SENATE, No. 4390

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED JUNE 1, 2026

Sponsored by:
Senator JOSEPH P. CRYAN
District 20 (Union)
Senator NICHOLAS P. SCUTARI
District 22 (Somerset and Union)
Senator RENEE C. BURGESS
District 28 (Essex and Union)

SYNOPSIS

"End Data Center Tax Credits Act"; authorizes BPU to issue tax credits for energy storage projects; establishes temporary gross income tax credit to certain residential ratepayers; reduces tax credits available for Next New Jersey Program.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 6/24/2026)

AN ACT concerning tax credit incentives for energy storage and cost relief to ratepayers, designated as the "End Data Center Tax Credits Act," amending various parts of the statutory law, and supplementing P.L.2025, c.136 and Title 54A of the New Jersey Statutes.

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

1. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to read as follows:

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276); the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287); the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302); the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335); the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.); section 6 of P.L.2010, c.57 (C.34:1B-209.4); the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-394 et al.); P.L.2025, c.111 (C.55:14K-106 et al.); **[**and**]** the "Next New Jersey Manufacturing Program Act," P.L.2025, c.123 (C.34:1B-403 et al.)<u>; and the "End Data Center Tax Credits Act," P.L. , c. (C.) (pending before the Legislature as this bill)</u> shall not exceed an overall cap of $11.5 billion over a nine-year period, subject to the conditions and limitations set forth in this section. Of this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.); the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.); the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-394 et al.), P.L.2025, c.111 (C.55:14K-106 et al.); and the “Next New Jersey Manufacturing Program Act,” P.L.2025, c.123 (34:1B-403 et al.) shall be subject to the following limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through 34:1B-276), the total value of tax credits

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 <u>thus</u> is new matter.

annually awarded during each of the first six years of the nine-year period shall not exceed $50 million;

(b) (i) for tax credits awarded under the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $50 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $100,000,000;

(ii) from the tax credits made available to the "Brownfields Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through 34:1B-287), the sum of $200,000,000 in tax credits shall be allocated to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), which tax credits shall be sold through competitive auctions conducted pursuant to sections 3 through 7 of P.L.2025, c.111 (C.55:14K-106 through 55:14K-110). All proceeds of the tax credit auctions shall be used by the New Jersey Housing and Mortgage Finance Agency for the purposes authorized in subsection b. of section 4 of P.L.2025, c.111 (C.55:14K-107). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented;

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through 34:1B-302), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the nine-year period shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through 34:1B-310), the total value of tax credits annually awarded during each of the first six years of the nine-year period shall not exceed $40 million;

(e) for tax credits awarded under the "Cultural Arts Incentives Program Act," P.L.2023, c.197 (C.34:1B-383 et al.), the total value of tax credits awarded during the nine-year period shall not exceed $1,200,000,000;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six

years of the nine-year period shall not exceed $1.1 billion. If the authority awards tax credits in an amount less than the annual limitation, then the uncommitted portion of the annual limitation shall be made available for qualified offshore wind projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-209.4), pursuant to subparagraph (h) of this paragraph, projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-394 et al.), pursuant to subparagraph (k) of this paragraph, projects awarded a tax credit pursuant to the “Next New Jersey Manufacturing Program Act,” P.L.2025, c.123 (C.34:1B-403 et al.), pursuant to subparagraph (l) of this paragraph, cultural arts institutions awarded a tax credit pursuant to the “Cultural Arts Incentives Program Act,” P.L.2023, c.197 (C.34:1B-383 et al.), pursuant to subparagraph (l) of this paragraph, or New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies awarded under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b), pursuant to subparagraph (i) of this paragraph and subsection d. of this section. During each of the first six years of the nine-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during any of the first six years of the nine-year period, the authority awards tax credits under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the nine-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the nine-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(g) except as provided in subparagraph (j) of this paragraph, for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), the total value of tax credits awarded during the nine-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation, except that the total value of tax credits awarded to any transformative project shall not exceed $400 million;

(h) from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $350,000,000 shall be made available for qualified offshore wind projects awarded a credit pursuant to section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three years of the nine-year period;

(i) beginning in fiscal year 2023, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, additional amounts shall be made available for New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b);

(j) beginning in fiscal year 2024, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 may be annually transferred for the award to transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335), provided that: (i) the remaining allocation of tax credits otherwise available for transformative projects, pursuant to subparagraph (g) of this paragraph, is less than $1,000,000,000; and (ii) the authority board determines that the transfer of tax credits is warranted based on such criteria as the authority deems appropriate, which may include the criteria set forth in paragraph (2) of this subsection. If a transfer of tax credits is made pursuant to this subparagraph, the authority

shall award no greater than 65 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the northern counties of the State and no greater than 35 percent of the tax credits transferred pursuant to this subparagraph to transformative projects located in the southern counties of the State;

(k) beginning in fiscal year 2025, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, an amount not to exceed **[**$500,000,000**]** $250,000,000 shall be made available for projects awarded a tax credit pursuant to the "Next New Jersey Program Act," P.L.2024, c.49 (C.34:1B-394 et al.);

(l) once the tax credits allocated for competitive auctions conducted pursuant to sections 3 through 7 of P.L.2025, c.111 (C.55:14K-106 through 55:14K-110) pursuant to subsubparagraph (ii) of subparagraph (b) of this paragraph are exhausted, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, the sum of $300,000,000 shall be made available to the New Jersey Housing and Mortgage Finance Agency, established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.), which tax credits shall be sold through competitive auctions conducted pursuant to sections 3 through 7 of P.L.2025, c.111 (C.55:14K-106 through 55:14K-110). The amount made available pursuant to this subparagraph shall be allocated in annual installments, each of which is not to exceed the cap set forth in paragraph (3) of subsection a. of section 4 of P.L.2025, c.111 (C.55:14K-107), as needed to conduct auctions pursuant to that section. All proceeds of the tax credit auctions shall be used by the New Jersey Housing and Mortgage Finance Agency for the purposes authorized in subsection b. of section 4 of P.L.2025, c.111 (C.55:14K-107). Notwithstanding any provision of law or regulation to the contrary, the tax credits reallocated to the New Jersey Housing and Mortgage Finance Agency shall not be subject to any requirements or conditions of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.), as amended or supplemented; and

(m) beginning in fiscal year 2026, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-

336 et al.), but not including tax credits awarded for transformative projects, an amount not to exceed $500,000,000 shall be made available for projects awarded a tax credit pursuant to the “Next New Jersey Manufacturing Program Act,” P.L.2025, c.123 (C.34:1B-403 et al.) and an amount not to exceed $500,000,000 shall be made available for cultural arts institutions awarded a tax credit pursuant to the “Cultural Arts Incentives Program Act,” P.L.2023, c.197 (C.34:1B-383 et al.). In accordance with the provisions of subsection g. of section 5 of P.L.2025, c.123 (C.34:1B-407), $100,000,000 of the tax credits made available to the “Next New Jersey Manufacturing Program Act,” P.L.2025, c.123 (C.34:1B-403 et al.) pursuant to this subparagraph shall be reserved exclusively for eligible businesses that are clean energy product manufacturers.

(n) beginning in fiscal year 2027, from the tax credits made available, pursuant to subparagraph (f) of this paragraph, to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through 34:1B-335) and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), but not including tax credits awarded for transformative projects, an amount not to exceed $250,000,000 shall be made available for the purposes of the "End Data Center Tax Credits Act," P.L. , c. (C.) (pending before the Legislature as this bill), including an amount not to exceed $125,000,000 for tax credits awarded to energy storage projects pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill), except as otherwise provided in this subparagraph. If the balance of tax credits claimed pursuant to section 6 of P.L. , c. (C.) (pending before the Legislature as this bill) is less than $125,000,000, the remaining balance of tax credits, as certified by the State Treasurer, shall be available for the purposes of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill). After the completion of the nine-year period, any uncommitted balance of tax credits available for the purposes of P.L. , c. (C.) (pending before the Legislature as this bill) shall remain available for the purposes of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the State under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program, provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the nine-year period.

d. Notwithstanding the provisions of any other law to the contrary, the uncommitted balance of the total value of tax credits authorized for award by the authority pursuant to subparagraph (f) of paragraph (1) of subsection b. of this section to the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 et seq.), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall be made available for tax credits allowed to New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and C.54A:4-12b). The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, made available to New Jersey studio partners, New Jersey film-lease production companies, and taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies pursuant to this subsection shall be as follows:

(1) in fiscal year 2023, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies;

(2) in fiscal year 2024, $250,000,000 for New Jersey studio partners and $250,000,000 for New Jersey film-lease production companies; and

(3) in fiscal year 2025, $250,000,000 for New Jersey studio partners, $250,000,000 for New Jersey film-lease production companies, and $300,000,000 for taxpayers, other than New Jersey studio partners and New Jersey film-lease production companies.

If the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved to New Jersey studio partners and New Jersey film-lease production companies in any fiscal year pursuant to this subsection is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval to each such category in that fiscal year and shall increase the cumulative total amount of tax credits permitted to be approved for New Jersey studio partners and New Jersey film-lease production companies in the subsequent fiscal year by the certified amount remaining for each such category from the prior fiscal year.

(cf: P.L.2025, c.127, s.10)

2. Section 1 of P.L.2025, c.136 (C.48:3-121.2) is amended to read as follows:

1. As used in P.L.2025, c.136 (C.48:3-121.2 et al.):

“Accredited capacity” means the amount of capacity, measured in megawatts of unforced capacity, that an eligible project can contribute toward New Jersey’s capacity needs or bid into the base residual auction.

“Base residual auction” means the same as that term is defined in section 3 of P.L.1999, c.23 (C.48:3-51).

“Board” means the Board of Public Utilities.

“Capacity Interconnection Rights” means the same as that term is defined in PJM’s Open Access Transmission Tariff or in any successor document.

“Decision Point I” means the same as that term is defined in PJM’s Open Access Transmission Tariff or in any successor document.

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

“Eligible project” means a transmission-scale energy storage system that meets the criteria for an incentive award pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.).

“Energy storage” means a device that is capable of absorbing energy from the grid or from a generation resource located behind the same point of interconnection as the device; storing it for a period of time using mechanical, chemical, or thermal processes;

and, thereafter, discharging the energy back to the grid or directly to an energy-using system to reduce the use of power from the grid.

"Energy storage capacity" means the measure of the energy capacity in megawatt-hours of a transmission-scale energy storage system.

"Energy storage program" means a program designed to encourage the growth of energy storage capacity in the State in order to strengthen storage capacity for the electric grid. "Energy storage program" includes the board's Successor Solar Incentive Program, including the Competitive Solar Incentive Program; the program established pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.); and the board's Garden State Energy Storage Program.

"Garden State Energy Storage Program" or "GSESP" means the final form of the energy storage program currently under development by the board and outlined in the board's November 2024 straw proposal, or the program's replacement or successor.

"Generation Interconnection Agreement" means the same as that term is defined in PJM's Open Access Transmission Tariff or in any successor document.

"Incentive award" means a set of payments awarded by the board for an eligible project, which payments are conditioned upon the completion and commercial operation of the eligible project in compliance with P.L.2025, c.136 (C.48:3-121.2 et al.) and any conditions required by the board. An "incentive award" shall be a fixed series of annual payments to be issued over the 15-year award period; based on the maximum usable installed capacity of an eligible project, which is measured in dollars per megawatt, or on the energy storage capacity of an eligible project, which is measured in dollars per megawatt-hour; and paid upon commercial operation of the eligible project, unless the board provides for an alternative payment timeline. An "incentive award" is subject to any conditions imposed by the board, including, but not limited to, satisfactory up-time performance metrics. An "incentive award" may include, at the discretion of the board, a performance-based adjustment based on the availability of the eligible project or the benefits created through the commercial operation of the eligible project, provided that the board shall confirm the reliability of any proposed metrics on which to base a performance-based adjustment prior to being used in the calculation of an incentive award. <u>An "incentive award" may include, at the discretion of the board, an award of tax credits approved pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill), which award of tax credits may constitute part or all of the incentive award.</u>

"Installed capacity" means the nameplate output of an eligible project, measured in megawatts of alternating current (MW AC), that is available to the electric grid.

"Interconnection Service Agreement" means the same as that term is defined in PJM's Open Access Transmission Tariff or in any successor document.

"Phase I System Impact Study" means the same as that term is defined in PJM's Open Access Transmission Tariff or in any successor document.

"PJM" means "PJM Interconnection, L.L.C." or "PJM," as those terms are defined in section 3 of P.L.1999, c.23 (C.48:3-51).

"Readiness Deposit" means the same as that term is defined in PJM's Open Access Transmission Tariff or in any successor document.

"Subsequent tranche" means additional energy storage procurement administered pursuant to section 4 of P.L.2025, c.136 (C.48:3-121.5).

"Tranche 1" means the initial procurement for the energy storage program established pursuant to section 2 of P.L.2025, c.136 (C.48:3-121.3).

"Tranche 2" means the second procurement for the energy storage program established pursuant to section 2 of P.L.2025, c.136 (C.48:3-121.3).

"Transmission-scale energy storage system" means an energy storage system, with an installed capacity of at least 5 MW AC, that is interconnected with the PJM Transmission Network and situated inside a Transmission Zone in New Jersey or is otherwise located in New Jersey and qualified to provide energy, capacity, or ancillary services in the wholesale markets established by PJM.

"Unforced capacity" means the same as that term is defined in PJM's Reliability Assurance Agreement or in any successor document.

(cf: P.L.2025, c.136, s.1)

3. Section 2 of P.L.2025, c.136 (C.48:3-121.3) is amended to read as follows:

2. a. (1) The Board of Public Utilities shall establish a program to procure and provide incentive awards for the development of transmission-scale energy storage systems with a reasonable likelihood of successful and timely completion. The board shall solicit applications for the program established pursuant to this section in an initial Tranche 1 and in Tranche 2, pursuant to paragraph (2) of this subsection. The board may place an eligible project that does not receive an incentive award for Tranche 1 or Tranche 2 on a waiting list and consider the eligible project for an incentive award during a subsequent tranche.

(2) By no later than June 30, 2026, the board shall approve incentive awards for eligible projects totaling at least 1,000 MW AC in installed capacity. However, at least 350 MW AC of the 1,000 MW AC procurement goal shall be approved in incentive awards for eligible projects in Tranche 1 by no later than December

31, 2025. If the board is unable to procure all 1,000 MW AC in installed capacity in Tranche 1, the board shall approve incentive awards for eligible projects in Tranche 2, provided that all incentive awards in Tranche 2 are awarded by no later than June 30, 2026.

b. To qualify for an incentive award in Tranche 1 or Tranche 2 pursuant to this section, a transmission-scale energy storage system shall:

(1) not participate in any other energy storage program, except for the GSESP, to the extent that the energy storage program established pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.) is incorporated into the GSESP;

(2) have an anticipated commercial operations date of no later than December 31, 2030, unless the board permits an exception;

(3) meet the following project maturity requirements, as applicable:

(a) a transmission-scale energy storage system applying for an incentive award in Tranche 1 shall have entered the PJM interconnection process and, at the time of application, have a fully executed Generation Interconnection Agreement or Interconnection Service Agreement through PJM, have a completed Surplus Interconnection Study through PJM, or have notified PJM of intent to transfer existing Capacity Interconnection Rights associated with a deactivating generation station;

(b) a transmission-scale energy storage system applying for an incentive award in Tranche 2 shall have entered the PJM interconnection process and, at the time of application, have a fully executed Generation Interconnection Agreement or Interconnection Service Agreement through PJM, have a completed Surplus Interconnection Study through PJM, have been studied by PJM in a Phase I System Impact Study and have paid a Decision Point I Readiness Deposit to PJM, or have notified PJM of intent to transfer existing Capacity Interconnection Rights associated with a deactivating generation station; and

(c) if a transmission-scale energy storage system fulfils the project maturity requirements established pursuant to subparagraph (a) or subparagraph (b) of this paragraph by completing a Surplus Interconnection Study or by notifying PJM of intent to transfer existing Capacity Interconnection Rights associated with a deactivating generation station, then the transmission-scale energy storage system shall also have obtained the associated Capacity Interconnection Rights through PJM; and

(4) meet any other eligibility criteria the board may establish through board order or rulemaking.

c. Any application for an incentive award issued in Tranche 1 or Tranche 2 pursuant to this section shall include:

(1) evidence reasonably satisfactory to the board of site control;

(2) evidence reasonably satisfactory to the board that an applicant has or will obtain all required permits, which evidence shall include an execution plan to obtain all required permits;

(3) evidence reasonably satisfactory to the board that the applicant has submitted all interconnection applications and initial application fees necessary to obtain permission from the appropriate electric public utility or grid operator to operate the transmission-scale energy storage system;

(4) evidence reasonably satisfactory to the board of the applicant's financial means to construct the transmission-scale energy storage system and ability to obtain revenues through electricity markets or non-ratepayer funding, including, but not limited to, energy arbitrage, ancillary services, and capacity revenues in PJM;

(5) evidence reasonably satisfactory to the board of the status of the transmission-scale energy storage system in the PJM interconnection process;

(6) assurances reasonably satisfactory to the board that the transmission-scale energy storage system will adhere to any safety requirements, standards, or measures that the board deems appropriate as well as to any nationally recognized minimum safety requirements, including, but not limited to, appropriate laboratory testing, and will comply with all manufacturers' installation requirements, applicable laws, regulations, codes, licensing, and permit requirements;

(7) a statement describing the transmission-scale energy storage system's alignment with State and regional transmission and resource adequacy planning goals and demonstrating the transmission-scale energy storage system's coordination with PJM and the appropriate electric public utility;

(8) an application fee as set by the board; and

(9) any other information required by the board.

d. The board shall review Tranche 1 and Tranche 2 applications consistently with the requirements of this section. At its discretion, the board may instruct an applicant on curing minor defects in a Tranche 1 or Tranche 2 application. The board shall evaluate each application based on the bid prices of the requested incentive awards. The board may appropriately compare bid prices, at the board's discretion, based on the measure of a transmission-scale energy storage system's installed capacity, energy storage capacity, or expected accredited capacity. The board may also consider other factors such as:

(1) project maturity and likelihood of success;

(2) whether the project has completed non-ministerial permits;

(3) whether the project is proposed by an applicant with experience in energy storage development, construction, and finance; and

(4) whether the project promotes redevelopment, community benefits, brownfield redevelopment, or existing or former fossil fuel plant replacement or provides demonstrated benefits to environmental justice in communities where a transmission-scale energy storage system is proposed to be located.

e. Any board order issued pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.) shall be binding and enforceable. Any such board order shall:

(1) define the eligible project receiving an incentive award and the eligible project's installed capacity;

(2) define the incentive award, including a payment schedule for the 15-year award period of the incentive award, which term shall commence no earlier than the commercial operations date of an eligible project and during which term an eligible project shall receive an annual incentive award on each anniversary of the first payment date;

(3) determine the amount of funding to be allocated for payment of the incentive award beginning in the fiscal year in which the eligible project commences commercial operations;

(4) include a participation fee as the board may require from the developer;

(5) require, for an eligible project awarded an incentive award, a pre-development security not to exceed $100,000 per megawatt and not to exceed in total $10,000,000;

(6) outline the conditions under which the board may, in the event of a developer's failure to operate an eligible project by the deadline stated in the board order or to meet deadlines included in the board order, revoke an incentive award or retain some or all of the pre-development security;

(7) provide that receipt of an incentive award for an eligible project shall be contingent on achievement of baseline performance requirements, including, but not limited to, availability for dispatch in a minimum number of hours per year, as determined by the board. The board may use the PJM Equivalent Forced Outage Rate or another metric determined appropriate by the board to measure energy storage availability. The board order shall require that the developer report data for the purpose of this paragraph at regular intervals and shall provide for a reduction of an incentive award in proportion to the number of hours of required availability that is unmet by the eligible project; and

(8) require a developer to provide additional information to the board during the term of the incentive award, as the board may reasonably require. The board may set additional requirements at its discretion, including, but not limited to, a requirement that the developer report major development and construction milestones to the board, maintain financial security throughout the term of the incentive award, or any other requirement the board determines

necessary to ensure continued progress and operational viability of an eligible project.

f. The board may amend an order issuing an incentive award pursuant to this section solely to: change the funding source of the incentive award[.]; or include an award of tax credits approved pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill), which award of tax credits may either supplement an existing incentive award or, with the consent of the developer, replace the funding source for a portion of the incentive award amount. Any incentive award for an eligible project and the conditions for receiving funding pursuant to this section shall remain effective for the full duration of the award period specified in the board order issuing the incentive award, notwithstanding any change to the funding source of the incentive award.

g. (1) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board shall permit applications for Tranche 1 without regard to the publication status of the rules and regulations to be issued pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.), by no later than September 30, 2025.

(2) The board shall accept Tranche 1 applications for a maximum of 60 days after the beginning of the formal application period for Tranche 1. Within 60 days following the closure of the Tranche 1 application period, the board shall:

(a) evaluate projects in accordance with this section, any rules or regulations proposed pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.), and any application requirements and eligibility criteria approved pursuant to this subsection; and

(b) select eligible projects to receive an award.

h. An incentive award shall be conditioned upon a developer's compliance with the board order determining the incentive award and with any conditions the board shall reasonably require.

(cf: P.L.2025, c.136, s.2)

4. (New section) a. For the purposes of this section:

"Board" means the Board of Public Utilities.

"Energy storage program" means a program designed to encourage the growth of energy storage capacity in the State in order to strengthen storage capacity for the electric grid. "Energy storage program" includes, but is not limited to, the board's Successor Solar Incentive Program, including the Competitive Solar Incentive Program; the program established pursuant to P.L.2025, c.136 (C.48:3-121.2 et seq.); and the board's Garden State Energy Storage Program.

"Energy storage project" means the construction or enhancement of an energy storage system for which a developer is eligible to receive an incentive award pursuant to an energy storage program.

"Energy storage system" means a distributed energy storage system or a transmission-scale energy storage system.

"Incentive award" means the award approved by the board to the developer of an energy storage project, including, but not limited to, a grant or a tax credit approved pursuant to this section.

b. From the tax credits previously made available for the "Next New Jersey Act," P.L.2024, c.49 (C.34:1B-394 et al.) and reallocated for the purposes of P.L. , c. (C.) (pending before the Legislature as this bill) pursuant to section 98 of P.L.2020, c.156 (C.34:1B-362), the Board of Public Utilities may approve the award of tax credits to the developer of an energy storage project, which award may constitute all or part of an incentive award for an energy storage project. Notwithstanding any provision of law, rule, or regulation limiting the cumulative value of awards otherwise available for a project under an energy storage program, the board may issue an additional incentive award in the form of tax credits pursuant to this section. Except as otherwise provided in subparagraph (n) of paragraph (1) of subsection b. of section 98 of P.L.2020, c.156 (C.34:1B-362), the cumulative amount of tax credits the board may award pursuant to this section shall not exceed $125,000,000.

c. A developer may apply a tax credit awarded pursuant to this section against a State tax liability due pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the current tax period, as of the date the tax credit is approved. A developer may carry forward an unused credit resulting from the limitations of this section, if necessary, for use in any of the seven tax periods next following the tax period for which the credit is awarded.

d. The Director of the Division of Taxation shall prescribe the order of priority of the application of the credits awarded under this section and any other credits allowed by law. The amount of a credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with any other credits allowed by law, shall not reduce the tax liability of the purchaser to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credit applied under this section against the tax otherwise due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than zero.

e. (1) A business entity that is classified as a partnership for federal income tax purposes shall not be allowed a tax credit

pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a distributive share of entity income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the entity that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the entity for its taxable year ending within or with the taxpayer's taxable year.

(2) A New Jersey S Corporation shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a pro rata share of S Corporation income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the New Jersey S Corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S Corporation for its privilege period ending within or with the taxpayer's taxable year.

5. (New section) a. A taxpayer may apply to the Director of the Division of Taxation for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit awarded pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54A:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit that the purchaser has elected to sell or assign.

b. The taxpayer shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the taxpayer of less than 80 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to a taxpayer by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) and any other terms and conditions that the Director of the Division of Taxation may prescribe.

c. The transferee or assignee may first use the credit against tax liabilities for the tax period for which it was issued, for the tax period in which it was issued, or in any of the next seven

succeeding tax periods, without the need to amend the return for the year for which the credit was issued.

d. A transferee or assignee of a tax credit transfer certificate pursuant to this section shall not make any subsequent transfers, assignments, or sales of the tax credit transfer certificate.

6. (New section) a. For the purposes of this section:

"Director" means the Director of the Division of Taxation in the Department of the Treasury.

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

"Residential electric customer" means a residential customer of an electric public utility.

b. For the taxable year in which P.L. , c. (C.) (pending before the Legislature as this bill) becomes effective, a taxpayer who is a residential electric customer with a gross income of $55,000 or less shall be allowed a credit in the amount of $100 against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

c. The order of priority of the application of the credit allowed pursuant to this section, and any other credits allowed against the tax imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year, shall be as prescribed by the director.

7. (New section) a. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Board of Public Utilities may adopt, immediately, upon filing with the Office of Administrative Law, such rules and regulations as the board deems necessary to implement the provisions of P.L. , c. (C.) (pending before the Legislature as this bill), which regulations shall be effective for a period not to exceed 180 days from the date of the filing. Thereafter, the board shall amend, adopt, or readopt the regulations in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. The State Treasurer shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as are necessary to implement the provisions of P.L. , c. (C.) (pending before the Legislature as this bill).

8. This act shall take effect immediately.

STATEMENT

This bill, designated as the "End Data Center Tax Credits Act," reduces the amount of tax credits available for the Next New Jersey

Program by $250 million and reallocates the balance of these tax credits for certain energy-related purposes. Specifically, the bill authorizes the Board of Public Utilities (BPU) to award tax credits to developers of energy storage projects under existing programs and establishes a one-time gross income tax credit to lower-income taxpayers who are residential electric customers.

Reallocation of Uncommitted Next New Jersey - AI Tax Credits

The "Economic Recovery Act of 2020," P.L.2020, c.156 (ERA), authorized the award of tax credits under the New Jersey Aspire Program, Emerge Program, and certain other economic development programs with limits on the amount of tax credits available under each program. Under current law, the total value of tax credits available under the ERA is limited to $14 billion over a nine-year period. Of this amount, $500 million is currently available under the Next New Jersey Program (Next NJ) for certain projects related to the development of artificial intelligence or data centers. As of May 2026, the New Jersey Economic Development Authority has awarded $250 million in tax credits to one project under Next NJ, which award is not impacted by this bill.

This bill reduces the total amount of tax credits available under Next NJ by the uncommitted amount of $250 million and reallocates that amount to incentivize energy storage projects and to provide gross income tax credits for lower-income residential electric customers.

Energy Storage Incentives

The bill authorizes the board to approve the award of tax credits to the developer of an energy storage project, which award will constitute all or part of an incentive award for an energy storage project. Under the bill, the Board of Public Utilities may award tax credits with a cumulative value not to exceed $125 million, subject to certain additional allowances.

Under the bill, "energy storage project" is defined as the construction or enhancement of an energy storage system for which a developer is eligible to receive an incentive award pursuant to an energy storage program. An "energy storage system" is a distributed energy storage system or a transmission-scale energy storage system. "Energy storage program" means a program designed to encourage the growth of energy storage capacity in the State in order to strengthen storage capacity for the electric grid. "Energy storage program" includes, but is not limited to, the board's Successor Solar Incentive Program, including the Competitive Solar Incentive Program; the program established pursuant to P.L.2025, c.136 (C.48:3-121.2 et seq.); and the board's Garden State Energy Storage Program.

The bill authorizes the recipient of a tax credit issued as an energy storage incentive to request a tax credit transfer certificate.

A taxpayer is required to attempt to sell or assign a tax credit transfer certificate for consideration of no less than 80 percent of the transferred credit amount before considering any further discounting.

Income Tax Credits to Reduce Burden of Increased Electricity Costs

For the taxable year in which the bill takes effect, the bill authorizes a one-time gross income tax credit in the amount of $100 for any taxpayer with gross income no more than $55,000, and who is a residential electric customer. The bill further provides that if less than $125 million one-time gross income tax credits are claimed by taxpayers in the State, the remaining balance of tax credits, as certified by the State Treasurer, is to be made available to the Board of Public Utilities to incentivize energy storage projects.