
SUBSTITUTE HOUSE BILL 1226

State of Washington 66th Legislature 2019 Regular Session

By House Environment & Energy (originally sponsored by
Representatives DeBolt and Stokesbary)

READ FIRST TIME 02/08/19.

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 new sections to chapter 82.08 RCW; adding new
5 sections to chapter 82.12 RCW; adding new sections to chapter 82.16
6 RCW; adding a new section to chapter 82.04 RCW; creating new
7 sections; and providing expiration dates.

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

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

11 The definitions in this section apply throughout this chapter
12 unless the context clearly requires otherwise.

13 (1) "Attorney general" means the Washington state office of the
14 attorney general.

15 (2) "Auditor" means: (a) The Washington state auditor's office or
16 its designee for qualifying utilities under its jurisdiction that are
17 not investor-owned utilities; or (b) an independent auditor selected
18 by a qualifying utility that is not under the jurisdiction of the
19 state auditor and is not an investor-owned utility.

20 (3)(a) "Biomass energy" includes: (i) Organic by-products of
21 pulping and the wood manufacturing process; (ii) animal manure; (iii)

1 solid organic fuels from wood; (iv) forest or field residues; (v)
2 untreated wooden demolition or construction debris; (vi) food waste
3 and food processing residuals; (vii) liquors derived from algae;
4 (viii) dedicated energy crops; and (ix) yard waste.

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

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

11 (5) "Commission" means the Washington state utilities and
12 transportation commission.

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

16 (7) "Cost-effective" has the same meaning as defined in RCW
17 80.52.030.

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

20 (9) "Customer" means a person or entity located in Washington
21 state that purchases electricity for ultimate consumption and not for
22 resale.

23 (10) "Department" means the department of commerce or its
24 successor.

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

29 (12) "Eligible renewable resource" means:

30 (a) Electricity from a generation facility powered by a renewable
31 resource other than freshwater that commences operation after March
32 31, 1999, where: (i) The facility is located in the (~~Pacific~~
33 ~~Northwest~~) western interconnection; or (ii) the electricity from the
34 facility is delivered into Washington state on a real-time basis
35 without shaping, storage, or integration services;

36 (b) Incremental electricity produced as a result of efficiency
37 improvements completed after March 31, 1999, to hydroelectric
38 generation projects owned by a qualifying utility and located in the
39 (~~Pacific Northwest~~) western interconnection where the additional
40 generation does not result in new water diversions or impoundments;

1 (c) Hydroelectric generation from a project completed after March
2 31, 1999, where the generation facility is located in irrigation
3 pipes, irrigation canals, water pipes whose primary purpose is for
4 conveyance of water for municipal use, and wastewater pipes located
5 in Washington where the generation does not result in new water
6 diversions or impoundments;

7 (d) Qualified biomass energy;

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

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

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

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

30 (g) Beginning January 1, 2019, the portion of incremental
31 electricity produced as a result of efficiency improvements completed
32 after March 31, 1999, attributable to a qualifying utility's share of
33 electricity output from hydroelectric generation projects whose
34 energy output is marketed by the Bonneville power administration,
35 where the additional generation does not result in new water
36 diversions or impoundments; or

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

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

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

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

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

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

27 (17) "Public facility" has the same meaning as defined in RCW
28 39.35C.010.

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

36 (19) "Qualifying utility" means an electric utility, as the term
37 "electric utility" is defined in RCW 19.29A.010, that serves more
38 than twenty-five thousand customers in the state of Washington. The
39 number of customers served may be based on data reported by a utility

1 in form 861, "annual electric utility report," filed with the energy
2 information administration, United States department of energy.

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

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

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

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

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

32 (25) "Clean energy resource" includes: (a) A resource that emits
33 no greenhouse gas pollution as part of its generation activity; or
34 (b) a renewable resource.

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

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

1 (28) "New energy or capacity need" means any electricity
2 generation needed to serve Washington retail electric customers by an
3 electric utility, as the term "electric utility" is defined in RCW
4 19.29A.010, to meet any of the following:

5 (a) Electricity load growth;

6 (b) Changes in capacity needs;

7 (c) Changes in ancillary services needs;

8 (d) Changes in reliability needs;

9 (e) Changes in flexibility needs;

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

11 (g) Needs arising due to replacing expiring electricity resource
12 contracts.

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

18 (30) "Utility-scale renewable resource" means a renewable
19 generation resource or energy storage device that delivers
20 electricity onto an electric utility's system at transmission
21 voltage.

22 (31) "Western interconnection" means the geographic area spanning
23 the western United States in which the operation of bulk power system
24 components is synchronized for the purpose of maintaining
25 reliability.

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

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

30 (a) By January 1, 2010, using methodologies consistent with those
31 used by the Pacific Northwest electric power and conservation
32 planning council in the most recently published regional power plan
33 as it existed on June 12, 2014, or a subsequent date as may be
34 provided by the department or the commission by rule, each qualifying
35 utility (~~shall~~) must identify its achievable cost-effective
36 conservation potential through 2019. Nothing in the rule adopted
37 under this subsection precludes a qualifying utility from using its
38 utility specific conservation measures, values, and assumptions in
39 identifying its achievable cost-effective conservation potential. At

1 least every two years thereafter, the qualifying utility (~~shall~~)
2 must review and update this assessment for the subsequent ten-year
3 period.

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

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

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

31 (iii) Beginning January 1, 2012, and until December 31, 2017, a
32 qualifying utility with an industrial facility located in a county
33 with a population between ninety-five thousand and one hundred
34 fifteen thousand that is directly interconnected with electricity
35 facilities that are capable of carrying electricity at transmission
36 voltage may use cost-effective conservation from that industrial
37 facility in excess of its biennial acquisition target to help meet
38 the immediately subsequent two biennial acquisition targets, such
39 that no more than twenty-five percent of any biennial target may be

1 met with excess conservation savings allowed under all of the
2 provisions of this section combined.

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

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

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

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

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

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

30 (iii) At least fifteen percent of its load by January 1, 2020,
31 and each year thereafter.

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

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

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

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

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

18 (i) Eligible renewable resources or distributed generation where
19 the associated renewable energy credits are owned by a separate
20 entity; or

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

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

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

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

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

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

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

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

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

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

33 (l) Beginning January 1, 2019, a qualifying utility may use
34 eligible renewable resources as identified under RCW 19.285.030(12)
35 (g) and (h) to meet its compliance obligations under this subsection
36 (2). A qualifying utility may not transfer or sell these eligible
37 renewable resources to another utility for compliance purposes under
38 this chapter.

1 (m) Renewable energy credits allocated under RCW
2 19.285.030(12)(h) may not be transferred or sold to another
3 qualifying utility for compliance under this chapter.

4 (3) Utilities that become qualifying utilities after December 31,
5 2006, (~~shall~~) must meet the requirements in this section on a time
6 frame comparable in length to that provided for qualifying utilities
7 as of December 7, 2006.

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

10 (1) Subject to sections 4 and 5 of this act, beginning January 1,
11 2029, each electric utility must use clean energy resources to meet
12 any new energy or capacity need for Washington retail electric
13 customers.

14 (2)(a) The requirement established under subsection (1) of this
15 section applies, at a minimum, to: (i) Any new or increased ownership
16 interest in a new or existing electricity generation facility or
17 unit; and (ii) any new or increased contractual commitment that
18 obligates or allows an electric utility to purchase a specified
19 amount of megawatts or megawatt-hours from an electricity generation
20 facility or unit, or a specified percentage of an electricity
21 generation facility or unit.

22 (b) An electric utility may not enter into a contract for
23 electricity generation to meet new energy or capacity needs if the
24 contract does not specify the sources or origins of the electricity
25 generation.

26 (3) Except as provided in RCW 19.285.030(15)(b), any tradable
27 certificate of proof of a clean energy resource, including but not
28 limited to a renewable energy credit, associated with the portion of
29 any resource or resources used to meet new energy or capacity needs
30 under this section must be retired for the purposes of this section
31 and cannot be sold, transferred, or used for other purposes. An
32 electric utility may not use a tradable certificate or proof of a
33 clean energy resource, including but not limited to a renewable
34 energy credit, to meet the requirements of this section if the
35 associated energy or capacity has been sold, transferred, or
36 otherwise used separately.

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

1 (a) Any purchase at any time by a consumer-owned qualifying
2 utility or small utility from the Bonneville power administration up
3 to a designated amount. The designated amount is the same as the
4 consumer-owned qualifying utility's or small utility's contract high
5 water mark amount identified in their Bonneville regional dialogue
6 power sales contract on the effective date of this section. Any new
7 public utility forming after the effective date of this section would
8 still be eligible for this exemption based on the contract high water
9 mark provided to them by the Bonneville power administration;

10 (b) Short-term spot market purchases;

11 (c) Renewal or extension of contracts in effect as of January 1,
12 2020, where the renewal or extension does not lead to any increase in
13 the energy or capacity provided;

14 (d) Coal transition power;

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

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

24 (g) Incremental generation from a utility-scale renewable
25 resource or distributed energy resource that results from additional
26 generation that is achieved from increased efficiency or additions of
27 capacity made on or after the effective date of this section; and

28 (h) Electricity generation that is found by the commission, in
29 accordance with section 3 of this act, or the utility's governing
30 board, in accordance with section 4 of this act, to be required to
31 maintain reliable service and comply with applicable standards of the
32 North American electric reliability corporation or its successor.

33 (5) An electric utility may procure one or more natural gas-fired
34 generation units if such natural gas-fired generation is necessary to
35 avoid potential conflicts with or compromises to the electric
36 utility's obligation to comply with the mandatory and enforceable
37 reliability standards of the North American electric reliability
38 corporation.

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

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

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

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

9 (1) Upon its own motion or at the request of an investor-owned
10 utility, the commission must suspend the requirements of section 3 of
11 this act if:

12 (a) It is likely to result in conflicts with or compromises to
13 the investor-owned utility's obligation to comply with the mandatory
14 and enforceable reliability standards of the North American electric
15 reliability corporation or compromises to the integrity of the
16 investor-owned utility's electrical system; or

17 (b) The utility demonstrates that the cost of compliance with
18 section 3 of this act would result in costs that would exceed the
19 lowest reasonable cost resource by five percent. An investor-owned
20 utility making a request under this subsection must submit an
21 application to the commission that includes:

22 (i) An explanation of the reliability or integrity issue and how
23 a temporary exemption from complying with the requirements of section
24 3 of this act will avoid the reliability or integrity issue; or

25 (ii) An analysis that demonstrates that the cost of compliance
26 with section 3 of this act would exceed the lowest reasonable cost
27 resource by five percent.

28 (2)(a) A suspension of the requirements of section 3 of this act
29 must be granted at the time of the motion for such by the utility.
30 The suspension may not be lifted until such time as the commission
31 determines that none of the conditions for the suspension under
32 subsection (1) of this section apply.

33 (b)(i) As long as a suspension of the requirements in section 3
34 of this act is in place, the investor-owned utility must file a
35 progress report at least annually, or within an amount of time
36 determined to be reasonable by the commission, on achieving full
37 compliance with the requirements of section 3 of this act; and

1 (ii) Directing the investor-owned utility to take specific
2 actions to achieve full compliance with the requirements of section 3
3 of this act.

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

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

9 (1) Upon its own motion or at the request of a consumer-owned
10 utility, the governing board of a consumer-owned utility must suspend
11 the requirements of section 3 of this act if:

12 (a) It is likely to result in conflicts with or compromises to
13 the consumer-owned utility's obligation to comply with the mandatory
14 and enforceable reliability standards of the North American electric
15 reliability corporation or compromises to the integrity of the
16 consumer-owned utility's electrical system; or

17 (b) The utility demonstrates that the cost of compliance with
18 section 3 of this act would result in costs that would exceed the
19 lowest reasonable cost resource by five percent. A consumer-owned
20 utility making a request under this subsection must submit an
21 application to the governing board that includes:

22 (i) An explanation of the reliability or integrity issue and how
23 a temporary exemption from complying with the requirements of section
24 3 of this act will avoid the reliability or integrity issue; or

25 (ii) An analysis that demonstrates that the cost of compliance
26 with section 3 of this act would exceed the lowest reasonable cost
27 resource by five percent.

28 (2)(a) A suspension of the requirements of section 3 of this act
29 must be granted at the time of the motion for such by the utility.
30 The suspension may not be lifted until such time as the governing
31 board determines that none of the conditions for the suspension under
32 subsection (1) of this section apply.

33 (b)(i) As long as a suspension of the requirements in section 3
34 of this act is in place, the consumer-owned utility must file a
35 progress report at least annually, or within an amount of time
36 determined to be reasonable by the governing board, on achieving full
37 compliance with the requirements of section 3 of this act; and

1 (ii) Directing the consumer-owned utility to take specific
2 actions to achieve full compliance with the requirements of section 3
3 of this act.

4 (3) This section does not permanently relieve a consumer-owned
5 utility of its obligation to comply with the requirements of section
6 3 of this act.

7 NEW SECTION. **Sec. 6.** (1) This section is the tax preference
8 performance statement for the tax preferences established in sections
9 7 through 12, chapter . . ., Laws of 2019 (sections 7 through 12 of
10 this act). This performance statement is only intended to be used for
11 subsequent evaluation of the tax preferences. It is not intended to
12 create a private right of action by any party or be used to determine
13 eligibility for preferential tax treatment.

14 (2) The legislature categorizes the tax preferences created under
15 sections 7 through 12, chapter . . ., Laws of 2019 (sections 7
16 through 12 of this act) as intended to induce certain designated
17 behavior by taxpayers, as indicated in RCW 82.32.808(2) (a).

18 (3) It is the legislature's specific public policy objective to
19 reduce the cost of transitioning to electric generation sources that
20 have very low or zero carbon dioxide emissions. It is the intent of
21 the legislature to provide a suite of tax preferences in order to
22 reduce the cost to ratepayers of constructing and operating new
23 renewable energy generation capacity equal to or greater than
24 necessary to serve projected Washington electricity load growth, as
25 measured by projections in the most recently adopted Northwest power
26 and conservation council power plan.

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

29 (5) Because the tax preferences contained in this act are not for
30 the primary purpose of creating or retaining jobs or attracting or
31 attaining businesses, and because the legislature does not intend to
32 extend the expiration of the tax preferences, the legislature does
33 not intend for a review by the joint legislative audit and review
34 committee.

35 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.08
36 RCW to read as follows:

37 (1) A person who has paid tax under RCW 82.08.020 for personal
38 property used for carbon reduction investments at, or to offset the

1 greenhouse gas emissions of, an energy-intensive trade-exposed
2 facility; tangible personal property that will be incorporated as an
3 ingredient or component of buildings or other structures for carbon
4 reduction investments at, or to offset the greenhouse gas emissions
5 of, an energy-intensive trade-exposed facility; or for labor and
6 services rendered with respect to such buildings, structures, or
7 personal property, is eligible for an exemption from the state share
8 of the tax in the form of a credit, as provided in this section. A
9 person claiming an exemption must pay the tax and then take a credit
10 equal to the state share of retail sales tax paid under RCW
11 82.08.020. The person must submit information, in a form and manner
12 prescribed by the department, specifying the amount of qualifying
13 purchases or acquisitions for which the exemption is claimed and the
14 amount of exempted tax.

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

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

28 (b) "Energy-intensive trade-exposed facility" means a facility
29 with a primary North American industry classification system (NAICS)
30 code, as those codes existed as of January 1, 2019, included in the
31 following list:

- 32 (i) 311411: Frozen fruit, juice, and vegetable manufacturing;
33 (ii) 311423: Dried and dehydrated food manufacturing;
34 (iii) 311611: Animal (except poultry) slaughtering;
35 (iv) 322110: Pulp mills;
36 (v) 322121: Paper (except newsprint) mills;
37 (vi) 322122: Newsprint mills;
38 (vii) 322130: Paperboard mills;
39 (viii) 325188: All other basic inorganic chemical manufacturing;
40 (ix) 325199: All other basic organic chemical manufacturing;

1 (x) 325311: Nitrogenous fertilizer manufacturing;
2 (xi) 327211: Flat glass manufacturing;
3 (xii) 327213: Glass container manufacturing;
4 (xiii) 327310: Cement manufacturing;
5 (xiv) 327410: Lime manufacturing;
6 (xv) 327420: Gypsum product manufacturing;
7 (xvi) 327992: Ultra high purity silicon manufacturing;
8 (xvii) 331111: Iron and steel mills;
9 (xviii) 331312: Primary aluminum production;
10 (xix) 331315: Aluminum sheet, plate, and foil manufacturing;
11 (xx) 331419: Primary smelting and refining of nonferrous metal
12 (except copper and aluminum);
13 (xxi) 334413: Semiconductor and related device manufacturing;
14 (xxii) 336411: Aircraft manufacturing;
15 (xxiii) 336413: Other aircraft parts and auxiliary equipment
16 manufacturing.

17 (c) "Greenhouse gas" includes carbon dioxide, methane, nitrogen
18 trifluoride, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons,
19 perfluorocarbons, and other fluorinated greenhouse gases.

20 (3) A person claiming the tax preference provided in this section
21 must file a complete annual tax performance report with the
22 department under RCW 82.32.534.

23 (4) Credits may not be claimed under this section for taxable
24 events occurring on or after January 1, 2029.

25 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.12
26 RCW to read as follows:

27 (1) A person who is subject to tax under RCW 82.12.020 for
28 personal property used for carbon reduction investments at, or to
29 offset the greenhouse gas emissions of, an energy-intensive trade-
30 exposed facility, or for tangible personal property that will be
31 incorporated as an ingredient or component of buildings or other
32 structures for carbon reduction investments at, or to offset the
33 greenhouse gas emissions of, an energy-intensive trade-exposed
34 facility, or for labor and services rendered with respect to such
35 buildings, structures, or personal property, is eligible for an
36 exemption from the state share of the tax in the form of a credit, as
37 provided in this section. The amount of the credit equals the state
38 share of use tax computed to be due under RCW 82.12.020. The person
39 must submit information, in a form and manner prescribed by the

1 department, specifying the amount of qualifying purchases or
2 acquisitions for which the exemption is claimed and the amount of
3 exempted tax.

4 (2) For the purposes of this section, the terms "energy-intensive
5 trade-exposed facility," "carbon reduction investment," and
6 "greenhouse gas" have the same meaning as provided in section 7 of
7 this act.

8 (3) A person reporting under the tax rate provided in this
9 section must file a complete annual tax performance report with the
10 department under RCW 82.32.534.

11 (4) Credits may not be claimed under this section for taxable
12 events occurring on or after January 1, 2029.

13 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.08
14 RCW to read as follows:

15 (1) A person who has paid tax under RCW 82.08.020 for machinery
16 and equipment used to reduce the greenhouse gas emissions associated
17 with the transportation of gas through a gas pipeline, or to sales of
18 or charges made for labor and services rendered in respect to
19 installing such machinery and equipment, is eligible for an exemption
20 from the state share of the tax in the form of a credit, as provided
21 in this section. A person claiming an exemption must pay the tax and
22 then take a credit equal to the state share of retail sales tax paid
23 under RCW 82.08.020. The person must submit information, in a form
24 and manner prescribed by the department, specifying the amount of
25 qualifying purchases or acquisitions for which the exemption is
26 claimed and the amount of exempted tax.

27 (2) The definitions in this subsection apply throughout this
28 section and section 10 of this act unless the context clearly
29 requires otherwise.

30 (a) "Gas" means natural gas, flammable gas, or toxic or corrosive
31 gas.

32 (b) (i) "Gas pipeline" means all parts of a pipeline facility
33 through which gas moves in transportation, including, but not limited
34 to, line pipe, valves, and other appurtenances connected to line
35 pipe, compressor units, metering stations, regulator stations,
36 delivery stations, holders, and fabricated assemblies.

37 (ii) "Gas pipeline" does not include any pipeline facilities,
38 other than a master meter system, owned by a consumer or consumers of

1 the gas, located exclusively on the consumer or consumers' property,
2 and none of the gas leaves that property through a pipeline.

3 (c) "Greenhouse gas" includes carbon dioxide, methane, nitrogen
4 trifluoride, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons,
5 perfluorocarbons, and other fluorinated greenhouse gases.

6 (d)(i) "Machinery and equipment" includes fixtures, devices, and
7 support facilities that are integral and necessary to the
8 transportation of gas through a gas pipeline.

9 (ii) "Machinery and equipment" does not include: (A) Hand-powered
10 tools; (B) property with a useful life of less than one year; (C)
11 repair parts required to restore machinery and equipment to normal
12 working order; (D) replacement parts that do not increase
13 productivity, improve efficiency, reduce greenhouse gas emissions, or
14 extend the useful life of machinery and equipment; (E) buildings; or
15 (F) building fixtures that are not integral and necessary to the
16 transportation of gas that are permanently affixed to and become a
17 physical part of a building.

18 (3) A person claiming the tax preference provided in this section
19 must file a complete annual tax performance report with the
20 department under RCW 82.32.534.

21 (4) Credits may not be claimed under this section for taxable
22 events occurring on or after January 1, 2029.

23 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.12
24 RCW to read as follows:

25 (1) A person who has paid tax under RCW 82.12.020 for machinery
26 and equipment used to reduce the greenhouse gas emissions associated
27 with the transportation of gas through a gas pipeline, or to sales of
28 or charges made for labor and services rendered in respect to
29 installing such machinery and equipment, is eligible for an exemption
30 from the state share of the tax in the form of a credit, as provided
31 in this section. A person claiming an exemption must pay the tax and
32 then take a credit equal to the state share of use tax paid under RCW
33 82.12.020. The person must submit information, in a form and manner
34 prescribed by the department, specifying the amount of qualifying
35 purchases or acquisitions for which the exemption is claimed and the
36 amount of exempted tax.

37 (2) A person reporting under the tax rate provided in this
38 section must file a complete annual tax performance report with the
39 department under RCW 82.32.534.

1 (3) Credits may not be claimed under this section for taxable
2 events occurring on or after January 1, 2029.

3 (4) The definitions in section 9 of this act apply to this
4 section.

5 **Sec. 11.** RCW 82.16.055 and 1980 c 149 s 3 are each amended to
6 read as follows:

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

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

11 (i) Electrical energy produced or generated from ~~((cogeneration))~~
12 combined heat and power as defined in RCW ~~((82.35.020))~~ 19.280.020;
13 and

14 (ii) Electrical energy or gas produced or generated from
15 renewable ~~((energy))~~ resources ~~((such as solar energy, wind energy,~~
16 ~~hydroelectric energy, geothermal energy, wood, wood wastes, municipal~~
17 ~~wastes, agricultural products and wastes, and end-use waste heat))~~ as
18 defined in RCW 19.285.030; and

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

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

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

28 (b) New facilities for the production or generation of
29 electricity from renewable resources on which construction or
30 installation is begun after January 1, 2020, and before January 1,
31 2028.

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

35 (4) Measures or projects encouraged under this section ~~((shall))~~
36 at the time they are placed in service must be reasonably expected to
37 save, produce, or generate energy at a total incremental system cost
38 per unit of energy delivered to end use which is less than or equal
39 to the incremental system cost per unit of energy delivered to end

1 use from similarly available conventional energy resources which
2 utilize nuclear energy or fossil fuels and which the gas or electric
3 utility could acquire to meet energy demand in the same time period.

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

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

10 NEW SECTION. **Sec. 12.** A new section is added to chapter 82.16
11 RCW to read as follows:

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

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

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

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

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

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

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

36 (4) No application is necessary for the tax credit. The person
37 must keep records necessary for the department to verify eligibility
38 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) The total statewide amount of credit allowed under this
14 section must not exceed fifty million dollars.

15 (8) This section expires January 1, 2029.

16 NEW SECTION. **Sec. 13.** A new section is added to chapter 82.04
17 RCW to read as follows:

18 (1) A person who is subject to tax under this chapter on gross
19 income from sales of natural or manufactured gas, timber, timber
20 products, wood products, or agricultural products, or an energy-
21 intensive trade-exposed business, is allowed a credit against the tax
22 due under this chapter for forest fire risk reduction activities, as
23 provided in this section. The credit equals fifteen dollars
24 multiplied by the forest fire risk reduction factor, as determined by
25 this section.

26 (2) Credits are available on a first-in-time basis. The
27 department must keep a running total of all credits allowed under
28 this section and section 14 of this act during each fiscal year. The
29 department may not allow credits that would cause the total credits
30 taken under this section and section 14 of this act to exceed eighty-
31 three million dollars in any fiscal year. If all or part of a claim
32 for credit is disallowed under this subsection, the disallowed
33 portion is carried over to the next fiscal year. However, the
34 carryover into the next fiscal year is only permitted to the extent
35 that the limit on total credits for the next fiscal year is not
36 exceeded. Priority must be given to credits carried over from a
37 previous fiscal year. The department must provide written notice to
38 any person who has claimed tax credits in excess of the limitation in
39 this subsection. The notice must indicate the amount of tax due and

1 provide that the tax be paid within thirty days from the date of
2 notice. The department may not assess penalties or interest as
3 provided in chapter 82.32 RCW on the amount due in the initial notice
4 if the amount due is paid by the due date specified in the notice, or
5 any extension thereof.

6 (3) The credit allowed under this section may be used against any
7 tax due under this chapter, and may be carried over until used,
8 except as provided in subsection (2) of this section. No refunds may
9 be granted for credits under this section.

10 (4) Credits earned under this section may be claimed only on
11 returns filed electronically with the department using the
12 department's online tax filing service or other method of electronic
13 reporting as the department may authorize. No application is required
14 to claim the credit, but the taxpayer must keep records necessary for
15 the department to determine eligibility under this section.

16 (5) No person may claim a credit against taxes due under both
17 this chapter and chapter 82.16 RCW for the same forest fire risk
18 reduction activity.

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

21 (a) "Energy-intensive trade-exposed business" means a business
22 that has a primary North American industry classification system
23 (NAICS) code included in the following list:

- 24 (i) 311411: Frozen fruit, juice, and vegetable manufacturing;
- 25 (ii) 311423: Dried and dehydrated food manufacturing;
- 26 (iii) 311611: Animal (except poultry) slaughtering;
- 27 (iv) 322110: Pulp mills;
- 28 (v) 322121: Paper (except newsprint) mills;
- 29 (vi) 322122: Newsprint mills;
- 30 (vii) 322130: Paperboard mills;
- 31 (viii) 325188: All other basic inorganic chemical manufacturing;
- 32 (ix) 325199: All other basic organic chemical manufacturing;
- 33 (x) 325311: Nitrogenous fertilizer manufacturing;
- 34 (xi) 327211: Flat glass manufacturing;
- 35 (xii) 327213: Glass container manufacturing;
- 36 (xiii) 327310: Cement manufacturing;
- 37 (xiv) 327410: Lime manufacturing;
- 38 (xv) 327420: Gypsum product manufacturing;
- 39 (xvi) 327992: Ultra high purity silicon manufacturing;
- 40 (xvii) 331111: Iron and steel mills;

1 (xviii) 331312: Primary aluminum production;
2 (xix) 331315: Aluminum sheet, plate, and foil manufacturing;
3 (xx) 331419: Primary smelting and refining of nonferrous metal
4 (except copper and aluminum);
5 (xxi) 334413: Semiconductor and related device manufacturing;
6 (xxii) 336411: Aircraft manufacturing;
7 (xxiii) 336413: Other aircraft parts and auxiliary equipment
8 manufacturing.

9 (b) "Forest fire risk reduction factor" means the percentage of
10 risk reduced by engaging in a forest management, fuel treatment
11 practice, or other forest fire risk reduction activity as determined
12 by the department of natural resources in consultation with the
13 Washington forest protection association and the Washington friends
14 of farms and forests.

15 (7) For the purposes of this section, "timber," "timber
16 products," and "wood products" have the same meanings as provided in
17 RCW 82.04.260.

18 (8) Credits allowed under this section can be earned for tax
19 reporting periods through June 30, 2029. No credits can be claimed
20 after June 30, 2030.

21 NEW SECTION. **Sec. 14.** A new section is added to chapter 82.16
22 RCW to read as follows:

23 (1) A person who is subject to tax under this chapter for sales
24 of natural or manufactured gas or sales of electricity is allowed a
25 credit against the tax due under this chapter for forest fire risk
26 reduction activities, as provided in this section. The credit equals
27 fifteen dollars multiplied by the forest fire risk reduction factor,
28 as determined by this section.

29 (2) Credits are available on a first-in-time basis. The
30 department must keep a running total of all credits allowed under
31 this section and section 13 of this act during each fiscal year. The
32 department may not allow credits that would cause the total credits
33 taken under this section and section 13 of this act to exceed eighty-
34 three million dollars in any fiscal year. If all or part of a claim
35 for credit is disallowed under this subsection, the disallowed
36 portion is carried over to the next fiscal year. However, the
37 carryover into the next fiscal year is only permitted to the extent
38 that the limit on total credits for the next fiscal year is not
39 exceeded. Priority must be given to credits carried over from a

1 previous fiscal year. The department must provide written notice to
2 any person who has claimed tax credits in excess of the limitation in
3 this subsection. The notice must indicate the amount of tax due and
4 provide that the tax be paid within thirty days from the date of
5 notice. The department may not assess penalties or interest as
6 provided in chapter 82.32 RCW on the amount due in the initial notice
7 if the amount due is paid by the due date specified in the notice, or
8 any extension thereof.

9 (3) The credit allowed under this section may be used against any
10 tax due under this chapter, and may be carried over until used,
11 except as provided in subsection (2) of this section. No refunds may
12 be granted for credits under this section.

13 (4) Credits earned under this section may be claimed only on
14 returns filed electronically with the department using the
15 department's online tax filing service or other method of electronic
16 reporting as the department may authorize. No application is required
17 to claim the credit, but the taxpayer must keep records necessary for
18 the department to determine eligibility under this section.

19 (5) No person may claim a credit against taxes due under both
20 this chapter and chapter 82.04 RCW for the same forest fire risk
21 reduction activity.

22 (6) The definitions in section 13 of this act apply throughout
23 this section.

24 (7) Credits allowed under this section can be earned for tax
25 reporting periods through June 30, 2029. No credits can be claimed
26 after June 30, 2030.

27 NEW SECTION. **Sec. 15.** This act may be known and cited as the
28 carbon free Washington act.

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