

SENATE, No. 2971

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED AUGUST 8, 2022

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator JEAN STANFIELD

District 8 (Atlantic, Burlington and Camden)

Co-Sponsored by:

Senator Diegnan

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/22/2022)

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

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

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

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

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

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

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

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

42 e. The order of the application of the credits allowed under this
43 section and any other credits allowed by law shall be based on the
44 order in which completed applications are received by the
45 Department of the Treasury. The amount of the credit applied
46 under this section against the tax imposed pursuant to section 5 of
47 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with

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

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

9 g. As used in this section:

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

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

18

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (2) Prior to allocating an incentive tax credit award to the
39 facility project, the authority shall confirm with the Department of
40 Labor and Workforce Development, the Department of
41 Environmental Protection, and the Department of the Treasury that
42 the developer is in substantial good standing with the respective
43 department, or a developer not in substantial good standing with
44 each department has entered into an agreement with the respective
45 department that includes a practical corrective action plan for the
46 developer, and that the developer shall confirm that each contractor
47 or subcontractor performing work at the facility project: (1) is
48 registered as required by "The Public Works Contractor

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

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

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

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

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

41 (5) A developer shall submit, prior to the first disbursement of
42 tax credits under the incentive tax credit agreement, but no later
43 than six months following project completion, satisfactory evidence
44 of actual project costs, as certified by a certified public accountant,
45 evidence of project completion that begins during the eligibility
46 period indicated in the incentive tax credit agreement. The
47 developer, or an authorized agent of the developer, shall certify that
48 the information provided pursuant to this subsection is true under

1 the penalty of perjury. Claims, records, or statements submitted by
2 a developer to the authority in order to receive tax credits shall not
3 be considered claims, records, or statements made in connection
4 with State tax laws.

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

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

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

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

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

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

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

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

- 40 the name of the transferrer;
- 41 the name of the transferee;
- 42 the value of the tax credit transfer certificate; and
- 43 the consideration received by the transferrer.

44 h. (1) A developer who has entered into an incentive tax credit
45 agreement pursuant to subsection e. of this section may, upon notice
46 to and written consent of the authority and State Treasurer, pledge,
47 assign, transfer, or sell any or all of its right, title, and interest in
48 and to the incentive tax credit agreement and in the incentive tax

1 credits under the incentive tax credit agreement, and the right to
2 receive the incentive tax credits, along with the rights and remedies
3 provided to the developer under the incentive tax credit agreement.
4 Any assignment shall be an absolute assignment for all purposes,
5 including the federal bankruptcy code.

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

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

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

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

27 the value of the right, title, or interest in the incentive tax credit
28 agreement; and

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

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

42

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

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

46 "Advanced nuclear energy credit" means the financial credit
47 provided by the board to the first advanced nuclear energy facility
48 operating in the State, on an annual basis for the first 25 years of

1 facility operations, pursuant to section 2 of P.L. , c. (C.)
2 (pending before the Legislature as this bill).

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

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

22 "Base load electric power generation facility" means an electric
23 power generation facility intended to be operated at a greater than
24 50 percent capacity factor including, but not limited to, a combined
25 cycle power facility and a combined heat and power facility.

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

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

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

45 "Basic generation service provider" or "provider" means a
46 provider of basic generation service.

47 "Basic generation service transition costs" means the amount by
48 which the payments by an electric public utility for the procurement

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

20 "Board" means the New Jersey Board of Public Utilities or any
21 successor agency.

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

46 "Bondable stranded costs rate order" means one or more
47 irrevocable written orders issued by the board pursuant to P.L.1999,
48 c.23 (C.48:3-49 et al.) which determines the amount of bondable

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

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

23 "British thermal unit" or "Btu" means the amount of heat
24 required to increase the temperature of one pound of water by one
25 degree Fahrenheit.

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

33 "Brownfield" means any former or current commercial or
34 industrial site that is currently vacant or underutilized and on which
35 there has been, or there is suspected to have been, a discharge of a
36 contaminant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 "Customer account service" means metering, billing, or such
42 other administrative activity associated with maintaining a customer
43 account.

44 "Delivery year" or "DY" means the 12-month period from June
45 1st through May 31st, numbered according to the calendar year in
46 which it ends.

47 "Demand side management" means the management of customer
48 demand for energy service through the implementation of cost-

1 effective energy efficiency technologies, including, but not limited
2 to, installed conservation, load management, and energy efficiency
3 measures on and in the residential, commercial, industrial,
4 institutional, and governmental premises and facilities in this State.

5 "Electric generation service" means the provision of retail
6 electric energy and capacity which is generated off-site from the
7 location at which the consumption of such electric energy and
8 capacity is metered for retail billing purposes, including agreements
9 and arrangements related thereto.

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

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

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

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

40 "Electronic signature" means an electronic sound, symbol, or
41 process, attached to, or logically associated with, a contract or other
42 record, and executed or adopted by a person with the intent to sign
43 the record.

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

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

7 "Energy consumer" means a business or residential consumer of
8 electric generation service or gas supply service located within the
9 territorial jurisdiction of a government aggregator.

10 "Energy efficiency portfolio standard" means a requirement to
11 procure a specified amount of energy efficiency or demand side
12 management resources as a means of managing and reducing energy
13 usage and demand by customers.

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

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

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

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

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

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

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

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

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

23 "Gas supply service" means the provision to customers of the
24 retail commodity of gas, but does not include any regulated
25 distribution service.

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

38 "Government energy aggregation program" means a program and
39 procedure pursuant to which a government aggregator enters into a
40 written contract for the provision of electric generation service or
41 gas supply service on behalf of business or residential customers
42 within its territorial jurisdiction.

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

46 "Green Acres program" means the program for the acquisition of
47 lands for recreation and conservation purposes pursuant to
48 P.L.1961, c.45 (C.13:8A-1 et seq.), P.L.1971, c.419 (C.13:8A-19 et

1 seq.), P.L.1975, c.155 (C.13:8A-35 et seq.), any Green Acres bond
2 act, P.L.1999, c.152 (C.13:8C-1 et seq.), and P.L.2016, c.12
3 (C.13:8C-43 et seq.).

4 "Greenhouse gas emissions portfolio standard" means a
5 requirement that addresses or limits the amount of carbon dioxide
6 emissions indirectly resulting from the use of electricity as applied
7 to any electric power suppliers and basic generation service
8 providers of electricity.

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

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

28 "Incremental auction" means an auction conducted by PJM, as
29 part of PJM's reliability pricing model, prior to the start of the
30 delivery year to secure electric capacity as necessary to satisfy the
31 capacity requirements for that delivery year, that is not otherwise
32 provided for in the base residual auction.

33 "Leakage" means an increase in greenhouse gas emissions
34 related to generation sources located outside of the State that are not
35 subject to a state, interstate, or regional greenhouse gas emissions
36 cap or standard that applies to generation sources located within the
37 State.

38 "Locational deliverability area" or "LDA" means one or more of
39 the zones within the PJM region which are used to evaluate area
40 transmission constraints and reliability issues including electric
41 public utility company zones, sub-zones, and combinations of
42 zones.

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

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

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

17 "Mid-merit electric power generation facility" means a
18 generation facility that operates at a capacity factor between
19 baseload generation facilities and peaker generation facilities.

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

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

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

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

37 "Offshore wind energy" means electric energy produced by a
38 qualified offshore wind project.

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

43 "Off-site end use thermal energy services customer" means an
44 end use customer that purchases thermal energy services from an
45 on-site generation facility, combined heat and power facility, or co-
46 generation facility, and that is located on property that is separated
47 from the property on which the on-site generation facility,
48 combined heat and power facility, or co-generation facility is

1 located by more than one easement, public thoroughfare, or
2 transportation or utility-owned right-of-way.

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

20 "Open access offshore wind transmission facility" means an open
21 access transmission facility, located either in the Atlantic Ocean or
22 offshore, used to facilitate the collection of offshore wind energy or
23 its delivery to the electronic transmission system in this State.

24 "Person" means an individual, partnership, corporation,
25 association, trust, limited liability company, governmental entity, or
26 other legal entity.

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

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

38 "Preserved farmland" means land on which a development
39 easement was conveyed to, or retained by, the State Agriculture
40 Development Committee, a county agriculture development board,
41 or a qualifying tax exempt nonprofit organization pursuant to the
42 provisions of section 24 of P.L.1983, c.32 (C.4:1C-31), section 5 of
43 P.L.1988, c.4 (C.4:1C-31.1), section 1 of P.L.1989, c.28 (C.4:1C-
44 38), section 1 of P.L.1999, c.180 (C.4:1C-43.1), sections 37 through
45 40 of P.L.1999, c.152 (C.13:8C-37 through C.13:8C-40), or any
46 other State law enacted for farmland preservation purposes.

47 "Private aggregator" means a non-government aggregator that is
48 a duly-organized business or non-profit organization authorized to

1 do business in this State that enters into a contract with a duly
2 licensed electric power supplier for the purchase of electric energy
3 and capacity, or with a duly licensed gas supplier for the purchase
4 of gas supply service, on behalf of multiple end-use customers by
5 combining the loads of those customers.

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

18 "Public utility holding company" means: (1) any company that,
19 directly or indirectly, owns, controls, or holds with power to vote,
20 10 percent or more of the outstanding voting securities of an
21 electric public utility or a gas public utility or of a company which
22 is a public utility holding company by virtue of this definition,
23 unless the Securities and Exchange Commission, or its successor,
24 by order declares such company not to be a public utility holding
25 company under the Public Utility Holding Company Act of 1935,
26 15 U.S.C. s.79 et seq., or its successor; or (2) any person that the
27 Securities and Exchange Commission, or its successor, determines,
28 after notice and opportunity for hearing, directly or indirectly, to
29 exercise, either alone or pursuant to an arrangement or
30 understanding with one or more other persons, such a controlling
31 influence over the management or policies of an electric public
32 utility or a gas public utility or public utility holding company as to
33 make it necessary or appropriate in the public interest or for the
34 protection of investors or consumers that such person be subject to
35 the obligations, duties, and liabilities imposed in the Public Utility
36 Holding Company Act of 1935, 15 U.S.C. s.79 et seq., or its
37 successor act.

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

44 "Registration program" means an administrative process
45 developed by the board pursuant to subsection u. of section 38 of
46 P.L.1999, c.23 (C.48:3-87) that requires all owners of solar electric
47 power generation facilities connected to the distribution system that
48 intend to generate SRECs, to file with the board documents

1 detailing the size, location, interconnection plan, land use, and other
2 project information as required by the board.

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

8 "Related competitive business segment of an electric public
9 utility or gas public utility" means any business venture of an
10 electric public utility or gas public utility including, but not limited
11 to, functionally separate business units, joint ventures, and
12 partnerships, that offers to provide or provides competitive services.

13 "Related competitive business segment of a public utility holding
14 company" means any business venture of a public utility holding
15 company, including, but not limited to, functionally separate
16 business units, joint ventures, and partnerships and subsidiaries, that
17 offers to provide or provides competitive services, but does not
18 include any related competitive business segments of an electric
19 public utility or gas public utility.

20 "Reliability pricing model" or "RPM" means PJM's capacity-
21 market model, and its successors, that secures capacity on behalf of
22 electric load serving entities to satisfy load obligations not satisfied
23 through the output of electric generation facilities owned by those
24 entities, or otherwise secured by those entities through bilateral
25 contracts.

26 "Renewable energy certificate" or "REC" means a certificate
27 representing the environmental benefits or attributes of one
28 megawatt-hour of generation from a generating facility that
29 produces Class I or Class II renewable energy, but shall not include
30 a solar renewable energy certificate or an offshore wind renewable
31 energy certificate.

32 "Resource clearing price" or "RCP" means the clearing price
33 established for the applicable locational deliverability area by the
34 base residual auction or incremental auction, as determined by the
35 optimization algorithm for each auction, conducted by PJM as part
36 of PJM's reliability pricing model.

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

44 "Restructuring related costs" means reasonably incurred costs
45 directly related to the restructuring of the electric power industry,
46 including the closure, sale, functional separation, and divestiture of
47 generation and other competitive utility assets by a public utility, or
48 the provision of competitive services as those costs are determined

1 by the board, and which are not stranded costs as defined in
2 P.L.1999, c.23 (C.48:3-49 et al.) but may include, but not be limited
3 to, investments in management information systems, and which
4 shall include expenses related to employees affected by
5 restructuring which result in efficiencies and which result in
6 benefits to ratepayers, such as training or retraining at the level
7 equivalent to one year's training at a vocational or technical school
8 or county community college, the provision of severance pay of two
9 weeks of base pay for each year of full-time employment, and a
10 maximum of 24 months' continued health care coverage. Except as
11 to expenses related to employees affected by restructuring,
12 "restructuring related costs" shall not include going forward costs.

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

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

30 "Sales representative" means a person employed by, acting on
31 behalf of, or as an independent contractor for, an electric power
32 supplier, gas supplier, broker, energy agent, marketer, or private
33 aggregator who, by any means, solicits a potential residential
34 customer for the provision of electric generation service or gas
35 supply service.

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

38 "School district" means a local or regional school district
39 established pursuant to chapter 8 or chapter 13 of Title 18A of the
40 New Jersey Statutes, a county special services school district
41 established pursuant to article 8 of chapter 46 of Title 18A of the
42 New Jersey Statutes, a county vocational school district established
43 pursuant to article 3 of chapter 54 of Title 18A of the New Jersey
44 Statutes, and a district under full State intervention pursuant to
45 P.L.1987, c.399 (C.18A:7A-34 et al.).

46 "Shopping credit" means an amount deducted from the bill of an
47 electric public utility customer to reflect the fact that the customer

1 has switched to an electric power supplier and no longer takes basic
2 generation service from the electric public utility.

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

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

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

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

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

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

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

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

44 "SREC-II value per megawatt-hour" means the value, in dollars-
45 per-megawatt-hour, assigned by the board to each solar electric
46 power generation facility eligible to receive SREC-IIs, which is
47 paid to the facility and which represents the environmental
48 attributes of the facility.

1 "Standard offer capacity agreement" or "SOCA" means a
2 financially-settled transaction agreement, approved by board order,
3 that provides for eligible generators to receive payments from the
4 electric public utilities for a defined amount of electric capacity for
5 a term to be determined by the board but not to exceed 15 years,
6 and for such payments to be a fully non-bypassable charge, with
7 such an order, once issued, being irrevocable.

8 "Standard offer capacity price" or "SOCP" means the capacity
9 price that is fixed for the term of the SOCA and which is the price
10 to be received by eligible generators under a board-approved
11 SOCA.

12 "State entity" means a department, agency, or office of State
13 government, a State university or college, or an authority created by
14 the State.

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

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

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

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

42 "Thermal efficiency" means the useful electric energy output of a
43 facility, plus the useful thermal energy output of the facility,
44 expressed as a percentage of the total energy input to the facility.

45 "Transition bond charge" means a charge, expressed as an
46 amount per kilowatt hour, that is authorized by and imposed on
47 electric public utility ratepayers pursuant to a bondable stranded

1 costs rate order, as modified at any time pursuant to the provisions
2 of P.L.1999, c.23 (C.48:3-49 et al.).

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

16 "Transition period" means the period from August 1, 1999
17 through July 31, 2003.

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

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

28 "Unsolicited advertisement" means any advertising claims of the
29 commercial availability or quality of services provided by an
30 electric power supplier, gas supplier, broker, energy agent,
31 marketer, private aggregator, sales representative, or telemarketer
32 which is transmitted to a potential customer without that customer's
33 prior express invitation or permission.

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

35

36 4. (New section) a. Commencing on January 1 next following
37 the date of enactment of P.L. , c. (C.) (pending before the
38 Legislature as this bill), and on January 1 of each year thereafter,
39 the board shall provide a financial grant to the first advanced
40 nuclear energy facility operating in the State, in order to offset the
41 costs associated with the construction and operation of the advanced
42 nuclear energy facility. The grants made available under this
43 subsection shall be known as advanced nuclear energy grants.

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

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

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

21 b. The board shall permit each electric public utility to recover
22 some or all of the annual fee costs imposed on the utility, pursuant
23 to subsection a. of this section, through the use of an advanced
24 nuclear energy facilitation charge that shall be collected, by the
25 electric public utility, as a non-bypassable charge imposed on all of
26 the public utility's customers.

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

36
37 6. This act shall take effect immediately and section 1 shall
38 apply to privilege periods beginning after the date of enactment.

39
40
41 STATEMENT

42
43 This bill establishes two tax credits and a financial grant related
44 to the construction and operation of advanced nuclear energy
45 facilities. The bill allows a taxpayer that is a manufacturer of
46 equipment and components for advanced nuclear facilities licensed
47 by the United States Nuclear Regulatory Commission to apply for a
48 corporation business tax credit equal to 15 percent of the amount

1 paid during the privilege period for: (1) new manufacturing
2 equipment installed at a new or existing manufacturing facility
3 located within the State; and (2) the acquisition, construction,
4 reconstruction, installation, or erection of improvements or
5 additions that result in the renovation, modernization, or expansion
6 of a manufacturing facility located within the State.

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

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

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

35 Finally, this bill establishes a financial grant to facilitate the
36 construction and operation of the first advanced nuclear energy
37 facility in the State. The bill provides that commencing on January
38 1 next following the bill’s enactment, and on January 1 of each year
39 thereafter, the Board of Public Utilities (BPU) will be required to
40 provide a financial grant (known as an advanced nuclear energy
41 grant) to the first advanced nuclear energy facility operating in the
42 State. The grant is to equal \$50 per megawatt-hour of electricity
43 generated by the advanced nuclear energy facility in the preceding
44 calendar year. The first advanced nuclear energy facility in the
45 State would be entitled to receive such a grant in each of the first 25
46 years of the facility’s operations.