

# ASSEMBLY, No. 3724

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MARCH 22, 2018

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex and Morris)**

**Assemblyman JOHN J. BURZICHELLI**

**District 3 (Cumberland, Gloucester and Salem)**

**Assemblyman WAYNE P. DEANGELO**

**District 14 (Mercer and Middlesex)**

**Assemblyman JOSEPH V. EGAN**

**District 17 (Middlesex and Somerset)**

**Co-Sponsored by:**

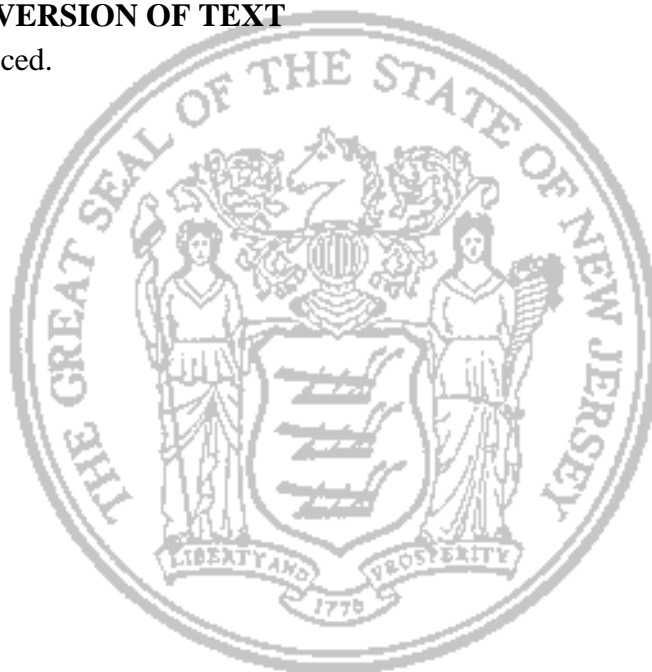
**Assemblywoman Jasey**

**SYNOPSIS**

Establishes zero emission certificate program for nuclear power plants.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 4/13/2018)**

1 AN ACT concerning nuclear energy, and supplementing Title 48 of  
2 the Revised Statutes.

3

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

6

7 1. a. The Legislature finds and declares that:

8 (1) Climate change is one of the greatest threats facing the State  
9 today and in the future. Reducing emissions of carbon dioxide,  
10 other greenhouse gases, and other pollutants by preserving and  
11 expanding zero-emission electricity generation within and outside  
12 the State is critical to mitigating the impacts of climate change.

13 (2) Nuclear power is a reliable, zero-emission source of energy  
14 that has supplied New Jersey's energy demands for decades.

15 (3) New Jersey has historically relied on a diverse mix of energy  
16 supply sources, including nuclear power, to meet the needs of its  
17 residents and businesses.

18 (4) Reducing emissions of carbon dioxide, other greenhouse  
19 gases, and other pollutants, and preserving and developing zero-  
20 emission electricity generation sources within and outside the State  
21 that currently provide electricity to customers in New Jersey, are  
22 critical to improving air quality for New Jersey residents.

23 (5) The Energy Master Plan of New Jersey, last updated in 2015,  
24 requires significant revisions to ensure that 100 percent of the  
25 State's electric energy needs are generated by clean energy sources  
26 by 2050, and any update to the Energy Master Plan by the State  
27 must include a focus on the expansion of renewable and zero-  
28 emission sources of energy.

29 (6) The existing renewable energy portfolio standard has been  
30 successful in promoting the growth of renewable energy generation  
31 to reduce air pollution in New Jersey; however, to achieve its near  
32 term environmental goals, New Jersey must expand its commitment  
33 to zero-emission energy generation and value the air quality and  
34 other environmental attributes of zero-emission generation sources  
35 that currently fall outside the scope of the existing renewable  
36 energy portfolio standard, including but not limited to nuclear  
37 power.

38 (7) Nuclear power generation is a critical component of the  
39 State's clean energy portfolio because nuclear power plants do not  
40 emit carbon dioxide, other greenhouse gases, or other pollutants; in  
41 addition, nuclear power is an important element of a diverse energy  
42 generation portfolio that currently meets approximately 40 percent  
43 of New Jersey's electric power needs.

44 (8) Several of the existing, licensed, and operating nuclear power  
45 plants within and outside the State that currently provide electricity  
46 to customers in New Jersey are at risk of abrupt retirement due to a  
47 variety of factors.

1 (9) The retirement of nuclear power generation will inevitably  
2 result in an immediate increase in air emissions within New Jersey  
3 due to increased reliance on natural gas-fired generation and coal-  
4 fired generation.

5 (10) Poor air quality has a disproportionate impact on the most  
6 vulnerable citizens of New Jersey including children, the elderly,  
7 and people living in poverty. Fossil-fuel power plants drive  
8 increases in pollutants like ground-level ozone, which aggravates  
9 respiratory illnesses for individuals with decreased lung function.  
10 Public health and environmental justice necessitate a reduction in  
11 these pollutants to protect the most vulnerable of our citizenry.

12 (11) As a coastal state, New Jersey is particularly exposed to  
13 many of the effects of global climate change, such as rising sea  
14 levels and more extreme storms. Many of New Jersey's most  
15 important commercial and tourism assets are located in coastal  
16 areas, and events like Superstorm Sandy have demonstrated the  
17 imminent and tangible threats that intense storms pose to New  
18 Jersey's economy and environment.

19 (12) Given the overwhelming scientific consensus that fossil-fuel  
20 use is causing potentially irreversible global climate change and the  
21 attendant environmental catastrophes, it is a moral imperative that  
22 the State invest in energy infrastructure within and outside the State  
23 that does not produce greenhouse gases.

24 b. The Legislature therefore determines that:

25 (1) The abrupt retirement of existing, licensed, and operating  
26 nuclear power plants within and outside the State that provide  
27 electricity to customers in New Jersey, and any concomitant  
28 increase in the proportion of New Jersey's electricity demand met  
29 by natural gas and coal, will result in a substantial increase in  
30 emissions of several serious pollutants, and associated adverse  
31 public health and environmental impacts. The pollutants resulting  
32 from increased fossil-fuel generation and drilling include emissions  
33 of carbon dioxide, methane, carbon monoxide, sulfur dioxide,  
34 particulate matter, volatile organic compounds, mercury, and  
35 nitrous oxides, and the creation of ozone.

36 (2) New Jersey is currently not projected to meet certain federal  
37 and State air quality standards and emissions level requirements,  
38 counties of the State are currently designated as nonattainment for  
39 the federal 8-hour Ozone National Ambient Air Quality Standard,  
40 and the abrupt retirement of nuclear power plants that serve New  
41 Jersey combined with increased reliance on natural gas-fired and  
42 coal-fired generation will substantially impede the State's ability to  
43 meet those federal and State air quality standards and emissions  
44 level requirements.

45 (3) In light of the primacy of natural gas use for heating in New  
46 Jersey, increased reliance on natural gas-fired generation will  
47 render the electric generation and delivery systems less resilient and  
48 more vulnerable to the impacts of extreme winter weather events,

1 natural gas pipeline accidents, and other factors affecting the  
2 deliverability of natural gas to electric power generating stations in  
3 and around the State.

4 (4) The model of providing credits to zero- or low-emission  
5 energy generation sources as compensation for their environmental  
6 attributes has proven successful for Class I and Class II renewable  
7 energy sources, which receive renewable energy certificates, and  
8 solar electric power generators, which receive solar renewable  
9 energy certificates.

10 (5) A program that recognizes and compensates nuclear energy  
11 generators in a manner similar to other non-emitting energy  
12 generation resources to the extent required to prevent the loss of  
13 nuclear energy, subject to independent review as provided in  
14 section 3 of this act, which the State's residents and businesses rely  
15 on for approximately 40 percent of their electricity needs, could, in  
16 the absence of equally or more cost-effective clean energy  
17 alternatives, further the State's interest in environmental protection  
18 and maintaining a diverse mix of energy sources.

19 (6) While recognizing the importance of nuclear energy  
20 generation, the State must also commit to the deployment of  
21 renewable and zero-emission energy to address climate change,  
22 drive economic development, and create new employment  
23 opportunities.

24 (7) In order to meet the goals under the "Global Warming  
25 Response Act," P.L.2007, c.112 (C.26:2C-37 et seq.), to reduce  
26 greenhouse gas emissions 80 percent by 2050, it will be necessary  
27 to significantly reduce emissions from the electric power generation  
28 sector. This will require reducing the State's heavy reliance on  
29 natural gas for electric power generation, the primary source of  
30 emissions from the electric power generation sector.

31 (8) The zero emission certificate program set forth in this act is  
32 structured such that its costs are guaranteed to be significantly less  
33 than the social cost of carbon emissions avoided by the continued  
34 operation of selected nuclear power plants, ensuring that the  
35 program does not place an undue financial burden on retail  
36 distribution customers. The social cost of carbon, as calculated by  
37 the U.S. Interagency Working Group on the Social Cost of Carbon  
38 in its August 2016 Technical Update, is an accepted measure of the  
39 cost of carbon emissions. Carbon emissions avoided by selected  
40 nuclear power plants are but one component of their emissions  
41 avoidance benefits.

42

43 2. As used in this act:

44 "Board" means the New Jersey Board of Public Utilities or any  
45 successor agency.

46 "Electric public utility" shall have the same meaning as provided  
47 in section 3 of P.L.1999, c.23 (C.48:3-51).

1       “Eligibility period” means the period of time, measured in  
2 energy years, during which a selected nuclear power plant may  
3 receive zero emission certificates pursuant to section 3 of this act.

4       “Eligible nuclear power plant” means a nuclear power plant  
5 certified by the board to allow it to be selected to participate in the  
6 program established pursuant to section 3 of this act.

7       “Emissions avoidance benefits” means the benefits associated  
8 with the preservation of better air quality and other environmental  
9 attributes caused by the production of electric energy from a  
10 selected nuclear power plant, as well as the reduction in damage  
11 that would otherwise be caused by carbon dioxide or other  
12 greenhouse gases or other pollutants emitted but for the production  
13 of electric energy from a selected nuclear power plant. Such  
14 damage threatens massive economic and lifestyle disruption, and  
15 includes but is not limited to a contribution to sea level rise, heat  
16 waves, more frequent and severe occurrence of extreme weather  
17 events, and damage to agriculture, water resources, public health,  
18 energy and communication systems, and the natural ecosystems that  
19 define and support communities.

20       “Energy year” or “EY” shall have the same meaning as provided  
21 in section 3 of P.L.1999, c.23 (C.48:3-51).

22       “Nuclear power plant” means an individual electric generating  
23 unit utilizing nuclear fuel to produce electric power.

24       “Selected nuclear power plant” means an eligible nuclear power  
25 plant selected by the board to participate in the program established  
26 pursuant to section 3 of this act.

27       “Zero emission certificate” or “ZEC” means a certificate, issued  
28 by the board or its designee, representing the fuel diversity, air  
29 quality, and other environmental attributes of one megawatt-hour of  
30 electricity generated by an eligible nuclear power plant selected by  
31 the board to participate in the program established pursuant to  
32 section 3 of this act.

33

34       3. a. As part of an application submitted to the board pursuant  
35 to subsection c. of this section, a nuclear power plant seeking to  
36 participate in the program established by this act shall provide to  
37 the board any financial information requested by the board  
38 pertaining to the nuclear power plant, including, but not limited to,  
39 certified cost projections over the next three energy years, including  
40 operation and maintenance expenses, fuel expenses, including spent  
41 fuel expenses, non-fuel capital expenses, fully allocated overhead  
42 costs, the cost of operational risks and market risks that would be  
43 avoided by ceasing operations, and any other information, financial  
44 or otherwise, to demonstrate that the nuclear power plant’s fuel  
45 diversity, air quality, and other environmental attributes are at risk  
46 of loss because the nuclear power plant is projected to not fully  
47 cover its costs and risks, or alternatively is projected to not fully  
48 cover its costs and risks including its risk-adjusted cost of capital.

1 For purposes of this subsection, "operational risks" shall include,  
2 but need not be limited to, the risk that operating costs will be  
3 higher than anticipated because of new regulatory mandates or  
4 equipment failures and the risk that per megawatt-hour costs will be  
5 higher than anticipated because of a lower than expected capacity  
6 factor, and "market risks" shall include, but need not be limited to,  
7 the risk of a forced outage and the associated costs arising from  
8 contractual obligations, and the risk that output from the nuclear  
9 power plant may not be able to be sold at projected levels. An  
10 application submitted to the board pursuant to subsection c. of this  
11 section shall also include a certification that the nuclear power plant  
12 will cease operations within three years unless the nuclear power  
13 plant experiences a material financial change, and the certification  
14 shall specify the necessary steps required to be completed to cease  
15 the nuclear power plant's operations.

16 The financial and other information required pursuant to this  
17 subsection may be submitted on a confidential basis and shall be  
18 treated and maintained as confidential by the board and shall not be  
19 subject to public disclosure, notwithstanding any law to the  
20 contrary, including the common law. The board and the Attorney  
21 General shall jointly approve the disclosure of such confidential  
22 information to a party that they deem essential to aid the board in  
23 making the determinations required under this subsection, provided  
24 that the party is not in a position such that disclosure could harm  
25 competition and the party agrees in writing to maintain the  
26 confidentiality of the confidential information.

27 b. Notwithstanding any law, rule, regulation, or order to the  
28 contrary, the board shall complete a proceeding no later than 180  
29 days after the date of enactment of this act to allow for the  
30 commencement of a program allowing for the issuance by the board  
31 of a zero emission certificate. In this proceeding, the board shall  
32 adopt, after notice, the opportunity for comment, and public  
33 hearing, an order establishing a ZEC program for selected nuclear  
34 power plants which shall include, but need not be limited to:

35 (1) a method and application process for determination of the  
36 eligibility and selection of nuclear power plants; and

37 (2) establishment of a mechanism for each electric public utility  
38 to purchase ZECs from selected nuclear power plants and a  
39 mechanism for the board to effectuate the provisions of subsection  
40 i. of this section.

41 c. No later than 210 days after the date of enactment of this act,  
42 a nuclear power plant seeking to participate in the program  
43 established by this act shall submit its application to the board.

44 d. Notwithstanding any law, rule, regulation, or order to the  
45 contrary, the board shall complete a proceeding no later than 330  
46 days after the date of enactment of this act and shall adopt, after  
47 notice, the opportunity for comment, and public hearing, an order  
48 establishing a rank-ordered list of the nuclear power plants eligible

1 to be selected to receive ZECs, and establishing which eligible  
2 nuclear power plants have been selected to receive ZECs pursuant  
3 to this section. If the board determines, in its discretion, that no  
4 nuclear plant that applies pursuant to subsection c. of this section  
5 satisfies the objectives of this act, then the board shall be under no  
6 obligation to certify any nuclear power plant as an eligible nuclear  
7 power plant.

8 e. To be certified by the board as an eligible nuclear power  
9 plant, a nuclear power plant shall:

10 (1) be licensed to operate by the United States Nuclear  
11 Regulatory Commission by the date of enactment of this act and  
12 through 2030 or later;

13 (2) demonstrate to the satisfaction of the board that it makes a  
14 significant and material contribution to the air quality in the State  
15 by minimizing emissions that result from electricity consumed in  
16 New Jersey, it minimizes harmful emissions that adversely affect  
17 the citizens of the State, and if the nuclear power plant were to be  
18 retired, that that retirement would significantly and negatively  
19 impact New Jersey's ability to comply with State air emissions  
20 reduction requirements;

21 (3) demonstrate to the satisfaction of the board, through the  
22 financial and other confidential information submitted to the board  
23 pursuant to subsection a. of this section, and any other information  
24 required by the board, which information may be submitted on a  
25 confidential basis and shall be treated and maintained as  
26 confidential by the board and shall not be subject to public  
27 disclosure, notwithstanding any law to the contrary, including the  
28 common law, that the nuclear power plant's fuel diversity, air  
29 quality, and other environmental attributes are at risk of loss  
30 because the nuclear power plant is projected to not fully cover its  
31 costs and risks, or alternatively is projected to not cover its costs  
32 including its risk-adjusted cost of capital, and that the nuclear  
33 power plant will cease operations within three years unless the  
34 nuclear power plant experiences a material financial change;

35 (4) certify annually that the nuclear power plant does not receive  
36 any direct or indirect payment or credit under a law, rule,  
37 regulation, order, tariff, or other action of this State or any other  
38 state, or a federal law, rule, regulation, order, tariff, or other action,  
39 or a regional compact, despite its reasonable best efforts to obtain  
40 any such payment or credit, for its fuel diversity, resilience, air  
41 quality, or other environmental attributes that will eliminate the  
42 need for the nuclear power plant to retire, except for any payment or  
43 credit received under the provisions of this act; and

44 (5) submit an application fee to the board in an amount to be  
45 determined by the board, but which shall not exceed \$250,000, to be  
46 used to defray the costs incurred by the board to administer the ZEC  
47 program.

1 f. In ranking eligible nuclear power plants from first to last, the  
2 board shall consider how well the nuclear power plants satisfy the  
3 criteria set forth under the provisions of this act, and shall also  
4 consider other relevant factors such as sustainability or long-term  
5 commitment to nuclear energy production in a manner that supports  
6 New Jersey's cost-effective transition to a zero carbon energy  
7 supply. Two or more eligible nuclear power plants shall not have  
8 the same ranking.

9 g. (1) The board shall select eligible nuclear power plants to  
10 receive ZECs according to their ranking. Beginning with the top-  
11 ranked eligible nuclear power plant and continuing in rank order,  
12 the board shall continue to select nuclear power plants but not  
13 beyond the point at which the combined number of megawatt-hours  
14 of electricity produced in the energy year immediately prior to the  
15 date of enactment of this act by all selected nuclear power plants  
16 equals 40 percent of the total number of megawatt-hours of  
17 electricity distributed by electric public utilities in the State in the  
18 energy year immediately prior to the date of enactment of this act.  
19 The board shall not select an eligible nuclear power plant to receive  
20 ZECs if the addition of the electricity produced by that nuclear  
21 power plant in the energy year immediately prior to the date of  
22 enactment of this act to the electricity produced in the energy year  
23 immediately prior to the date of enactment of this act by the  
24 selected nuclear power plants ranked ahead of that plant on the  
25 rank-ordered list exceeds 40 percent of the total number of  
26 megawatt-hours of electricity distributed by electric public utilities  
27 in the State in the energy year immediately prior to the date of  
28 enactment of this act.

29 (2) A selected nuclear power plant shall be eligible to receive  
30 ZECs 330 days after the date of enactment of this act. In the first  
31 energy year in which an eligible nuclear power plant is selected, the  
32 selected nuclear power plant shall receive a number of ZECs equal  
33 to the number of megawatt-hours of electricity it produced in that  
34 energy year starting on the date of the eligible nuclear power plant's  
35 selection. In each energy year thereafter, each selected nuclear  
36 power plant shall receive a number of ZECs equal to the number of  
37 megawatt-hours of electricity that it produced in that energy year.

38 h. (1) Selected nuclear power plants shall initially receive  
39 ZECs for an eligibility period that shall run through the end of the  
40 first energy year in which the nuclear power plant is selected, plus  
41 an additional three energy years.

42 (2) No later than 13 months prior to the conclusion of the initial  
43 eligibility period established pursuant to paragraph (1) of this  
44 subsection, and no later than 13 months prior to the conclusion of  
45 each three energy year eligibility period thereafter, a nuclear power  
46 plant may demonstrate its eligibility to the board and the board may  
47 certify the nuclear power plant's eligibility to receive ZECs for



1 additional eligibility periods of three energy years, consistent with  
2 the provisions of this act.

3 (3) A selected nuclear power plant shall annually certify to the  
4 board that it will continue operations at full or near full capacity for  
5 the duration of the period of its eligibility to receive ZECs, except  
6 with respect to nuclear power plant shutdowns for necessary  
7 maintenance and refueling.

8 i. (1) The board shall determine the price of a ZEC each  
9 energy year by dividing the total number of dollars held by electric  
10 public utilities in the accounts established pursuant to paragraph (1)  
11 of subsection j. of this section at the end of the prior energy year by  
12 the greater of: 40 percent of the total number of megawatt-hours of  
13 electricity distributed by the electric public utilities in the State in  
14 the prior energy year, or the number of megawatt-hours of  
15 electricity generated in the prior energy year by the selected nuclear  
16 power plants.

17 (2) Each electric public utility in the State shall be required to  
18 begin to purchase ZECs on a monthly basis from each selected  
19 nuclear power plant with payment to follow within 90 days after the  
20 conclusion of the first energy year in which selected nuclear power  
21 plants receive ZECs and within 90 days after the conclusion of each  
22 subsequent energy year. The number of ZECs an electric public  
23 utility shall be required to purchase shall equal the total number of  
24 ZECs received by the selected nuclear power plants for the prior  
25 energy year pursuant to paragraph (2) of subsection g. of this  
26 section multiplied by the percentage of electricity distributed in the  
27 State by the electric public utility as compared to other electric  
28 public utilities in the State.

29 (3) To ensure that a selected nuclear power plant shall not  
30 receive double-payment for its fuel diversity, resilience, air quality,  
31 or other environmental attributes, the board shall annually  
32 determine the dollar amount received by the selected nuclear power  
33 plant in an energy year pursuant to a law, rule, regulation, order,  
34 tariff, or other action of this State or any other state, or a federal  
35 law, rule, regulation, order, tariff, or other action, or a regional  
36 compact referenced in paragraph (4) of subsection e. of this section.  
37 Notwithstanding paragraph (2) of this subsection, the number of  
38 ZECs purchased by each electric public utility from a selected  
39 nuclear power plant for an energy year shall be reduced by the  
40 number of ZECs equal in value to the dollar amount determined by  
41 the board in this paragraph, multiplied by the percentage of  
42 electricity distributed in the State by the electric public utility as  
43 compared to other electric public utilities in the State. To the extent  
44 that the board determines that a selected nuclear plant receives  
45 revenues for its fuel diversity, resilience, air quality, or other  
46 environmental attributes, the board shall immediately reduce the  
47 number of ZECs on a prospective basis consistent with the level of  
48 such revenues.

1       j. (1) The board shall order the full recovery of all costs  
2 associated with the electric public utility's required procurement of  
3 ZECs, and with the board's implementation of the ZEC program  
4 under this act, through a non-bypassable, irrevocable charge  
5 imposed on the electric public utility's retail distribution customers.  
6 Within 150 days after the date of enactment of this act, each electric  
7 public utility shall file with the board a tariff to recover from its  
8 retail distribution customers a charge in the amount of \$0.004 per  
9 kilowatt-hour which reflects the emissions avoidance benefits  
10 associated with the continued operation of selected nuclear power  
11 plants. Within 60 days after the tariff filing required pursuant to  
12 this paragraph, after notice, the opportunity for comment, and  
13 public hearing, the board shall approve the tariff, provided that it is  
14 consistent with the provisions of this subsection. No later than the  
15 date of the board's order establishing the initial selected nuclear  
16 power plants to receive ZECs, each electric public utility shall  
17 implement the tariff and begin collecting from its retail distribution  
18 customers the approved charge. Revenues collected by the electric  
19 public utility from the non-bypassable, irrevocable charge shall be  
20 placed in a separate, interest-bearing account and shall be used  
21 solely to purchase ZECs, and to reimburse the board for reasonable,  
22 verifiable costs the board incurs to implement the ZEC program  
23 pursuant to this act to the extent the board's costs exceed the  
24 application fees collected by the board pursuant to paragraph (5) of  
25 subsection e. of this section.

26       (2) Notwithstanding any provision of this act to the contrary, an  
27 electric public utility shall not be required to purchase any  
28 additional number of ZECs if the cost of the additional number of  
29 ZECs exceeds the revenues deposited in the electric public utility's  
30 separate, interest-bearing account, created pursuant to paragraph (1)  
31 of this subsection, for that energy year, after subtracting the  
32 reasonable, verifiable costs incurred by the board during that energy  
33 year to implement the ZEC program pursuant to this section, which  
34 costs shall be remitted to the board from the ZEC fund each energy  
35 year in a manner to be determined by the board. Excess monies in  
36 an electric public utility's separate, interest-bearing account shall be  
37 refunded to its retail distribution customers at the end of each  
38 energy year.

39       (3) (a) Notwithstanding the provisions of paragraph (1) of this  
40 subsection, and to ensure that the ZEC program remains affordable to  
41 New Jersey retail distribution customers, the board may, in its  
42 discretion, reduce the per kilowatt-hour charge imposed by paragraph  
43 (1) of this subsection starting in the second three year eligibility period  
44 and for each subsequent three year eligibility period thereafter,  
45 provided that the board determines that a reduced charge will  
46 nonetheless be sufficient to achieve the State's air quality and other  
47 environmental objectives by preventing the retirement of the

1 nuclear power plants that meet the eligibility criteria established  
2 pursuant to subsections d. and e. of this section.

3 (b) If the board reduces the per kilowatt-hour charge imposed by  
4 paragraph (1) of this subsection pursuant to subparagraph (a) of this  
5 paragraph, the reduction shall be applicable to the next eligibility  
6 period only and the board shall make its determination no later than 13  
7 months prior to the start of that eligibility period. Within 30 days  
8 thereafter, each electric public utility shall file, in lieu of the tariff  
9 described in paragraph (1) of this subsection, a tariff consistent with  
10 the board's determination. Within 60 days after filing of the tariff,  
11 after notice, the opportunity for comment, and public hearing, the  
12 board shall approve the revised tariff, provided that it is consistent  
13 with the board's determination. The revised tariff shall take effect  
14 starting in the next eligibility period.

15 (c) If the board does not certify any nuclear power plants for a  
16 subsequent eligibility period pursuant to this act, the board may, in  
17 its discretion, reduce the per kilowatt-hour charge imposed pursuant  
18 to paragraph (1) of this subsection to ensure that the ZEC program  
19 remains affordable to New Jersey retail distribution customers in  
20 the final year of the first eligibility period, provided that the board  
21 determines that a reduced charge will nonetheless be sufficient to  
22 achieve the State's air quality and other environmental objectives  
23 by preventing the retirement of the nuclear power plants that meet  
24 the eligibility criteria established pursuant to subsections d. and e.  
25 of this section.

26 (d) For the second three energy year eligibility period, and every  
27 subsequent eligibility period thereafter, a selected nuclear power  
28 plant shall pay a renewal fee to the board in an amount to be  
29 determined by the board, but which shall not exceed \$250,000, to be  
30 used to defray the costs incurred by the board to administer the ZEC  
31 program.

32 k. (1) A selected nuclear power plant shall be excused from  
33 performance, including but not limited to the sale of ZECs, and a  
34 payment from an electric public utility shall not be due to the  
35 selected nuclear power plant, if:

36 (a) the selected nuclear power suspends or ceases operations,  
37 despite the selected nuclear power plant's reasonable efforts to  
38 continue operations, due to an event beyond its control, including  
39 but not limited to acts of God, flood, drought, earthquake, storm,  
40 fire, lightning, epidemic, war, riot, labor dispute, labor or material  
41 shortage, sabotage, or explosion. The selected nuclear power plant  
42 shall no longer be excused from performance, and a payment from  
43 an electric public utility shall be due, after conclusion of the event;

44 (b) a State law is enacted imposing a significant new tax, special  
45 assessment, or fee on the generation of electricity, the ownership or  
46 leasehold of a generating unit, or the privilege or occupation of the  
47 generation, ownership, or leasehold of generation units by a  
48 selected nuclear power plant;

1 (c) a State or federal law is enacted that materially reduces the  
2 value of a ZEC, or the board exercises its discretion to reduce the  
3 amount of the per kilowatt-hour charge pursuant to paragraph (3) of  
4 subsection j. of this section;

5 (d) the selected nuclear power plant requires capital  
6 expenditures in excess of \$40,000,000 that were neither known nor  
7 reasonably foreseeable at the time it was selected to receive ZECs,  
8 and the capital expenditures are expenditures that a prudent owner  
9 or operator of a selected nuclear power plant would not undertake;  
10 or

11 (e) The United States Nuclear Regulatory Commission  
12 terminates the selected nuclear power plant's license.

13 (2) If a selected nuclear power plant ceases operations during an  
14 eligibility period for any reason other than those specified in this  
15 subsection, the selected nuclear power plant shall pay a charge to  
16 the electric public utilities that purchased ZECs from the selected  
17 nuclear power plant in an amount equal to the compensation  
18 received for the sale of ZECs since the board's last determination of  
19 the selected nuclear power plant's eligibility to receive ZECs. An  
20 electric public utility shall provide a refund to its retail distribution  
21 customers in an amount equal to the charge paid by a selected  
22 nuclear power plant to the electric public utility pursuant to this  
23 paragraph.

24 (3) The owner of a selected nuclear power plant shall, within  
25 two years after receiving ZECs, submit a plan to the board to retain,  
26 retrain, or compensate personnel whose employment would be  
27 eliminated as a direct result of the cessation of the selected nuclear  
28 power plant's operations, including an alternative economic  
29 development plan for communities that rely on the selected nuclear  
30 power plant for a substantial portion of their tax revenues.

31 1. A selected nuclear power plant shall not lay off any  
32 personnel unless the lay-off is due to employee misconduct or  
33 underperformance issues, or due to the suspension or cessation of  
34 the selected nuclear power plant's operations as provided in  
35 subsection k. of this section.

36 m. The owner of a selected nuclear power plant shall, within  
37 two years after receiving ZECs, conduct a study and prepare a  
38 written report in cooperation with selected experts, to determine the  
39 optimal use of dry cask storage of spent nuclear fuel at its site,  
40 considering environmental impacts, worker safety, and cost  
41 impacts.

42  
43 4. a. No later than 10 years after the date of enactment of this  
44 act, the Board of Public Utilities shall conduct a study to evaluate  
45 the efficacy of the zero emission certificate program and submit a  
46 written report thereon to the Governor and, pursuant to section 2 of  
47 P.L.1991, c.164 (C.52:14-19.1), to the Legislature. In conducting  
48 the study, the board shall evaluate the program's effect on the

1 premature retirement of nuclear power plants, its effect on the air  
2 quality and environment in the State, and its contribution to a more  
3 reliable energy supply by assuring fuel diversity. The study shall  
4 also evaluate the program's benefits and costs to ratepayers.

5 b. The written report shall: (1) summarize the study and  
6 analysis conducted pursuant to subsection a. of this section; (2)  
7 discuss and quantify the potential benefits and costs associated with  
8 the program; (3) recommend any changes to the program or whether  
9 it should continue; and (4) recommend whether the program should  
10 be expanded to include other technologies.

11  
12 5. If any provision of this act or its application to any person or  
13 circumstance is held invalid or unconstitutional, that judgment or  
14 decision shall not affect other provisions or applications of this act  
15 which can be given effect without the invalid or unconstitutional  
16 provision or application, and to this end the provisions of this act  
17 are severable.

18  
19 6. This act shall take effect immediately.

20  
21  
22 STATEMENT

23  
24 This bill directs the Board of Public Utilities (board) to establish  
25 a Zero Emission Certificate (ZEC) program. Under the bill, a ZEC  
26 is a certificate, issued by the board or its designee, representing the  
27 fuel diversity, air quality, and other environmental attributes of one  
28 megawatt-hour of electricity generated by an eligible nuclear power  
29 plant selected by the board to participate in the ZEC program.

30 To participate in the ZEC program, a nuclear power plant is  
31 required to: (1) be licensed to operate by the United States Nuclear  
32 Regulatory Commission by the date of enactment of this bill and  
33 through 2030 or later; (2) demonstrate to the satisfaction of the  
34 board that it makes a significant and material contribution to the air  
35 quality in the State by minimizing emissions that result from  
36 electricity consumed in New Jersey; (3) provide financial  
37 information to the board demonstrating that the plant will cease  
38 operations unless the nuclear power plant experiences a material  
39 financial change; (4) certify annually to the board that the nuclear  
40 power plant does not receive any direct or indirect payment or  
41 credit under a law of this State, or any other state, or a federal law,  
42 or a regional compact, that would eliminate the need for the nuclear  
43 power plant to retire prematurely, despite its reasonable best efforts  
44 to obtain any such payment or credit; and (5) submit an application  
45 fee to the board in an amount to be determined by the board, but  
46 which is not to exceed \$250,000, to be used to defray the costs  
47 incurred by the board to administer the ZEC program.

1       The board is to determine the price of a ZEC each energy year  
2 under the formula provided in the bill. Within 90 days after the  
3 conclusion of an energy year, each electric public utility (utility) in  
4 the State is required to pay each nuclear power plant that received  
5 ZECs for that prior energy year for the total number of ZECs  
6 received by the nuclear power plant multiplied by the percentage of  
7 electricity the utility distributed in the State as compared to other  
8 utilities in the State.

9       The board is to order the full recovery of all costs associated  
10 with the utility's procurement of ZECs through a non-bypassable,  
11 irrevocable charge imposed on the retail distribution customers of  
12 the utility in the amount of \$0.004 per kilowatt-hour. This charge  
13 may be reduced by the board if certain conditions are met as  
14 specified in the bill. Excess monies collected by utilities through  
15 the charge are to be refunded to their customers.

16       A nuclear power plant selected by the board to participate in the  
17 program is to initially receive ZECs through the end of the first  
18 energy year in which the plant was selected, plus an additional three  
19 energy years thereafter, and then is subject to review by the board  
20 triennially for renewed eligibility for additional, three energy year  
21 periods.

22       A nuclear power plant selected by the board to participate in the  
23 program may suspend or cease operations under certain  
24 circumstances, including circumstances in which events prevent the  
25 selected nuclear power plant from continuing operations despite the  
26 plant's reasonable efforts to continue operations. If a selected  
27 nuclear power plant ceases operations during an eligibility period  
28 for any reason other than those specified in the bill, the plant is to  
29 pay a charge to the utilities that purchased ZECs from the selected  
30 nuclear power plant in an amount equal to the compensation  
31 received for the sale of ZECs since the board's last determination of  
32 the selected nuclear power plant's eligibility to receive ZECs. A  
33 selected nuclear power plant would not be authorized to lay off  
34 personnel except for employee misconduct or underperformance  
35 issues. Finally, the bill requires the board to conduct a study to  
36 evaluate the program within 10 years.