

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
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STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED MAY 11, 2021

Sponsored by:

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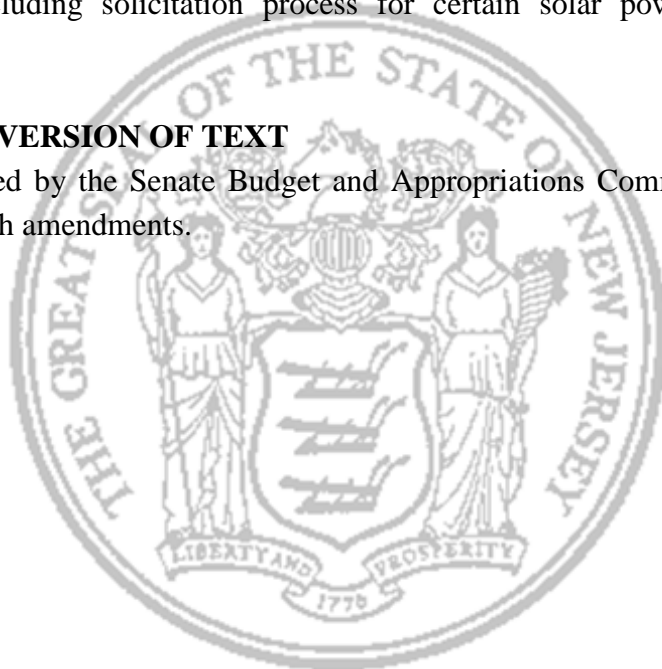
Senators Diegnan, Lagana and Greenstein

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 21, 2021, with amendments.



(Sponsorship Updated As Of: 6/30/2021)

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

38 e. It is therefore in the public interest to develop a new solar
39 program that incentivizes new solar electric power generation
40 facilities, including net metered solar facilities, community solar
41 facilities, and grid supply solar facilities, which are capable of
42 ensuring that clean and reliable solar energy is supplied to New
43 Jersey consumers, and which contribute to meeting the State's
44 energy goals.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted June 21, 2021.

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

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

28 c. No later than one year after the effective date of P.L. ,
29 c. (C.) (pending before the Legislature as this bill), the
30 board shall adopt, pursuant to the "Administrative Procedure Act,"
31 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations
32 establishing the SREC-II program in accordance with the provisions
33 of P.L. , c. (C.) (pending before the Legislature as this
34 bill).

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

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

1 3. (New section) a. The board shall develop, as part of the
2 SREC-II program, a small solar facilities incentive program to
3 award SREC-IIs to the owners of community solar facilities and net
4 metered solar facilities less than five megawatts in size, as
5 measured in direct current, or another size specified by the board.
6 The small solar facilities incentive program shall aim to provide
7 SREC-IIs for the generation of at least 300 megawatts of net-
8 metered solar facilities per year and 150 megawatts of community
9 solar facilities per year, for each of the five years after the
10 establishment of the SREC-II program.

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

25 c. The small solar facilities incentive program shall include
26 criteria by which to assign an SREC-II value per megawatt-hour to a
27 solar electric power generation facility. The criteria shall be designed
28 by the board to incentivize the development of new solar power
29 projects sufficiently so that the goals for solar power development in
30 the State's Energy Master Plan are met, to further other State goals,
31 and to incentivize projects that are especially in the public interest.
32 The SREC-II value per megawatt-hour may include the value of the
33 environmental and other benefits to the State provided by the
34 facility, as determined by the board. The criteria may include, but is
35 not limited to, consideration of the following factors:

- 36 (1) the size of the facility;
37 (2) the costs and revenues associated with representative facilities;
38 (3) for community solar facilities, the economic and demographic
39 characteristics of the area served by the facility, including whether it is
40 located in an overburdened community, as that term is defined in
41 section 2 of P.L.2020, c.92 (C.13:1D-158);
42 (4) whether the facility is located on already developed land or the
43 built environment;
44 (5) the facility's eligibility for net metering pursuant to subsection
45 e. of section 38 of P.L.1999, c.23 (C.48:3-87) or participation in the
46 community solar program established pursuant to subsection f. of
47 section 5 of P.L.2018, c.17 (C.48:3-87.11); and

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

3
4 4. (New section) a. The board shall develop and administer, as
5 part of the SREC-II program, a transparent, fair, and competitive
6 solicitation process for awarding SREC-II contracts to promote the
7 construction of solar electric power generation facilities.

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

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

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

15 (c) interconnected to a distribution or transmission system
16 operated by a New Jersey electric public utility or local government
17 unit; and

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

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

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

36 c. Solicitation rounds shall occur at least as frequently as once
37 every 18 months, beginning on the effective date of P.L. ,
38 c. (C.) (pending before the Legislature as this bill) and
39 ending no earlier than January 1, 2026. The solicitation process
40 shall:

41 (1) be open on a non-discriminatory basis to any entity seeking
42 to construct a solar electric power generation facility that complies
43 with the provisions of subsection a. of this section;

44 (2) be carried out in accordance with criteria developed by the
45 board and applied equally to all responses to the solicitation;

46 (3) award contracts for SREC-IIs to promote the construction of
47 solar electric power generation facilities for no less than an average
48 of 300 megawatts per year, for five years, with the first awards

1 made no later than 18 months after the effective date P.L. ,
2 c. (C.) (pending before the Legislature as this bill);
3 (4) award projects selected as part of the competitive solicitation
4 process the right to receive a renewable energy incentive payment,
5 in the form of an SREC-II value per megawatt-hour established by
6 the board, for the environmental attribute produced by the solar
7 electric power generation facility, for a duration to be established
8 by the board. The SREC-II value per megawatt-hour may include
9 the value of the environmental and other benefits to the State
10 provided by the facility, as determined by the board;
11 (5) ensure that the length of any award is sufficient to encourage
12 low financing rates, reasonable risks to ratepayers, and to enable the
13 development of affordable renewable energy resources;
14 (6) mitigate price and delivery risks for consumers;
15 (7) include requirements designed to ensure successful
16 completion of projects, including, but not limited to, the imposition
17 of appropriate escrow fees, bid maturity requirements, required
18 interconnection milestones, and conditions on when a project must
19 achieve commercial operation; and
20 (8) ensure that the environmental and public health benefits of
21 solar electric power generation facilities on contaminated sites or
22 landfills are recognized, including accommodating the long
23 development timescale for these projects.
24 d. The board may establish confidential high and low bid
25 thresholds prior to conducting a competitive solicitation pursuant to
26 this section, provided that the thresholds promote fiscal
27 responsibility for the State and the likelihood of successful bids, as
28 determined by the board. The thresholds may include a cap on the
29 renewable energy incentive payments required pursuant to
30 paragraph (4) of subsection c. of this section. The board may also
31 procure more than the minimum quantity of solar power required by
32 this section if bids are below the predetermined bid threshold.
33 e. The board shall determine, in consultation with the
34 Department of Environmental Protection, if a solar electric power
35 generation facility may be sited on a contaminated site or landfill
36 for the purposes of this section. If the board authorizes a facility to
37 be sited on a contaminated site or landfill, the facility shall be
38 afforded the protections provided in paragraph (2) of subsection t.
39 of section 38 of P.L.1999, c.23 (C.48:3-87).
40 f. At the end of each bidding round, the board shall:
41 (1) rank all bids received based on the bid price, or, pursuant to
42 subsection b. of this section, based on the bid price within each
43 category;
44 (2) select bids in ranked order, up to the procurement budget set
45 by the board, or, pursuant to subsection b. of this section, the
46 procurement budget of each category; and

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

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

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

24
25 5. (New section) a. No solar electric power generation facility
26 shall simultaneously receive SREC-IIs pursuant to P.L. ,
27 c. (C.) (pending before the Legislature as this bill) and
28 Class I RECs, SRECs, or any other comparable certificates,
29 including those issued under a program developed by the board
30 pursuant to P.L.2018, c.17 (C.48:3-87.8 et al.).

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

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

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

46 (2) an annual administrative fee, in an amount to be determined
47 by the board in the rules and regulations adopted by the board

1 pursuant to section 2 of P.L. , c. (C.) (pending before the
2 Legislature as this bill).

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

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

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

18 g. A solar electric power generation facility that is selected
19 pursuant to section 4 of P.L. , c. (C.) (pending before the
20 Legislature as this bill) shall comply with the standards concerning
21 vegetation adopted by the Department of Environmental Protection
22 pursuant to section 8 of P.L. , c. (C.) (pending before the
23 Legislature as this bill).

24

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

30 b. The board shall develop, in consultation with the Department of
31 Environmental Protection and the Secretary of Agriculture, siting
32 criteria for grid supply solar facilities and net metered solar facilities
33 greater than five megawatts in size. In addition to implementing the
34 provisions of subsections c. through ¹~~[e.]~~ f.¹ of this section, the siting
35 criteria shall:

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

39 (2) minimize, as much as is practicable, potential adverse
40 environmental impacts; and

41 (3) where appropriate, include consideration of:

42 (a) existing and prior land uses of the property;

43 (b) whether the property contains a contaminated site or landfill;

44 (c) any conservation or agricultural designations associated with
45 the property;

46 (d) the amount of soil disturbance, impervious surface, and tree
47 cover on the property; and

48 (e) other site-specific criteria.

- 1 c. Unless authorized pursuant to subsection ¹~~['e.] f.~~¹ of this
2 section, a grid supply solar facility ¹or a net metered solar facility
3 greater than five megawatts in size¹ shall not be sited on:
- 4 (1) land preserved under the Green Acres Program;
- 5 (2) land located within the preservation area of the pinelands area,
6 as designated in subsection b. of section 10 of P.L.1979, c.111
7 (C.13:18A-11);
- 8 (3) land designated as forest area in the pinelands comprehensive
9 management plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et
10 seq.);
- 11 (4) land designated as freshwater wetlands as defined pursuant to
12 P.L.1987, c.156 (C.13:9B-1 et seq.), or coastal wetlands as defined
13 pursuant to P.L.1970, c.272 (C.13:9A-1 et seq.);
- 14 (5) lands located within the Highlands preservation area as
15 designated in subsection b. of section 7 of P.L.2004, c.120 (C.13:20-
16 7);
- 17 (6) forested lands, as defined by the board in consultation with the
18 Department of Environmental Protection; or
- 19 (7) prime agricultural soils and soils of ¹~~['statewide]~~ Statewide¹
20 importance, as identified by the United States Department of
21 Agriculture's Natural Resources Conservation Service, which are
22 located in Agricultural Development Areas certified by the State
23 Agriculture Development Committee ¹, in excess of the Statewide
24 threshold of 2.5 percent of such soils established by paragraph (1) of
25 subsection d. of this section¹ .
- 26 d. ¹(1) A grid supply solar facility or a net metered solar facility
27 greater than five megawatts in size sited on prime agricultural soils or
28 soils of Statewide importance, as identified by the United States
29 Department of Agriculture's Natural Resources Conservation Service,
30 which are located in Agricultural Development Areas certified by the
31 State Agriculture Development Committee, shall not require a waiver
32 pursuant to subsection f. of this section until the board determines,
33 pursuant to paragraph (2) of this subsection, that 2.5 percent of such
34 lands in the State have been approved by the board pursuant to P.L. ,
35 c. (C.) (pending before the Legislature as this bill) to be
36 utilized by a grid supply solar facility or a net metered solar facility
37 greater than five megawatts in size. After the board makes this
38 determination, a grid supply solar facility or a net metered solar
39 facility greater than five megawatts in size shall not be sited on prime
40 agricultural soils or soils of Statewide importance, as identified by the
41 United States Department of Agriculture's Natural Resources
42 Conservation Service, which are located in Agricultural Development
43 Areas certified by the State Agriculture Development Committee,
44 unless authorized pursuant to subsection f. of this section.
- 45 (2) The board, in consultation with the Secretary of Agriculture,
46 shall track and record the Statewide area of prime agricultural soils or
47 soils of Statewide importance, which are located in Agricultural

1 Development Areas certified by the State Agriculture Development
2 Committee, and which are utilized for solar energy production by grid
3 supply solar facilities and net metered solar facilities greater than five
4 megawatts in size, in order to implement the provisions of this section.

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

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

12 ¹[e.] f.¹ A developer may petition the board for a waiver to site a
13 solar power electric generation facility in an area proscribed by
14 subsection c. of this section. The petition shall set out the unique
15 factors that make the project consistent with the character of the
16 specific parcel, including whether the property is a contaminated site
17 or landfill, otherwise marginal land, or whether the project utilizes
18 existing development or existing areas of impervious coverage. The
19 board shall, in consultation with the Department of Environmental
20 Protection or Secretary of Agriculture, as appropriate, consider the
21 petition and may grant a waiver to a project deemed to be in the public
22 interest. However, in no case shall the projects approved by the board
23 pursuant to this section occupy more than five percent of the
24 unpreserved land containing prime agricultural soils and soils of
25 ¹[statewide] Statewide¹ importance, as identified by the United States
26 Department of Agriculture's Natural Resources Conservation Service,
27 located within any county's designated Agricultural Development
28 Area, as determined by the State Agriculture Development Committee.

29 ¹[f.] g.¹ No later than five years after the adoption of rules and
30 regulations pursuant to section 2 of P.L. , c. (C.) (pending
31 before the Legislature as this bill), the board, in consultation with the
32 Department of Environmental Protection and the Secretary of
33 Agriculture, shall conduct a review of the rules and regulations to
34 assess program performance, identify problems, and recommend
35 changes to the siting criteria to better effectuate the policy goals set
36 forth in subsection a. of this section. The board shall prepare a report
37 summarizing this review and submit it to the Governor and to the
38 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1).

39
40 7. (New section) The board shall submit a report on the SREC-
41 II program to the Governor and, pursuant to section 2 of P.L.1991,
42 c.164 (C.52:14-19.1), to the Legislature no later than 12 months
43 after the adoption of rules and regulations pursuant to section 2 of
44 P.L. , c. (C.) (pending before the Legislature as this bill),
45 and annually thereafter. The report shall include, but not be limited
46 to:

47 a. information about the number and price of SREC-IIs
48 distributed;

1 b. information about the progress of the program towards
2 meeting its solar energy generation goals, including the individual
3 goals for net-metered solar facilities, community solar facilities,
4 and grid supply solar facilities;

5 c. an assessment of the competitive solicitation process,
6 including any recommendations to improve the functioning of the
7 program; and

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

11
12 8. (New section) No later than one year after the effective date
13 of P.L. , c. (C.) (pending before the Legislature as this
14 bill), the Department of Environmental Protection, in consultation
15 with the board, shall establish standards for the use of pollinator-
16 friendly native plant species and seed mixes in grid supply solar
17 facilities, which are designed to reduce stormwater runoff and
18 erosion, and provide native perennial vegetation and foraging
19 habitat beneficial to gamebirds, songbirds, and pollinators, and
20 which consider compatibility with the security and reliability of
21 grid supply solar facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 "Class II renewable energy" means electric energy produced at a
22 hydropower facility with a capacity of greater than three megawatts,
23 but less than 30 megawatts, or a resource recovery facility, provided
24 that the facility is located where retail competition is permitted and
25 provided further that the Commissioner of Environmental
26 Protection has determined that the facility meets the highest
27 environmental standards and minimizes any impacts to the
28 environment and local communities. Class II renewable energy
29 shall not include electric energy produced at a hydropower facility
30 with a capacity of greater than 30 megawatts on or after the
31 effective date of P.L.2015, c.51.

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

35 "Combined cycle power facility" means a generation facility that
36 combines two or more thermodynamic cycles, by producing electric
37 power via the combustion of fuel and then routing the resulting
38 waste heat by-product to a conventional boiler or to a heat recovery
39 steam generator for use by a steam turbine to produce electric
40 power, thereby increasing the overall efficiency of the generating
41 facility.

42 "Combined heat and power facility" or "co-generation facility"
43 means a generation facility which produces electric energy and
44 steam or other forms of useful energy such as heat, which are used
45 for industrial or commercial heating or cooling purposes. A
46 combined heat and power facility or co-generation facility shall not
47 be considered a public utility.

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

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

12 "Comprehensive resource analysis" means an analysis including,
13 but not limited to, an assessment of existing market barriers to the
14 implementation of energy efficiency and renewable technologies
15 that are not or cannot be delivered to customers through a
16 competitive marketplace.

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

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

41 "Contaminated site or landfill" means: (1) any currently
42 contaminated portion of a property on which industrial or
43 commercial operations were conducted and a discharge occurred,
44 and its associated disturbed areas, where "discharge" means the
45 same as the term is defined in section 23 of P.L.1993, c.139
46 (C.58:10B-1); or (2) a properly closed sanitary landfill facility and
47 its associated disturbed areas.

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

5 "Customer account service" means metering, billing, or such
6 other administrative activity associated with maintaining a customer
7 account.

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

11 "Demand side management" means the management of customer
12 demand for energy service through the implementation of cost-
13 effective energy efficiency technologies, including, but not limited
14 to, installed conservation, load management, and energy efficiency
15 measures on and in the residential, commercial, industrial,
16 institutional, and governmental premises and facilities in this State.

17 "Electric generation service" means the provision of retail
18 electric energy and capacity which is generated off-site from the
19 location at which the consumption of such electric energy and
20 capacity is metered for retail billing purposes, including agreements
21 and arrangements related thereto.

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

33 "Electric power supplier" means a person or entity that is duly
34 licensed pursuant to the provisions of P.L.1999, c.23 (C.48:3-49 et
35 al.) to offer and to assume the contractual and legal responsibility to
36 provide electric generation service to retail customers, and includes
37 load serving entities, marketers, and brokers that offer or provide
38 electric generation service to retail customers. The term excludes
39 an electric public utility that provides electric generation service
40 only as a basic generation service pursuant to section 9 of P.L.1999,
41 c.23 (C.48:3-57).

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

45 "Electric related service" means a service that is directly related
46 to the consumption of electricity by an end user, including, but not
47 limited to, the installation of demand side management measures at
48 the end user's premises, the maintenance, repair, or replacement of

1 appliances, lighting, motors, or other energy-consuming devices at
2 the end user's premises, and the provision of energy consumption
3 measurement and billing services.

4 "Electronic signature" means an electronic sound, symbol, or
5 process, attached to, or logically associated with, a contract or other
6 record, and executed or adopted by a person with the intent to sign
7 the record.

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

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

19 "Energy consumer" means a business or residential consumer of
20 electric generation service or gas supply service located within the
21 territorial jurisdiction of a government aggregator.

22 "Energy efficiency portfolio standard" means a requirement to
23 procure a specified amount of energy efficiency or demand side
24 management resources as a means of managing and reducing energy
25 usage and demand by customers.

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

29 "Existing business relationship" means a relationship formed by
30 a voluntary two-way communication between an electric power
31 supplier, gas supplier, broker, energy agent, marketer, private
32 aggregator, sales representative, or telemarketer and a customer,
33 regardless of an exchange of consideration, on the basis of an
34 inquiry, application, purchase, or transaction initiated by the
35 customer regarding products or services offered by the electric
36 power supplier, gas supplier, broker, energy agent, marketer,
37 private aggregator, sales representative, or telemarketer; however, a
38 consumer's use of electric generation service or gas supply service
39 through the consumer's electric public utility or gas public utility
40 shall not constitute or establish an existing business relationship for
41 the purpose of P.L.2013, c.263.

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

46 "Federal Energy Regulatory Commission" or "FERC" means the
47 federal agency established pursuant to 42 U.S.C. s.7171 et seq. to

1 regulate the interstate transmission of electricity, natural gas, and
2 oil.

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

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

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

14 "Gas related service" means a service that is directly related to
15 the consumption of gas by an end user, including, but not limited to,
16 the installation of demand side management measures at the end
17 user's premises, the maintenance, repair or replacement of
18 appliances or other energy-consuming devices at the end user's
19 premises, and the provision of energy consumption measurement
20 and billing services.

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

36 "Gas supply service" means the provision to customers of the
37 retail commodity of gas, but does not include any regulated
38 distribution service.

39 "Government aggregator" means any government entity subject
40 to the requirements of the "Local Public Contracts Law," P.L.1971,
41 c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law,"
42 N.J.S.18A:18A-1 et seq., or the "County College Contracts Law,"
43 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written
44 contract with a licensed electric power supplier or a licensed gas
45 supplier for: (1) the provision of electric generation service, electric
46 related service, gas supply service, or gas related service for its own
47 use or the use of other government aggregators; or (2) if a
48 municipal or county government, the provision of electric

1 generation service or gas supply service on behalf of business or
2 residential customers within its territorial jurisdiction.

3 "Government energy aggregation program" means a program and
4 procedure pursuant to which a government aggregator enters into a
5 written contract for the provision of electric generation service or
6 gas supply service on behalf of business or residential customers
7 within its territorial jurisdiction.

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

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

17 "Greenhouse gas emissions portfolio standard" means a
18 requirement that addresses or limits the amount of carbon dioxide
19 emissions indirectly resulting from the use of electricity as applied
20 to any electric power suppliers and basic generation service
21 providers of electricity.

22 "Grid supply solar facility" means a solar electric power
23 generation facility that sells electricity at wholesale and is
24 connected to the State's electric distribution or transmission
25 systems. "Grid supply solar facility" does not include: (1) a net
26 metered solar facility; (2) an on-site generation facility; (3) a
27 facility participating in net metering aggregation pursuant to section
28 38 of P.L.1999, c.23 (C.48:3-87); (4) a facility participating in
29 remote net metering; or (5) a community solar facility.

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

41 "Incremental auction" means an auction conducted by PJM, as
42 part of PJM's reliability pricing model, prior to the start of the
43 delivery year to secure electric capacity as necessary to satisfy the
44 capacity requirements for that delivery year, that is not otherwise
45 provided for in the base residual auction.

46 "Leakage" means an increase in greenhouse gas emissions
47 related to generation sources located outside of the State that are not
48 subject to a state, interstate, or regional greenhouse gas emissions

1 cap or standard that applies to generation sources located within the
2 State.

3 "Locational deliverability area" or "LDA" means one or more of
4 the zones within the PJM region which are used to evaluate area
5 transmission constraints and reliability issues including electric
6 public utility company zones, sub-zones, and combinations of
7 zones.

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

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

20 "Marketer" means a duly licensed electric power supplier that
21 takes title to electric energy and capacity, transmission , and other
22 services from electric power generators and other wholesale
23 suppliers and then assumes the contractual and legal obligation to
24 provide electric generation service, and may include transmission
25 and other services, to an end-use retail customer or customers, or a
26 duly licensed gas supplier that takes title to gas and then assumes
27 the contractual and legal obligation to provide gas supply service to
28 an end-use customer or customers.

29 "Mid-merit electric power generation facility" means a
30 generation facility that operates at a capacity factor between
31 baseload generation facilities and peaker generation facilities.

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

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

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

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

1 "Offshore wind energy" means electric energy produced by a
2 qualified offshore wind project.

3 "Offshore wind renewable energy certificate" or "OREC" means
4 a certificate, issued by the board or its designee, representing the
5 environmental attributes of one megawatt hour of electric
6 generation from a qualified offshore wind project.

7 "Off-site end use thermal energy services customer" means an
8 end use customer that purchases thermal energy services from an
9 on-site generation facility, combined heat and power facility, or co-
10 generation facility, and that is located on property that is separated
11 from the property on which the on-site generation facility,
12 combined heat and power facility, or co-generation facility is
13 located by more than one easement, public thoroughfare, or
14 transportation or utility-owned right-of-way.

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

32 "Open access offshore wind transmission facility" means an open
33 access transmission facility, located either in the Atlantic Ocean or
34 offshore, used to facilitate the collection of offshore wind energy or
35 its delivery to the electronic transmission system in this State.

36 "Person" means an individual, partnership, corporation,
37 association, trust, limited liability company, governmental entity, or
38 other legal entity.

39 "PJM Interconnection, L.L.C." or "PJM" means the privately-
40 held, limited liability corporation that serves as a FERC-approved
41 Regional Transmission Organization, or its successor, that manages
42 the regional, high-voltage electricity grid serving all or parts of 13
43 states including New Jersey and the District of Columbia, operates
44 the regional competitive wholesale electric market, manages the
45 regional transmission planning process, and establishes systems and
46 rules to ensure that the regional and in-State energy markets operate
47 fairly and efficiently.

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

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

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

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

31 "Public utility holding company" means: (1) any company that,
32 directly or indirectly, owns, controls, or holds with power to vote,
33 10 percent or more of the outstanding voting securities of an
34 electric public utility or a gas public utility or of a company which
35 is a public utility holding company by virtue of this definition,
36 unless the Securities and Exchange Commission, or its successor,
37 by order declares such company not to be a public utility holding
38 company under the Public Utility Holding Company Act of 1935,
39 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
40 Securities and Exchange Commission, or its successor, determines,
41 after notice and opportunity for hearing, directly or indirectly, to
42 exercise, either alone or pursuant to an arrangement or
43 understanding with one or more other persons, such a controlling
44 influence over the management or policies of an electric public
45 utility or a gas public utility or public utility holding company as to
46 make it necessary or appropriate in the public interest or for the
47 protection of investors or consumers that such person be subject to
48 the obligations, duties, and liabilities imposed in the Public Utility

1 Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its
2 successor act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 "SREC-II value per megawatt-hour" means the value, in dollars-
14 per-megawatt-hour, assigned by the board to each solar electric
15 power generation facility eligible to receive SREC-IIs, which is
16 paid to the facility and which represents the environmental
17 attributes of the facility.

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

25 "Standard offer capacity price" or "SOCP" means the capacity
26 price that is fixed for the term of the SOCA and which is the price
27 to be received by eligible generators under a board-approved
28 SOCA.

29 "State entity" means a department, agency, or office of State
30 government, a State university or college, or an authority created by
31 the State.

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

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

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

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

12 "Thermal efficiency" means the useful electric energy output of a
13 facility, plus the useful thermal energy output of the facility,
14 expressed as a percentage of the total energy input to the facility.

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

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

33 "Transition period" means the period from August 1, 1999
34 through July 31, 2003.

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

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

45 "Unsolicited advertisement" means any advertising claims of the
46 commercial availability or quality of services provided by an
47 electric power supplier, gas supplier, broker, energy agent,
48 marketer, private aggregator, sales representative, or telemarketer

1 which is transmitted to a potential customer without that customer's
2 prior express invitation or permission.
3 (cf: P.L.2020, c.24, s.7)
4

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

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

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

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

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

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

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

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

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

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

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

- 1 (a) The standard is necessary as part of a plan to enable the
2 State to meet federal Clean Air Act or State ambient air quality
3 standards; and
- 4 (b) Actions at the regional or federal level cannot reasonably be
5 expected to achieve the compliance with the federal standards.
- 6 (2) By July 1, 2009, the board shall adopt, pursuant to the
7 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
8 seq.), a greenhouse gas emissions portfolio standard to mitigate
9 leakage or another regulatory mechanism to mitigate leakage
10 applicable to all electric power suppliers and basic generation
11 service providers that provide electricity to customers within the
12 State. The greenhouse gas emissions portfolio standard or any other
13 regulatory mechanism to mitigate leakage shall:
- 14 (a) Allow a transition period, either before or after the effective
15 date of the regulation to mitigate leakage, for a basic generation
16 service provider or electric power supplier to either meet the
17 emissions portfolio standard or other regulatory mechanism to
18 mitigate leakage, or to transfer any customer to a basic generation
19 service provider or electric power supplier that meets the emissions
20 portfolio standard or other regulatory mechanism to mitigate
21 leakage. If the transition period allowed pursuant to this
22 subparagraph occurs after the implementation of an emissions
23 portfolio standard or other regulatory mechanism to mitigate
24 leakage, the transition period shall be no longer than three years;
25 and
- 26 (b) Exempt the provision of basic generation service pursuant to
27 a basic generation service purchase and sale agreement effective
28 prior to the date of the regulation.
- 29 Unless the Attorney General or the Attorney General's designee
30 determines that a greenhouse gas emissions portfolio standard
31 would unconstitutionally burden interstate commerce or would be
32 preempted by federal law, the adoption by the board of an electric
33 energy efficiency portfolio standard pursuant to subsection g. of this
34 section, a gas energy efficiency portfolio standard pursuant to
35 subsection h. of this section, or any other enhanced energy
36 efficiency policies to mitigate leakage shall not be considered
37 sufficient to fulfill the requirement of this subsection for the
38 adoption of a greenhouse gas emissions portfolio standard or any
39 other regulatory mechanism to mitigate leakage.
- 40 d. Notwithstanding any provisions of the "Administrative
41 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
42 contrary, the board shall initiate a proceeding and shall adopt, after
43 notice, provision of the opportunity for comment, and public
44 hearing, renewable energy portfolio standards that shall require:
- 45 (1) that two and one-half percent of the kilowatt hours sold in
46 this State by each electric power supplier and each basic generation
47 service provider be from Class II renewable energy sources;

(2) beginning on January 1, 2020, that 21 percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider be from Class I renewable energy sources. The board shall increase the required percentage for Class I renewable energy sources so that by January 1, 2025, 35 percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources, and by January 1, 2030, 50 percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation service provider shall be from Class I renewable energy sources. Notwithstanding the requirements of this subsection, the board shall ensure that the cost to customers of the Class I renewable energy requirement imposed pursuant to this subsection shall not exceed nine percent of the total paid for electricity by all customers in the State for energy year 2019, energy year 2020, and energy year 2021, respectively, and shall not exceed seven percent of the total paid for electricity by all customers in the State in any energy year thereafter ; provided that, if in energy years 2019 through 2021 the cost to customers of the Class I renewable energy requirement is less than nine percent of the total paid for electricity by all customers in the State, the board may increase the cost to customers of the Class I renewable energy requirement in energy years 2022 through 2024 to a rate greater than seven percent, as long as the total costs to customers for energy years 2019 through 2024 does not exceed the sum of nine percent of the total paid for electricity by all customers in the State in energy years 2019 through 2021 and seven percent of the total paid for electricity by all customers in the State in energy years 2022 through 2024. In calculating the cost to customers of the Class I renewable energy requirement imposed pursuant to this subsection, the board shall not include the costs of the offshore wind energy certificate program established pursuant to paragraph (4) of this subsection. In calculating the cost to customers of the Class I renewable energy requirement, the board shall reflect any energy and environmental savings attributable to the Class I program in its calculation, which shall include, but not be limited to, the social cost of carbon dioxide emissions at a value no less than the most recently published three percent discount rate scenario of the United States Government Interagency Working Group on Social Cost of Greenhouse Gases. The board shall take any steps necessary to prevent the exceedance of the cap on the cost to customers including, but not limited to, adjusting the Class I renewable energy requirement.

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

1 (3) that the board establish a multi-year schedule, applicable to
2 each electric power supplier or basic generation service provider in
3 this State, beginning with the one-year period commencing on June
4 1, 2010, and continuing for each subsequent one-year period up to
5 and including, the one-year period commencing on June 1, 2033,
6 that requires the following number or percentage, as the case may
7 be, of kilowatt-hours sold in this State by each electric power
8 supplier and each basic generation service provider to be from solar
9 electric power generators connected to the distribution system or
10 transmission system in this State:

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

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

45 No later than 24 months after the date of enactment of P.L.2018,
46 c.17 (C.48:3-87.8 et al.), the board shall complete a study that
47 evaluates how to modify or replace the SREC program to encourage
48 the continued efficient and orderly development of solar renewable

1 energy generating sources throughout the State. The board shall
2 submit the written report thereon to the Governor and, pursuant to
3 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The
4 board shall consult with public utilities, industry experts, regional
5 grid operators, solar power providers and financiers, and other State
6 agencies to determine whether the board can modify the SREC
7 program such that the program will:

8 - continually reduce, where feasible, the cost of achieving the
9 solar energy goals set forth in this subsection;

10 - provide an orderly transition from the SREC program to a
11 new or modified program;

12 - develop megawatt targets for grid connected and distribution
13 systems, including residential and small commercial rooftop
14 systems, community solar systems, and large scale behind the meter
15 systems, as a share of the overall solar energy requirement, which
16 targets the board may modify periodically based on the cost,
17 feasibility, or social impacts of different types of projects;

18 - establish and update market-based maximum incentive
19 payment caps periodically for each of the above categories of solar
20 electric power generation facilities;

21 - encourage and facilitate market-based cost recovery through
22 long-term contracts and energy market sales; and

23 - where cost recovery is needed for any portion of an efficient
24 solar electric power generation facility when costs are not
25 recoverable through wholesale market sales and direct payments
26 from customers, utilize competitive processes such as competitive
27 procurement and long-term contracts where possible to ensure such
28 recovery, without exceeding the maximum incentive payment cap
29 for that category of facility.

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

47 For all applications for designation as connected to the
48 distribution system of a solar electric power generation facility filed

1 with the board after the date of enactment of P.L.2018, c.17
2 (C.48:3-87.8 et al.), the SREC term shall be 10 years.

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

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

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

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

42 The renewable energy portfolio standards adopted by the board
43 pursuant to paragraphs (1) and (2) of this subsection shall be
44 effective as regulations immediately upon filing with the Office of
45 Administrative Law and shall be effective for a period not to exceed
46 18 months, and may, thereafter, be amended, adopted or readopted
47 by the board in accordance with the provisions of the
48 "Administrative Procedure Act."

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

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

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

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

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

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

45 e. 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:

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

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

45 Such standards or rules shall take into consideration the goals of
46 the New Jersey Energy Master Plan, applicable industry standards,
47 and the standards of other states and the Institute of Electrical and
48 Electronics Engineers. The board shall allow electric public

1 utilities to recover the costs of any new net meters, upgraded net
2 meters, system reinforcements or upgrades, and interconnection
3 costs through either their regulated rates or from the net metering
4 customer-generator;

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

9 (4) net metering aggregation standards to require electric public
10 utilities to provide net metering aggregation to single electric public
11 utility customers that operate a solar electric power generation
12 system installed at one of the customer's facilities or on property
13 owned by the customer, provided that any such customer is a State
14 entity, school district, county, county agency, county authority,
15 municipality, municipal agency, or municipal authority. The
16 standards shall provide that, in order to qualify for net metering
17 aggregation, the customer must operate a solar electric power
18 generation system using a net metering billing account, which
19 system is located on property owned by the customer, provided that:
20 (a) the property is not land that has been actively devoted to
21 agricultural or horticultural use and that is valued, assessed, and
22 taxed pursuant to the "Farmland Assessment Act of 1964,"
23 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
24 period prior to the effective date of P.L.2012, c.24, provided,
25 however, that the municipal planning board of a municipality in
26 which a solar electric power generation system is located may
27 waive the requirement of this subparagraph (a), (b) the system is not
28 an on-site generation facility, (c) all of the facilities of the single
29 customer combined for the purpose of net metering aggregation are
30 facilities owned or operated by the single customer and are located
31 within its territorial jurisdiction except that all of the facilities of a
32 State entity engaged in net metering aggregation shall be located
33 within five miles of one another, and (d) all of those facilities are
34 within the service territory of a single electric public utility and are
35 all served by the same basic generation service provider or by the
36 same electric power supplier. The standards shall provide that , in
37 order to qualify for net metering aggregation, the customer's solar
38 electric power generation system shall be sized so that its annual
39 generation does not exceed the combined metered annual energy
40 usage of the qualified customer facilities, and the qualified
41 customer facilities shall all be in the same customer rate class under
42 the applicable electric public utility tariff. For the customer's
43 facility or property on which the solar electric generation system is
44 installed, the electricity generated from the customer's solar electric
45 generation system shall be accounted for pursuant to the provisions
46 of paragraph (1) of this subsection to provide that the electricity
47 generated in excess of the electricity supplied by the electric power
48 supplier or the basic generation service provider, as the case may

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

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

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

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

44 g. The board shall adopt, pursuant to the "Administrative
 45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an electric
 46 energy efficiency program in order to ensure investment in cost-
 47 effective energy efficiency measures, ensure universal access to
 48 energy efficiency measures, and serve the needs of low-income

1 communities that shall require each electric public utility to
 2 implement energy efficiency measures that reduce electricity usage
 3 in the State pursuant to section 3 of P.L.2018, c.17 (C.48:3-87.9).
 4 Nothing in this subsection shall be construed to prevent an electric
 5 public utility from meeting the requirements of this subsection by
 6 contracting with another entity for the performance of the
 7 requirements.

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

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

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

36	EY 2014	\$339
37	EY 2015	\$331
38	EY 2016	\$323
39	EY 2017	\$315
40	EY 2018	\$308
41	EY 2019	\$268
42	EY 2020	\$258
43	EY 2021	\$248
44	EY 2022	\$238
45	EY 2023	\$228
46	EY 2024	\$218
47	EY 2025	\$208
48	EY 2026	\$198

1 EY 2027 \$188
2 EY 2028 \$178
3 EY 2029 \$168
4 EY 2030 \$158
5 EY 2031 \$148
6 EY 2032 \$138
7 EY 2033 \$128.

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

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

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

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

35 (2) maintain adequate regulatory authority over non-competitive
36 public utility services;

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

39 (4) promote energy efficiency and Class I renewable energy
40 market development, taking into consideration environmental
41 benefits and market barriers;

42 (5) make energy services more affordable for low and moderate
43 income customers;

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

47 (7) achieve the goals put forth under the renewable energy
48 portfolio standards;

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

2 (9) allow all market segments to participate.

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

10 n. For projects which are owned, or directly invested in, by a
11 public utility pursuant to section 13 of P.L.2007, c.340 (C.48:3-
12 98.1), the board shall determine the number of SRECs with which
13 such projects shall be credited; and in determining such number the
14 board shall ensure that the market for SRECs does not detrimentally
15 affect the development of non-utility solar projects and shall
16 consider how its determination may impact the ratepayers.

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

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

27 (2) reductions in peak demand for electricity and natural gas,
28 and the overall impact on the costs to customers of electricity and
29 natural gas;

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

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

34 p. Class I RECs and ORECs shall be eligible for use in
35 renewable energy portfolio standards compliance in the energy year
36 in which they are generated, and for the following two energy years.
37 SRECs shall be eligible for use in renewable energy portfolio
38 standards compliance in the energy year in which they are
39 generated, and for the following four energy years.

40 q. (1) During the energy years of 2014, 2015, and 2016, a solar
41 electric power generation facility project that is not: (a) net
42 metered; (b) an on-site generation facility; (c) qualified for net
43 metering aggregation; or (d) certified as being located on a
44 brownfield, on an area of historic fill or on a properly closed
45 sanitary landfill facility, as provided pursuant to subsection t. of this
46 section may file an application with the board for approval of a
47 designation pursuant to this subsection that the facility is connected
48 to the distribution system. An application filed pursuant to this

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

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

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

31 r. (1) For all proposed solar electric power generation facility
 32 projects except for those solar electric power generation facility
 33 projects approved pursuant to subsection q. of this section, and for
 34 all projects proposed in energy year 2019 and energy year 2020, the
 35 board may approve projects for up to 50 megawatts annually in
 36 auctioned capacity in two auctions per year as long as the board is
 37 accepting applications. If the board approves projects for less than
 38 50 megawatts in energy year 2019 or less than 50 megawatts in
 39 energy year 2020, the difference in each year shall be carried over
 40 into the successive energy year until 100 megawatts of auctioned
 41 capacity has been approved by the board pursuant to this
 42 subsection. A proposed solar electric power generation facility that
 43 is neither net metered nor an on-site generation facility, may be
 44 considered "connected to the distribution system" only upon
 45 designation as such by the board, after notice to the public and
 46 opportunity for public comment or hearing. A proposed solar
 47 **[power]** electric power generation facility seeking board
 48 designation as "connected to the distribution system" shall submit

1 an application to the board that includes for the proposed facility:
2 the nameplate capacity; the estimated energy and number of SRECs
3 to be produced and sold per year; the estimated annual rate impact
4 on ratepayers; the estimated capacity of the generator as defined by
5 PJM for sale in the PJM capacity market; the point of
6 interconnection; the total project acreage and location; the current
7 land use designation of the property; the type of solar technology to
8 be used; and such other information as the board shall require.

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

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

15 (b) the approval of the designation of the proposed facility
16 would not significantly impact the preservation of open space in
17 this State;

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

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

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

35 s. In addition to any other requirements of P.L.1999, c.23 or
36 any other law, rule, regulation or order, a solar electric power
37 generation facility that is not net metered or an on-site generation
38 facility and which is located on land that has been actively devoted
39 to agricultural or horticultural use that is valued, assessed, and
40 taxed pursuant to the "Farmland Assessment Act of 1964,"
41 P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year
42 period prior to the effective date of P.L.2012, c.24, shall only be
43 considered "connected to the distribution system" if (1) the board
44 approves the facility's designation pursuant to subsection q. of this
45 section; or (2) (a) PJM issued a System Impact Study for the facility
46 on or before June 30, 2011, (b) the facility files a notice with the
47 board within 60 days of the effective date of P.L.2012, c.24,
48 indicating its intent to qualify under this subsection, and (c) the

1 facility has been approved as "connected to the distribution system"
2 by the board. Nothing in this subsection shall limit the board's
3 authority concerning the review and oversight of facilities, unless
4 such facilities are exempt from such review as a result of having
5 been approved pursuant to subsection q. of this section.

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

38 (2) Notwithstanding the provisions of the "Spill Compensation
39 and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any
40 other law, rule, regulation, or order to the contrary, the board, in
41 consultation with the Department of Environmental Protection, may
42 find that a person who operates a solar electric power generation
43 facility project that has commenced operation on or after the
44 effective date of P.L.2012, c.24, which project is certified by the
45 board, in consultation with the Department of Environmental
46 Protection pursuant to paragraph (1) of this subsection, as being
47 located on a brownfield for which a final remediation document has
48 been issued, on an area of historic fill or on a properly closed

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

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

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

20 (c) the person, within 30 days after acquisition of the property,
21 gave notice of the discharge to the Department of Environmental
22 Protection in a manner the Department of Environmental Protection
23 prescribes;

24 (d) the person does not disrupt or change, without prior written
25 permission from the Department of Environmental Protection, any
26 engineering or institutional control that is part of a remedial action
27 for the contaminated site or any landfill closure or post-closure
28 requirement;

29 (e) the person does not exacerbate the contamination at the
30 property;

31 (f) the person does not interfere with any necessary remediation
32 of the property;

33 (g) the person complies with any regulations and any permit the
34 Department of Environmental Protection issues pursuant to section
35 19 of P.L.2009, c.60 (C.58:10C-19) or paragraph (2) of subsection
36 a. of section 6 of P.L.1970, c.39 (C.13:1E-6);

37 (h) with respect to an area of historic fill, the person has
38 demonstrated pursuant to a preliminary assessment and site
39 investigation, that hazardous substances have not been discharged;
40 and

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

1 Only the person who is liable to clean up and remove the
2 contamination pursuant to section 8 of P.L.1976, c.141 (C.58:10-
3 23.11g) and who does not have a defense to liability pursuant to
4 subsection d. of that section shall be liable for cleanup and removal
5 costs.

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

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

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

43 x. Solar electric power generation facility projects that are
44 located on an existing or proposed commercial, retail, industrial,
45 municipal, professional, recreational, transit, commuter,
46 entertainment complex, multi-use, or mixed-use parking lot with a
47 capacity to park 350 or more vehicles where the area to be utilized
48 for the facility is paved, or an impervious surface may be owned or

1 operated by an electric public utility and may be approved by the
2 board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1).
3 (cf: P.L.2019, c.448, s.1)
4

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

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

9 a. The State Treasurer shall credit to this account:

10 (1) (a) (i) For State fiscal year 2016, an amount equal to 71
11 percent of the four percent of the revenue annually derived from the
12 tax imposed pursuant to the "Corporation Business Tax Act
13 (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as amended and
14 supplemented, or any other State law of similar effect, dedicated for
15 recreation and conservation, farmland preservation, and historic
16 preservation purposes pursuant to subparagraph (a) of Article VIII,
17 Section II, paragraph 6 of the State Constitution, less \$19,972,000
18 already appropriated and expended for parks management in
19 P.L.2015, c.63; and

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

29 (b) (i) in each State fiscal year commencing in State fiscal year
30 2020 and annually thereafter, an amount equal to 78 percent of the
31 six percent of the revenue annually derived from the tax imposed
32 pursuant to the "Corporation Business Tax Act (1945)," P.L.1945,
33 c.162 (C.54:10A-1 et seq.), as amended and supplemented, or any
34 other State law of similar effect, dedicated to recreation and
35 conservation, farmland preservation, and historic preservation
36 purposes pursuant to subparagraph (a) of Article VIII, Section II,
37 paragraph 6 of the State Constitution; and

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

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

44 b. In each State fiscal year, the amount credited to the Preserve
45 New Jersey Fund Account shall be appropriated from time to time
46 by the Legislature only for the applicable purposes set forth in
47 Article VIII, Section II, paragraph 6 of the State Constitution and
48 **[this act]** P.L.2016, c.12 (C.13:8C-43 et seq.) for:

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

7 (2) providing funding, including loans or grants, for the
8 preservation and stewardship of land for agricultural or horticultural
9 use and production;

10 (3) providing funding, including loans or grants, for historic
11 preservation; and

12 (4) paying administrative costs associated with (1) through (3)
13 of this subsection.

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

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

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

31
32 12. This act shall take effect immediately.