

SENATE, No. 4824

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED OCTOBER 15, 2026

Sponsored by:

Senator ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Modifies advanced nuclear energy procurement program in BPU to include fusion energy projects.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning fusion energy generation in the State and
2 amending P.L.2026, c.42.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 2 of P.L.2026, c.42 (C.48:9A-7) is amended to read
8 as follows:

9 2. a. The Legislature finds and declares that:

10 (1) Electricity consumption, primarily driven by data center
11 consumption, is increasing across the regional grid at a pace that
12 outstrips the entry of new generation resources, placing the
13 reliability of electric service at serious risk for customers
14 throughout New Jersey;

15 (2) The resulting lack in available generation capacity has
16 driven wholesale capacity market prices to record highs, costs that
17 are ultimately borne by New Jersey electric ratepayers;

18 (3) Dependable and affordable electric power is essential to
19 sustaining the competitiveness of the State's economy and to
20 protecting the health, safety, and well-being of New Jersey
21 residents;

22 (4) Nuclear generation, including both fission and fusion, is
23 inherently carbon-free and consistently achieves higher capacity
24 factors than any other class of generation resource, exceeding 92
25 percent on a fleet-wide basis, with certain advanced reactor designs
26 potentially capable of operating at full rated output 98 percent of
27 the time;

28 (5) Nuclear facilities also achieve higher effective load-carrying
29 capacity, reaching as high as 98 percent in summer and 96 percent
30 in winter, potentially enabling them to deliver power to the grid
31 reliably across all weather conditions and seasons;

32 (6) Nuclear generating stations maintain on-site fuel supplies
33 that confer strong energy security ;

34 (7) New Jersey's nuclear generating capacity has contracted in
35 recent years, most significantly following the 2018 economic
36 retirement of the Oyster Creek Generating Station, which at the
37 time of its closure was the oldest operating commercial nuclear
38 reactor in the United States;

39 (8) A new generation of advanced nuclear reactor designs is
40 now in the process of entering commercial development, offering
41 meaningful improvements over earlier designs in the areas of
42 safety, thermal efficiency, waste generation, and overall
43 environmental performance;

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 (9) Through the Princeton Plasma Physics Laboratory, New
2 Jersey has been a leader in cutting edge fusion and plasma research
3 and is the birthplace of stellarator;
- 4 (10) Due to advancements in high temperature superconducting
5 magnets, digital twin modeling, and AI-driven plasma controls,
6 fusion energy is entering commercial development;
- 7 (11) Advanced nuclear generating facilities and fusion machines
8 have the potential to deliver firm, zero-carbon electricity that
9 enhances grid stability, supports the integration of variable
10 renewable resources, and produces sustained, high-paying
11 employment alongside wide-ranging regional economic benefits;
- 12 **[(10)]** (12) The development and construction of **[an]** advanced
13 nuclear energy **[project creates]** and fusion energy projects create
14 significant economic activity for the State, generating thousands of
15 high-wage jobs during the construction and development phases and
16 a substantial number of permanent, skilled-trade, and professional
17 jobs over the facility's operational life;
- 18 **[(11)]** (13) Advanced nuclear and fusion energy development
19 creates meaningful opportunities for New Jersey-based businesses
20 across manufacturing, engineering, fabrication, and related supply
21 chain sectors, and the State is well-situated to cultivate a domestic
22 nuclear and fusion supply chain network with benefits that would
23 extend across multiple industries and workforce segments;
- 24 **[(12)]** (14) Advanced nuclear energy facilities and fusion
25 energy facilities generate material and enduring tax revenues for the
26 State and for the municipalities in which they are located or
27 adjacent, thereby supporting local public services, infrastructure,
28 and community development and providing long-term fiscal
29 stability to host communities;
- 30 **[(13)]** (15) A dependable supply of nuclear and fusion power
31 supports the State's economic development objectives by making
32 New Jersey a competitive destination for energy-intensive
33 industries, including advanced manufacturing, life sciences, and
34 technology companies, which require reliable, carbon-free
35 electricity as a prerequisite to siting or expanding their operations;
36 and
- 37 **[(14)]** (16) The environmental and public interest attributes of
38 electric generation resources, including the zero-carbon nature of
39 nuclear and fusion generation, **[its]** their contribution to long-term
40 grid reliability and energy security, and **[its]** their durable benefits
41 to the health and welfare of New Jersey residents, hold independent
42 value to the State and its people that is separate and distinct from
43 the electricity that electric generation resources produce. As a
44 result, it is appropriate for the State to recognize, define, and
45 actively support these attributes as a matter of State energy and
46 environmental policy.

1 b. The Legislature therefore determines that when affordable it
2 is in the public interest of New Jersey residents to actively promote
3 and support the siting and construction of advanced nuclear reactors
4 and fusion machines in the State as a source of carbon-free, reliable,
5 and affordable electric power and as a driver of sustained economic
6 development, high-quality job creation, supply chain growth, and
7 long-term fiscal strength for the State and its municipalities.
8 (cf: P.L.2026, c.42, s.2)

9
10 2. Section 3 of P.L.2026, c.42 (C.48:9A-8) is amended to read
11 as follows:

12 3. As used in **[this act]** P.L.2026, c.42 (C.48:9A-6 et seq.):

13 “AACE” means the Association for the Advancement of Cost
14 Engineering.

15 “Advanced nuclear energy project” means a project to construct
16 a nuclear electricity generation facility of at least one advanced
17 nuclear reactor located in the State, connected to the electric
18 transmission system in this State.

19 “Advanced nuclear reactor” or “advanced reactor” means a
20 nuclear reactor that:

21 (1) has significant improvements compared to reactors operating
22 on December 27, 2020, including improvements such as: (a)
23 additional inherent safety features; (b) lower waste yields; (c)
24 improved fuel and material performance; (d) increased tolerance to
25 loss of fuel cooling; (e) enhanced reliability and improved
26 resilience; (f) increased proliferation resistance; (g) increased
27 thermal efficiency; (h) reduced consumption of cooling water and
28 other environmental impacts; (i) the ability to integrate into electric
29 applications and nonelectric applications; (j) modular sizes that
30 allow for deployment that corresponds with the demand for
31 electricity or process heat; and (k) operational flexibility to respond
32 to changes in demand for electricity or process heat and to
33 complement integration with intermittent renewable energy or
34 energy storage; or

35 (2) is of a design that has received design certification, design
36 approval or a combined license from the Nuclear Regulatory
37 Commission after January 1, 2000.

38 “Aggregate output” means the trailing three-year average of
39 aggregate megawatts of capacity, as defined in the PJM Open
40 Access Transmission Tariff, or the average of all calendar years
41 following the commercial operation date if fewer than three
42 calendar years of post-commercial-operation data are available,
43 made available to the PJM Reliability Pricing Model capacity
44 market, the Fixed Resource Requirement, or any other procurement
45 program operated by PJM, as appropriate, by a qualified project and
46 by any existing New Jersey nuclear reactors owned in whole or in
47 part by the same entities as the qualified project or by their parent
48 companies.

1 “Authority” means the New Jersey Economic Development
2 Authority.

3 “Baseline threshold” means the amount of nuclear or fusion
4 energy agreed upon pursuant to paragraph (8) of subsection b. of
5 section 5 of **【this act】** P.L.2026, c.42 (C.48:9A-10) and the existing
6 nuclear reactor baseline as established by the board pursuant to
7 subsection f. of section 4 of **【this act】** P.L.2026, c.42 (C.48:9A-9).

8 “Basic generation service provider” means the same as the term
9 is defined in section 3 of P.L.1999, c.23 (C.48:3-51).

10 “Board” means the New Jersey Board of Public Utilities.

11 “Class II cost estimate” means a cost estimate prepared in
12 accordance with the AACE International Recommended Practice
13 No. 18R-97, Cost Estimate Classification System, or successor
14 practice, classified as a Class II estimate, with an expected accuracy
15 range of approximately negative 15 percent to positive 20 percent,
16 suitable for use as a project control baseline.

17 “Class IV cost estimate” means a cost estimate prepared in
18 accordance with the AACE International Recommended Practice
19 No. 18R-97, Cost Estimate Classification System, or successor
20 practice, classified as a Class IV estimate, with an expected
21 accuracy range of approximately negative 30 percent to positive 50
22 percent, suitable for use in project screening and feasibility
23 analysis.

24 “Co-located energy user” means an end-use customer that
25 receives electricity from a qualified project through a physical
26 configuration that does not rely, in whole or in part, on the
27 transmission or distribution system of an electric public utility,
28 including any configuration in which the customer’s load is served
29 behind the qualified project’s point of interconnection or through a
30 dedicated tie-line, regardless of whether the customer is separately
31 metered.

32 “Direct power purchase agreement” means a bilateral contract
33 between a qualified project and an end-use customer for the sale of
34 electric energy, capacity, or associated attributes from the qualified
35 project, under which the end-use customer receives delivery
36 through the transmission or distribution system rather than through
37 a co-location arrangement, and that results in the project’s
38 generating capacity being made unavailable to the PJM Reliability
39 Pricing Model capacity market, Fixed Resource Requirement, or
40 any other procurement program operated by PJM, as appropriate.

41 “Effective load-carrying capability” or “ELCC” means the
42 amount of additional electric load a resource can support while
43 maintaining the same level of system reliability, calculated in
44 accordance with the methodology used by PJM Interconnection,
45 L.L.C. for accreditation of generation and storage resources in the
46 PJM capacity market.

47 “Electric power supplier” means the same as the term is defined
48 in section 3 of P.L.1999, c.23 (C.48:3-51).

1 “Electric public utility” means the same as the term is defined in
2 section 3 of P.L.1999, c.23 (C.48:3-51).

3 “Environmental attributes” means any and all aspects,
4 characteristics, claims, credits, offsets, allowances, and benefits,
5 whether or not separately tradeable, associated with the generation
6 of electricity from a qualified project that reduce, avoid, or displace
7 emissions of greenhouse gases or criteria air pollutants, together
8 with the zero-carbon nature of the generation. “Environmental
9 attributes” shall not include: (1) federal, State, or local tax credits
10 or production credits; (2) renewable energy certificates issued under
11 the State’s renewable portfolio standard; or (3) zero-emission
12 certificates issued under section 3 of P.L.2018, c.16 (C.48:3-87.5).

13 “Existing nuclear reactor baseline” means the aggregate amount
14 of nuclear energy made available to the PJM Reliability Pricing
15 Model capacity market, the Fixed Resource Requirement, or any
16 other procurement program operated by PJM, as appropriate, by
17 existing New Jersey nuclear reactors owned in whole or in part by
18 the same entity or entities as the proposed project, or by their parent
19 companies, reflected as the average annual megawatts of capacity,
20 as defined in the PJM Open Access Transmission Tariff, of the
21 existing nuclear reactors made available to the PJM Reliability
22 Pricing Model capacity market, the Fixed Resource Requirement, or
23 any other procurement program operated by PJM, as appropriate,
24 over the preceding three calendar years.

25 “Fusion energy project” means a project to construct a fusion
26 electricity generation facility with at least one fusion machine
27 located in the State, connected to the electric transmission system in
28 the State.

29 “Fusion machine” means a machine that is capable of: (1)
30 transforming atomic nuclei, through fusion processes, into different
31 elements, isotopes, or other particles; and (2) directly capturing and
32 using the resultant products, including particles, heat, or other
33 electromagnetic radiation.

34 “Non-performance costs” means any costs, expenses, losses, or
35 liabilities arising from: (1) construction costs exceeding the
36 verified total construction cost estimate; (2) failure to achieve
37 commercial operation by the target commercial operation date set
38 forth in the final board order issued pursuant to section 6 of **[this**
39 **act]** P.L.2026, c.42 (C.48:9A-11); (3) failure to meet project
40 development milestones established in the final board order; (4)
41 delays, suspensions, or cancellations of the project for reasons other
42 than a force majeure event as defined in the final board order or a
43 change in law pursuant to section 6 of **[this act]** P.L.2026, c.42
44 (C.48:9A-11) and (5) any other costs incurred by a qualified project
45 entity that are not expressly recoverable under the RCC price and
46 payment schedule approved by the board.

47 “Nuclear energy” means electric energy generated by a nuclear
48 reactor or fusion machine.

1 “Nuclear reactor” means an apparatus required to be licensed by
2 the Nuclear Regulatory Commission that is designed or used to
3 sustain nuclear fission in a self-supporting chain reaction.

4 “Nuclear Regulatory Commission” or “NRC” means the United
5 States Nuclear Regulatory Commission.

6 “PJM Interconnection, L.L.C.” or “PJM,” means the same as the
7 term is defined in section 3 of P.L.1999, c.23 (C.48:3-51), or any
8 successor entity thereto.

9 “Qualified project” means an advanced nuclear energy project or
10 fusion energy project approved by both the board and the authority
11 pursuant to sections 5 and 6 of **[this act]** P.L.2026, c.42 (C.48:9A-
12 10 and C.48:9A-11).

13 “Qualified project entity” means the person or entity that
14 develops, owns, or operates a qualified project and is bound by the
15 terms of the final board order and authority resolution, together
16 with any permitted successor or assignee.

17 “Rated output” means the maximum sustained electric generating
18 capacity of a qualified project, measured in megawatts at the
19 generator terminals, as specified in the Nuclear Regulatory
20 Commission operating license or combined license issued for the
21 qualified project.

22 “Reliable Capacity Certificate” or “RCC” means a certificate,
23 issued by the board or its designee, representing the environmental
24 attributes of one megawatt hour of electric generation from a
25 qualified project.

26 “Stipulation” means a written agreement entered into among the
27 staff of the board, the chief executive officer of the authority, and a
28 provisionally qualified project entity, setting forth the terms
29 negotiated under section 5 of **[this act]** P.L.2026, c.42 (C.48:9A-
30 10).

31 “Verified total construction cost estimate” means the Class II
32 cost estimate of all projected construction costs submitted by a
33 qualified project entity pursuant to paragraph (2) of subsection b. of
34 section 5 of **[this act]** P.L.2026, c.42 (C.48:9A-10) and verified by
35 the board and the authority, with the assistance of such independent
36 consultants as the board or the authority may retain, as being
37 necessary, justified, and as accurate and realistic as current
38 information permits.

39 (cf: P.L.2026, c.42, s.3)

40

41 3. Section 4 of P.L.2026, c.42 (C.48:9A-9) is amended to read
42 as follows:

43 4. a. The board shall establish a program, in accordance with
44 the provisions of **[this act]** P.L.2026, c.42 (C.48:9A-6 et seq.), to
45 promote the construction of affordable advanced nuclear energy
46 projects and fusion energy projects in the State.

47 b. (1) No later than 180 days after the effective date of **[this act]**
48 P.L.2026, c.42 (C.48:9A-6 et seq.), the board, in consultation with

1 the authority, shall issue a request for expressions of interest for the
2 construction of advanced nuclear energy projects in the State.

3 (2) No later than 180 days after the effective date of P.L. , c.
4 (C.) (pending before the Legislature as this bill), the board, in
5 consultation with the authority, shall issue a request for expressions
6 of interest for the construction of fusion energy projects in the
7 State.

8 c. Any entity wishing to construct an advanced nuclear energy
9 project or a fusion energy project and obtain qualified project status
10 shall file with the board, no later than 60 days following publication
11 of the request pursuant to paragraph (1) or paragraph (2) of
12 subsection b. of this section, an expression of interest, which shall
13 include, but need not be limited to, the following:

14 (1) in the case of an advanced nuclear energy project, a letter of
15 intent filed with the Nuclear Regulatory Commission;

16 (2) in the case of an advanced nuclear energy project, a proposed
17 licensing pathway under the Nuclear Regulatory Commission,
18 including identification of any applicable Early Site Permit, design
19 certification, or other prior Nuclear Regulatory Commission
20 determinations on which the project intends to rely;

21 (3) proposed State and municipal permitting pathways;

22 (4) in the case of an advanced nuclear energy project, a
23 Regulatory Engagement Plan, prepared consistently with Nuclear
24 Regulatory Commission guidance, which shall set forth:

25 (a) the developer's organizational structure;

26 (b) the project's design and indicative construction timeline,
27 including the anticipated completion date; and

28 (c) pre-application engagement materials submitted to, or
29 prepared for, the Nuclear Regulatory Commission;

30 (5) in the case of an advanced nuclear energy project,
31 geotechnical, hydrological, and environmental analyses of the
32 proposed site sufficient to support the regulatory requirements of 10
33 C.F.R. Part 51, or a copy of any Early Site Permit issued pursuant
34 to 10 C.F.R. s.52.12 et seq.;

35 (6) in the case of an advanced nuclear energy project, a technical
36 description of the proposed system design and technology structure,
37 including reference to any applicable design certification issued
38 under 10 C.F.R. Part 52, Subpart B, and any deviations from the
39 certified design;

40 (7) a Class IV or better cost estimate, presenting projected
41 construction and operating costs as a reasoned range, together with
42 the assumptions, methodology, and reference projects underlying
43 the estimate, inclusive of budgeted risk and contingency value that
44 is designed to reflect the unique risks associated with the
45 development, construction, and operation of a nuclear or fusion
46 electricity generating facility;

47 (8) the proposed capital structure and financing plan, identifying
48 committed or prospective investors or lenders, and any proposed or

1 anticipated sources of construction-phase funding, including
2 evidence that the project is pursuing and has a reasonable
3 expectation of receiving debt financing from the United States
4 Department of Energy or Department of Commerce covering all or
5 a portion of construction costs, provided that this requirement shall
6 apply only to the extent such federal financing is reasonably
7 available at the time of submission;

8 (9) the proposed annual volume of megawatt hours of energy to
9 be delivered to the electrical grid serving the State and the proposed
10 amount of megawatts of capacity, as defined in the PJM Open
11 Access Transmission Tariff, to be made available to the PJM
12 Reliability Pricing Model capacity market, the Fixed Resource
13 Requirement, or any other procurement program operated by PJM,
14 as appropriate;

15 (10) if applicable, the existing nuclear reactor baseline;

16 (11) any proposed direct power purchase agreements, co-located
17 end-use agreements, or other energy offtake agreements, together
18 with a description of anticipated ratepayer benefits and any
19 commitment by the parties to share in the capital costs and any
20 potential cost overruns, and the role that the agreements play in
21 financing the project;

22 (12) the proposed RCC price structure and schedule under
23 section 7 of **【this act】** P.L.2026, c.42 (C.48:9A-12), reflecting total
24 project revenue requirements over a term not to exceed 40 years,
25 stated as total net present value and on a per-megawatt-hour
26 production basis, inclusive of budgeted risk and contingency value,
27 and presented as a range corresponding to the range of construction
28 costs in the Class IV cost estimate submitted under paragraph (7) of
29 this subsection, with stated low and high bounds for the per-
30 megawatt-hour RCC value;

31 (13) a projection of the anticipated monthly bill impact on
32 ratepayers resulting from the proposed RCC price structure and
33 schedule throughout the term of the proposal;

34 (14) a proposal for returning to New Jersey ratepayers some or
35 all revenues earned by the qualified project from the sale of energy,
36 capacity, or ancillary services in PJM during the RCC term,
37 together with revenue projections and a contingency plan in the
38 event the qualified project is unable to participate in the above-
39 listed wholesale markets at PJM;

40 (15) a comprehensive economic impact and community benefit
41 analysis addressing projected effects on employment, wages,
42 household income, State and local tax revenue, regional economic
43 activity, and infrastructure, including, but not limited to:

44 (a) a fiscal impact analysis detailing projected direct, indirect,
45 and induced State and local tax revenues, as well as any anticipated
46 Payment in Lieu of Taxes (PILOT) agreements with the host
47 municipality or municipalities;

1 (b) a demonstration of a project financing gap, including an
2 analysis of the projected internal rate of return with and without the
3 proposed State support, and any identified federal support,
4 including tax incentives, to justify the financial necessity of the
5 RCC price structure proposed pursuant to paragraph (12) of this
6 subsection;

7 (c) an assessment of the benefits of the project, including the
8 project's role in meeting New Jersey's resource adequacy
9 requirements and how the project will exert downward pressure on
10 PJM wholesale market prices;

11 (d) an assessment of the potential capacity or wholesale market
12 savings and benefits of the project compared to comparable
13 investments in other non-emitting technologies;

14 (e) a workforce development and labor plan, which shall include
15 estimates of temporary construction and permanent operations jobs,
16 a commitment to enter into a project labor agreement and pay
17 prevailing wages for any construction services in State or to pay the
18 wages and benefits provided in a collective bargaining agreement
19 between a labor organization as defined in 29 U.S.C. s.152(5) and
20 the employer covering the work, and proposed partnerships with
21 local educational or workforce training institutions;

22 (f) a supply chain plan detailing realistic and cost-effective
23 opportunities to utilize local suppliers, any known or contracted
24 suppliers, and known or likely supply chain challenges and planned
25 mitigation strategies;

26 (g) a proposed Community Benefits Agreement or a detailed
27 framework for negotiating such an agreement with the host
28 municipality and local stakeholders; and

29 (h) a holistic economic assessment of the project, specifically
30 detailing its capacity to attract, support, or retain large-scale
31 commercial and industrial ratepayer load, including, but not limited
32 to, advanced manufacturing facilities and data centers, and impacts
33 on electric utility customer bills caused by the RCC;

34 (16) an environmental benefit analysis, including:

35 (a) a quantitative estimate of the total net greenhouse gas
36 emissions avoided or displaced by the project's construction and
37 operation compared to existing and new fossil fuel-fired generation
38 in the PJM region;

39 (b) an assessment of the project's impact on criteria air
40 pollutants, including nitrogen oxides (NOx), sulfur dioxide (SO2),
41 and particulate matter;

42 (c) a description of the proposed project's impact on local water
43 resources, including cooling water usage and thermal discharge, and
44 a plan for minimizing the physical footprint on sensitive habitats or
45 preserved lands;

46 (d) in the case of an advanced nuclear energy project, a high-
47 level plan for the management and on-site storage of spent nuclear

- 1 fuel and any low-level radioactive waste, emphasizing safety and
2 long-term environmental protection; and
- 3 (e) a formal statement demonstrating how the project supports
4 the State's clean energy goals and the emissions reduction targets
5 established in the "Global Warming Response Act," P.L.2007,
6 c.112 (C.26:2C-37 et seq.); and
- 7 (17) any additional information deemed necessary by the board,
8 in consultation with the authority.
- 9 d. An expression of interest shall create no contractual
10 obligation between the State and the applicant, and the board's
11 preliminary evaluation shall not commit the State to enter into a
12 stipulation or to issue a final board order.
- 13 e. The board shall undertake a preliminary evaluation of all
14 proposed projects and provisionally qualify, or deny provisional
15 qualification of, each proposed project no more than 90 days after
16 receipt by the board of a complete expression of interest. The board
17 may grant provisional qualification to one or more proposed
18 projects. The board, in consultation with the Division of Rate
19 Counsel, in, but not of, the Department of the Treasury, Department
20 of Environmental Protection, and any other State agency the board
21 deems appropriate, shall grant provisional qualification status upon
22 a threshold finding that:
- 23 (1) a proposed advanced nuclear energy project or fusion energy
24 project is reasonably likely to significantly contribute to meeting
25 the State's energy reliability, resilience, and capacity needs,
26 consistent with the State's clean energy goals;
- 27 (2) the range of RCC values presented under paragraph (12) of
28 subsection c. of this section would produce, at one or more values
29 within the range, a net benefit to ratepayers when compared to
30 alternative means of meeting the State's energy reliability and
31 capacity needs over the term of the proposed RCC, considering
32 capacity factor, ELCC, operational life, fuel security, the reliability
33 and resilience contributions of the project to the State's electric
34 system, the contribution of the project to the State's clean energy
35 and emissions reduction goals, and the projected monthly bill
36 impact at the low and high bounds of the range. The board's
37 finding under this paragraph shall not constrain its findings under
38 section 6 of **【this act】** P.L.2026, c.42 (C.48:9A-11); and
- 39 (3) if the board considers granting provisional qualification to
40 more than one project, the board shall evaluate the cumulative
41 ratepayer impact of all such projects. The board shall not grant
42 provisional qualification to any additional project if doing so would
43 cause the cumulative ratepayer impact to become unreasonable or
44 excessive as determined under paragraph (4) of subsection a. of
45 section 6 of **【this act】** P.L.2026, c.42 (C.48:9A-11).
- 46 f. In determining whether to grant provisional qualification
47 status to one or more proposed projects, the board shall assess

1 whether the projects with an energy offtake agreement include one
2 or more of the following provisions:

3 (1) the energy buyer would agree to pay a per-megawatt-hour
4 price greater than the RCC price set in the final board order issued
5 under section 6 of **【this act】** P.L.2026, c.42 (C.48:9A-11) and as
6 may be adjusted pursuant to subsection e. of section 6 of **【this act】**
7 P.L.2026, c.42 (C.48:9A-11);

8 (2) the energy buyer would share construction development risk
9 that would otherwise be allocated to a qualified project entity as a
10 non-performance cost;

11 (3) the energy buyer either holds or agrees to hold an equity
12 stake in the proposed project; or

13 (4) otherwise provides benefits to ratepayers, as determined by
14 the board.

15 g. If the board grants provisional qualification status to a
16 proposed project, it shall issue a board order to that effect, which
17 shall include an RCC price range corresponding to the range of
18 construction costs in the Class IV estimate pursuant to this section
19 and the megawatt output of the project eligible for RCCs, and all
20 other terms proposed by the project. If applicable, the board shall
21 also establish the existing nuclear reactor baseline in its order
22 designating provisional qualification.

23 (cf: P.L.2026, c.42, s.4)

24

25 4. Section 5 of P.L.2026, c.42 (C.48:9A-10) is amended to read
26 as follows:

27 5. a. Following a board order granting provisional qualification
28 status to a proposed project, the board and the authority shall enter
29 into negotiations with any provisionally qualified project
30 concerning the RCC price and schedule, any real estate terms,
31 agreements on supply chain guarantees, and any other terms and
32 conditions the board and the authority deem necessary based on the
33 information provided in the expression of interest. The board and
34 the authority may request and consider any additional information
35 they find necessary in connection with their evaluation and
36 negotiations. Throughout the negotiation process, the authority and
37 the board shall consult with the Department of Environmental
38 Protection and other State agencies with applicable expertise. The
39 Division of Rate Counsel, in, but not of, the Department of the
40 Treasury, shall have, with respect to this section and sections 6 and
41 7 of **【this act】** P.L.2026, c.42 (C.48:9A-11 and C.48:9A-12), the
42 right to receive all filings and submissions made to the board or the
43 authority, to submit written comments and evidence, and to petition
44 the board for reconsideration of any final board order.

45 b. Board staff, the authority's chief executive officer, and a
46 provisionally qualified project shall enter into a stipulation
47 formalizing all terms agreed upon as a result of negotiations. The

- 1 stipulation shall include, but need not be limited to, the following
2 terms:
- 3 (1) the target commercial operation date;
 - 4 (2) the verified construction cost estimate, which shall be a Class
5 II cost estimate. The verified total construction cost estimate shall
6 be memorialized in any final board order issued pursuant to section
7 6 of **【this act】** P.L.2026, c.42 (C.48:9A-11) and shall serve as the
8 baseline against which cost overruns are measured for purposes of
9 allocating non-performance costs to the project;
 - 10 (3) the RCC value and payment schedule, including budgeted
11 risk and contingency value that is designed to reflect the unique
12 risks associated with the development, construction, and operation
13 of a nuclear or fusion electricity generating facility;
 - 14 (4) the percentage of the revenues from the qualified project's
15 sale of energy, capacity, or ancillary services in PJM during the
16 RCC term to be returned to New Jersey ratepayers;
 - 17 (5) critical project development milestones, the timeline for their
18 achievement, and the consequences of failure to meet the
19 milestones;
 - 20 (6) ongoing project reporting requirements;
 - 21 (7) a requirement that no RCC payment shall be made until the
22 qualified project is generating electricity and transmitting it to the
23 electric grid;
 - 24 (8) the amount of nuclear energy that the qualified project shall
25 make available to the PJM Reliability Pricing Model capacity
26 market, Fixed Resource Requirement, or any other procurement
27 program operated by PJM, as appropriate;
 - 28 (9) the amount that the project entity shall reimburse the
29 authority and the board for all reasonable costs incurred in
30 reviewing the project, including consulting fees;
 - 31 (10) the percentage of new, unanticipated tax credits or
32 governmental benefits that the qualified project entity shall pass
33 along to ratepayers. A qualified project entity may retain new,
34 unanticipated tax credits or other governmental benefits in order to
35 recover its administrative costs related to the qualified project. In
36 addition to the amount of new, unanticipated tax credits or other
37 governmental benefits the qualified project entity retains to cover
38 administrative costs, the qualified project entity may retain up to the
39 lesser of 10 percent, or a different percentage, as negotiated in the
40 stipulation, of any new, unanticipated tax credits or governmental
41 benefits the qualified project entity receives, so long as the amount
42 does not exceed an absolute cap on the allowable retention amount,
43 as also negotiated in the stipulation;
 - 44 (11) an agreement that the qualified project entity shall
45 implement all reasonable wildlife protection measures necessary to
46 sustain the health and population of wildlife species present in and
47 around the facility site, pursuant to all applicable State and federal
48 requirements; and

1 (12) an agreement that the qualified project entity shall conduct
2 ongoing community outreach and public education regarding
3 nuclear or fusion energy during construction and development of
4 the project and throughout the facility's operating life.

5 c. Once a stipulation is completed, the stipulation, including all
6 terms, will be made public and the public shall have 30 days to
7 submit comments on the stipulation. During the public comment
8 period, the board shall conduct a public hearing in the municipality
9 that the provisionally qualified project is located.

10 d. Within 30 days of the close of the public comment period,
11 board staff and the authority's chief executive officer shall review
12 all public comments and discuss potential amendments to the
13 stipulation with the parties where appropriate.

14 e. A stipulation entered into pursuant to this section shall
15 represent the recommended terms of agreement among board staff,
16 the authority's chief executive officer, and a provisionally qualified
17 project entity but shall not become effective or binding upon the
18 qualified project entity, the State, or any other party unless and until
19 the board issues a final order approving the stipulation pursuant to
20 section 6 of **【this act】** P.L.2026, c.42 (C.48:9A-11).

21 f. Neither board staff nor the chief executive officer of the
22 authority shall be required to obtain prior approval from the board
23 members or from the authority's board of directors to enter into a
24 stipulation under this section. The stipulation, along with a cost
25 benefit analysis of the stipulation, shall be presented to the board,
26 together with the board staff's and the authority's chief executive
27 officer's recommendations, for the board's consideration.

28 g. If board staff, the authority's chief executive officer, and a
29 provisionally qualified project entity do not enter into a stipulation
30 within 12 months of the grant of provisional qualification status,
31 that status shall automatically lapse and the project shall cease to be
32 a provisionally qualified project, unless board staff, the authority's
33 chief executive officer, and the project entity consent in writing to
34 extend the negotiating period for one or more additional periods of
35 not more than six months each.

36 h. Notwithstanding any procurement threshold established under
37 R.S.52:25-23, any circular issued pursuant thereto by the Division
38 of Purchase and Property in the Department of the Treasury, or any
39 board-specific procurement threshold, the board or the authority
40 may engage consulting services on a non-advertised basis using the
41 procedures authorized by R.S.52:25-23 and set forth by the Director
42 of the Division of Purchase and Property in Circular No. 26-02-DPP
43 to assist in carrying out its duties under **【this act】** P.L.2026, c.42
44 (C.48:9A-6 et seq.). Any such engagement shall not be applied
45 against the board's or the authority's delegated procurement
46 authority threshold. The requirements of subsection a. of section 1
47 of P.L.2005, c.92 (C.52:34-13.2) shall not apply to any consulting
48 engagement entered into under this section, provided that any such

1 engagement shall comply with all applicable federal export control
2 laws, rules, and regulations.

3 (cf: P.L.2026, c.42, c.5)
4

5 5. Section 6 of P.L.2026, c.42 (C.48:9A-11) is amended to read
6 as follows:

7 6. a. No later than 90 days after receiving a stipulation pursuant
8 to subsection e. of section 5 of **【this act】** P.L.2026, c.42 (C.48:9A-
9 10), the board, after consultation with the Division of Rate Counsel,
10 in, but not of, the Department of the Treasury, and after providing
11 public notice of the proposed order and an opportunity for written
12 comment by interested members of the public for a period of 30 days,
13 shall issue an order approving the project, provided the board finds
14 that the stipulation terms ensure each of the following conditions:

15 (1) all anticipated project costs are necessary and justified, and cost
16 estimates are as accurate and realistic as current information permits;

17 (2) the entity proposing the project demonstrates financial integrity
18 and sufficient access to capital, **【including】** which may include a loan
19 or loan guarantee from the United States Department of Energy or
20 Department of Commerce covering all or a portion of construction
21 costs, sufficient to support a reasonable expectation of project
22 completion;

23 (3) the proposed RCC structure distributes the risks and rewards of
24 the project between ratepayers and the qualified project entity in a just
25 and reasonable manner;

26 (4) the RCC structure will not impose costs on New Jersey electric
27 customers that are unreasonable or excessive, whether considered
28 independently or in relation to customers' overall bills;

29 (5) the baseline threshold results in a net increase in nuclear or
30 fusion energy made available to the PJM Reliability Pricing Model
31 capacity market, the Fixed Resource Requirement, or any other
32 procurement program operated by PJM, as appropriate, equal to
33 greater than 50 percent of the project's rated output;

34 (6) there is a net benefit to ratepayers;

35 (7) any energy offtake agreement shall not provide a per megawatt-
36 hour price for electricity lower than the RCC price set in the final
37 board order, as may be adjusted pursuant to subsection e. of section 6
38 of **【this act】** P.L.2026, c.42 (C.48:9A-11), unless the energy buyer
39 has contributed equity capital or will assume construction risk for the
40 proposed project such that the energy buyer's total cost contribution
41 per megawatt-hour of contracted output, calculated over the term of
42 the RCC, equals or exceeds the RCC price, including any board
43 authorized adjustment; and

44 (8) any additional criteria established as part of the board's order
45 granting provisional qualification pursuant to subsection g. of section 4
46 of **【this act】** P.L.2026, c.42 (C.48:9A-9) have been met.

47 b. In evaluating the reasonableness of the proposed RCC price and
48 schedule, the board shall consider:

1 (1) projected electrical output and anticipated market prices over
2 the anticipated life of the project, including a forecast of electricity
3 revenues from the sale of energy to the grid and capacity derived from
4 the project;

5 (2) anticipated revenues from RCC sales;

6 (3) the projected return of market revenues to New Jersey
7 ratepayers over the RCC term, including any merchant exposure
8 assumed by the project developer or profit sharing if market revenues
9 exceed a specified level;

10 (4) the verified total construction cost estimate;

11 (5) additional project funding and financing sources, including any
12 energy offtake or co-location arrangement;

13 (6) the net cost impact on New Jersey electric customers; and

14 (7) the proposed commercial operation date.

15 c. If the board is considering more than one qualified project, the
16 board shall consider the ratepayer impact of the qualified projects in
17 totality, and even if each qualified project independently may result in
18 affordable rates to ratepayers, if the cumulative impact of more than
19 one qualified project is unaffordable to ratepayers, the board shall not
20 approve of a subsequent project.

21 d. If the board does not find that the conditions of this section are
22 satisfied, the board shall issue an order setting forth the basis for its
23 determination. Within 60 days of the order, board staff, the chief
24 executive officer of the authority, and the qualified project entity may
25 submit a revised stipulation addressing the board's concerns, which the
26 board shall consider under the same standards set forth in this section,
27 including all public notice requirements. The provisional qualification
28 status of the project shall remain in effect during the renegotiation
29 period, notwithstanding the time limits in subsection g. of section 5 of
30 **[this act]** P.L.2026, c.42 (C.48:9A-10).

31 e. A qualified project entity may petition the board for
32 modification of the final board order, including to seek an increase of
33 verified total construction costs or due to a change in State law or
34 regulation. The board may, upon consent of the authority's chief
35 executive officer, after consultation with the Division of Rate Counsel,
36 in, but not of, the Department of the Treasury, and an opportunity for
37 the public to be heard, grant such a petition upon finding that the
38 requested modification was reasonably unforeseeable, is necessary to
39 preserve the project's continued financial viability, will not impose an
40 unreasonable burden on ratepayers, and that the project entity will
41 maintain the project's economic development and workforce
42 commitments. Any proposed modification that would increase the
43 RCC price, extend the RCC term, reduce the share of market revenues
44 returned to ratepayers, or otherwise materially increase the net cost to
45 ratepayers shall additionally require: (1) an opportunity for written
46 comment by the Division of Rate Counsel and by interested members
47 of the public not less than 30 days prior to any board action; and (2) an
48 express finding by the board, supported by substantial evidence, that

1 the modification is necessary and in the public interest and that there is
2 still a net benefit to ratepayers. For the purposes of this subsection,
3 “change in State law or regulation” means any change that imposes a
4 moratorium on the construction or operation of the qualified project; or
5 imposes regulatory requirements that, considered together,
6 significantly increase the total construction cost of the qualified
7 project, as projected at the time of the change in law, provided that the
8 qualified project entity has attempted to mitigate the effects of the
9 change in law to the maximum extent reasonably practicable.

10 f. Before entering into any agreement after preliminary
11 qualification to sell electricity to a co-located energy user or to any end
12 user through a direct power purchase agreement, the qualified project
13 entity shall obtain board approval. Approval of any such agreement
14 shall include a requirement that some percentage of revenues of any
15 direct power purchase agreement be returned to ratepayers pursuant to
16 paragraph (2) of subsection d. of section 7 of **[this act]** P.L.2026,
17 c.42 (C.48:9A-12).

18 g. A board order issued pursuant to this section shall not be
19 subject to change without the joint consent of the board, the chief
20 executive officer of the authority, and the qualified project entity.
21 (cf: P.L.2026, c.42, s.6)

22
23 6. Section 7 of P.L.2026, c.42 (C.48:9A-12) is amended to read
24 as follows:

25 7. a. No later than 18 months after first issuing a board order
26 memorializing qualified project terms pursuant to section 6 of **[this**
27 **act]** P.L.2026, c.42 (C.48:9A-6 et seq.), the board shall establish, by
28 adopting rules and regulations, a Reliable Capacity Certificate
29 program to require that a proportional number of the megawatt hours
30 sold in this State by each electric power supplier and each basic
31 generation service provider be from nuclear energy or fusion energy
32 generated by qualified projects. The RCC program shall be designed
33 to support at least 1,100 megawatts of nuclear energy generation
34 capacity, as defined in the PJM Open Access Transmission Tariff, and
35 750 megawatts of fusion energy generation capacity, as defined in the
36 PJM Open Access Transmission Tariff, from qualified projects. Each
37 obligated entity’s required nuclear energy share shall correspond to the
38 projected RCC output of each designated qualified project, over a term
39 of not more than 40 years as approved by the board, commencing on
40 the commercial operation date of the qualified project. The **[1,100]**
41 1,850 megawatt figure stated in this subsection shall constitute a
42 program design parameter and shall not constitute a commitment by
43 the State to procure any specific quantity of generation. The State
44 shall procure generation only from qualified projects approved by the
45 board and on the terms set forth in a final board order issued pursuant
46 to section 6 of **[this act]** P.L.2026, c.42 (C.48:9A-11).

47 b. (1) A qualified project shall earn one RCC for each megawatt-
48 hour of electricity it generates. If a qualified project executes an

1 agreement to sell more than one percent of its total generation to any
2 single co-located energy user or through a direct power purchase
3 agreement with an end user, the megawatt-hours sold pursuant to the
4 agreement shall not be eligible for RCC credit.

5 (2) Each calendar year beginning with the qualified project's
6 commercial operation date and continuing through the expiration of
7 the RCC term, a qualified project shall report to the board its aggregate
8 output. For any calendar year in which the aggregate output falls
9 below the baseline threshold established by the board pursuant to
10 paragraph (5) of subsection a. of section 6 of **【this act】** P.L.2026,
11 c.42 (C.48:9A-11), due to an agreement with a co-located energy user
12 or direct power purchase agreement, the quantity of megawatt-hours
13 generated by the qualified project that are eligible to receive RCCs in
14 that calendar year shall be reduced by the corresponding shortfall.

15 c. Each electric power supplier and basic generation service
16 provider shall satisfy its RCC program obligation through the purchase
17 of RCCs at the price and over the compliance period required by the
18 board's order designating a qualified project.

19 d. (1) Revenues earned by a qualified project from sales of energy,
20 capacity, or ancillary services in PJM during the RCC program term
21 shall be returned to the electric power supplier or basic generation
22 service provider, as appropriate, no later than 60 days from the receipt
23 of such revenues and the electric power supplier or basic generation
24 service provider shall have no more than 90 days to return those
25 revenues to New Jersey ratepayers as set forth in a final board order
26 issued pursuant to section 6 of **【this act】** P.L.2026, c.42 (C.48:9A-
27 11)

28 (2) A share of revenues, as agreed between the authority, the
29 board, and the qualified project, derived from a direct power purchase
30 agreement with an end user that neither contributed to construction
31 financing, nor was addressed in the final board order, shall be returned
32 to the electric power supplier or basic generation service provider, as
33 appropriate, no later than 60 days from the receipt of such revenues
34 and the electric power supplier or basic generation service provider
35 shall have no more than 90 days to return those revenues to ratepayers.

36 e. A qualified project shall not be eligible to receive an RCC for a
37 megawatt hour of electricity generation if the qualified project also
38 receives a zero-emission certificate pursuant to section 3 of P.L.2018,
39 c.16 (C.48:3-87.5) for that megawatt hour of electricity generation.

40 (cf: P.L.2026, c.42, s.7)

41
42 7. This act shall take effect immediately.

43 44 45 STATEMENT

46
47 This bill would amend the "Power NJ Act," P.L.2026, c.42
48 (C.48:9A-6 et seq.) to include fusion energy generation. Under

1 current law, the Board of Public Utilities, in collaboration with the
2 New Jersey Economic Development Authority, is required to
3 establish a program to procure advanced nuclear energy facilities.
4 This bill would require, in addition to the current procurement
5 goals, the procurement of 750 megawatts of fusion energy capacity
6 from projects that qualify for the program.