

SENATE, No. 235

STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Co-Sponsored by:

Senator Diegnan

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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
46 under this section against the tax imposed pursuant to section 5 of

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

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

10 g. As used in this section:

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

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

19

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

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

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

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

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

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

48 (5) the facility project shall comply with minimum
49 environmental and sustainability standards;

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

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

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

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

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

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

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

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

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

13 (4) For a facility project subject to the requirement of paragraph
14 3 of subsection c. of this section to be eligible for any tax credits
15 under the program, a developer shall demonstrate to the authority
16 that the award of tax credits will yield a net positive benefit to the
17 State equaling an amount determined by the authority through
18 regulation that exceeds the requested tax credit amount. The
19 developer shall certify, under the penalty of perjury, that all
20 documents submitted, and factual assertions made, to the authority
21 to demonstrate that the award of tax credits will yield a net positive
22 benefit to the State in accordance with this subsection are true and
23 accurate at the time of submission.

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

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

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

37 (2) Prior to allocating an incentive tax credit award to the
38 facility project, the authority shall confirm with the Department of
39 Labor and Workforce Development, the Department of
40 Environmental Protection, and the Department of the Treasury that
41 the developer is in substantial good standing with the respective
42 department, or a developer not in substantial good standing with
43 each department has entered into an agreement with the respective
44 department that includes a practical corrective action plan for the
45 developer, and that the developer shall confirm that each contractor
46 or subcontractor performing work at the facility project: (1) is
47 registered as required by "The Public Works Contractor
48 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has
49 not been debarred by Department of Labor and Workforce

1 Development from engaging in or bidding on Public Works
2 Contracts in the State; and (3) possesses a tax clearance certificate
3 issued by the Division of Taxation in the Department of the
4 Treasury. The authority may also contract with an independent third
5 party to perform a background check on the developer. Provided
6 that the developer, and all contractors and subcontractors, are in
7 compliance with this subsection, the authority shall allocate
8 incentive tax credit to the facility project according to the facility
9 project's score and until either the available incentive tax credits are
10 exhausted. If insufficient funding exists to fully fund the facility
11 project, the project may be offered partial funding.

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

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

46 (3) To ensure the protection of taxpayer money, if the authority
47 determines at project certification that the actual capital financing
48 approach utilized by the project has resulted in a financing gap that
49 is smaller than the financing gap determined at board approval, the

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

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

37 (5) A developer shall submit, prior to the first disbursement of
38 tax credits under the incentive tax credit agreement, but no later
39 than six months following project completion, satisfactory evidence
40 of actual project costs, as certified by a certified public accountant,
41 evidence of project completion that begins during the eligibility
42 period indicated in the incentive tax credit agreement. The
43 developer, or an authorized agent of the developer, shall certify that
44 the information provided pursuant to this subsection is true under
45 the penalty of perjury. Claims, records, or statements submitted by
46 a developer to the authority in order to receive tax credits shall not
47 be considered claims, records, or statements made in connection
48 with State tax laws.

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

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

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

45 The director shall prescribe the order of priority of the
46 application of the credit allowed under this section and any other
47 credits allowed by law against the tax imposed under section 5 of
48 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied
49 under this section against the tax imposed pursuant to section 5 of

1 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
2 any other credits allowed by law, shall not reduce the tax liability to
3 an amount less than the statutory minimum provided in subsection
4 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

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

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

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

31 (4) The authority shall publish on its Internet website the
32 following information concerning each incentive tax credit transfer
33 certificate approved by the authority and the director pursuant to
34 this section:

- 35 the name of the transferrer;
- 36 the name of the transferee;
- 37 the value of the tax credit transfer certificate; and
- 38 the consideration received by the transferrer.

39 h. (1) A developer who has entered into an incentive tax credit
40 agreement pursuant to subsection e. of this section may, upon notice
41 to and written consent of the authority and State Treasurer, pledge,
42 assign, transfer, or sell any or all of its right, title, and interest in
43 and to the incentive tax credit agreement and in the incentive tax
44 credits under the incentive tax credit agreement, and the right to
45 receive the incentive tax credits, along with the rights and remedies
46 provided to the developer under the incentive tax credit agreement.
47 Any assignment shall be an absolute assignment for all purposes,
48 including the federal bankruptcy code.

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

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

16 the name of the person or entity offering the pledge, assignment,
17 transfer, or sale of a right, title, or interest in an incentive tax credit
18 agreement;

19 the name of the person or entity receiving the pledge,
20 assignment, transfer, or sale of a right, title, or interest in the
21 incentive tax credit agreement;

22 the value of the right, title, or interest in the incentive tax credit
23 agreement; and

24 the consideration received by the person or entity offering the
25 pledge, assignment, transfer, or sale of the right, title, or interest in
26 the incentive tax credit agreement.

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

37

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

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

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

46 “Advanced nuclear energy facility” means a reactor, or a facility
47 containing a reactor, that produces electricity through the use of
48 nuclear fusion; or a reactor, or a facility containing a reactor, that
49 produces electricity through the use of nuclear fission and

1 incorporates generational improvements, with respect to coolants,
2 fuels, neutron moderators, or other components used in the fission
3 process, which enable the fission reactor to operate more safely,
4 efficiently, or effectively, or to have a smaller footprint, than the
5 Generation III, Generation III+, or earlier-generation nuclear fission
6 reactors that are currently in operation in the State as of the
7 effective date of P.L. , c. (C.) (pending before the
8 Legislature as this bill).

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

16 "Base load electric power generation facility" means an electric
17 power generation facility intended to be operated at a greater than
18 50 percent capacity factor including, but not limited to, a combined
19 cycle power facility and a combined heat and power facility.

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

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

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

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

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

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

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

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

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

1 which order shall become effective immediately upon the written
2 consent of the related electric public utility to the order as provided
3 in P.L.1999, c.23 (C.48:3-49 et al.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 "Connected to the distribution system" means, for a solar electric
49 power generation facility, that the facility is: (1) connected to a net

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

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

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

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

33 "Delivery year" or "DY" means the 12-month period from June
34 1st through May 31st, numbered according to the calendar year in
35 which it ends.

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

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

47 "Electric power generator" means an entity that proposes to
48 construct, own, lease, or operate, or currently owns, leases, or
49 operates, an electric power production facility that will sell or does

1 sell at least 90 percent of its output, either directly or through a
2 marketer, to a customer or customers located at sites that are not on
3 or contiguous to the site on which the facility will be located or is
4 located. The designation of an entity as an electric power generator
5 for the purposes of P.L.1999, c.23 (C.48:3-49 et al.) shall not, in
6 and of itself, affect the entity's status as an exempt wholesale
7 generator under the Public Utility Holding Company Act of 1935,
8 15 U.S.C. s.79 et seq., or its successor act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 "Gas supplier" means a person that is duly licensed pursuant to
44 the provisions of P.L.1999, c.23 (C.48:3-49 et al.) to offer and
45 assume the contractual and legal obligation to provide gas supply
46 service to retail customers, and includes, but is not limited to,
47 marketers and brokers. A non-public utility affiliate of a public
48 utility holding company may be a gas supplier, but a gas public
49 utility or any subsidiary of a gas utility is not a gas supplier. In the

1 event that a gas public utility is not part of a holding company legal
2 structure, a related competitive business segment of that gas public
3 utility may be a gas supplier, provided that related competitive
4 business segment is structurally separated from the gas public
5 utility, and provided that the interactions between the gas public
6 utility and the related competitive business segment are subject to
7 the affiliate relations standards adopted by the board pursuant to
8 subsection k. of section 10 of P.L.1999, c.23 (C.48:3-58).

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

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

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

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

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

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

43 "Grid supply solar facility" means a solar electric power
44 generation facility that sells electricity at wholesale and is
45 connected to the State's electric distribution or transmission
46 systems. "Grid supply solar facility" does not include: (1) a net
47 metered solar facility; (2) an on-site generation facility; (3) a
48 facility participating in net metering aggregation pursuant to section

1 38 of P.L.1999, c.23 (C.48:3-87); (4) a facility participating in
2 remote net metering; or (5) a community solar facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the on-site generation facility is located by more than one easement,
2 public thoroughfare, or transportation or utility-owned right-of-way.

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

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

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

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

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

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

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

1 "Public utility holding company" means: (1) any company that,
2 directly or indirectly, owns, controls, or holds with power to vote,
3 10 percent or more of the outstanding voting securities of an
4 electric public utility or a gas public utility or of a company which
5 is a public utility holding company by virtue of this definition,
6 unless the Securities and Exchange Commission, or its successor,
7 by order declares such company not to be a public utility holding
8 company under the Public Utility Holding Company Act of 1935,
9 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
10 Securities and Exchange Commission, or its successor, determines,
11 after notice and opportunity for hearing, directly or indirectly, to
12 exercise, either alone or pursuant to an arrangement or
13 understanding with one or more other persons, such a controlling
14 influence over the management or policies of an electric public
15 utility or a gas public utility or public utility holding company as to
16 make it necessary or appropriate in the public interest or for the
17 protection of investors or consumers that such person be subject to
18 the obligations, duties, and liabilities imposed in the Public Utility
19 Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its
20 successor act.

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

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

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

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

44 "Related competitive business segment of a public utility holding
45 company" means any business venture of a public utility holding
46 company, including, but not limited to, functionally separate
47 business units, joint ventures, and partnerships and subsidiaries, that
48 offers to provide or provides competitive services, but does not

1 include any related competitive business segments of an electric
2 public utility or gas public utility.

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

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

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

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

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

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

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

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

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

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

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

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

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

43 "Social program" means a program implemented with board
44 approval to provide assistance to a group of disadvantaged
45 customers, to provide protection to consumers, or to accomplish a
46 particular societal goal, and includes, but is not limited to, the
47 winter moratorium program, utility practices concerning "bad debt"
48 customers, low income assistance, deferred payment plans,
49 weatherization programs, and late payment and deposit policies, but

1 does not include any demand side management program or any
2 environmental requirements or controls.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 "Transmission and distribution system" means, with respect to an
45 electric public utility, any facility or equipment that is used for the
46 transmission, distribution, or delivery of electricity to the customers
47 of the electric public utility including, but not limited to, the land,
48 structures, meters, lines, switches, and all other appurtenances

1 thereof and thereto, owned or controlled by the electric public
2 utility within this State.

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

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

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

13

14 4. (New section) a. Commencing on January 1 next following
15 the date of enactment of P.L. , c. (C.) (pending before the
16 Legislature as this bill), and on January 1 of each year thereafter,
17 the board shall provide a financial grant to the first advanced
18 nuclear energy facility operating in the State, in order to offset the
19 costs associated with the construction and operation of the advanced
20 nuclear energy facility. The grants made available under this
21 subsection shall be known as advanced nuclear energy grants.

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

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

30

31 5. (New section) a. In order to finance the advanced nuclear
32 energy grants being made available pursuant to section 4 of P.L. ,
33 c. (C.) (pending before the Legislature as this bill), the board
34 shall annually assess a fee on each electric public utility operating
35 in the State, which fee shall be proportional to, and shall reflect, the
36 percentage of the State's total electricity supply that was
37 transmitted or distributed by the electric public utility to energy
38 consumers in the State during the preceding calendar year. The
39 amount of the proportional fee to be assessed against each electric
40 public utility, pursuant to this section, shall be annually determined
41 by the board, and the total amount collected, each year, from the
42 fees imposed shall be sufficient to cover the annual costs associated
43 with the board's issuance of advanced nuclear energy credits,
44 pursuant to section 2 of P.L. , c. (C.) (pending before the
45 Legislature as this bill).

46 b. The board shall permit each electric public utility to recover
47 some or all of the annual fee costs imposed on the utility, pursuant
48 to subsection a. of this section, through the use of an advanced
49 nuclear energy facilitation charge that shall be collected, by the

1 electric public utility, as a non-bypassable charge imposed on all of
2 the public utility's customers.

3 c. The Advanced Nuclear Energy Grant Fund is established, as
4 a non-lapsing fund, in the Board of Public Utilities. The board shall
5 credit to the fund, all fee moneys collected thereby through
6 assessments imposed pursuant to subsection a. of this section, as
7 well as any interest or earnings on moneys in the fund. Moneys in
8 the fund shall be used, by the board, exclusively for the purposes of
9 financing the costs associated with the issuance of advanced nuclear
10 energy grants, pursuant to section 2 of P.L. , c. (C.)
11 (pending before the Legislature as this bill).

12
13 6. This act shall take effect immediately and section 1 shall
14 apply to privilege periods beginning after the date of enactment.

15
16

17 STATEMENT

18

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

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

- 41 • there is a need for project financing;
- 42 • the project is located at a current or decommissioned
43 commercial nuclear generating facility in the State with a
44 license that is or was previously issued by the United States
45 Nuclear Regulatory Commission;
- 46 • the developer intends to initiate the process for acquisition
47 of a license for the construction of an advanced nuclear
48 reactor with the United States Nuclear Regulatory

1 Commission by the end of calendar year 2023 and be issued
2 an operator license for the facility by 2030;

- 3 • the project will comply with various environmental,
4 affirmative action, and wage standards; and
- 5 • the developer will commit at least 20 percent of the total
6 project cost.

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

11 Finally, this bill establishes a financial grant to facilitate the
12 construction and operation of the first advanced nuclear energy
13 facility in the State. The bill provides that commencing on January
14 1 next following the bill's enactment, and on January 1 of each year
15 thereafter, the Board of Public Utilities (BPU) will be required to
16 provide a financial grant (known as an advanced nuclear energy
17 grant) to the first advanced nuclear energy facility operating in the
18 State. The grant is to equal \$50 per megawatt-hour of electricity
19 generated by the advanced nuclear energy facility in the preceding
20 calendar year. The first advanced nuclear energy facility in the
21 State would be entitled to receive such a grant in each of the first 25
22 years of the facility's operations.