
HOUSE BILL 2283

State of Washington

65th Legislature

2018 Regular Session

By Representatives DeBolt, Smith, Orcutt, and Condotta

Prefiled 12/13/17. Read first time 01/08/18. Referred to Committee on Technology & Economic Development.

1 AN ACT Relating to encouraging investment in and reducing the
2 costs of transitioning to the clean energy future; amending RCW
3 19.285.030, 19.285.040, and 82.16.055; adding new sections to chapter
4 19.285 RCW; adding a new section to chapter 82.04 RCW; adding a new
5 section to chapter 82.16 RCW; adding a new section to chapter 82.63
6 RCW; adding a new section to chapter 84.36 RCW; creating new
7 sections; repealing RCW 19.285.010, 19.285.020, 19.285.030,
8 19.285.040, 19.285.045, 19.285.050, 19.285.060, 19.285.070,
9 19.285.080, 19.285.900, and 19.285.902; providing a contingent
10 effective date; and providing expiration dates.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

12 **Sec. 1.** RCW 19.285.030 and 2017 c 315 s 1 are each amended to
13 read as follows:

14 The definitions in this section apply throughout this chapter
15 unless the context clearly requires otherwise.

16 (1) "Attorney general" means the Washington state office of the
17 attorney general.

18 (2) "Auditor" means: (a) The Washington state auditor's office or
19 its designee for qualifying utilities under its jurisdiction that are
20 not investor-owned utilities; or (b) an independent auditor selected

1 by a qualifying utility that is not under the jurisdiction of the
2 state auditor and is not an investor-owned utility.

3 (3)(a) "Biomass energy" includes: (i) Organic by-products of
4 pulping and the wood manufacturing process; (ii) animal manure; (iii)
5 solid organic fuels from wood; (iv) forest or field residues; (v)
6 untreated wooden demolition or construction debris; (vi) food waste
7 and food processing residuals; (vii) liquors derived from algae;
8 (viii) dedicated energy crops; and (ix) yard waste.

9 (b) "Biomass energy" does not include: (i) Wood pieces that have
10 been treated with chemical preservatives such as creosote,
11 pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old
12 growth forests; or (iii) municipal solid waste.

13 (4) "Coal transition power" has the same meaning as defined in
14 RCW 80.80.010.

15 (5) "Commission" means the Washington state utilities and
16 transportation commission.

17 (6) "Conservation" means any reduction in electric power
18 consumption resulting from increases in the efficiency of energy use,
19 production, or distribution.

20 (7) "Cost-effective" has the same meaning as defined in RCW
21 80.52.030.

22 (8) "Council" means the Washington state apprenticeship and
23 training council within the department of labor and industries.

24 (9) "Customer" means a person or entity that purchases
25 electricity for ultimate consumption and not for resale.

26 (10) "Department" means the department of commerce or its
27 successor.

28 (11) "Distributed generation" means an eligible renewable
29 resource where the generation facility or any integrated cluster of
30 such facilities has a generating capacity of not more than five
31 megawatts.

32 (12) "Eligible renewable resource" means:

33 (a) Electricity from a generation facility powered by a renewable
34 resource other than freshwater that commences operation after March
35 31, 1999, where: (i) The facility is located in the (~~Pacific~~
36 ~~Northwest~~) western interconnection; or (ii) the electricity from the
37 facility is delivered into Washington state on a real-time basis
38 without shaping, storage, or integration services;

39 (b) Incremental electricity produced as a result of efficiency
40 improvements completed after March 31, 1999, to hydroelectric

1 generation projects owned by a qualifying utility and located in the
2 (~~Pacific Northwest~~) western interconnection where the additional
3 generation does not result in new water diversions or impoundments;

4 (c) Hydroelectric generation from a project completed after March
5 31, 1999, where the generation facility is located in irrigation
6 pipes, irrigation canals, water pipes whose primary purpose is for
7 conveyance of water for municipal use, and wastewater pipes located
8 in Washington where the generation does not result in new water
9 diversions or impoundments;

10 (d) Qualified biomass energy;

11 (e) For a qualifying utility that serves customers in other
12 states, electricity from a generation facility powered by a renewable
13 resource other than freshwater that commences operation after March
14 31, 1999, where: (i) The facility is located within a state in which
15 the qualifying utility serves retail electrical customers; and (ii)
16 the qualifying utility owns the facility in whole or in part or has a
17 long-term contract with the facility of at least twelve months or
18 more; (~~or~~)

19 (f)(i) Incremental electricity produced as a result of a capital
20 investment completed after January 1, 2010, that increases, relative
21 to a baseline level of generation prior to the capital investment,
22 the amount of electricity generated in a facility that generates
23 qualified biomass energy as defined under subsection (18)(c)(ii) of
24 this section and that commenced operation before March 31, 1999.

25 (ii) Beginning January 1, 2007, the facility must demonstrate its
26 baseline level of generation over a three-year period prior to the
27 capital investment in order to calculate the amount of incremental
28 electricity produced.

29 (iii) The facility must demonstrate that the incremental
30 electricity resulted from the capital investment, which does not
31 include expenditures on operation and maintenance in the normal
32 course of business, through direct or calculated measurement;

33 (g) Beginning January 1, 2018, the portion of incremental
34 electricity produced as a result of efficiency improvements completed
35 after March 31, 1999, attributable to a qualifying utility's share of
36 electricity output from hydroelectric generation projects whose
37 energy output is marketed by the Bonneville power administration,
38 where the additional generation does not result in new water
39 diversions or impoundments; or

1 (h) The environmental attributes, including renewable energy
2 credits, from (g) of this subsection transferred to investor-owned
3 utilities pursuant to the Bonneville power administration's
4 residential exchange program.

5 (13) "Investor-owned utility" has the same meaning as defined in
6 RCW 19.29A.010.

7 (14) "Load" means the amount of kilowatt-hours of electricity
8 delivered in the most recently completed year by a qualifying utility
9 to its Washington retail customers.

10 (15)(a) "Nonpower attributes" means all environmentally related
11 characteristics, exclusive of energy, capacity reliability, and other
12 electrical power service attributes, that are associated with the
13 generation of electricity from a renewable resource, including but
14 not limited to the facility's fuel type, geographic location,
15 vintage, qualification as an eligible renewable resource, and avoided
16 emissions of pollutants to the air, soil, or water, and avoided
17 emissions of carbon dioxide and other greenhouse gases.

18 (b) "Nonpower attributes" does not include any aspects, claims,
19 characteristics, and benefits associated with the on-site capture and
20 destruction of methane or other greenhouse gases at a facility
21 through a digester system, landfill gas collection system, or other
22 mechanism, which may be separately marketable as greenhouse gas
23 emission reduction credits, offsets, or similar tradable commodities.
24 However, these separate avoided emissions may not result in or
25 otherwise have the effect of attributing greenhouse gas emissions to
26 the electricity.

27 (16) "Pacific Northwest" has the same meaning as defined for the
28 Bonneville power administration in section 3 of the Pacific Northwest
29 electric power planning and conservation act (94 Stat. 2698; 16
30 U.S.C. Sec. 839a).

31 (17) "Public facility" has the same meaning as defined in RCW
32 39.35C.010.

33 (18) "Qualified biomass energy" means electricity produced from a
34 biomass energy facility that: (a) Commenced operation before March
35 31, 1999; (b) contributes to the qualifying utility's load; and (c)
36 is owned either by: (i) A qualifying utility; or (ii) an industrial
37 facility that is directly interconnected with electricity facilities
38 that are owned by a qualifying utility and capable of carrying
39 electricity at transmission voltage.

1 (19) "Qualifying utility" means an electric utility, as the term
2 "electric utility" is defined in RCW 19.29A.010, that serves more
3 than twenty-five thousand customers in the state of Washington. The
4 number of customers served may be based on data reported by a utility
5 in form 861, "annual electric utility report," filed with the energy
6 information administration, United States department of energy.

7 (20) "Renewable energy credit" means a tradable certificate of
8 proof of at least one megawatt-hour of an eligible renewable resource
9 where, except as provided in subsection (12)(h) of this section, the
10 generation facility is not powered by freshwater. The certificate
11 includes all of the nonpower attributes associated with that one
12 megawatt-hour of electricity, and the certificate is verified by a
13 renewable energy credit tracking system selected by the department.

14 (21) "Renewable resource" means: (a) Water; (b) wind; (c) solar
15 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or
16 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
17 fuel as defined in RCW 82.29A.135 that is not derived from crops
18 raised on land cleared from old growth or first-growth forests where
19 the clearing occurred after December 7, 2006; or (i) biomass energy.

20 (22) "Rule" means rules adopted by an agency or other entity of
21 Washington state government to carry out the intent and purposes of
22 this chapter.

23 (23) "Year" means the twelve-month period commencing January 1st
24 and ending December 31st.

25 (24) "Carbon reduction investment" means an investment in support
26 of eligible projects or actions that reduce, prevent, or remove from
27 the atmosphere the emissions of greenhouse gases in the state. An
28 eligible project or action includes, but is not limited to,
29 investment in the following: (a) Installation of electric vehicle
30 chargers and related infrastructure and other transportation
31 electrification measures; (b) demand side management of electricity
32 consumption; (c) energy storage technologies; and (d) carbon
33 sequestration programs, including forest health investments.

34 (25) "Clean energy resource" means: (a) Water; (b) wind; (c)
35 solar energy; (d) geothermal energy; (e) landfill gas; (f) wave,
36 ocean, or tidal power; (g) gas from sewage treatment facilities; (h)
37 biodiesel fuel as defined in RCW 82.29A.135 that is not derived from
38 crops raised on land cleared from old growth or first-growth forests
39 where the clearing occurred after December 7, 2006; (i) biomass
40 energy; (j) energy conservation measures, including but not limited

1 to combined heat and power; (k) nuclear energy; and (l) any other
2 energy resource that has the potential to be deployed to serve
3 electric load at the utility scale and is effectively carbon neutral.

4 (26) "Consumer-owned utility" has the same meaning as defined in
5 RCW 19.29A.010.

6 (27) "Greenhouse gas" means carbon dioxide, methane, nitrogen
7 trifluoride, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons,
8 perfluorocarbons, and other fluorinated greenhouse gases.

9 (28) "New energy or capacity need" means any electricity
10 generation needed by an electric utility, as the term "electric
11 utility" is defined in RCW 19.29A.010, to meet any of the following:

12 (a) Electricity load growth;

13 (b) Changes in capacity needs;

14 (c) Changes in ancillary services needs;

15 (d) Changes in reliability needs;

16 (e) Changes in flexibility needs;

17 (f) Needs arising due to replacing electricity generation; or

18 (g) Needs arising due to replacing expiring electricity resource
19 contracts.

20 (29) "North American electric reliability corporation" means the
21 electricity reliability organization designated by the federal energy
22 regulatory commission to ensure legal compliance with mandatory
23 electricity reliability standards in accordance with the energy
24 policy act of 2005 (119 Stat. 941; 16 U.S.C. Sec. 824o).

25 (30) "Tier 1 contract" means a power sales contract between an
26 electric utility and the Bonneville power administration under which
27 the utility purchases power from the Bonneville power administration
28 at rates established in accordance with the Bonneville power
29 administration's tiered rate methodology.

30 **Sec. 2.** RCW 19.285.040 and 2017 c 315 s 2 are each amended to
31 read as follows:

32 (1) Each qualifying utility (~~shall~~) must pursue all available
33 conservation that is cost-effective, reliable, and feasible.

34 (a) By January 1, 2010, using methodologies consistent with those
35 used by the Pacific Northwest electric power and conservation
36 planning council in the most recently published regional power plan
37 as it existed on June 12, 2014, or a subsequent date as may be
38 provided by the department or the commission by rule, each qualifying
39 utility (~~shall~~) must identify its achievable cost-effective

1 conservation potential through 2019. Nothing in the rule adopted
2 under this subsection precludes a qualifying utility from using its
3 utility specific conservation measures, values, and assumptions in
4 identifying its achievable cost-effective conservation potential. At
5 least every two years thereafter, the qualifying utility (~~shall~~)
6 must review and update this assessment for the subsequent ten-year
7 period.

8 (b) Beginning January 2010, each qualifying utility (~~shall~~)
9 must establish and make publicly available a biennial acquisition
10 target for cost-effective conservation consistent with its
11 identification of achievable opportunities in (a) of this subsection,
12 and meet that target during the subsequent two-year period. At a
13 minimum, each biennial target must be no lower than the qualifying
14 utility's pro rata share for that two-year period of its cost-
15 effective conservation potential for the subsequent ten-year period.

16 (c)(i) Except as provided in (c)(ii) and (iii) of this
17 subsection, beginning on January 1, 2014, cost-effective conservation
18 achieved by a qualifying utility in excess of its biennial
19 acquisition target may be used to help meet the immediately
20 subsequent two biennial acquisition targets, such that no more than
21 twenty percent of any biennial target may be met with excess
22 conservation savings.

23 (ii) Beginning January 1, 2014, a qualifying utility may use
24 single large facility conservation savings in excess of its biennial
25 target to meet up to an additional five percent of the immediately
26 subsequent two biennial acquisition targets, such that no more than
27 twenty-five percent of any biennial target may be met with excess
28 conservation savings allowed under all of the provisions of this
29 section combined. For the purposes of this subsection (1)(c)(ii),
30 "single large facility conservation savings" means cost-effective
31 conservation savings achieved in a single biennial period at the
32 premises of a single customer of a qualifying utility whose annual
33 electricity consumption prior to the conservation savings exceeded
34 five average megawatts.

35 (iii) Beginning January 1, 2012, and until December 31, 2017, a
36 qualifying utility with an industrial facility located in a county
37 with a population between ninety-five thousand and one hundred
38 fifteen thousand that is directly interconnected with electricity
39 facilities that are capable of carrying electricity at transmission
40 voltage may use cost-effective conservation from that industrial

1 facility in excess of its biennial acquisition target to help meet
2 the immediately subsequent two biennial acquisition targets, such
3 that no more than twenty-five percent of any biennial target may be
4 met with excess conservation savings allowed under all of the
5 provisions of this section combined.

6 (d) In meeting its conservation targets, a qualifying utility may
7 count high-efficiency cogeneration owned and used by a retail
8 electric customer to meet its own needs. High-efficiency cogeneration
9 is the sequential production of electricity and useful thermal energy
10 from a common fuel source, where, under normal operating conditions,
11 the facility has a useful thermal energy output of no less than
12 thirty-three percent of the total energy output. The reduction in
13 load due to high-efficiency cogeneration (~~shall~~) must be: (i)
14 Calculated as the ratio of the fuel chargeable to power heat rate of
15 the cogeneration facility compared to the heat rate on a new and
16 clean basis of a best-commercially available technology
17 combined-cycle natural gas-fired combustion turbine; and (ii) counted
18 towards meeting the biennial conservation target in the same manner
19 as other conservation savings.

20 (e) The commission may determine if a conservation program
21 implemented by an investor-owned utility is cost-effective based on
22 the commission's policies and practice.

23 (f) The commission may rely on its standard practice for review
24 and approval of investor-owned utility conservation targets.

25 (2)(a) Except as provided in (j) of this subsection, each
26 qualifying utility (~~shall~~) must use eligible renewable resources or
27 acquire equivalent renewable energy credits, or any combination of
28 them, to meet the following annual targets:

29 (i) At least three percent of its load by January 1, 2012, and
30 each year thereafter through December 31, 2015;

31 (ii) At least nine percent of its load by January 1, 2016, and
32 each year thereafter through December 31, 2019; and

33 (iii) At least fifteen percent of its load by January 1, 2020,
34 and each year thereafter until January 1, 2028.

35 (b) A qualifying utility may count distributed generation at
36 double the facility's electrical output if the utility: (i) Owns or
37 has contracted for the distributed generation and the associated
38 renewable energy credits; or (ii) has contracted to purchase the
39 associated renewable energy credits.

1 (c) In meeting the annual targets in (a) of this subsection, a
2 qualifying utility (~~shall~~) must calculate its annual load based on
3 the average of the utility's load for the previous two years.

4 (d) A qualifying utility (~~shall be~~) is considered in compliance
5 with an annual target in (a) of this subsection if: (i) The utility's
6 weather-adjusted load for the previous three years on average did not
7 increase over that time period; (ii) after December 7, 2006, the
8 utility did not commence or renew ownership or incremental purchases
9 of electricity from resources other than coal transition power or
10 renewable resources other than on a daily spot price basis and the
11 electricity is not offset by equivalent renewable energy credits; and
12 (iii) the utility invested at least one percent of its total annual
13 retail revenue requirement that year on eligible renewable resources,
14 renewable energy credits, or a combination of both.

15 (e) The requirements of this section may be met for any given
16 year with renewable energy credits produced during that year, the
17 preceding year, or the subsequent year. Each renewable energy credit
18 may be used only once to meet the requirements of this section.

19 (f) In complying with the targets established in (a) of this
20 subsection, a qualifying utility may not count:

21 (i) Eligible renewable resources or distributed generation where
22 the associated renewable energy credits are owned by a separate
23 entity; or

24 (ii) Eligible renewable resources or renewable energy credits
25 obtained for and used in an optional pricing program such as the
26 program established in RCW 19.29A.090.

27 (g) Where fossil and combustible renewable resources are cofired
28 in one generating unit located in the (~~Pacific Northwest~~) western
29 interconnection where the cofiring commenced after March 31, 1999,
30 the unit (~~shall be~~) is considered to produce eligible renewable
31 resources in direct proportion to the percentage of the total heat
32 value represented by the heat value of the renewable resources.

33 (h)(i) A qualifying utility that acquires an eligible renewable
34 resource or renewable energy credit may count that acquisition at one
35 and two-tenths times its base value:

36 (A) Where the eligible renewable resource comes from a facility
37 that commenced operation after December 31, 2005; and

38 (B) Where the developer of the facility used apprenticeship
39 programs approved by the council during facility construction.

1 (ii) The council (~~shall~~) must establish minimum levels of labor
2 hours to be met through apprenticeship programs to qualify for this
3 extra credit.

4 (i) A qualifying utility (~~shall be~~) is considered in compliance
5 with an annual target in (a) of this subsection if events beyond the
6 reasonable control of the utility that could not have been reasonably
7 anticipated or ameliorated prevented it from meeting the renewable
8 energy target. Such events include weather-related damage, mechanical
9 failure, strikes, lockouts, and actions of a governmental authority
10 that adversely affect the generation, transmission, or distribution
11 of an eligible renewable resource under contract to a qualifying
12 utility.

13 (j)(i) Beginning January 1, 2016, only a qualifying utility that
14 owns or is directly interconnected to a qualified biomass energy
15 facility may use qualified biomass energy to meet its compliance
16 obligation under this subsection.

17 (ii) A qualifying utility may no longer use electricity and
18 associated renewable energy credits from a qualified biomass energy
19 facility if the associated industrial pulping or wood manufacturing
20 facility ceases operation other than for purposes of maintenance or
21 upgrade.

22 (k) An industrial facility that hosts a qualified biomass energy
23 facility may only transfer or sell renewable energy credits
24 associated with qualified biomass energy generated at its facility to
25 the qualifying utility with which it is directly interconnected with
26 facilities owned by such a qualifying utility and that are capable of
27 carrying electricity at transmission voltage. The qualifying utility
28 may only use an amount of renewable energy credits associated with
29 qualified biomass energy that are equivalent to the proportionate
30 amount of its annual targets under (a)(ii) and (iii) of this
31 subsection that was created by the load of the industrial facility. A
32 qualifying utility that owns a qualified biomass energy facility may
33 not transfer or sell renewable energy credits associated with
34 qualified biomass energy to another person, entity, or qualifying
35 utility.

36 (l) Beginning January 1, 2018, a qualifying utility may use
37 eligible renewable resources as identified under RCW 19.285.030(12)
38 (g) and (h) to meet its compliance obligations under this subsection
39 (2). A qualifying utility may not transfer or sell these eligible

1 renewable resources to another utility for compliance purposes under
2 this chapter.

3 (m) Renewable energy credits allocated under RCW
4 19.285.030(12)(h) may not be transferred or sold to another
5 qualifying utility for compliance under this chapter.

6 (n)(i) Beginning January 1, 2020, a qualifying utility is in
7 compliance with an annual target in (a) of this subsection if: (A)
8 The utility uses any combination of eligible renewable resources and
9 clean energy resources that are not eligible renewable resources to
10 serve one hundred percent of its load; and (B) the utility makes
11 carbon reduction investments in a dollar amount that is at least
12 equal to the incremental cost of complying with the annual target in
13 (a) of this subsection, as calculated pursuant to RCW 19.285.050.

14 (ii) In using the compliance pathway established in (n)(i) of
15 this subsection, a qualifying utility may not count the same resource
16 as both a clean energy resource and a carbon reduction investment.

17 (iii) Except as provided in RCW 19.285.030(15)(b), any tradable
18 certificate of proof of a clean energy resource, including but not
19 limited to a renewable energy credit, associated with the portion of
20 any resource or resources used to satisfy the requirements of the
21 compliance pathway established in (n)(i) of this subsection must be
22 retired for the purposes of this section and cannot be sold,
23 transferred, or used for other purposes. A qualifying utility may not
24 use a tradable certificate or proof of a clean energy resource,
25 including but not limited to a renewable energy credit, to meet the
26 requirements of this section if the associated energy or capacity has
27 been sold, transferred, or otherwise used separately.

28 (3) Utilities that become qualifying utilities after December 31,
29 2006, (~~shall~~) must meet the requirements in this section on a time
30 frame comparable in length to that provided for qualifying utilities
31 as of December 7, 2006.

32 NEW SECTION. Sec. 3. A new section is added to chapter 19.285
33 RCW to read as follows:

34 (1) Beginning January 1, 2028, each electric utility must use
35 clean energy resources to meet any new energy or capacity need.

36 (2)(a) The requirement established under subsection (1) of this
37 section applies, at a minimum, to: (i) Any new or increased ownership
38 interest in a new or existing electricity generation facility or
39 unit; and (ii) any new or increased contractual commitment that

1 obligates or allows an electric utility to purchase a specified
2 amount of megawatts or megawatt-hours from an electricity generation
3 facility or unit, or a specified percentage of an electricity
4 generation facility or unit.

5 (b) An electric utility may not enter into a contract for
6 electricity generation to meet new energy or capacity needs if the
7 contract does not specify the sources or origins of the electricity
8 generation.

9 (3) Except as provided in RCW 19.285.030(15)(b), any tradable
10 certificate of proof of a clean energy resource, including but not
11 limited to a renewable energy credit, associated with the portion of
12 any resource or resources used to meet new energy or capacity needs
13 under this section must be retired for the purposes of this section
14 and cannot be sold, transferred, or used for other purposes. An
15 electric utility may not use a tradable certificate or proof of a
16 clean energy resource, including but not limited to a renewable
17 energy credit, to meet the requirements of this section if the
18 associated energy or capacity has been sold, transferred, or
19 otherwise used separately.

20 (4) Nothing in this section precludes the use of any of the
21 following resources to meet new energy or capacity needs:

22 (a) An electric utility's allocation of Bonneville power
23 administration tier 1 power, pursuant to the utility's tier 1
24 contract with the Bonneville power administration;

25 (b) Short-term spot market purchases;

26 (c) Renewal or extension of contracts in effect as of the
27 effective date of this section, where the renewal or extension does
28 not lead to any increase in the energy or capacity provided;

29 (d) Coal transition power;

30 (e) Generation resources owned as of the effective date of this
31 section by an electric utility and used by that utility to meet the
32 needs of its customers, until the generation resources are at the end
33 of the facility's useful life, are retired, or cease operations;

34 (f) Increased megawatt-hours from a generation facility that is
35 owned by an electric utility as of the effective date of this section
36 where the utility uses the increased megawatt-hours to serve the
37 utility's customers and where the utility's ownership interest in the
38 facility does not increase; and

39 (g) Electricity generation that is found by the commission, in
40 accordance with section 3 of this act, or the utility's governing

1 board, in accordance with section 4 of this act, to be required to
2 maintain reliable service and comply with applicable standards of the
3 North American electric reliability corporation or its successor.

4 (5) An electric utility may procure one or more natural gas-fired
5 generation units if such natural gas-fired generation is necessary to
6 avoid potential conflicts with or compromises to the electric
7 utility's obligation to comply with the mandatory and enforceable
8 reliability standards of the North American electric reliability
9 corporation.

10 (6) The definitions in this subsection apply throughout this
11 section unless the context clearly requires otherwise.

12 (a) "Short-term spot market purchase" means: (i) The purchase of
13 energy on the spot market for immediate delivery; or (ii) a contract
14 for the purchase of electricity on the spot market that is for a term
15 of one month or less.

16 (b) "Spot market" means a public financial market in which
17 electricity is bought, sold, or traded for immediate delivery.

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.285
19 RCW to read as follows:

20 (1) Upon its own motion or at the request of an investor-owned
21 utility, the commission may open an investigation to determine
22 whether an investor-owned utility's compliance with the requirements
23 of section 3 of this act is likely to result in conflicts with or
24 compromises to the investor-owned utility's obligation to comply with
25 the mandatory and enforceable reliability standards of the North
26 American electric reliability corporation, or compromises to the
27 integrity of the investor-owned utility's electrical system. An
28 investor-owned utility making a request under this subsection must
29 submit an application to the commission that includes:

30 (a) An explanation of the reliability or integrity issue and how
31 a temporary exemption from complying with the requirements of section
32 3 of this act will avoid the reliability or integrity issue; and

33 (b) A plan and timeline to achieve full compliance with the
34 requirements of section 3 of this act.

35 (2) In applying for a temporary exemption under this section, an
36 investor-owned utility has the burden of demonstrating that
37 compliance with the requirements of section 3 of this act is likely
38 to result in:

1 (a) Conflicts with or compromises to the investor-owned utility's
2 obligation to comply with the mandatory and enforceable reliability
3 standards of the North American electric reliability corporation; or

4 (b) Compromises to the integrity of the investor-owned utility's
5 electrical system.

6 (3) After opportunity for public comment and adjudication if
7 deemed necessary, the commission must approve, approve with
8 modifications, or deny the plan and timeline submitted in subsection
9 (1)(b) of this section.

10 (4) If the commission determines under this section that
11 compliance with the requirements of section 3 of this act is likely
12 to result in conflicts with or compromises to an investor-owned
13 utility's obligation to comply with the mandatory and enforceable
14 reliability standards of the North American electric reliability
15 corporation, or compromises to the integrity of the investor-owned
16 utility's electrical system, the commission must issue an order:

17 (a) Temporarily exempting the investor-owned utility from the
18 requirements of section 3 of this act for an amount of time
19 sufficient to allow the investor-owned utility to achieve full
20 compliance with the requirements of section 3 of this act;

21 (b) Allowing the investor-owned utility to meet all or a portion
22 of its new energy or capacity needs with electricity produced by a
23 generating facility that burns natural gas as the primary fuel source
24 as long as the facility: (i) Is operating as of the effective date of
25 this section; and (ii) does not exist as a result of a conversion
26 that occurs after the effective date of this section from a different
27 fuel source to a generation source that is not a renewable resource;

28 (c) Directing the investor-owned utility to file a progress
29 report within six months after an order granting an exemption is
30 issued, or within an amount of time determined to be reasonable by
31 the commission, on achieving full compliance with the requirements of
32 section 3 of this act; and

33 (d) Directing the investor-owned utility to take specific actions
34 to achieve full compliance with the requirements of section 3 of this
35 act.

36 (5) An investor-owned utility may request an extension of a
37 temporary exemption granted under this section and must report to the
38 commission at least once every six months as to its progress in
39 resolving its reliability or system integrity issues.

1 (6) This section does not permanently relieve an investor-owned
2 utility of its obligation to comply with the requirements of section
3 3 of this act.

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 19.285
5 RCW to read as follows:

6 (1) Upon its own motion or at the request of a consumer-owned
7 utility, the governing board of a consumer-owned utility may open an
8 investigation to determine whether the consumer-owned utility's
9 compliance with the requirements of section 3 of this act is likely
10 to result in conflicts with or compromises to the consumer-owned
11 utility's obligation to comply with the mandatory and enforceable
12 reliability standards of the North American electric reliability
13 corporation, or compromises to the integrity of the consumer-owned
14 utility's electrical system. At a minimum, the governing board must
15 consider in one or more publicly noticed meetings:

16 (a) An explanation of the reliability or integrity issue and how
17 a temporary exemption from complying with the requirements of section
18 3 of this act will avoid the reliability or integrity issue; and

19 (b) A plan and timeline to achieve full compliance with the
20 requirements of section 3 of this act.

21 (2) After opportunity for public comment and hearings if deemed
22 necessary, the governing board must approve, approve with
23 modifications, or deny the plan and timeline considered in subsection
24 (1)(b) of this section.

25 (3) If the governing board determines under this section that
26 compliance with the requirements of section 3 of this act is likely
27 to result in conflicts with or compromises to the consumer-owned
28 utility's obligation to comply with the mandatory and enforceable
29 reliability standards of the North American electric reliability
30 corporation, or compromises to the integrity of the consumer-owned
31 utility's electrical system, the governing board must issue an order:

32 (a) Temporarily exempting the consumer-owned utility from the
33 requirements of section 3 of this act for an amount of time
34 sufficient to allow the consumer-owned utility to achieve full
35 compliance with the requirements of section 3 of this act;

36 (b) Providing evidence to support the temporary exemption granted
37 in (a) of this subsection;

38 (c) Allowing the consumer-owned utility to meet all or a portion
39 of its new energy or capacity needs with electricity produced by a

1 generating facility that burns natural gas as the primary fuel source
2 as long as the facility: (i) Is operating as of the effective date of
3 this section; and (ii) does not exist as a result of a conversion
4 that occurs after the effective date of this section from a different
5 fuel source to a generation source that is not a renewable resource;

6 (d) Directing the consumer-owned utility to file a progress
7 report within six months after an order granting an exemption is
8 issued on achieving full compliance with the requirements of section
9 3 of this act; and

10 (e) Directing the consumer-owned utility to take specific actions
11 to achieve full compliance with the requirements of section 3 of this
12 act.

13 (4) A consumer-owned utility may request an extension of a
14 temporary exemption granted under this section and must report to the
15 governing board in a publicly noticed meeting at least once every six
16 months as to its progress in resolving its reliability or system
17 integrity issues.

18 (5) This section does not permanently relieve a consumer-owned
19 utility of its obligation to comply with the requirements of section
20 3 of this act.

21 NEW SECTION. **Sec. 6.** (1) This section is the tax preference
22 performance statement for the tax preferences established in sections
23 7 through 11, chapter . . . , Laws of 2018 (sections 7 through 11 of
24 this act). This performance statement is only intended to be used for
25 subsequent evaluation of the tax preferences. It is not intended to
26 create a private right of action by any party or be used to determine
27 eligibility for preferential tax treatment.

28 (2) The legislature categorizes the tax preferences created under
29 sections 7 through 11, chapter . . . , Laws of 2018 (sections 7
30 through 11 of this act) as intended to induce certain designated
31 behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

32 (3) It is the legislature's specific public policy objective to
33 reduce the cost of transitioning to electric generation sources that
34 have very low or zero carbon dioxide emissions. It is the intent of
35 the legislature to provide a suite of tax preferences in order to
36 reduce the cost to ratepayers of constructing and operating new
37 renewable energy generation capacity equal to or greater than
38 necessary to serve projected Washington electricity load growth, as

1 measured by projections in the most recently adopted Northwest power
2 and conservation council power plan.

3 (4) The legislature does not intend to extend the expiration date
4 of the tax preferences contained in this act.

5 (5) Because the tax preferences contained in this act are not for
6 the primary purpose of creating or retaining jobs or attracting or
7 attaining businesses, and because the legislature does not intend to
8 extend the expiration of the tax preferences, the legislature does
9 not intend for a review by the joint legislative audit and review
10 committee.

11 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.04
12 RCW to read as follows:

13 (1) The definitions in this subsection apply throughout this
14 section unless the context clearly requires otherwise.

15 (a) "Carbon reduction investment" means an investment in support
16 of eligible projects or actions that reduce, prevent, or remove from
17 the atmosphere the emissions of greenhouse gases in the state. An
18 eligible project or action includes, but is not limited to,
19 investment in the following: (i) Installation of electric vehicle
20 chargers and related infrastructure and other transportation
21 electrification measures; (ii) demand side management of electricity
22 consumption; (iii) energy storage technologies; and (iv) carbon
23 sequestration programs, including forest health investments.

24 (b) "Greenhouse gas" means carbon dioxide, methane, nitrogen
25 trifluoride, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons,
26 perfluorocarbons, and other fluorinated greenhouse gases.

27 (2) In computing the tax imposed under this chapter, a credit is
28 authorized for persons who reduce their own greenhouse gas emissions
29 through carbon reduction investment projects.

30 (3)(a) The credit is equal to the total amount of carbon
31 reduction investment project expenditures of a person.

32 (b) Credit may be earned by a person for multiple carbon
33 reduction investment projects.

34 (c) Credit earned under this section may equal or exceed the tax
35 otherwise due under this chapter for the tax reporting period. Any
36 unused credit may be accrued and carried over until it is used.

37 (4) No application is necessary for the tax credit. The person
38 must keep records necessary for the department to verify eligibility
39 under this section. The person is subject to all of the requirements

1 of chapter 82.32 RCW. No refunds may be granted for credits under
2 this section.

3 (5) If at any time the department finds that a person is not
4 eligible for the tax credit under this section, the amount of taxes
5 for which a credit has been claimed is immediately due. The
6 department must assess interest, but not penalties, on the taxes for
7 which the person is not eligible. The interest must be assessed at
8 the rate provided for delinquent excise taxes under chapter 82.32
9 RCW, is retroactive to the date the tax credit was taken, and accrues
10 until the taxes for which a credit has been used are repaid.

11 (6) A person claiming the credit under this section must file a
12 complete annual report with the department under RCW 82.32.534.

13 (7) This section expires January 1, 2029.

14 **Sec. 8.** RCW 82.16.055 and 1980 c 149 s 3 are each amended to
15 read as follows:

16 (1) In computing tax under this chapter there ~~((shall be))~~ is
17 deducted from the gross income:

18 (a) An amount equal to the cost of production at the plant for
19 consumption within the state of Washington of:

20 (i) Electrical energy produced or generated from ~~((cogeneration))~~
21 combined heat and power as defined in RCW ~~((82.35.020))~~ 19.280.020;
22 and

23 (ii) Electrical energy or gas produced or generated from
24 renewable ~~((energy))~~ resources ~~((such as solar energy, wind energy,~~
25 ~~hydroelectric energy, geothermal energy, wood, wood wastes, municipal~~
26 ~~wastes, agricultural products and wastes, and end use waste heat))~~ as
27 defined in RCW 19.285.030; and

28 (b) Those amounts expended to improve consumers' efficiency of
29 energy end use or to otherwise reduce the use of electrical energy or
30 gas by the consumer.

31 (2) This section applies only to the following facilities:

32 (a) New facilities for the production or generation of energy
33 from ~~((cogeneration or renewable energy resources))~~ combined heat and
34 power or renewable resources or measures to improve the efficiency of
35 energy end use on which construction or installation is begun after
36 June 12, 1980, and before January 1, 1990; and

37 (b) New facilities for the production or generation of
38 electricity from renewable resources on which construction or

1 installation is begun after January 1, 2020, and before January 1,
2 2028.

3 (3) Deductions under subsection (1)(a) of this section (~~shall~~
4 ~~be~~) are allowed for a period not to exceed thirty years after the
5 project is placed in operation.

6 (4) Measures or projects encouraged under this section (~~shall~~)
7 at the time they are placed in service must be reasonably expected to
8 save, produce, or generate energy at a total incremental system cost
9 per unit of energy delivered to end use which is less than or equal
10 to the incremental system cost per unit of energy delivered to end
11 use from similarly available conventional energy resources which
12 utilize nuclear energy or fossil fuels and which the gas or electric
13 utility could acquire to meet energy demand in the same time period.

14 (5) The department of revenue, after consultation with the
15 utilities and transportation commission in the case of investor-owned
16 utilities and the governing bodies of locally regulated utilities,
17 (~~shall~~) must determine the eligibility of individual projects and
18 measures for deductions under this section.

19 (6) This section expires January 1, 2029.

20 NEW SECTION. Sec. 9. A new section is added to chapter 82.16
21 RCW to read as follows:

22 (1) The definitions in this subsection apply throughout this
23 section unless the context clearly requires otherwise.

24 (a) "Carbon reduction investment" means an investment in support
25 of eligible projects or actions that reduce, prevent, or remove from
26 the atmosphere the emissions of greenhouse gases in the state. An
27 eligible project or action includes, but is not limited to,
28 investment in the following: (i) Installation of electric vehicle
29 chargers and related infrastructure and other transportation
30 electrification measures; (ii) demand side management of electricity
31 consumption; (iii) energy storage technologies; and (iv) carbon
32 sequestration programs, including forest health investments.

33 (b) "Greenhouse gas" means carbon dioxide, methane, nitrogen
34 trifluoride, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons,
35 perfluorocarbons, and other fluorinated greenhouse gases.

36 (2) In computing the tax imposed under this chapter, a credit is
37 authorized for persons who reduce their own greenhouse gas emissions
38 through carbon reduction investment projects.

1 (3)(a) The credit is equal to the total amount of carbon
2 reduction investment project expenditures of a person.

3 (b) Credit may be earned by a person for multiple carbon
4 reduction investment projects.

5 (c) Credit earned under this section may equal or exceed the tax
6 otherwise due under this chapter for the tax reporting period. Any
7 unused credit may be accrued and carried over until it is used.

8 (4) No application is necessary for the tax credit. The person
9 must keep records necessary for the department to verify eligibility
10 under this section. The person is subject to all of the requirements
11 of chapter 82.32 RCW. No refunds may be granted for credits under
12 this section.

13 (5) If at any time the department finds that a person is not
14 eligible for the tax credit under this section, the amount of taxes
15 for which a credit has been claimed is immediately due. The
16 department must assess interest, but not penalties, on the taxes for
17 which the person is not eligible. The interest must be assessed at
18 the rate provided for delinquent excise taxes under chapter 82.32
19 RCW, is retroactive to the date the tax credit was taken, and accrues
20 until the taxes for which a credit has been used are repaid.

21 (6) A person claiming the credit under this section must file a
22 complete annual report with the department under RCW 82.32.534.

23 (7) This section expires January 1, 2029.

24 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.63
25 RCW to read as follows:

26 (1)(a) Except as otherwise provided in this section, the
27 department must issue a sales and use tax deferral certificate for
28 state and local sales and use taxes due under chapters 82.08, 82.12,
29 82.14, and 81.104 RCW on each eligible renewable energy investment
30 project.

31 (b) The amount of tax imposed under chapters 82.08 and 82.12 RCW
32 eligible for a deferral under a certificate issued pursuant to this
33 section is limited to one million dollars per eligible renewable
34 energy investment project per person. Once a person reaches the one
35 million dollar limit in this subsection (1)(b), the person may no
36 longer defer under this chapter any state or local sales or use taxes
37 due on the eligible renewable energy investment project.

38 (2) The department may not issue deferral certificates under this
39 section until January 1, 2020.

1 (3) The definitions in this subsection apply throughout this
2 section unless the context clearly requires otherwise.

3 (a) "Eligible renewable energy investment project" means an
4 investment project that either initiates a new renewable energy
5 generation facility or expands, upgrades, or improves a current
6 renewable energy generation facility by increasing its energy
7 efficiency or energy capacity, and includes new or upgraded
8 transmission and distribution infrastructure necessary to connect the
9 project to the electrical grid.

10 (b) "Renewable energy generation facility" means an electric
11 generation facility powered by a renewable resource, as that term is
12 defined in RCW 19.285.030.

13 (4) This section expires January 1, 2028.

14 NEW SECTION. **Sec. 11.** A new section is added to chapter 84.36
15 RCW to read as follows:

16 (1) All buildings, machinery, equipment, and other personal
17 property that are used primarily for the generation of electricity
18 from renewable resources, the land upon which this property is
19 located, and the land that is reasonably necessary in the generation
20 of electricity from renewable resources, which together comprise a
21 new renewable energy generation facility or an addition to an
22 existing generation facility, are exempt from property taxation for
23 the ten assessment years following the date on which the facility or
24 the addition to the facility becomes operational.

25 (2) Claims for exemptions authorized by this section must be
26 filed with the county assessor on forms prescribed by the department
27 of revenue and furnished by the assessor. Once filed, the exemption
28 is valid for ten years and may not be renewed. The assessor must
29 verify and approve claims as the assessor determines to be justified
30 and in accordance with this section. No claims may be filed after
31 January 1, 2028.

32 (3) The department of revenue may adopt such rules, pursuant to
33 chapter 34.05 RCW, as necessary to properly administer this section.

34 (4) For the purposes of this section, "renewable resource" means:
35 (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e)
36 landfill gas; (f) wave, ocean, or tidal power; (g) gas from sewage
37 treatment facilities; or (h) biomass energy.

38 (5) This section expires January 1, 2029.

1 NEW SECTION. **Sec. 12.** (1) The following acts or parts of acts,
2 as now existing or hereafter amended, are each repealed, effective
3 upon the effective date of any act by the legislature that imposes a
4 tax, fee, or other monetary price on the carbon content of fossil
5 fuels and electricity sold or used within the state, such as a carbon
6 tax or cap-and-trade program:

7 (a) RCW 19.285.010 (Intent) and 2007 c 1 s 1;

8 (b) RCW 19.285.020 (Declaration of policy) and 2007 c 1 s 2;

9 (c) RCW 19.285.030 (Definitions) and 2017 c 315 s 1 & 2014 c 45 s
10 1;

11 (d) RCW 19.285.040 (Energy conservation and renewable energy
12 targets) and 2017 c 315 s 2, 2014 c 26 s 1, 2013 c 158 s 2, 2012 c 22
13 s 3, & 2007 c 1 s 4;

14 (e) RCW 19.285.045 (Energy conservation and renewable energy
15 targets—Analysis and advisory opinion) and 2012 c 254 s 1;

16 (f) RCW 19.285.050 (Resource costs) and 2007 c 1 s 5;

17 (g) RCW 19.285.060 (Accountability and enforcement—Energy
18 independence act special account) and 2015 c 225 s 22 & 2007 c 1 s 6;

19 (h) RCW 19.285.070 (Reporting and public disclosure) and 2007 c 1
20 s 7;

21 (i) RCW 19.285.080 (Rule making) and 2017 c 315 s 3 & 2007 c 1 s
22 8;

23 (j) RCW 19.285.900 (Construction—2007 c 1) and 2007 c 1 s 9;

24 (k) RCW 19.285.902 (Short title—2007 c 1) and 2007 c 1 s 11;

25 (l) RCW 19.285.--- (section 3 of this act);

26 (m) RCW 19.285.--- (section 4 of this act); and

27 (n) RCW 19.285.--- (section 5 of this act).

28 (2) The department of commerce must provide written notice of the
29 effective date of the act that repeals the sections identified in
30 this section to all affected parties, the chief clerk of the house of
31 representatives, the secretary of the senate, the office of the code
32 reviser, and others as deemed appropriate by the department of
33 commerce.

34 NEW SECTION. **Sec. 13.** This act may be known and cited as the
35 carbon free Washington act.

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