

# ASSEMBLY, No. 4592

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED SEPTEMBER 22, 2022

**Sponsored by:**

**Assemblywoman MARILYN PIPERNO**

**District 11 (Monmouth)**

**Assemblywoman KIM EULNER**

**District 11 (Monmouth)**

**SYNOPSIS**

Establishes tax credits and financial grant related to construction and operation of advanced nuclear energy facilities.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT establishing tax credits for advanced nuclear energy  
2 facilities and supplementing and amending various sections of  
3 statutory law.

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

7  
8 1. (New section) a. A taxpayer that is a manufacturer of  
9 equipment and components for advanced nuclear facilities licensed  
10 by the United States Nuclear Regulatory Commission shall be  
11 allowed a credit against the tax imposed pursuant to section 5 of  
12 P.L.1945, c.162 (C.54:10A-5), in an amount equal to 15 percent of  
13 the amount paid during the privilege period for:

14 (1) new manufacturing equipment installed at a new or existing  
15 manufacturing facility located within the State; and

16 (2) the acquisition, construction, reconstruction, installation, or  
17 erection of improvements or additions that result in the renovation,  
18 modernization, or expansion of a manufacturing facility located  
19 within the State.

20 b. If a taxpayer relocates its business operations to this State  
21 from another state within six months prior to the taxpayer's initial  
22 application for the credit, the amount of the credit allowed pursuant  
23 to this section shall increase to 25 percent of the amount paid for  
24 each of the first three privilege periods for which the taxpayer is  
25 eligible to receive the credit. A taxpayer that qualifies for an  
26 increased credit pursuant to this subsection shall not be eligible for  
27 an increased credit pursuant to subsection c. of this section.

28 c. If a taxpayer is certified by the State as a "minority  
29 business" or a "women's business" pursuant to P.L.1986, c.195  
30 (C.52:27H-21.17 et seq.) or qualifies as a "veteran-owned business"  
31 pursuant to P.L.2011, c.147 (C.52:32-50 et seq.), the amount of the  
32 credit allowed pursuant to this section shall increase to 25 percent  
33 of the amount paid during the privilege period. A taxpayer that  
34 qualifies for an increased credit pursuant to this subsection shall not  
35 be eligible for an increased credit pursuant to subsection b. of this  
36 section.

37 d. A credit shall not be allowed under P.L.1993, c.170  
38 (C.54:10A-5.4 et seq.), P.L.1993, c.171 (C.54:10A-5.16 et al.),  
39 P.L.1993, c.175 (C.54:10A-5.24), or P.L.2001, c.321 (C.54:10A-  
40 5.31 et seq.) for expenditures for which a credit is allowed pursuant  
41 to this section.

42 e. The order of the application of the credits allowed under this  
43 section and any other credits allowed by law shall be based on the  
44 order in which completed applications are received by the  
45 Department of the Treasury. The amount of the credit applied

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

**Matter underlined thus is new matter.**

1 under this section against the tax imposed pursuant to section 5 of  
2 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with  
3 any other credits allowed against the tax imposed pursuant to  
4 section 5 of P.L.1945, c.162 (C.54:10A-5), shall not exceed 50  
5 percent of the tax liability otherwise due and shall not reduce the  
6 tax liability to an amount less than the statutory minimum provided  
7 in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

8 f. An unused credit may be carried forward, if necessary, for  
9 use in the seven privilege periods following the privilege period for  
10 which the credit is allowed.

11 g. As used in this section:

12 "Manufacturing equipment" means machinery, apparatus, or  
13 equipment used in the production of equipment and components for  
14 advanced nuclear reactors licensed by the United States Nuclear  
15 Regulatory Commission.

16 "Manufacturing facility" means a business location, including,  
17 but not limited to, a factory, mill, or plant, at which more than 50  
18 percent of the business personal property that is housed in the  
19 facility is manufacturing equipment.

20  
21 2. (New section) a. The New Jersey Advanced Nuclear  
22 Energy Development Program is hereby established as a program  
23 under the jurisdiction of the New Jersey Economic Development  
24 Authority. The authority, in consultation with the Board of Public  
25 Utilities, shall administer the program to encourage the construction  
26 of advanced nuclear energy facilities in the State through the  
27 provision of incentive tax credit awards to developers for the  
28 construction of facilities and production of energy at those facilities  
29 upon completion. The board may approve the award of tax credits  
30 to a developer upon application to the authority.

31 b. A developer shall be eligible to receive an incentive tax  
32 credit for a facility project only if the developer demonstrates to the  
33 authority at the time of the application that:

34 (1) without the incentive tax credit, the facility project is not  
35 economically feasible;

36 (2) a project financing gap exists, or the authority determines  
37 that the facility project will generate a below market rate of return;

38 (3) the facility project is located at a current or decommissioned  
39 commercial nuclear generating facility in the State with a license  
40 that is or was previously issued by the United States Nuclear  
41 Regulatory Commission;

42 (4) except for demolition and site remediation activities, the  
43 developer has not commenced any construction at the site of the  
44 facility project prior to submitting an application, unless the  
45 authority determines that the facility project would not be  
46 completed otherwise or, in the event the facility project is to be  
47 undertaken in phases, the requested incentive tax credit is limited to  
48 only phases for which construction has not yet commenced;

1 (5) the facility project shall comply with minimum  
2 environmental and sustainability standards;

3 (6) the facility project shall comply with the authority's  
4 affirmative action requirements, adopted pursuant to section 4 of  
5 P.L.1979, c.303 (C.34:1B-5.4);

6 (7) during the eligibility period, each worker employed to  
7 perform construction work or building services work at the facility  
8 project shall be paid not less than the prevailing wage rate for the  
9 worker's craft or trade, as determined by the Commissioner of  
10 Labor and Workforce Development pursuant to P.L.1963, c.150  
11 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.);

12 (8) the developer intends to initiate the process for acquisition  
13 of a license for the construction of an advanced nuclear reactor with  
14 the United States Nuclear Regulatory Commission by the end of  
15 calendar year 2023 and be issued an operator license for the facility  
16 by 2030; and

17 (9) the developer has complied with all requirements for filing  
18 tax and information returns and for paying or remitting required  
19 State taxes and fees by submitting, as a part of the application, a tax  
20 clearance certificate, as described in section 1 of P.L.2007, c.101  
21 (C.54:50-39).

22 In addition to the requirements set forth in this subsection, for a  
23 facility project to qualify for an incentive tax credit the developer  
24 shall contribute capital of at least 20 percent of the total project  
25 cost.

26 c. (1) For a facility project eligible pursuant to subsection b. of  
27 this section, the developer shall submit an application to the  
28 authority in a form an manner prescribed in regulations adopted by  
29 the authority pursuant to the provisions of the "Administrative  
30 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The authority  
31 shall accept applications for incentive tax credits during the grant  
32 periods established pursuant to subsection d. of this section.

33 (2) The authority shall not consider an application for the  
34 advanced nuclear facility unless the developer submits a letter  
35 evidencing support for the project from the governing body of the  
36 municipality in which the commercial project is located with the  
37 application.

38 (3) The authority shall review the project cost, evaluate and  
39 validate the project financing gap estimated by the developer, and  
40 conduct a State fiscal impact analysis to ensure that the overall  
41 public assistance provided to the project will result in a net positive  
42 benefit to the State. In determining whether a project will result in  
43 a net positive benefit to the State, the authority shall not consider  
44 the value of any taxes exempted, abated, rebated, or retained under  
45 the "Five-Year Exemption and Abatement Law," P.L.1991, c.441  
46 (C.40A:21-1 et seq.), the "Long Term Tax Exemption Law,"  
47 P.L.1991, c.431 (C.40A:20-1 et al.), the "New Jersey Urban  
48 Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), or

1 any other law that has the effect of lowering or eliminating the  
2 developer's State or local tax liability. The determination made  
3 pursuant to this subsection shall be based on the potential tax  
4 liability of the developer without regard for potential tax losses if  
5 the developer were to locate in another state. The authority shall  
6 assess the cost of these reviews to the applicant. A developer shall  
7 pay to the authority the full amount of the direct costs of an analysis  
8 concerning the developer's application for a tax credit that a third  
9 party retained by the authority performs, if the authority deems such  
10 retention to be necessary. The authority shall evaluate the net  
11 economic benefits on a present value basis under which the  
12 requested tax credit allocation amount is discounted to present  
13 value at the same discount rate as the projected benefits from the  
14 implementation of the proposed facility project for which an award  
15 of tax credits is being sought.

16 (4) For a facility project subject to the requirement of paragraph  
17 3 of subsection c. of this section to be eligible for any tax credits  
18 under the program, a developer shall demonstrate to the authority  
19 that the award of tax credits will yield a net positive benefit to the  
20 State equaling an amount determined by the authority through  
21 regulation that exceeds the requested tax credit amount. The  
22 developer shall certify, under the penalty of perjury, that all  
23 documents submitted, and factual assertions made, to the authority  
24 to demonstrate that the award of tax credits will yield a net positive  
25 benefit to the State in accordance with this subsection are true and  
26 accurate at the time of submission.

27 (5) If at any time during the eligibility period the authority  
28 determines that the developer made a material misrepresentation on  
29 the developer's application, the developer shall forfeit the incentive  
30 tax credit award.

31 (6) If circumstances require a developer to amend its application  
32 to the authority, then the developer, or an authorized agent of the  
33 developer, shall certify to the authority that the information  
34 provided in its amended application is true under the penalty of  
35 perjury.

36 d. (1) For the facility project eligible pursuant to subsection b.  
37 of this section, the authority shall award the incentive tax credit  
38 based on the order in which complete, qualifying applications were  
39 received by the authority.

40 (2) Prior to allocating an incentive tax credit award to the  
41 facility project, the authority shall confirm with the Department of  
42 Labor and Workforce Development, the Department of  
43 Environmental Protection, and the Department of the Treasury that  
44 the developer is in substantial good standing with the respective  
45 department, or a developer not in substantial good standing with  
46 each department has entered into an agreement with the respective  
47 department that includes a practical corrective action plan for the  
48 developer, and that the developer shall confirm that each contractor

1 or subcontractor performing work at the facility project: (1) is  
2 registered as required by “The Public Works Contractor  
3 Registration Act,” P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has  
4 not been debarred by Department of Labor and Workforce  
5 Development from engaging in or bidding on Public Works  
6 Contracts in the State; and (3) possesses a tax clearance certificate  
7 issued by the Division of Taxation in the Department of the  
8 Treasury. The authority may also contract with an independent third  
9 party to perform a background check on the developer. Provided  
10 that the developer, and all contractors and subcontractors, are in  
11 compliance with this subsection, the authority shall allocate  
12 incentive tax credit to the facility project according to the facility  
13 project’s score and until either the available incentive tax credits are  
14 exhausted. If insufficient funding exists to fully fund the facility  
15 project, the project may be offered partial funding.

16 e. (1) Following approval and selection of an application  
17 pursuant to subsections c. and d. of this section, the authority shall  
18 enter into an incentive tax credit award agreement with the  
19 developer. The chief executive officer of the authority shall  
20 negotiate the terms and conditions of the incentive tax credit award  
21 agreement on behalf of the State. For a phased project, the  
22 incentive tax credit award agreement shall set forth, for each phase  
23 of the project and for the total project, the capital investment  
24 requirements and the time periods in which each phase of the  
25 project shall be commenced and completed. The awarding of tax  
26 credits shall be conditioned on the developer’s compliance with the  
27 requirements of the agreement.

28 (2) An incentive tax credit award agreement shall also specify  
29 that the amount of the credit shall be \$1 million for each megawatt  
30 of energy produced by the facility upon completion and the duration  
31 of the eligibility period, which shall not exceed 20 years. The  
32 incentive tax credit award agreement shall provide an estimated  
33 date of completion and include a requirement for periodic progress  
34 reports, including the submittal of executed financing commitments  
35 and documents that evidence site control. If the authority does not  
36 receive periodic progress reports, or if the progress reports  
37 demonstrate unsatisfactory progress, then the authority may rescind  
38 the incentive tax credit. If the authority rescinds an incentive tax  
39 credit in the same calendar year in which the authority approved the  
40 incentive tax credit award, then the authority may assign the  
41 incentive tax credit to another applicant. The incentive tax credit  
42 award agreement may also provide for a verification of the  
43 financing gap at the time the developer provides executed financing  
44 commitments to the authority and a verification of the developer’s  
45 projected cash flow at the time of certification that the project is  
46 completed. Upon completion of construction of the project, the  
47 incentive tax credit award agreement shall provide for the

1 distribution of a portion of the incentive tax credit in \$1 million  
2 increments for each megawatt of energy produced by the facility.

3 (3) To ensure the protection of taxpayer money, if the authority  
4 determines at project certification that the actual capital financing  
5 approach utilized by the project has resulted in a financing gap that  
6 is smaller than the financing gap determined at board approval, the  
7 authority shall reduce the amount of the tax credit or accept  
8 payment from the developer on a pro rata basis. If there is no  
9 project financing gap due to the actual capital financing approach  
10 utilized by the project, then the developer shall forfeit the incentive  
11 tax credit. At the end of the seventh year of the eligibility period,  
12 the authority shall evaluate the developer's rate of return on  
13 investment and compare that rate of return on investment to the  
14 reasonable and appropriate rate of return at the time of board  
15 approval. If the actual rate of return on investment exceeds the  
16 reasonable and appropriate rate of return on investment at the time  
17 of board approval by more than 15 percent, the authority shall  
18 require the developer to pay up to 20 percent of the amount in  
19 excess of the reasonable and appropriate rate of return on  
20 investment. The authority shall require an escrow account to be held  
21 by the authority until the end of the eligibility period. Following the  
22 final year of the eligibility period, the authority shall determine if  
23 the developer's rate of return exceeded the reasonable and  
24 appropriate rate of return determined at board approval. If the final  
25 rate of return does not exceed the reasonable and appropriate rate of  
26 return determined at board approval, the authority shall release to  
27 the developer the escrowed funds. If the project final rate of return  
28 exceeds the reasonable and appropriate rate of return determined at  
29 board approval, the authority shall require the developer to pay up  
30 to 20 percent of the amount of the excess, which shall include the  
31 funds held in escrow, and such funds shall be deposited in the State  
32 General Fund.

33 (4) The incentive tax credit award agreement shall also include a  
34 provision that the developer shall forfeit the incentive tax credit in  
35 any year in which the developer is found by the authority to not be  
36 in substantial good standing with the Department of Labor and  
37 Workforce Development, the Department of Environmental  
38 Protection, and the Department of the Treasury or has entered into a  
39 practical corrective action plan. The incentive tax credit award  
40 agreement shall also require a developer to engage in on-site  
41 consultations with the Division of Workplace Safety and Health in  
42 the Department of Health.

43 (5) A developer shall submit, prior to the first disbursement of  
44 tax credits under the incentive tax credit agreement, but no later  
45 than six months following project completion, satisfactory evidence  
46 of actual project costs, as certified by a certified public accountant,  
47 evidence of project completion that begins during the eligibility  
48 period indicated in the incentive tax credit agreement. The

1 developer, or an authorized agent of the developer, shall certify that  
2 the information provided pursuant to this subsection is true under  
3 the penalty of perjury. Claims, records, or statements submitted by  
4 a developer to the authority in order to receive tax credits shall not  
5 be considered claims, records, or statements made in connection  
6 with State tax laws.

7 (6) The incentive tax credit award agreement shall include a  
8 provision allowing the authority to extend, in individual cases, the  
9 deadline for any annual reporting or certification requirement.

10 f. (1) A developer approved for an incentive tax credit pursuant  
11 to subsections b. and c. of this section and that enters an incentive  
12 tax credit award agreement pursuant to subsection e. of this section  
13 shall submit annually, commencing in the year in which the  
14 incentive tax credit is issued and for the remainder of the eligibility  
15 period, a report indicating whether the developer is aware of any  
16 condition, event, or act that would cause the developer not to be in  
17 compliance with the incentive tax credit award agreement or the  
18 provisions of this section and any additional reporting requirements  
19 contained in the incentive tax credit award agreement or tax credit  
20 certificate. The developer, or an authorized agent of the developer,  
21 shall certify that the information provided pursuant to this  
22 subsection is true under the penalty of perjury.

23 (2) Upon receipt and review of each report submitted during the  
24 eligibility period, the authority shall provide to the developer and  
25 the director a certificate of compliance indicating the amount of tax  
26 credits that the developer may apply against the developer's tax  
27 liability. Upon receipt by the director of the certificate of  
28 compliance, the director shall allow the developer a credit against  
29 the tax imposed pursuant to section 5 of P.L.1945, c.162  
30 (C.54:10A-5). A developer shall apply the credit awarded against  
31 the developer's liability under section 5 of P.L.1945, c.162  
32 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and  
33 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or  
34 N.J.S.17B:23-5 for the privilege period during which the director  
35 allows the developer a tax credit pursuant to this subsection. A  
36 developer shall not carry forward an unused credit unless the  
37 developer was unable to use the credit because the developer's  
38 facility project was directly impacted due to a natural disaster, state  
39 emergency, national emergency, or a situation that was out of the  
40 developer's control that impacted the developer's use of the credit  
41 that year, in which case the developer is permitted to carry forward  
42 an unused credit for up to two years upon submitting evidence of  
43 the developer's facility project being directly impacted by such a  
44 circumstance and receiving approval from the authority. Credits  
45 granted to a partnership shall be passed through to the partners,  
46 members, or owners, respectively, pro-rata, or pursuant to an  
47 executed agreement among the partners, members, or owners  
48 documenting an alternate distribution method provided to the



1 director accompanied by any additional information as the director  
2 may prescribe.

3 The director shall prescribe the order of priority of the  
4 application of the credit allowed under this section and any other  
5 credits allowed by law against the tax imposed under section 5 of  
6 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied  
7 under this section against the tax imposed pursuant to section 5 of  
8 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with  
9 any other credits allowed by law, shall not reduce the tax liability to  
10 an amount less than the statutory minimum provided in subsection  
11 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

12 g. (1) A developer may apply to the director and the chief  
13 executive officer of the authority for an incentive tax credit transfer  
14 certificate, covering one or more years, in lieu of the developer  
15 being allowed any amount of the credit against the tax liability of  
16 the developer. The incentive tax credit transfer certificate, upon  
17 receipt thereof by the developer from the director and the chief  
18 executive officer of the authority, may be sold or assigned, in full or  
19 in part in an amount not less than \$25,000, in the privilege period  
20 during which the developer receives the incentive tax credit transfer  
21 certificate from the director, to another person, who may apply the  
22 credit against a tax liability pursuant to section 5 of P.L.1945, c.162  
23 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and  
24 C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or  
25 N.J.S.17B:23-5. The certificate provided to the developer shall  
26 include a statement waiving the developer's right to claim the  
27 amount of the credit that the developer has elected to sell or assign  
28 against the developer's tax liability.

29 (2) The developer shall not sell or assign, including a collateral  
30 assignment, an incentive tax credit transfer certificate allowed  
31 under this section for consideration received by the developer of  
32 less than 85 percent of the transferred credit amount before  
33 considering any further discounting to present value which shall be  
34 permitted.

35 (3) A purchaser or assignee of an incentive tax credit transfer  
36 certificate pursuant to this section shall not make any subsequent  
37 transfers, assignments, or sales of the tax credit transfer certificate.

38 (4) The authority shall publish on its Internet website the  
39 following information concerning each incentive tax credit transfer  
40 certificate approved by the authority and the director pursuant to  
41 this section:

42 the name of the transferrer;  
43 the name of the transferee;  
44 the value of the tax credit transfer certificate; and  
45 the consideration received by the transferrer.

46 h. (1) A developer who has entered into an incentive tax credit  
47 agreement pursuant to subsection e. of this section may, upon notice  
48 to and written consent of the authority and State Treasurer, pledge,

1 assign, transfer, or sell any or all of its right, title, and interest in  
2 and to the incentive tax credit agreement and in the incentive tax  
3 credits under the incentive tax credit agreement, and the right to  
4 receive the incentive tax credits, along with the rights and remedies  
5 provided to the developer under the incentive tax credit agreement.  
6 Any assignment shall be an absolute assignment for all purposes,  
7 including the federal bankruptcy code.

8 (2) Any pledge of an incentive tax credit made by the developer  
9 shall be valid and binding from the time the pledge is made and  
10 filed in the records of the authority. The incentive tax credit  
11 pledged and thereafter received by the developer shall immediately  
12 be subject to the lien of the pledge without any physical delivery  
13 thereof or further act, and the lien of any pledge shall be valid and  
14 binding against all parties having claims of any kind in tort,  
15 contract, or otherwise against the developer irrespective of whether  
16 the parties have notice thereof. As a condition of any incentive tax  
17 credit, the recipient, assignee, pledgee or subsequent holder of the  
18 incentive tax credit shall immediately file notice of the same with  
19 the clerk of the county in which the project is located.

20 (3) The authority shall publish on its Internet website the  
21 following information concerning each pledge, assignment, transfer,  
22 or sale approved by the authority pursuant to this section:

23 the name of the person or entity offering the pledge, assignment,  
24 transfer, or sale of a right, title, or interest in an incentive tax credit  
25 agreement;

26 the name of the person or entity receiving the pledge,  
27 assignment, transfer, or sale of a right, title, or interest in the  
28 incentive tax credit agreement;

29 the value of the right, title, or interest in the incentive tax credit  
30 agreement; and

31 the consideration received by the person or entity offering the  
32 pledge, assignment, transfer, or sale of the right, title, or interest in  
33 the incentive tax credit agreement.

34 i. Notwithstanding the provisions of the "Administrative  
35 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the  
36 contrary, the chief executive officer of the authority may adopt,  
37 immediately, upon filing with the Office of Administrative Law,  
38 regulations that the chief executive officer deems necessary to  
39 implement the provisions of this section which regulations shall be  
40 effective for a period not to exceed 180 days from the date of the  
41 filing. The chief executive officer shall thereafter amend, adopt, or  
42 readopt the regulations in accordance with the requirements of  
43 P.L.1968, c.410 (C.52:14B-1 et seq.).

44

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

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

1       “Advanced nuclear energy credit” means the financial credit  
2 provided by the board to the first advanced nuclear energy facility  
3 operating in the State, on an annual basis for the first 25 years of  
4 facility operations, pursuant to section 2 of P.L. , c. (C. )  
5 (pending before the Legislature as this bill).

6       “Advanced nuclear energy facility” means a reactor, or a facility  
7 containing a reactor, that produces electricity through the use of  
8 nuclear fusion; or a reactor, or a facility containing a reactor, that  
9 produces electricity through the use of nuclear fission and  
10 incorporates generational improvements, with respect to coolants,  
11 fuels, neutron moderators, or other components used in the fission  
12 process, which enable the fission reactor to operate more safely,  
13 efficiently, or effectively, or to have a smaller footprint, than the  
14 Generation III, Generation III+, or earlier-generation nuclear fission  
15 reactors that are currently in operation in the State as of the  
16 effective date of P.L. , c. (C. ) (pending before the  
17 Legislature as this bill).

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

25       "Base load electric power generation facility" means an electric  
26 power generation facility intended to be operated at a greater than  
27 50 percent capacity factor including, but not limited to, a combined  
28 cycle power facility and a combined heat and power facility.

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

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

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

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

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

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

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

1 and charges, or to assign, sell, or otherwise transfer bondable  
2 transition property.

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

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

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

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

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

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

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

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

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

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

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

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

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

45 "Commercial and industrial energy pricing class customer" or  
46 "CIEP class customer" means that group of non-residential  
47 customers with high peak demand, as determined by periodic board  
48 order, which either is eligible or which would be eligible, as

1 determined by periodic board order, to receive funds from the Retail  
2 Margin Fund established pursuant to section 9 of P.L.1999, c.23  
3 (C.48:3-57) and for which basic generation service is hourly-priced.

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

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

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

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

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

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

1 "Delivery year" or "DY" means the 12-month period from June  
2 1st through May 31st, numbered according to the calendar year in  
3 which it ends.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

45 "Financing entity" means an electric public utility, a special  
46 purpose entity, or any other assignee of bondable transition  
47 property, which issues transition bonds. Except as specifically  
48 provided in P.L.1999, c.23 (C.48:3-49 et al.), a financing entity

1 which is not itself an electric public utility shall not be subject to  
2 the public utility requirements of Title 48 of the Revised Statutes or  
3 any rules or regulations adopted pursuant thereto.

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

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

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

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

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

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

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

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

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

15 "Grid supply solar facility" means a solar electric power  
16 generation facility that sells electricity at wholesale and is  
17 connected to the State's electric distribution or transmission  
18 systems. "Grid supply solar facility" does not include: (1) a net  
19 metered solar facility; (2) an on-site generation facility; (3) a  
20 facility participating in net metering aggregation pursuant to section  
21 38 of P.L.1999, c.23 (C.48:3-87); (4) a facility participating in  
22 remote net metering; or (5) a community solar facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

44 "Offshore wind renewable energy certificate" or "OREC" means  
45 a certificate, issued by the board or its designee, representing the e  
46 environmental attributes of one megawatt hour of electric  
47 generation from a qualified offshore wind project.

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

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

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

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

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

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

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

1 P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-  
2 38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through  
3 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any  
4 other State law enacted for farmland preservation purposes.

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

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

24 "Public utility holding company" means: (1) any company that,  
25 directly or indirectly, owns, controls, or holds with power to vote,  
26 10 percent or more of the outstanding voting securities of an  
27 electric public utility or a gas public utility or of a company which  
28 is a public utility holding company by virtue of this definition,  
29 unless the Securities and Exchange Commission, or its successor,  
30 by order declares such company not to be a public utility holding  
31 company under the Public Utility Holding Company Act of 1935,  
32 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the  
33 Securities and Exchange Commission, or its successor, determines,  
34 after notice and opportunity for hearing, directly or indirectly, to  
35 exercise, either alone or pursuant to an arrangement or  
36 understanding with one or more other persons, such a controlling  
37 influence over the management or policies of an electric public  
38 utility or a gas public utility or public utility holding company as to  
39 make it necessary or appropriate in the public interest or for the  
40 protection of investors or consumers that such person be subject to  
41 the obligations, duties, and liabilities imposed in the Public Utility  
42 Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its  
43 successor act.

44 "Qualified offshore wind project" means a wind turbine  
45 electricity generation facility in the Atlantic Ocean and connected  
46 to the electric transmission system in this State, and includes the  
47 associated transmission-related interconnection facilities and

1 equipment, and approved by the board pursuant to section 3 of  
2 P.L.2010, c.57 (C.48:3-87.1).

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

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

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

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

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

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

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

44 "Resource recovery facility" means a solid waste facility  
45 constructed and operated for the incineration of solid waste for  
46 energy production and the recovery of metals and other materials  
47 for reuse, which the Department of Environmental Protection has  
48 determined to be in compliance with current environmental

1 standards, including, but not limited to, all applicable requirements  
2 of the federal "Clean Air Act" (42 U.S.C. s.7401 et seq.).

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

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

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

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

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

45 "School district" means a local or regional school district  
46 established pursuant to chapter 8 or chapter 13 of Title 18A of the  
47 New Jersey Statutes, a county special services school district  
48 established pursuant to article 8 of chapter 46 of Title 18A of the



1 New Jersey Statutes, a county vocational school district established  
2 pursuant to article 3 of chapter 54 of Title 18A of the New Jersey  
3 Statutes, and a district under full State intervention pursuant to  
4 P.L.1987, c.399 (C.18A:7A-34 et al.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41

42 4. (New section) a. Commencing on January 1 next following  
43 the date of enactment of P.L. , c. (C. ) (pending before the  
44 Legislature as this bill), and on January 1 of each year thereafter,  
45 the board shall provide a financial grant to the first advanced  
46 nuclear energy facility operating in the State, in order to offset the

1 costs associated with the construction and operation of the advanced  
2 nuclear energy facility. The grants made available under this  
3 subsection shall be known as advanced nuclear energy grants.

4 b. The first advanced nuclear energy facility operating in the  
5 State shall be entitled to receive an advanced nuclear energy grant,  
6 as authorized by subsection a. of this section in each year during the  
7 first 25 years of the facility's operations.

8 c. The amount of each advanced nuclear energy grant  
9 authorized pursuant to subsection a. of this section shall equal \$50  
10 per megawatt-hour of electricity generated by the advanced nuclear  
11 energy facility in the preceding calendar year.

12

13 5. (New section) a. In order to finance the advanced nuclear  
14 energy grants being made available pursuant to section 4 of P.L. ,  
15 c. (C. ) (pending before the Legislature as this bill), the board  
16 shall annually assess a fee on each electric public utility operating  
17 in the State, which fee shall be proportional to, and shall reflect, the  
18 percentage of the State's total electricity supply that was  
19 transmitted or distributed by the electric public utility to energy  
20 consumers in the State during the preceding calendar year. The  
21 amount of the proportional fee to be assessed against each electric  
22 public utility, pursuant to this section, shall be annually determined  
23 by the board, and the total amount collected, each year, from the  
24 fees imposed shall be sufficient to cover the annual costs associated  
25 with the board's issuance of advanced nuclear energy credits,  
26 pursuant to section 2 of P.L. , c. (C. ) (pending before the  
27 Legislature as this bill).

28 b. The board shall permit each electric public utility to recover  
29 some or all of the annual fee costs imposed on the utility, pursuant  
30 to subsection a. of this section, through the use of an advanced  
31 nuclear energy facilitation charge that shall be collected, by the  
32 electric public utility, as a non-bypassable charge imposed on all of  
33 the public utility's customers.

34 c. The Advanced Nuclear Energy Grant Fund is established, as  
35 a non-lapsing fund, in the Board of Public Utilities. The board shall  
36 credit to the fund, all fee moneys collected thereby through  
37 assessments imposed pursuant to subsection a. of this section, as  
38 well as any interest or earnings on moneys in the fund. Moneys in  
39 the fund shall be used, by the board, exclusively for the purposes of  
40 financing the costs associated with the issuance of advanced nuclear  
41 energy grants, pursuant to section 2 of P.L. , c. (C. )  
42 (pending before the Legislature as this bill).

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44 6. This act shall take effect immediately and section 1 shall  
45 apply to privilege periods beginning after the date of enactment.

## STATEMENT

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This bill establishes two tax credits and a financial grant related to the construction and operation of advanced nuclear energy facilities. The bill allows a taxpayer that is a manufacturer of equipment and components for advanced nuclear facilities licensed by the United States Nuclear Regulatory Commission to apply for a corporation business tax credit equal to 15 percent of the amount paid during the privilege period for: (1) new manufacturing equipment installed at a new or existing manufacturing facility located within the State; and (2) the acquisition, construction, reconstruction, installation, or erection of improvements or additions that result in the renovation, modernization, or expansion of a manufacturing facility located within the State.

The bill also creates the “New Jersey Advanced Nuclear Energy Development Program” within the New Jersey Economic Development Authority to encourage the construction of advanced nuclear energy facilities in the State through the provision of incentive tax credits to a developer for the construction and production of energy at the facility. The program would be administered by the authority in consultation with the Board of Public Utilities. In order to qualify for the incentive tax credit established pursuant to this bill, a developer would be required to demonstrate that:

- there is a need for project financing;
- the project is located at a current or decommissioned commercial nuclear generating facility in the State with a license that is or was previously issued by the United States Nuclear Regulatory Commission;
- the developer intends to initiate the process for acquisition of a license for the construction of an advanced nuclear reactor with the United States Nuclear Regulatory Commission by the end of calendar year 2023 and be issued an operator license for the facility by 2030;
- the project will comply with various environmental, affirmative action, and wage standards; and
- the developer will commit at least 20 percent of the total project cost.

In addition to assisting with financing construction of an advanced nuclear energy facility, an incentive tax credit provided under the program would provide \$1 million for each megawatt of energy produced by the facility upon completion.

Finally, this bill establishes a financial grant to facilitate the construction and operation of the first advanced nuclear energy facility in the State. The bill provides that commencing on January 1 next following the bill’s enactment, and on January 1 of each year thereafter, the Board of Public Utilities (BPU) will be required to provide a financial grant (known as an advanced nuclear energy

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1 grant) to the first advanced nuclear energy facility operating in the  
2 State. The grant is to equal \$50 per megawatt-hour of electricity  
3 generated by the advanced nuclear energy facility in the preceding  
4 calendar year. The first advanced nuclear energy facility in the  
5 State would be entitled to receive such a grant in each of the first 25  
6 years of the facility's operations.