ASSEMBLY, No. 5485



STATE OF NEW JERSEY

220th LEGISLATURE



INTRODUCED MAY 18, 2023

Sponsored by:

Assemblyman PARKER SPACE

District 24 (Morris, Sussex and Warren)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



An Act repealing the “Global Warming Response Act,” P.L.2007, c.112, repealing various sections of P.L.2007, c.340, and amending various sections of the statutory law.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. Sections 1 through 7, and section 9, of the “Global Warming Response Act,” P.L.2007, c.112 (C.26:2C-37 through C.26:2C-43 and C.26:2C-44) are repealed.

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11, and sections 14 and 15 of P.L.2007, c.340 (C.26:2C-45 through C.26:2C-55, and C.26:2C-56 through C.26:2C-57) are repealed.

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

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

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

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

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

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

b. The fund shall be credited with:

(1) **[**the amount allocated for programs that enhance the stewardship and restoration of the State's forests pursuant to section 7 of P.L.2007, c.340 (C.26:2C-51) from the "Global Warming Solutions Fund," established pursuant to section 6 of P.L.2007, c.340 (C.26:2C-50);**]** (Deleted by amendment, P.L. , c. (pending before the Legislature as this bill)

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

(3) any return on the investment of moneys deposited in the fund.

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

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

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

(cf: P.L.2009, c.256, s.5)

5. Section 1 of P.L.2022, c.86 (C.26:2C-8.58) is amended to read as follows:

1. a. No later than six months after the effective date of P.L.2022, c.86 (C.26:2C-8.58 et al.), the Department of Environmental Protection shall implement a three-year "Electric School Bus Program" to determine the operational reliability and cost effectiveness of replacing diesel-powered school buses with electric school buses for the daily transportation of students.

b. On or after the date of implementation of the program developed pursuant to subsection a. of this section, and once each year for the next two years thereafter, the Department of Environmental Protection shall, subject to available funding, select for participation in the program no less than six school districts and school bus contractors that operate school buses, as described in section 1 of P.L.1996, c.96 (C.39:3B-1.1), so that during the third year of the program, no less than a total of 18 school districts or school bus contractors shall have been selected for participation in the program amongst the northern, central, and southern regions of the State. The department shall choose school districts and school bus contractors to participate in the program based on a competitive grant solicitation.

In each year, the department shall use its best efforts to select a mix of school districts that operate their own bus fleets and school districts that contract for school bus services; provided that, in each year, the department shall award no more than half of the grants to school bus contractors. Any school bus contractor applying to participate in the program shall apply in conjunction with a specific school district. In each year, at least half of the school districts or school bus contractors selected by the department, and at least half of the grant funding awarded by the department in each year shall be located in a "low-income, urban, or environmental justice community" as defined in section 2 of P.L.2019, c.362 (C.48:25-2) and from those selected, the department shall use its best efforts, in each year, to select, an equal number of grantees from the northern, central, and southern regions of the State respectively, subject to deviation based on the applicant pool. Grants shall be awarded in a manner that both prioritizes equity and tests a variety of technological and funding approaches, including but not limited to outright purchase, leased buses, leveraging of other funding sources, and vehicle-to-grid or vehicle-to-building technologies.

For purposes of this subsection: "northern," when referring to regions of the State, means the counties of Bergen, Essex, Hudson, Morris, Passaic, Union, Sussex, and Warren; "central," when referring to regions of the State, means the counties of Hunterdon, Mercer, Middlesex, Monmouth, and Somerset; and "southern," when referring to regions of the State, means the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem.

c. (1) Under the program, the department shall award grants to school districts or school bus contractors selected to participate in the program to purchase or lease electric school buses and to purchase or lease and install electric school bus charging infrastructure in coordination with any State department, board, bureau, commission, agency, public utility as defined pursuant to R.S.48:2-13 that provides electric service to end users in the State, municipal public utility as defined in N.J.S.40A:1-1 that provides electric service to end users in the State, authority as defined in section 3 of P.L.1983, c.313 (C.40A:5A-3) that provides electric service to end users in the State, or rural electric cooperative organized under the general corporation laws of this State as necessary. Pursuant to any outright purchase or lease arrangement entered into by a school district or school bus contractor participating in the program, an electric school bus and charging infrastructure vendor purchase or lease arrangement shall include, at a minimum, the following:

(a) an electric school bus having a minimum range of 90 miles per full charge, or 30 percent more range per full charge than the daily maximum miles used by the school district or school bus contractor, whichever is greater, and having telematics system capabilities. The department shall collect data from on-board telematics monitoring systems in order to evaluate parameters such as idle time, driving time, energy consumption, and frequency of charging;

(b) an electric school bus and charging infrastructure, as appropriate;

(c) appropriate training for bus maintenance personnel and bus drivers, and other relevant personnel, which shall be provided at no cost to a bus driver, bus maintenance personnel, or other relevant personnel; and

(d) electric school bus and charging infrastructure shop manuals and wiring schematics for troubleshooting and a complete list of component parts.

(2) Monies for the "Electric School Bus Program" shall be used by the Department of Environmental Protection to provide grants, pursuant to this subsection, over the three-year period. In the first year, grants shall be provided in accordance with P.L.2022, c.86 (C.26:2C-8.58 et al.) in the amount of $15,000,000 for electrification. Subject to the availability of funds, grants shall continue to be provided in accordance with P.L.2022, c.86 (C.26:2C-8.58 et al.) in the amount of $15,000,000 per year for a total of $45,000,000 over the three-year period. The department may use available monies to provide grants, pursuant to this subsection, singly or in combination, from the following sources: societal benefits charge revenues received pursuant to section 12 of P.L.1999, c.23 (C.48:3-60); **[**the "Global Warming Solutions Fund" established pursuant to section 6 of P.L.2007, c.340 (C.26:2C-50);**]** any **[**available**]** monies available from utility programs to upgrade electrical infrastructure for purposes of electric vehicle charging; any appropriations made by the Legislature for the program established pursuant to P.L.2022, c.86 (C.26:2C-8.58 et al.); or any other sources of available funding. Up to five percent of the monies made available to the program may be used to administer the program.

The department shall determine the amount of each grant provided pursuant to this subsection and shall award grants in a manner that provides for the most efficient and highest efficacy use of the grant.

d. At least once every six months, the school districts or school bus contractors selected to participate in the program shall submit a report to the department detailing the cost to operate the electric school buses, the electric school bus maintenance records and transponder data, and any reliability issues related to the operation or delivery and procurement of the electric school buses. The first report shall be submitted six months after the school district or school bus contractor first completes its initial procurement of electric school buses.

e. (1) The department shall, no less than twice per calendar year, convene a working group which includes a representative of the Board of Public Utilities, the New Jersey Economic Development Authority, the Department of Transportation, the Department of Education, and the New Jersey Motor Vehicle Commission. The working group shall review the reports and, as appropriate, troubleshoot and recommend solutions to any issue raised in a report submitted by a program participant. The working group shall consider issues raised in the reports submitted by program participants and make recommendations regarding program implementation. The department may convene the working group on a more frequent basis as may be required for the effective administration of the program. The department shall collect any additional information and data necessary to complete any report required to be submitted to the Governor and Legislature pursuant to subsection f. of this section.

(2) The department shall permit a recipient of any grant under any State agency-administered program for the provision of an electric school bus and electric school bus charging infrastructure prior to the effective date of P.L.2022, c.86 (C.26:2C-8.58 et al.) to submit any additional information and data to the department to complement any data received by the department from program participants pursuant to this subsection.

f. The department, in collaboration with the Board of Public Utilities and the New Jersey Economic Development Authority shall submit an "Electric School Bus Program" report to the Governor and, pursuant to section 2 of P.L.1991, c.164

(C.52:14-19.1), to the Legislature. The report shall be submitted within six months after the conclusion of the program.

The department may use available monies, singly or in combination from the following sources, to procure professional services to assist with the development of the report: societal benefits charge revenues received pursuant to section 12 of P.L.1999, c.23 (C.48:3-60); **[**the "Global Warming Solutions Fund" established pursuant to section 6 of P.L.2007, c.340 (C.26:2C-50);**]** any **[**available**]** monies available from utility programs to upgrade electrical infrastructure for purposes of electric vehicle charging; any appropriations made by the Legislature for the program established pursuant to P.L.2022, c.86 (C.26:2C-8.58 et al.); or any other sources of available funding.

The submitted report shall include:

(1) a description and comprehensive review of the program, including but not limited to, an evaluation of the program's effectiveness;

(2) a summary description of all grants provided under the program, including the names of the recipients, the amount of funding each recipient received, the current status of the funds provided to each recipient, and an itemization of the total project budget including vehicle costs, hardware costs, installation costs, training costs, and administrative costs;

(3) an analysis of the operational reliability and cost effectiveness of the use of electric school buses and charging infrastructure by each grantee and steps taken by the grantee to fix any operational problems;

(4) an estimate of the emission benefits of the electric school buses and charging infrastructure funded under this program;

(5) any preliminary findings from grant recipients pertaining to design or operation of electric school buses and charging infrastructure and potential improvements to make the buses and charging infrastructure safer, more economical or environmentally advantageous;

(6) as applicable, depending on deployment of grant recipients, an analysis of the potential costs and benefits of using electric school bus batteries for storing power to be returned to the electric grid or to school buildings during periods of peak electric power demand;

(7) an assessment of reliability of electric school buses and charging infrastructure; and

(8) an analysis of any additional external changes that the use of electric school buses and charging infrastructure may require regarding electric service rate schedules, school bus inspection standards, or any other major considerations.

In addition to the information included pursuant to paragraphs (1) through (8) of this subsection, the final report shall include recommendations regarding the establishment of grant and loan programs to provide assistance to school districts and school bus contractors for the replacement of their bus fleets, other types of financial agreements to assist school districts and school bus contractors with implementing and using electric school buses, and the optimization of electric school bus grant programs to most efficiently and effectively distribute available funds to maximize environmental and health benefits.

The final report shall also include recommendations for how additional funding may be distributed in the most efficient and effective manner to maximize the number of electric school buses operating in the State.

(cf: P.L.2022, c.86, s.1)

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

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

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

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

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

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

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

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

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

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

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

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

"Bondable transition property" means the property consisting of the irrevocable right to charge, collect, and receive, and be paid from collections of, transition bond charges in the amount necessary to provide for the full recovery of bondable stranded costs which are determined to be recoverable in a bondable stranded costs rate order, all rights of the related electric public utility under the bondable stranded costs rate order including, without limitation, all rights to obtain periodic adjustments of the related transition bond

charges pursuant to subsection b. of section 15 of P.L.1999, c.23 (C.48:3-64), and all revenues, collections, payments, money, and proceeds arising under, or with respect to, all of the foregoing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Connected to the distribution system" means, for a solar electric power generation facility, that the facility is: (1) connected to a net metering customer's side of a meter, regardless of the voltage at which that customer connects to the electric grid; (2) an on-site generation facility; (3) qualified for net metering aggregation as provided pursuant to paragraph (4) of subsection e. of section 38 of P.L.1999, c.23 (C.48:3-87); (4) owned or operated by an electric public utility and approved by the board pursuant to section 13 of P.L.2007, c.340 (C.48:3-98.1); (5) directly connected to the electric grid at 69 kilovolts or less, regardless of how an electric public utility classifies that portion of its electric grid, and is designated as "connected to the distribution system" by the board pursuant to subsections q. through s. of section 38 of P.L.1999, c.23

(C.48:3-87); or (6) is certified by the board, in consultation with the Department of Environmental Protection, as being located on a brownfield, on an area of historic fill, or on a properly closed sanitary landfill facility. Any solar electric power generation facility, other than that of a net metering customer on the customer's side of the meter, connected above 69 kilovolts shall not be considered connected to the distribution system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Offshore wind renewable energy certificate" or "OREC" means a certificate, issued by the board or its designee, representing the e

environmental attributes of one megawatt hour of electric generation from a qualified offshore wind project.

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

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

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

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

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

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

"Preserved farmland" means land on which a development easement was conveyed to, or retained by, the State Agriculture Development Committee, a county agriculture development board, or a qualifying tax exempt nonprofit organization pursuant to the provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28

(C.4:1C-38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through 40 of P.L.1999, c.152 (C.13:8C-37 through

C.13:8C-40), or any other State law enacted for farmland preservation purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Solar renewable energy certificate II" or "SREC-II" means a transferable certificate, issued by the board or its designee pursuant to P.L.2021, c.169 (C.48:3-114 et al.), which is capable of counting towards the renewable energy portfolio standards of an electric power supplier or basic generation service provider in the State pursuant to section 38 of P.L.1999, c.23 (C.48:3-87).

"SREC-II program" means the program established pursuant to section 2 of P.L.2021, c.169 (C.48:3-115) to distribute SREC-IIs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(cf: P.L.2021, c.169, s.9)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Unless the Attorney General or the Attorney General's designee determines that a greenhouse gas emissions portfolio standard would unconstitutionally burden interstate commerce or would be preempted by federal law, the adoption by the board of an electric energy efficiency portfolio standard pursuant to subsection g. of this section, a gas energy efficiency portfolio standard pursuant to subsection h. of this section, or any other enhanced energy efficiency policies to mitigate leakage shall not be considered sufficient to fulfill the requirement of this subsection for the adoption of a greenhouse gas emissions portfolio standard or any other regulatory mechanism to mitigate leakage**]** , if two other states in the PJM power pool comprising at least 40 percent of the retail electric usage in the PJM Interconnection, L.L.C. adopt such standards.

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

(1) that two and one-half percent of the kilowatt hours sold in this State by each electric power supplier and each basic generation 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;

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

EY 2011 306 Gigawatthours (Gwhrs)

EY 2012 442 Gwhrs

EY 2013 596 Gwhrs

EY 2014 2.050%

EY 2015 2.450%

EY 2016 2.750%

EY 2017 3.000%

EY 2018 3.200%

EY 2019 4.300%

EY 2020 4.900%

EY 2021 5.100%

EY 2022 5.100%

EY 2023 5.100%

EY 2024 4.900%

EY 2025 4.800%

EY 2026 4.500%

EY 2027 4.350%

EY 2028 3.740%

EY 2029 3.070%

EY 2030 2.210%

EY 2031 1.580%

EY 2032 1.400%

EY 2033 1.100%

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

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

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

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

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

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

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

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

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

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

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

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

(c) The solar renewable portfolio standards requirements in this paragraph shall exempt those existing supply contracts which are effective prior to the date of enactment of P.L.2018, c.17

(C.48:3-87.8 et al.) from any increase beyond the number of SRECs mandated by the solar renewable energy portfolio standards requirements that were in effect on the date that the providers executed their existing supply contracts. This limited exemption for providers' existing supply contracts shall not be construed to lower the Statewide solar sourcing requirements set forth in this paragraph. Such incremental requirements that would have otherwise been imposed on exempt providers shall be distributed over the providers not subject to the existing supply contract exemption until such time as existing supply contracts expire and all providers are subject to the new requirement in a manner that is competitively neutral among all providers and suppliers. Notwithstanding any rule or regulation to the contrary, the board shall recognize these new solar purchase obligations as a change required by operation of law and implement the provisions of this subsection in a manner so as to prevent any subsidies between suppliers and providers and to promote competition in the electricity supply industry.

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, or compliance with the requirements of this subsection may be demonstrated to the board by suppliers or providers through the purchase of SRECs.

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

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

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

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

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

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

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

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

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

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

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

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

(4) net metering aggregation standards to require electric public utilities to provide net metering aggregation to single electric public utility customers that operate a solar electric power generation system installed at one of the customer's facilities or on property owned by the customer, provided that any such customer is a State entity, school district, county, county agency, county authority, municipality, municipal agency, or municipal authority. The standards shall provide that, in order to qualify for net metering aggregation, the customer must operate a solar electric power generation system using a net metering billing account, which system is located on property owned by the customer, provided that: (a) the property is not land that has been actively devoted to agricultural or horticultural use and that is valued, assessed, and taxed pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.) at any time within the 10-year period prior to the effective date of P.L.2012, c.24, provided, however, that the municipal planning board of a municipality in which a solar electric power generation system is located may waive the requirement of this subparagraph (a), (b) the system is not an on-site generation facility, (c) all of the facilities of the single customer combined for the purpose of net metering aggregation are facilities owned or operated by the single customer and are located within its territorial jurisdiction except that all of the facilities of a State entity engaged in net metering aggregation shall be located within five miles of one another, and (d) all of those facilities are within the service territory of a single electric public utility and are all served by the same basic generation service provider or by the same electric power supplier. The standards shall provide that, in order to qualify for net metering aggregation, the customer's solar electric power generation system shall be sized so that its annual generation does not exceed the combined metered annual energy usage of the qualified customer facilities, and the qualified customer facilities shall all be in the same customer rate class under the applicable electric public utility tariff. For the customer's facility or property on which the solar electric generation system is installed, the electricity generated from the customer's solar electric generation system shall be accounted for pursuant to the provisions of paragraph (1) of this subsection to provide that the electricity generated in excess of the electricity supplied by the electric power supplier or the basic generation service provider, as the case may be, for the customer's facility on which the solar electric generation system is installed, over the annualized period, is credited at the electric power supplier's or the basic generation service provider's avoided cost of wholesale power or the PJM electric power pool real-time locational marginal pricing rate. All electricity used by the customer's qualified facilities, with the exception of the facility or property on which the solar electric power generation system is installed, shall be billed at the full retail rate pursuant to the electric public utility tariff applicable to the customer class of the customer using the electricity. A customer may contract with a third party to operate a solar electric power generation system, for the purpose of net metering aggregation. Any contractual relationship entered into for operation of a solar electric power generation system related to net metering aggregation shall include contractual protections that provide for adequate performance and provision for construction and operation for the term of the contract, including any appropriate bonding or escrow requirements. Any incremental cost to an electric public utility for net metering aggregation shall be fully and timely recovered in a manner to be determined by the board. The board shall adopt net metering aggregation standards within 270 days after the effective date of P.L.2012, c.24.

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

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

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

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

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

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

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

EY 2014 $339

EY 2015 $331

EY 2016 $323

EY 2017 $315

EY 2018 $308

EY 2019 $268

EY 2020 $258

EY 2021 $248

EY 2022 $238

EY 2023 $228

EY 2024 $218

EY 2025 $208

EY 2026 $198

EY 2027 $188

EY 2028 $178

EY 2029 $168

EY 2030 $158

EY 2031 $148

EY 2032 $138

EY 2033 $128.

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

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

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

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

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

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

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

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

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

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

(8) promote the lowest cost to ratepayers; and

(9) allow all market segments to participate.

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

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

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

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

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

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

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

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

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

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

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

r. (1) For all proposed solar electric power generation facility projects except for those solar electric power generation facility projects approved pursuant to subsection q. of this section, and for all projects proposed in energy year 2019 and energy year 2020, the board may approve projects for up to 50 megawatts annually in auctioned capacity in two auctions per year as long as the board is accepting applications. If the board approves projects for less than 50 megawatts in energy year 2019 or less than 50 megawatts in energy year 2020, the difference in each year shall be carried over into the successive energy year until 100 megawatts of auctioned capacity has been approved by the board pursuant to this subsection. A proposed solar electric power generation facility that is neither net metered nor an on-site generation facility, may be considered "connected to the distribution system" only upon designation as such by the board, after notice to the public and opportunity for public comment or hearing. A proposed solar electric power generation facility seeking board designation as "connected to the distribution system" shall submit an application to the board that includes for the proposed facility: the nameplate capacity; the estimated energy and number of SRECs to be produced and sold per year; the estimated annual rate impact on ratepayers; the estimated capacity of the generator as defined by PJM for sale in the PJM capacity market; the point of interconnection; the total project acreage and location; the current land use designation of the property; the type of solar technology to be used; and such other information as the board shall require.

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

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

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

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

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

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

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

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

(C.48:2-29.47).

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

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

(b) the person did not discharge the hazardous substance, is not in any way responsible for the hazardous substance, and is not a successor to the discharger or to any person in any way responsible for the hazardous substance or to anyone liable for cleanup and removal costs pursuant to section 8 of P.L.1976, c.141

(C.58:10-23.11g);

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

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

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

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

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

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

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

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

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

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

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

(C.48:3-98.1), as a result of the provisions of a financial incentive established by the board pursuant to this subsection, shall be credited to ratepayers.

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

(cf: P.L.2021, c.169, s.10)

8. Section 1 of P.L.2018, c.16 (C.48:3-87.3) is amended to read as follows:

1. a. The Legislature finds and declares that:

(1) Climate change is one of the greatest threats facing the State today and in the future. Reducing emissions of carbon dioxide, other greenhouse gases, and other pollutants by preserving and expanding zero-emission electricity generation within and outside the State is critical to mitigating the impacts of climate change.

(2) Nuclear power is a reliable, zero-emission source of energy that has supplied New Jersey's energy demands for decades.

(3) New Jersey has historically relied on a diverse mix of energy supply sources, including nuclear power, to meet the needs of its residents and businesses.

(4) Reducing emissions of carbon dioxide, other greenhouse gases, and other pollutants, and preserving and developing zero-emission electricity generation sources within and outside the State that currently provide electricity to customers in New Jersey, are critical to improving air quality for New Jersey residents.

(5) The Energy Master Plan of New Jersey, last updated in 2015, requires significant revisions to ensure that 100 percent of the State's electric energy needs are generated by clean energy sources by 2050, and any update to the Energy Master Plan by the State must include a focus on the expansion of renewable and zero-emission sources of energy.

(6) The existing renewable energy portfolio standard has been successful in promoting the growth of renewable energy generation to reduce air pollution in New Jersey; however, to achieve its near term environmental goals, New Jersey must expand its commitment to zero-emission energy generation and value the air quality and other environmental attributes of zero-emission generation sources that currently fall outside the scope of the existing renewable energy portfolio standard, including but not limited to nuclear power.

(7) Nuclear power generation is a critical component of the State's clean energy portfolio because nuclear power plants do not emit carbon dioxide, other greenhouse gases, or other pollutants; in addition, nuclear power is an important element of a diverse energy generation portfolio that currently meets approximately 40 percent of New Jersey's electric power needs.

(8) Several of the existing, licensed, and operating nuclear power plants within and outside the State that currently provide electricity to customers in New Jersey are at risk of abrupt retirement due to a variety of factors.

(9) The retirement of nuclear power generation will inevitably result in an immediate increase in air emissions within New Jersey due to increased reliance on natural gas-fired generation and coal-fired generation.

(10) Poor air quality has a disproportionate impact on the most vulnerable citizens of New Jersey including children, the elderly, and people living in poverty. Fossil-fuel power plants drive increases in pollutants like ground-level ozone, which aggravates respiratory illnesses for individuals with decreased lung function. Public health and environmental justice necessitate a reduction in these pollutants to protect the most vulnerable of our citizenry.

(11) As a coastal state, New Jersey is particularly exposed to many of the effects of global climate change, such as rising sea levels and more extreme storms. Many of New Jersey's most important commercial and tourism assets are located in coastal areas, and events like Superstorm Sandy have demonstrated the imminent and tangible threats that intense storms pose to New Jersey's economy and environment.

(12) Given the overwhelming scientific consensus that fossil-fuel use is causing potentially irreversible global climate change and the attendant environmental catastrophes, it is a moral imperative that the State invest in energy infrastructure within and outside the State that does not produce greenhouse gases.

b. The Legislature therefore determines that:

(1) The abrupt retirement of existing, licensed, and operating nuclear power plants within and outside the State that provide electricity to customers in New Jersey, and any concomitant increase in the proportion of New Jersey's electricity demand met by natural gas and coal, will result in a substantial increase in emissions of several serious pollutants, and associated adverse public health and environmental impacts. The pollutants resulting from increased fossil-fuel generation and drilling include emissions of carbon dioxide, methane, carbon monoxide, sulfur dioxide, particulate matter, volatile organic compounds, mercury, and nitrous oxides, and the creation of ozone.

(2) New Jersey is currently not projected to meet certain federal and State air quality standards and emissions level requirements, counties of the State are currently designated as nonattainment for the federal 8-hour Ozone National Ambient Air Quality Standard, and the abrupt retirement of nuclear power plants that serve New Jersey combined with increased reliance on natural gas-fired and coal-fired generation will substantially impede the State's ability to meet those federal and State air quality standards and emissions level requirements.

(3) In light of the primacy of natural gas use for heating in New Jersey, increased reliance on natural gas-fired generation will render the electric generation and delivery systems less resilient and more vulnerable to the impacts of extreme winter weather events, natural gas pipeline accidents, and other factors affecting the deliverability of natural gas to electric power generating stations in and around the State.

(4) The model of providing credits to zero- or low-emission energy generation sources as compensation for their environmental attributes has proven successful for Class I and Class II renewable energy sources, which receive renewable energy certificates, and solar electric power generators, which receive solar renewable energy certificates.

(5) A program that recognizes and compensates nuclear energy generators in a manner similar to other non-emitting energy generation resources to the extent required to prevent the loss of nuclear energy, subject to independent review as provided in section 3 of **[**this act**]** P.L.2018, c.16 (C.48:3-87.5), which the State's residents and businesses rely on for approximately 40 percent of their electricity needs, could, in the absence of equally or more cost-effective clean energy alternatives, further the State's interest in environmental protection and maintaining a diverse mix of energy sources.

(6) While recognizing the importance of nuclear energy generation, the State must also commit to the deployment of renewable and zero-emission energy to address climate change, drive economic development, and create new employment opportunities.

(7) **[**In order to meet the goals under the "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et seq.), to reduce greenhouse gas emissions 80 percent by 2050, it will be necessary to significantly reduce emissions from the electric power generation sector. This will require reducing the State's heavy reliance on natural gas for electric power generation, the primary source of emissions from the electric power generation sector.**]** (Deleted by amendment, P.L. , c. ) (pending before the Legislature as this bill)

(8) The zero emission certificate program set forth in **[**this act**]** P.L.2018, c.16 (C.48:3-87.3 et seq.) is structured such that its costs are guaranteed to be significantly less than the social cost of carbon emissions avoided by the continued operation of selected nuclear power plants, ensuring that the program does not place an undue financial burden on retail distribution customers. The social cost of carbon, as calculated by the U.S. Interagency Working Group on the Social Cost of Carbon in its August 2016 Technical Update, is an accepted measure of the cost of carbon emissions. Carbon emissions avoided by selected nuclear power plants are but one component of their emissions avoidance benefits.

(cf: P.L.2018, c.16, s.1)

9. Section 6 of P.L.2021, c.169 (C.48:3-119) is amended to read as follows:

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

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

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

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

(3) where appropriate, include consideration of:

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

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

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

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

(e) other site-specific criteria.

c. Unless authorized pursuant to subsection f. of this section, a grid supply solar facility or a net metered solar facility greater than five megawatts in size shall not be sited on:

(1) land preserved under the Green Acres Program;

(2) land located within the preservation area of the pinelands area, as designated in subsection b. of section 10 of P.L.1979, c.111 (C.13:18A-11);

(3) land designated as forest area in the pinelands comprehensive management plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.);

(4) land designated as freshwater wetlands as defined pursuant to P.L.1987, c.156 (C.13:9B-1 et seq.), or coastal wetlands as defined pursuant to P.L.1970, c.272 (C.13:9A-1 et seq.);

(5) lands located within the Highlands preservation area as designated in subsection b. of section 7 of P.L.2004, c.120 (C.13:20-7);

(6) forested lands, as defined by the board in consultation with the Department of Environmental Protection; or

(7) prime agricultural soils and soils of Statewide importance, as identified by the United States Department of Agriculture's Natural Resources Conservation Service, which are located in Agricultural Development Areas certified by the State Agriculture Development Committee, in excess of the Statewide threshold of 2.5 percent of such soils established by paragraph (1) of subsection d. of this section.

d. (1) A grid supply solar facility or a net metered solar facility greater than five megawatts in size sited on prime agricultural soils or soils of Statewide importance, as identified by the United States Department of Agriculture's Natural Resources Conservation Service, which are located in Agricultural Development Areas certified by the State Agriculture Development Committee, shall not require a waiver pursuant to subsection f. of this section until the board determines, pursuant to paragraph (2) of this subsection, that 2.5 percent of such lands in the State have been approved by the board pursuant to P.L.2021, c.169 (C.48:3-114 et al.) to be utilized by a grid supply solar facility or a net metered solar facility greater than five megawatts in size. After the board makes this determination, a grid supply solar facility or a net metered solar facility greater than five megawatts in size shall not be sited on prime agricultural soils or soils of Statewide importance, as identified by the United States Department of Agriculture's Natural Resources Conservation Service, which are located in Agricultural Development Areas certified by the State Agriculture Development Committee, unless authorized pursuant to subsection f. of this section.

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

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

(2) Nothing in P.L.2021, c.169 (C.48:3-114 et al.) shall be construed to affect the provisions of P.L.2009, c.213 (C.4:1C-32.4 et al.), including those related to the construction of solar electric power generation facilities on preserved farmland.

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

g. No later than five years after the adoption of rules and regulations pursuant to section 2 of P.L.2021, c.169 (C.48:3-115), the board, in consultation with the Department of Environmental Protection and the Secretary of Agriculture, shall conduct a review of the rules and regulations to assess program performance, identify problems, and recommend changes to the siting criteria to better effectuate the policy goals set forth in subsection a. of this section. The board shall prepare a report summarizing this review and submit it to the Governor and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1).

(cf: P.L.2021, c.169, s.6)

10. Section 1 of P.L.2019, c.362 (C.48:25-1) is amended to read as follows:

1. The Legislature finds and declares: that plug-in electric vehicle technology has improved significantly for vehicles of all types; that plug-in electric vehicles with longer ranges are now widely available at a lower cost and present a viable alternative to vehicles fueled by fossil fuels; that more plug-in electric vehicle makes and models will be introduced in the State motor vehicle market over the next several years; that vehicle electrification offers a wide range of benefits, such as improved air quality, reduced greenhouse gas emissions, and savings in motor vehicle operating costs for vehicle owners; that increased use of plug-in electric vehicles can contribute significantly to the attainment of existing State air pollution and energy goals, including the objectives of the **[**"Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et seq.) and the**]** State's Energy Master Plan; and that New Jersey is already committed to implementing the California Low Emission Vehicle Program pursuant to P.L.2003, c.266 (C.26:2C-8.15 et al.), and part of this program is a commitment to increasing the use of low emission vehicles and zero emission vehicles, including plug-in electric vehicles.

The Legislature therefore determines that it is in the public interest to establish goals for the increased use of plug-in electric vehicles in the State, to support the increased use of plug-in electric vehicles by providing incentives for the purchase or lease of such vehicles and for related charging equipment, and to increase consumer awareness of the availability of incentives through a Statewide public education program.

(cf: P.L.2019, c.362, s.1)

11. Section 7 of P.L.2019, c.362 (C.48:25-7) is amended to read as follows:

7. a. There is established in the Board of Public Utilities a special, nonlapsing fund to be known as the Plug-in Electric Vehicle Incentive Fund. The fund shall be administered by the board and shall be credited with:

(1) moneys deposited into the fund by the board pursuant to subsection b. of this section;

(2) moneys that are appropriated by the Legislature; and

(3) any return on investment of moneys deposited in the fund.

b. (1) The board shall deposit into the fund, each year, $30 million of moneys received from the societal benefits charge established pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), **[**moneys made available to the board pursuant to the implementation of the Regional Greenhouse Gas Initiative and P.L.2007, c.340 (C.26:2C-45 et seq.),**]** and moneys available from other funding sources, as determined by the board, to make disbursements under the light duty plug-in electric vehicle incentive program established pursuant to section 4 of P.L.2019,

c.362 (C.48:25-4).

(2) The board may deposit into the fund, each year, such additional amounts from the societal benefits charge, as the board deems necessary, to make disbursement under an incentive program for in-home electric vehicle service equipment established pursuant to section 6 of P.L.2019, c.362 (C.48:25-6).

c. Moneys in the fund shall be used by the board solely for the purpose of disbursing the incentives established pursuant to sections 4 and 6 of P.L.2019, c.362 (C.48:25-4 and C.48:25-6). The board shall recover any administrative costs incurred in connection with P.L.2019, c.362 (C.48:25-1 et al.) separately from moneys received from the societal benefits charge.

d. The board shall provide no less than $30 million in disbursements under the light duty plug-in electric vehicle incentive program established pursuant to section 4 of P.L.2019, c.362 (C.48:25-4) each year for 10 years.

(cf: P.L.2019, c.362, s.7)

12. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to read as follows:

6. a. Up to the limits established in subsection b. of this section and in accordance with a redevelopment incentive grant agreement, beginning upon the receipt of occupancy permits for any portion of the redevelopment project, or upon any other event evidencing project completion as set forth in the incentive grant agreement, the State Treasurer shall pay to the developer incremental State revenues directly realized from businesses operating at the site of the redevelopment project from the following taxes: the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine insurance companies pursuant to R.S.54:16-1 et seq., the tax imposed on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities gross receipts tax and public utility excise tax imposed on sewerage and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.), those tariffs and charges imposed by electric, natural gas, telecommunications, water and sewage utilities, and cable television companies under the jurisdiction of the New Jersey Board of Public Utilities, or comparable entity, except for those tariffs, fees, or taxes related to societal benefits charges assessed pursuant to section 12 of P.L.1999, c.23

(C.48:3-60), any charges paid, prior to the effective date of P.L. , c. (pending before the Legislature as this bill), for compliance with the "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy facility assessment unit taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on public utility and cable television services and commodities, the tax derived from net profits from business, a distributive share of partnership income, or a pro rata share of S corporation income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at the site of a redevelopment project that is required to collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966, c.30

(C.54:32B-1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase of furniture, fixtures and equipment, or materials for the remediation, the construction of new structures at the site of a redevelopment project, the hotel and motel occupancy fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or the portion of the fee imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) derived from the sale of real property at the site of the redevelopment project and paid to the State Treasurer for use by the State, that is not credited to the "Shore Protection Fund" or the "Neighborhood Preservation Nonlapsing Revolving Fund" ("New Jersey Affordable Housing Trust Fund") pursuant to section 4 of P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to assign their ability to apply for the tax credit under this subsection to a non-profit organization with a mission dedicated to attracting investment and completing development and redevelopment projects in a Garden State Growth Zone. The non-profit organization may make an application on behalf of a developer which meets the requirements for the tax credit, or a group of non-qualifying developers, such that these will be considered a unified project for the purposes of the incentives provided under this section.

b. (1) (a) Up to an average of 75 percent of the projected annual incremental revenues or 85 percent of the projected annual incremental revenues in a Garden State Growth Zone may be pledged towards the State portion of an incentive grant.

(b) State incentive grants not to exceed an aggregate total value of $75,000,000 shall be made available by the authority for applications submitted after the effective date of P.L.2020, c.156, but prior to December 31, 2021, for projects that are predominantly commercial and contain 100,000 or more square feet of office and retail space, or industrial space for purchase or lease, and may include a parking component. The developer of a project seeking an award of credits for a project restricted under this subparagraph shall submit an incentive grant application prior to December 31, 2021, and if approved after the effective date of P.L.2020, c.156, shall submit a temporary certificate of occupancy for the project no later than December 31, 2024. In addition to the requirements for an incentive award set forth in P.L.2009, c.90 (C.52:27D-489a et al.), a developer shall be eligible to receive an award of credits for a project restricted under this subparagraph only if the developer demonstrates to the authority at that time of application that: (i) the project shall comply with minimum environmental and sustainability standards; (ii) the project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii) each worker employed by the developer, or subcontractor of a developer working at the project, shall be paid not less than $15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher; and (iv) during the eligibility period, each worker employed to perform construction work or building services work at the project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150

(C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

(2) In the case of a qualified residential project or a project involving university infrastructure, if the authority determines that the estimated amount of incremental revenues pledged towards the State portion of an incentive grant is inadequate to fully fund the amount of the State portion of the incentive grant, then in lieu of an incentive grant based on the incremental revenues, the developer shall be awarded tax credits equal to the full amount of the incentive grant.

(3) In the case of a mixed use parking project, if the authority determines that the estimated amount of incremental revenues pledged towards the State portion of an incentive grant is inadequate to fully fund the amount of the State portion of the incentive grant, then, in lieu of an incentive grant based on the incremental revenues, the developer shall be awarded tax credits equal to the full amount of the incentive grant.

The value of all credits approved by the authority pursuant to paragraphs (2) and (3) of this subsection shall not exceed $993,000,000, of which:

(a) $250,000,000 shall be restricted to qualified residential projects within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem counties, of which $175,000,000 of the credits shall be restricted to the following categories of projects: (i) qualified residential projects located in a Garden State Growth Zone located within the aforementioned counties; and (ii) mixed use parking projects located in a Garden State Growth Zone or urban transit hub located within the aforementioned counties; (iii) and $75,000,000 of the credits shall be restricted to qualified residential projects in municipalities with a 2007 Municipal Revitalization Index of 400 or higher as of the date of enactment of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within the aforementioned counties;

(b) $440,000,000 shall be restricted to the following categories of projects: (i) qualified residential projects located in urban transit hubs that are commuter rail in nature that otherwise do not qualify under subparagraph (a) of this paragraph; (ii) qualified residential projects located in Garden State Growth Zones that do not qualify under subparagraph (a) of this paragraph; (iii) mixed use parking projects located in urban transit hubs or Garden State Growth Zones that do not qualify under subparagraph (a) of this paragraph, provided however, an urban transit hub shall be allocated no more than $25,000,000 for mixed use parking projects; (iv) qualified residential projects which are disaster recovery projects that otherwise do not qualify under subparagraph (a) of this paragraph; (v) qualified residential projects in SDA municipalities located in Hudson County that were awarded State Aid in State Fiscal Year 2013 through the Transitional Aid to Localities program and otherwise do not qualify under subparagraph (a) of this paragraph; (vi) $25,000,000 of credits shall be restricted to mixed use parking projects in Garden State Growth Zones which have a population in excess of 125,000 and do not qualify under subparagraph (a) of this paragraph; (vii) $40,000,000 of credits shall be restricted to qualified residential projects that include a theater venue for the performing arts and do not qualify under subparagraph (a) of this paragraph, which projects are located in a municipality with a population of less than 100,000 according to the latest federal decennial census, and within which municipality is located an urban transit hub and a campus of a public research university, as defined in section 1 of P.L.2009, c.308 (C.18A:3B-46); and (viii) $150,000,000 of credits shall be restricted to qualified residential projects and mixed use parking projects in Garden State Growth Zones having a population in excess of 125,000 and do not qualify under subparagraph (a) of this paragraph;

(c) $87,000,000 shall be restricted to the following categories of projects: (i) qualified residential projects located in distressed municipalities, deep poverty pockets, highlands development credit receiving areas or redevelopment areas, otherwise not qualifying pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed use parking projects that do not qualify under subparagraph (a) or (b) of this paragraph, and which are used by an independent institution of higher education, a school of medicine, a nonprofit hospital system, or any combination thereof; provided, however, that $20,000,000 of the $87,000,000 shall be allocated to mixed use parking projects that do not qualify under subparagraph (a) or (b) of this paragraph;

(d) (i) $16,000,000 shall be restricted to qualified residential projects that are located within a qualifying economic redevelopment and growth grant incentive area otherwise not qualifying under subparagraph (a), (b), or (c) of this paragraph; and

(ii) an additional $50,000,000 shall be restricted to qualified residential projects which, as of the effective date of P.L.2016, c.51, are located in a city of the first class with a population in excess of 270,000, are subject to a Renewal Contract for a Section 8 Mark-Up-To-Market Project from the United States Department of Housing and Urban Development, and for which an application for the award of tax credits under this subsection was submitted prior to January 1, 2016;

(e) $25,000,000 shall be restricted to projects involving university infrastructure; and

(f) (Deleted by amendment, P.L.2021, c.160)

(g) $125,000,000 shall be restricted to applications submitted after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) for residential projects in any county of the State.

(h) For subparagraphs (a) through (d) of this paragraph, not more than $40,000,000 of credits shall be awarded to any qualified residential project in a deep poverty pocket or distressed municipality and not more than $20,000,000 of credits shall be awarded to any other qualified residential project. The developer of a qualified residential project seeking an award of credits towards the funding of its incentive grant shall submit an incentive grant application prior to July 1, 2016 and if approved after September 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et al.) shall submit a temporary certificate of occupancy for the project no later than December 31, 2023. The developer of a mixed use parking project seeking an award of credits towards the funding of its incentive grant pursuant to subparagraph (c) of this paragraph and if approved after the effective date of P.L.2015, c.217, shall submit a temporary certificate of occupancy for the project no later than December 31, 2023. The developer of a qualified residential project or a mixed use parking project seeking an award of credits toward the funding of its incentive grant for a project restricted under categories (vi) and (viii) of subparagraph (b) of this paragraph shall submit an incentive grant application prior to July 1, 2019 or, in the case of a project restricted under category (viii) of subparagraph (b) of this paragraph, December 31, 2021, and if approved after the effective date of P.L.2017, c.59, shall submit a temporary certificate of occupancy for the project no later than June 30, 2026 provided that the municipality in which the project is located shall have submitted to the chief executive officer of the authority a letter of support identifying up to six projects prior to July 1, 2018. The letter of support is to contain a project scope for each of the projects and may be supplemented or amended from time to time until July 1, 2019 or, in the case of a project restricted under categories (vi) and (viii) of subparagraph (b) of this paragraph, December 31, 2022. Applications for tax credits pursuant to this subsection relating to an ancillary infrastructure project or infrastructure improvement in the public right-of-way, or both, shall be accompanied with a letter of support relating to the project or improvement by the governing body or agency in which the project is located. Credits awarded to a developer pursuant to this subsection shall be subject to the same financial and related analysis by the authority, the same term of the grant, and the same mechanism for administering the credits, and shall be utilized or transferred by the developer as if the credits had been awarded to the developer pursuant to section 35 of P.L.2009, c.90

(C.34:1B-209.3) for qualified residential projects thereunder. No portion of the revenues pledged pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161

(C.52:27D-489p et al.) shall be subject to withholding or retainage for adjustment, in the event the developer or taxpayer waives its rights to claim a refund thereof.

(i) The developer of a project seeking an award of credits for a project restricted under subparagraph (g) of this paragraph shall submit an incentive grant application prior to December 31, 2021, and if approved after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), shall submit a temporary certificate of occupancy for the project no later than December 31, 2024. In addition to the requirements for an award of credits set forth in P.L.2009, c.90 (C.52:27D-489a et al.), a developer shall be eligible to receive an award of credits for a project restricted under subparagraph (g) of this paragraph only if the developer demonstrates to the authority at that time of application that: (i) the project shall comply with minimum environmental and sustainability standards; (ii) the project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii) each worker employed by the developer or subcontractor of a developer working at the project shall be paid not less than $15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher; and (iv) during the eligibility period, each worker employed to perform construction work or building services work at the project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

Prior to the board considering an application submitted by a developer for a project restricted under subparagraph (g) of this paragraph, the authority shall confirm with the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury whether the developer is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the developer. The developer, or an authorized agent of the developer, shall certify to the authority that all factual assertions made in the developer's application are true under the penalty of perjury. If at any time the authority determines that the developer made a material misrepresentation on the developer's application, the developer shall forfeit the award of credits and the authority shall recapture any tax credits awarded to the developer.

(4) A developer may apply to the Director of the Division of Taxation in the Department of the Treasury and the chief executive officer of the authority for a tax credit transfer certificate, if the developer is awarded a tax credit pursuant to paragraph (2) or paragraph (3) of this subsection, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, to any other person who may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the developer shall include a statement waiving the developer's right to claim that amount of the credit against the taxes that the developer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this paragraph shall not be exchanged for consideration received by the developer of less than 75 percent of the transferred credit amount before considering any further discounting to present value that may be permitted. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same limitations and conditions that apply to the use of the credit by the developer who originally applied for and was allowed the credit.

c. All administrative costs associated with the incentive grant shall be assessed to the applicant and be retained by the State Treasurer from the annual incentive grant payments.

d. The incremental revenue for the revenues listed in subsection a. of this section shall be calculated as the difference between the amount collected in any fiscal year from any eligible revenue source included in the State redevelopment incentive grant agreement, less the revenue increment base for that eligible revenue.

e. The municipality is authorized to collect any information necessary to facilitate grants under this program and remit that information in order to assist in the calculation of incremental revenue.

(cf: P.L.2022, c.75, s.2)

13. This act shall take effect immediately.

STATEMENT

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

The bill would retain section 13 of the RGGI implementing law (C.48:3-98.1), as well as subsections g. and h. of section 38 of P.L.1999, c.23 (C.48:3-87), which were added to that section of law by the GWRA, since these provisions do not relate to the regulation of greenhouse gas emissions under RGGI or the GWRA and, instead, provide only for the discretionary investment, funding, and adoption of energy efficiency and renewable energy programs and standards.

Finally, the bill would transfer to the General Fund all of the unencumbered moneys in the “Global Warming Solutions Fund,” which was established pursuant to the RGGI implementing law. The bill would also amend the laws establishing the State’s Forest Stewardship Incentive Fund, the State’s Plug-in Electric Vehicle Incentive Fund, and the State’s three-year “Electric School Bus Program” (which commenced in 2023), in order to remove the provisions of those laws that previously authorized the use of moneys in the Global Warming Solutions Fund. In addition, the bill would clarify that a developer operating under a redevelopment incentive grant agreement will not be eligible to receive payment, from the State Treasurer, for charges that were paid thereby, prior to this bill’s effective date, in compliance with the GWRA.