

**SENATE CONCURRENT
RESOLUTION No. 106**

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED FEBRUARY 24, 2026

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Somerset and Union)

Senator JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

Senator MICHAEL L. TESTA, JR.

District 1 (Atlantic, Cape May and Cumberland)

Co-Sponsored by:

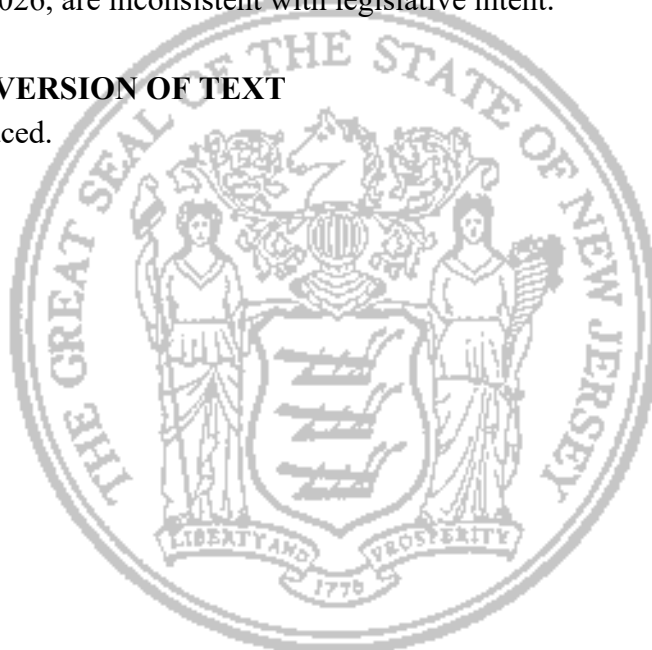
**Senators Polistina, Schepisi, Singer, Amato, Holzapfel, Tiver, McKnight,
O'Scanlon, Space and Steinhardt**

SYNOPSIS

Determines that DEP's "Protecting Against Climate Threats" rules, adopted January 20, 2026, are inconsistent with legislative intent.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/4/2026)

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1 **A CONCURRENT RESOLUTION** concerning legislative review of
2 Department of Environmental Protection rules and regulations
3 pursuant to Article V, Section IV, paragraph 6 of the
4 Constitution of the State of New Jersey.

5
6 **WHEREAS**, Article V, Section IV, paragraph 6 of the Constitution of
7 the State of New Jersey provides that the Legislature may review
8 any rule or regulation of an administrative agency to determine if
9 the rule or regulation is consistent with the intent of the Legislature
10 and, upon a finding that the rule or regulation is not consistent with
11 legislative intent, may transmit such finding to the Governor and
12 the head of the agency; and

13 **WHEREAS**, In the January 20, 2026 New Jersey Register, 58 N.J.R.
14 247(a), the Department of Environmental Protection (DEP) adopted
15 a set of rules and regulations, known as "New Jersey Protecting
16 Against Climate Change – Resilient Environment and Landscapes"
17 (NJPACT – REAL), which make sweeping changes to various
18 DEP rules and programs in response to climate change, including
19 drastically increasing the size of the Flood Hazard Area under the
20 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et
21 seq.), in addition to making changes to the State's stormwater
22 management, wetlands conservation, and coastal area protection
23 rules; and

24 **WHEREAS**, The rules and regulations will have substantial effects on
25 ordinary New Jerseyans, by limiting development rights for
26 countless homeowners and property owners, devaluing property,
27 and having a significant impact on property tax assessments; and

28 **WHEREAS**, The rules and regulations will increase the cost of housing
29 in New Jersey, by greatly restricting development in large areas of
30 the State and increasing regulatory costs; and

31 **WHEREAS**, The rules and regulations apply the Flood Hazard Area
32 rules to "substantial improvements," meaning, improvements that
33 are valued at 50 percent or more of a property's value, which occur
34 in the expanded "Coastal Adjusted Flood Hazard Area," creating
35 disincentives to renovation, redevelopment, and imposing
36 significant economic burdens on lower-valued properties in large
37 areas of the State; and

38 **WHEREAS**, The rule adoption contains economic, housing, and jobs
39 impact statements that are severely inadequate and include little
40 evidence, and the impacts of rules and regulations of this magnitude
41 should be carefully studied prior to implementation; and

42 **WHEREAS**, Under the State Constitution, the duties and powers of the
43 Executive Branch are limited to executing those laws that are
44 enacted by the Legislature and the Governor; and

45 **WHEREAS**, The Legislature recognizes this principle by including,
46 within its laws, an explicit authorization for an Executive
47 Department to adopt rules and regulations to implement the law;
48 and

1 **WHEREAS**, However, in this case, the Legislature did not merely
2 neglect to include such an authorization, it enacted no law; and
3 **WHEREAS**, Instead, the DEP unilaterally adopted the NJPACT –
4 REAL rules and regulations, which constitute a major climate
5 change law, overstepping its constitutional authority by adopting
6 entirely new laws, and ignoring the fact that inaction can also be an
7 expression of the Legislature's will; and
8 **WHEREAS**, The DEP claims, in its rule adoption, that approximately
9 50 existing laws provide it with the statutory authority to advance
10 the NJPACT – REAL rules and regulations; and
11 **WHEREAS**, However, there are several issues with this claim as many
12 of the laws, including P.L.1951, c.80 (C.58:10-35.1 et seq.) and the
13 "Radiation Protection Act," P.L.1958, c.116 (C.26:2D-1) et seq.,
14 have not been amended for at least 40 years, meaning that the
15 Legislature could not possibly have intended them to authorize the
16 DEP to combat the effects of climate change, since the issue of
17 climate change was not salient at that time; and
18 **WHEREAS**, In addition, the DEP fails to cite the one significant statute
19 that has been enacted specifically in response to climate change, the
20 "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et
21 seq.), perhaps in tacit recognition of the fact that that law explicitly
22 provides the DEP with the authority to establish a greenhouse gas
23 monitoring and reporting program only, and that the Legislature
24 specifically removed a provision that would have authorized the
25 DEP to adopt rules and regulations to implement the other
26 provisions of the law, including the greenhouse gas emissions
27 reduction goals, during the passage of the law; and
28 **WHEREAS**, It is therefore clear that the DEP has overstepped its
29 authority in adopting the NJPACT – REAL rules and regulations,
30 and the Legislature urges the DEP to follow the principles of the
31 Constitution and await future Legislative enactments regarding how
32 best to protect New Jerseyans lives and property from the negative
33 effects of climate change; now, therefore,

34
35 **BE IT RESOLVED** by the Senate of the State of New Jersey (the
36 General Assembly concurring):
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38 1. The Legislature declares that the rules and regulations
39 adopted by the Department of Environmental Protection in the
40 January 20, 2026 New Jersey Register, 58 N.J.R. 247(a), and known
41 as "New Jersey Protecting Against Climate Change – Resilient
42 Environment and Landscapes," are inconsistent with legislative
43 intent.
44

45 2. Copies of this resolution, as filed with the Secretary of State,
46 shall be transmitted by the Clerk of the General Assembly or the
47 Secretary of the Senate to the Governor and the Commissioner of
48 Environmental Protection.

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1 3. Pursuant to Article V, Section IV, paragraph 6 of the
2 Constitution of the State of New Jersey, the Department of
3 Environmental Protection shall have 30 days following transmittal
4 of this resolution to amend or withdraw the rules or the Legislature
5 may, by passage of another concurrent resolution, exercise its
6 authority under the Constitution to invalidate the regulations in
7 whole or in part.

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STATEMENT

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12 This concurrent resolution embodies the finding of the
13 Legislature that the rules and regulations adopted by the
14 Department of Environmental Protection in the January 20, 2026
15 New Jersey Register, 58 N.J.R. 247(a), are not consistent with the
16 intent of the Legislature. The Department of Environmental
17 Protection would have 30 days from the date of transmittal of this
18 resolution to amend or withdraw the rules and regulations or the
19 Legislature may, by passage of another concurrent resolution,
20 exercise its authority under the Constitution to invalidate the rules
21 and regulations in whole or in part.