for electricity by all customers in the State in energy years  
34 2022 through 2024. In calculating the cost to customers of the  
35 Class I renewable energy requirement imposed pursuant to this  
36 subsection, the board shall not include the costs of the offshore  
37 wind energy certificate program established pursuant to paragraph  
38 (4) of this subsection. In calculating the cost to customers of the  
39 Class I renewable energy requirement, the board shall reflect any  
40 energy and environmental savings attributable to the Class I  
41 program in its calculation, which shall include, but not be limited  
42 to, the social cost of carbon dioxide emissions at a value no less  
43 than the most recently published three percent discount rate  
44 scenario of the United States Government Interagency Working  
45 Group on Social Cost of Greenhouse Gases. The board shall take  
46 any steps necessary to prevent the exceedance of the cap on the cost  
47 to customers including, but not limited to, adjusting the Class I  
48 renewable energy requirement.

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

5 (3) that the board establish a multi-year schedule, applicable to  
6 each electric power supplier or basic generation service provider in  
7 this State, beginning with the one-year period commencing on June  
8 1, 2010, and continuing for each subsequent one-year period up to  
9 and including, the one-year period commencing on June 1, 2033,  
10 that requires the following number or percentage, as the case may  
11 be, of kilowatt-hours sold in this State by each electric power  
12 supplier and each basic generation service provider to be from solar  
13 electric power generators connected to the distribution system or  
14 transmission system in this State:

15	EY 2011	306 Gigawatthours (Gwhrs)
16	EY 2012	442 Gwhrs
17	EY 2013	596 Gwhrs
18	EY 2014	2.050%
19	EY 2015	2.450%
20	EY 2016	2.750%
21	EY 2017	3.000%
22	EY 2018	3.200%
23	EY 2019	4.300%
24	EY 2020	4.900%
25	EY 2021	5.100%
26	EY 2022	5.100%
27	EY 2023	5.100%
28	EY 2024	4.900%
29	EY 2025	4.800%
30	EY 2026	4.500%
31	EY 2027	4.350%
32	EY 2028	3.740%
33	EY 2029	3.070%
34	EY 2030	2.210%
35	EY 2031	1.580%
36	EY 2032	1.400%
37	EY 2033	1.100%

38 No later than 180 days after the date of enactment of P.L.2018,  
39 c.17 (C.48:3-87.8 et al.), the board shall adopt rules and regulations  
40 to close the SREC program to new applications upon the attainment  
41 of 5.1 percent of the kilowatt-hours sold in the State by each  
42 electric power supplier and each basic generation provider from  
43 solar electric power generators connected to the distribution system.  
44 The board shall continue to consider any application filed before the  
45 date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.). The board  
46 shall provide for an orderly and transparent mechanism that will  
47 result in the closing of the existing SREC program on a date certain  
48 but no later than June 1, 2021.

1 No later than 24 months after the date of enactment of P.L.2018,  
2 c.17 (C.48:3-87.8 et al.), the board shall complete a study that  
3 evaluates how to modify or replace the SREC program to encourage  
4 the continued efficient and orderly development of solar renewable  
5 energy generating sources throughout the State. The board shall  
6 submit the written report thereon to the Governor and, pursuant to  
7 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The  
8 board shall consult with public utilities, industry experts, regional  
9 grid operators, solar power providers and financiers, and other State  
10 agencies to determine whether the board can modify the SREC  
11 program such that the program will:

- 12 - continually reduce, where feasible, the cost of achieving the  
13 solar energy goals set forth in this subsection;
- 14 - provide an orderly transition from the SREC program to a  
15 new or modified program;
- 16 - develop megawatt targets for grid connected and distribution  
17 systems, including residential and small commercial rooftop  
18 systems, community solar systems, and large scale behind the meter  
19 systems, as a share of the overall solar energy requirement, which  
20 targets the board may modify periodically based on the cost,  
21 feasibility, or social impacts of different types of projects;
- 22 - establish and update market-based maximum incentive  
23 payment caps periodically for each of the above categories of solar  
24 electric power generation facilities;
- 25 - encourage and facilitate market-based cost recovery through  
26 long-term contracts and energy market sales; and
- 27 - where cost recovery is needed for any portion of an efficient  
28 solar electric power generation facility when costs are not  
29 recoverable through wholesale market sales and direct payments  
30 from customers, utilize competitive processes such as competitive  
31 procurement and long-term contracts where possible to ensure such  
32 recovery, without exceeding the maximum incentive payment cap  
33 for that category of facility.

34 The board shall approve, conditionally approve, or disapprove  
35 any application for designation as connected to the distribution  
36 system of a solar electric power generation facility filed with the  
37 board after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et  
38 al.), no more than 90 days after receipt by the board of a completed  
39 application. For any such application for a project greater than 25  
40 kilowatts, the board shall require the applicant to post a notice  
41 escrow with the board in an amount of \$40 per kilowatt of DC  
42 nameplate capacity of the facility, not to exceed \$40,000. The  
43 notice escrow amount shall be reimbursed to the applicant in full  
44 upon either denial of the application by the board or upon  
45 commencement of commercial operation of the solar electric power  
46 generation facility. The escrow amount shall be forfeited to the  
47 State if the facility is designated as connected to the distribution  
48 system pursuant to this subsection but does not commence

1 commercial operation within two years following the date of the  
2 designation by the board.

3 For all applications for designation as connected to the  
4 distribution system of a solar electric power generation facility filed  
5 with the board after the date of enactment of P.L.2018, c.17  
6 (C.48:3-87.8 et al.), the SREC term shall be 10 years.

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

11 (b) No more than 24 months following the date of enactment of  
12 P.L.2012, c.24, the board shall complete a proceeding to investigate  
13 approaches to mitigate solar development volatility and prepare and  
14 submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a  
15 report to the Legislature, detailing its findings and  
16 recommendations. As part of the proceeding, the board shall  
17 evaluate other techniques used nationally and internationally;

18 (c) The solar renewable portfolio standards requirements in this  
19 paragraph shall exempt those existing supply contracts which are  
20 effective prior to the date of enactment of P.L.2018, c.17 (C.48:3-  
21 87.8 et al.) from any increase beyond the number of SRECs  
22 mandated by the solar renewable energy portfolio standards  
23 requirements that were in effect on the date that the providers  
24 executed their existing supply contracts. This limited exemption for  
25 providers' existing supply contracts shall not be construed to lower  
26 the Statewide solar sourcing requirements set forth in this  
27 paragraph. Such incremental requirements that would have  
28 otherwise been imposed on exempt providers shall be distributed  
29 over the providers not subject to the existing supply contract  
30 exemption until such time as existing supply contracts expire and  
31 all providers are subject to the new requirement in a manner that is  
32 competitively neutral among all providers and suppliers.  
33 Notwithstanding any rule or regulation to the contrary, the board  
34 shall recognize these new solar purchase obligations as a change  
35 required by operation of law and implement the provisions of this  
36 subsection in a manner so as to prevent any subsidies between  
37 suppliers and providers and to promote competition in the  
38 electricity supply industry.

39 An electric power supplier or basic generation service provider  
40 may satisfy the requirements of this subsection by participating in a  
41 renewable energy trading program approved by the board in  
42 consultation with the Department of Environmental Protection, or  
43 compliance with the requirements of this subsection may be  
44 demonstrated to the board by suppliers or providers through the  
45 purchase of SRECs.

46 The renewable energy portfolio standards adopted by the board  
47 pursuant to paragraphs (1) and (2) of this subsection shall be  
48 effective as regulations immediately upon filing with the Office of



1 Administrative Law and shall be effective for a period not to exceed  
2 18 months, and may, thereafter, be amended, adopted or readopted  
3 by the board in accordance with the provisions of the  
4 "Administrative Procedure Act."

5 The renewable energy portfolio standards adopted by the board  
6 pursuant to this paragraph shall be effective as regulations  
7 immediately upon filing with the Office of Administrative Law and  
8 shall be effective for a period not to exceed 30 months after such  
9 filing, and shall, thereafter, be amended, adopted or readopted by  
10 the board in accordance with the "Administrative Procedure Act";  
11 and

12 (4) within 180 days after the date of enactment of P.L.2010,  
13 c.57 (C.48:3-87.1 et al.), that the board establish an offshore wind  
14 renewable energy certificate program to require that a percentage of  
15 the kilowatt hours sold in this State by each electric power supplier  
16 and each basic generation service provider be from offshore wind  
17 energy in order to support at least 3,500 megawatts of generation  
18 from qualified offshore wind projects.

19 The percentage established by the board pursuant to this  
20 paragraph shall serve as an offset to the renewable energy portfolio  
21 standard established pursuant to paragraph (2) of this subsection  
22 and shall reduce the corresponding Class I renewable energy  
23 requirement.

24 The percentage established by the board pursuant to this  
25 paragraph shall reflect the projected OREC production of each  
26 qualified offshore wind project, approved by the board pursuant to  
27 section 3 of P.L.2010, c.57 (C.48:3-87.1), for 20 years from the  
28 commercial operation start date of the qualified offshore wind  
29 project which production projection and OREC purchase  
30 requirement, once approved by the board, shall not be subject to  
31 reduction.

32 An electric power supplier or basic generation service provider  
33 shall comply with the OREC program established pursuant to this  
34 paragraph through the purchase of offshore wind renewable energy  
35 certificates at a price and for the time period required by the board.  
36 In the event there are insufficient offshore wind renewable energy  
37 certificates available, the electric power supplier or basic generation  
38 service provider shall pay an offshore wind alternative compliance  
39 payment established by the board. Any offshore wind alternative  
40 compliance payments collected shall be refunded directly to the  
41 ratepayers by the electric public utilities.

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

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

6 (1) net metering standards for electric power suppliers and basic  
7 generation service providers. The standards shall require electric  
8 power suppliers and basic generation service providers to offer net  
9 metering at non-discriminatory rates to industrial, large  
10 commercial, residential and small commercial customers, as those  
11 customers are classified or defined by the board, that generate  
12 electricity, on the customer's side of the meter, using a Class I  
13 renewable energy source, for the net amount of electricity supplied  
14 by the electric power supplier or basic generation service provider  
15 over an annualized period. Systems of any sized capacity, as  
16 measured in watts, are eligible for net metering. If the amount of  
17 electricity generated by the customer-generator, plus any kilowatt  
18 hour credits held over from the previous billing periods, exceeds the  
19 electricity supplied by the electric power supplier or basic  
20 generation service provider, then the electric power supplier or  
21 basic generation service provider, as the case may be, shall credit  
22 the customer-generator for the excess kilowatt hours until the end of  
23 the annualized period at which point the customer-generator will be  
24 compensated for any remaining credits or, if the customer-generator  
25 chooses, credit the customer-generator on a real-time basis, at the  
26 electric power supplier's or basic generation service provider's  
27 avoided cost of wholesale power or the PJM electric power pool's  
28 real-time locational marginal pricing rate, adjusted for losses, for  
29 the respective zone in the PJM electric power pool. Alternatively,  
30 the customer-generator may execute a bilateral agreement with an  
31 electric power supplier or basic generation service provider for the  
32 sale and purchase of the customer-generator's excess generation.  
33 The customer-generator may be credited on a real-time basis, so  
34 long as the customer-generator follows applicable rules prescribed  
35 by the PJM electric power pool for its capacity requirements for the  
36 net amount of electricity supplied by the electric power supplier or  
37 basic generation service provider. The board may authorize an  
38 electric power supplier or basic generation service provider to cease  
39 offering net metering to customers that are not already net metered  
40 whenever the total rated generating capacity owned and operated by  
41 net metering customer-generators Statewide equals 5.8 percent of  
42 the total annual kilowatt-hours sold in this State by each electric  
43 power supplier and each basic generation service provider during  
44 the prior one-year period;

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

1 Such standards or rules shall take into consideration the goals of  
2 the New Jersey Energy Master Plan, applicable industry standards,  
3 and the standards of other states and the Institute of Electrical and  
4 Electronics Engineers. The board shall allow electric public  
5 utilities to recover the costs of any new net meters, upgraded net  
6 meters, system reinforcements or upgrades, and interconnection  
7 costs through either their regulated rates or from the net metering  
8 customer-generator;

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

13 (4) net metering aggregation standards to require electric public  
14 utilities to provide net metering aggregation to single electric public  
15 utility customers that operate a solar electric power generation  
16 system installed at one of the customer's facilities or on property  
17 owned by the customer, provided that any such customer is a State  
18 entity, school district, county, county agency, county authority,  
19 municipality, municipal agency, or municipal authority. The  
20 standards shall provide that, in order to qualify for net metering  
21 aggregation, the customer must operate a solar electric power  
22 generation system using a net metering billing account, which  
23 system is located on property owned by the customer, provided that:  
24 (a) the property is not land that has been actively devoted to  
25 agricultural or horticultural use and that is valued, assessed, and  
26 taxed pursuant to the "Farmland Assessment Act of 1964,"  
27 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year  
28 period prior to the effective date of P.L.2012, c.24, provided,  
29 however, that the municipal planning board of a municipality in  
30 which a solar electric power generation system is located may  
31 waive the requirement of this subparagraph (a), (b) the system is not  
32 an on-site generation facility, (c) all of the facilities of the single  
33 customer combined for the purpose of net metering aggregation are  
34 facilities owned or operated by the single customer and are located  
35 within its territorial jurisdiction except that all of the facilities of a  
36 State entity engaged in net metering aggregation shall be located  
37 within five miles of one another, and (d) all of those facilities are  
38 within the service territory of a single electric public utility and are  
39 all served by the same basic generation service provider or by the  
40 same electric power supplier. The standards shall provide that , in  
41 order to qualify for net metering aggregation, the customer's solar  
42 electric power generation system shall be sized so that its annual  
43 generation does not exceed the combined metered annual energy  
44 usage of the qualified customer facilities, and the qualified  
45 customer facilities shall all be in the same customer rate class under  
46 the applicable electric public utility tariff. For the customer's  
47 facility or property on which the solar electric generation system is  
48 installed, the electricity generated from the customer's solar electric

1 generation system shall be accounted for pursuant to the provisions  
2 of paragraph (1) of this subsection to provide that the electricity  
3 generated in excess of the electricity supplied by the electric power  
4 supplier or the basic generation service provider, as the case may  
5 be, for the customer's facility on which the solar electric generation  
6 system is installed, over the annualized period, is credited at the  
7 electric power supplier's or the basic generation service provider's  
8 avoided cost of wholesale power or the PJM electric power pool  
9 real-time locational marginal pricing rate. All electricity used by  
10 the customer's qualified facilities, with the exception of the facility  
11 or property on which the solar electric power generation system is  
12 installed, shall be billed at the full retail rate pursuant to the electric  
13 public utility tariff applicable to the customer class of the customer  
14 using the electricity. A customer may contract with a third party to  
15 operate a solar electric power generation system, for the purpose of  
16 net metering aggregation. Any contractual relationship entered into  
17 for operation of a solar electric power generation system related to  
18 net metering aggregation shall include contractual protections that  
19 provide for adequate performance and provision for construction  
20 and operation for the term of the contract, including any appropriate  
21 bonding or escrow requirements. Any incremental cost to an  
22 electric public utility for net metering aggregation shall be fully and  
23 timely recovered in a manner to be determined by the board. The  
24 board shall adopt net metering aggregation standards within 270  
25 days after the effective date of P.L.2012, c.24.

26 Such rules shall require the board or its designee to issue a credit  
27 or other incentive to those generators that do not use a net meter but  
28 otherwise generate electricity derived from a Class I renewable  
29 energy source and to issue an enhanced credit or other incentive,  
30 including, but not limited to, a solar renewable energy credit, to  
31 those generators that generate electricity derived from solar  
32 technologies.

33 Such standards or rules shall be effective as regulations  
34 immediately upon filing with the Office of Administrative Law and  
35 shall be effective for a period not to exceed 18 months, and may,  
36 thereafter, be amended, adopted or readopted by the board in  
37 accordance with the provisions of the "Administrative Procedure  
38 Act."

39 f. The board may assess, by written order and after notice and  
40 opportunity for comment, a separate fee to cover the cost of  
41 implementing and overseeing an emission disclosure system or  
42 emission portfolio standard, which fee shall be assessed based on an  
43 electric power supplier's or basic generation service provider's share  
44 of the retail electricity supply market. The board shall not impose a  
45 fee for the cost of implementing and overseeing a greenhouse gas  
46 emissions portfolio standard adopted pursuant to paragraph (2) of  
47 subsection c. of this section.

1 g. The board shall adopt, pursuant to the "Administrative  
2 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric  
3 energy efficiency program in order to ensure investment in cost-  
4 effective energy efficiency measures, ensure universal access to  
5 energy efficiency measures, and serve the needs of low-income  
6 communities that shall require each electric public utility to  
7 implement energy efficiency measures that reduce electricity usage  
8 in the State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).  
9 Nothing in this subsection shall be construed to prevent an electric  
10 public utility from meeting the requirements of this subsection by  
11 contracting with another entity for the performance of the  
12 requirements.

13 h. The board shall adopt, pursuant to the "Administrative  
14 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a gas energy  
15 efficiency program in order to ensure investment in cost-effective  
16 energy efficiency measures, ensure universal access to energy  
17 efficiency measures, and serve the needs of low-income  
18 communities that shall require each gas public utility to implement  
19 energy efficiency measures that reduce natural gas usage in the  
20 State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).  
21 Nothing in this subsection shall be construed to prevent a gas public  
22 utility from meeting the requirements of this subsection by  
23 contracting with another entity for the performance of the  
24 requirements.

25 i. After the board establishes a schedule of solar kilowatt-hour  
26 sale or purchase requirements pursuant to paragraph (3) of  
27 subsection d. of this section, the board may initiate subsequent  
28 proceedings and adopt, after appropriate notice and opportunity for  
29 public comment and public hearing, increased minimum solar  
30 kilowatt-hour sale or purchase requirements, provided that the  
31 board shall not reduce previously established minimum solar  
32 kilowatt-hour sale or purchase requirements, or otherwise impose  
33 constraints that reduce the requirements by any means.

34 j. The board shall determine an appropriate level of solar  
35 alternative compliance payment, and permit each supplier or  
36 provider to submit an SACP to comply with the solar electric  
37 generation requirements of paragraph (3) of subsection d. of this  
38 section. The value of the SACP for each Energy Year, for Energy  
39 Years 2014 through 2033 per megawatt hour from solar electric  
40 generation required pursuant to this section, shall be:

41	EY 2014	\$339
42	EY 2015	\$331
43	EY 2016	\$323
44	EY 2017	\$315
45	EY 2018	\$308
46	EY 2019	\$268
47	EY 2020	\$258
48	EY 2021	\$248

1	EY 2022	\$238
2	EY 2023	\$228
3	EY 2024	\$218
4	EY 2025	\$208
5	EY 2026	\$198
6	EY 2027	\$188
7	EY 2028	\$178
8	EY 2029	\$168
9	EY 2030	\$158
10	EY 2031	\$148
11	EY 2032	\$138
12	EY 2033	\$128.

13     The board may initiate subsequent proceedings and adopt, after  
14 appropriate notice and opportunity for public comment and public  
15 hearing, an increase in solar alternative compliance payments,  
16 provided that the board shall not reduce previously established  
17 levels of solar alternative compliance payments, nor shall the board  
18 provide relief from the obligation of payment of the SACP by the  
19 electric power suppliers or basic generation service providers in any  
20 form. Any SACP payments collected shall be refunded directly to  
21 the ratepayers by the electric public utilities.

22     k. The board may allow electric public utilities to offer long-  
23 term contracts through a competitive process, direct electric public  
24 utility investment and other means of financing, including but not  
25 limited to loans, for the purchase of SRECs and the resale of SRECs  
26 to suppliers or providers or others, provided that after such  
27 contracts have been approved by the board, the board's approvals  
28 shall not be modified by subsequent board orders. If the board  
29 allows the offering of contracts pursuant to this subsection, the  
30 board may establish a process, after hearing, and opportunity for  
31 public comment, to provide that a designated segment of the  
32 contracts approved pursuant to this subsection shall be contracts  
33 involving solar electric power generation facility projects with a  
34 capacity of up to 250 kilowatts.

35     l. The board shall implement its responsibilities under the  
36 provisions of this section in such a manner as to:

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

40         (2) maintain adequate regulatory authority over non-competitive  
41 public utility services;

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

44         (4) promote energy efficiency and Class I renewable energy  
45 market development, taking into consideration environmental  
46 benefits and market barriers;

47         (5) make energy services more affordable for low and moderate  
48 income customers;

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

4 (7) achieve the goals put forth under the renewable energy  
5 portfolio standards;

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

7 (9) allow all market segments to participate.

8 m. The board shall ensure the availability of financial incentives  
9 under its jurisdiction, including, but not limited to, long-term  
10 contracts, loans, SRECs, or other financial support, to ensure  
11 market diversity, competition, and appropriate coverage across all  
12 ratepayer segments, including, but not limited to, residential,  
13 commercial, industrial, non-profit, farms, schools, and public entity  
14 customers.

15 n. For projects which are owned, or directly invested in, by a  
16 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-  
17 98.1), the board shall determine the number of SRECs with which  
18 such projects shall be credited; and in determining such number the  
19 board shall ensure that the market for SRECs does not detrimentally  
20 affect the development of non-utility solar projects and shall  
21 consider how its determination may impact the ratepayers.

22 o. The board, in consultation with the Department of  
23 Environmental Protection, electric public utilities, the Division of  
24 Rate Counsel in, but not of, the Department of the Treasury,  
25 affected members of the solar energy industry, and relevant  
26 stakeholders, shall periodically consider increasing the renewable  
27 energy portfolio standards beyond the minimum amounts set forth  
28 in subsection d. of this section, taking into account the cost impacts  
29 and public benefits of such increases including, but not limited to:

30 (1) reductions in air pollution, water pollution, land disturbance,  
31 and greenhouse gas emissions;

32 (2) reductions in peak demand for electricity and natural gas,  
33 and the overall impact on the costs to customers of electricity and  
34 natural gas;

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

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

39 p. Class I RECs and ORECs shall be eligible for use in  
40 renewable energy portfolio standards compliance in the energy year  
41 in which they are generated, and for the following two energy years.  
42 SRECs shall be eligible for use in renewable energy portfolio  
43 standards compliance in the energy year in which they are  
44 generated, and for the following four energy years.

45 q. (1) During the energy years of 2014, 2015, and 2016, a solar  
46 electric power generation facility project that is not: (a) net  
47 metered; (b) an on-site generation facility; (c) qualified for net  
48 metering aggregation; or (d) certified as being located on a

1 brownfield, on an area of historic fill or on a properly closed  
2 sanitary landfill facility, as provided pursuant to subsection t. of this  
3 section may file an application with the board for approval of a  
4 designation pursuant to this subsection that the facility is connected  
5 to the distribution system. An application filed pursuant to this  
6 subsection shall include a notice escrow of \$40,000 per megawatt of  
7 the proposed capacity of the facility. The board shall approve the  
8 designation if: the facility has filed a notice in writing with the  
9 board applying for designation pursuant to this subsection, together  
10 with the notice escrow; and the capacity of the facility, when added  
11 to the capacity of other facilities that have been previously  
12 approved for designation prior to the facility's filing under this  
13 subsection, does not exceed 80 megawatts in the aggregate for each  
14 year. The capacity of any one solar electric power supply project  
15 approved pursuant to this subsection shall not exceed 10 megawatts.  
16 No more than 90 days after its receipt of a completed application  
17 for designation pursuant to this subsection, the board shall approve,  
18 conditionally approve, or disapprove the application. The notice  
19 escrow shall be reimbursed to the facility in full upon either  
20 rejection by the board or the facility entering commercial operation,  
21 or shall be forfeited to the State if the facility is designated pursuant  
22 to this subsection but does not enter commercial operation pursuant  
23 to paragraph (2) of this subsection.

24 (2) If the proposed solar electric power generation facility does  
25 not commence commercial operations within two years following  
26 the date of the designation by the board pursuant to this subsection,  
27 the designation of the facility shall be deemed to be null and void,  
28 and the facility shall not be considered connected to the distribution  
29 system thereafter.

30 (3) Notwithstanding the provisions of paragraph (2) of this  
31 subsection, a solar electric power generation facility project that as  
32 of May 31, 2017 was designated as "connected to the distribution  
33 system," but failed to commence commercial operations as of that  
34 date, shall maintain that designation if it commences commercial  
35 operations by May 31, 2018.

36 r. (1) For all proposed solar electric power generation facility  
37 projects except for those solar electric power generation facility  
38 projects approved pursuant to subsection q. of this section, and for  
39 all projects proposed in energy year 2019 and energy year 2020, the  
40 board may approve projects for up to 50 megawatts annually in  
41 auctioned capacity in two auctions per year as long as the board is  
42 accepting applications. If the board approves projects for less than  
43 50 megawatts in energy year 2019 or less than 50 megawatts in  
44 energy year 2020, the difference in each year shall be carried over  
45 into the successive energy year until 100 megawatts of auctioned  
46 capacity has been approved by the board pursuant to this  
47 subsection. A proposed solar electric power generation facility that  
48 is neither net metered nor an on-site generation facility, may be



1 considered "connected to the distribution system" only upon  
2 designation as such by the board, after notice to the public and  
3 opportunity for public comment or hearing. A proposed solar  
4 **power** electric power generation facility seeking board  
5 designation as "connected to the distribution system" shall submit  
6 an application to the board that includes for the proposed facility:  
7 the nameplate capacity; the estimated energy and number of SRECs  
8 to be produced and sold per year; the estimated annual rate impact  
9 on ratepayers; the estimated capacity of the generator as defined by  
10 PJM for sale in the PJM capacity market; the point of  
11 interconnection; the total project acreage and location; the current  
12 land use designation of the property; the type of solar technology to  
13 be used; and such other information as the board shall require.

14 (2) The board shall approve the designation of the proposed  
15 solar **power** electric power generation facility as "connected to  
16 the distribution system" if the board determines that:

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

20 (b) the approval of the designation of the proposed facility  
21 would not significantly impact the preservation of open space in  
22 this State;

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

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

29 (3) The board shall act within 90 days of its receipt of a  
30 completed application for designation of a solar **power** electric  
31 power generation facility as "connected to the distribution system,"  
32 to either approve, conditionally approve, or disapprove the  
33 application. If the proposed solar electric power generation facility  
34 does not commence commercial operations within two years  
35 following the date of the designation by the board pursuant to this  
36 subsection, the designation of the facility as "connected to the  
37 distribution system" shall be deemed to be null and void, and the  
38 facility shall thereafter be considered not "connected to the  
39 distribution system."

40 s. In addition to any other requirements of P.L.1999, c.23 or  
41 any other law, rule, regulation or order, a solar electric power  
42 generation facility that is not net metered or an on-site generation  
43 facility and which is located on land that has been actively devoted  
44 to agricultural or horticultural use that is valued, assessed, and  
45 taxed pursuant to the "Farmland Assessment Act of 1964,"  
46 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year  
47 period prior to the effective date of P.L.2012, c.24, shall only be  
48 considered "connected to the distribution system" if (1) the board

1 approves the facility's designation pursuant to subsection q. of this  
2 section; or (2) (a) PJM issued a System Impact Study for the facility  
3 on or before June 30, 2011, (b) the facility files a notice with the  
4 board within 60 days of the effective date of P.L.2012, c.24,  
5 indicating its intent to qualify under this subsection, and (c) the  
6 facility has been approved as "connected to the distribution system"  
7 by the board. Nothing in this subsection shall limit the board's  
8 authority concerning the review and oversight of facilities, unless  
9 such facilities are exempt from such review as a result of having  
10 been approved pursuant to subsection q. of this section.

11 t. (1) No more than 180 days after the date of enactment of  
12 P.L.2012, c.24, the board shall, in consultation with the Department  
13 of Environmental Protection and the New Jersey Economic  
14 Development Authority, and, after notice and opportunity for public  
15 comment and public hearing, complete a proceeding to establish a  
16 program to provide SRECs to owners of solar electric power  
17 generation facility projects certified by the board, in consultation  
18 with the Department of Environmental Protection, as being located  
19 on a brownfield, on an area of historic fill or on a properly closed  
20 sanitary landfill facility, including those owned or operated by an  
21 electric public utility and approved pursuant to section 13 of  
22 P.L.2007, c.340 (C.48:3-98.1). Projects certified under this  
23 subsection shall be considered "connected to the distribution  
24 system", shall not require such designation by the board, and shall  
25 not be subject to board review required pursuant to subsections q.  
26 and r. of this section. Notwithstanding the provisions of section 3  
27 of P.L.1999, c.23 (C.48:3-51) or any other law, rule, regulation, or  
28 order to the contrary, for projects certified under this subsection, the  
29 board shall establish a financial incentive that is designed to  
30 supplement the SRECs generated by the facility in order to cover  
31 the additional cost of constructing and operating a solar electric  
32 power generation facility on a brownfield, on an area of historic fill  
33 or on a properly closed sanitary landfill facility. Any financial  
34 benefit realized in relation to a project owned or operated by an  
35 electric public utility and approved by the board pursuant to section  
36 13 of P.L.2007, c.340 (C.48:3-98.1), as a result of the provision of a  
37 financial incentive established by the board pursuant to this  
38 subsection, shall be credited to ratepayers. The issuance of SRECs  
39 for all solar electric power generation facility projects pursuant to  
40 this subsection shall be deemed "Board of Public Utilities financial  
41 assistance" as provided under section 1 of P.L.2009, c.89 (C.48:2-  
42 29.47).

43 (2) Notwithstanding the provisions of the "Spill Compensation  
44 and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any  
45 other law, rule, regulation, or order to the contrary, the board, in  
46 consultation with the Department of Environmental Protection, may  
47 find that a person who operates a solar electric power generation  
48 facility project that has commenced operation on or after the

1 effective date of P.L.2012, c.24, which project is certified by the  
2 board, in consultation with the Department of Environmental  
3 Protection pursuant to paragraph (1) of this subsection, as being  
4 located on a brownfield for which a final remediation document has  
5 been issued, on an area of historic fill or on a properly closed  
6 sanitary landfill facility, which projects shall include, but not be  
7 limited to projects located on a brownfield for which a final  
8 remediation document has been issued, on an area of historic fill or  
9 on a properly closed sanitary landfill facility owned or operated by  
10 an electric public utility and approved pursuant to section 13 of  
11 P.L.2007, c.340 (C.48:3-98.1), or a person who owns property  
12 acquired on or after the effective date of P.L.2012, c.24 on which  
13 such a solar electric power generation facility project is constructed  
14 and operated, shall not be liable for cleanup and removal costs to  
15 the Department of Environmental Protection or to any other person  
16 for the discharge of a hazardous substance provided that:

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

19 (b) the person did not discharge the hazardous substance, is not  
20 in any way responsible for the hazardous substance, and is not a  
21 successor to the discharger or to any person in any way responsible  
22 for the hazardous substance or to anyone liable for cleanup and  
23 removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-  
24 23.11g);

25 (c) the person, within 30 days after acquisition of the property,  
26 gave notice of the discharge to the Department of Environmental  
27 Protection in a manner the Department of Environmental Protection  
28 prescribes;

29 (d) the person does not disrupt or change, without prior written  
30 permission from the Department of Environmental Protection, any  
31 engineering or institutional control that is part of a remedial action  
32 for the contaminated site or any landfill closure or post-closure  
33 requirement;

34 (e) the person does not exacerbate the contamination at the  
35 property;

36 (f) the person does not interfere with any necessary remediation  
37 of the property;

38 (g) the person complies with any regulations and any permit the  
39 Department of Environmental Protection issues pursuant to section  
40 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection  
41 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

42 (h) with respect to an area of historic fill, the person has  
43 demonstrated pursuant to a preliminary assessment and site  
44 investigation, that hazardous substances have not been discharged;  
45 and

46 (i) with respect to a properly closed sanitary landfill facility, no  
47 person who owns or controls the facility receives, has received, or  
48 will receive, with respect to such facility, any funds from any post-

1 closure escrow account established pursuant to section 10 of  
2 P.L.1981, c.306 (C.13:1E-109) for the closure and monitoring of  
3 the facility.

4 Only the person who is liable to clean up and remove the  
5 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-  
6 23.11g) and who does not have a defense to liability pursuant to  
7 subsection d. of that section shall be liable for cleanup and removal  
8 costs.

9 u. No more than 180 days after the date of enactment of  
10 P.L.2012, c.24, the board shall complete a proceeding to establish a  
11 registration program. The registration program shall require the  
12 owners of solar electric power generation facility projects  
13 connected to the distribution system to make periodic milestone  
14 filings with the board in a manner and at such times as determined  
15 by the board to provide full disclosure and transparency regarding  
16 the overall level of development and construction activity of those  
17 projects Statewide.

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

24 w. No more than 270 days after the date of enactment of  
25 P.L.2012, c.24, the board shall, after notice and opportunity for  
26 public comment and public hearing, complete a proceeding to  
27 consider whether to establish a program to provide, to owners of  
28 solar electric power generation facility projects certified by the  
29 board as being three megawatts or greater in capacity and being net  
30 metered, including facilities which are owned or operated by an  
31 electric public utility and approved by the board pursuant to section  
32 13 of P.L.2007, c.340 (C.48:3-98.1), a financial incentive that is  
33 designed to supplement the SRECs generated by the facility to  
34 further the goal of improving the economic competitiveness of  
35 commercial and industrial customers taking power from such  
36 projects. If the board determines to establish such a program  
37 pursuant to this subsection, the board may establish a financial  
38 incentive to provide that the board shall issue one SREC for no less  
39 than every 750 kilowatt-hours of solar energy generated by the  
40 certified projects. Any financial benefit realized in relation to a  
41 project owned or operated by an electric public utility and approved  
42 by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-  
43 98.1), as a result of the provisions of a financial incentive  
44 established by the board pursuant to this subsection, shall be  
45 credited to ratepayers.

46 x. Solar electric power generation facility projects that are  
47 located on an existing or proposed commercial, retail, industrial,  
48 municipal, professional, recreational, transit, commuter,

entertainment complex, multi-use, or mixed-use parking lot with a capacity to park 350 or more vehicles where the area to be utilized for the facility is paved, or an impervious surface may be owned or operated by an electric public utility and may be approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).  
(cf: P.L.2019, c.448, s.1)

11. Section 4 of P.L.2016, c.12 (C.13:8C-46) is amended to read as follows:

4. There is established in the General Fund a special account to be known as the "Preserve New Jersey Fund Account."

a. The State Treasurer shall credit to this account:

(1) (a) (i) For State fiscal year 2016, an amount equal to 71 percent of the four percent of the revenue annually derived from the tax imposed pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as amended and supplemented, or any other State law of similar effect, dedicated for recreation and conservation, farmland preservation, and historic preservation purposes pursuant to subparagraph (a) of Article VIII, Section II, paragraph 6 of the State Constitution, less \$19,972,000 already appropriated and expended for parks management in P.L.2015, c.63; and

(ii) in each State fiscal year 2017 through and including State fiscal year 2019 an amount equal to 71 percent of the four percent of the revenue annually derived from the tax imposed pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as amended and supplemented, or any other State law of similar effect, dedicated to recreation and conservation, farmland preservation, and historic preservation purposes pursuant to subparagraph (a) of Article VIII, Section II, paragraph 6 of the State Constitution; and

(b) (i) in each State fiscal year commencing in State fiscal year 2020 and annually thereafter, an amount equal to 78 percent of the six percent of the revenue annually derived from the tax imposed pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as amended and supplemented, or any other State law of similar effect, dedicated to recreation and conservation, farmland preservation, and historic preservation purposes pursuant to subparagraph (a) of Article VIII, Section II, paragraph 6 of the State Constitution; and

(ii) any amount received from a solar electric power generation facility pursuant to section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill); and

(2) in each State fiscal year, an amount equal to the amount dedicated pursuant to subparagraph (b) of Article VIII, Section II, paragraph 6 of the State Constitution.

b. In each State fiscal year, the amount credited to the Preserve New Jersey Fund Account shall be appropriated from time to time

1 by the Legislature only for the applicable purposes set forth in  
2 Article VIII, Section II, paragraph 6 of the State Constitution and  
3 **【this act】** P.L.2016, c.12 (C.13:8C-43 et seq.) for:

4 (1) providing funding, including loans or grants, for the  
5 preservation, including acquisition, development, and stewardship,  
6 of lands for recreation and conservation purposes, including lands  
7 that protect water supplies and lands that have incurred flood or  
8 storm damage or are likely to do so, or that may buffer or protect  
9 other properties from flood or storm damage;

10 (2) providing funding, including loans or grants, for the  
11 preservation and stewardship of land for agricultural or horticultural  
12 use and production;

13 (3) providing funding, including loans or grants, for historic  
14 preservation; and

15 (4) paying administrative costs associated with (1) through (3)  
16 of this subsection.

17 c. Nothing in **【this act】** P.L.2016, c.12 (C.13:8C-43 et seq.)  
18 shall authorize any State entity to use constitutionally dedicated  
19 CBT moneys for the purpose of making any payments relating to  
20 any bonds, notes, or other debt obligations, other than those relating  
21 to obligations arising from land purchase agreements made with  
22 landowners.

23 d. In each State fiscal year after the enactment of P.L. ,  
24 c. (C. ) (pending before the Legislature as this bill), the State  
25 Treasurer shall notify, in writing, the chairperson of the Garden  
26 State Preservation Trust of the amount received from a solar electric  
27 power generation facility pursuant to section 5 of P.L. ,  
28 c. (C. ) (pending before the Legislature as this bill) and  
29 credited to the Preserve New Jersey Fund Account pursuant to  
30 subsubparagraph (ii) of subparagraph (b) of paragraph (1) of  
31 subsection a. of this section to be used for the purposes of  
32 subsection b. of this section.

33 (cf: P.L.2016, c.12, s.4)

34

35 12. This act shall take effect immediately.

36

37

38

39

40 Establishes successor program to solar renewable energy  
41 certificate program in BPU, including solicitation process for  
42 certain solar power generation facilities.