

[Second Reprint]

**SENATE, No. 2036**

**STATE OF NEW JERSEY**

**214th LEGISLATURE**

INTRODUCED JUNE 10, 2010

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**SYNOPSIS**

The "Offshore Wind Economic Development Act"; establishes offshore wind renewable energy certificate program, and authorizes EDA to provide tax credits for qualified wind energy facilities in wind energy zones.

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on June 21, 2010, with amendments.

**(Sponsorship Updated As Of: 6/29/2010)**

1 AN ACT concerning the development of offshore wind projects,  
2 amending and supplementing P.L.1999, c.23, amending  
3 P.L.2007, c.340, and supplementing P.L.2007, c.346 (C.34:1B-  
4 207 et seq.).

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

8  
9 1. Section 3 of P.L.1999, c.23 (C.48:3-51) is amended to read  
10 as follows:

11 3. As used in **[this act]** P.L.1999, c.23 (C.48:3-49 et al.) :

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

19 "Basic gas supply service" means gas supply service that is  
20 provided to any customer that has not chosen an alternative gas  
21 supplier, whether or not the customer has received offers as to  
22 competitive supply options, including, but not limited to, any  
23 customer that cannot obtain such service for any reason, including  
24 non-payment for services. Basic gas supply service is not a  
25 competitive service and shall be fully regulated by the board;

26 "Basic generation service" or "BGS" means electric generation  
27 service that is provided, to any customer that has not chosen an  
28 alternative electric power supplier, whether or not the customer has  
29 received offers for competitive supply options, including, but not  
30 limited to, any customer that cannot obtain such service from an  
31 electric power supplier for any reason, including non-payment for  
32 services. Basic generation service is not a competitive service and  
33 shall be fully regulated by the board;

34 "Basic generation service provider" or "provider" means a  
35 provider of basic generation service;

36 "Basic generation service transition costs" means the amount by  
37 which the payments by an electric public utility for the procurement  
38 of power for basic generation service and related ancillary and  
39 administrative costs exceeds the net revenues from the basic  
40 generation service charge established by the board pursuant to  
41 section 9 of P.L.1999, c.23 (C.48:3-57) during the transition period,  
42 together with interest on the balance at the board-approved rate, that  
43 is reflected in a deferred balance account approved by the board in

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SEN committee amendments adopted June 21, 2010.

<sup>2</sup>Senate SBA committee amendments adopted June 21, 2010.

1 an order addressing the electric public utility's unbundled rates,  
2 stranded costs, and restructuring filings pursuant to P.L.1999, c.23  
3 (C.48:3-49 et al.). Basic generation service transition costs shall  
4 include, but are not limited to, costs of purchases from the spot  
5 market, bilateral contracts, contracts with non-utility generators,  
6 parting contracts with the purchaser of the electric public utility's  
7 divested generation assets, short-term advance purchases, and  
8 financial instruments such as hedging, forward contracts, and  
9 options. Basic generation service transition costs shall also include  
10 the payments by an electric public utility pursuant to a competitive  
11 procurement process for basic generation service supply during the  
12 transition period, and costs of any such process used to procure the  
13 basic generation service supply;

14 "Board" means the New Jersey Board of Public Utilities or any  
15 successor agency;

16 "Bondable stranded costs" means any stranded costs or basic  
17 generation service transition costs of an electric public utility  
18 approved by the board for recovery pursuant to the provisions of  
19 P.L.1999, c.23 (C.48:3-49 et al.), together with, as approved by the  
20 board: (1) the cost of retiring existing debt or equity capital of the  
21 electric public utility, including accrued interest, premium and other  
22 fees, costs and charges relating thereto, with the proceeds of the  
23 financing of bondable transition property; (2) if requested by an  
24 electric public utility in its application for a bondable stranded costs  
25 rate order, federal, State and local tax liabilities associated with  
26 stranded costs recovery or basic generation service transition cost  
27 recovery or the transfer or financing of such property or both,  
28 including taxes, whose recovery period is modified by the effect of  
29 a stranded costs recovery order, a bondable stranded costs rate order  
30 or both; and (3) the costs incurred to issue, service or refinance  
31 transition bonds, including interest, acquisition or redemption  
32 premium, and other financing costs, whether paid upon issuance or  
33 over the life of the transition bonds, including, but not limited to,  
34 credit enhancements, service charges, overcollateralization, interest  
35 rate cap, swap or collar, yield maintenance, maturity guarantee or  
36 other hedging agreements, equity investments, operating costs and  
37 other related fees, costs and charges, or to assign, sell or otherwise  
38 transfer bondable transition property;

39 "Bondable stranded costs rate order" means one or more  
40 irrevocable written orders issued by the board pursuant to P.L.1999,  
41 c.23 (C.48:3-49 et al.) which determines the amount of bondable  
42 stranded costs and the initial amount of transition bond charges  
43 authorized to be imposed to recover such bondable stranded costs,  
44 including the costs to be financed from the proceeds of the  
45 transition bonds, as well as on-going costs associated with servicing  
46 and credit enhancing the transition bonds, and provides the electric  
47 public utility specific authority to issue or cause to be issued,  
48 directly or indirectly, transition bonds through a financing entity

1 and related matters as provided in P.L.1999, c.23, which order shall  
2 become effective immediately upon the written consent of the  
3 related electric public utility to such order as provided in P.L.1999,  
4 c.23;

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

16 "British thermal unit" or "Btu" means the amount of heat  
17 required to increase the temperature of one pound of water by one  
18 degree Fahrenheit;

19 "Broker" means a duly licensed electric power supplier that  
20 assumes the contractual and legal responsibility for the sale of  
21 electric generation service, transmission or other services to end-use  
22 retail customers, but does not take title to any of the power sold, or  
23 a duly licensed gas supplier that assumes the contractual and legal  
24 obligation to provide gas supply service to end-use retail customers,  
25 but does not take title to the gas;

26 "Buydown" means an arrangement or arrangements involving the  
27 buyer and seller in a given power purchase contract and, in some  
28 cases third parties, for consideration to be given by the buyer in  
29 order to effectuate a reduction in the pricing, or the restructuring of  
30 other terms to reduce the overall cost of the power contract, for the  
31 remaining succeeding period of the purchased power arrangement  
32 or arrangements;

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

37 "Class I renewable energy" means electric energy produced from  
38 solar technologies, photovoltaic technologies, wind energy, fuel  
39 cells, geothermal technologies, wave or tidal action, and methane  
40 gas from landfills or a biomass facility, provided that the biomass is  
41 cultivated and harvested in a sustainable manner;

42 "Class II renewable energy" means electric energy produced at a  
43 resource recovery facility or hydropower facility, provided that  
44 such facility is located where retail competition is permitted and  
45 provided further that the Commissioner of Environmental  
46 Protection has determined that such facility meets the highest  
47 environmental standards and minimizes any impacts to the  
48 environment and local communities;

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

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

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

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

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

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

30 "Customer account service" means metering, billing, or such  
31 other administrative activity associated with maintaining a customer  
32 account;

33 "Demand side management" means the management of customer  
34 demand for energy service through the implementation of cost-  
35 effective energy efficiency technologies, including, but not limited  
36 to, installed conservation, load management and energy efficiency  
37 measures on and in the residential, commercial, industrial,  
38 institutional and governmental premises and facilities in this State;

39 "Electric generation service" means the provision of retail  
40 electric energy and capacity which is generated off-site from the  
41 location at which the consumption of such electric energy and  
42 capacity is metered for retail billing purposes, including agreements  
43 and arrangements related thereto;

44 "Electric power generator" means an entity that proposes to  
45 construct, own, lease or operate, or currently owns, leases or  
46 operates, an electric power production facility that will sell or does  
47 sell at least 90 percent of its output, either directly or through a  
48 marketer, to a customer or customers located at sites that are not on

1 or contiguous to the site on which the facility will be located or is  
2 located. The designation of an entity as an electric power generator  
3 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in  
4 and of itself, affect the entity's status as an exempt wholesale  
5 generator under the Public Utility Holding Company Act of 1935,  
6 15U.S.C.s.79 et seq.;

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

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

19 "Electric related service" means a service that is directly related  
20 to the consumption of electricity by an end user, including, but not  
21 limited to, the installation of demand side management measures at  
22 the end user's premises, the maintenance, repair or replacement of  
23 appliances, lighting, motors or other energy-consuming devices at  
24 the end user's premises, and the provision of energy consumption  
25 measurement and billing services;

26 "Electronic signature" means an electronic sound, symbol or  
27 process, attached to, or logically associated with, a contract or other  
28 record, and executed or adopted by a person with the intent to sign  
29 the record;

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

36 "Energy consumer" means a business or residential consumer of  
37 electric generation service or gas supply service located within the  
38 territorial jurisdiction of a government aggregator;

39 "Energy efficiency portfolio standard" means a requirement to  
40 procure a specified amount of energy efficiency or demand side  
41 management resources as a means of managing and reducing energy  
42 usage and demand by customers;

43 "Energy year" or "EY" means the 12-month period from June 1st  
44 through May 31st and shall be numbered according to the calendar  
45 year in which it ends;

46 "Financing entity" means an electric public utility, a special  
47 purpose entity, or any other assignee of bondable transition  
48 property, which issues transition bonds. Except as specifically

1 provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity  
2 which is not itself an electric public utility shall not be subject to  
3 the public utility requirements of Title 48 or any rules or regulations  
4 adopted pursuant thereto;

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

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

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

29 "Gas supply service" means the provision to customers of the  
30 retail commodity of gas, but does not include any regulated  
31 distribution service;

32 "Government aggregator" means any government entity subject  
33 to the requirements of the "Local Public Contracts Law," P.L.1971,  
34 c.198 (C.40A:11-1 et seq.), the "Public School Contracts Law,"  
35 N.J.S.18A:18A-1 et seq., or the "County College Contracts Law,"  
36 P.L.1982, c.189 (C.18A:64A-25.1 et seq.), that enters into a written  
37 contract with a licensed electric power supplier or a licensed gas  
38 supplier for: (1) the provision of electric generation service, electric  
39 related service, gas supply service, or gas related service for its own  
40 use or the use of other government aggregators; or (2) if a  
41 municipal or county government, the provision of electric  
42 generation service or gas supply service on behalf of business or  
43 residential customers within its territorial jurisdiction;

44 "Government energy aggregation program" means a program and  
45 procedure pursuant to which a government aggregator enters into a  
46 written contract for the provision of electric generation service or  
47 gas supply service on behalf of business or residential customers  
48 within its territorial jurisdiction;

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

4 "Greenhouse gas emissions portfolio standard" means a  
5 requirement that addresses or limits the amount of carbon dioxide  
6 emissions indirectly resulting from the use of electricity as applied  
7 to any electric power suppliers and basic generation service  
8 providers of electricity;

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

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

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

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

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

34 "Offshore wind energy" means electric energy produced by a  
35 qualified offshore wind project;

36 "Offshore wind renewable energy certificate" or "OREC" means  
37 a certificate, issued by the board or its designee, representing the  
38 environmental attributes of one megawatt hour of electric  
39 generation from a qualified offshore wind project;

40 "Off-site end use thermal energy services customer" means an  
41 end use customer that purchases thermal energy services from an  
42 on-site generation facility, combined heat and power facility, or co-  
43 generation facility, and that is located on property that is separated  
44 from the property on which the on-site generation facility,  
45 combined heat and power facility, or co-generation facility is  
46 located by more than one easement, public thoroughfare, or  
47 transportation or utility-owned right-of-way;

1 "On-site generation facility" means a generation facility, and  
2 equipment and services appurtenant to electric sales by such facility  
3 to the end use customer located on the property or on property  
4 contiguous to the property on which the end user is located. An on-  
5 site generation facility shall not be considered a public utility. The  
6 property of the end use customer and the property on which the on-  
7 site generation facility is located shall be considered contiguous if  
8 they are geographically located next to each other, but may be  
9 otherwise separated by an easement, public thoroughfare,  
10 transportation or utility-owned right-of-way, or if the end use  
11 customer is purchasing thermal energy services produced by the on-  
12 site generation facility, for use for heating or cooling, or both,  
13 regardless of whether the customer is located on property that is  
14 separated from the property on which the on-site generation facility  
15 is located by more than one easement, public thoroughfare, or  
16 transportation or utility-owned right-of-way;

17 "Person" means an individual, partnership, corporation,  
18 association, trust, limited liability company, governmental entity or  
19 other legal entity;

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

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

46 "Qualified offshore wind project" means a wind turbine  
47 electricity generation facility in the Atlantic Ocean and connected  
48 to the electric transmission system in this State, and includes the

1 associated transmission-related interconnection facilities and  
2 equipment, and approved by the board pursuant to section 3 of  
3 P.L. , c. (C. ) (pending before the Legislature as this bill);

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

9 "Related competitive business segment of an electric public  
10 utility or gas public utility" means any business venture of an  
11 electric public utility or gas public utility including, but not limited  
12 to, functionally separate business units, joint ventures, and  
13 partnerships, that offers to provide or provides competitive services;

14 "Related competitive business segment of a public utility holding  
15 company" means any business venture of a public utility holding  
16 company, including, but not limited to, functionally separate  
17 business units, joint ventures, and partnerships and subsidiaries, that  
18 offers to provide or provides competitive services, but does not  
19 include any related competitive business segments of an electric  
20 public utility or gas public utility;

21 "Renewable energy certificate" or "REC" means a certificate  
22 representing the environmental benefits or attributes of one  
23 megawatt-hour of generation from a generating facility that  
24 produces Class I or Class II renewable energy, but shall not include  
25 a solar renewable energy certificate or an offshore wind renewable  
26 energy certificate ;

27 "Resource recovery facility" means a solid waste facility  
28 constructed and operated for the incineration of solid waste for  
29 energy production and the recovery of metals and other materials  
30 for reuse;

31 "Restructuring related costs" means reasonably incurred costs  
32 directly related to the restructuring of the electric power industry,  
33 including the closure, sale, functional separation and divestiture of  
34 generation and other competitive utility assets by a public utility, or  
35 the provision of competitive services as such costs are determined  
36 by the board, and which are not stranded costs as defined in  
37 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited  
38 to, investments in management information systems, and which  
39 shall include expenses related to employees affected by  
40 restructuring which result in efficiencies and which result in  
41 benefits to ratepayers, such as training or retraining at the level  
42 equivalent to one year's training at a vocational or technical school  
43 or county community college, the provision of severance pay of two  
44 weeks of base pay for each year of full-time employment, and a  
45 maximum of 24 months' continued health care coverage. Except as  
46 to expenses related to employees affected by restructuring,  
47 "restructuring related costs" shall not include going forward costs;

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

7 "Retail margin" means an amount, reflecting differences in  
8 prices that electric power suppliers and electric public utilities may  
9 charge in providing electric generation service and basic generation  
10 service, respectively, to retail customers, excluding residential  
11 customers, which the board may authorize to be charged to  
12 categories of basic generation service customers of electric public  
13 utilities in this State, other than residential customers, under the  
14 board's continuing regulation of basic generation service pursuant to  
15 sections 3 and 9 of P.L.1999, c.23 (C.48:3-51 and 48:3-57), for the  
16 purpose of promoting a competitive retail market for the supply of  
17 electricity;

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

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

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

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

39 "Solar renewable energy certificate" or "SREC" means a  
40 certificate issued by the board or its designee, representing one  
41 megawatt hour (MWh) of solar energy that is generated by a facility  
42 connected to the distribution system in this State and has value  
43 based upon, and driven by, the energy market;

44 "Stranded cost" means the amount by which the net cost of an  
45 electric public utility's electric generating assets or electric power  
46 purchase commitments, as determined by the board consistent with  
47 the provisions of P.L.1999, c.23 (C.48:3-49 et al.), exceeds the  
48 market value of those assets or contractual commitments in a

1 competitive supply marketplace and the costs of buydowns or  
2 buyouts of power purchase contracts;

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

10 "Thermal efficiency" means the useful electric energy output of a  
11 facility, plus the useful thermal energy output of the facility,  
12 expressed as a percentage of the total energy input to the facility;

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

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

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

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

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

43 (cf: P.L.2009, c.289, s.1)

44

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

47 38. a. The board shall require an electric power supplier or  
48 basic generation service provider to disclose on a customer's bill or

1 on customer contracts or marketing materials, a uniform, common  
2 set of information about the environmental characteristics of the  
3 energy purchased by the customer, including, but not limited to:

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

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

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

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

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

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

26 (3) A uniform emissions disclosure format that is graphic in  
27 nature and easily understandable by consumers. The board shall  
28 periodically review the disclosure requirements to determine if  
29 revisions to the environmental disclosure system as implemented  
30 are necessary.

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

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

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

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

46 (2) By July 1, 2009, the board shall adopt, pursuant to the  
47 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
48 seq.), a greenhouse gas emissions portfolio standard to mitigate

1 leakage or another regulatory mechanism to mitigate leakage  
2 applicable to all electric power suppliers and basic generation  
3 service providers that provide electricity to customers within the  
4 State. The greenhouse gas emissions portfolio standard or any other  
5 regulatory mechanism to mitigate leakage shall:

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

18 (b) Exempt the provision of basic generation service pursuant to  
19 a basic generation service purchase and sale agreement effective  
20 prior to the date of the regulation.

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

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

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

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

1 additionally increase the required percentage for Class I renewable  
 2 energy sources by one-half of one percent each year until January 1,  
 3 2012, when four percent of the kilowatt hours sold in this State by  
 4 each electric power supplier and each basic generation service  
 5 provider shall be from Class I renewable energy sources.

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

10 (3) that the board establish a multi-year schedule, applicable to  
 11 each electric power supplier or basic generation service provider in  
 12 this State, beginning with the one-year period commencing on June  
 13 1, 2010, and continuing for each subsequent one-year period up to  
 14 and including, the one-year period commencing on June 1, 2025,  
 15 that requires suppliers or providers to purchase at least the  
 16 following number of kilowatt-hours from solar electric power  
 17 generators in this State:

18 EY 2011	306 Gigawatthours (Gwhrs)
19 EY 2012	442 Gwhrs
20 EY 2013	596 Gwhrs
21 EY 2014	772 Gwhrs
22 EY 2015	965 Gwhrs
23 EY 2016	1,150 Gwhrs
24 EY 2017	1,357 Gwhrs
25 EY 2018	1,591 Gwhrs
26 EY 2019	1,858 Gwhrs
27 EY 2020	2,164 Gwhrs
28 EY 2021	2,518 Gwhrs
29 EY 2022	2,928 Gwhrs
30 EY 2023	3,433 Gwhrs
31 EY 2024	3,989 Gwhrs
32 EY 2025	4,610 Gwhrs
33 EY 2026	5,316 Gwhrs

34 EY 2027, and for every energy year thereafter, at least 5,316 Gwhrs  
 35 per energy year to reflect an increasing number of kilowatt-hours to  
 36 be purchased by suppliers or providers from solar electric power  
 37 generators in this State, and to establish a framework within which  
 38 suppliers and providers shall purchase at least 2,518 Gwhrs in the  
 39 energy year 2021 and 5,316 Gwhrs in the energy year 2026 from  
 40 solar electric power generators in this State, provided, however, that  
 41 the number of solar kilowatt-hours required to be purchased by each  
 42 supplier or provider, when expressed as a percentage of the total  
 43 number of solar kilowatt-hours purchased in this State, shall be  
 44 equivalent to each supplier's or provider's proportionate share of the  
 45 total number of kilowatt-hours sold in this State by all suppliers and  
 46 providers.

47 The solar renewable portfolio standards requirements in  
 48 paragraph (3) of this subsection shall automatically increase by 20%

1 for the remainder of the schedule in the event that the following two  
2 conditions are met: (a) the number of SRECs generated meets or  
3 exceeds the requirement for three consecutive reporting years,  
4 starting with energy year 2013; and (b) the average SREC price for  
5 all SRECs purchased by entities with renewable energy portfolio  
6 standards obligations has decreased in the same three consecutive  
7 reporting years. The board shall exempt providers' existing supply  
8 contracts that are: (a) effective prior to the date of P.L.2009, c.289;  
9 or (b) effective prior to any future increase in the solar renewable  
10 portfolio standard beyond the multi-year schedule established in  
11 paragraph (3) of this subsection. This exemption shall apply to the  
12 number of SRECs that exceeds the number mandated by the solar  
13 renewable portfolio standards requirements that were in effect on  
14 the date that the providers executed their existing supply contracts.  
15 This limited exemption for providers' existing supply contracts shall  
16 not be construed to lower the Statewide solar purchase requirements  
17 set forth in paragraph (3) of this subsection. Such incremental new  
18 requirements shall be distributed over the electric power suppliers  
19 and providers not subject to the existing supply contract exemption  
20 until such time as existing supply contracts expire and all suppliers  
21 are subject to the new requirement.

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

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

36 The renewable energy portfolio standards adopted by the board  
37 pursuant to paragraph (3) of this subsection shall be effective as  
38 regulations immediately upon filing with the Office of  
39 Administrative Law and shall be effective for a period not to exceed  
40 30 months after such filing, and shall, thereafter, be amended,  
41 adopted or readopted by the board in accordance with the  
42 "Administrative Procedure Act[.]" ; and

43 (4) within 180 days after the date of enactment of P.L. \_\_\_\_\_,  
44 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill), 'that' the  
45 board '【shall adopt】 establish' an offshore wind renewable energy  
46 certificate program to require that a percentage of the kilowatt hours  
47 sold in this State by each electric power supplier and each basic  
48 generation service provider be from offshore wind energy in order

1 to support at least 1,100 megawatts of generation from qualified  
2 offshore wind projects.

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

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

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

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

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

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

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

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

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

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

41 Such rules shall require the board or its designee to issue a credit  
42 or other incentive to those generators that do not use a net meter but  
43 otherwise generate electricity derived from a Class I renewable  
44 energy source and to issue an enhanced credit or other incentive,  
45 including, but not limited to, a solar renewable energy credit, to  
46 those generators that generate electricity derived from solar  
47 technologies.

1 Such standards or rules shall be effective as regulations  
2 immediately upon filing with the Office of Administrative Law and  
3 shall be effective for a period not to exceed 18 months, and may,  
4 thereafter, be amended, adopted or readopted by the board in  
5 accordance with the provisions of the "Administrative Procedure  
6 Act."

7 f. The board may assess, by written order and after notice and  
8 opportunity for comment, a separate fee to cover the cost of  
9 implementing and overseeing an emission disclosure system or  
10 emission portfolio standard, which fee shall be assessed based on an  
11 electric power supplier's or basic generation service provider's share  
12 of the retail electricity supply market. The board shall not impose a  
13 fee for the cost of implementing and overseeing a greenhouse gas  
14 emissions portfolio standard adopted pursuant to paragraph (2) of  
15 subsection c. of this section, the electric energy efficiency portfolio  
16 standard adopted pursuant to subsection g. of this section, or the gas  
17 energy efficiency portfolio standard adopted pursuant to subsection  
18 h. of this section.

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

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

39 i. After the board establishes a schedule of solar kilowatt-hour  
40 sale or purchase requirements pursuant to paragraph (3) of  
41 subsection d. of this section, the board may initiate subsequent  
42 proceedings and adopt, after appropriate notice and opportunity for  
43 public comment and public hearing, increased minimum solar  
44 kilowatt-hour sale or purchase requirements, provided that the  
45 board shall not reduce previously established minimum solar  
46 kilowatt-hour sale or purchase requirements, or otherwise impose  
47 constraints that reduce the requirements by any means.

1       j. The board shall determine an appropriate level of solar  
2 alternative compliance payment, and establish a 15-year solar  
3 alternative compliance payment schedule, that permits each supplier  
4 or provider to submit an SACP to comply with the solar electric  
5 generation requirements of paragraph (3) of subsection d. of this  
6 section. The board may initiate subsequent proceedings and adopt,  
7 after appropriate notice and opportunity for public comment and  
8 public hearing, an increase in solar alternative compliance  
9 payments, provided that the board shall not reduce previously  
10 established levels of solar alternative compliance payments, nor  
11 shall the board provide relief from the obligation of payment of the  
12 SACP by the electric power suppliers or basic generation service  
13 providers in any form. Any SACP payments collected shall be  
14 refunded directly to the ratepayers by the electric public utilities.

15       k. The board may allow electric public utilities to offer long-  
16 term contracts and other means of financing, including but not  
17 limited to loans, for the purchase of SRECs and the resale of SRECs  
18 to suppliers or providers or others, provided that after such  
19 contracts have been approved by the board, the board's approvals  
20 shall not be modified by subsequent board orders.

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

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

26       (2) maintain adequate regulatory authority over non-competitive  
27 public utility services;

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

30       (4) promote energy efficiency and Class I renewable energy  
31 market development, taking into consideration environmental  
32 benefits and market barriers;

33       (5) make energy services more affordable for low and moderate  
34 income customers;

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

38       (7) achieve the goals put forth under the renewable energy  
39 portfolio standards;

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

41       (9) allow all market segments to participate.

42       m. The board shall ensure the availability of financial incentives  
43 under its jurisdiction, including, but not limited to, long-term  
44 contracts, loans, SRECs, or other financial support, to ensure  
45 market diversity, competition, and appropriate coverage across all  
46 ratepayer segments, including, but not limited to, residential,  
47 commercial, industrial, non-profit, farms, schools, and public entity  
48 customers.

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

8 o. The board, in consultation with the Department of  
9 Environmental Protection, electric public utilities, the Division of  
10 Rate Counsel in the Department of the Public Advocate, affected  
11 members of the solar energy industry, and relevant stakeholders,  
12 shall periodically consider increasing the renewable energy  
13 portfolio standards beyond the minimum amounts set forth in  
14 subsection d. of this section, taking into account the cost impacts  
15 and public benefits of such increases including, but not limited to:

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

18 (2) reductions in peak demand for electricity and natural gas,  
19 and the overall impact on the costs to customers of electricity and  
20 natural gas;

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

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

25 p. Class I RECs 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 two energy years. SRECs and  
28 ORECs shall be eligible for use in renewable energy portfolio  
29 standards compliance in the energy year in which they are  
30 generated, and for the following two energy years.

31 (cf: P.L.2009, c.289, s.2)

32  
33 3. (New section) a. An entity seeking to construct an offshore  
34 wind project shall submit an application to the board for approval  
35 by the board as a qualified offshore wind project, which shall  
36 include, but need not be limited to, the following information:

37 (1) a detailed description of the project, including maps, surveys  
38 and other visual aides. This description shall include, but need not  
39 be limited to: the type, size and number of proposed turbines and  
40 foundations; the history to-date of the same type, size and  
41 manufacturer of installed turbines and foundations globally; and a  
42 detailed implementation plan that highlights key milestone  
43 activities during the permitting, financing, design, equipment  
44 solicitation, manufacturing, shipping, assembly, in-field  
45 installation, testing, equipment commissioning and service start-up;

46 (2) a completed financial analysis of the project including pro  
47 forma income statements, balance sheets, and cash flow projections  
48 for a 20-year period, including the internal rate of return, and a

- 1 description and estimate of any State or federal tax benefits that  
2 may be associated with the project;
- 3 (3) the proposed method of financing the project, including  
4 identification of equity investors, fixed income investors, and any  
5 other sources of capital;
- 6 (4) documentation that the entity has applied for all eligible  
7 federal funds and programs available to offset the cost of the project  
8 or provide tax advantages;
- 9 (5) the projected electrical output and anticipated market prices  
10 over the anticipated life of the project, including a forecast of  
11 <sup>2</sup>electricity<sup>2</sup> revenues from the sale of energy derived from the  
12 project and capacity <sup>2</sup>, as well as revenues anticipated by the sale of  
13 any ORECs, RECs, air emission credits or offsets, or any tradable  
14 environmental attributes created by the project<sup>2</sup>;
- 15 (6) an operations and maintenance plan for the initial 20-year  
16 operation of the project that: details routine, intermittent and  
17 emergency protocols; identifies the primary risks to the built  
18 infrastructure and how the potential risks, including but not limited  
19 to hurricanes, lightning, fog, rogue wave occurrences, and exposed  
20 cabling, shall be mitigated; and identifies specific and concrete  
21 elements to ensure both construction and operational cost controls.  
22 This operations and maintenance plan shall be integrated into the  
23 financial analysis of the project, and shall identify the projected  
24 plan for the subsequent 20 years, following conclusion of the initial  
25 20-year operations, assuming any necessary federal lease  
26 agreements are maintained and renewed;
- 27 (7) the anticipated carbon dioxide emissions impact of the  
28 project;
- 29 (8) a decommissioning plan for the project including provisions  
30 for financial assurance for decommissioning as required by the  
31 applicable State and federal governmental entities;
- 32 (9) a list of all State and federal regulatory agency approvals,  
33 permits, or other authorizations required pursuant to State and  
34 federal law for the offshore wind project, and copies of all  
35 submitted permit applications and any issued approvals and permits  
36 for the offshore wind project;
- 37 (10) a cost-benefit analysis for the project including at a  
38 minimum:
- 39 (a) a detailed input-output analysis of the impact of the project  
40 on income, employment <sup>2</sup>, wages, indirect business taxes,<sup>2</sup> and  
41 output in the State with particular emphasis on in-State  
42 manufacturing employment;
- 43 (b) an explanation of the location, type and salary of  
44 employment opportunities to be created by the project with job  
45 totals expressed as full-time equivalent positions assuming 1,820  
46 hours per year;
- 47 (c) an analysis of the anticipated environmental benefits and  
48 environmental impacts of the project; and

- 1 (d) an analysis of the potential impacts on residential and  
2 industrial ratepayers of electricity rates over the life of the project  
3 that may be caused by incorporating any State subsidy into rates;
- 4 (11) a proposed OREC pricing method and schedule for the  
5 board to consider;
- 6 (12) a timeline for the permitting, licensing and construction of  
7 the proposed offshore wind project;
- 8 (13) a plan for interconnection, including engineering  
9 specifications and costs; and
- 10 (14) any other information deemed necessary by the board in  
11 order to conduct a thorough evaluation of the proposal. The board  
12 may hire consultants or other experts if the board determines that  
13 obtaining such outside expertise would be beneficial to the review  
14 of the proposal.
- 15 b. (1) In considering an application for a qualified offshore  
16 wind project, submitted pursuant to subsection a. of this section, the  
17 board shall determine that the application satisfies the following  
18 conditions:
- 19 (a) the filing is consistent with the New Jersey energy master  
20 plan, adopted pursuant to section 12 of P.L.1977, c.146 (C.52:27F-  
21 14), in effect at the time the board is considering the application;
- 22 (b) the cost-benefit analysis, submitted pursuant to paragraph  
23 (10) of subsection a. of this section, demonstrates positive  
24 economic and environmental net benefits to the State;
- 25 (c) the financing mechanism <sup>2</sup>is based upon the actual electrical  
26 output of the project,<sup>2</sup> fairly balances the risks and rewards of the  
27 project between ratepayers and shareholders, and ensures that any  
28 costs of non-performance <sup>2</sup>, in either the construction or operational  
29 phase of the project,<sup>2</sup> shall be borne by shareholders; and
- 30 (d) the entity proposing the project demonstrates financial  
31 integrity and sufficient access to capital to allow for a reasonable  
32 expectation of completion of construction of the project.
- 33 (2) In considering an application for a qualified offshore wind  
34 project, submitted pursuant to subsection a. of this section, the  
35 board shall also consider:
- 36 (a) the total level of subsidies to be paid by ratepayers for  
37 qualified offshore wind projects over the life of the project; and
- 38 (b) any other elements the board deems appropriate in  
39 conjunction with the application.
- 40 c. An order issued by the board to approve an application for a  
41 qualified offshore wind project pursuant to this section shall, at a  
42 minimum, include conditions to ensure the following:
- 43 (1) no OREC <sup>2</sup>**[or other market support]**<sup>2</sup> shall be paid until  
44 electricity is produced by the qualified offshore wind project;
- 45 (2) <sup>2</sup>ORECs shall be paid on the actual electrical output of the  
46 project that is delivered into the transmission system of the State;

1 (3)<sup>2</sup> ratepayers and the State shall be held harmless for any cost  
2 overruns associated with the project; and

3 <sup>2</sup>[(3)] (4)<sup>2</sup> the applicant will reimburse the board and the State  
4 for all reasonable costs incurred for regulatory review of the  
5 project, including but not limited to consulting services, oversight,  
6 inspections, and audits.

7 An order issued by the board pursuant to this subsection shall  
8 specify the value of the OREC and the term of the order.

9 An order issued by the board pursuant to this subsection shall not  
10 be modified by subsequent board orders <sup>2</sup>, unless the modifications  
11 are jointly agreed to by the parties<sup>2</sup> .

12 d. The board shall review and approve, conditionally approve,  
13 or deny an application submitted pursuant to this section within  
14 <sup>2</sup>[90] 180<sup>2</sup> days after the date <sup>2</sup>[the] a complete<sup>2</sup> application is  
15 submitted to the board.

16

17 4. (New section) The board may approve <sup>2</sup>, subject to the  
18 project obtaining the necessary permits, approvals, and  
19 authorizations from the Department of Environmental Protection,<sup>2</sup> a  
20 qualified wind energy project located in territorial waters offshore  
21 of a municipality in which casino gaming is authorized, and  
22 authorize offshore wind renewable energy certificates for that  
23 project. Any such project shall be a nominal 20 megawatts and no  
24 more than 25 megawatts in nameplate capacity and comply with the  
25 requirements set forth in section 3 of P.L. , c. (C. ) (pending  
26 before the Legislature as this bill).

27

28 5. Section 7 of P.L.2007, c.340 (C.26:2C-51) is amended to  
29 read as follows:

30 7. a. The agencies administering programs established pursuant  
31 to this section shall maximize coordination in the administration of  
32 the programs to avoid overlap between the uses of the fund  
33 prescribed in this section.

34 b. Moneys in the fund, after appropriation annually for  
35 payment of administrative costs authorized pursuant to subsection c.  
36 of this section, shall be annually appropriated and used for the  
37 following purposes:

38 (1) Sixty percent shall be allocated to the New Jersey Economic  
39 Development Authority to provide grants and other forms of  
40 financial assistance to commercial, institutional, and industrial  
41 entities to support end-use energy efficiency projects and new,  
42 efficient electric generation facilities that are state of the art, as  
43 determined by the department, including but not limited to energy  
44 efficiency and renewable energy applications, to develop combined  
45 heat and power production and other high efficiency electric  
46 generation facilities, **[and]** to stimulate or reward investment in the  
47 development of innovative carbon emissions abatement

1 technologies with significant carbon emissions reduction or  
2 avoidance potential, to develop qualified offshore wind projects  
3 pursuant to section 3 of P.L. , c. (C. ) (pending before the  
4 Legislature as this bill), and to provide financial assistance to  
5 manufacturers of equipment associated with qualified offshore wind  
6 projects. The authority, in consultation with the board and the  
7 department, shall determine: (a) the appropriate level of grants or  
8 other forms of financial assistance to be awarded to individual  
9 commercial, institutional, and industrial sectors and to individual  
10 projects within each of these sectors; (b) the evaluation criteria for  
11 selecting projects to be awarded grants or other forms of financial  
12 assistance, which criteria shall include the ability of the project to  
13 result in a measurable reduction of the emission of greenhouse  
14 gases or a measurable reduction in energy demand, provided,  
15 however, that neither the development of a new combined heat and  
16 power production facility, nor an increase in the electrical and  
17 thermal output of an existing combined heat and power production  
18 facility, shall be subject to the requirement to demonstrate such a  
19 measurable reduction; and (c) the process by which grants or other  
20 forms of financial assistance can be applied for and awarded  
21 including, if applicable, the payment terms and conditions for  
22 authority investments in certain projects with commercial viability;

23 (2) Twenty percent shall be allocated to the board to support  
24 programs that are designed to reduce electricity demand or costs to  
25 electricity customers in the low-income and moderate-income  
26 residential sector with a focus on urban areas, including efforts to  
27 address heat island effect and reduce impacts on ratepayers  
28 attributable to the implementation of P.L.2007, c.340 (C.26:2C-45  
29 et al.). For the purposes of this paragraph, the board, in  
30 consultation with the authority and the department, shall determine  
31 the types of programs to be supported and the mechanism by which  
32 to quantify benefits to ensure that the supported programs result in a  
33 measurable reduction in energy demand;

34 (3) Ten percent shall be allocated to the department to support  
35 programs designed to promote local government efforts to plan,  
36 develop and implement measures to reduce greenhouse gas  
37 emissions, including but not limited to technical assistance to local  
38 governments, and the awarding of grants and other forms of  
39 assistance to local governments to conduct and implement energy  
40 efficiency, renewable energy, and distributed energy programs and  
41 land use planning where the grant or assistance results in a  
42 measurable reduction of the emission of greenhouse gases or a  
43 measurable reduction in energy demand. For the purpose of  
44 conducting any program pursuant to this paragraph, the department,  
45 in consultation with the authority and the board, shall determine:  
46 (a) the appropriate level of grants or other forms of financial  
47 assistance to be awarded to local governments; (b) the evaluation  
48 criteria for selecting projects to be awarded grants or other forms of

1 financial assistance; (c) the process by which grants or other forms  
2 of financial assistance can be applied for and awarded; and (d) a  
3 mechanism by which to quantify benefits; and

4 (4) Ten percent shall be allocated to the department to support  
5 programs that enhance the stewardship and restoration of the State's  
6 forests and tidal marshes that provide important opportunities to  
7 sequester or reduce greenhouse gases.

8 c. (1) The department may use up to four percent of the total  
9 amount in the fund each year to pay for administrative costs  
10 justifiable and approved in the annual budget process, incurred by  
11 the department in administering the provisions of P.L.2007, c.340  
12 (C.26:2C-45 et al.) and in administering programs to reduce the  
13 emissions of greenhouse gases including any obligations that may  
14 arise under subsection a. of section 11 of P.L.2007, c.340 (C.26:2C-  
15 55).

16 (2) The board may use up to two percent of the total amount in  
17 the fund each year to pay for administrative costs justifiable and  
18 approved in the annual budget process, incurred by the board in  
19 administering the provisions of P.L.2007, c.340 (C.26:2C-45 et al.)  
20 and in administering programs to reduce the emissions of  
21 greenhouse gases including any obligations that may arise under  
22 subsection a. of section 11 of P.L.2007, c.340 (C.26:2C-55).

23 (3) The New Jersey Economic Development Authority may use  
24 up to two percent of the total amount in the fund each year to pay  
25 for administrative costs justifiable and approved in the annual  
26 budget process, incurred by the authority in administering the  
27 provisions of P.L.2007, c.340 (C.26:2C-45 et al.) and in  
28 administering programs to reduce the emissions of greenhouse  
29 gases.

30 d. The State Comptroller shall conduct or supervise  
31 independent audit and fiscal oversight functions of the fund and its  
32 uses.

33 (cf: P.L.2007, c.340, s.7)

34

35 6. (New section) a. (1) A business, upon application to and  
36 approval from the authority, shall be allowed a credit of 100 percent  
37 of its capital investment, made after the effective date of P.L. ,  
38 c. (C. ) (pending before the Legislature as this bill) but prior to  
39 its submission of documentation pursuant to subsection c. of this  
40 section, in a qualified wind energy facility located within an eligible  
41 wind energy zone, pursuant to the restrictions and requirements of  
42 this section. To be eligible for any tax credits authorized under this  
43 section, a business shall demonstrate to the authority, at the time of  
44 application, that the State's financial support of the proposed capital  
45 investment in a qualified wind energy facility will yield a net  
46 positive benefit to the State. The value of all credits approved by  
47 the authority pursuant to this section may be up to \$100,000,000,  
48 except as may be increased by the authority as set forth below;

1 provided, however, that the combined value of all credits approved  
2 by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.),  
3 P.L.2009, c.90 (C.52:27D-489a et al.), and P.L. , c. (C. )  
4 (pending before the Legislature as this bill) shall not exceed  
5 \$1,500,000,000. The authority shall monitor application and  
6 allocation activity under P.L.2007, c.346 after taking into account  
7 the allocation under P.L.2007, c.346 and if sufficient credits are  
8 available to those qualified business facilities for which  
9 applications have been filed or for which applications are  
10 reasonably anticipated, and if the chief executive officer judges  
11 certain qualified offshore wind projects to be meritorious, the  
12 aforementioned cap may, in the discretion of the chief executive  
13 officer, be exceeded for allocation to qualified wind energy  
14 facilities in such amounts as the chief executive officer deems  
15 reasonable, justified and appropriate.

16 (2) (a) A business, other than a tenant eligible pursuant to  
17 subparagraph (b) of this paragraph, shall make or acquire capital  
18 investments totaling not less than \$50,000,000 in a qualified wind  
19 energy facility, at which the business, including tenants at the  
20 qualified wind energy facility, shall employ at least 300 new, full-  
21 time employees, to be eligible for a credit under this section. A  
22 business that acquires a qualified wind energy facility after the  
23 effective date of P.L. , c. (C. ) (pending before the  
24 Legislature as this bill) shall also be deemed to have acquired the  
25 capital investment made or acquired by the seller.

26 (b) A business that is a tenant in the qualified wind energy  
27 facility, the owner of which has made or acquired capital  
28 investments in the facility totaling more than \$50,000,000, shall  
29 occupy a leased area of the qualified wind energy facility that  
30 represents at least \$17,500,000 of the capital investment in the  
31 qualified wind energy facility at which at least 300 new, full-time  
32 employees in the aggregate are employed, to be eligible for a credit  
33 under this section. The amount of capital investment in a facility  
34 that a leased area represents shall be equal to that percentage of the  
35 owner's total capital investment in the facility that the percentage of  
36 net leasable area leased by the tenant is of the total net leasable area  
37 of the qualified business facility. Capital investments made by a  
38 tenant shall be deemed to be included in the calculation of the  
39 capital investment made or acquired by the owner, but only to the  
40 extent necessary to meet the owner's minimum capital investment  
41 of \$50,000,000. Capital investments made by a tenant and not  
42 allocated to meet the owner's minimum capital investment  
43 threshold of \$50,000,000 shall be added to the amount of capital  
44 investment represented by the tenant's leased area in the qualified  
45 wind energy facility.

46 (c) The calculation of the number of new, full-time employees  
47 required pursuant to subparagraphs (a) and (b) of this paragraph  
48 may include the number of new, full-time positions resulting from

1 an equipment supply coordination agreement with equipment  
2 manufacturers, suppliers, installers and operators associated with  
3 the supply chain required to support the qualified wind energy  
4 facility.

5 For the purposes of this paragraph, “full time employee” shall  
6 not include an employee who is a resident of another state and  
7 whose income is not subject to the “New Jersey Gross Income Tax  
8 Act,” N.J.S.54A:1-1 et seq., unless that state has entered into a  
9 reciprocity agreement with the State of New Jersey, provided that  
10 any employee whose work is provided pursuant to a collective  
11 bargaining agreement with the port district in the wind energy zone  
12 may be included.

13 (3) A business shall not be allowed a tax credit pursuant to this  
14 section if the business participates in a business employment  
15 incentive grant relating to the same capital and employees that  
16 qualify the business for this credit, or if the business receives  
17 assistance pursuant to the “Business Retention and Relocation  
18 Assistance Act,” P.L.1996, c.25 (C.34:1B-112 et seq.). A business  
19 that is allowed a tax credit under this section shall not be eligible  
20 for incentives authorized pursuant to the “Municipal Rehabilitation  
21 and Economic Recovery Act,” P.L.2002, c.43 (C.52:27BBB-1 et  
22 al.).

23 (4) Full-time employment for an accounting or privilege period  
24 shall be determined as the average of the monthly full-time  
25 employment for the period.

26 b. A business shall apply for the credit within five years after  
27 the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.), and a  
28 business shall submit its documentation for approval of its credit  
29 amount within eight years after the effective date of P.L.2007,  
30 c.346.

31 c. The credit allowed pursuant to this section shall be  
32 administered in accordance with the provisions of subsection c. of  
33 section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of  
34 P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to  
35 “qualified business facility” shall be deemed to refer to “qualified  
36 wind energy facility,” as that term is defined in subsection f. of this  
37 section.

38 d. The amount of the credit allowed pursuant to this section  
39 shall, except as otherwise provided, be equal to the capital  
40 investment made by the business, or the capital investment  
41 represented by the business' leased area, and shall be taken over a  
42 10-year period, at the rate of one-tenth of the total amount of the  
43 business' credit for each tax accounting or privilege period of the  
44 business, beginning with the tax period in which the business is first  
45 approved by the authority as having met the investment capital and  
46 employment qualifications, subject to any disqualification as  
47 determined by annual review by the authority. In conducting its  
48 annual review, the authority may require a business to submit any

1 information determined by the authority to be necessary and  
2 relevant to its review. The credit amount for any tax period ending  
3 after the date eight years after the effective date of P.L.2007, c.346  
4 (C.34:1B-207 et seq.) during which the documentation of a  
5 business' credit amount remains unapproved shall be forfeited,  
6 although credit amounts for the remainder of the years of the 10-  
7 year credit period shall remain available. The amount of the credit  
8 allowed for a tax period to a business that is a tenant in a qualified  
9 wind energy facility shall not exceed the business' total lease  
10 payments for occupancy of the qualified wind energy facility for the  
11 tax period.

12 e. The authority shall adopt rules in accordance with the  
13 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
14 seq.) as are necessary to implement this section, including but not  
15 limited to: examples of and the determination of capital investment;  
16 nature of businesses and employment positions constituting and  
17 participating in an equipment supply coordination agreement;  
18 determination of the types of businesses that may be eligible and  
19 expenses that may constitute capital improvements; promulgation of  
20 procedures and forms necessary to apply for a credit; and provisions  
21 for applicants to be charged an initial application fee, and ongoing  
22 service fees, to cover the administrative costs related to the credit.

23 The rules established by the authority pursuant to this subsection  
24 shall be effective immediately upon filing with the Office of  
25 Administrative Law and shall be effective for a period not to exceed  
26 12 months and may, thereafter, be amended, adopted or readopted  
27 in accordance with the provisions of the "Administrative Procedure  
28 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

29 f. As used in this section: the terms "authority," "business,"  
30 and "capital investment" shall have the same meanings as defined in  
31 section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007,  
32 c.236 (C.34:1B-208), except that all references therein to "qualified  
33 business facility" shall be deemed to refer to "qualified wind energy  
34 facility" as defined in this subsection.

35 In addition, as used in this section:

36 "Equipment supply coordination agreement" means an  
37 agreement between a business and equipment manufacturer,  
38 supplier, installer, and operator that supports a qualified offshore  
39 wind project, or other wind energy project as determined by the  
40 authority, and that indicates the number of new, full-time jobs to be  
41 created by the agreement participants towards the employment  
42 requirement as set forth in paragraph (2) of subsection a. of this  
43 section.

44 "Qualified offshore wind project" means the same as the term is  
45 defined in section 3 of P.L.1999, c.23 (C.48:3-49 et al.).

46 "Qualified wind energy facility" means any building, complex of  
47 buildings, or structural components of buildings, including water  
48 access infrastructure, and all machinery and equipment used in the

1 manufacturing, assembly, development or administration of  
2 component parts that support the development and operation of a  
3 qualified offshore wind project, or other wind energy project as  
4 determined by the authority, and that are located in a wind energy  
5 zone.

6 “Wind energy zone” means property located in the South Jersey  
7 Port District established pursuant to “The South Jersey Port  
8 Corporation Act,” P.L.1968, c.60 (C.12:11A-1 et seq.).

9  
10 7. This act shall take effect immediately.