

P.L. 2018, CHAPTER 16, *approved May 23, 2018*
Senate, No. 2313

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

1 generation portfolio that currently meets approximately 40 percent
2 of New Jersey's electric power needs.

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

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

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

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

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

30 b. The Legislature therefore determines that:

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

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

1 meet those federal and State air quality standards and emissions
2 level requirements.

3 (3) In light of the primacy of natural gas use for heating in New
4 Jersey, increased reliance on natural gas-fired generation will
5 render the electric generation and delivery systems less resilient and
6 more vulnerable to the impacts of extreme winter weather events,
7 natural gas pipeline accidents, and other factors affecting the
8 deliverability of natural gas to electric power generating stations in
9 and around the State.

10 (4) The model of providing credits to zero- or low-emission
11 energy generation sources as compensation for their environmental
12 attributes has proven successful for Class I and Class II renewable
13 energy sources, which receive renewable energy certificates, and
14 solar electric power generators, which receive solar renewable
15 energy certificates.

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

25 (6) While recognizing the importance of nuclear energy
26 generation, the State must also commit to the deployment of
27 renewable and zero-emission energy to address climate change,
28 drive economic development, and create new employment
29 opportunities.

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

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

1 2. As used in this act:

2 “Board” means the New Jersey Board of Public Utilities or any
3 successor agency.

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

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

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

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

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

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

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

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

38

39 3. a. As part of an application submitted to the board pursuant
40 to subsection c. of this section, a nuclear power plant seeking to
41 participate in the program established by this act shall provide to
42 the board any financial information requested by the board
43 pertaining to the nuclear power plant, including, but not limited to,
44 certified cost projections over the next three energy years, including
45 operation and maintenance expenses, fuel expenses, including spent
46 fuel expenses, non-fuel capital expenses, fully allocated overhead
47 costs, the cost of operational risks and market risks that would be
48 avoided by ceasing operations, and any other information, financial

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

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

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

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

42 (2) establishment of a mechanism for each electric public utility
43 to purchase ZECs from selected nuclear power plants and a
44 mechanism for the board to effectuate the provisions of subsection
45 i. of this section.

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

1 d. Notwithstanding any law, rule, regulation, or order to the
2 contrary, the board shall complete a proceeding no later than 330
3 days after the date of enactment of this act and shall adopt, after
4 notice, the opportunity for comment, and public hearing, an order
5 establishing a rank-ordered list of the nuclear power plants eligible
6 to be selected to receive ZECs, and establishing which eligible
7 nuclear power plants have been selected to receive ZECs pursuant
8 to this section. If the board determines, in its discretion, that no
9 nuclear plant that applies pursuant to subsection c. of this section
10 satisfies the objectives of this act, then the board shall be under no
11 obligation to certify any nuclear power plant as an eligible nuclear
12 power plant.

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

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

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

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

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

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

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

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

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

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

46 (2) No later than 13 months prior to the conclusion of the initial
47 eligibility period established pursuant to paragraph (1) of this
48 subsection, and no later than 13 months prior to the conclusion of

1 each three energy year eligibility period thereafter, a nuclear power
2 plant may demonstrate its eligibility to the board and the board may
3 certify the nuclear power plant's eligibility to receive ZECs for
4 additional eligibility periods of three energy years, consistent with
5 the provisions of this act.

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

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

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

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

1 environmental attributes, the board shall immediately reduce the
2 number of ZECs on a prospective basis consistent with the level of
3 such revenues.

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

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

42 (3) (a) Notwithstanding the provisions of paragraph (1) of this
43 subsection, and to ensure that the ZEC program remains affordable to
44 New Jersey retail distribution customers, the board may, in its
45 discretion, reduce the per kilowatt-hour charge imposed by paragraph
46 (1) of this subsection starting in the second three year eligibility period
47 and for each subsequent three year eligibility period thereafter,
48 provided that the board determines that a reduced charge will

1 nonetheless be sufficient to achieve the State's air quality and other
2 environmental objectives by preventing the retirement of the
3 nuclear power plants that meet the eligibility criteria established
4 pursuant to subsections d. and e. of this section.

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

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

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

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

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

46 (b) a State law is enacted imposing a significant new tax, special
47 assessment, or fee on the generation of electricity, the ownership or
48 leasehold of a generating unit, or the privilege or occupation of the

1 generation, ownership, or leasehold of generation units by a
2 selected nuclear power plant;

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

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

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

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

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

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

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

44

45 4. a. No later than 10 years after the date of enactment of this
46 act, the Board of Public Utilities shall conduct a study to evaluate
47 the efficacy of the zero emission certificate program and submit a
48 written report thereon to the Governor and, pursuant to section 2 of

1 P.L.1991, c.164 (C.52:14-19.1), to the Legislature. In conducting
2 the study, the board shall evaluate the program's effect on the
3 premature retirement of nuclear power plants, its effect on the air
4 quality and environment in the State, and its contribution to a more
5 reliable energy supply by assuring fuel diversity. The study shall
6 also evaluate the program's benefits and costs to ratepayers.

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

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

20
21 6. This act shall take effect immediately.

22 23 24 STATEMENT

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

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

1 which is not to exceed \$250,000, to be used to defray the costs
2 incurred by the board to administer the ZEC program.

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

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

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

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

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43 Establishes zero emission certificate program for nuclear power
44 plants.