48:3-121.2 to 48:3-121.7, 48:3-60
LEGISLATIVE HISTORY CHECKLIST
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LAWS OF: 2025 **CHAPTER:** 136

NJSA: 48:3-121.2 to 48:3-121.7, 48:3-60 Requires BPU to procure and incentivize transmission-scale energy storage.

BILL NO: A5267 (Substituted for S4289 (SCS))

SPONSOR(S) DeAngelo, Wayne P. and others

DATE INTRODUCED: 2/10/2025

COMMITTEE: **ASSEMBLY:** Telecommunications & Utilities
Appropriations

SENATE: --

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 06/30/2025

SENATE: 06/30/2025

DATE OF APPROVAL: 8/22/2025

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (A5267 AcaAsSa (AS/1R) enacted)

ADVANCE LAW Yes

PAMPHLET LAW Yes

A5267

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

REPRINT(S): Yes ATU 3/20/25 1R
Assembly 5/22/25 AS
Senate 6/30/25 1R AS

TECHNICAL REVIEW OF BILL: No

COMMITTEE STATEMENT: **ASSEMBLY**: Yes Telecommunications & Utilities
Appropriations

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: Yes

S4289 (SCS)

INTRODUCED BILL: (Includes sponsor(s) statement)		Yes	
REPRINT(S):		Yes	6/9/25 SCS
TECHNICAL REVIEW OF BILL:		No	
COMMITTEE STATEMENT:	**ASSEMBLY**:	No	
	SENATE:	Yes	Environment & Energy Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No
LEGISLATIVE FISCAL ESTIMATE:	Yes
VETO MESSAGE:	No
GOVERNOR'S PRESS RELEASE ON SIGNING:	Yes
LEGISLATOR STATEMENT:	Yes

FOLLOWING WERE PRINTED:

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REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	Yes

Biryukov, Nikita, (2025, August 23). Star-Ledger, The (Newark, NJ), "Gov. acts to amp up renewable energy", Available from NewsBank: America's News: https://infoweb.newsbank.com/apps/news/document-view?p=NewsBank&docref=image/v2%3A166DFC6FDF7711A8%40NewsBank-1A2A1CBB8FC382CD%402460911-1A2A4C45CE5EF2FF%402-1A2A4C45CE5EF2FF%40.

CL/MMcB

§§1-6
C.48:3-121.2
to 48:3-121.7

P.L. 2025, CHAPTER 136, ***approved August 22, 2025***
Assembly Substitute ***(First Reprint)*** for
Assembly No. 5267

AN ACT concerning transmission-scale energy storage, supplementing Title 48 of the Revised Statutes, and amending P.L.1999, c.23.

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

1. (New section) As used in P.L. , c. (C.) (pending before the Legislature as this bill):

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

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

"Board" means the Board of Public Utilities.

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

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

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

"Eligible project" means a transmission-scale energy storage system that meets the criteria for an incentive award pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

"Energy storage" means a device that is capable of absorbing energy from the grid or from a generation resource located behind the same point of interconnection as the device; storing it for a period of time using mechanical, chemical, or thermal processes; and, thereafter, discharging the energy back to the grid or directly to an energy-using system to reduce the use of power from the grid.

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

"Energy storage program" means a program designed to encourage the growth of energy storage capacity in the State in order to strengthen storage capacity for the electric grid. "Energy storage

EXPLANATION – Matter enclosed in bold-faced brackets ⟦thus⟧ in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1] Senate floor amendments adopted June 30, 2025.

program" includes the board's Successor Solar Incentive Program, including the Competitive Solar Incentive Program; the program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill); and the board's Garden State Energy Storage Program.

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

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

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

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

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

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

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

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

"Subsequent tranche" means additional energy storage procurement administered pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Tranche 1" means the initial procurement for the energy storage program established pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Tranche 2" means the second procurement for the energy storage program established pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

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

(2) By no later than [1]**[**December 31**]** <u>June 30</u>[1], 2026, the board shall approve incentive awards for eligible projects totaling at least 1,000 MW AC in installed capacity. However, at least [1]**[**500**]** <u>350</u>[1] MW AC of the 1,000 MW AC procurement goal shall be approved in incentive awards for eligible projects in Tranche 1 by no later than [1]**[**April 1, 2026**]** <u>December 31, 2025</u>[1]. If the board is unable to procure all 1,000 MW AC in installed capacity in Tranche 1, the board shall approve incentive awards for eligible projects in Tranche 2, provided that all incentive awards in Tranche 2 are awarded by no later than [1]**[**December 31**]** <u>June 30</u>[1], 2026.

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

(1) not participate in any other energy storage program, except for the GSESP, to the extent that the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) is incorporated into the GSESP;

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

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

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

(b) a transmission-scale energy storage system applying for an incentive award in Tranche 2 shall have entered the PJM interconnection process and, at the time of application, have a fully-executed Generation Interconnection Agreement or Interconnection Service Agreement through PJM, have a completed Surplus Interconnection Study through PJM, have been studied by PJM in a Phase I System Impact Study and have paid a Decision Point I Readiness Deposit to PJM, or have notified PJM of intent to transfer existing Capacity Interconnection Rights associated with a deactivating generation station; [1]and

(c) if a transmission-scale energy storage system fulfils the project maturity requirements established pursuant to subparagraph (a) or subparagraph (b) of this paragraph by completing a Surplus Interconnection Study or by notifying PJM of intent to transfer existing Capacity Interconnection Rights associated with a deactivating generation station, then the transmission-scale energy storage system shall also have obtained the associated Capacity Interconnection Rights through PJM; and[1]

(4) [1]**[**have the associated Capacity Interconnection Rights through PJM; and

(5)**]**[1] meet any other eligibility criteria the board may establish through board order or rulemaking.

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

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

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

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

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

limited to, energy arbitrage, ancillary services, and capacity revenues in PJM;

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

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

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

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

(9) any other information required by the board.

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

(1) project maturity and likelihood of success;

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

(3) whether the project is proposed by an applicant with experience in energy storage development, construction, and finance; [1]and[1]

(4) whether the project promotes redevelopment, community benefits, brownfield redevelopment, or existing or former fossil fuel plant replacement, or provides demonstrated benefits to environmental justice in communities where a transmission-scale energy storage system is proposed to be located [1]**[**;

(5) the extent to which the project provides value to the distribution system, including locational benefits, peak load reduction, or deferral of infrastructure upgrades; and

(6) whether the project contributes to local grid reliability, resilience, or emergency backup service for critical facilities**]**[1].

e. Any board order issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) shall be binding and enforceable. Any such board order shall:

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

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

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

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

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

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

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

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

f. The board may amend an order issuing an incentive award pursuant to this section solely to change the funding source of the incentive award. Any incentive award for an eligible project and the conditions for receiving funding pursuant to this section shall remain effective for the full duration of the award period specified in the board order issuing the incentive award, notwithstanding any change to the funding source of the incentive award.

g. (1) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board shall permit applications for Tranche 1 without regard to the publication status of the rules and regulations to be issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), by no later than [1]⟦January 15, 2026⟧ September 30, 2025[1].

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

(a) evaluate projects in accordance with this section, any rules or regulations proposed pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), and any application requirements and eligibility criteria approved pursuant to this subsection; and

(b) select eligible projects to receive an award.

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

[1]⟦i. The board shall develop standardized service agreements between electric public utilities and eligible projects that have received an incentive award pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), which agreement shall include information concerning dispatch protocols, telemetry requirements, and performance metrics.⟧[1]

3. (New section) a. Within 30 days of meeting its 1,000 MW AC procurement goal established pursuant to paragraph (2) of subsection a. of section 2 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall initiate a proceeding, with opportunity for public comment, to determine whether to extend its procurement of transmission-scale energy storage through the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

b. The board shall issue a report detailing its findings based on the proceeding initiated pursuant to subsection a. of this section and submit the report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. In its report issued pursuant to this subsection, the board shall:

(1) examine the impact of the State's energy storage programs, individually and collectively, on the State's progress toward the 2030 energy storage target established pursuant to section 1 of P.L.2018, c.17 (C.48:3-87.8);

(2) assess the impact of the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) on ratepayers, which impact shall include an evaluation of any costs and benefits to ratepayers as a result of increased energy storage capacity under the program;

(3) evaluate any changes in the PJM capacity market or in the federal energy and utility landscape that could impact the need for incentive awards issued through the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill);

(4) study any other information the board deems necessary to make its determination pursuant to paragraph (5) of this subsection; and

(5) determine, at the discretion of the board, whether to extend the procurement of transmission-scale energy storage pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) through subsequent tranches based on its findings from paragraphs (1) through (4) of this subsection.

4. (New section) a. If the board elects to extend its procurement of transmission-scale energy storage pursuant to paragraph (5) of subsection b. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) through subsequent tranches under the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), the board shall administer any subsequent tranche in a similar manner to Tranche 1 and Tranche 2, modifying as appropriate for each subsequent tranche:

(1) the amount of megawatts to be solicited;

(2) the application requirements or eligibility criteria;

(3) the timeline for an eligible project, including, but not limited to, application deadlines or the contract term; and

(4) any other administrative modification the board deems appropriate.

b. Prior to administering each subsequent tranche, the board shall increase, decrease, or maintain the amount of an incentive award as the board deems necessary based on a market analysis that shall account for:

(1) changes within the energy and utility industries, including any changes due to State and federal policies, that may increase or decrease average project costs for developers of transmission-scale energy storage systems;

(2) any additional sources of revenue available to developers of transmission-scale energy storage systems; and

(3) any other factors concerning the cost to develop transmission-scale energy storage systems that the board deems necessary to reevaluate the amount of an incentive award.

[1]<u>c. Notwithstanding subsection b. of this section to the contrary, the board may determine incentive award amounts in a subsequent tranche by a competitive solicitation process.</u>[1]

5. (New section) a. There is established in the Board of Public Utilities a special, non-lapsing fund to be known as the "Energy

Storage Fund." The fund shall be administered by the board and shall be credited with:

(1) monies deposited into the fund by the board pursuant to subsection b. of this section;

(2) monies appropriated by the Legislature; and

(3) any return on investment of monies deposited in the fund.

b. The board shall deposit into the fund, each year, [1]until the end of all award periods for incentive awards issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill),[1] a minimum of [1]**⟦**$60 million**⟧** $60,000,000[1] from the:

(1) revenues from the societal benefits charge established pursuant to subsection a. of section 12 of P.L.1999, c.23 (C.48:3-60); and

(2) monies made available from other funding sources, as determined by the board, which sources shall include, but not be limited to, federal funding.

c. Notwithstanding any restrictions on the use of funds provided in section 12 of P.L.1999, c.23 (C.48:3-60), monies in the fund shall be used by the board solely [1]**⟦**for the purpose of funding**⟧** to fund:

(1)[1] incentive awards issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) [1]; and

(2) energy storage incentives issued pursuant to the GSESP[1].

d. In the fiscal year beginning on July 1, 2027, and in each fiscal year thereafter, until the end of all award periods for incentive awards issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), the board shall allocate sufficient monies from the "Energy Storage Fund" established pursuant to subsection a. of this section to fully fund the incentive awards issued by the board pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

6. (New section) a. (1) The board shall adopt, as expeditiously as possible, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations consistent with the purposes of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, within 90 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall publish a notice of proposal that contains the proposed rules required by this subsection.

b. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board may procure transmission-scale energy storage systems and issue incentive awards for Tranche 1 and Tranche 2 pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) notwithstanding the status of board rules or regulations pursuant to subsection a. of this section.

7. Section 12 of P.L.1999, c.23 (C.48:3-60) is amended to read as follows:

12. a. Simultaneously with the starting date for the implementation of retail choice as determined by the board pursuant to subsection a. of section 5 of P.L.1999, c.23 (C.48:3-53), the board shall permit each electric public utility and gas public utility to recover some or all of the following costs through a societal benefits charge that shall be collected as a non-bypassable charge imposed on all electric public utility customers and gas public utility customers, as appropriate:

(1) ⟦The⟧ <u>the</u> costs for the social programs for which rate recovery was approved by the board prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of social program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). The board may subsequently order, pursuant to its rules and regulations, an increase or decrease in the societal benefits charge to reflect changes in the costs to the utility of administering existing social programs. Nothing in P.L.1999, c.23 (C.48:3-49 et al.) shall be construed to abolish or change any social program required by statute or board order or rule or regulation to be provided by an electric public utility. Any such social program shall continue to be provided by the utility until otherwise provided by law, unless the board determines that it is no longer appropriate for the electric public utility to provide the program, or the board chooses to modify the program;

(2) ⟦Nuclear⟧ <u>nuclear</u> plant decommissioning costs;

(3) ⟦The⟧ <u>the</u> costs of demand side management programs that were approved by the board pursuant to its demand side management regulations prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of demand side management program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). Within four months of the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and every four years thereafter, the board shall initiate a proceeding and cause to be undertaken a comprehensive resource analysis of energy programs, and within eight months of initiating such proceeding and after notice, provision of the opportunity for public comment, and public hearing, the board, in consultation with the Department of Environmental Protection, shall determine the appropriate level of funding for energy efficiency, light, medium, and heavy-duty plug-in electric vehicles, including school buses, and associated plug-in electric vehicle charging infrastructure, <u>energy storage,</u> and Class I renewable energy programs that provide environmental benefits above and beyond those provided by standard offer or similar programs in effect as of the

effective date of P.L.1999, c.23 (C.48:3-49 et al.); provided that the funding for such programs be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.) for an initial period of four years from the issuance of the first comprehensive resource analysis following the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and provided that 25 percent of this amount shall be used to provide funding for Class I renewable energy projects in the State. In each of the following fifth through eighth years, the Statewide funding for such programs shall be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.), except that as additional funds are made available as a result of the expiration of past standard offer or similar commitments, the minimum amount of funding for such programs shall increase by an additional amount equal to 50 percent of the additional funds made available, until the minimum amount of funding dedicated to such programs reaches $140,000,000 total. After the eighth year the board shall make a determination as to the appropriate level of funding for these programs. Such programs shall include a program to provide financial incentives for the installation of Class I renewable energy projects in the State, and the board, in consultation with the Department of Environmental Protection, shall determine the level and total amount of such incentives as well as the renewable technologies eligible for such incentives which shall include, at a minimum, photovoltaic, wind, and fuel cells. The board shall simultaneously determine, as a result of the comprehensive resource analysis, the programs to be funded by the societal benefits charge, the level of cost recovery and performance incentives for old and new programs and whether the recovery of demand side management programs' costs currently approved by the board may be reduced or extended over a longer period of time. The board shall make these determinations taking into consideration existing market barriers and environmental benefits, with the objective of transforming markets, capturing lost opportunities, making energy services more affordable for low income customers and eliminating subsidies for programs that can be delivered in the marketplace without electric public utility and gas public utility customer funding<u>. In addition to the determinations above, the board shall allocate sufficient funding from the societal benefits charge to cover the remaining cost of fully funding incentive awards issued for transmission-scale energy storage systems that are eligible projects pursuant to P.L.   , c.   (C.   ) (pending before the Legislature as this bill), after accounting for funding allocated to this purpose from other sources</u>;

(4) 【Manufactured】 <u>manufactured</u> gas plant remediation costs, which shall be determined initially in a manner consistent with

mechanisms in the remediation adjustment clauses for the electric public utility and gas public utility adopted by the board; and

(5) **[**The**]** <u>the</u> cost, of consumer education, as determined by the board, which shall be in an amount that, together with the consumer education surcharge imposed on electric power supplier license fees pursuant to subsection h. of section 29 of P.L.1999, c.23 (C.48:3-78) and the consumer education surcharge imposed on gas supplier license fees pursuant to subsection g. of section 30 of P.L.1999, c.23 (C.48:3-79), shall be sufficient to fund the consumer education program established pursuant to section 36 of P.L.1999, c.23 (C.48:3-85).

b. There is established in the Board of Public Utilities a nonlapsing fund to be known as the "Universal Service Fund." The board shall determine: the level of funding and the appropriate administration of the fund; the purposes and programs to be funded with monies from the fund; which social programs shall be provided by an electric public utility as part of the provision of its regulated services which provide a public benefit; whether the funds appropriated to fund the "Lifeline Credit Program" established pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.), the "Tenants' Lifeline Assistance Program" established pursuant to P.L.1981, c.210 (C.48:2-29.30 et seq.), the funds received pursuant to the Low Income Home Energy Assistance Program established pursuant to 42 U.S.C. s.8621 et seq., and funds collected by electric and gas public utilities, as authorized by the board, to offset uncollectible electricity and natural gas bills should be deposited in the fund; and whether new charges should be imposed to fund new or expanded social programs.

(cf: P.L.2022, c.86, s.2)

8. This act shall take effect immediately.

Requires BPU to procure and incentivize transmission-scale energy storage.

CHAPTER 136

AN ACT concerning transmission-scale energy storage, supplementing Title 48 of the Revised Statutes, and amending P.L.1999, c.23.

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

C.48:3-121.2 Definitions.

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

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

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

"Board" means the Board of Public Utilities.

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

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

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

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

"Energy storage" means a device that is capable of absorbing energy from the grid or from a generation resource located behind the same point of interconnection as the device; storing it for a period of time using mechanical, chemical, or thermal processes; and, thereafter, discharging the energy back to the grid or directly to an energy-using system to reduce the use of power from the grid.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C.48:3-121.3 Transmission-scale energy storage systems development, incentive awards.

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

(2) By no later than June 30, 2026, the board shall approve incentive awards for eligible projects totaling at least 1,000 MW AC in installed capacity. However, at least 350 MW AC of the 1,000 MW AC procurement goal shall be approved in incentive awards for eligible projects in Tranche 1 by no later than December 31, 2025. If the board is unable to procure all 1,000 MW AC in installed capacity in Tranche 1, the board shall approve incentive awards for eligible projects in Tranche 2, provided that all incentive awards in Tranche 2 are awarded by no later than June 30, 2026.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) a statement describing the transmission-scale energy storage system's alignment with State and regional transmission and resource adequacy planning goals and demonstrating the

transmission-scale energy storage system's coordination with PJM and the appropriate electric public utility;

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

(9) any other information required by the board.

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

(1) project maturity and likelihood of success;

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

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

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

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

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

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

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

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

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

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

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

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

throughout the term of the incentive award, or any other requirement the board determines necessary to ensure continued progress and operational viability of an eligible project.

f. The board may amend an order issuing an incentive award pursuant to this section solely to change the funding source of the incentive award. Any incentive award for an eligible project and the conditions for receiving funding pursuant to this section shall remain effective for the full duration of the award period specified in the board order issuing the incentive award, notwithstanding any change to the funding source of the incentive award.

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

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

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

(b) select eligible projects to receive an award.

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

C.48:3-121.4 BPU to initiate proceeding, determining extension of transmission-scale energy storage procurement; report to Governor, Legislature.

3. a. Within 30 days of meeting its 1,000 MW AC procurement goal established pursuant to paragraph (2) of subsection a. of section 2 of P.L.2025, c.136 (C.48:3-121.3), the board shall initiate a proceeding, with opportunity for public comment, to determine whether to extend its procurement of transmission-scale energy storage through the energy storage program established pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.).

b. The board shall issue a report detailing its findings based on the proceeding initiated pursuant to subsection a. of this section and submit the report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. In its report issued pursuant to this subsection, the board shall:

(1) examine the impact of the State's energy storage programs, individually and collectively, on the State's progress toward the 2030 energy storage target established pursuant to section 1 of P.L.2018, c.17 (C.48:3-87.8);

(2) assess the impact of the energy storage program established pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.) on ratepayers, which impact shall include an evaluation of any costs and benefits to ratepayers as a result of increased energy storage capacity under the program;

(3) evaluate any changes in the PJM capacity market or in the federal energy and utility landscape that could impact the need for incentive awards issued through the energy storage program established pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.);

(4) study any other information the board deems necessary to make its determination pursuant to paragraph (5) of this subsection; and

(5) determine, at the discretion of the board, whether to extend the procurement of transmission-scale energy storage pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.) through subsequent tranches based on its findings from paragraphs (1) through (4) of this subsection.

C.48:3-121.5 Extended procurement, transmission-scale energy storage, subsequent tranches.

4. a. If the board elects to extend its procurement of transmission-scale energy storage pursuant to paragraph (5) of subsection b. of section 3 of P.L.2025, c.136 (C.48:3-121.4) through subsequent tranches under the energy storage program established pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.), the board shall administer any subsequent tranche in a similar manner to Tranche 1 and Tranche 2, modifying as appropriate for each subsequent tranche:

(1) the amount of megawatts to be solicited;

(2) the application requirements or eligibility criteria;

(3) the timeline for an eligible project, including, but not limited to, application deadlines or the contract term; and

(4) any other administrative modification the board deems appropriate.

b. Prior to administering each subsequent tranche, the board shall increase, decrease, or maintain the amount of an incentive award as the board deems necessary based on a market analysis that shall account for:

(1) changes within the energy and utility industries, including any changes due to State and federal policies, that may increase or decrease average project costs for developers of transmission-scale energy storage systems;

(2) any additional sources of revenue available to developers of transmission-scale energy storage systems; and

(3) any other factors concerning the cost to develop transmission-scale energy storage systems that the board deems necessary to reevaluate the amount of an incentive award.

c. Notwithstanding subsection b. of this section to the contrary, the board may determine incentive award amounts in a subsequent tranche by a competitive solicitation process.

C.48:3-121.6 "Energy Storage Fund."

5. a. There is established in the Board of Public Utilities a special, non-lapsing fund to be known as the "Energy Storage Fund." The fund shall be administered by the board and shall be credited with:

(1) monies deposited into the fund by the board pursuant to subsection b. of this section;

(2) monies appropriated by the Legislature; and

(3) any return on investment of monies deposited in the fund.

b. The board shall deposit into the fund, each year, until the end of all award periods for incentive awards issued pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.), a minimum of $60,000,000 from the:

(1) revenues from the societal benefits charge established pursuant to subsection a. of section 12 of P.L.1999, c.23 (C.48:3-60); and

(2) monies made available from other funding sources, as determined by the board, which sources shall include, but not be limited to, federal funding.

c. Notwithstanding any restrictions on the use of funds provided in section 12 of P.L.1999, c.23 (C.48:3-60), monies in the fund shall be used by the board solely to fund:

(1) incentive awards issued pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.); and

(2) energy storage incentives issued pursuant to the GSESP.

d. In the fiscal year beginning on July 1, 2027, and in each fiscal year thereafter, until the end of all award periods for incentive awards issued pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.), the board shall allocate sufficient monies from the "Energy Storage Fund" established pursuant to subsection a. of this section to fully fund the incentive awards issued by the board pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.).

C.48:3-121.7 Rules, regulations.

6. a. (1) The board shall adopt, as expeditiously as possible, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations consistent with the purposes of P.L.2025, c.136 (C.48:3-121.2 et al.).

(2) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, within 90 days following the effective date of P.L.2025, c.136 (C.48:3-121.2 et al.), the board shall publish a notice of proposal that contains the proposed rules required by this subsection.

b. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board may procure transmission-scale energy storage systems and issue incentive awards for Tranche 1 and Tranche 2 pursuant to section 2 of P.L.2025, c.136 (C.48:3-121.3) notwithstanding the status of board rules or regulations pursuant to subsection a. of this section.

7. Section 12 of P.L.1999, c.23 (C.48:3-60) is amended to read as follows:

C.48:3-60 Societal benefits charge by public utility; "Universal Service Fund."

12. a. Simultaneously with the starting date for the implementation of retail choice as determined by the board pursuant to subsection a. of section 5 of P.L.1999, c.23 (C.48:3-53), the board shall permit each electric public utility and gas public utility to recover some or all of the following costs through a societal benefits charge that shall be collected as a non-bypassable charge imposed on all electric public utility customers and gas public utility customers, as appropriate:

(1) the costs for the social programs for which rate recovery was approved by the board prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of social program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). The board may subsequently order, pursuant to its rules and regulations, an increase or decrease in the societal benefits charge to reflect changes in the costs to the utility of administering existing social programs. Nothing in P.L.1999, c.23 (C.48:3-49 et al.) shall be construed to abolish or change any social program required by statute or board order or rule or regulation to be provided by an electric public utility. Any such social program shall continue to be provided by the utility until otherwise provided by law, unless the board determines that it is no longer appropriate for the electric public utility to provide the program, or the board chooses to modify the program;

(2) nuclear plant decommissioning costs;

(3) the costs of demand side management programs that were approved by the board pursuant to its demand side management regulations prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of demand side management program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). Within four months of the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and every four years thereafter, the board shall initiate a proceeding and cause to be undertaken a comprehensive resource analysis of energy programs, and within eight months of initiating such proceeding and after notice, provision of the opportunity for public comment, and public hearing, the board, in consultation with the Department of Environmental Protection, shall determine the appropriate level of funding for energy efficiency, light, medium, and heavy-duty plug-in electric vehicles, including school

buses, and associated plug-in electric vehicle charging infrastructure, energy storage, and Class I renewable energy programs that provide environmental benefits above and beyond those provided by standard offer or similar programs in effect as of the effective date of P.L.1999, c.23 (C.48:3-49 et al.); provided that the funding for such programs be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.) for an initial period of four years from the issuance of the first comprehensive resource analysis following the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and provided that 25 percent of this amount shall be used to provide funding for Class I renewable energy projects in the State. In each of the following fifth through eighth years, the Statewide funding for such programs shall be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.), except that as additional funds are made available as a result of the expiration of past standard offer or similar commitments, the minimum amount of funding for such programs shall increase by an additional amount equal to 50 percent of the additional funds made available, until the minimum amount of funding dedicated to such programs reaches $140,000,000 total. After the eighth year the board shall make a determination as to the appropriate level of funding for these programs. Such programs shall include a program to provide financial incentives for the installation of Class I renewable energy projects in the State, and the board, in consultation with the Department of Environmental Protection, shall determine the level and total amount of such incentives as well as the renewable technologies eligible for such incentives which shall include, at a minimum, photovoltaic, wind, and fuel cells. The board shall simultaneously determine, as a result of the comprehensive resource analysis, the programs to be funded by the societal benefits charge, the level of cost recovery and performance incentives for old and new programs and whether the recovery of demand side management programs' costs currently approved by the board may be reduced or extended over a longer period of time. The board shall make these determinations taking into consideration existing market barriers and environmental benefits, with the objective of transforming markets, capturing lost opportunities, making energy services more affordable for low income customers and eliminating subsidies for programs that can be delivered in the marketplace without electric public utility and gas public utility customer funding. In addition to the determinations above, the board shall allocate sufficient funding from the societal benefits charge to cover the remaining cost of fully funding incentive awards issued for transmission-scale energy storage systems that are eligible projects pursuant to P.L.2025, c.136 (C.48:3-121.2 et al.), after accounting for funding allocated to this purpose from other sources;

(4) manufactured gas plant remediation costs, which shall be determined initially in a manner consistent with mechanisms in the remediation adjustment clauses for the electric public utility and gas public utility adopted by the board; and

(5) the cost, of consumer education, as determined by the board, which shall be in an amount that, together with the consumer education surcharge imposed on electric power supplier license fees pursuant to subsection h. of section 29 of P.L.1999, c.23 (C.48:3-78) and the consumer education surcharge imposed on gas supplier license fees pursuant to subsection g. of section 30 of P.L.1999, c.23 (C.48:3-79), shall be sufficient to fund the consumer education program established pursuant to section 36 of P.L.1999, c.23 (C.48:3-85).

b. There is established in the Board of Public Utilities a nonlapsing fund to be known as the "Universal Service Fund." The board shall determine: the level of funding and the appropriate administration of the fund; the purposes and programs to be funded with monies from the fund; which social programs shall be provided by an electric public utility as part of the provision of its regulated services which provide a public benefit; whether the funds appropriated to fund the "Lifeline Credit Program" established pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.), the "Tenants' Lifeline Assistance Program" established pursuant to P.L.1981, c.210 (C.48:2-29.30 et seq.), the funds received pursuant to the Low Income Home Energy Assistance Program established pursuant to 42 U.S.C. s.8621 et seq., and funds collected by electric and gas public utilities, as authorized by the board, to offset uncollectible electricity and natural gas bills should be deposited in the fund; and whether new charges should be imposed to fund new or expanded social programs.

8. This act shall take effect immediately.

Approved August 22, 2025.

ASSEMBLY, No. 5267

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED FEBRUARY 10, 2025

Sponsored by:
Assemblyman WAYNE P. DEANGELO
District 14 (Mercer and Middlesex)
Assemblyman DAVID BAILEY, JR.
District 3 (Cumberland, Gloucester and Salem)
Assemblyman KEVIN P. EGAN
District 17 (Middlesex and Somerset)

Co-Sponsored by:
Assemblyman Miller

SYNOPSIS

Requires BPU to procure and incentivize transmission-scale energy storage.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 2/10/2025)

AN ACT concerning transmission-scale energy storage, supplementing Title 48 of the Revised Statutes, and amending P.L.1999, c.23.

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

1. As used in P.L. , c. (C.) (pending before the Legislature as this bill):

"Board" means the Board of Public Utilities.

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

"Eligible project" means a transmission-scale energy storage system that meets the criteria for an incentive award pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

"Energy storage" means a device that is capable of absorbing energy from the grid or from a Distributed Energy Resource; storing it for a period of time using mechanical, chemical, or thermal processes; and, thereafter, discharging the energy back to the grid or directly to an energy-using system to reduce the use of power from the grid.

"Energy storage program" means a program designed to encourage the growth of energy storage capacity in the State in order to strengthen storage capacity for the electric grid. "Energy storage program" includes the board's Successor Solar Incentive Program, including the Competitive Solar Incentive Program; the program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill); and the board's New Jersey Energy Storage Incentive Program, or its replacement or successor, in its final form.

"Incentive award" means a set of payments awarded by the board for an eligible project, which payments are conditioned upon the completion and commercial operation of the eligible project in compliance with P.L. , c. (C.) (pending before the Legislature as this bill) and any conditions required by the board. An "incentive award" shall be a fixed series of annual payments, to be issued over the 15-year award period, based on the maximum usable installed capacity of an eligible project, measured in dollars per megawatt, and paid upon commercial operation of the eligible project, unless the board provides for an alternative payment timeline. "Incentive award" may include, at the discretion of the board, a performance-based adjustment based on the availability of the eligible project or the benefits created through the commercial operation of the eligible project, provided that the board shall

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

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

confirm the reliability of any proposed metrics on which to base a performance-based adjustment prior to being used in the calculation of an incentive award.

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

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

"Successor program" means an energy storage program established pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Tranche 1" means the initial procurement for the energy storage program established pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

2. a. (1) The Board of Public Utilities shall establish a program to procure and provide incentive awards for the development of transmission-scale energy storage systems with a reasonable likelihood of successful and timely completion. The board shall solicit applications for the program established pursuant to this section in an initial Tranche 1 pursuant to this section.

(2) If the board determines in the report required pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) that it will extend the procurement of transmission-scale energy storage through additional tranches in accordance with subparagraph (a) of paragraph (6) of subsection b. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall administer future tranches in a similar manner to Tranche 1, modifying as appropriate for each subsequent tranche:

(a) the amount of megawatts to be solicited;

(b) the application requirements or eligibility criteria;

(c) the timeline for an eligible project, including, but not limited to, application deadlines or the contract term; and

(d) any other administrative modification the board deems appropriate following its report issued pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. For Tranche 1, the board shall solicit applications for eligible projects, which projects shall collectively have an installed capacity totaling at least 500 MW AC.

(1) To qualify for an incentive award pursuant to this section, a transmission-scale energy storage system shall:

(a) not participate in any other energy storage program;

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

(c) have completed the PJM interconnection process up to, at minimum, the completion of a System Impact Study or equivalent study, as well as a draft or fully-executed Large Generator Interconnection Agreement through PJM at the time of application for Tranche 1; and

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

(2) Any application pursuant to this section shall include:

(a) evidence reasonably satisfactory to the board of site control, including all rights of way to the proposed point of interconnection;

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

(c) as-built drawings of a transmission-scale energy storage system comprised of new equipment;

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

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

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

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

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

(i) any other information required by the board.

c. The board shall review Tranche 1 applications consistently with the requirements of this section. At its discretion, the board may instruct an applicant on curing minor defects in a Tranche 1 application. The board shall include in its application review process a system of scoring, established prior to its review of any project, which scoring system shall, at a minimum, be based on price factors; maturity and likelihood of success; and environmental justice, redevelopment, and community benefits.

(1) In designing scoring for the price factors of an application, the board shall:

(a) consider costs and values throughout the application as measured in dollars per megawatt capacity per year;

(b) establish a maximum percentage of scoring that shall be price-based; and

(c) appropriately compare bid prices, at the board's discretion, based on the measure of the capacity of a transmission-scale energy storage system by the lesser of its installed capacity or its energy storage capacity divided by four hours.

(2) An application shall receive a higher score for maturity and likelihood of success if the transmission-scale energy storage system:

(a) has a fully executed Large Generator Interconnection Agreement through PJM or requires limited network upgrades;

(b) has completed non-ministerial permits; and

(c) is proposed by an applicant with experience in energy storage development, construction, and finance.

(3) An application shall receive a higher score for environmental justice, redevelopment, and community benefits if it includes brownfield redevelopment, existing or former fossil fuel plant replacement, or demonstrated benefits to environmental justice in communities where a transmission-scale energy storage system is proposed to be located.

(4) The board may place an eligible project that does not receive an incentive award for Tranche 1 on a waiting list and consider the eligible project for an incentive award during a subsequent tranche or successor program pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

d. The board shall approve incentive awards totaling a collective minimum of $60,000,000 in annual payments for each year of the 15-year award period of each eligible project approved under Tranche 1. The board shall provide funding for this annual collective amount of incentive award payments for Tranche 1, which payments shall be fully funded pursuant to subsection a. of section 5 of P.L. , c. (C.) (pending before the Legislature as this bill), in order to ensure that the collective installed capacity of eligible projects receiving an incentive award totals at least 500 megawatts for Tranche 1. An incentive award shall be conditioned upon a developer's compliance with the board order determining the incentive award and with any conditions the board shall reasonably require.

e. A board order that issues an incentive award for Tranche 1 shall be binding and enforceable. A Tranche 1 incentive award board order shall:

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

(2) define the incentive award, including a payment schedule for the 15-year award period of the incentive award, which term shall commence no earlier than July 1, 2028 or upon the commercial operations date of an eligible project, and during which term an eligible project shall receive an annual incentive award on each anniversary of the first payment date;

(3) determine the amount of funding to be allocated for payment of the incentive award beginning either in the fiscal year beginning on July 1, 2028 or on the commercial operations date of the eligible project, whichever is later;

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

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

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

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

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

f. (1) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board shall:

(a) within 120 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), develop application requirements and eligibility criteria for Tranche 1; and

(b) permit applications for Tranche 1, pursuant to paragraphs (2) and (3) of this subsection, without regard to the publication status of the rules and regulations to be issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

(2) The board shall permit an applicant, within 45 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), to submit an early application for Tranche 1 prior to the formal establishment of an application process or the promulgation of Tranche 1 rules and regulations.

(3) Within 30 days following the effective date of a board order either approving the rules and regulations proposed for publication pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) or approving the proposed application requirements and eligibility criteria for Tranche 1 in accordance with this section, the board shall:

(a) begin formally accepting applications for Tranche 1; and

(b) advise any applicant that submitted an early application for Tranche 1 pursuant to paragraph (2) of this subsection of any defects in its existing application pursuant to the rules and regulations or the application requirements and eligibility criteria approved by board order issued pursuant to this paragraph.

(4) The board shall accept Tranche 1 applications for a maximum of 60 days after the beginning of the formal application period for Tranche 1 pursuant to paragraph (3) of this subsection. Within 90 days following the closure of the Tranche 1 application period, the board shall evaluate projects in accordance with this section, any rules or regulations proposed pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), and any application requirements and eligibility criteria approved pursuant to this subsection.

g. Tranche 1 incentive awards shall receive funding pursuant to section 5 of P.L. , c. (C.) (pending before the Legislature as this bill).

3. a. No later than one calendar year following the date of the final Tranche 1 procurement approval issued pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall initiate a proceeding to examine the impact of the State's energy storage programs, collectively and individually, and to assess progress toward the 2030 energy storage target established pursuant to section 1 of P.L.2018, c.17 (C.48:3-87.8).

b. The board shall issue a report detailing its conclusions and submit the report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. In its report issued pursuant to this subsection, the board shall, at a minimum:

(1) examine the State's energy storage programs;

(2) account for projected electric bill savings and costs to ratepayers, as well as societal benefits of reduced emissions, due to increased installed capacity or energy storage capacity;

(3) report the progress of the projects under each energy storage program, including progress toward construction completion;

(4) compare relative costs per capacity awarded for each project based on its installed capacity;

(5) produce estimates of the most cost-effective means to achieve the 2030 energy storage target established pursuant to section 1 of P.L.2018, c.17 (C.48:3-87.8) or any other energy storage target established by the Legislature; and

(6) determine, at the discretion of the board, whether to extend the procurement of transmission-scale energy storage pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) based on the results of Tranche 1. The board may procure additional tranches either:

(a) pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) with funding through the societal benefits charge pursuant to subsection a. of section 5 of P.L. , c. (C.) (pending before the Legislature as this bill); or

(b) pursuant to a successor program established pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) with funding through rate recovery as set forth in subsection b. of section 5 of P.L. , c. (C.) (pending before the Legislature as this bill).

4. a. Following a determination, pursuant to subparagraph (b) of paragraph (6) of subsection b. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), to establish a successor program, the board shall issue rules and regulations pursuant to the requirements of subsection c. of section 6 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. The board shall, in any successor program, require each electric public utility to submit proposed tariffs for board review and approval, which tariffs shall be designed to fund the successor program through base rate recovery. Each electric public utility's tariff submitted pursuant to this subsection shall include, apportioned according to the relative electric load of the electric public utility in this State, the total cost of:

(1) the outstanding costs of the incentives awarded to eligible projects under Tranche 1; and

(2) the costs, as the board determines necessary, for incentive awards under the successor program.

c. In addition to rules and regulations issued pursuant to subsection c. of section 6 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall be authorized to continue any rule, regulation, or policy used to administer Tranche 1 as the board determines necessary and appropriate to administer a successor program. If the board determines in the report required pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) that it will extend the procurement of transmission-scale energy storage through additional tranches in accordance with subparagraph (b) of paragraph (6) of subsection b. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall administer future tranches in a similar manner to Tranche 1, modifying as appropriate for each subsequent tranche:

(1) the amount of megawatts to be solicited;

(2) the application requirements or eligibility criteria;

(3) the timeline for an eligible project, including, but not limited to, application deadlines or the contract term; and

(4) any other administrative modification the board deems appropriate following its report issued pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

d. The board may amend a Tranche 1 incentive award, upon written consent from the developer of the eligible project, solely to change the funding mechanism of the incentive award pursuant to subsection b. of section 5 of P.L. , c. (C.) (pending before the Legislature as this bill). Any incentive award for an eligible project and the conditions for receiving funding pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) shall remain effective for the full duration of the 15-year award period specified in the board's Tranche 1 order awarding the incentive, notwithstanding any change to the funding mechanism of the incentive award.

5. a. An incentive award issued pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be funded through the societal benefits charge established pursuant to subsection a. of section 12 of P.L.1999, c.23 (C.48:3-60). In the fiscal year beginning on July 1, 2028, and in each fiscal year thereafter, the board shall allocate a minimum of $60,000,000 from the funds collected through the societal benefits charge to fully fund the incentive awards issued by the board pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. (1) An incentive award issued pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be funded through ratepayer tariffs recovered through an electric public utility's base rate case, in accordance with subsection b. of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) Any amendment to a Tranche 1 incentive award board order to change the funding mechanism of the incentive award pursuant to

subsection d. of section 4 of P.L.   , c.   (C.   ) (pending before the Legislature as this bill) shall replace the funding mechanism of the incentive award with funding pursuant to paragraph (1) of this subsection. Pending any order for replacement funding for a Tranche 1 incentive award order, the Tranche 1 incentive award shall continue to be funded pursuant to subsection a. of this section.

6. a. (1) The board shall adopt, as expeditiously as possible, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations consistent with the purposes of section 2 of P.L.   , c.   (C.   ) (pending before the Legislature as this bill). The rules and regulations issued for Tranche 1 shall be similar to the board's rules concerning Grid Supply projects for the New Jersey Energy Storage Incentive Program, or its replacement or successor, in its final form, but shall reflect the unique nature of transmission-scale energy storage systems.

(2) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board shall:

(a) within 60 days following the effective date of P.L.   , c.   (C.   ) (pending before the Legislature as this bill), engage with stakeholders and interested parties and solicit comments on the rules and regulations for publication in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); and

(b) within 120 days following the effective date of P.L.   , c.   (C.   ) (pending before the Legislature as this bill), submit the proposed Tranche 1 rules and regulations for publication in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board may procure transmission-scale energy storage systems and award incentives for Tranche 1 pursuant to section 2 of P.L.   , c.   (C.   ) (pending before the Legislature as this bill), notwithstanding the status of board rules or regulations pursuant to subsection a. of this section.

c. In the event that the board decides to implement a successor program pursuant to section 4 of P.L.   , c.   (C.   ) (pending before the Legislature as this bill), following the issuance of its report pursuant to section 3 of P.L.   , c.   (C.   ) (pending before the Legislature as this bill), the board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations consistent with the purposes of section 4 of P.L.   , c.   (C.   ) (pending before the Legislature as this bill), and determine therein, at a minimum:

(1) the minimum amount of energy storage to be procured in total among eligible projects during any solicitation subsequent to Tranche 1;

(2) any eligibility criteria;

(3) the minimum performance standards for an eligible project; and

(4) the amount and structure of a performance-based adjustment.

7. Section 12 of P.L.1999, c.23 (C.48:3-60) is amended to read as follows:

12. a. Simultaneously with the starting date for the implementation of retail choice as determined by the board pursuant to subsection a. of section 5 of P.L.1999, c.23 (C.48:3-53), the board shall permit each electric public utility and gas public utility to recover some or all of the following costs through a societal benefits charge that shall be collected as a non-bypassable charge imposed on all electric public utility customers and gas public utility customers, as appropriate:

(1) 【The】 <u>the</u> costs for the social programs for which rate recovery was approved by the board prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of social program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). The board may subsequently order, pursuant to its rules and regulations, an increase or decrease in the societal benefits charge to reflect changes in the costs to the utility of administering existing social programs. Nothing in P.L.1999, c.23 (C.48:3-49 et al.) shall be construed to abolish or change any social program required by statute or board order or rule or regulation to be provided by an electric public utility. Any such social program shall continue to be provided by the utility until otherwise provided by law, unless the board determines that it is no longer appropriate for the electric public utility to provide the program, or the board chooses to modify the program;

(2) 【Nuclear】 <u>nuclear</u> plant decommissioning costs;

(3) 【The】 <u>the</u> costs of demand side management programs that were approved by the board pursuant to its demand side management regulations prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of demand side management program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). Within four months of the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and every four years thereafter, the board shall initiate a proceeding and cause to be undertaken a comprehensive resource

analysis of energy programs, and within eight months of initiating such proceeding and after notice, provision of the opportunity for public comment, and public hearing, the board, in consultation with the Department of Environmental Protection, shall determine the appropriate level of funding for energy efficiency, light, medium, and heavy-duty plug-in electric vehicles, including school buses, and associated plug-in electric vehicle charging infrastructure, and Class I renewable energy programs that provide environmental benefits above and beyond those provided by standard offer or similar programs in effect as of the effective date of P.L.1999, c.23 (C.48:3-49 et al.); provided that the funding for such programs be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.) for an initial period of four years from the issuance of the first comprehensive resource analysis following the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and provided that 25 percent of this amount shall be used to provide funding for Class I renewable energy projects in the State. In each of the following fifth through eighth years, the Statewide funding for such programs shall be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.), except that as additional funds are made available as a result of the expiration of past standard offer or similar commitments, the minimum amount of funding for such programs shall increase by an additional amount equal to 50 percent of the additional funds made available, until the minimum amount of funding dedicated to such programs reaches $140,000,000 total. After the eighth year the board shall make a determination as to the appropriate level of funding for these programs. Such programs shall include a program to provide financial incentives for the installation of Class I renewable energy projects in the State, and the board, in consultation with the Department of Environmental Protection, shall determine the level and total amount of such incentives as well as the renewable technologies eligible for such incentives which shall include, at a minimum, photovoltaic, wind, and fuel cells. The board shall simultaneously determine, as a result of the comprehensive resource analysis, the programs to be funded by the societal benefits charge, the level of cost recovery and performance incentives for old and new programs and whether the recovery of demand side management programs' costs currently approved by the board may be reduced or extended over a longer period of time. The board shall make these determinations taking into consideration existing market barriers and environmental benefits, with the objective of transforming markets, capturing lost opportunities, making energy services more affordable for low income customers and eliminating subsidies for programs that can be delivered in the marketplace without electric public utility and gas public utility customer funding. The board shall set the societal benefits charge, in addition to the determinations above, to include full funding of the costs, as determined by the board, of providing incentive award payments for transmission-scale energy storage systems that are eligible projects pursuant to P.L. , c. (C.) (pending before the Legislature as this bill);

(4) [Manufactured] manufactured gas plant remediation costs, which shall be determined initially in a manner consistent with mechanisms in the remediation adjustment clauses for the electric public utility and gas public utility adopted by the board; and

(5) [The] the cost, of consumer education, as determined by the board, which shall be in an amount that, together with the consumer education surcharge imposed on electric power supplier license fees pursuant to subsection h. of section 29 of P.L.1999, c.23 (C.48:3-78) and the consumer education surcharge imposed on gas supplier license fees pursuant to subsection g. of section 30 of P.L.1999, c.23 (C.48:3-79), shall be sufficient to fund the consumer education program established pursuant to section 36 of P.L.1999, c.23 (C.48:3-85).

b. There is established in the Board of Public Utilities a nonlapsing fund to be known as the "Universal Service Fund." The board shall determine: the level of funding and the appropriate administration of the fund; the purposes and programs to be funded with monies from the fund; which social programs shall be provided by an electric public utility as part of the provision of its regulated services which provide a public benefit; whether the funds appropriated to fund the "Lifeline Credit Program" established pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.), the "Tenants' Lifeline Assistance Program" established pursuant to P.L.1981, c.210 (C.48:2-29.30 et seq.), the funds received pursuant to the Low Income Home Energy Assistance Program established pursuant to 42 U.S.C. s.8621 et seq., and funds collected by electric and gas public utilities, as authorized by the board, to offset uncollectible electricity and natural gas bills should be deposited in the fund; and whether new charges should be imposed to fund new or expanded social programs.

(cf: P.L.2022, c.86, s.2)

8. This act shall take effect immediately.

STATEMENT

The Board of Public Utilities (board) is required to establish a program to procure and provide incentive awards for the development of transmission-scale energy storage systems with a reasonable likelihood of successful and timely completion. The board is required to solicit applications for the program in an initial Tranche 1. After the conclusion of Tranche 1, the board is to engage in a review of the impact of the State's energy storage programs to make certain determinations, including whether to continue procuring and incentivizing transmission-scale energy storage. As outlined in the bill, the board is permitted to procure additional tranches by either continuing under the same program as Tranche 1 or implementing a successor program, with the board authorized to make changes based on its determinations in a report issued following its review.

For the bill's purposes, "transmission-scale energy storage system" means an energy storage system, capable of energy storage of at least 5 megawatts, that is interconnected with the PJM Transmission Network and situated inside a Transmission Zone in New Jersey or is otherwise located in New Jersey and qualified to provide energy, capacity, or ancillary services in the wholesale markets established by PJM Interconnection, L.L.C. (PJM).

Tranche 1 Procurement

The bill requires the board to solicit Tranche 1 applications for eligible projects whose collective installed capacity totals at least 500 megawatts of alternating current (MW AC). The bill provides certain deadlines for the proposal of rules and regulations; the development of application requirements and eligibility criteria; and the process of application, processing, and approval.

The board is required to permit an applicant, within 45 days following the bill's effective date, to submit an early application for Tranche 1 prior to the formal establishment of an application process or the promulgation of Tranche 1 rules and regulations. Within 30 days following the effective date of a board order either approving the rules and regulations proposed for publication or approving the proposed application requirements and eligibility criteria for Tranche 1, the board is required to: (1) begin formally accepting applications for Tranche 1; and (2) advise any applicant that submitted an early application for Tranche 1 of any defects in its existing application pursuant to the rules and regulations or the application requirements and eligibility criteria approved by board order.

To qualify for a Tranche 1 incentive award, a transmission-scale energy storage system is required to: (1) not participate in any other energy storage program; (2) have an anticipated commercial operations date of no later than December 31, 2030, unless the board permits an exception; (3) have completed the PJM interconnection process up to, at minimum, the completion of a System Impact Study, or equivalent study, as well as a draft or fully-executed Large Generator Interconnection Agreement through PJM at the time of application for Tranche 1; and (4) meet any other eligibility criteria the board may establish through board order or rulemaking.

A Tranche 1 application is required to include certain information and a fee, as provided in the bill.

At its discretion, the board may instruct an applicant on curing minor defects in a Tranche 1 application. The board is required to include in its application review process a system of scoring, established prior to its review of any project, which scoring system is to be based on price factors; maturity and likelihood of success; and environmental justice, redevelopment, and community benefits. The bill provides certain requirements for the scoring process and permits the board to place an eligible project that does not receive an incentive award for Tranche 1 on a waiting list and consider the eligible project for an incentive award during a subsequent tranche or successor program.

Tranche 1 Incentives

Under the bill, the board is required to approve incentive awards totaling a collective minimum of $60 million for Tranche 1. An incentive award is to be conditioned upon a developer's compliance with the board order determining the incentive award and with any conditions the board requires.

Tranche 1 Board Orders

The bill outlines certain requirements for a board order issuing an incentive award to an eligible project, including that the board order is required to: (1) define the eligible project receiving an incentive award and the eligible project's megawatt capacity; (2) define the incentive award, including a payment schedule for the 15-year award period of the incentive award, which term is to commence no earlier than July 1, 2028 or upon the commercial operations date of an eligible project, and during which term an eligible project is to receive an annual incentive award on each anniversary of the first payment date; (3) determine the amount of funding to be allocated for payment of the incentive award beginning either in the fiscal year beginning on July 1, 2028 or on the commercial operations date of the eligible project, whichever is later; (4) include a participation fee as the board is to require from the developer; (5) require, for an eligible project awarded an incentive, a pre-development security not to exceed $100,000 per megawatt and not to exceed in total $10,000,000; (6) outline the conditions under which the board may, in the event of a developer's failure to operate an eligible project by the deadline stated in the board order or to meet deadlines included in the board order, revoke an incentive award or retain a portion of the pre-development security; (7) provide that receipt of an incentive award for an eligible project is to be contingent on achievement of baseline performance requirements, including, but not limited to, the availability of energy storage for dispatch in a percentage of hours daily, which percentage is to be decided by the board. The board is permitted to use the PJM Equivalent Forced Outage Rate or another metric deemed appropriate by the board to measure energy storage availability. The board order is to require that the developer report data for this purpose at regular intervals and is to provide for a reduction of an incentive award in proportion to the percentage of required availability that is unmet by the eligible project; and (8) require that a developer provide additional information to the board during the term of the incentive award, as the board may require. The board may set additional requirements at its discretion, including, but not limited to, a requirement that the developer report major development and construction milestones to the board, maintain financial security throughout the term of the incentive award, or any other requirement the board determines necessary to ensure continued progress and operational viability of an eligible project.

Ratepayer Impact Review

No later than one calendar year following the date of the final Tranche 1 procurement approval, the board is required to initiate a proceeding to examine the impact of the State's energy storage programs, collectively and individually, and to assess progress toward the 2030 energy storage target of 2,000 megawatts. The board is required to issue a report that, at a minimum: (1) examines the State's energy storage programs; (2) accounts for projected electric bill savings and costs to ratepayers, as well as societal benefits of reduced emissions, due to increased installed capacity or energy storage capacity; (3) reports the progress of the projects under each energy storage program; (4) compares relative costs per capacity awarded for each project based on its installed capacity; (5) produces estimates of the most cost-effective means to achieve the 2030 energy storage target or any other energy storage target established by the Legislature; and (6) determines, at the discretion of the board, whether to extend the procurement of transmission-scale energy storage pursuant to this bill based on the results of Tranche 1.

Future Procurement

If the board determines in the report required by the bill that it will extend the procurement of transmission-scale energy storage through additional tranches, the board is permitted either to continue the program under which Tranche 1 was conducted or to establish a successor program, as outlined in the bill. The primary difference between these options for continued procurement of transmission-scale energy storage is the funding mechanism for incentive awards, as described below.

If the board administers future tranches pursuant to either option in the bill, the board is required to do so in a similar manner to how it administered Tranche 1, modifying as appropriate for each subsequent tranche: (1) the amount of megawatts to be solicited; (2) the application requirements or eligibility criteria; (3) the timeline for an eligible project, including, but not limited to, application deadlines or the contract term; and (4) any other administrative modification the board deems appropriate following its report.

Incentive Award Funding Mechanisms

The bill requires the board to fund incentive awards issued for Tranche 1 and any subsequent tranches issued under the same program through the societal benefits charge. Beginning in Fiscal Year 2029, the board is required to annually allocate a minimum of $60 million from the funds collected through the societal benefits charge to fully fund incentive awards issued for Tranche 1 and any subsequent tranches issued under the same program.

If the board instead establishes a successor program, it is required to fund incentive awards issued under the successor program through changes to each electric public utility's base rate case. As apportioned according to the relative electric load of each, the electric public utilities are to recover the total cost of (1) the outstanding costs of the incentives awarded to eligible projects under Tranche 1; and (2) the costs as the board determines necessary for incentive awards under the successor program.

The funding mechanism of a Tranche 1 incentive award is not to be changed without the consent of the developer, permitting Tranche 1 incentive awards to continue to be funded through the societal benefits charge if a developer does not agree to the change in funding mechanism, even if the board elects to establish a successor program with a different funding mechanism.

[First Reprint]

ASSEMBLY, No. 5267

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED FEBRUARY 10, 2025

Sponsored by:
Assemblyman WAYNE P. DEANGELO
District 14 (Mercer and Middlesex)
Assemblyman DAVID BAILEY, JR.
District 3 (Cumberland, Gloucester and Salem)
Assemblyman KEVIN P. EGAN
District 17 (Middlesex and Somerset)

Co-Sponsored by:
Assemblyman Miller

SYNOPSIS

Requires BPU to procure and incentivize transmission-scale energy storage.

CURRENT VERSION OF TEXT

As reported by the Assembly Telecommunications and Utilities Committee on March 20, 2025, with amendments.

(Sponsorship Updated As Of: 2/10/2025)

AN ACT concerning transmission-scale energy storage, supplementing Title 48 of the Revised Statutes, and amending P.L.1999, c.23.

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

1. [1](New section)[1] As used in P.L. , c. (C.) (pending before the Legislature as this bill):

[1]"Accredited capacity" means the amount of capacity, measured in megawatts of unforced capacity, that an eligible project can contribute toward New Jersey's capacity needs or bid into the base residual auction.

"Base residual auction" means the same as that term is defined in section 3 of P.L.1999, c.23 (C.48:3-51).[1]

"Board" means the Board of Public Utilities.

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

"Eligible project" means a transmission-scale energy storage system that meets the criteria for an incentive award pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

"Energy storage" means a device that is capable of absorbing energy from the grid or from a [1]**[**Distributed Energy Resource**]** generation resource located behind the same point of interconnection as the device[1]; storing it for a period of time using mechanical, chemical, or thermal processes; and, thereafter, discharging the energy back to the grid or directly to an energy-using system to reduce the use of power from the grid.

[1]"Energy storage capacity" means the measure of the capacity of a transmission-scale energy storage system by the lesser of its installed capacity or its capacity in megawatt-hours divided by four hours.[1]

"Energy storage program" means a program designed to encourage the growth of energy storage capacity in the State in order to strengthen storage capacity for the electric grid. "Energy storage program" includes the board's Successor Solar Incentive Program, including the Competitive Solar Incentive Program; the program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill); and the board's New Jersey Energy Storage Incentive Program [1]**[**, or its replacement or successor, in its final form**]**[1].

[1]"Generation Interconnection Agreement" means the same as that term is defined in PJM's Open Access Transmission Tariff or in any successor document.[1]

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.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly ATU committee amendments adopted March 20, 2025.

"Incentive award" means a set of payments awarded by the board for an eligible project, which payments are conditioned upon the completion and commercial operation of the eligible project in compliance with P.L. , c. (C.) (pending before the Legislature as this bill) and any conditions required by the board. An "incentive award" shall be a fixed series of annual payments [1]⟦,⟧[1] to be issued over the [1]⟦15-year⟧ 10- to 20-year[1] award period [1]⟦,⟧ ;[1] based on the maximum usable installed capacity of an eligible project, [1]which is[1] measured in dollars per megawatt, [1]or the energy storage capacity of an eligible project, which is measured in dollars per megawatt-hour;[1] and paid upon commercial operation of the eligible project, unless the board provides for an alternative payment timeline. [1]⟦"Incentive⟧ An "incentive award" is subject to any conditions imposed by the board, including, but not limited to, satisfactory up-time performance metrics. An "incentive[1] award" may include, at the discretion of the board, a performance-based adjustment based on the availability of the eligible project or the benefits created through the commercial operation of the eligible project, provided that the board shall confirm the reliability of any proposed metrics on which to base a performance-based adjustment prior to being used in the calculation of an incentive award.

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

[1]"New Jersey Energy Storage Incentive Program" or "NJ SIP" means the final form of the energy storage program under development by the board and outlined in the board's November 2024 straw proposal, or the program's replacement or successor.[1]

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

"Successor program" means an energy storage program established pursuant to section [1]⟦4⟧ 3[1] of P.L. , c. (C.) (pending before the Legislature as this bill).

"Tranche 1" means the initial procurement for the energy storage program established pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Transmission-scale energy storage system" means an energy storage system, [1]⟦capable of energy storage⟧ with an installed capacity[1] of at least 5 [1]⟦megawatts⟧ MW AC[1], that is interconnected with the PJM Transmission Network and situated inside a Transmission Zone in New Jersey or is otherwise located in New Jersey and qualified to provide energy, capacity, or ancillary services in the wholesale markets established by PJM.

[1]"Unforced capacity" means the same as that term is defined in PJM's Reliability Assurance Agreement or in any successor document.[1]

2. [1](New section)[1] a. (1) The Board of Public Utilities shall establish a program to procure and provide incentive awards for the development of transmission-scale energy storage systems with a reasonable likelihood of successful and timely completion. The board shall solicit applications for the program established pursuant to this section in an initial Tranche 1 pursuant to this section.

(2) If the board [1]**[**determines in the report required pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) that it will**]** elects to[1] extend the procurement of transmission-scale energy storage through additional tranches [1]**[**in accordance with subparagraph (a) of paragraph (6) of subsection b. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill)**]**[1], the board shall administer future tranches in a similar manner to Tranche 1, modifying as appropriate for each subsequent tranche:

(a) the amount of megawatts to be solicited;

(b) the application requirements or eligibility criteria;

(c) the timeline for an eligible project, including, but not limited to, application deadlines or the contract term; and

(d) any other administrative modification the board deems appropriate [1]**[**following its report issued pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill)**]**[1].

b. For Tranche 1, the board shall solicit applications for eligible projects, which projects shall collectively have an installed capacity totaling at least 500 MW AC.

(1) To qualify for an incentive award pursuant to this section, a transmission-scale energy storage system shall:

(a) not participate in any other energy storage program [1], except for the NJ SIP, to the extent that the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) is incorporated into the NJ SIP[1];

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

(c) have [1]**[**completed**]** entered[1] the PJM interconnection process [1]**[**up to, at minimum, the completion of a System Impact Study or equivalent study, as well as a draft or fully-executed Large Generator Interconnection Agreement through PJM**]** and,[1] at the time of application for Tranche 1 [1], have a fully-executed Generation Interconnection Agreement through PJM, have a completed Surplus Interconnection Study through PJM, or have notified PJM of intent to transfer existing Capacity Interconnection Rights associated with a deactivating generation station[1]; and

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

(2) Any application pursuant to this section shall include:

(a) evidence reasonably satisfactory to the board of site control [1]**[**, including all rights of way to the proposed point of interconnection**]**[1];

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

(c) [1]**[**as-built drawings of a transmission-scale energy storage system comprised of new equipment;

(d) **]**[1] evidence reasonably satisfactory to the board that the applicant has submitted all interconnection applications and [1]initial application[1] fees necessary to obtain permission from the appropriate electric public utility or grid operator to operate the transmission-scale energy storage system;

[1]**[**(e)**]** (d)[1] evidence reasonably satisfactory to the board of the applicant's financial means to construct the transmission-scale energy storage system and [1]**[**capacity**]** ability[1] to obtain revenues through electricity markets or non-ratepayer funding, including, but not limited to, energy arbitrage, ancillary services, and capacity revenues in PJM;

[1]**[**(f)**]** (e)[1] evidence reasonably satisfactory to the board of the status of the transmission-scale energy storage system in the PJM interconnection process;

[1]**[**(g)**]** (f)[1] assurances reasonably satisfactory to the board that the transmission-scale energy storage system will adhere to [1]any safety requirements, standards, or measures that the board deems appropriate as well as[1] nationally recognized minimum safety requirements, including, but not limited to, appropriate laboratory testing, and comply with all manufacturers' installation requirements, applicable laws, regulations, codes, licensing, and permit requirements;

[1]**[**(h)**]** (g)[1] an application fee as set by the board; and

[1]**[**(i)**]** (h)[1] any other information required by the board.

c. The board shall review Tranche 1 applications consistently with the requirements of this section. At its discretion, the board may instruct an applicant on curing minor defects in a Tranche 1 application. The board shall [1]**[**include in its application review process a system of scoring, established prior to its review of any project, which scoring system shall, at a minimum, be based on price factors; maturity and likelihood of success; and environmental justice, redevelopment, and community benefits.

(1) In designing scoring for the price factors of an application, the board shall:

(a) consider costs and values throughout the application as measured in dollars per megawatt capacity per year;

(b) establish a maximum percentage of scoring that shall be price-based; and

(c) **]** evaluate each application based on the bid prices of the requested incentives. The board may[1] appropriately compare bid prices, at the board's discretion, based on the measure of the capacity of a transmission-scale energy storage system by the lesser of its installed capacity or its energy storage capacity divided by four hours [1][.

(2) An application shall receive a higher score for maturity and likelihood of success if the transmission-scale energy storage system:

(a) has a fully executed Large Generator Interconnection Agreement through PJM or requires limited network upgrades;] , or on the expected accredited capacity of a transmission-scale energy storage system. The board may also consider other factors such as:

(1) project maturity and likelihood of success;[1]

[1][(b)] (2) whether the project[1] has completed non-ministerial permits; [1][and

(c)] (3) whether the project[1] is proposed by an applicant with experience in energy storage development, construction, and finance [1][.] ;[1]

[1][(3) An application shall receive a higher score for environmental justice,] (4) whether the project promotes[1] redevelopment, [1][and][1] community benefits [1][if it includes] ,[1] brownfield redevelopment, [1]or[1] existing or former fossil fuel plant replacement, or [1]provides[1] demonstrated benefits to environmental justice in communities where a transmission-scale energy storage system is proposed to be located [1][.] ; and[1]

[1][(4)] (5) whether the installed capacity of the project participating in the incentive program has the associated Capacity Interconnection Rights through PJM.

d.[1] The board may place an eligible project that does not receive an incentive award for Tranche 1 on a waiting list and consider the eligible project for an incentive award during a subsequent tranche or successor program pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

[1][d.] e.[1] The board shall approve incentive awards totaling a collective minimum of $60,000,000 in annual payments for [1][each year of the 15-year] 10- to 20-year[1] award [1][period of each eligible project approved under Tranche 1] periods for eligible projects in Tranche 1, which projects shall total a collective minimum of 500 MW AC, or the board shall approve incentive awards for eligible projects that collectively have an installed capacity totaling at least 1,000 MW AC, by no later than December 31, 2026. The board may approve all of these 1,000 MW in incentives in Tranche 1 or through awards in Tranche 1 and subsequent tranches, provided that incentives in subsequent tranches are awarded by no later than December 31, 2026[1]. The board shall [1][provide funding for this annual collective amount of incentive award payments for Tranche 1, which payments shall be] ensure the incentive awards are[1] fully funded pursuant to subsection a. of section [1][5] 4[1] of P.L. , c. (C.) (pending before the Legislature as this bill) [1][, in order to ensure that the

collective installed capacity of eligible projects receiving an incentive award totals at least 500 megawatts for Tranche 1][1]. An incentive award shall be conditioned upon a developer's compliance with the board order determining the incentive award and with any conditions the board shall reasonably require.

[1][e. A] f. Any[1] board order that issues an incentive award [1][for Tranche 1] pursuant to this section[1] shall be binding and enforceable. [1][A Tranche 1 incentive award] Any such[1] board order shall:

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

(2) define the incentive award, including a payment schedule for the [1][15-year] 10- to 20-year[1] award period of the incentive award, which term shall commence no earlier than [1][July 1, 2028 or upon][1] the commercial operations date of an eligible project, and during which term an eligible project shall receive an annual incentive award on each anniversary of the first payment date;

(3) determine the amount of funding to be allocated for payment of the incentive award beginning [1][either][1] in the fiscal year [1][beginning on July 1, 2028 or on the commercial operations date of the eligible project, whichever is later] in which the eligible project commences commercial operations[1];

(4) include a participation fee as the board [1][shall] may[1] require from the developer;

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

(6) outline the conditions under which the board may, in the event of a developer's failure to operate an eligible project by the deadline stated in the board order or to meet deadlines included in the board order, revoke an incentive award or retain [1][a portion] some or all[1] of the pre-development security;

(7) provide that receipt of an incentive award for an eligible project shall be contingent on achievement of baseline performance requirements, including, but not limited to, [1][the][1] availability [1][of energy storage][1] for dispatch in a [1][percentage] minimum number[1] of hours [1][daily, which percentage shall be decided] per year, as determined[1] by the board. The board may use the PJM Equivalent Forced Outage Rate or another metric determined appropriate by the board to measure energy storage availability. The board order shall require that the developer report data for the purpose of this paragraph at regular intervals and shall provide for a reduction of an incentive award in proportion to the [1][percentage] number of hours[1] of required availability that is unmet by the eligible project; and

(8) require that a developer provide additional information to the board during the term of the incentive award, as the board may reasonably require. The board may set additional requirements at its

discretion, including, but not limited to, a requirement that the developer report major development and construction milestones to the board, maintain financial security throughout the term of the incentive award, or any other requirement the board determines necessary to ensure continued progress and operational viability of an eligible project.

[1]⟦f.⟧ g.[1] (1) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board shall [1]⟦:

(a) within 120 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), develop application requirements and eligibility criteria for Tranche 1; and

(b) ⟧[1] permit applications for Tranche 1 [1]⟦, pursuant to paragraphs (2) and (3) of this subsection,⟧[1] without regard to the publication status of the rules and regulations to be issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) [1], by no later than January 15, 2026[1].

(2) [1]⟦The board shall permit an applicant, within 45 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), to submit an early application for Tranche 1 prior to the formal establishment of an application process or the promulgation of Tranche 1 rules and regulations.

(3) Within 30 days following the effective date of a board order either approving the rules and regulations proposed for publication pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) or approving the proposed application requirements and eligibility criteria for Tranche 1 in accordance with this section, the board shall:

(a) begin formally accepting applications for Tranche 1; and

(b) advise any applicant that submitted an early application for Tranche 1 pursuant to paragraph (2) of this subsection of any defects in its existing application pursuant to the rules and regulations or the application requirements and eligibility criteria approved by board order issued pursuant to this paragraph.

(4)⟧[1] The board shall accept Tranche 1 applications for a maximum of 60 days after the beginning of the formal application period for Tranche 1 [1]⟦pursuant to paragraph (3) of this subsection⟧[1]. Within [1]⟦90⟧ 60[1] days following the closure of the Tranche 1 application period, the board shall [1]:

(a)[1] evaluate projects in accordance with this section, any rules or regulations proposed pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), and any application requirements and eligibility criteria approved pursuant to this subsection [1]; and

(b) select eligible projects to receive an award.

(3) The board shall finalize and approve all incentive awards for Tranche 1 no later than April 1, 2026[1].

[1]**[**g. Tranche 1 incentive awards**]** <u>h. Any incentive award approved by the board pursuant to this section</u>[1] shall receive funding pursuant to section [1]**[**5**]** <u>4</u>[1] of P.L. , c. (C.) (pending before the Legislature as this bill).

[1]**[**3.a. No later than one calendar year following the date of the final Tranche 1 procurement approval issued pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall initiate a proceeding to examine the impact of the State's energy storage programs, collectively and individually, and to assess progress toward the 2030 energy storage target established pursuant to section 1 of P.L.2018, c.17 (C.48:3-87.8).

b. The board shall issue a report detailing its conclusions and submit the report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. In its report issued pursuant to this subsection, the board shall, at a minimum:

(1) examine the State's energy storage programs;

(2) account for projected electric bill savings and costs to ratepayers, as well as societal benefits of reduced emissions, due to increased installed capacity or energy storage capacity;

(3) report the progress of the projects under each energy storage program, including progress toward construction completion;

(4) compare relative costs per capacity awarded for each project based on its installed capacity;

(5) produce estimates of the most cost-effective means to achieve the 2030 energy storage target established pursuant to section 1 of P.L.2018, c.17 (C.48:3-87.8) or any other energy storage target established by the Legislature; and

(6) determine, at the discretion of the board, whether to extend the procurement of transmission-scale energy storage pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) based on the results of Tranche 1. The board may procure additional tranches either:

(a) pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) with funding through the societal benefits charge pursuant to subsection a. of section 5 of P.L. , c. (C.) (pending before the Legislature as this bill); or

(b) pursuant to a successor program established pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) with funding through rate recovery as set forth in subsection b. of section 5 of P.L. , c. (C.) (pending before the Legislature as this bill).**]**[1]

[1]**[**4.a. Following a determination, pursuant to subparagraph (b) of paragraph (6) of subsection b. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill),

to establish a successor program, the board shall issue rules and regulations pursuant to the requirements of subsection c. of section 6 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. The board shall, in any successor program, require each electric public utility to submit proposed tariffs for board review and approval, which tariffs shall be designed to fund the successor program through base rate recovery. Each electric public utility's tariff submitted pursuant to this subsection shall include, apportioned according to the relative electric load of the electric public utility in this State, the total cost of:

(1) the outstanding costs of the incentives awarded to eligible projects under Tranche 1; and

(2) the costs, as the board determines necessary, for incentive awards under the successor program.

c. In addition to rules and regulations issued pursuant to subsection c. of section 6 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall be authorized to continue any rule, regulation, or policy used to administer Tranche 1 as the board determines necessary and appropriate to administer a successor program. If the board determines in the report required pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) that it will extend the procurement of transmission-scale energy storage through additional tranches in accordance with subparagraph (b) of paragraph (6) of subsection b. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall administer future tranches in a similar manner to Tranche 1, modifying as appropriate for each subsequent tranche:

(1) the amount of megawatts to be solicited;

(2) the application requirements or eligibility criteria;

(3) the timeline for an eligible project, including, but not limited to, application deadlines or the contract term; and

(4) any other administrative modification the board deems appropriate following its report issued pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

d. The board may amend a Tranche 1 incentive award, upon written consent from the developer of the eligible project, solely to change the funding mechanism of the incentive award pursuant to subsection b. of section 5 of P.L. , c. (C.) (pending before the Legislature as this bill). Any incentive award for an eligible project and the conditions for receiving funding pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) shall remain effective for the full duration of the 15-year award period specified in the board's Tranche 1 order awarding the incentive, notwithstanding any change to the funding mechanism of the incentive award.**]**[1]

[1]3. (New section) a. If the board determines that an additional energy storage program is needed to achieve the 2030 energy storage target established pursuant to section 1 of P.L.2018, c.17 (C.48:3-87.8), the board shall establish a successor program by adopting rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. The board may establish a successor program by adopting rules and regulations that implement the NJ SIP, provided that the final version of the NJ SIP is consistent with the requirements of P.L. , c. (C.) (pending before the Legislature as this bill).

c. The board may fund any successor program in whole or in part by appropriating and allocating monies to the successor program from the funds collected through the societal benefits charge established pursuant to subsection a. of section 12 of P.L.1999, c.23 (C.48:3-60). The board may also supplement funding for the successor program by using monies from all available sources, including, but not limited to, monies from the "Global Warming Solutions Fund" established pursuant to section 6 of P.L.2007, c.340 (C.26:2C-50).

d. In addition to rules and regulations issued pursuant to subsection a. of section 5 of P.L. , c. (C.) (pending before the Legislature as this bill), the board may continue any rule, regulation, or policy used to administer Tranche 1 as the board determines necessary and appropriate to administer a successor program. If the board solicits additional eligible projects in subsequent tranches, in accordance with subsection e. of section 2 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall administer the subsequent tranches in a similar manner to Tranche 1, modifying as appropriate for each subsequent tranche:

(1) the amount of megawatts to be solicited;

(2) the application requirements or eligibility criteria;

(3) the timeline for an eligible project, including, but not limited to, application deadlines or the contract term; and

(4) any other administrative modification the board deems appropriate.

e. The board may amend a Tranche 1 or subsequent tranche incentive award, upon written consent from the developer of the eligible project, solely to change the funding source of the incentive award. Any incentive award for an eligible project and the conditions for receiving funding pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) shall remain effective for the full duration of the 10- to 20-year award period specified in the board's Tranche 1 order or subsequent tranche order awarding the incentive, notwithstanding any change to the funding source of the incentive award.[1]

[1]**[**5. a.**]** 4. (New section)[1] An incentive award issued pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be funded through the societal benefits charge

established pursuant to subsection a. of section 12 of P.L.1999, c.23 (C.48:3-60) [1], monies made available to the board from the "Global Warming Solutions Fund" established pursuant to section 6 of P.L.2007, c.340 (C.26:2C-50), and monies available from other funding sources, as determined by the board[1]. In the fiscal year beginning on July 1, [1]⟦2028⟧ 2027[1], and in each fiscal year thereafter, [1]until the end of all applicable incentive award periods,[1] the board shall [1]appropriate and[1] allocate [1]⟦a minimum of $60,000,000 from the funds collected through the societal benefits charge⟧ sufficient monies from these sources[1] to fully fund the incentive awards issued by the board [1],[1] pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) [1], in Tranche 1 for eligible projects totaling a collective minimum of 500 MW AC[1].

[1]⟦b. (1) An incentive award issued pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be funded through ratepayer tariffs recovered through an electric public utility's base rate case, in accordance with subsection b. of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) Any amendment to a Tranche 1 incentive award board order to change the funding mechanism of the incentive award pursuant to subsection d. of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) shall replace the funding mechanism of the incentive award with funding pursuant to paragraph (1) of this subsection. Pending any order for replacement funding for a Tranche 1 incentive award order, the Tranche 1 incentive award shall continue to be funded pursuant to subsection a. of this section.⟧[1]

[1]⟦6.⟧ 5. (New section)[1] a. (1) The board shall adopt, as expeditiously as possible, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations consistent with the purposes of section 2 of P.L. , c. (C.) (pending before the Legislature as this bill). [1]⟦The rules and regulations issued for Tranche 1 shall be similar to the board's rules concerning Grid Supply projects for the New Jersey Energy Storage Incentive Program, or its replacement or successor, in its final form, but shall reflect the unique nature of transmission-scale energy storage systems.⟧[1]

(2) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, [1]within 90 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill),[1] the board shall [1]⟦:

(a) within 60 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), engage with stakeholders and interested parties and solicit comments on the rules and regulations for publication in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); and

(b) within 120 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), submit the proposed Tranche 1 rules and regulations for publication in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)⟧ publish a notice of proposal that contains the proposed rules required by this subsection[1].

b. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board may procure transmission-scale energy storage systems and award incentives for Tranche 1 [1]and subsequent tranches[1] pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill), notwithstanding the status of board rules or regulations pursuant to subsection a. of this section.

c. [1]⟦In the event that⟧ If[1] the board decides to implement a successor program pursuant to section [1]⟦4⟧ 3[1] of P.L. , c. (C.) (pending before the Legislature as this bill) [1]⟦, following the issuance of its report pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations consistent with the purposes of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill), and determine therein, at a minimum:

(1) the minimum amount of energy storage to be procured in total among eligible projects during any solicitation subsequent to Tranche 1;

(2) any eligibility criteria;

(3) the minimum performance standards for an eligible project; and

(4) the amount and structure of a performance-based adjustment⟧ by adopting final rules that implement the NJ SIP, the board may adopt those rules and regulations in the same rulemaking proceeding in which it proposes and adopts the rules and regulations required by subsection a. of this section[1].

[1]6. (New Section) Notwithstanding any restrictions on use of funds in section 7 of P.L.2007, c.340 (C.26:2C-51) and section 12 of P.L.1999, c.23 (C.48:3-60), the board may fund incentive awards issued pursuant to sections 2 and 3 of P.L. , c. (C.) (pending before the Legislature as this bill) from any of the following sources, singly or in combination:

a. revenues from the societal benefits charge established pursuant to subsection a. of section 12 of P.L.1999, c.23 (C.48:3-60);

b. monies allocated to the board from the "Global Warming Solutions Fund," established pursuant to section 6 of P.L.2007, c.340

(C.26:2C-50), and consistent with the objectives set forth in the "Global Warming Response Act," P.L.2007, c.340 (C.26:2C-37 to -57);

c. any appropriations made by the Legislature for the program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill); or

d. any other sources of available funding.[1]

7. Section 12 of P.L.1999, c.23 (C.48:3-60) is amended to read as follows:

12. a. Simultaneously with the starting date for the implementation of retail choice as determined by the board pursuant to subsection a. of section 5 of P.L.1999, c.23 (C.48:3-53), the board shall permit each electric public utility and gas public utility to recover some or all of the following costs through a societal benefits charge that shall be collected as a non-bypassable charge imposed on all electric public utility customers and gas public utility customers, as appropriate:

(1) [The] the costs for the social programs for which rate recovery was approved by the board prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of social program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). The board may subsequently order, pursuant to its rules and regulations, an increase or decrease in the societal benefits charge to reflect changes in the costs to the utility of administering existing social programs. Nothing in P.L.1999, c.23 (C.48:3-49 et al.) shall be construed to abolish or change any social program required by statute or board order or rule or regulation to be provided by an electric public utility. Any such social program shall continue to be provided by the utility until otherwise provided by law, unless the board determines that it is no longer appropriate for the electric public utility to provide the program, or the board chooses to modify the program;

(2) [Nuclear] nuclear plant decommissioning costs;

(3) [The] the costs of demand side management programs that were approved by the board pursuant to its demand side management regulations prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of demand side management program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). Within four months of the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and every four years thereafter, the board shall initiate a proceeding and cause to be undertaken a comprehensive resource analysis of energy programs, and within eight months of initiating such proceeding and after notice, provision of the opportunity for public comment, and public hearing,

the board, in consultation with the Department of Environmental Protection, shall determine the appropriate level of funding for energy efficiency, light, medium, and heavy-duty plug-in electric vehicles, including school buses, and associated plug-in electric vehicle charging infrastructure, [1]energy storage,[1] and Class I renewable energy programs that provide environmental benefits above and beyond those provided by standard offer or similar programs in effect as of the effective date of P.L.1999, c.23 (C.48:3-49 et al.); provided that the funding for such programs be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.) for an initial period of four years from the issuance of the first comprehensive resource analysis following the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and provided that 25 percent of this amount shall be used to provide funding for Class I renewable energy projects in the State. In each of the following fifth through eighth years, the Statewide funding for such programs shall be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.), except that as additional funds are made available as a result of the expiration of past standard offer or similar commitments, the minimum amount of funding for such programs shall increase by an additional amount equal to 50 percent of the additional funds made available, until the minimum amount of funding dedicated to such programs reaches $140,000,000 total. After the eighth year the board shall make a determination as to the appropriate level of funding for these programs. Such programs shall include a program to provide financial incentives for the installation of Class I renewable energy projects in the State, and the board, in consultation with the Department of Environmental Protection, shall determine the level and total amount of such incentives as well as the renewable technologies eligible for such incentives which shall include, at a minimum, photovoltaic, wind, and fuel cells. The board shall simultaneously determine, as a result of the comprehensive resource analysis, the programs to be funded by the societal benefits charge, the level of cost recovery and performance incentives for old and new programs and whether the recovery of demand side management programs' costs currently approved by the board may be reduced or extended over a longer period of time. The board shall make these determinations taking into consideration existing market barriers and environmental benefits, with the objective of transforming markets, capturing lost opportunities, making energy services more affordable for low income customers and eliminating subsidies for programs that can be delivered in the marketplace without electric public utility and gas public utility customer funding. [1]**[**The board shall set the societal benefits charge, in**]** In[1] addition to the determinations above, [1]**[**to include full funding of the costs, as determined by the board, of providing】 the board shall allocate sufficient funding from the societal benefits charge to cover the remaining cost of fully funding[1] incentive award payments for transmission-scale energy storage systems that are eligible projects pursuant to P.L.   , c.   (C.   ) (pending before the Legislature as this bill) [1], after accounting for funding allocated to this purpose from other sources[1];

(4) 【Manufactured】 manufactured gas plant remediation costs, which shall be determined initially in a manner consistent with mechanisms in the remediation adjustment clauses for the electric public utility and gas public utility adopted by the board; and

(5) 【The】 the cost, of consumer education, as determined by the board, which shall be in an amount that, together with the consumer education surcharge imposed on electric power supplier license fees pursuant to subsection h. of section 29 of P.L.1999, c.23 (C.48:3-78) and the consumer education surcharge imposed on gas supplier license fees pursuant to subsection g. of section 30 of P.L.1999, c.23 (C.48:3-79), shall be sufficient to fund the consumer education program established pursuant to section 36 of P.L.1999, c.23 (C.48:3-85).

b. There is established in the Board of Public Utilities a nonlapsing fund to be known as the "Universal Service Fund." The board shall determine: the level of funding and the appropriate administration of the fund; the purposes and programs to be funded with monies from the fund; which social programs shall be provided by an electric public utility as part of the provision of its regulated services which provide a public benefit; whether the funds appropriated to fund the "Lifeline Credit Program" established pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.), the "Tenants' Lifeline Assistance Program" established pursuant to P.L.1981, c.210 (C.48:2-29.30 et seq.), the funds received pursuant to the Low Income Home Energy Assistance Program established pursuant to 42 U.S.C. s.8621 et seq., and funds collected by electric and gas public utilities, as authorized by the board, to offset uncollectible electricity and natural gas bills should be deposited in the fund; and whether new charges should be imposed to fund new or expanded social programs.

(cf: P.L.2022, c.86, s.2)

8. This act shall take effect immediately.

ASSEMBLY SUBSTITUTE FOR

ASSEMBLY, No. 5267

STATE OF NEW JERSEY

221st LEGISLATURE

ADOPTED MAY 22, 2025

Sponsored by:
Assemblyman WAYNE P. DEANGELO
District 14 (Mercer and Middlesex)
Assemblyman DAVID BAILEY, JR.
District 3 (Cumberland, Gloucester and Salem)
Assemblyman KEVIN P. EGAN
District 17 (Middlesex and Somerset)
Senator BOB SMITH
District 17 (Middlesex and Somerset)
Senator JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:
Assemblymen Miller, Hutchison, Assemblywoman Ramirez, Assemblyman Karabinchak, Assemblywoman McCoy, Senator Greenstein, Assemblyman Freiman, Assemblywomen Drulis and Simmons

SYNOPSIS

Requires BPU to procure and incentivize transmission-scale energy storage.

CURRENT VERSION OF TEXT

Substitute as adopted by the General Assembly.

(Sponsorship Updated As Of: 6/30/2025)

AN ACT concerning transmission-scale energy storage, supplementing Title 48 of the Revised Statutes, and amending P.L.1999, c.23.

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

1. (New section) As used in P.L. , c. (C.) (pending before the Legislature as this bill):

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

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

"Board" means the Board of Public Utilities.

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

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

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

"Eligible project" means a transmission-scale energy storage system that meets the criteria for an incentive award pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

"Energy storage" means a device that is capable of absorbing energy from the grid or from a generation resource located behind the same point of interconnection as the device; storing it for a period of time using mechanical, chemical, or thermal processes; and, thereafter, discharging the energy back to the grid or directly to an energy-using system to reduce the use of power from the grid.

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

"Energy storage program" means a program designed to encourage the growth of energy storage capacity in the State in order to strengthen storage capacity for the electric grid. "Energy storage program" includes the board's Successor Solar Incentive Program, including the Competitive Solar Incentive Program; the program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill); and the board's Garden State Energy Storage Program.

"Garden State Energy Storage Program" or "GSESP" means the final form of the energy storage program currently under development

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

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

by the board and outlined in the board's November 2024 straw proposal, or the program's replacement or successor.

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

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

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

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

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

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

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

"Subsequent tranche" means additional energy storage procurement administered pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Tranche 1" means the initial procurement for the energy storage program established pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Tranche 2" means the second procurement for the energy storage program established pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

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

(2) By no later than December 31, 2026, the board shall approve incentive awards for eligible projects totaling at least 1,000 MW AC in installed capacity. However, at least 500 MW AC of the 1,000 MW AC procurement goal shall be approved in incentive awards for eligible projects in Tranche 1 by no later than April 1, 2026. If the board is unable to procure all 1,000 MW AC in installed capacity in Tranche 1, the board shall approve incentive awards for eligible projects in Tranche 2, provided that all incentive awards in Tranche 2 are awarded by no later than December 31, 2026.

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

(1) not participate in any other energy storage program, except for the GSESP, to the extent that the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) is incorporated into the GSESP;

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

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

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

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

(4) have the associated Capacity Interconnection Rights through PJM; and

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

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

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

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

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

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

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

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

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

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

(9) any other information required by the board.

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

(1) project maturity and likelihood of success;

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

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

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

(5) the extent to which the project provides value to the distribution system, including locational benefits, peak load reduction, or deferral of infrastructure upgrades; and

(6) whether the project contributes to local grid reliability, resilience, or emergency backup service for critical facilities.

e. Any board order issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) shall be binding and enforceable. Any such board order shall:

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

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

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

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

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

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

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

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

f. The board may amend an order issuing an incentive award pursuant to this section solely to change the funding source of the incentive award. Any incentive award for an eligible project and the conditions for receiving funding pursuant to this section shall remain effective for the full duration of the award period specified in the board order issuing the incentive award, notwithstanding any change to the funding source of the incentive award.

g. (1) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board shall permit applications for Tranche 1 without regard to the publication status of the rules and regulations to be issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), by no later than January 15, 2026.

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

(a) evaluate projects in accordance with this section, any rules or regulations proposed pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), and any application requirements and eligibility criteria approved pursuant to this subsection; and

(b) select eligible projects to receive an award.

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

i. The board shall develop standardized service agreements between electric public utilities and eligible projects that have received an incentive award pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), which agreement shall include information concerning dispatch protocols, telemetry requirements, and performance metrics.

3. (New section) a. Within 30 days of meeting its 1,000 MW AC procurement goal established pursuant to paragraph (2) of subsection a. of section 2 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall initiate a proceeding, with opportunity for public comment, to determine whether to extend its procurement of transmission-scale energy storage through the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

b. The board shall issue a report detailing its findings based on the proceeding initiated pursuant to subsection a. of this section and submit the report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. In its report issued pursuant to this subsection, the board shall:

(1) examine the impact of the State's energy storage programs, individually and collectively, on the State's progress toward the 2030 energy storage target established pursuant to section 1 of P.L.2018, c.17 (C.48:3-87.8);

(2) assess the impact of the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) on ratepayers, which impact shall include an evaluation of any costs and benefits to ratepayers as a result of increased energy storage capacity under the program;

(3) evaluate any changes in the PJM capacity market or in the federal energy and utility landscape that could impact the need for incentive awards issued through the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill);

(4) study any other information the board deems necessary to make its determination pursuant to paragraph (5) of this subsection; and

(5) determine, at the discretion of the board, whether to extend the procurement of transmission-scale energy storage pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) through subsequent tranches based on its findings from paragraphs (1) through (4) of this subsection.

4. (New section) a. If the board elects to extend its procurement of transmission-scale energy storage pursuant to paragraph (5) of subsection b. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) through subsequent tranches under the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), the board shall administer any subsequent tranche in a similar

manner to Tranche 1 and Tranche 2, modifying as appropriate for each subsequent tranche:

(1) the amount of megawatts to be solicited;

(2) the application requirements or eligibility criteria;

(3) the timeline for an eligible project, including, but not limited to, application deadlines or the contract term; and

(4) any other administrative modification the board deems appropriate.

b. Prior to administering each subsequent tranche, the board shall increase, decrease, or maintain the amount of an incentive award as the board deems necessary based on a market analysis that shall account for:

(1) changes within the energy and utility industries, including any changes due to State and federal policies, that may increase or decrease average project costs for developers of transmission-scale energy storage systems;

(2) any additional sources of revenue available to developers of transmission-scale energy storage systems; and

(3) any other factors concerning the cost to develop transmission-scale energy storage systems that the board deems necessary to reevaluate the amount of an incentive award.

5. (New section) a. There is established in the Board of Public Utilities a special, non-lapsing fund to be known as the "Energy Storage Fund." The fund shall be administered by the board and shall be credited with:

(1) monies deposited into the fund by the board pursuant to subsection b. of this section;

(2) monies appropriated by the Legislature; and

(3) any return on investment of monies deposited in the fund.

b. The board shall deposit into the fund, each year, a minimum of $60 million from the:

(1) revenues from the societal benefits charge established pursuant to subsection a. of section 12 of P.L.1999, c.23 (C.48:3-60); and

(2) monies made available from other funding sources, as determined by the board, which sources shall include, but not be limited to, federal funding.

c. Notwithstanding any restrictions on the use of funds provided in section 12 of P.L.1999, c.23 (C.48:3-60), monies in the fund shall be used by the board solely for the purpose of funding incentive awards issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

d. In the fiscal year beginning on July 1, 2027, and in each fiscal year thereafter, until the end of all award periods for incentive awards issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), the board shall allocate sufficient monies from the "Energy Storage Fund" established pursuant to subsection

a. of this section to fully fund the incentive awards issued by the board pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

6. (New section) a. (1) The board shall adopt, as expeditiously as possible, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations consistent with the purposes of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, within 90 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall publish a notice of proposal that contains the proposed rules required by this subsection.

b. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board may procure transmission-scale energy storage systems and issue incentive awards for Tranche 1 and Tranche 2 pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) notwithstanding the status of board rules or regulations pursuant to subsection a. of this section.

7. Section 12 of P.L.1999, c.23 (C.48:3-60) is amended to read as follows:

12. a. Simultaneously with the starting date for the implementation of retail choice as determined by the board pursuant to subsection a. of section 5 of P.L.1999, c.23 (C.48:3-53), the board shall permit each electric public utility and gas public utility to recover some or all of the following costs through a societal benefits charge that shall be collected as a non-bypassable charge imposed on all electric public utility customers and gas public utility customers, as appropriate:

(1) ⟦The⟧ <u>the</u> costs for the social programs for which rate recovery was approved by the board prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of social program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). The board may subsequently order, pursuant to its rules and regulations, an increase or decrease in the societal benefits charge to reflect changes in the costs to the utility of administering existing social programs. Nothing in P.L.1999, c.23 (C.48:3-49 et al.) shall be construed to abolish or change any social program required by statute or board order or rule or regulation to be provided by an electric public utility. Any such social program shall continue to be provided by the utility until otherwise provided by law, unless the board determines that it is no longer appropriate for the

electric public utility to provide the program, or the board chooses to modify the program;

(2) 【Nuclear】 nuclear plant decommissioning costs;

(3) 【The】 the costs of demand side management programs that were approved by the board pursuant to its demand side management regulations prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of demand side management program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). Within four months of the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and every four years thereafter, the board shall initiate a proceeding and cause to be undertaken a comprehensive resource analysis of energy programs, and within eight months of initiating such proceeding and after notice, provision of the opportunity for public comment, and public hearing, the board, in consultation with the Department of Environmental Protection, shall determine the appropriate level of funding for energy efficiency, light, medium, and heavy-duty plug-in electric vehicles, including school buses, and associated plug-in electric vehicle charging infrastructure, energy storage, and Class I renewable energy programs that provide environmental benefits above and beyond those provided by standard offer or similar programs in effect as of the effective date of P.L.1999, c.23 (C.48:3-49 et al.); provided that the funding for such programs be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.) for an initial period of four years from the issuance of the first comprehensive resource analysis following the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and provided that 25 percent of this amount shall be used to provide funding for Class I renewable energy projects in the State. In each of the following fifth through eighth years, the Statewide funding for such programs shall be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.), except that as additional funds are made available as a result of the expiration of past standard offer or similar commitments, the minimum amount of funding for such programs shall increase by an additional amount equal to 50 percent of the additional funds made available, until the minimum amount of funding dedicated to such programs reaches $140,000,000 total. After the eighth year the board shall make a determination as to the appropriate level of funding for these programs. Such programs shall include a program to provide financial incentives for the installation of Class I renewable energy projects in the State, and the board, in consultation with the Department of Environmental Protection, shall determine the level and total amount of such incentives as well as the renewable

technologies eligible for such incentives which shall include, at a minimum, photovoltaic, wind, and fuel cells. The board shall simultaneously determine, as a result of the comprehensive resource analysis, the programs to be funded by the societal benefits charge, the level of cost recovery and performance incentives for old and new programs and whether the recovery of demand side management programs' costs currently approved by the board may be reduced or extended over a longer period of time. The board shall make these determinations taking into consideration existing market barriers and environmental benefits, with the objective of transforming markets, capturing lost opportunities, making energy services more affordable for low income customers and eliminating subsidies for programs that can be delivered in the marketplace without electric public utility and gas public utility customer funding. In addition to the determinations above, the board shall allocate sufficient funding from the societal benefits charge to cover the remaining cost of fully funding incentive awards issued for transmission-scale energy storage systems that are eligible projects pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), after accounting for funding allocated to this purpose from other sources;

(4) 【Manufactured】 manufactured gas plant remediation costs, which shall be determined initially in a manner consistent with mechanisms in the remediation adjustment clauses for the electric public utility and gas public utility adopted by the board; and

(5) 【The】 the cost, of consumer education, as determined by the board, which shall be in an amount that, together with the consumer education surcharge imposed on electric power supplier license fees pursuant to subsection h. of section 29 of P.L.1999, c.23 (C.48:3-78) and the consumer education surcharge imposed on gas supplier license fees pursuant to subsection g. of section 30 of P.L.1999, c.23 (C.48:3-79), shall be sufficient to fund the consumer education program established pursuant to section 36 of P.L.1999, c.23 (C.48:3-85).

b. There is established in the Board of Public Utilities a nonlapsing fund to be known as the "Universal Service Fund." The board shall determine: the level of funding and the appropriate administration of the fund; the purposes and programs to be funded with monies from the fund; which social programs shall be provided by an electric public utility as part of the provision of its regulated services which provide a public benefit; whether the funds appropriated to fund the "Lifeline Credit Program" established pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.), the "Tenants' Lifeline Assistance Program" established pursuant to P.L.1981, c.210 (C.48:2-29.30 et seq.), the funds received pursuant to the Low Income Home Energy Assistance Program established pursuant to 42 U.S.C. s.8621 et seq., and funds collected by electric and gas public utilities, as authorized by the board, to offset uncollectible electricity and natural gas bills should be deposited in the fund; and whether new

charges should be imposed to fund new or expanded social programs.
(cf: P.L.2022, c.86, s.2)

8. This act shall take effect immediately.

STATEMENT

This floor substitute requires the Board of Public Utilities (board) to establish a program to procure and provide incentive awards for the development of transmission-scale energy storage systems with a reasonable likelihood of successful and timely completion. Under the substitute, "transmission-scale energy storage system" means an energy storage system, with an installed capacity of at least 5 megawatts of alternating current (MW AC), that is interconnected with the PJM Transmission Network and situated inside a Transmission Zone in New Jersey or is otherwise located in New Jersey and qualified to provide energy, capacity, or ancillary services in the wholesale markets established by PJM Interconnection, L.L.C. (PJM).

Procurement Goals and Tranche Structure

Specifically, the substitute requires the board to procure at least 1,000 MW AC of installed capacity by December 31, 2026. To accomplish this goal, the board is required to solicit applications for the program in an initial Tranche 1 and in Tranche 2. In Tranche 1, which application period is to begin no later than January 15, 2026, the board is to procure at least 500 MW AC of its 1,000 MW AC procurement goal by April 1, 2026. If the board is unable to procure all 1,000 MW AC of installed capacity in Tranche 1, the board is to approve incentive awards in Tranche 2 until it achieves the 1,000 MW AC procurement goal established by the substitute. However, all incentive awards in Tranche 2 are to be approved by December 31, 2026.

Within 30 days of meeting its 1,000 MW AC procurement goal, the board is to initiate a proceeding to determine whether to extend its procurement of transmission-scale energy storage. The substitute requires the board to issue a report to the Governor and the Legislature determining whether to extend the board's procurement of transmission-scale energy storage through subsequent tranches administered under the same program as Tranche 1 and Tranche 2 with certain modifications as deemed necessary by the board. As outlined in the substitute, this report is to contain certain information. However, prior to administering any subsequent tranche, the board is to conduct a market analysis, as outlined in the substitute, to determine whether to increase, decrease, or maintain the amount of an incentive award.

Tranche 1 and Tranche 2 Procurement

To qualify for a Tranche 1 or Tranche 2 incentive award, a transmission-scale energy storage system is required to: (1) not participate in any other energy storage program, except for the Garden State Energy Storage Program (GSESP) to the extent that the energy storage program established by the substitute may be incorporated into the GSESP; (2) have an anticipated commercial operations date of no later than December 31, 2030, unless the board permits an exception; (3) have the associated Capacity Interconnection Rights through PJM; and (4) meet any other eligibility criteria set by the board. In addition to these requirements, transmission-scale energy storage systems seeking an incentive award are to meet certain project maturity requirements. In Tranche 1, a transmission-scale energy storage system is required to have entered the PJM interconnection process and, at the time of application: (1) have a fully-executed Generation Interconnection Agreement or Interconnection Service Agreement through PJM; (2) have a completed Surplus Interconnection Study through PJM; or (3) have notified PJM of intent to transfer existing Capacity Interconnection Rights associated with a deactivating generation station. In Tranche 2, a transmission-scale energy storage system is required to have entered the PJM interconnection process and, at the time of application: (1) have a fully-executed Generation Interconnection Agreement or Interconnection Service Agreement through PJM; (2) have a completed Surplus Interconnection Study through PJM; (3) have been studied by PJM in a Phase I System Impact Study and have paid a Decision Point I Readiness Deposit to PJM; or (4) have notified PJM of intent to transfer existing Capacity Interconnection Rights associated with a deactivating generation station.

A Tranche 1 or Tranche 2 application is required to include certain information and a fee, as provided in the substitute. At its discretion, the board may instruct an applicant on curing minor defects in a Tranche 1 or Tranche 2 application. The board is required to evaluate each application based on the bid prices of the requested incentive awards, using certain criteria to guide its evaluation as outlined in the substitute. The substitute permits the board to place an eligible project that does not receive an incentive award for Tranche 1 or Tranche 2 on a waiting list and to consider the eligible project for an incentive award during a subsequent tranche. Under the substitute, an incentive award is to be conditioned upon a developer's compliance with the board order determining the incentive award and with any conditions the board requires.

In addition, the board is required to develop standardized service agreements between electric public utilities and eligible projects outlining the roles and responsibilities of electric public utilities and eligible projects.

Tranche 1 and Tranche 2 Board Orders

The substitute outlines certain requirements for a board order issuing an incentive award to an eligible project, including that the board order is required to: (1) define the eligible project receiving an incentive award and the eligible project's installed capacity; (2) define the incentive award, including a payment schedule for the 15-year award period of the incentive award, which term is to commence no earlier than the commercial operations date of an eligible project, and during which term an eligible project is to receive an annual incentive award on each anniversary of the first payment date; (3) determine the amount of funding to be allocated for payment of the incentive award beginning in the fiscal year in which the eligible project commences commercial operations; (4) include a participation fee as the board is permitted to require from the developer; (5) require, for an eligible project awarded an incentive, a pre-development security not to exceed $100,000 per megawatt and not to exceed in total $10,000,000; (6) outline the conditions under which the board may, in the event of a developer's failure to operate an eligible project by the deadline stated in the board order or to meet deadlines included in the board order, revoke an incentive award or retain some or all of the pre-development security; (7) provide that receipt of an incentive award for an eligible project is to be contingent on achievement of baseline performance requirements, including, but not limited to, availability for dispatch in a minimum number of hours per year, as determined by the board. The board is permitted to use the PJM Equivalent Forced Outage Rate or another metric deemed appropriate by the board to measure energy storage availability. The board order is to require that the developer report data for this purpose at regular intervals and is to provide for a reduction of an incentive award in proportion to the number of hours of required availability that is unmet by the eligible project; and (8) require that a developer provide additional information to the board during the term of the incentive award, as the board may require. The board may set additional requirements at its discretion, including, but not limited to, a requirement that the developer report major development and construction milestones to the board, maintain financial security throughout the term of the incentive award, or any other requirement the board determines necessary to ensure continued progress and operational viability of an eligible project.

Energy Storage Fund

The substitute establishes a special, non-lapsing fund to be known as the "Energy Storage Fund" (fund) in the Board of Public Utilities. The fund is to be administered by the board and credited with: (1) monies deposited into the fund by the board; (2) monies appropriated by the Legislature; and (3) any return on investment of monies deposited in the fund. Each year, the board is to deposit into the fund a minimum of $60 million from the: (1) revenues from the societal benefits charge; and (2) monies made available from other funding sources, as determined by the board, which sources are to include, but not be limited to, federal funding. The board is to use the monies deposited into the fund for the sole purpose of funding incentive awards issued under the substitute.

Beginning in Fiscal Year 2028, the board is required to annually allocate sufficient monies from the fund to fully fund incentive awards issued under the substitute.

[First Reprint]

ASSEMBLY SUBSTITUTE FOR

ASSEMBLY, No. 5267

STATE OF NEW JERSEY

221st LEGISLATURE

ADOPTED MAY 22, 2025

Sponsored by:
Assemblyman WAYNE P. DEANGELO
District 14 (Mercer and Middlesex)
Assemblyman DAVID BAILEY, JR.
District 3 (Cumberland, Gloucester and Salem)
Assemblyman KEVIN P. EGAN
District 17 (Middlesex and Somerset)
Senator BOB SMITH
District 17 (Middlesex and Somerset)
Senator JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:
Assemblymen Miller, Hutchison, Assemblywoman Ramirez, Assemblyman Karabinchak, Assemblywoman McCoy, Assemblyman Freiman, Assemblywomen Drulis, Simmons and Senator Greenstein

SYNOPSIS

Requires BPU to procure and incentivize transmission-scale energy storage.

CURRENT VERSION OF TEXT

As amended by the Senate on June 30, 2025.

(Sponsorship Updated As Of: 6/30/2025)

AN ACT concerning transmission-scale energy storage, supplementing Title 48 of the Revised Statutes, and amending P.L.1999, c.23.

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

1. (New section) As used in P.L. , c. (C.) (pending before the Legislature as this bill):

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

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

"Board" means the Board of Public Utilities.

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

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

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

"Eligible project" means a transmission-scale energy storage system that meets the criteria for an incentive award pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

"Energy storage" means a device that is capable of absorbing energy from the grid or from a generation resource located behind the same point of interconnection as the device; storing it for a period of time using mechanical, chemical, or thermal processes; and, thereafter, discharging the energy back to the grid or directly to an energy-using system to reduce the use of power from the grid.

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

"Energy storage program" means a program designed to encourage the growth of energy storage capacity in the State in order to strengthen storage capacity for the electric grid. "Energy storage program" includes the board's Successor Solar Incentive Program, including the Competitive Solar Incentive Program; the program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill); and the board's Garden State Energy Storage Program.

"Garden State Energy Storage Program" or "GSESP" means the final form of the energy storage program currently under development

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.
Matter enclosed in superscript numerals has been adopted as follows:
[1] Senate floor amendments adopted June 30, 2025.

by the board and outlined in the board's November 2024 straw proposal, or the program's replacement or successor.

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

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

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

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

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

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

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

"Subsequent tranche" means additional energy storage procurement administered pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Tranche 1" means the initial procurement for the energy storage program established pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Tranche 2" means the second procurement for the energy storage program established pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

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

(2) By no later than [1]**⟦**December 31**⟧** June 30[1], 2026, the board shall approve incentive awards for eligible projects totaling at least 1,000 MW AC in installed capacity. However, at least [1]**⟦**500**⟧** 350[1] MW AC of the 1,000 MW AC procurement goal shall be approved in incentive awards for eligible projects in Tranche 1 by no later than [1]**⟦**April 1, 2026**⟧** December 31, 2025[1]. If the board is unable to procure all 1,000 MW AC in installed capacity in Tranche 1, the board shall approve incentive awards for eligible projects in Tranche 2, provided that all incentive awards in Tranche 2 are awarded by no later than [1]**⟦**December 31**⟧** June 30[1], 2026.

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

(1) not participate in any other energy storage program, except for the GSESP, to the extent that the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) is incorporated into the GSESP;

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

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

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

(b) a transmission-scale energy storage system applying for an incentive award in Tranche 2 shall have entered the PJM interconnection process and, at the time of application, have a fully-executed Generation Interconnection Agreement or Interconnection Service Agreement through PJM, have a completed Surplus Interconnection Study through PJM, have been studied by PJM in a Phase I System Impact Study and have paid a Decision Point I Readiness Deposit to PJM, or have notified PJM of intent to transfer existing Capacity Interconnection Rights associated with a deactivating generation station; [1]and

(c) if a transmission-scale energy storage system fulfils the project maturity requirements established pursuant to subparagraph (a) or subparagraph (b) of this paragraph by completing a Surplus Interconnection Study or by notifying PJM of intent to transfer existing Capacity Interconnection Rights associated with a deactivating generation station, then the transmission-scale energy storage system shall also have obtained the associated Capacity Interconnection Rights through PJM; and[1]

(4) [1]⟦have the associated Capacity Interconnection Rights through PJM; and

(5)⟧[1] meet any other eligibility criteria the board may establish through board order or rulemaking.

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

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

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

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

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

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

(6) assurances reasonably satisfactory to the board that the transmission-scale energy storage system will adhere to any safety requirements, standards, or measures that the board deems

appropriate as well as to any nationally recognized minimum safety requirements, including, but not limited to, appropriate laboratory testing, and will comply with all manufacturers' installation requirements, applicable laws, regulations, codes, licensing, and permit requirements;

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

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

(9) any other information required by the board.

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

(1) project maturity and likelihood of success;

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

(3) whether the project is proposed by an applicant with experience in energy storage development, construction, and finance; [1]<u>and</u>[1]

(4) whether the project promotes redevelopment, community benefits, brownfield redevelopment, or existing or former fossil fuel plant replacement, or provides demonstrated benefits to environmental justice in communities where a transmission-scale energy storage system is proposed to be located [1]**[**;

(5) the extent to which the project provides value to the distribution system, including locational benefits, peak load reduction, or deferral of infrastructure upgrades; and

(6) whether the project contributes to local grid reliability, resilience, or emergency backup service for critical facilities**]**[1].

e. Any board order issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) shall be binding and enforceable. Any such board order shall:

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

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

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

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

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

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

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

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

f. The board may amend an order issuing an incentive award pursuant to this section solely to change the funding source of the incentive award. Any incentive award for an eligible project and the conditions for receiving funding pursuant to this section shall remain effective for the full duration of the award period specified in the board order issuing the incentive award, notwithstanding any change to the funding source of the incentive award.

g. (1) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board shall permit applications for Tranche 1 without regard to the publication status of the rules and regulations to be issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), by no later than [1]⟦January 15, 2026⟧ <u>September 30, 2025</u>[1].

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

(a) evaluate projects in accordance with this section, any rules or regulations proposed pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), and any application requirements and eligibility criteria approved pursuant to this subsection; and

(b) select eligible projects to receive an award.

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

[1]**[**i. The board shall develop standardized service agreements between electric public utilities and eligible projects that have received an incentive award pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), which agreement shall include information concerning dispatch protocols, telemetry requirements, and performance metrics.**]**[1]

3. (New section) a. Within 30 days of meeting its 1,000 MW AC procurement goal established pursuant to paragraph (2) of subsection a. of section 2 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall initiate a proceeding, with opportunity for public comment, to determine whether to extend its procurement of transmission-scale energy storage through the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

b. The board shall issue a report detailing its findings based on the proceeding initiated pursuant to subsection a. of this section and submit the report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. In its report issued pursuant to this subsection, the board shall:

(1) examine the impact of the State's energy storage programs, individually and collectively, on the State's progress toward the 2030 energy storage target established pursuant to section 1 of P.L.2018, c.17 (C.48:3-87.8);

(2) assess the impact of the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) on ratepayers, which impact shall include an evaluation of any costs and benefits to ratepayers as a result of increased energy storage capacity under the program;

(3) evaluate any changes in the PJM capacity market or in the federal energy and utility landscape that could impact the need for incentive awards issued through the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill);

(4) study any other information the board deems necessary to make its determination pursuant to paragraph (5) of this subsection; and

(5) determine, at the discretion of the board, whether to extend the procurement of transmission-scale energy storage pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) through subsequent tranches based on its findings from paragraphs (1) through (4) of this subsection.

4. (New section) a. If the board elects to extend its procurement of transmission-scale energy storage pursuant to paragraph (5) of subsection b. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) through subsequent tranches under the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), the board shall administer any subsequent tranche in a similar manner to Tranche 1 and Tranche 2, modifying as appropriate for each subsequent tranche:

(1) the amount of megawatts to be solicited;

(2) the application requirements or eligibility criteria;

(3) the timeline for an eligible project, including, but not limited to, application deadlines or the contract term; and

(4) any other administrative modification the board deems appropriate.

b. Prior to administering each subsequent tranche, the board shall increase, decrease, or maintain the amount of an incentive award as the board deems necessary based on a market analysis that shall account for:

(1) changes within the energy and utility industries, including any changes due to State and federal policies, that may increase or decrease average project costs for developers of transmission-scale energy storage systems;

(2) any additional sources of revenue available to developers of transmission-scale energy storage systems; and

(3) any other factors concerning the cost to develop transmission-scale energy storage systems that the board deems necessary to reevaluate the amount of an incentive award.

[1]c. Notwithstanding subsection b. of this section to the contrary, the board may determine incentive award amounts in a subsequent tranche by a competitive solicitation process.[1]

5. (New section) a. There is established in the Board of Public Utilities a special, non-lapsing fund to be known as the "Energy Storage Fund." The fund shall be administered by the board and shall be credited with:

(1) monies deposited into the fund by the board pursuant to subsection b. of this section;

(2) monies appropriated by the Legislature; and

(3) any return on investment of monies deposited in the fund.

b. The board shall deposit into the fund, each year, [1]until the end of all award periods for incentive awards issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill),[1] a minimum of [1][$60 million] $60,000,000[1] from the:

(1) revenues from the societal benefits charge established pursuant to subsection a. of section 12 of P.L.1999, c.23 (C.48:3-60); and

(2) monies made available from other funding sources, as determined by the board, which sources shall include, but not be limited to, federal funding.

c. Notwithstanding any restrictions on the use of funds provided in section 12 of P.L.1999, c.23 (C.48:3-60), monies in the fund shall be used by the board solely [1][for the purpose of funding] to fund:

(1)[1] incentive awards issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) [1]; and

(2) energy storage incentives issued pursuant to the GSESP[1].

d. In the fiscal year beginning on July 1, 2027, and in each fiscal year thereafter, until the end of all award periods for incentive awards issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), the board shall allocate sufficient monies from the "Energy Storage Fund" established pursuant to subsection a. of this section to fully fund the incentive awards issued by the board pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

6. (New section) a. (1) The board shall adopt, as expeditiously as possible, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations consistent with the purposes of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, within 90 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall publish a notice of proposal that contains the proposed rules required by this subsection.

b. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board may procure transmission-scale energy storage systems and issue incentive awards for Tranche 1 and Tranche 2 pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) notwithstanding the status of board rules or regulations pursuant to subsection a. of this section.

7. Section 12 of P.L.1999, c.23 (C.48:3-60) is amended to read as follows:

12. a. Simultaneously with the starting date for the implementation of retail choice as determined by the board pursuant to

subsection a. of section 5 of P.L.1999, c.23 (C.48:3-53), the board shall permit each electric public utility and gas public utility to recover some or all of the following costs through a societal benefits charge that shall be collected as a non-bypassable charge imposed on all electric public utility customers and gas public utility customers, as appropriate:

(1) **[**The**]** the costs for the social programs for which rate recovery was approved by the board prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of social program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). The board may subsequently order, pursuant to its rules and regulations, an increase or decrease in the societal benefits charge to reflect changes in the costs to the utility of administering existing social programs. Nothing in P.L.1999, c.23 (C.48:3-49 et al.) shall be construed to abolish or change any social program required by statute or board order or rule or regulation to be provided by an electric public utility. Any such social program shall continue to be provided by the utility until otherwise provided by law, unless the board determines that it is no longer appropriate for the electric public utility to provide the program, or the board chooses to modify the program;

(2) **[**Nuclear**]** nuclear plant decommissioning costs;

(3) **[**The**]** the costs of demand side management programs that were approved by the board pursuant to its demand side management regulations prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of demand side management program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). Within four months of the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and every four years thereafter, the board shall initiate a proceeding and cause to be undertaken a comprehensive resource analysis of energy programs, and within eight months of initiating such proceeding and after notice, provision of the opportunity for public comment, and public hearing, the board, in consultation with the Department of Environmental Protection, shall determine the appropriate level of funding for energy efficiency, light, medium, and heavy-duty plug-in electric vehicles, including school buses, and associated plug-in electric vehicle charging infrastructure, energy storage, and Class I renewable energy programs that provide environmental benefits above and beyond those provided by standard offer or similar programs in effect as of the effective date of P.L.1999, c.23 (C.48:3-49 et al.); provided that the funding for such programs be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of

P.L.1999, c.23 (C.48:3-49 et al.) for an initial period of four years from the issuance of the first comprehensive resource analysis following the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and provided that 25 percent of this amount shall be used to provide funding for Class I renewable energy projects in the State. In each of the following fifth through eighth years, the Statewide funding for such programs shall be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.), except that as additional funds are made available as a result of the expiration of past standard offer or similar commitments, the minimum amount of funding for such programs shall increase by an additional amount equal to 50 percent of the additional funds made available, until the minimum amount of funding dedicated to such programs reaches $140,000,000 total. After the eighth year the board shall make a determination as to the appropriate level of funding for these programs. Such programs shall include a program to provide financial incentives for the installation of Class I renewable energy projects in the State, and the board, in consultation with the Department of Environmental Protection, shall determine the level and total amount of such incentives as well as the renewable technologies eligible for such incentives which shall include, at a minimum, photovoltaic, wind, and fuel cells. The board shall simultaneously determine, as a result of the comprehensive resource analysis, the programs to be funded by the societal benefits charge, the level of cost recovery and performance incentives for old and new programs and whether the recovery of demand side management programs' costs currently approved by the board may be reduced or extended over a longer period of time. The board shall make these determinations taking into consideration existing market barriers and environmental benefits, with the objective of transforming markets, capturing lost opportunities, making energy services more affordable for low income customers and eliminating subsidies for programs that can be delivered in the marketplace without electric public utility and gas public utility customer funding<u>. In addition to the determinations above, the board shall allocate sufficient funding from the societal benefits charge to cover the remaining cost of fully funding incentive awards issued for transmission-scale energy storage systems that are eligible projects pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), after accounting for funding allocated to this purpose from other sources</u>;

(4) ⟦Manufactured⟧ <u>manufactured</u> gas plant remediation costs, which shall be determined initially in a manner consistent with mechanisms in the remediation adjustment clauses for the electric public utility and gas public utility adopted by the board; and

(5) ⟦The⟧ <u>the</u> cost, of consumer education, as determined by the board, which shall be in an amount that, together with the consumer education surcharge imposed on electric power supplier license fees

pursuant to subsection h. of section 29 of P.L.1999, c.23 (C.48:3-78) and the consumer education surcharge imposed on gas supplier license fees pursuant to subsection g. of section 30 of P.L.1999, c.23 (C.48:3-79), shall be sufficient to fund the consumer education program established pursuant to section 36 of P.L.1999, c.23 (C.48:3-85).

b. There is established in the Board of Public Utilities a nonlapsing fund to be known as the "Universal Service Fund." The board shall determine: the level of funding and the appropriate administration of the fund; the purposes and programs to be funded with monies from the fund; which social programs shall be provided by an electric public utility as part of the provision of its regulated services which provide a public benefit; whether the funds appropriated to fund the "Lifeline Credit Program" established pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.), the "Tenants' Lifeline Assistance Program" established pursuant to P.L.1981, c.210 (C.48:2-29.30 et seq.), the funds received pursuant to the Low Income Home Energy Assistance Program established pursuant to 42 U.S.C. s.8621 et seq., and funds collected by electric and gas public utilities, as authorized by the board, to offset uncollectible electricity and natural gas bills should be deposited in the fund; and whether new charges should be imposed to fund new or expanded social programs.

(cf: P.L.2022, c.86, s.2)

8. This act shall take effect immediately.

ASSEMBLY TELECOMMUNICATIONS AND UTILITIES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5267

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 20, 2025

The Assembly Telecommunications and Utilities Committee reports favorably and with committee amendments Assembly Bill No. 5267.

As amended and reported, the Board of Public Utilities (board) is required to establish a program to procure and provide incentive awards for the development of transmission-scale energy storage systems with a reasonable likelihood of successful and timely completion. The board is required to solicit applications for the program in an initial Tranche 1. As outlined in the bill, the board is permitted to procure additional tranches by either continuing under the same program as Tranche 1 or implementing a successor program.

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

Tranche 1 Procurement

The bill requires the board to solicit Tranche 1 applications for eligible projects whose collective installed capacity totals at least 500 MW AC.

Under the bill, the Tranche 1 application period is to begin no later than January 15, 2026, regardless of the publication status of the rules and regulations to be issued pursuant to the bill, and is to end within 60 days of the date on which the application period began. Within 60 days of the closure of the Tranche 1 application period, the board is to evaluate and select eligible projects to receive an award. The board is to finalize and approve all incentive awards for Tranche 1 by no later than April 1, 2026.

To qualify for a Tranche 1 incentive award, a transmission-scale energy storage system is required to: (1) not participate in any other energy storage program, except for the New Jersey Energy Storage Incentive Program (NJ SIP) to the extent that the energy storage program established by the bill may be incorporated into the NJ SIP; (2) have an anticipated commercial operations date of no later than December 31, 2030, unless the board permits an exception; (3) have entered the PJM interconnection process and, at the time of application for Tranche 1, have a fully-executed Generation Interconnection Agreement through PJM, have a completed Surplus Interconnection Study through PJM, or have notified PJM of intent to transfer existing Capacity Interconnection Rights associated with a deactivating generation station; and (4) meet any other eligibility criteria set by the board.

A Tranche 1 application is required to include certain information and a fee, as provided in the bill.

At its discretion, the board may instruct an applicant on curing minor defects in a Tranche 1 application. The board is required to evaluate each application based on the bid prices of the requested incentives, using certain criteria to guide its evaluation as outlined in the bill. The bill permits the board to place an eligible project that does not receive an incentive award for Tranche 1 on a waiting list and consider the eligible project for an incentive award during a subsequent tranche or successor program.

Tranche 1 Incentives

Under the bill, by no later than December 31, 2026, the board is required to approve: (1) incentive awards totaling a collective minimum of $60 million in annual payments for eligible projects in Tranche 1, which projects are to total a collective minimum of 500 MW AC; or (2) incentive awards for eligible projects that collectively have an installed capacity totaling at least 1,000 MW AC. The board is permitted to approve all 1,000 MW in incentives in Tranche 1 or through awards in Tranche 1 and subsequent tranches, provided that incentives in subsequent tranches are awarded by no later than December 31, 2026. An incentive award is to be conditioned upon a developer's compliance with the board order determining the incentive award and with any conditions the board requires.

Tranche 1 Board Orders

The bill outlines certain requirements for a board order issuing an incentive award to an eligible project, including that the board order is required to: (1) define the eligible project receiving an incentive award and the eligible project's installed capacity; (2) define the incentive award, including a payment schedule for the 10- to 20-year award period of the incentive award, which term is to commence no earlier than the commercial operations date of an eligible project, and during which term an eligible project is to receive an annual incentive award on each anniversary of the first payment date; (3) determine the amount of funding to be allocated for payment of the incentive award beginning in the fiscal year in which the eligible project commences commercial operations; (4) include a participation fee as the board is permitted to require from the developer; (5) require, for an eligible project awarded an incentive, a pre-development security not to exceed $100,000 per megawatt and not to exceed in total $10,000,000; (6) outline the conditions under which the board may, in the event of a developer's failure to operate an eligible project by the deadline stated in the board order or to meet deadlines included in the board order, revoke an incentive award or retain some or all of the pre-development security; (7) provide that receipt of an incentive award for an eligible project is to be contingent on achievement of baseline performance requirements, including, but not limited to, availability for dispatch in a minimum number of hours per year, as determined by the board. The board is permitted to use the PJM Equivalent Forced Outage Rate or another metric deemed appropriate by the board to measure energy storage availability. The board order is to require that the developer report data for this purpose at regular intervals and is to provide for a reduction of an incentive award in proportion to the number of hours of required availability that is unmet by the eligible project; and (8) require that a developer provide additional information to the board during the term of the incentive award, as the board may require. The board may set additional requirements at its discretion, including, but not limited to, a requirement that the developer report major development and construction milestones to the board, maintain financial security throughout the term of the incentive award, or any other requirement the board determines necessary to ensure continued progress and operational viability of an eligible project.

Future Procurement

If the board elects to extend the procurement of transmission-scale energy storage through additional tranches, the board is permitted either to continue the program under which Tranche 1 was conducted or to establish a successor program, as outlined in the bill.

If the board administers subsequent tranches under the same program as Tranche 1, the board is required to do so in a similar manner to how it administered Tranche 1, modifying as appropriate for each subsequent tranche: (1) the amount of megawatts to be solicited; (2) the application requirements or eligibility criteria; (3) the timeline for an eligible project, including, but not limited to, application deadlines or the contract term; and (4) any other administrative modification the board deems appropriate.

If the board establishes a successor program, the board is to administer the successor program by adopting rules and regulations that implement the NJ SIP, provided that the final version of the NJ SIP complies with the requirements of the bill. The board is permitted to continue any rule, regulation, or policy used to administer Tranche 1 as the board determines necessary and appropriate to administer a successor program.

Incentive Award Funding Mechanisms

The bill requires the board to fund incentive awards issued for Tranche 1, any subsequent tranches issued under the same program as Tranche 1, and a successor program through: (1) the societal benefits charge; (2) the "Global Warming Solutions Fund"; and (3) alternative sources of funding that are available to the board. Beginning in Fiscal Year 2028, the board is required to annually appropriate and allocate sufficient monies from these sources to fully fund incentive awards issued for Tranche 1 for eligible projects totaling a collective minimum of 500 MW AC. The funding mechanism of an incentive award issued for Tranche 1, or for any subsequent tranches issued under the same program as Tranche 1, is not to be changed without the consent of the developer.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) define "accredited capacity," "base residual auction," "energy storage capacity," "Generation Interconnection Agreement," "NJ SIP," and "unforced capacity";

(2) clarify that the definition of "energy storage" means, in relevant part, a device that is capable of absorbing energy from a generation resource located behind the same point of interconnection as the device, rather than from a Distributed Energy Resource;

(3) clarify that "energy storage program" includes, among other programs, NJ SIP, rather than NJ SIP's replacement or successor in its final form;

(4) change the award period of an incentive award from 15 years to 10-20 years;

(5) clarify that the fixed series of annual payments that constitute an incentive award are to be based on the maximum useable installed capacity or the energy storage capacity of an eligible project, which energy storage capacity is to be measured in dollars-per-megawatt-hour;

(6) require incentive awards to be subject to any conditions imposed by the board, including, but not limited to, satisfactory up-time performance metrics;

(7) revise the definition of "transmission-scale energy storage program";

(8) remove the requirement for the board to conduct a ratepayer impact report prior to extending the procurement of transmission-scale energy storage in subsequent tranches or in a successor program;

(9) permit an eligible project to participate in NJ SIP, to the extent that the energy storage program established by the bill is incorporated into NJ SIP;

(10) require an eligible project to have entered, rather than completed, the PJM interconnection process;

(11) require an eligible project to have a fully-executed Generation Interconnection Agreement through PJM, rather than a draft or fully-executed Large Generator Interconnection Agreement through PJM; have completed a Surplus Interconnection Study through PJM, rather than a System Impact Study or equivalent study; or have notified PJM of intent to transfer existing Capacity Interconnection Rights associated with a deactivating generation station;

(12) remove the requirement for an eligible project to demonstrate evidence reasonably satisfactory to the board that the applicant controls all rights of way to the proposed point of interconnection;

(13) remove the requirement for an eligible project to submit as-built drawings of a transmission-scale energy storage system comprised of new equipment in its application for an incentive award;

(14) clarify that an eligible project is to submit, in its application for an incentive award, evidence reasonably satisfactory to the board that the applicant has submitted all interconnection applications and initial application fees, rather than fees in general, that may be necessary to obtain permission from the appropriate electric public utility or grid operator to operate the transmission-scale energy storage system;

(15) require an eligible project to adhere to any safety requirements, standards, or measures that the board deems appropriate in addition to nationally recognized minimum safety requirements;

(16) require the board to evaluate an application for an incentive award based on the bid prices of the requested incentives instead of requiring the board to establish a scoring system to review an application;

(17) permit the board, in its evaluation of an application for an incentive award, to compare bid prices based on the measure of the capacity of a transmission-scale energy storage system by the lesser of its installed capacity or its energy storage capacity divided by four hours or based on the expected accredited capacity of a transmission-scale energy storage system;

(18) permit the board, in its evaluation of an application for an incentive award, to consider project maturity, likelihood of success, and whether the installed capacity of the project has the associated

Capacity Interconnection Rights through PJM, in addition to other factors outlined in the bill;

(19) provides goal of either $60 million or 1,000 MW by December 31, 2026 in Tranche 1 and subsequent tranches;

(20) clarify provisions concerning funding of incentive awards;

(21) clarify that a board order issuing an incentive award in Tranche 1 or subsequent tranches is to allocate funding for the award beginning in the fiscal year in which the eligible project commences operations, rather than in the fiscal year beginning on July 1, 2028;

(22) permit the board to require a participation fee from the developer of an eligible project;

(23) require an eligible project to be available for dispatch in a minimum number of hours per year, as determined by the board, in order to receive an incentive award;

(24) remove the requirement for the board to develop application requirements and eligibility criteria for Tranche 1 within 120 days of the bill’s effective date;

(25) require the board to begin accepting applications for Tranche 1 by no later than January 15, 2026 and to stop accepting applications for Tranche 1 within 60 days of the date on which the application period began;

(26) require the board to evaluate and select projects to receive an award within 60 days of the closure of the Tranche 1 application period;

(27) require the board to finalize and approve all incentive awards for Tranche 1 by no later than April 1, 2026;

(28) remove the requirement for the board to allow an applicant to submit an early application for Tranche 1;

(29) permit the board to establish a successor program by adopting rules and regulations to implement NJ SIP, provided that NJ SIP is consistent with the requirements of the bill, if the board determines that it requires additional energy storage to meet energy storage goals under current law;

(30) remove the requirement that the successor program be funded through base rate recovery;

(31) require an incentive award for energy storage procurement to be funded through revenues generated by the societal benefits charge, the “Global Warming Solutions Fund,” and other sources of funding available to the board;

(32) require the board to appropriate and allocate sufficient monies from funding sources outlined in the bill, rather than a minimum of $60 million from the societal benefits charge, to fully fund the incentive awards issued by the board in Tranche 1;

(33) remove the requirement that rules and regulations issued in Tranche 1 be similar to the board’s rules concerning Grid Supply projects for NJ SIP;

(34) require the board to publish a notice of proposal containing certain proposed rules within 90 days of the bill's effective date;

(35) permit the board to adopt rules and regulations implementing NJ SIP as the successor program outlined by the bill in the same rulemaking proceeding in which the board proposes and adopts certain other rules and regulations outlined in the bill;

(36) provide that the board is to allocate sufficient funding from the societal benefits charge to cover the remaining cost of fully funding incentive award payments, after accounting for funding allocated to this purpose from other sources; and

(37) make technical corrections to the bill.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 5267

STATE OF NEW JERSEY

DATED: MAY 15, 2025

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5267 (1R).

As reported, the Board of Public Utilities (board) is required to establish a program to procure and provide incentive awards for the development of transmission-scale energy storage systems with a reasonable likelihood of successful and timely completion. The board is required to solicit applications for the program in an initial Tranche 1. As outlined in the bill, the board is permitted to procure additional tranches by either continuing under the same program as Tranche 1 or implementing a successor program.

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

Tranche 1 Procurement

The bill requires the board to solicit Tranche 1 applications for eligible projects whose collective installed capacity totals at least 500 MW AC.

Under the bill, the Tranche 1 application period is to begin no later than January 15, 2026, regardless of the publication status of the rules and regulations to be issued pursuant to the bill, and is to end within 60 days of the date on which the application period began. Within 60 days of the closure of the Tranche 1 application period, the board is to evaluate and select eligible projects to receive an award. The board is to finalize and approve all incentive awards for Tranche 1 by no later than April 1, 2026.

To qualify for a Tranche 1 incentive award, a transmission-scale energy storage system is required to: (1) not participate in any other energy storage program, except for the New Jersey Energy Storage Incentive Program (NJ SIP) to the extent that the energy storage program established by the bill may be incorporated into the

NJ SIP; (2) have an anticipated commercial operations date of no later than December 31, 2030, unless the board permits an exception; (3) have entered the PJM interconnection process and, at the time of application for Tranche 1, have a fully-executed Generation Interconnection Agreement through PJM, have a completed Surplus Interconnection Study through PJM, or have notified PJM of intent to transfer existing Capacity Interconnection Rights associated with a deactivating generation station; and (4) meet any other eligibility criteria set by the board.

A Tranche 1 application is required to include certain information and a fee, as provided in the bill.

At its discretion, the board may instruct an applicant on curing minor defects in a Tranche 1 application. The board is required to evaluate each application based on the bid prices of the requested incentives, using certain criteria to guide its evaluation as outlined in the bill. The bill permits the board to place an eligible project that does not receive an incentive award for Tranche 1 on a waiting list and consider the eligible project for an incentive award during a subsequent tranche or successor program.

Tranche 1 Incentives

Under the bill, by no later than December 31, 2026, the board is required to approve: (1) incentive awards totaling a collective minimum of $60 million in annual payments for eligible projects in Tranche 1, which projects are to total a collective minimum of 500 MW AC; or (2) incentive awards for eligible projects that collectively have an installed capacity totaling at least 1,000 MW AC. The board is permitted to approve all 1,000 MW in incentives in Tranche 1 or through awards in Tranche 1 and subsequent tranches, provided that incentives in subsequent tranches are awarded by no later than December 31, 2026. An incentive award is to be conditioned upon a developer's compliance with the board order determining the incentive award and with any conditions the board requires.

Tranche 1 Board Orders

The bill outlines certain requirements for a board order issuing an incentive award to an eligible project, including that the board order is required to: (1) define the eligible project receiving an incentive award and the eligible project's installed capacity; (2) define the incentive award, including a payment schedule for the 10- to 20-year award period of the incentive award, which term is to commence no earlier than the commercial operations date of an eligible project, and during which term an eligible project is to receive an annual incentive award on each anniversary of the first payment date; (3) determine the amount of funding to be allocated for payment of the incentive award beginning in the fiscal year in which the eligible project commences commercial operations; (4) include a participation fee as the board is permitted to require from the developer; (5) require, for an eligible project awarded an incentive, a pre-development security not to exceed $100,000 per megawatt and not to exceed in total $10,000,000; (6) outline the conditions under which the board may, in the event of a developer's failure to operate an eligible project by the deadline stated in the board order or to meet deadlines included in the board order, revoke an incentive award or retain some or all of the pre-development security; (7) provide that receipt of an incentive award for an eligible project is to be contingent on achievement of baseline performance requirements, including, but not limited to, availability for dispatch in a minimum number of hours per year, as determined by the board. The board is permitted to use the PJM Equivalent Forced Outage Rate or another metric deemed appropriate by the board to measure energy storage availability. The board order is to require that the developer report data for this purpose at regular intervals and is to provide for a reduction of an incentive award in proportion to the number of hours of required availability that is unmet by the eligible project; and (8) require that a developer provide additional information to the board during the term of the incentive award, as the board may require. The board may set additional requirements at its discretion, including, but not limited to, a requirement that the developer report major development and construction milestones to the board, maintain financial security throughout the term of the incentive award, or any other requirement the board determines necessary to ensure continued progress and operational viability of an eligible project.

Future Procurement

If the board elects to extend the procurement of transmission-scale energy storage through additional tranches, the board is permitted either to continue the program under which Tranche 1 was conducted or to establish a successor program, as outlined in the bill.

If the board administers subsequent tranches under the same program as Tranche 1, the board is required to do so in a similar manner to how it administered Tranche 1, modifying as appropriate for each subsequent tranche: (1) the amount of megawatts to be solicited; (2) the application requirements or eligibility criteria; (3) the timeline for an eligible project, including, but not limited to, application deadlines or the contract term; and (4) any other administrative modification the board deems appropriate.

If the board establishes a successor program, the board is to administer the successor program by adopting rules and regulations that implement the NJ SIP, provided that the final version of the NJ SIP complies with the requirements of the bill. The board is permitted to continue any rule, regulation, or policy used to administer Tranche 1 as the board determines necessary and appropriate to administer a successor program.

Incentive Award Funding Mechanisms

The bill requires the board to fund incentive awards issued for Tranche 1, any subsequent tranches issued under the same program as Tranche 1, and a successor program through: (1) the societal benefits charge; (2) the "Global Warming Solutions Fund"; and (3) alternative sources of funding that are available to the board. Beginning in Fiscal Year 2028, the board is required to annually appropriate and allocate sufficient monies from these sources to fully fund incentive awards issued for Tranche 1 for eligible projects totaling a collective minimum of 500 MW AC. The funding mechanism of an incentive award issued for Tranche 1, or for any subsequent tranches issued under the same program as Tranche 1, is not to be changed without the consent of the developer.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.

STATEMENT TO

ASSEMBLY SUBSTITUTE FOR
ASSEMBLY, No. 5267

with Senate Floor Amendments
(Proposed by Senator Smith)

ADOPTED: JUNE 30, 2025

These floor amendments:

(1) require the Board of Public Utilities (board) to approve incentive awards for eligible projects under the bill issued in Tranche 1 or Tranche 2 by June 30, 2026, rather than December 31, 2026;

(2) require the board to approve incentive awards for eligible projects under the bill issued in Tranche 1 by December 31, 2025, rather than April 1, 2026;

(3) specify that at least 350 MW AC, instead of at least 500 MW AC, of the 1,000 MW AC procurement goal is to be approved in incentive awards for eligible projects in Tranche 1 by December 31, 2025;

(4) require certain transmission-scale energy storage systems, depending on which project maturity requirements a system fulfils, to have the associated Capacity Interconnection Rights through PJM in order to qualify for an incentive award under the bill instead of requiring all transmission-scale energy storage systems to have the associated Capacity Interconnection Rights through PJM in order to qualify for an incentive award under the bill;

(5) remove the requirement for the board to consider the extent to which a project provides value to the distribution system, including locational benefits, peak load reduction, or deferral of infrastructure upgrades when reviewing an incentive award application under the bill;

(6) remove the requirement for the board to consider whether a project contributes to local grid reliability, resilience, or emergency backup service for critical facilities when reviewing an incentive award application under the bill;

(7) require the board to begin accepting applications for Tranche 1 by September 30, 2025, rather than January 15, 2026;

(8) remove the requirement for the board to develop standardized service agreements between electric public utilities and eligible projects that have received an incentive award pursuant to the bill;

(9) permit the board to use a competitive solicitation process to determine incentive award amounts in subsequent tranches;

(10) clarify that the board is required to deposit funds into the "Energy Storage Fund" each year until the end of all award periods for incentive awards;

(11) authorize monies deposited in the "Energy Storage Fund" to be used to fund the energy storage incentives issued pursuant to the

board's Garden State Energy Storage Program, in addition to the incentive awards issued pursuant to the bill; and

(12) make technical corrections.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY SUBSTITUTE FOR

ASSEMBLY, No. 5267

STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JULY 7, 2025

SUMMARY

Synopsis: Requires BPU to procure and incentivize transmission-scale energy storage.

Type of Impact: Annual State expenditure increase. Annual State revenue reallocation. Potential annual State revenue increase.

Agencies Affected: Board of Public Utilities.

Office of Legislative Services Estimate

Fiscal Impact	**FY 2026 and Beyond**
State Expenditure Increase	Indeterminate
State Revenue Reallocation	At Least $60 million

- The Office of Legislative Services (OLS) concludes that this bill will result in an indeterminate annual State expenditure increase for the Board of Public Utilities to establish a program for procuring and incentivizing transmission-scale energy storage systems. Additionally, the OLS anticipates that this bill will result in a State revenue reallocation of at least $60 million from FY 2026 until the end of all award periods for incentives issued under the bill.

- The bill will result in an annual reallocation of at least $60 million from the existing societal benefits charge revenues to the new Energy Storage Fund, beginning in FY 2026 through the conclusion of all 15-year incentive award periods for approved projects under the bill. These funds will be used exclusively to fund incentive awards for eligible energy storage projects, as well as to support the Garden State Energy Storage Program, which is currently in development by the board.

- Additional administrative costs may be incurred by the board to establish the program. These cost increases are indeterminate. However, the OLS anticipates that the increased expenditures may be absorbed within existing resources or offset by application and participation fees authorized under the bill.

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BILL DESCRIPTION

This bill requires the Board of Public Utilities to establish a program to procure and provide incentive awards for the development of transmission-scale energy storage systems with a reasonable likelihood of successful and timely completion. Under the bill, "transmission-scale energy storage system" means an energy storage system, with an installed capacity of at least five megawatts of alternating current (MW AC), that is interconnected with the PJM Transmission Network and situated inside a Transmission Zone in New Jersey or is otherwise located in New Jersey and qualified to provide energy, capacity, or ancillary services in the wholesale markets established by PJM Interconnection, L.L.C.

The bill requires the board to procure at least 1,000 MW AC of installed capacity by June 30, 2026 with a minimum of 350 MW AC procured by December 31, 2025. The program will be funded through the newly created Energy Storage Fund, which will receive a minimum of $60 million annually from societal benefits charge revenues and other sources.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that this bill will result in an indeterminate annual State expenditure increase for the Board of Public Utilities to establish a program for procuring and incentivizing transmission-scale energy storage systems. Additionally, the OLS anticipates that this bill will result in a State revenue reallocation of at least $60 million from FY 2026 until the end of all award periods for incentives issued under the bill.

The bill will result in an annual reallocation of at least $60 million from the existing societal benefits charge revenues to the new Energy Storage Fund, beginning in FY 2026 through the conclusion of all 15-year incentive award periods for approved projects. These funds will be used exclusively to fund incentive awards for eligible energy storage projects under the bill, as well as to support the Garden State Energy Storage Program, which is currently in development by the board. Additionally, the board will appropriate and allocate sufficient monies to fully fund incentive awards under the bill, which awards will be in an indeterminate number and of an indeterminate amount. Notably, the $60 million annual floor may be supplemented by federal funding or other board-determined revenue sources.

Additional administrative costs may be incurred by the board to establish the program. These cost increases are indeterminate. However, the OLS anticipates that the increased expenditures may be absorbed within existing resources or offset by application and participation fees authorized under the bill.

The long-term fiscal impact may be influenced by: developer participation and cost of storage development, federal funding availability, and any changes in the PJM interconnection process or capacity market. The funding for incentive awards issued under Tranche 1, Tranche 2, or subsequent tranches may be sourced from the societal benefits charge, which is collected through electric public utility and gas public utility rates. If the board requires additional funding for energy storage procurement under the bill and has not identified any additional supplementary funding sources, it may elect to increase the societal benefits charge assessed to electric and gas public utility customers in an attempt to offset program expenditure increases.

Section:	*Authorities, Utilities, Transportation and Communications*
Analyst:	*Miranda Crowley* *Associate Research Analyst*
Approved:	*Thomas Koenig* *Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 4289

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 24, 2025

Sponsored by:
Senator BOB SMITH
District 17 (Middlesex and Somerset)
Senator JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Requires BPU to procure and incentivize transmission-scale energy storage.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning transmission-scale energy storage, supplementing Title 48 of the Revised Statutes, and amending P.L.1999, c.23.

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

1. As used in P.L. , c. (C.) (pending before the Legislature as this bill):

"Board" means the Board of Public Utilities.

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

"Eligible project" means a transmission-scale energy storage system that meets the criteria for an incentive award pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

"Energy storage" means a device that is capable of absorbing energy from the grid or from a Distributed Energy Resource; storing it for a period of time using mechanical, chemical, or thermal processes; and, thereafter, discharging the energy back to the grid or directly to an energy-using system to reduce the use of power from the grid.

"Energy storage program" means a program designed to encourage the growth of energy storage capacity in the State in order to strengthen storage capacity for the electric grid. "Energy storage program" includes the board's Successor Solar Incentive Program, including the Competitive Solar Incentive Program; the program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill); and the board's New Jersey Energy Storage Incentive Program, or its replacement or successor, in its final form.

"Incentive award" means a set of payments awarded by the board for an eligible project, which payments are conditioned upon the completion and commercial operation of the eligible project in compliance with P.L. , c. (C.) (pending before the Legislature as this bill) and any conditions required by the board. An "incentive award" shall be a fixed series of annual payments, to be issued over the 15-year award period, based on the maximum usable installed capacity of an eligible project, measured in dollars per megawatt, and paid upon commercial operation of the eligible project, unless the board provides for an alternative payment timeline. "Incentive award" may include, at the discretion of the board, a performance-based adjustment based on the availability of the eligible project or the benefits created through the commercial operation of the eligible project, provided that the board shall

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

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

confirm the reliability of any proposed metrics on which to base a performance-based adjustment prior to being used in the calculation of an incentive award.

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

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

"Successor program" means an energy storage program established pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Tranche 1" means the initial procurement for the energy storage program established pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

2. a. (1) The Board of Public Utilities shall establish a program to procure and provide incentive awards for the development of transmission-scale energy storage systems with a reasonable likelihood of successful and timely completion. The board shall solicit applications for the program established pursuant to this section in an initial Tranche 1 pursuant to this section.

(2) If the board determines in the report required pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) that it will extend the procurement of transmission-scale energy storage through additional tranches in accordance with subparagraph (a) of paragraph (6) of subsection b. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall administer future tranches in a similar manner to Tranche 1, modifying as appropriate for each subsequent tranche:

(a) the amount of megawatts to be solicited;

(b) the application requirements or eligibility criteria;

(c) the timeline for an eligible project, including, but not limited to, application deadlines or the contract term; and

(d) any other administrative modification the board deems appropriate following its report issued pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. For Tranche 1, the board shall solicit applications for eligible projects, which projects shall collectively have an installed capacity totaling at least 500 MW AC.

(1) To qualify for an incentive award pursuant to this section, a transmission-scale energy storage system shall:

(a) not participate in any other energy storage program;

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

(c) have completed the PJM interconnection process up to, at minimum, the completion of a System Impact Study or equivalent study, as well as a draft or fully-executed Large Generator Interconnection Agreement through PJM at the time of application for Tranche 1; and

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

(2) Any application pursuant to this section shall include:

(a) evidence reasonably satisfactory to the board of site control, including all rights of way to the proposed point of interconnection;

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

(c) as-built drawings of a transmission-scale energy storage system comprised of new equipment;

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

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

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

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

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

(i) any other information required by the board.

c. The board shall review Tranche 1 applications consistently with the requirements of this section. At its discretion, the board may instruct an applicant on curing minor defects in a Tranche 1 application. The board shall include in its application review process a system of scoring, established prior to its review of any project, which scoring system shall, at a minimum, be based on price factors; maturity and likelihood of success; and environmental justice, redevelopment, and community benefits.

(1) In designing scoring for the price factors of an application, the board shall:

(a) consider costs and values throughout the application as measured in dollars per megawatt capacity per year;

(b) establish a maximum percentage of scoring that shall be price-based; and

(c) appropriately compare bid prices, at the board's discretion, based on the measure of the capacity of a transmission-scale energy storage system by the lesser of its installed capacity or its energy storage capacity divided by four hours.

(2) An application shall receive a higher score for maturity and likelihood of success if the transmission-scale energy storage system:

(a) has a fully executed Large Generator Interconnection Agreement through PJM or requires limited network upgrades;

(b) has completed non-ministerial permits; and

(c) is proposed by an applicant with experience in energy storage development, construction, and finance.

(3) An application shall receive a higher score for environmental justice, redevelopment, and community benefits if it includes brownfield redevelopment, existing or former fossil fuel plant replacement, or demonstrated benefits to environmental justice in communities where a transmission-scale energy storage system is proposed to be located.

(4) The board may place an eligible project that does not receive an incentive award for Tranche 1 on a waiting list and consider the eligible project for an incentive award during a subsequent tranche or successor program pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

d. The board shall approve incentive awards totaling a collective minimum of $60,000,000 in annual payments for each year of the 15-year award period of each eligible project approved under Tranche 1. The board shall provide funding for this annual collective amount of incentive award payments for Tranche 1, which payments shall be fully funded pursuant to subsection a. of section 5 of P.L. , c. (C.) (pending before the Legislature as this bill), in order to ensure that the collective installed capacity of eligible projects receiving an incentive award totals at least 500 megawatts for Tranche 1. An incentive award shall be conditioned upon a developer's compliance with the board order determining the incentive award and with any conditions the board shall reasonably require.

e. A board order that issues an incentive award for Tranche 1 shall be binding and enforceable. A Tranche 1 incentive award board order shall:

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

(2) define the incentive award, including a payment schedule for the 15-year award period of the incentive award, which term shall commence no earlier than July 1, 2028 or upon the commercial operations date of an eligible project, and during which term an eligible project shall receive an annual incentive award on each anniversary of the first payment date;

(3) determine the amount of funding to be allocated for payment of the incentive award beginning either in the fiscal year beginning on July 1, 2028 or on the commercial operations date of the eligible project, whichever is later;

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

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

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

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

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

f. (1) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board shall:

(a) within 120 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), develop application requirements and eligibility criteria for Tranche 1; and

(b) permit applications for Tranche 1, pursuant to paragraphs (2) and (3) of this subsection, without regard to the publication status of the rules and regulations to be issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

(2) The board shall permit an applicant, within 45 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), to submit an early application for Tranche 1 prior to the formal establishment of an application process or the promulgation of Tranche 1 rules and regulations.

(3) Within 30 days following the effective date of a board order either approving the rules and regulations proposed for publication pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) or approving the proposed application requirements and eligibility criteria for Tranche 1 in accordance with this section, the board shall:

(a) begin formally accepting applications for Tranche 1; and

(b) advise any applicant that submitted an early application for Tranche 1 pursuant to paragraph (2) of this subsection of any defects in its existing application pursuant to the rules and regulations or the application requirements and eligibility criteria approved by board order issued pursuant to this paragraph.

(4) The board shall accept Tranche 1 applications for a maximum of 60 days after the beginning of the formal application period for Tranche 1 pursuant to paragraph (3) of this subsection. Within 90 days following the closure of the Tranche 1 application period, the board shall evaluate projects in accordance with this section, any rules or regulations proposed pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), and any application requirements and eligibility criteria approved pursuant to this subsection.

g. Tranche 1 incentive awards shall receive funding pursuant to section 5 of P.L. , c. (C.) (pending before the Legislature as this bill).

3. a. No later than one calendar year following the date of the final Tranche 1 procurement approval issued pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall initiate a proceeding to examine the impact of the State's energy storage programs, collectively and individually, and to assess progress toward the 2030 energy storage target established pursuant to section 1 of P.L.2018, c.17 (C.48:3-87.8).

b. The board shall issue a report detailing its conclusions and submit the report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. In its report issued pursuant to this subsection, the board shall, at a minimum:

(1) examine the State's energy storage programs;

(2) account for projected electric bill savings and costs to ratepayers, as well as societal benefits of reduced emissions, due to increased installed capacity or energy storage capacity;

(3) report the progress of the projects under each energy storage program, including progress toward construction completion;

(4) compare relative costs per capacity awarded for each project based on its installed capacity;

(5) produce estimates of the most cost-effective means to achieve the 2030 energy storage target established pursuant to section 1 of P.L.2018, c.17 (C.48:3-87.8) or any other energy storage target established by the Legislature; and

(6) determine, at the discretion of the board, whether to extend the procurement of transmission-scale energy storage pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) based on the results of Tranche 1. The board may procure additional tranches either:

(a) pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) with funding through the societal benefits charge pursuant to subsection a. of section 5 of P.L. , c. (C.) (pending before the Legislature as this bill); or

(b) pursuant to a successor program established pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) with funding through rate recovery as set forth in subsection b. of section 5 of P.L. , c. (C.) (pending before the Legislature as this bill).

4. a. Following a determination, pursuant to subparagraph (b) of paragraph (6) of subsection b. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), to establish a successor program, the board shall issue rules and regulations pursuant to the requirements of subsection c. of section 6 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. The board shall, in any successor program, require each electric public utility to submit proposed tariffs for board review and approval, which tariffs shall be designed to fund the successor program through base rate recovery. Each electric public utility's tariff submitted pursuant to this subsection shall include, apportioned according to the relative electric load of the electric public utility in this State, the total cost of:

(1) the outstanding costs of the incentives awarded to eligible projects under Tranche 1; and

(2) the costs, as the board determines necessary, for incentive awards under the successor program.

c. In addition to rules and regulations issued pursuant to subsection c. of section 6 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall be authorized to continue any rule, regulation, or policy used to administer Tranche 1 as the board determines necessary and appropriate to administer a successor program. If the board determines in the report required pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) that it will extend the procurement of transmission-scale energy storage through additional tranches in accordance with subparagraph (b) of paragraph (6) of subsection b. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall administer future tranches in a similar manner to Tranche 1, modifying as appropriate for each subsequent tranche:

(1) the amount of megawatts to be solicited;

(2) the application requirements or eligibility criteria;

(3) the timeline for an eligible project, including, but not limited to, application deadlines or the contract term; and

(4) any other administrative modification the board deems appropriate following its report issued pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill).

d. The board may amend a Tranche 1 incentive award, upon written consent from the developer of the eligible project, solely to change the funding mechanism of the incentive award pursuant to subsection b. of section 5 of P.L. , c. (C.) (pending before the Legislature as this bill). Any incentive award for an eligible project and the conditions for receiving funding pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) shall remain effective for the full duration of the 15-year award period specified in the board's Tranche 1 order awarding the incentive, notwithstanding any change to the funding mechanism of the incentive award.

5. a. An incentive award issued pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be funded through the societal benefits charge established pursuant to subsection a. of section 12 of P.L.1999, c.23 (C.48:3-60). In the fiscal year beginning on July 1, 2028, and in each fiscal year thereafter, the board shall allocate a minimum of $60,000,000 from the funds collected through the societal benefits charge to fully fund the incentive awards issued by the board pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

b. (1) An incentive award issued pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be funded through ratepayer tariffs recovered through an electric public utility's base rate case, in accordance with subsection b. of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) Any amendment to a Tranche 1 incentive award board order to change the funding mechanism of the incentive award pursuant to

subsection d. of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) shall replace the funding mechanism of the incentive award with funding pursuant to paragraph (1) of this subsection. Pending any order for replacement funding for a Tranche 1 incentive award order, the Tranche 1 incentive award shall continue to be funded pursuant to subsection a. of this section.

6. a. (1) The board shall adopt, as expeditiously as possible, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations consistent with the purposes of section 2 of P.L. , c. (C.) (pending before the Legislature as this bill). The rules and regulations issued for Tranche 1 shall be similar to the board's rules concerning Grid Supply projects for the New Jersey Energy Storage Incentive Program, or its replacement or successor, in its final form, but shall reflect the unique nature of transmission-scale energy storage systems.

(2) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board shall:

(a) within 60 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), engage with stakeholders and interested parties and solicit comments on the rules and regulations for publication in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); and

(b) within 120 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), submit the proposed Tranche 1 rules and regulations for publication in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board may procure transmission-scale energy storage systems and award incentives for Tranche 1 pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill), notwithstanding the status of board rules or regulations pursuant to subsection a. of this section.

c. In the event that the board decides to implement a successor program pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill), following the issuance of its report pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations consistent with the purposes of section 4 of P.L. , c. (C.) (pending before the Legislature as this bill), and determine therein, at a minimum:

(1) the minimum amount of energy storage to be procured in total among eligible projects during any solicitation subsequent to Tranche 1;

(2) any eligibility criteria;

(3) the minimum performance standards for an eligible project; and

(4) the amount and structure of a performance-based adjustment.

7. Section 12 of P.L.1999, c.23 (C.48:3-60) is amended to read as follows:

12. a. Simultaneously with the starting date for the implementation of retail choice as determined by the board pursuant to subsection a. of section 5 of P.L.1999, c.23 (C.48:3-53), the board shall permit each electric public utility and gas public utility to recover some or all of the following costs through a societal benefits charge that shall be collected as a non-bypassable charge imposed on all electric public utility customers and gas public utility customers, as appropriate:

(1) 【The】 <u>the</u> costs for the social programs for which rate recovery was approved by the board prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of social program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). The board may subsequently order, pursuant to its rules and regulations, an increase or decrease in the societal benefits charge to reflect changes in the costs to the utility of administering existing social programs. Nothing in P.L.1999, c.23 (C.48:3-49 et al.) shall be construed to abolish or change any social program required by statute or board order or rule or regulation to be provided by an electric public utility. Any such social program shall continue to be provided by the utility until otherwise provided by law, unless the board determines that it is no longer appropriate for the electric public utility to provide the program, or the board chooses to modify the program;

(2) 【Nuclear】 <u>nuclear</u> plant decommissioning costs;

(3) 【The】 <u>the</u> costs of demand side management programs that were approved by the board pursuant to its demand side management regulations prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of demand side management program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). Within four months of the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and every four years thereafter, the board shall initiate a proceeding and cause to be undertaken a comprehensive resource

analysis of energy programs, and within eight months of initiating such proceeding and after notice, provision of the opportunity for public comment, and public hearing, the board, in consultation with the Department of Environmental Protection, shall determine the appropriate level of funding for energy efficiency, light, medium, and heavy-duty plug-in electric vehicles, including school buses, and associated plug-in electric vehicle charging infrastructure, and Class I renewable energy programs that provide environmental benefits above and beyond those provided by standard offer or similar programs in effect as of the effective date of P.L.1999, c.23 (C.48:3-49 et al.); provided that the funding for such programs be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.) for an initial period of four years from the issuance of the first comprehensive resource analysis following the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and provided that 25 percent of this amount shall be used to provide funding for Class I renewable energy projects in the State. In each of the following fifth through eighth years, the Statewide funding for such programs shall be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.), except that as additional funds are made available as a result of the expiration of past standard offer or similar commitments, the minimum amount of funding for such programs shall increase by an additional amount equal to 50 percent of the additional funds made available, until the minimum amount of funding dedicated to such programs reaches $140,000,000 total. After the eighth year the board shall make a determination as to the appropriate level of funding for these programs. Such programs shall include a program to provide financial incentives for the installation of Class I renewable energy projects in the State, and the board, in consultation with the Department of Environmental Protection, shall determine the level and total amount of such incentives as well as the renewable technologies eligible for such incentives which shall include, at a minimum, photovoltaic, wind, and fuel cells. The board shall simultaneously determine, as a result of the comprehensive resource analysis, the programs to be funded by the societal benefits charge, the level of cost recovery and performance incentives for old and new programs and whether the recovery of demand side management programs' costs currently approved by the board may be reduced or extended over a longer period of time. The board shall make these determinations taking into consideration existing market barriers and environmental benefits, with the objective of transforming markets, capturing lost opportunities, making energy services more affordable for low income customers and eliminating subsidies for programs that can be delivered in the marketplace without electric public utility and gas public utility customer funding. The board shall set the societal benefits charge, in addition to the determinations above, to include full funding of the costs, as determined by the board, of providing incentive award payments for transmission-scale energy storage systems that are eligible projects pursuant to P.L. , c. (C.) (pending before the Legislature as this bill);

(4) [Manufactured] manufactured gas plant remediation costs, which shall be determined initially in a manner consistent with mechanisms in the remediation adjustment clauses for the electric public utility and gas public utility adopted by the board; and

(5) [The] the cost, of consumer education, as determined by the board, which shall be in an amount that, together with the consumer education surcharge imposed on electric power supplier license fees pursuant to subsection h. of section 29 of P.L.1999, c.23 (C.48:3-78) and the consumer education surcharge imposed on gas supplier license fees pursuant to subsection g. of section 30 of P.L.1999, c.23 (C.48:3-79), shall be sufficient to fund the consumer education program established pursuant to section 36 of P.L.1999, c.23 (C.48:3-85).

b. There is established in the Board of Public Utilities a nonlapsing fund to be known as the "Universal Service Fund." The board shall determine: the level of funding and the appropriate administration of the fund; the purposes and programs to be funded with monies from the fund; which social programs shall be provided by an electric public utility as part of the provision of its regulated services which provide a public benefit; whether the funds appropriated to fund the "Lifeline Credit Program" established pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.), the "Tenants' Lifeline Assistance Program" established pursuant to P.L.1981, c.210 (C.48:2-29.30 et seq.), the funds received pursuant to the Low Income Home Energy Assistance Program established pursuant to 42 U.S.C. s.8621 et seq., and funds collected by electric and gas public utilities, as authorized by the board, to offset uncollectible electricity and natural gas bills should be deposited in the fund; and whether new charges should be imposed to fund new or expanded social programs.

(cf: P.L.2022, c.86, s.2)

8. This act shall take effect immediately.

STATEMENT

The Board of Public Utilities (board) is required to establish a program to procure and provide incentive awards for the development of transmission-scale energy storage systems with a reasonable likelihood of successful and timely completion. The board is required to solicit applications for the program in an initial Tranche 1. After the conclusion of Tranche 1, the board is to engage in a review of the impact of the State's energy storage programs to make certain determinations, including whether to continue procuring and incentivizing transmission-scale energy storage. As outlined in the bill, the board is permitted to procure additional tranches by either continuing under the same program as Tranche 1 or implementing a successor program, with the board authorized to make changes based on its determinations in a report issued following its review.

For the bill's purposes, "transmission-scale energy storage system" means an energy storage system, capable of energy storage of at least 5 megawatts, that is interconnected with the PJM Transmission Network and situated inside a Transmission Zone in New Jersey or is otherwise located in New Jersey and qualified to provide energy, capacity, or ancillary services in the wholesale markets established by PJM Interconnection, L.L.C. (PJM).

Tranche 1 Procurement

The bill requires the board to solicit Tranche 1 applications for eligible projects whose collective installed capacity totals at least 500 megawatts of alternating current (MW AC). The bill provides certain deadlines for the proposal of rules and regulations; the development of application requirements and eligibility criteria; and the process of application, processing, and approval.

The board is required to permit an applicant, within 45 days following the bill's effective date, to submit an early application for Tranche 1 prior to the formal establishment of an application process or the promulgation of Tranche 1 rules and regulations. Within 30 days following the effective date of a board order either approving the rules and regulations proposed for publication or approving the proposed application requirements and eligibility criteria for Tranche 1, the board is required to: (1) begin formally accepting applications for Tranche 1; and (2) advise any applicant that submitted an early application for Tranche 1 of any defects in its existing application pursuant to the rules and regulations or the application requirements and eligibility criteria approved by board order.

To qualify for a Tranche 1 incentive award, a transmission-scale energy storage system is required to: (1) not participate in any other energy storage program; (2) have an anticipated commercial operations date of no later than December 31, 2030, unless the board permits an exception; (3) have completed the PJM interconnection process up to, at minimum, the completion of a System Impact Study, or equivalent study, as well as a draft or fully-executed Large Generator Interconnection Agreement through PJM at the time of application for Tranche 1; and (4) meet any other eligibility criteria the board may establish through board order or rulemaking.

A Tranche 1 application is required to include certain information and a fee, as provided in the bill.

At its discretion, the board may instruct an applicant on curing minor defects in a Tranche 1 application. The board is required to include in its application review process a system of scoring, established prior to its review of any project, which scoring system is to be based on price factors; maturity and likelihood of success; and environmental justice, redevelopment, and community benefits. The bill provides certain requirements for the scoring process and permits the board to place an eligible project that does not receive an incentive award for Tranche 1 on a waiting list and consider the eligible project for an incentive award during a subsequent tranche or successor program.

Tranche 1 Incentives

Under the bill, the board is required to approve incentive awards totaling a collective minimum of $60 million for Tranche 1. An incentive award is to be conditioned upon a developer's compliance with the board order determining the incentive award and with any conditions the board requires.

Tranche 1 Board Orders

The bill outlines certain requirements for a board order issuing an incentive award to an eligible project, including that the board order is required to: (1) define the eligible project receiving an incentive award and the eligible project's megawatt capacity; (2) define the incentive award, including a payment schedule for the 15-year award period of the incentive award, which term is to commence no earlier than July 1, 2028 or upon the commercial operations date of an eligible project, and during which term an eligible project is to receive an annual incentive award on each anniversary of the first payment date; (3) determine the amount of funding to be allocated for payment of the incentive award beginning either in the fiscal year beginning on July 1, 2028 or on the commercial operations date of the eligible project, whichever is later; (4) include a participation fee as the board is to require from the developer; (5) require, for an eligible project awarded an incentive, a pre-development security not to exceed $100,000 per megawatt and not to exceed in total $10,000,000; (6) outline the conditions under which the board may, in the event of a developer's failure to operate an eligible project by the deadline stated in the board order or to meet deadlines included in the board order, revoke an incentive award or retain a portion of the pre-development security; (7) provide that receipt of an incentive award for an eligible project is to be contingent on achievement of baseline performance requirements, including, but not limited to, the availability of energy storage for dispatch in a percentage of hours daily, which percentage is to be decided by the board. The board is permitted to use the PJM Equivalent Forced Outage Rate or another metric deemed appropriate by the board to measure energy storage availability. The board order is to require that the developer report data for this purpose at regular intervals and is to provide for a reduction of an incentive award in proportion to the percentage of required availability that is unmet by the eligible project; and (8) require that a developer provide additional information to the board during the term of the incentive award, as the board may require. The board may set additional requirements at its discretion, including, but not limited to, a requirement that the developer report major development and construction milestones to the board, maintain financial security throughout the term of the incentive award, or any other requirement the board determines necessary to ensure continued progress and operational viability of an eligible project.

Ratepayer Impact Review

No later than one calendar year following the date of the final Tranche 1 procurement approval, the board is required to initiate a proceeding to examine the impact of the State's energy storage programs, collectively and individually, and to assess progress toward the 2030 energy storage target of 2,000 megawatts. The board is required to issue a report that, at a minimum: (1) examines the State's energy storage programs; (2) accounts for projected electric bill savings and costs to ratepayers, as well as societal benefits of reduced emissions, due to increased installed capacity or energy storage capacity; (3) reports the progress of the projects under each energy storage program; (4) compares relative costs per capacity awarded for each project based on its installed capacity; (5) produces estimates of the most cost-effective means to achieve the 2030 energy storage target or any other energy storage target established by the Legislature; and (6) determines, at the discretion of the board, whether to extend the procurement of transmission-scale energy storage pursuant to this bill based on the results of Tranche 1.

Future Procurement

If the board determines in the report required by the bill that it will extend the procurement of transmission-scale energy storage through additional tranches, the board is permitted either to continue the program under which Tranche 1 was conducted or to establish a successor program, as outlined in the bill. The primary difference between these options for continued procurement of transmission-scale energy storage is the funding mechanism for incentive awards, as described below.

If the board administers future tranches pursuant to either option in the bill, the board is required to do so in a similar manner to how it administered Tranche 1, modifying as appropriate for each subsequent tranche: (1) the amount of megawatts to be solicited; (2) the application requirements or eligibility criteria; (3) the timeline for an eligible project, including, but not limited to, application deadlines or the contract term; and (4) any other administrative modification the board deems appropriate following its report.

Incentive Award Funding Mechanisms

The bill requires the board to fund incentive awards issued for Tranche 1 and any subsequent tranches issued under the same program through the societal benefits charge. Beginning in Fiscal Year 2029, the board is required to annually allocate a minimum of $60 million from the funds collected through the societal benefits charge to fully fund incentive awards issued for Tranche 1 and any subsequent tranches issued under the same program.

If the board instead establishes a successor program, it is required to fund incentive awards issued under the successor program through changes to each electric public utility's base rate case. As apportioned according to the relative electric load of each, the electric public utilities are to recover the total cost of (1) the outstanding costs of the incentives awarded to eligible projects under Tranche 1; and (2) the costs as the board determines necessary for incentive awards under the successor program.

The funding mechanism of a Tranche 1 incentive award is not to be changed without the consent of the developer, permitting Tranche 1 incentive awards to continue to be funded through the societal benefits charge if a developer does not agree to the change in funding mechanism, even if the board elects to establish a successor program with a different funding mechanism.

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 4289

STATE OF NEW JERSEY

221st LEGISLATURE

ADOPTED JUNE 9, 2025

Sponsored by:
Senator BOB SMITH
District 17 (Middlesex and Somerset)
Senator JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:
Senator Greenstein

SYNOPSIS

Requires BPU to procure and incentivize transmission-scale energy storage.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Budget and Appropriations Committee.

(Sponsorship Updated As Of: 6/30/2025)

AN ACT concerning transmission-scale energy storage, supplementing Title 48 of the Revised Statutes, and amending P.L.1999, c.23.

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

1. (New section) As used in P.L. , c. (C.) (pending before the Legislature as this bill):

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

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

"Board" means the Board of Public Utilities.

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

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

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

"Eligible project" means a transmission-scale energy storage system that meets the criteria for an incentive award pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

"Energy storage" means a device that is capable of absorbing energy from the grid or from a generation resource located behind the same point of interconnection as the device; storing it for a period of time using mechanical, chemical, or thermal processes; and, thereafter, discharging the energy back to the grid or directly to an energy-using system to reduce the use of power from the grid.

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

"Energy storage program" means a program designed to encourage the growth of energy storage capacity in the State in order to strengthen storage capacity for the electric grid. "Energy storage program" includes the board's Successor Solar Incentive Program, including the Competitive Solar Incentive Program; the program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill); and the board's Garden State Energy Storage Program.

EXPLANATION – Matter enclosed in bold-faced brackets ⟦thus⟧ in the above bill is not enacted and is intended to be omitted in the law.

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

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

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

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

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

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

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

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

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

"Subsequent tranche" means additional energy storage procurement administered pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Tranche 1" means the initial procurement for the energy storage program established pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Tranche 2" means the second procurement for the energy storage program established pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

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

(2) By no later than June 30, 2026, the board shall approve incentive awards for eligible projects totaling at least 1,000 MW AC in installed capacity. However, at least 350 MW AC of the 1,000 MW AC procurement goal shall be approved in incentive awards for eligible projects in Tranche 1 by no later than December 31, 2025. If the board is unable to procure all 1,000 MW AC in installed capacity in Tranche 1, the board shall approve incentive awards for eligible projects in Tranche 2, provided that all incentive awards in Tranche 2 are awarded by no later than June 30, 2026.

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

(1) not participate in any other energy storage program, except for the GSESP, to the extent that the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) is incorporated into the GSESP;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) any other information required by the board.

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

(1) project maturity and likelihood of success;

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

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

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

e. Any board order issued pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) shall be binding and enforceable. Any such board order shall:

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

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

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

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

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

(6) outline the conditions under which the board may, in the event of a developer's failure to operate an eligible project by the deadline stated in the board order or to meet deadlines included in the board

order, revoke an incentive award or retain some or all of the pre-development security;

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

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

f. The board may amend an order issuing an incentive award pursuant to this section solely to change the funding source of the incentive award. Any incentive award for an eligible project and the conditions for receiving funding pursuant to this section shall remain effective for the full duration of the award period specified in the board order issuing the incentive award, notwithstanding any change to the funding source of the incentive award.

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

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

(a) evaluate projects in accordance with this section, any rules or regulations proposed pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), and any application requirements and eligibility criteria approved pursuant to this subsection; and

(b) select eligible projects to receive an award.

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

3. (New section) a. Within 30 days of meeting its 1,000 MW AC procurement goal established pursuant to paragraph (2) of subsection a. of section 2 of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall initiate a proceeding, with opportunity for public comment, to determine whether to extend its procurement of transmission-scale energy storage through the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

b. The board shall issue a report detailing its findings based on the proceeding initiated pursuant to subsection a. of this section and submit the report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. In its report issued pursuant to this subsection, the board shall:

(1) examine the impact of the State's energy storage programs, individually and collectively, on the State's progress toward the 2030 energy storage target established pursuant to section 1 of P.L.2018, c.17 (C.48:3-87.8);

(2) assess the impact of the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) on ratepayers, which impact shall include an evaluation of any costs and benefits to ratepayers as a result of increased energy storage capacity under the program;

(3) evaluate any changes in the PJM capacity market or in the federal energy and utility landscape that could impact the need for incentive awards issued through the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill);

(4) study any other information the board deems necessary to make its determination pursuant to paragraph (5) of this subsection; and

(5) determine, at the discretion of the board, whether to extend the procurement of transmission-scale energy storage pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) through subsequent tranches based on its findings from paragraphs (1) through (4) of this subsection.

4. (New section) a. If the board elects to extend its procurement of transmission-scale energy storage pursuant to paragraph (5) of subsection b. of section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) through subsequent tranches under the energy storage program established pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), the board shall administer any subsequent tranche in a similar manner to Tranche 1 and Tranche 2, modifying as appropriate for each subsequent tranche:

(1) the amount of megawatts to be solicited;

(2) the application requirements or eligibility criteria;

(3) the timeline for an eligible project, including, but not limited to, application deadlines or the contract term; and

(4) any other administrative modification the board deems appropriate.

b. Prior to administering each subsequent tranche, the board shall increase, decrease, or maintain the amount of an incentive award as the board deems necessary based on a market analysis that shall account for:

(1) changes within the energy and utility industries, including any changes due to State and federal policies, that may increase or decrease average project costs for developers of transmission-scale energy storage systems;

(2) any additional sources of revenue available to developers of transmission-scale energy storage systems; and

(3) any other factors concerning the cost to develop transmission-scale energy storage systems that the board deems necessary to reevaluate the amount of an incentive award.

c. Notwithstanding subsection b. of this section to the contrary, the board may determine incentive award amounts in a subsequent tranche by a competitive solicitation process.

5. (New section) a. There is established in the Board of Public Utilities a special, non-lapsing fund to be known as the "Energy Storage Fund." The fund shall be administered by the board and shall be credited with:

(1) monies deposited into the fund by the board pursuant to subsection b. of this section;

(2) monies appropriated by the Legislature; and

(3) any return on investment of monies deposited in the fund.

b. The board shall deposit into the fund, each year, until the end of all award periods for incentive awards issued pursuant to P.L.   , c.   (C.   ) (pending before the Legislature as this bill), a minimum of $60,000,000 from the:

(1) revenues from the societal benefits charge established pursuant to subsection a. of section 12 of P.L.1999, c.23 (C.48:3-60); and

(2) monies made available from other funding sources, as determined by the board, which sources shall include, but not be limited to, federal funding.

c. Notwithstanding any restrictions on the use of funds provided in section 12 of P.L.1999, c.23 (C.48:3-60), monies in the fund shall be used by the board solely to fund:

(1) incentive awards issued pursuant to P.L.   , c.   (C.   ) (pending before the Legislature as this bill); and

(2) energy storage incentives issued pursuant to the GSESP.

d. In the fiscal year beginning on July 1, 2027, and in each fiscal year thereafter, until the end of all award periods for incentive awards issued pursuant to P.L.   , c.   (C.   ) (pending before the

Legislature as this bill), the board shall allocate sufficient monies from the "Energy Storage Fund" established pursuant to subsection a. of this section to fully fund the incentive awards issued by the board pursuant to P.L. , c. (C.) (pending before the Legislature as this bill).

6. (New section) a. (1) The board shall adopt, as expeditiously as possible, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations consistent with the purposes of P.L. , c. (C.) (pending before the Legislature as this bill).

(2) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, within 90 days following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), the board shall publish a notice of proposal that contains the proposed rules required by this subsection.

b. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or any other law or rule to the contrary, the board may procure transmission-scale energy storage systems and issue incentive awards for Tranche 1 and Tranche 2 pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) notwithstanding the status of board rules or regulations pursuant to subsection a. of this section.

7. Section 12 of P.L.1999, c.23 (C.48:3-60) is amended to read as follows:

12. a. Simultaneously with the starting date for the implementation of retail choice as determined by the board pursuant to subsection a. of section 5 of P.L.1999, c.23 (C.48:3-53), the board shall permit each electric public utility and gas public utility to recover some or all of the following costs through a societal benefits charge that shall be collected as a non-bypassable charge imposed on all electric public utility customers and gas public utility customers, as appropriate:

(1) ⟦The⟧ <u>the</u> costs for the social programs for which rate recovery was approved by the board prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of social program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). The board may subsequently order, pursuant to its rules and regulations, an increase or decrease in the societal benefits charge to reflect changes in the costs to the utility of administering existing social programs. Nothing in P.L.1999, c.23 (C.48:3-49 et al.) shall be construed to abolish or change any social program required by statute or board order or rule or regulation to be provided by an electric public utility. Any such social program shall continue to be provided by the utility until otherwise provided by law, unless the

board determines that it is no longer appropriate for the electric public utility to provide the program, or the board chooses to modify the program;

(2) ⟦Nuclear⟧ <u>nuclear</u> plant decommissioning costs;

(3) ⟦The⟧ <u>the</u> costs of demand side management programs that were approved by the board pursuant to its demand side management regulations prior to April 30, 1997. For the purpose of establishing initial unbundled rates pursuant to section 4 of P.L.1999, c.23 (C.48:3-52), the societal benefits charge shall be set to recover the same level of demand side management program costs as is being collected in the bundled rates of the electric public utility on the effective date of P.L.1999, c.23 (C.48:3-49 et al.). Within four months of the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and every four years thereafter, the board shall initiate a proceeding and cause to be undertaken a comprehensive resource analysis of energy programs, and within eight months of initiating such proceeding and after notice, provision of the opportunity for public comment, and public hearing, the board, in consultation with the Department of Environmental Protection, shall determine the appropriate level of funding for energy efficiency, light, medium, and heavy-duty plug-in electric vehicles, including school buses, and associated plug-in electric vehicle charging infrastructure, <u>energy storage,</u> and Class I renewable energy programs that provide environmental benefits above and beyond those provided by standard offer or similar programs in effect as of the effective date of P.L.1999, c.23 (C.48:3-49 et al.); provided that the funding for such programs be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.) for an initial period of four years from the issuance of the first comprehensive resource analysis following the effective date of P.L.1999, c.23 (C.48:3-49 et al.), and provided that 25 percent of this amount shall be used to provide funding for Class I renewable energy projects in the State. In each of the following fifth through eighth years, the Statewide funding for such programs shall be no less than 50 percent of the total Statewide amount being collected in electric and gas public utility rates for demand side management programs on the effective date of P.L.1999, c.23 (C.48:3-49 et al.), except that as additional funds are made available as a result of the expiration of past standard offer or similar commitments, the minimum amount of funding for such programs shall increase by an additional amount equal to 50 percent of the additional funds made available, until the minimum amount of funding dedicated to such programs reaches $140,000,000 total. After the eighth year the board shall make a determination as to the appropriate level of funding for these programs. Such programs shall include a program to provide financial incentives for the installation of Class I renewable energy projects in the State, and the board, in consultation with the Department of Environmental Protection, shall determine the

level and total amount of such incentives as well as the renewable technologies eligible for such incentives which shall include, at a minimum, photovoltaic, wind, and fuel cells. The board shall simultaneously determine, as a result of the comprehensive resource analysis, the programs to be funded by the societal benefits charge, the level of cost recovery and performance incentives for old and new programs and whether the recovery of demand side management programs' costs currently approved by the board may be reduced or extended over a longer period of time. The board shall make these determinations taking into consideration existing market barriers and environmental benefits, with the objective of transforming markets, capturing lost opportunities, making energy services more affordable for low income customers and eliminating subsidies for programs that can be delivered in the marketplace without electric public utility and gas public utility customer funding<u>. In addition to the determinations above, the board shall allocate sufficient funding from the societal benefits charge to cover the remaining cost of fully funding incentive awards issued for transmission-scale energy storage systems that are eligible projects pursuant to P.L.   , c.   (C.   ) (pending before the Legislature as this bill), after accounting for funding allocated to this purpose from other sources</u>;

(4) ⟦Manufactured⟧ <u>manufactured</u> gas plant remediation costs, which shall be determined initially in a manner consistent with mechanisms in the remediation adjustment clauses for the electric public utility and gas public utility adopted by the board; and

(5) ⟦The⟧ <u>the</u> cost, of consumer education, as determined by the board, which shall be in an amount that, together with the consumer education surcharge imposed on electric power supplier license fees pursuant to subsection h. of section 29 of P.L.1999, c.23 (C.48:3-78) and the consumer education surcharge imposed on gas supplier license fees pursuant to subsection g. of section 30 of P.L.1999, c.23 (C.48:3-79), shall be sufficient to fund the consumer education program established pursuant to section 36 of P.L.1999, c.23 (C.48:3-85).

b. There is established in the Board of Public Utilities a nonlapsing fund to be known as the "Universal Service Fund." The board shall determine: the level of funding and the appropriate administration of the fund; the purposes and programs to be funded with monies from the fund; which social programs shall be provided by an electric public utility as part of the provision of its regulated services which provide a public benefit; whether the funds appropriated to fund the "Lifeline Credit Program" established pursuant to P.L.1979, c.197 (C.48:2-29.15 et seq.), the "Tenants' Lifeline Assistance Program" established pursuant to P.L.1981, c.210 (C.48:2-29.30 et seq.), the funds received pursuant to the Low Income Home Energy Assistance Program established pursuant to 42 U.S.C. s.8621 et seq., and funds collected by electric and gas public utilities, as authorized by the board, to offset uncollectible electricity and

natural gas bills should be deposited in the fund; and whether new charges should be imposed to fund new or expanded social programs.
(cf: P.L.2022, c.86, s.2)

8. This act shall take effect immediately.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 4289

STATE OF NEW JERSEY

DATED: MAY 22, 2025

The Senate Environment and Energy Committee reports favorably Senate Bill No. 4289.

This bill would require the Board of Public Utilities (board) to establish a program to procure and provide incentive awards for the development of transmission-scale energy storage systems with a reasonable likelihood of successful and timely completion. The board is required to solicit applications for the program in an initial Tranche 1. After the conclusion of Tranche 1, the board is to engage in a review of the impact of the State's energy storage programs to make certain determinations, including whether to continue procuring and incentivizing transmission-scale energy storage. As outlined in the bill, the board is permitted to procure additional tranches by either continuing under the same program as Tranche 1 or implementing a successor program, with the board authorized to make changes based on its determinations in a report issued following its review.

For the bill's purposes, "transmission-scale energy storage system" means an energy storage system, capable of energy storage of at least 5 megawatts, that is interconnected with the PJM Transmission Network and situated inside a Transmission Zone in New Jersey or is otherwise located in New Jersey and qualified to provide energy, capacity, or ancillary services in the wholesale markets established by PJM Interconnection, L.L.C. (PJM).

Tranche 1 Procurement

The bill requires the board to solicit Tranche 1 applications for eligible projects whose collective installed capacity totals at least 500 megawatts of alternating current (MW AC). The bill provides certain deadlines for the proposal of rules and regulations; the development of application requirements and eligibility criteria; and the process of application, processing, and approval.

The board is required to permit an applicant, within 45 days following the bill's effective date, to submit an early application for Tranche 1 prior to the formal establishment of an application process or the promulgation of Tranche 1 rules and regulations. Within 30 days following the effective date of a board order either approving the rules and regulations proposed for publication or approving the proposed application requirements and eligibility criteria for Tranche 1, the board is required to: (1) begin formally accepting applications for Tranche 1; and (2) advise any applicant that submitted an early application for Tranche 1 of any defects in its existing application pursuant to the rules and regulations or the application requirements and eligibility criteria approved by board order.

To qualify for a Tranche 1 incentive award, a transmission-scale energy storage system is required to: (1) not participate in any other energy storage program; (2) have an anticipated commercial operations date of no later than December 31, 2030, unless the board permits an exception; (3) have completed the PJM interconnection process up to, at minimum, the completion of a System Impact Study, or equivalent study, as well as a draft or fully-executed Large Generator Interconnection Agreement through PJM at the time of application for Tranche 1; and (4) meet any other eligibility criteria the board may establish through board order or rulemaking.

A Tranche 1 application is required to include certain information and a fee, as provided in the bill.

At its discretion, the board may instruct an applicant on curing minor defects in a Tranche 1 application. The board is required to include in its application review process a system of scoring, established prior to its review of any project, which scoring system is to be based on price factors; maturity and likelihood of success; and environmental justice, redevelopment, and community benefits. The bill provides certain requirements for the scoring process and permits the board to place an eligible project that does not receive an incentive award for Tranche 1 on a waiting list and consider the eligible project for an incentive award during a subsequent tranche or successor program.

Tranche 1 Incentives

Under the bill, the board is required to approve incentive awards totaling a collective minimum of $60 million for Tranche 1. An incentive award is to be conditioned upon a developer's compliance with the board order determining the incentive award and with any conditions the board requires.

Tranche 1 Board Orders

The bill outlines certain requirements for a board order issuing an incentive award to an eligible project, including that the board order is required to: (1) define the eligible project receiving an incentive award and the eligible project's megawatt capacity; (2) define the incentive award, including a payment schedule for the 15-year award period of the incentive award, which term is to commence no earlier than July 1, 2028 or upon the commercial operations date of an eligible project, and during which term an eligible project is to receive an annual incentive award on each anniversary of the first payment date; (3) determine the amount of funding to be allocated for payment of the incentive award beginning either in the fiscal year beginning on July 1, 2028 or on the commercial operations date of the eligible project, whichever is later; (4) include a participation fee as the board is to require from the developer; (5) require, for an eligible project awarded an incentive, a pre-development security not to exceed $100,000 per megawatt and not to exceed in total $10,000,000; (6) outline the conditions under which the board may, in the event of a developer's failure to operate an eligible project by the deadline stated in the board order or to meet deadlines included in the board order, revoke an incentive award or retain a portion of the pre-development security; (7) provide that receipt of an incentive award for an eligible project is to be contingent on achievement of baseline performance requirements, including, but not limited to, the availability of energy storage for dispatch in a percentage of hours daily, which percentage is to be decided by the board. The board is permitted to use the PJM Equivalent Forced Outage Rate or another metric deemed appropriate by the board to measure energy storage availability. The board order is to require that the developer report data for this purpose at regular intervals and is to provide for a reduction of an incentive award in proportion to the percentage of required availability that is unmet by the eligible project; and (8) require that a developer provide additional information to the board during the term of the incentive award, as the board may require. The board may set additional requirements at its discretion, including, but not limited to, a requirement that the developer report major development and construction milestones to the board, maintain financial security throughout the term of the incentive award, or any other requirement the board determines necessary to ensure continued progress and operational viability of an eligible project.

Ratepayer Impact Review

No later than one calendar year following the date of the final Tranche 1 procurement approval, the board is required to initiate a proceeding to examine the impact of the State's energy storage programs, collectively and individually, and to assess progress toward the 2030 energy storage target of 2,000 megawatts. The board is required to issue a report that, at a minimum: (1) examines the State's energy storage programs; (2) accounts for projected electric bill savings and costs to ratepayers, as well as societal benefits of reduced emissions, due to increased installed capacity or energy storage capacity; (3) reports the progress of the projects under each energy storage program; (4) compares relative costs per capacity awarded for each project based on its installed capacity; (5) produces estimates of the most cost-effective means to achieve the 2030 energy storage target or any other energy storage target established by the Legislature; and (6) determines, at the discretion of the board, whether to extend the procurement of transmission-scale energy storage pursuant to this bill based on the results of Tranche 1.

Future Procurement

If the board determines in the report required by the bill that it will extend the procurement of transmission-scale energy storage through additional tranches, the board is permitted either to continue the program under which Tranche 1 was conducted or to establish a successor program, as outlined in the bill. The primary difference between these options for continued procurement of transmission-scale energy storage is the funding mechanism for incentive awards, as described below.

If the board administers future tranches pursuant to either option in the bill, the board is required to do so in a similar manner to how it administered Tranche 1, modifying as appropriate for each subsequent tranche: (1) the amount of megawatts to be solicited; (2) the application requirements or eligibility criteria; (3) the timeline for an eligible project, including, but not limited to, application deadlines or the contract term; and (4) any other administrative modification the board deems appropriate following its report.

Incentive Award Funding Mechanisms

The bill requires the board to fund incentive awards issued for Tranche 1 and any subsequent tranches issued under the same program through the societal benefits charge. Beginning in Fiscal Year 2029, the board is required to annually allocate a minimum of $60 million from the funds collected through the societal benefits charge to fully fund incentive awards issued for Tranche 1 and any subsequent tranches issued under the same program.

If the board instead establishes a successor program, it is required to fund incentive awards issued under the successor program through changes to each electric public utility's base rate case. As apportioned according to the relative electric load of each, the electric public utilities are to recover the total cost of (1) the outstanding costs of the incentives awarded to eligible projects under Tranche 1; and (2) the costs as the board determines necessary for incentive awards under the successor program.

The funding mechanism of a Tranche 1 incentive award is not to be changed without the consent of the developer, permitting Tranche 1 incentive awards to continue to be funded through the societal benefits charge if a developer does not agree to the change in funding mechanism, even if the board elects to establish a successor program with a different funding mechanism.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 4289

STATE OF NEW JERSEY

DATED: JUNE 9, 2025

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill No. 4289.

As reported, this committee substitute requires the Board of Public Utilities (board) to establish a program to procure and provide incentive awards for the development of transmission-scale energy storage systems with a reasonable likelihood of successful and timely completion. Under the substitute, "transmission-scale energy storage system" means an energy storage system, with an installed capacity of at least 5 megawatts of alternating current (MW AC), that is interconnected with the PJM Transmission Network and situated inside a Transmission Zone in New Jersey or is otherwise located in New Jersey and qualified to provide energy, capacity, or ancillary services in the wholesale markets established by PJM Interconnection, L.L.C. (PJM).

Procurement Goals and Tranche Structure

Specifically, the substitute requires the board to procure at least 1,000 MW AC of installed capacity by June 30, 2026. To accomplish this goal, the board is required to solicit applications for the program in an initial Tranche 1 and in Tranche 2. In Tranche 1, which application period is to begin no later than September 30, 2025, the board is to procure at least 350 MW AC of its 1,000 MW AC procurement goal by December 31, 2025. If the board is unable to procure all 1,000 MW AC of installed capacity in Tranche 1, the board is to approve incentive awards in Tranche 2 until it achieves the 1,000 MW AC procurement goal established by the substitute. However, all incentive awards in Tranche 2 are to be approved by June 30, 2026.

Within 30 days of meeting its 1,000 MW AC procurement goal, the board is to initiate a proceeding to determine whether to extend its procurement of transmission-scale energy storage. The substitute requires the board to issue a report to the Governor and the Legislature determining whether to extend the board's procurement of transmission-scale energy storage through subsequent tranches administered under the same program as Tranche 1 and Tranche 2 with certain modifications as deemed necessary by the board. As outlined in the substitute, this report is to contain certain information.

However, prior to administering any subsequent tranche, the board is to conduct a market analysis, as outlined in the substitute, to determine whether to increase, decrease, or maintain the amount of an incentive award.

Tranche 1 and Tranche 2 Procurement

To qualify for a Tranche 1 or Tranche 2 incentive award, a transmission-scale energy storage system is required to: (1) not participate in any other energy storage program, except for the Garden State Energy Storage Program (GSESP) to the extent that the energy storage program established by the substitute may be incorporated into the GSESP; (2) have an anticipated commercial operations date of no later than December 31, 2030, unless the board permits an exception; and (3) meet any other eligibility criteria set by the board.

In addition to these requirements, transmission-scale energy storage systems seeking an incentive award are to meet certain project maturity requirements. In Tranche 1, a transmission-scale energy storage system is required to have entered the PJM interconnection process and, at the time of application: (1) have a fully-executed Generation Interconnection Agreement or Interconnection Service Agreement through PJM; (2) have a completed Surplus Interconnection Study through PJM and have the associated Capacity Interconnection Rights through PJM; or (3) have notified PJM of intent to transfer existing Capacity Interconnection Rights associated with a deactivating generation station and have the associated Capacity Interconnection Rights through PJM. In Tranche 2, a transmission-scale energy storage system is required to have entered the PJM interconnection process and, at the time of application: (1) have a fully-executed Generation Interconnection Agreement or Interconnection Service Agreement through PJM; (2) have a completed Surplus Interconnection Study through PJM and have the associated Capacity Interconnection Rights through PJM; (3) have been studied by PJM in a Phase I System Impact Study and have paid a Decision Point I Readiness Deposit to PJM; or (4) have notified PJM of intent to transfer existing Capacity Interconnection Rights associated with a deactivating generation station and have the associated Capacity Interconnection Rights through PJM.

A Tranche 1 or Tranche 2 application is required to include certain information and a fee, as provided in the substitute. At its discretion, the board may instruct an applicant on curing minor defects in a Tranche 1 or Tranche 2 application. The board is required to evaluate each application based on the bid prices of the requested incentive awards, using certain criteria to guide its evaluation as outlined in the substitute. The substitute permits the board to place an eligible project that does not receive an incentive award for Tranche 1 or Tranche 2 on a waiting list and to consider the eligible project for an incentive award during a subsequent tranche. Under the substitute, an incentive award is to be conditioned upon a developer's compliance with the board order determining the incentive award and with any conditions the board requires.

Tranche 1 and Tranche 2 Board Orders

The substitute outlines certain requirements for a board order issuing an incentive award to an eligible project, including that the board order is required to: (1) define the eligible project receiving an incentive award and the eligible project's installed capacity; (2) define the incentive award, including a payment schedule for the 15-year award period of the incentive award, which term is to commence no earlier than the commercial operations date of an eligible project, and during which term an eligible project is to receive an annual incentive award on each anniversary of the first payment date; (3) determine the amount of funding to be allocated for payment of the incentive award beginning in the fiscal year in which the eligible project commences commercial operations; (4) include a participation fee as the board is permitted to require from the developer; (5) require, for an eligible project awarded an incentive, a pre-development security not to exceed $100,000 per megawatt and not to exceed in total $10,000,000; (6) outline the conditions under which the board may, in the event of a developer's failure to operate an eligible project by the deadline stated in the board order or to meet deadlines included in the board order, revoke an incentive award or retain some or all of the pre-development security; (7) provide that receipt of an incentive award for an eligible project is to be contingent on achievement of baseline performance requirements, including, but not limited to, availability for dispatch in a minimum number of hours per year, as determined by the board. The board is permitted to use the PJM Equivalent Forced Outage Rate or another metric deemed appropriate by the board to measure energy storage availability. The board order is to require that the developer report data for this purpose at regular intervals and is to provide for a reduction of an incentive award in proportion to the number of hours of required availability that is unmet by the eligible project; and (8) require that a developer provide additional information to the board during the term of the incentive award, as the board may require. The board may set additional requirements at its discretion, including, but not limited to, a requirement that the developer report major development and construction milestones to the board, maintain financial security throughout the term of the incentive award, or any other requirement the board determines necessary to ensure continued progress and operational viability of an eligible project.

Energy Storage Fund

The substitute establishes a special, non-lapsing fund to be known as the "Energy Storage Fund" (fund) in the Board of Public Utilities. The fund is to be administered by the board and credited with: (1)

monies deposited into the fund by the board; (2) monies appropriated by the Legislature; and (3) any return on investment of monies deposited in the fund. Each year, until the end of all incentive awards issued under the substitute, the board is to deposit into the fund a minimum of $60 million from the: (1) revenues from the societal benefits charge; and (2) monies made available from other funding sources, as determined by the board, which sources are to include, but not be limited to, federal funding. The board is to use the monies deposited into the fund for the sole purpose of funding: (1) incentive awards issued under the substitute; and (2) energy storage incentive awards issued under the GSESP.

Beginning in Fiscal Year 2028, the board is required to annually allocate sufficient monies from the fund to fully fund incentive awards issued under the substitute.

FISCAL IMPACT:

Fiscal information for this substitute is currently unavailable.

LEGISLATIVE FISCAL ESTIMATE

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 4289

STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JULY 3, 2025

SUMMARY

Synopsis: Requires BPU to procure and incentivize transmission-scale energy storage.

Type of Impact: Annual State expenditure increase. Annual State revenue reallocation. Potential annual State revenue increase.

Agencies Affected: Board of Public Utilities.

Office of Legislative Services Estimate

Fiscal Impact	**FY 2026 and Beyond**
State Expenditure Increase	Indeterminate
State Revenue Reallocation	At Least $60 million

- The Office of Legislative Services (OLS) concludes that this bill will result in an indeterminate annual State expenditure increase for the Board of Public Utilities to establish a program for procuring and incentivizing transmission-scale energy storage systems. Additionally, the OLS anticipates that this bill will result in a State revenue reallocation of at least $60 million from FY 2026 until the end of all award periods for incentives issued under the bill.

- The bill will result in an annual reallocation of at least $60 million from the existing societal benefits charge revenues to the new Energy Storage Fund, beginning in FY 2026 through the conclusion of all 15-year incentive award periods for approved projects under the bill. These funds will be used exclusively to fund incentive awards for eligible energy storage projects, as well as to support the Garden State Energy Storage Program, which is currently in development by the board.

- Additional administrative costs may be incurred by the board to establish the program. These cost increases are indeterminate. However, the OLS anticipates that the increased expenditures may be absorbed within existing resources or offset by application and participation fees authorized under the bill.

Office of Legislative Services
State House Annex
P.O. Box 068
Trenton, New Jersey 08625

– OLS –

Legislative Budget and Finance Office
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BILL DESCRIPTION

This bill requires the Board of Public Utilities to establish a program to procure and provide incentive awards for the development of transmission-scale energy storage systems with a reasonable likelihood of successful and timely completion. Under the bill, "transmission-scale energy storage system" means an energy storage system, with an installed capacity of at least five megawatts of alternating current (MW AC), that is interconnected with the PJM Transmission Network and situated inside a Transmission Zone in New Jersey or is otherwise located in New Jersey and qualified to provide energy, capacity, or ancillary services in the wholesale markets established by PJM Interconnection, L.L.C.

The bill requires the board to procure at least 1,000 MW AC of installed capacity by June 30, 2026 with a minimum of 350 MW AC procured by December 31, 2025. The program will be funded through the newly created Energy Storage Fund, which will receive a minimum of $60 million annually from societal benefits charge revenues and other sources.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that this bill will result in an indeterminate annual State expenditure increase for the Board of Public Utilities to establish a program for procuring and incentivizing transmission-scale energy storage systems. Additionally, the OLS anticipates that this bill will result in a State revenue reallocation of at least $60 million from FY 2026 until the end of all award periods for incentives issued under the bill.

The bill will result in an annual reallocation of at least $60 million from the existing societal benefits charge revenues to the new Energy Storage Fund, beginning in FY 2026 through the conclusion of all 15-year incentive award periods for approved projects. These funds will be used exclusively to fund incentive awards for eligible energy storage projects under the bill, as well as to support the Garden State Energy Storage Program, which is currently in development by the board. Additionally, the board will appropriate and allocate sufficient monies to fully fund incentive awards under the bill, which awards will be in an indeterminate number and of an indeterminate amount. Notably, the $60 million annual floor may be supplemented by federal funding or other board-determined revenue sources.

Additional administrative costs may be incurred by the board to establish the program. These cost increases are indeterminate. However, the OLS anticipates that the increased expenditures may be absorbed within existing resources or offset by application and participation fees authorized under the bill.

The long-term fiscal impact may be influenced by: developer participation and cost of storage development, federal funding availability, and any changes in the PJM interconnection process or capacity market. The funding for incentive awards issued under Tranche 1, Tranche 2, or subsequent tranches may be sourced from the societal benefits charge, which is collected through electric public utility and gas public utility rates. If the board requires additional funding for energy storage procurement under the bill and has not identified any additional supplementary funding sources, it may elect to increase the societal benefits charge assessed to electric and gas public utility customers in an attempt to offset program expenditure increases.

Section:	*Authorities, Utilities, Transportation and Communications*
Analyst:	*Michael D. Walker* *Associate Fiscal Analyst*
Approved:	*Thomas Koenig* *Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Signs Legislation to Address Regional Energy Cost Crisis

Posted on - 08/22/2025

Massive Expansion of New Jersey's Nation-Leading Solar Programs – Resulting in 3,000 New Megawatts of Community Solar Projects

Transmission-Scale Energy Storage Incentive Program to Reach 2,000 MW of Energy Storage by 2030 – One of the Most Ambitious Targets in the Nation

Legislation Will Nearly Double Clean Energy Capacity, Reducing Electric Bill Costs

LAWRENCEVILLE – Governor Phil Murphy today signed into law S4530/A5768 and A5267/S4289 as part of the Murphy Administration's ongoing commitment to addressing the regional energy cost crisis by putting New Jersey on a path to nearly double its capacity to deliver affordable, reliable, and renewable energy by 2030. This legislation will facilitate the swift expansion of solar access for 450,000 additional New Jerseyans, including 250,000 low-income families, which will enable the equivalent of one million households to receive solar power by 2028. These bills will also help lower energy costs by vastly accelerating the construction of energy storage facilities across the state. The Governor was joined by legislative sponsors, local leaders, union members, and advocates at IBEW Local 269 in Lawrenceville.

S4530/A5768 directs the Board of Public Utilities (BPU) to open registration by October 1, 2025 for an additional 3,000 megawatts of community solar projects. This will mark a massive expansion of New Jersey's nation-leading solar programs and help hardworking families and businesses save money on their monthly electric bills.

A5267/S4289 establishes a transmission-scale energy storage incentive program to achieve New Jersey's goal of 2,000 megawatts of energy storage by 2030. The program seeks to rapidly install new clean energy capacity and reduce costs for New Jersey's energy customers.

In an effort to provide necessary energy alternatives, these pieces of legislation allow for the rapid expansion of New Jersey's community solar program and swift creation of new energy storage facilities. Solar capacity has increased from 2.4 gigawatts to 5.2 gigawatts under the Murphy Administration, with solar currently powering the equivalent of over 600,000 homes.

"Today, we are taking immediate and far-reaching steps to lower energy costs for every household in New Jersey," **said Governor Murphy.** "By accelerating the process for bringing new sources of energy online and rapidly building new energy storage facilities, we will meet growing demand while also making life more affordable for our state's families. As part of this process, we are going to create good-paying, union jobs and build a cleaner, more resilient future for every New Jerseyan."

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"I want to thank Governor Murphy for his leadership in advancing clean power solutions for New Jersey," **said NJBPU President Christine Guhl-Sadovy.** "This legislation addresses real problems. More New Jerseyans will get access to the benefits of expanded community solar programs—one of the best ways for residents to lower their utility bills while contributing to clean energy in the Garden State. And large-scale battery storage will strengthen our electric grid and keep the lights on when we need it most. This is how we build a grid that works for everyone."

The two bills signed today build upon the Murphy Administration's ongoing efforts to mitigate rising energy costs due to mismanagement by regional grid operator PJM.

Other notable measures that the Murphy Administration has taken include:

- Calling for a formal investigation (https://nj.gov/governor/news/news/562025/approved/20250417a.shtml) into the energy cost crisis facilitated by PJM
- Announcing $430 million in direct economic relief (https://www.nj.gov/governor/news/news/562025/approved/20250605a.shtml) for New Jersey ratepayers
- Sending a bipartisan letter (https://nj.gov/governor/news/news/562025/approved/20250718a.shtml) to PJM demanding increased transparency and oversight
- Signing legislation (https://nj.gov/governor/news/news/562025/approved/20250815a.shtml) to increase public accountability from grid operators

The prime sponsors of S4530/A5768 are Senators Gopal and McKeon and Assemblymembers Peterpaul, Donlon, and Karabinchak. The prime sponsors of A5267/S4289 are Senators Smith and Burzichelli and Assemblymembers DeAngelo, Bailey, Jr., and Egan.

"Community solar has delivered real benefits for working families across New Jersey, but our current limits on project development are holding back its full potential," **said Senator Gopal.** "This bill modernizes the program to meet today's needs, cutting red tape, creating savings, and accelerating our clean energy transition. At a time of rising electricity costs, we should be making it easier, not harder, to build local solar projects that lower bills and reduce strain on our grid. This is an opportunity to deliver immediate value to consumers while helping New Jersey meet its clean energy goals. With smart policy and strong investment, community solar can help power our future, affordably and equitably."

"The Community Solar Energy Program has already delivered over $7 million in savings to more than 28,000 New Jersey residents, with over half of its benefits going to low and moderate-income households," **said Senator John McKeon.** "By expanding the program to 3,000 megawatts by 2029, we will strengthen the state's generation capacity and ensure that we are able to meet ever-increasing demand to avoid rate spikes in the future."

"As projected energy demand and electricity costs rise, it is more important than ever to invest in innovative technology that will both enhance the stability of our grid and enable cost savings for New Jersey residents," **said Senator Smith, the Chair of the Senate Energy Committee.** "By incentivizing and procuring the creation of transmission-scale energy storage we will enable a wider application of clean energy that can charge and store energy at low-cost hours then discharge at high-cost, high-demand hours, thus lowering overall costs and smoothing demand spikes on the grid. This legislation will help keep New Jersey at the forefront of investments in new, clean energy technology, even as the current federal administration seeks to sabotage our environment and our renewable future."

“Energy storage is one of the more effective ways to reinforce the supply of power, which will help lower utility costs for consumers,” **said Senator Burzichelli.** “Investing in transmission-scale energy storage will make the utility grid more resilient to fluctuations in the supply and demand of power so that homeowners and businesses are better protected against increased electric bills. This is one of the many actions we are taking to counter the management failures by the regional energy grid operator that resulted in a spike in utility costs.”

“Energy storage is a necessary tool in balancing supply and demand, lowering costs, and increasing renewable energy projects,” **said Assemblyman DeAngelo, President of IBEW Local 269.** “As we seek to diversify our energy generation portfolio, this legislation will help us harness the power of renewable energy sources and use it to enhance the resiliency of our energy infrastructure.”

“Reliability and efficiency of the power grid are essential parts of the conversation surrounding energy affordability,” **said Assemblyman Bailey.** “Storing excess energy when demand is low and releasing it when demand is high is one of the smartest ways to reduce costs for consumers. Bill A5267 will do just that by bringing large-scale storage projects online, making our grid more reliable and our utility bills more affordable.”

“Bill A5267 will help us mitigate the unpredictability in both the market and the climate by strengthening our ability to store energy,” **said Assemblyman Egan.** “The steps we’re taking to stabilize the grid today will benefit consumers well into the future.”

“Community solar projects are beneficial in numerous ways, including promoting clean energy, enhancing accessibility, and reducing costs,” **said Assemblywoman Peterpaul.** “New Jersey’s Community Solar Energy Program has yielded millions of dollars in savings for subscribers. With this bill being signed into law today, we look forward to even more projects being constructed, leading to additional savings for residents throughout the state.”

“Boosting New Jersey’s energy supply is key to lowering utility bills for New Jersey ratepayers and this legislation is pivotal to bringing new solar projects online,” **said Assemblywoman Donlon.** “By expanding the nationally-recognized Community Solar Energy Program, Bill A5768 will enable us to bring rate relief to working families and increase access to this vital clean energy source.”

“With the termination of the federal Solar for All program earlier this month, the signing of this legislation could not come at a more critical time,” **said Assemblyman Karabinchak.** “Solar technology has stood the test of time and will play a crucial role in reaching our energy goals in New Jersey. As we continue to address energy affordability, bring relief to ratepayers, and increase electricity generation, Bill A5768 will help incentivize the development and construction of significantly more solar energy projects in the state.”

"With Governor Murphy’s signature, New Jersey just cemented itself as a national leader in energy affordability and equity,” **said Charlie Coggeshall, Mid-Atlantic Director for the Coalition for Community Solar Access (CCSA).** “This law doesn’t just build solar—it builds economic opportunity and resilience for the communities that need it most.”
New Jersey League of Conservation Voters

“The passage and signing of these bills are a major step forward for New Jersey’s clean energy future. Expanding energy storage and community solar doesn’t just strengthen our power grid—it creates good-paying, family-sustaining jobs for the skilled union carpenters who are ready to build this future," **said Anthony Abrantes, Assistant Executive Secretary – Treasurer, Eastern Atlantic States Regional Council of Carpenters.** "These policies ensure that working people are at the center of the transition to renewable energy, delivering both environmental progress and economic opportunity. We applaud Governor Murphy and the legislature for their leadership in ensuring that clean energy expansion goes hand-in-hand with creating a pathway to the middle class."

"We thank Governor Murphy and the legislative sponsors for their leadership on these critical bills that will help the state move forward with clean energy development. Energy storage is essential to make renewable energy sources like solar provide energy to its fullest potential by allowing excess energy generated during sunny periods to be saved for peak demand. Incentivizing transmission-scale energy storage while increasing community solar targets will generate more power capacity, help reduce cost of electricity, improve grid reliability, reduce emissions and combat climate change. This is the smart direction New Jersey must continue to go towards," **said Anjuli Ramos-Busot, New Jersey Director of the Sierra Club.**

"Today's bill signings mark an exciting step forward in New Jersey's transition to a clean energy future. Expanding community solar and energy storage will not only reduce pollution and protect our environment, but also create good local jobs, lower energy bills quickly, and improve health outcomes for families across the state. We applaud Governor Murphy, the Legislature, and our union partners for their leadership and commitment to building a stronger, healthier, and more sustainable New Jersey for all," **said Ed Potosnak, Executive Director, New Jersey LCV.**

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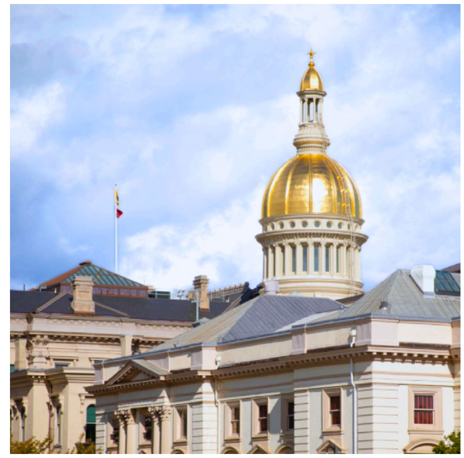
Assembly Democrats' Bills to Increase Energy Supply Signed into Law



New laws will add thousands of megawatts of energy and lower costs for New Jersey families

(TRENTON) — In a move to strengthen grid reliability and lower long-term energy costs, Governor Phil Murphy today signed two pieces of legislation sponsored by Assembly Democrats that represent a significant investment in New Jersey's energy future. The bills, which are designed to ensure reliable, affordable, and sustainable electricity remains within reach for residents and businesses, will expand access to community solar and procure transmission-scale energy storage.

Bill **A5267**, sponsored by Assemblymen **Wayne P. DeAngelo**, **Dave Bailey Jr.**, and **Kevin Egan**, will require the Board of Public Utilities (BPU) to launch a procurement program for at least 1,000 MW of transmission-scale energy storage. These large storage facilities will capture excess energy during low-demand periods and release it when the grid needs it most, reducing reliance on expensive fossil-fuel plants that only run during times of peak electric demand, resulting in lower emissions and lowering costs for consumers.

"Energy storage is a necessary tool in balancing supply and demand, lowering costs, and increasing renewable energy projects," **saidAssemblyman DeAngelo (D-Mercer, Middlesex).** "As we seek to diversify our energy generation portfolio, this legislation will help us harness the power of renewable energy sources and use it to enhance the resiliency of our energy infrastructure."

"Reliability and efficiency of the power grid are essential parts of the conversation surrounding energy affordability," **said Assemblyman Bailey (D-Gloucester, Salem, Cumberland).** "Storing excess energy when demand is low and releasing it when demand is high is one of the smartest ways to reduce costs for consumers. Bill A5267 will do just that by bringing large-scale storage projects online, making our grid more reliable and our utility bills more affordable."

"Bill A5267 will help us mitigate the unpredictability in both the market and the climate by strengthening our ability to store energy," **saidAssemblyman Egan (D-Middlesex, Somerset).** "The steps we're taking to stabilize the grid today will benefit consumers well into the future."

Bill **A5768**, sponsored by Assemblywomen **Luanne Peterpaul** and **Margie Donlon**, and Assemblyman **Robert Karabinchak**, will direct the BPU to open registration for an additional 3,000 MW of community solar projects. The law eliminates the previous 150 MW annual cap, ensuring new generation can come online more quickly and giving more households the ability to participate in, and benefit from, solar energy without having to install panels themselves.

“Community solar projects are beneficial in numerous ways, including promoting clean energy, enhancing accessibility, and reducing costs,” **saidAssemblywoman Peterpaul (D-Monmouth).** “New Jersey’s Community Solar Energy Program has yielded millions of dollars in savings for subscribers. With this bill being signed into law today, we look forward to even more projects being constructed, leading to additional savings for residents throughout the state.”

“Boosting New Jersey’s energy supply is key to lowering utility bills for New Jersey ratepayers and this legislation is pivotal to bringing new solar projects online,” **said Assemblywoman Donlon (D-Monmouth).** “By expanding the nationally-recognized Community Solar Energy Program, Bill A5768 will enable us to bring rate relief to working families and increase access to this vital clean energy source.”

“With the termination of the federal Solar for All program earlier this month, the signing of this legislation could not come at a more critical time,” **saidAssemblyman Karabinchak (D-Middlesex).** “Solar technology has stood the test of time and will play a crucial role in reaching our energy goals in New Jersey. As we continue to address energy affordability, bring relief to ratepayers, and increase electricity generation, Bill A5768 will help incentivize the development and construction of significantly more solar energy projects in the state.”