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**HOUSE BILL 1226**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Representatives DeBolt and Stokesbary

Read first time 01/17/19. Referred to Committee on Environment & Energy.

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 a new section to chapter 82.16  
6 RCW; creating new sections; repealing RCW 19.285.010, 19.285.020,  
7 19.285.030, 19.285.040, 19.285.045, 19.285.050, 19.285.060,  
8 19.285.070, 19.285.080, 19.285.900, 19.285.902, 19.285.---,  
9 19.285.---, and 19.285.---; providing expiration dates; and providing  
10 a contingent effective date.

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 located in Washington  
25 state that purchases electricity for ultimate consumption and not for  
26 resale.

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

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

33 (12) "Eligible renewable resource" means:

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

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

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

12 (d) Qualified biomass energy;

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

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

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

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

35 (g) Beginning January 1, 2019, the portion of incremental  
36 electricity produced as a result of efficiency improvements completed  
37 after March 31, 1999, attributable to a qualifying utility's share of  
38 electricity output from hydroelectric generation projects whose  
39 energy output is marketed by the Bonneville power administration,

1 where the additional generation does not result in new water  
2 diversions or impoundments; or

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

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

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

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

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

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

33 (17) "Public facility" has the same meaning as defined in RCW  
34 39.35C.010.

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

1 that are owned by a qualifying utility and capable of carrying  
2 electricity at transmission voltage.

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

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

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

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

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

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

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

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

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

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

10 (a) Electricity load growth;

11 (b) Changes in capacity needs;

12 (c) Changes in ancillary services needs;

13 (d) Changes in reliability needs;

14 (e) Changes in flexibility needs;

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

16 (g) Needs arising due to replacing expiring electricity resource  
17 contracts.

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

23 (30) "Utility-scale renewable resource" means a renewable  
24 generation resource or energy storage device that delivers  
25 electricity onto an electric utility's system at transmission  
26 voltage.

27 (31) "Western interconnection" means the geographic area spanning  
28 the western United States in which the operation of bulk power system  
29 components is synchronized for the purpose of maintaining  
30 reliability.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (b) A qualifying utility may count distributed generation at  
37 double the facility's electrical output if the utility: (i) Owns or  
38 has contracted for the distributed generation and the associated  
39 renewable energy credits; or (ii) has contracted to purchase the  
40 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, 2019, 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) Subject to sections 4 and 5 of this act, beginning January 1,  
35 2029, each electric utility must use clean energy resources to meet  
36 any new energy or capacity need for Washington retail electric  
37 customers.

38 (2)(a) The requirement established under subsection (1) of this  
39 section applies, at a minimum, to: (i) Any new or increased ownership

1 interest in a new or existing electricity generation facility or  
2 unit; and (ii) any new or increased contractual commitment that  
3 obligates or allows an electric utility to purchase a specified  
4 amount of megawatts or megawatt-hours from an electricity generation  
5 facility or unit, or a specified percentage of an electricity  
6 generation facility or unit.

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

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

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

24 (a) Any purchase at any time by a consumer-owned qualifying  
25 utility or small utility from the Bonneville power administration up  
26 to a designated amount. The designated amount is the same as the  
27 consumer-owned qualifying utility's or small utility's contract high  
28 water mark amount identified in their Bonneville regional dialogue  
29 power sales contract on the effective date of this section. Any new  
30 public utility forming after the effective date of this section would  
31 still be eligible for this exemption based on the contract high water  
32 mark provided to them by the Bonneville power administration;

33 (b) Short-term spot market purchases;

34 (c) Renewal or extension of contracts in effect as of January 1,  
35 2020, where the renewal or extension does not lead to any increase in  
36 the energy or capacity provided;

37 (d) Coal transition power;

38 (e) Generation resources owned as of the effective date of this  
39 section by an electric utility and used by that utility to meet the

1 needs of its customers, until the generation resources are at the end  
2 of the facility's useful life, are retired, or cease operations;

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

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

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

17 (5) An electric utility may procure one or more natural gas-fired  
18 generation units if such natural gas-fired generation is necessary to  
19 avoid potential conflicts with or compromises to the electric  
20 utility's obligation to comply with the mandatory and enforceable  
21 reliability standards of the North American electric reliability  
22 corporation.

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

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

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

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

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

36 (a) It is likely to result in conflicts with or compromises to  
37 the investor-owned utility's obligation to comply with the mandatory  
38 and enforceable reliability standards of the North American electric

1 reliability corporation or compromises to the integrity of the  
2 investor-owned utility's electrical system; or

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

8 (i) An explanation of the reliability or integrity issue and how  
9 a temporary exemption from complying with the requirements of section  
10 3 of this act will avoid the reliability or integrity issue; or

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

14 (2)(a) A suspension of the requirements of section 3 of this act  
15 must be granted at the time of the motion for such by the utility.  
16 The suspension may not be lifted until such time as the commission  
17 determines that none of the conditions for the suspension under  
18 subsection (1) of this section apply.

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

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

27 (3) This section does not permanently relieve an investor-owned  
28 utility of its obligation to comply with the requirements of section  
29 3 of this act.

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

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

35 (a) It is likely to result in conflicts with or compromises to  
36 the consumer-owned utility's obligation to comply with the mandatory  
37 and enforceable reliability standards of the North American electric  
38 reliability corporation or compromises to the integrity of the  
39 consumer-owned utility's electrical system; or

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

6 (i) An explanation of the reliability or integrity issue and how  
7 a temporary exemption from complying with the requirements of section  
8 3 of this act will avoid the reliability or integrity issue; or

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

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

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

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

25 (3) This section does not permanently relieve a consumer-owned  
26 utility of its obligation to comply with the requirements of section  
27 3 of this act.

28 NEW SECTION. **Sec. 6.** (1) This section is the tax preference  
29 performance statement for the tax preferences established in sections  
30 7 through 12, chapter . . . , Laws of 2019 (sections 7 through 12 of  
31 this act). This performance statement is only intended to be used for  
32 subsequent evaluation of the tax preferences. It is not intended to  
33 create a private right of action by any party or be used to determine  
34 eligibility for preferential tax treatment.

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

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

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

12 (5) Because the tax preferences contained in this act are not for  
13 the primary purpose of creating or retaining jobs or attracting or  
14 attaining businesses, and because the legislature does not intend to  
15 extend the expiration of the tax preferences, the legislature does  
16 not intend for a review by the joint legislative audit and review  
17 committee.

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

20 (1) A person who has paid tax under RCW 82.08.020 for personal  
21 property used for carbon reduction investments at, or to offset the  
22 greenhouse gas emissions of, an energy-intensive trade-exposed  
23 facility; tangible personal property that will be incorporated as an  
24 ingredient or component of buildings or other structures for carbon  
25 reduction investments at, or to offset the greenhouse gas emissions  
26 of, an energy-intensive trade-exposed facility; or for labor and  
27 services rendered with respect to such buildings, structures, or  
28 personal property, is eligible for an exemption from the state share  
29 of the tax in the form of a credit, as provided in this section. A  
30 person claiming an exemption must pay the tax and then take a credit  
31 equal to the state share of retail sales tax paid under RCW  
32 82.08.020. The person must submit information, in a form and manner  
33 prescribed by the department, specifying the amount of qualifying  
34 purchases or acquisitions for which the exemption is claimed and the  
35 amount of exempted tax.

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

38 (a) "Carbon reduction investment" means an investment in support  
39 of eligible projects or actions that reduce, prevent, or remove from



1 the atmosphere the emissions of greenhouse gases in the state. An  
2 eligible project or action includes, but is not limited to,  
3 investment in the following: (i) Installation of electric vehicle  
4 chargers and related infrastructure and other transportation  
5 electrification measures; (ii) demand side management of electricity  
6 consumption, including energy efficiency, demand response, and  
7 changes to codes and standards; (iii) energy storage technologies;  
8 and (iv) carbon sequestration programs, including forest health  
9 investments.

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

- 14 (i) 311411: Frozen fruit, juice, and vegetable manufacturing;
- 15 (ii) 311423: Dried and dehydrated food manufacturing;
- 16 (iii) 311611: Animal (except poultry) slaughtering;
- 17 (iv) 322110: Pulp mills;
- 18 (v) 322121: Paper (except newsprint) mills;
- 19 (vi) 322122: Newsprint mills;
- 20 (vii) 322130: Paperboard mills;
- 21 (viii) 325188: All other basic inorganic chemical manufacturing;
- 22 (ix) 325199: All other basic organic chemical manufacturing;
- 23 (x) 325311: Nitrogenous fertilizer manufacturing;
- 24 (xi) 327211: Flat glass manufacturing;
- 25 (xii) 327213: Glass container manufacturing;
- 26 (xiii) 327310: Cement manufacturing;
- 27 (xiv) 327410: Lime manufacturing;
- 28 (xv) 327420: Gypsum product manufacturing;
- 29 (xvi) 327992: Ultra high purity silicon manufacturing;
- 30 (xvii) 331111: Iron and steel mills;
- 31 (xviii) 331312: Primary aluminum production;
- 32 (xix) 331315: Aluminum sheet, plate, and foil manufacturing;
- 33 (xx) 331419: Primary smelting and refining of nonferrous metal  
34 (except copper and aluminum);
- 35 (xxi) 334413: Semiconductor and related device manufacturing;
- 36 (xxii) 336411: Aircraft manufacturing;
- 37 (xxiii) 336413: Other aircraft parts and auxiliary equipment  
38 manufacturing.

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

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

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

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

11 (1) A person who is subject to tax under RCW 82.12.020 for  
12 personal property used for carbon reduction investments at, or to  
13 offset the greenhouse gas emissions of, an energy-intensive trade-  
14 exposed facility, or for tangible personal property that will be  
15 incorporated as an ingredient or component of buildings or other  
16 structures for carbon reduction investments at, or to offset the  
17 greenhouse gas emissions of, an energy-intensive trade-exposed  
18 facility, or for labor and services rendered with respect to such  
19 buildings, structures, or personal property, is eligible for an  
20 exemption from the state share of the tax in the form of a credit, as  
21 provided in this section. The amount of the credit equals the state  
22 share of use tax computed to be due under RCW 82.12.020. The person  
23 must submit information, in a form and manner prescribed by the  
24 department, specifying the amount of qualifying purchases or  
25 acquisitions for which the exemption is claimed and the amount of  
26 exempted tax.

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

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

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

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

1 (1) A person who has paid tax under RCW 82.08.020 for machinery  
2 and equipment used to reduce the greenhouse gas emissions associated  
3 with the transportation of gas through a gas pipeline, or to sales of  
4 or charges made for labor and services rendered in respect to  
5 installing such machinery and equipment, is eligible for an exemption  
6 from the state share of the tax in the form of a credit, as provided  
7 in this section. A person claiming an exemption must pay the tax and  
8 then take a credit equal to the state share of retail sales tax paid  
9 under RCW 82.08.020. The person must submit information, in a form  
10 and manner prescribed by the department, specifying the amount of  
11 qualifying purchases or acquisitions for which the exemption is  
12 claimed and the amount of exempted tax.

13 (2) The definitions in this subsection apply throughout this  
14 section and section 10 of this act unless the context clearly  
15 requires otherwise.

16 (a) "Gas" means natural gas, flammable gas, or toxic or corrosive  
17 gas.

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

23 (ii) "Gas pipeline" does not include any pipeline facilities,  
24 other than a master meter system, owned by a consumer or consumers of  
25 the gas, located exclusively on the consumer or consumers' property,  
26 and none of the gas leaves that property through a pipeline.

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

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

33 (ii) "Machinery and equipment" does not include: (A) Hand-powered  
34 tools; (B) property with a useful life of less than one year; (C)  
35 repair parts required to restore machinery and equipment to normal  
36 working order; (D) replacement parts that do not increase  
37 productivity, improve efficiency, reduce greenhouse gas emissions, or  
38 extend the useful life of machinery and equipment; (E) buildings; or  
39 (F) building fixtures that are not integral and necessary to the

1 transportation of gas that are permanently affixed to and become a  
2 physical part of a building.

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

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

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

10 (1) A person who has paid tax under RCW 82.12.020 for machinery  
11 and equipment used to reduce the greenhouse gas emissions associated  
12 with the transportation of gas through a gas pipeline, or to sales of  
13 or charges made for labor and services rendered in respect to  
14 installing such machinery and equipment, is eligible for an exemption  
15 from the state share of the tax in the form of a credit, as provided  
16 in this section. A person claiming an exemption must pay the tax and  
17 then take a credit equal to the state share of use tax paid under RCW  
18 82.12.020. The person must submit information, in a form and manner  
19 prescribed by the department, specifying the amount of qualifying  
20 purchases or acquisitions for which the exemption is claimed and the  
21 amount of exempted tax.

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

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

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

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

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

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

35 (i) Electrical energy produced or generated from ~~((cogeneration))~~  
36 combined heat and power as defined in RCW ~~((82.35.020))~~ 19.280.020;  
37 and

1 (ii) Electrical energy or gas produced or generated from  
2 renewable ((energy)) resources ((such as solar energy, wind energy,  
3 hydroelectric energy, geothermal energy, wood, wood wastes, municipal  
4 wastes, agricultural products and wastes, and end-use waste heat)) as  
5 defined in RCW 19.285.030; and

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

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

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

15 (b) New facilities for the production or generation of  
16 electricity from renewable resources on which construction or  
17 installation is begun after January 1, 2020, and before January 1,  
18 2028.

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

22 (4) Measures or projects encouraged under this section ((shall))  
23 at the time they are placed in service must be reasonably expected to  
24 save, produce, or generate energy at a total incremental system cost  
25 per unit of energy delivered to end use which is less than or equal  
26 to the incremental system cost per unit of energy delivered to end  
27 use from similarly available conventional energy resources which  
28 utilize nuclear energy or fossil fuels and which the gas or electric  
29 utility could acquire to meet energy demand in the same time period.

30 (5) The department of revenue, after consultation with the  
31 utilities and transportation commission in the case of investor-owned  
32 utilities and the governing bodies of locally regulated utilities,  
33 ((shall)) must determine the eligibility of individual projects and  
34 measures for deductions under this section.

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

36 NEW SECTION. Sec. 12. A new section is added to chapter 82.16  
37 RCW to read as follows:

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

1 (a) "Carbon reduction investment" means an investment in support  
2 of eligible projects or actions that reduce, prevent, or remove from  
3 the atmosphere the emissions of greenhouse gases in the state. An  
4 eligible project or action includes, but is not limited to,  
5 investment in the following: (i) Installation of electric vehicle  
6 chargers and related infrastructure and other transportation  
7 electrification measures; (ii) demand side management of electricity  
8 consumption; (iii) energy storage technologies; and (iv) carbon  
9 sequestration programs, including forest health investments.

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

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

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

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

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

23 (4) No application is necessary for the tax credit. The person  
24 must keep records necessary for the department to verify eligibility  
25 under this section. The person is subject to all of the requirements  
26 of chapter 82.32 RCW. No refunds may be granted for credits under  
27 this section.

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

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

38 (7) The total statewide amount of credit allowed under this  
39 section must not exceed fifty million dollars.

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

1        NEW SECTION.    **Sec. 13.**    The following acts or parts of acts are  
2 each repealed:

3        (1) RCW 19.285.010 (Intent) and 2007 c 1 s 1;

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

5        (3) RCW 19.285.030 (Definitions) and 2017 c 315 s 1 & 2014 c 45 s  
6 1;

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

10       (5) RCW 19.285.045 (Energy conservation and renewable energy  
11 targets—Analysis and advisory opinion) and 2012 c 254 s 1;

12       (6) RCW 19.285.050 (Resource costs) and 2007 c 1 s 5;

13       (7) RCW 19.285.060 (Accountability and enforcement—Energy  
14 independence act special account) and 2015 c 225 s 22 & 2007 c 1 s 6;

15       (8) RCW 19.285.070 (Reporting and public disclosure) and 2007 c 1  
16 s 7;

17       (9) RCW 19.285.080 (Rule making) and 2017 c 315 s 3 & 2007 c 1 s  
18 8;

19       (10) RCW 19.285.900 (Construction—2007 c 1) and 2007 c 1 s 9;

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

21       (12) RCW 19.285.--- (section 3 of this act);

22       (13) RCW 19.285.--- (section 4 of this act); and

23       (14) RCW 19.285.--- (section 5 of this act).

24       NEW SECTION.    **Sec. 14.**    (1) Section 13 of this act takes effect  
25 upon the effective date of any act by the legislature that imposes a  
26 tax, fee, or other monetary price on the carbon content of fossil  
27 fuels and electricity sold or used within the state, such as a carbon  
28 tax or cap-and-trade program.

29       (2) The department of commerce must provide written notice of the  
30 effective date of section 13 of this act to affected parties, the  
31 chief clerk of the house of representatives, the secretary of the  
32 senate, the office of the code reviser, and others as deemed  
33 appropriate by the department of commerce.

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

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