SPONSOR: Rep. Heffernan & Rep. Minor-Brown & Rep. Harris & Rep. Griffith & Sen. Hansen
Reps. Burns, Gorman, K. Johnson, Morrison, Romer, Snyder-Hall, Lambert; Sens. Sokola, Lockman

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE BILL NO. 310
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO BUSINESS TAX CREDITS AND DEDUCTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 2010, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 2010. Definitions.

As used in this subchapter and in subchapters III, V and VIII of this chapter:

(1)a. "Large energy use facility" means a facility that does any of the following:

1. Uses or is projected to use a monthly maximum demand of 75 megawatts or greater at a load factor of 85% or greater.

2. Uses a monthly maximum instantaneous demand of 100 megawatts or greater.

3. Uses or is able to use a monthly maximum demand of 30 megawatts or greater and is primarily engaged in providing a service described under code 518210 of the 2022 North American Industry Classification System.

b. Multiple facilities may be aggregated and treated as a large energy use facility for the purposes of this definition if the electric utility or the electric utility's regulatory body determines they would pose reliability risks to the electric system because of their electricity use, proximity, and operational characteristics. Factors that may be considered include close physical proximity, common ownership or control, or ownership or control through an affiliated company, and sharing of local electrical infrastructure.

c. "Large energy use facility" does not include a facility that stores, processes, refines, or transfers crude petroleum or petroleum products in bulk quantities, including refineries, and such uses shall not count toward aggregation. This exemption does not apply to a new facility that, after [the effective date of this Act] adds uses unrelated to the storage, processing, refining, or transfer of crude petroleum, petroleum products in bulk quantities,

HD : GOG : SCD : 0081530124
DLS : HVW : CBM : 5081530332
Released: 07/01/2026 01:57 AM

or other energy storage materials, if the energy use of the new facility meets the thresholds in paragraph (1)a. of this section.

d.1. A large energy use facility will be a qualified facility if the facility produces sufficient power or procures sufficient generation to meet 100% of the large energy use facility's annual energy needs from a facility or facilities interconnected in the State or within PJM's DPL transmission zone or within a transmission zone contiguous by land to the DPL transmission zone and with sufficient existing transmission infrastructure to deliver this additional electricity to Delaware.

2. Procured generation must be from a facility or facilities interconnected in the State or within PJM's DPL transmission zone or within a transmission zone contiguous by land to the DPL transmission zone, with sufficient existing transmission infrastructure to deliver this additional electricity to Delaware, and which has not been already committed in a prior PJM capacity auction. This may include newly constructed generation at an existing facility, uprates, or repowering of deactivated or retired generating units as of June 12, 2026; provided that capacity that previously participated in the PJM Base Residual Auction shall qualify only to the extent attributable to such uprate or repowering.

3. All power generated must meet the renewable energy portfolio standards established under §354 of Subchapter III-A, Chapter 1 of Title 26 at the established minimum cumulative percentage at the facility's anticipated end of operation, determined at the facility's proposed date of interconnection, and produced by clean energy technology. A facility may use a combination of 1 or more of the following forms of acceptable clean energy technology to meet the percentage thresholds established therein:

A. Generation eligible for compliance with the renewable energy portfolio standards or any successor clean energy standards and interconnecting in Delaware.

B. Nuclear power.

C. Energy storage interconnecting in Delaware and used for the primary purpose of storing energy generated from resources outlined in this subsection.

4. Compliance with this subsection may be achieved through any combination of procurement of renewable or clean energy resources, onsite or directly interconnected generation, power purchase agreements, or other mechanism approved by the electric utility's regulatory body.

5. A single-cycle or open-cycle power generation facility is not an acceptable energy generation technology for purposes of this subsection.

~~(1)~~ (2) "Qualified facility" is any qualified property that is not a large energy use facility located within this State that constitutes a new facility or an expanded facility and that is used by the taxpayer in or in connection with a qualified activity.