

## **New Jersey Buries the Needle on Electric Vehicles With New Legislation**

[New Jersey Governor Phil Murphy](#) signed landmark legislation ([S2252/A4819](#)) on January 17, 2020 that is poised to dramatically accelerate the electrification of New Jersey's transportation sector. The [legislation](#) increases state tax incentives for buyers of electric vehicles (EVs) and vehicle charging equipment and cites a number of benefits of EVs, from reduced greenhouse gas and other emissions, improved air quality, and lower vehicle and fuel costs for EV owners.

### **Summary of the New Jersey's Electric Vehicle Legislation**

The bill's goals for increased EV ownership and charging stations are ambitious. For example, the law sets the following goals:

- A more than tenfold increase in registered light-duty EVs over just five years, up from about 23,000 light-duty EVs on the road today to at least 330,000 light-duty EVs by the end of 2025, and at least two million EVs by end of 2035, and with EVs representing 85% of registered vehicles in New Jersey by 2040
- An increase in EVs in state-owned fleets, such that EVs will account for at least 25% of state-owned nonemergency light-duty vehicles by end of 2025, and 100% by 2035
- A 10% threshold for purchases of new electric buses by the New Jersey Transit Corporation, increasing to 50% by 2026 and 100% by 2032
- At least 1,000 Level 2 charging stations by end of 2025 available for public use, at least 15% of all multifamily residential properties with a minimum number of charging stations based on the number of residences
- At least 400 direct current (DC) fast chargers in at least 200 locations throughout the state by end of 2025, and with at least 75 of those fast charging stations at least 25 miles apart on travel corridors

New Jersey hopes to achieve these goals by offering substantial tax incentives to buy an EV, including \$25 per EPA-rated electric-only mile, up to a total of \$5,000 for EVs with a sticker price of less than \$55,000. Importantly, these incentives are in addition to any federal tax credits already available for EVs. And, the law offers an incentive of up to \$500 for the installation of in-home Level 2 charging stations on top of the incentive to buy the EV.

The New Jersey legislation is more than just a well-intentioned prayer for the EV market to take off in that state. The law establishes the "Plug-in Electric Vehicle Incentive Fund," which will be funded with \$30 million per year from New Jersey's participation in the [Regional Greenhouse Gas Initiative](#).

### **Key Issues With the New Law**

Apart from these audacious goals and funding levels, a number of significant aspects of the legislation stand out.

### **The Utility Regulator Is in Charge of the Incentive Program**

First, the New Jersey legislature has decided that the EV incentive program should be administered not by the department of transportation (the incentives affect cars and road use) or the department of revenue (these are tax incentives, after all), but by the state's board of public utilities (BPU)— in other words, the electric utility regulator in the state. Other [regulatory commissions](#) around the country have varied in their role in fostering transportation electrification. Some commissions have been largely hands-off, while other commissions have taken a piecemeal, [rate case by rate case](#) approach to deciding how involved utilities and regulators should be in the EV market. New Jersey, by contrast, has handed the wheel to the BPU.

### **How Will New Jersey Manage the Increased Electric Load?**

Second, while the legislation directs the New Jersey BPU to administer the tax incentives to promote EV ownership, the law says relatively little, if anything, about how utilities and the BPU will manage the [increase in electric load from the proliferation of EVs](#). The law does not appear to contain any specific discussion of rate practices specific to EV use that can incentivize certain times of day for charging over others (for example, enhanced EV incentives for customers who sign up for time-of-use rates, which can help control the system costs associated with poorly timed charging-related electric loads on the grid). Perhaps more importantly, there is similarly little discussion of how and whether utilities should be permitted to manage EV charging remotely (known as "managed charging") to set charging times and levels to reduce system energy and capacity costs, [even as some utilities around the country are pursuing pilot projects to do just that](#).

### **Charging Stations Are Not "Public Utilities"**

Third, while some [commissions have wrestled](#) with whether EV charging stations "sell" electricity for retail and thus should be treated as public utilities, the New Jersey legislation removes any regulatory doubt on the issue, joining several other states. To facilitate the EV infrastructure development necessary to support the legislature's goals, the New Jersey law makes clear that entities owning, controlling, operating, or managing EV service equipment (i.e., charging stations) would not be considered public utilities on that basis alone. The legislature goes a step further by deeming that the charging of a plug-in electric vehicle is not a "service" and does not constitute a "sale of electricity by an electric power supplier or basic generation service provider."

### **Impact on PSE&G's "Clean Energy Future – Electric Vehicle and Energy Storage Program"**

Fourth, there is an open question as to what effect this new law will have on the status of an October 2018 request by Public Service Enterprise Group (PSE&G), one of the state's largest utilities with about 2.2 million electric customers, to [recover the cost of its \\$261 million incentive program for EV charging stations](#). These incentives include, among other elements, residential smart-charging incentives for approximately 37,000 Level 2 charging stations and rebates for charging during off-peak periods (\$93 million), Level 2 mixed-use charging incentives for stations at approximately 600 locations, including multifamily dwellings, workplaces, and municipalities (\$39 million), and 450 publicly available DC fast charging stations (\$62 million). This measure appears to align to (and perhaps overlap) with the New Jersey legislation's overall goals. A question arises as to how PSE&G plans to integrate its EV charging incentive program with the New Jersey legislation.

### **Betting on a Change in the EV Market**

Finally, the New Jersey legislation highlights a tension in the current EV market and places a significant bet that the market will keep pace with the law's ambitious goals. For example, while plug-in hybrid electric vehicles (PHEVs)—EVs that run on gas and have some electric-only range—are included within the definition of EV under the law and are thus eligible for the tax incentive, the law clearly favors electric-only vehicles over PHEVs.

Consider a PHEV SUV that has 25 miles of electric-only range, with the rest of the car's 300-400 mile range supported by an internal combustion engine. Under the New Jersey law, that PHEV owner would only be eligible for a paltry \$625 tax credit, and even that incentive will no longer be available after 2022. But the tax credit for electric-only EVs will remain in place, making an EV with 200 or more miles of electric-only range a more attractive option to maximize the tax credit.

The problem, of course, is that there are still [relatively few](#) of those electric-only cars on the market, and even fewer of the popular all-wheel drive sport utility vehicles (SUVs). There are more PHEV SUV options, with more on the way, but as noted above, those PHEVs are largely left out of the law. A question remains as to whether the market will produce enough of the viable long-range electric-only SUVs to fill the demand that is currently met by the less favored PHEV SUVs under the law.

## Takeaways

The New Jersey legislation is a bold stroke for transportation electrification in a state with a lot of market clout. It draws on funds from New Jersey's participation in the Regional Greenhouse Gas Initiative and makes the electric utility regulator—the BPU—responsible for administering the tax incentives and achieving the legislation's ambitious goals. It remains to be seen whether additional measures will need to be taken by the BPU to manage the increased load on the grid from these new EVs, and whether other states, including nearby states like Pennsylvania, Delaware, and Maryland that share several transportation corridors with New Jersey, will borrow from New Jersey's model and targets. But there can be little doubt that the legislation represents a significant step toward electrifying the transportation sector in New Jersey, with likely ripple effects throughout the Mid-Atlantic region and across the country.

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