S-4794.4

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 6631**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2018 Regular Session**

**By** Senators Brown, Ericksen, Bailey, Honeyford, Wilson, Short, Wagoner, Becker, Fain, Sheldon, King, Walsh, Fortunato, Baumgartner, Warnick, Rivers, and Braun

AN ACT Relating to promoting small modular reactors in Washington; amending RCW 19.29A.090, 19.285.030, 43.21F.025, 43.21F.088, 80.52.030, 82.85.010, 82.85.020, 82.85.030, 82.85.040, 82.85.050, and 82.85.080; reenacting and amending RCW 19.29A.010, 19.280.020, and 80.50.020; adding a new section to chapter 80.50 RCW; adding a new section to chapter 82.04 RCW; creating a new section; and providing expiration dates.

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

**Sec.**  RCW 19.29A.010 and 2015 c 285 s 1 are each reenacted and amended to read as follows:

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

(1) "Biomass generation" means electricity derived from burning solid organic fuels from wood, forest, or field residue, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(2) "Bonneville power administration system mix" means a generation mix sold by the Bonneville power administration that is net of any resource specific sales and that is net of any electricity sold to direct service industrial customers, as defined in section 3(8) of the Pacific Northwest electric power planning and conservation act (16 U.S.C. Sec. 839(a)(8)).

(3) "Coal generation" means the electricity produced by a generating facility that burns coal as the primary fuel source.

(4) "Commission" means the utilities and transportation commission.

(5) "Conservation" means an increase in efficiency in the use of energy use that yields a decrease in energy consumption while providing the same or higher levels of service. Conservation includes low-income weatherization programs.

(6) "Consumer-owned utility" means a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, or a mutual corporation or association formed under chapter 24.06 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

(7) "Declared resource" means an electricity source specifically identified by a retail supplier to serve retail electric customers. A declared resource includes a stated quantity of electricity tied directly to a specified generation facility or set of facilities either through ownership or contract purchase, or a contractual right to a stated quantity of electricity from a specified generation facility or set of facilities.

(8) "Department" means the department of commerce.

(9) "Electric meters in service" means those meters that record in at least nine of twelve calendar months in any calendar year not less than two hundred fifty kilowatt-hours per month.

(10) "Electric utility" means a consumer-owned or investor-owned utility as defined in this section.

(11) "Electricity" means electric energy measured in kilowatt-hours, or electric capacity measured in kilowatts, or both.

(12) "Electricity information coordinator" means the organization selected by the department under RCW 19.29A.080 to: (a) Compile generation data in the Northwest power pool by generating project and by resource category; (b) compare the quantity of electricity from declared resources reported by retail suppliers with available generation from such resources; (c) calculate the net system power mix; and (d) coordinate with other comparable organizations in the western interconnection.

(13) "Electricity product" means the electrical energy produced by a generating facility or facilities that a retail supplier sells or offers to sell to retail electric customers in the state of Washington, provided that nothing in this title ((~~shall~~)) may be construed to mean that electricity is a good or product for the purposes of Title 62A RCW, or any other purpose. It does not include electrical energy generated on-site at a retail electric customer's premises.

(14) "Fuel mix" means the actual or imputed sources of electricity sold to retail electric customers, expressed in terms of percentage contribution by resource category. The total fuel mix included in each disclosure ((~~shall~~)) must total one hundred percent.

(15) "Geothermal generation" means electricity derived from thermal energy naturally produced within the earth.

(16) "Governing body" means the council of a city or town, the commissioners of an irrigation district, municipal electric utility, or public utility district, or the board of directors of an electric cooperative or mutual association that has the authority to set and approve rates.

(17) "High efficiency cogeneration" means electricity produced by equipment, such as heat or steam used for industrial, commercial, heating, or cooling purposes, that meets the federal energy regulatory commission standards for qualifying facilities under the public utility regulatory policies act of 1978.

(18) "Hydroelectric generation" means a power source created when water flows from a higher elevation to a lower elevation and the flow is converted to electricity in one or more generators at a single facility.

(19) "Investor-owned utility" means a company owned by investors that meets the definition of RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

(20) "Landfill gas generation" means electricity produced by a generating facility that uses waste gases produced by the decomposition of organic materials in landfills.

(21) "Natural gas generation" means electricity produced by a generating facility that burns natural gas as the primary fuel source.

(22) "Net system power mix" means the fuel mix in the Northwest power pool, net of: (a) Any declared resources in the Northwest power pool identified by in-state retail suppliers or out-of-state entities that offer electricity for sale to retail electric customers; (b) any electricity sold by the Bonneville power administration to direct service industrial customers; and (c) any resource specific sales made by the Bonneville power administration.

(23) "Northwest power pool" means the generating resources included in the United States portion of the Northwest power pool area as defined by the western systems coordinating council.

(24) "Oil generation" means electricity produced by a generating facility that burns oil as the primary fuel source.

(25) "Private customer information" includes a retail electric customer's name, address, telephone number, and other personally identifying information.

(26) "Proprietary customer information" means: (a) Information that relates to the source, technical configuration, destination, and amount of electricity used by a retail electric customer, a retail electric customer's payment history, and household data that is made available by the customer solely by virtue of the utility-customer relationship; and (b) information contained in a retail electric customer's bill.

(27) "Renewable resources" means electricity generation from a small modular reactor, or facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; or (f) biomass energy based on solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(28) "Resale" means the purchase and subsequent sale of electricity for profit, but does not include the purchase and the subsequent sale of electricity at the same rate at which the electricity was purchased.

(29) "Retail electric customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

(30) "Retail supplier" means an electric utility that offers an electricity product for sale to retail electric customers in the state.

(31) "Small modular reactor" means a scalable nuclear power plant using reactors that each have a gross power output no greater than three hundred megawatts electric, and where each reactor is designed for factory manufacturing and ease of transport, such as by truck, rail, or barge.

(32) "Small utility" means any consumer-owned utility with twenty-five thousand or fewer electric meters in service, or that has an average of seven or fewer customers per mile of distribution line.

((~~(32)~~)) (33) "Solar generation" means electricity derived from radiation from the sun that is directly or indirectly converted to electrical energy.

((~~(33)~~)) (34) "State" means the state of Washington.

((~~(34)~~)) (35) "Waste incineration generation" means electricity derived from burning solid or liquid wastes from businesses, households, municipalities, or waste treatment operations.

((~~(35)~~)) (36) "Wind generation" means electricity created by movement of air that is converted to electrical energy.

**Sec.**  RCW 19.29A.090 and 2014 c 129 s 1 are each amended to read as follows:

(1) Beginning January 1, 2002, each electric utility must provide to its retail electricity customers a voluntary option to purchase qualified alternative energy resources in accordance with this section.

(2) Each electric utility must include with its retail electric customer's regular billing statements, at least quarterly, a voluntary option to purchase qualified alternative energy resources. The option may allow customers to purchase qualified alternative energy resources at fixed or variable rates and for fixed or variable periods of time, including but not limited to monthly, quarterly, or annual purchase agreements. A utility may provide qualified alternative energy resource options through either: (a) Resources it owns or contracts for; or (b) the purchase of credits issued by a clearinghouse or other system by which the utility may secure, for trade or other consideration, verifiable evidence that a second party has a qualified alternative energy resource and that the second party agrees to transfer such evidence exclusively to the benefit of the utility.

(3) For the purposes of this section, a "qualified alternative energy resource" means the electricity or thermal energy produced from a small modular reactor, or generation facilities that are fueled by: (a) Wind; (b) solar energy; (c) geothermal energy; (d) landfill gas; (e) wave or tidal action; (f) gas produced during the treatment of wastewater; (g) qualified hydropower; or (h) biomass energy based on animal waste or solid or liquid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper‑chrome‑arsenic.

(4) For the purposes of this section, "qualified hydropower" means the energy produced either: (a) As a result of modernizations or upgrades made after June 1, 1998, to hydropower facilities operating on May 8, 2001, that have been demonstrated to reduce the mortality of anadromous fish; or (b) by run of the river or run of the canal hydropower facilities that are not responsible for obstructing the passage of anadromous fish.

(5) The rates, terms, conditions, and customer notification of each utility's option or options offered in accordance with this section must be approved by the governing body of the consumer-owned utility or by the commission for investor-owned utilities. All costs and benefits associated with any option offered by an electric utility under this section must be allocated to the customers who voluntarily choose that option and may not be shifted to any customers who have not chosen such option. Utilities may pursue known, lawful aggregated purchasing of qualified alternative energy resources with other utilities to the extent aggregated purchasing can reduce the unit cost of qualified alternative energy resources, and are encouraged to investigate opportunities to aggregate the purchase of alternative energy resources by their customers. Aggregated purchases by investor-owned utilities must comply with any applicable rules or policies adopted by the commission related to least-cost planning or the acquisition of renewable resources.

(6) Each consumer-owned utility must maintain and make available upon request of the department and each investor-owned utility must maintain and make available upon request of the commission information describing the option or options it is offering its customers under the requirements of this section, the rate of customer participation, the amount of qualified alternative energy resources purchased by customers, the amount of utility investments in qualified alternative energy resources, and the results of pursuing aggregated purchasing opportunities. The department and the commission ((~~shall~~)) must report the information to the appropriate committees of the legislature upon request.

**Sec.**  RCW 19.280.020 and 2015 3rd sp.s. c 19 s 8 are each reenacted and amended to read as follows:

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

(1) "Combined heat and power" means the sequential production of electricity and useful thermal energy from a common fuel source where, under normal operating conditions, the facility has a useful thermal energy output of no less than thirty-three percent of the total energy output.

(2) "Commission" means the utilities and transportation commission.

(3) "Conservation and efficiency resources" means any reduction in electric power consumption that results from increases in the efficiency of energy use, production, transmission, or distribution.

(4) "Consumer‑owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water‑sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

(5) "Department" means the department of commerce.

(6) "Electric utility" means a consumer‑owned or investor‑owned utility.

(7) "Full requirements customer" means an electric utility that relies on the Bonneville power administration for all power needed to supply its total load requirement other than that served by nondispatchable generating resources totaling no more than six megawatts or renewable resources.

(8) "Governing body" means the elected board of directors, city council, commissioners, or board of any consumer‑owned utility.

(9) "Integrated resource plan" means an analysis describing the mix of generating resources, conservation, methods, technologies, and resources to integrate renewable resources and, where applicable, address overgeneration events, and efficiency resources that will meet current and projected needs at the lowest reasonable cost to the utility and its ratepayers and that complies with the requirements specified in RCW 19.280.030(1).

(10) "Investor‑owned utility" means a corporation owned by investors that meets the definition in RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

(11) "Lowest reasonable cost" means the lowest cost mix of generating resources and conservation and efficiency resources determined through a detailed and consistent analysis of a wide range of commercially available resources. At a minimum, this analysis must consider resource cost, market-volatility risks, demand-side resource uncertainties, resource dispatchability, resource effect on system operation, the risks imposed on the utility and its ratepayers, public policies regarding resource preference adopted by Washington state or the federal government, and the cost of risks associated with environmental effects including emissions of carbon dioxide.

(12) "Overgeneration event" means an event within an operating period of a balancing authority when the electricity supply, including generation from intermittent renewable resources, exceeds the demand for electricity for that utility's energy delivery obligations and when there is a negatively priced regional market.

(13) "Plan" means either an "integrated resource plan" or a "resource plan."

(14) "Renewable resources" means electricity generation facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) biomass energy utilizing animal waste, solid or liquid organic fuels from wood, forest, or field residues or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper‑chrome‑arsenic; (g) by-products of pulping or wood manufacturing processes, including but not limited to bark, wood chips, sawdust, and lignin in spent pulping liquors; (h) ocean thermal, wave, or tidal power; ((~~or~~)) (i) gas from sewage treatment facilities; or (j) a small modular reactor.

(15) "Resource plan" means an assessment that estimates electricity loads and resources over a defined period of time and complies with the requirements in RCW 19.280.030(2).

(16) "Small modular reactor" means a scalable nuclear power plant using reactors that each have a gross power output no greater than three hundred megawatts electric, and where each reactor is designed for factory manufacturing and ease of transport, such as by truck, rail, or barge.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) "Eligible renewable resource" means:

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

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

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

(d) Qualified biomass energy;

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

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

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

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

(g) Electricity from a small modular reactor.

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

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

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

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

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

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

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

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

(20) "Renewable energy credit" means a tradable certificate of proof of at least one megawatt-hour of an eligible renewable resource where the generation facility is not powered by freshwater. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity, and the certificate is verified by a renewable energy credit tracking system selected by the department.

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

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

(23) "Small modular reactor" means a scalable nuclear power plant using reactors that each have a gross power output no greater than three hundred megawatts electric, and where each reactor is designed for factory manufacturing and ease of transport, such as by truck, rail, or barge.

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

**Sec.**  RCW 43.21F.025 and 2010 c 271 s 402 are each amended to read as follows:

(1) "Assistant director" means the assistant director of the department of commerce responsible for energy policy activities;

(2) "Department" means the department of commerce;

(3) "Director" means the director of the department of commerce;

(4) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, municipal utility, public utility district, joint operating agency, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state;

(5) "Energy" means petroleum or other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material; electricity; solar radiation; geothermal resources; hydropower; organic waste products; wind; tidal activity; any other substance or process used to produce heat, light, or motion; or the savings from nongeneration technologies, including conservation or improved efficiency in the usage of any of the sources described in this subsection;

(6) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, joint operating agency, or any other entity, public or private, however organized; ((~~and~~))

(7) "Small modular reactor" means a scalable nuclear power plant using reactors that each have a gross power output no greater than three hundred megawatts electric, and where each reactor is designed for factory manufacturing and ease of transport, such as by truck, rail, or barge; and

(8) "State energy strategy" means the document developed and updated by the department as allowed in RCW 43.21F.090.

**Sec.**  RCW 43.21F.088 and 2010 c 271 s 403 are each amended to read as follows:

(1) The state ((~~shall~~)) must use the following principles to guide development and implementation of the state's energy strategy and to meet the goals of RCW 43.21F.010:

(a) Pursue all cost-effective energy efficiency and conservation as the state's preferred energy resource, consistent with state law;

(b) Ensure that the state's energy system meets the health, welfare, and economic needs of its citizens with particular emphasis on meeting the needs of low-income and vulnerable populations;

(c) Maintain and enhance economic competitiveness by ensuring an affordable and reliable supply of energy resources and by supporting clean energy technology innovation, including small modular reactors, access to clean energy markets worldwide, and clean energy business and workforce development;

(d) Reduce dependence on fossil fuel energy sources through improved efficiency and development of cleaner energy sources, such as bioenergy, low‑carbon energy sources, and natural gas, and leveraging the indigenous resources of the state for the production of clean energy;

(e) Improve efficiency of transportation energy use through advances in vehicle technology, increased system efficiencies, development of electricity, biofuels, and other clean fuels, and regional transportation planning to improve transportation choices;

(f) Meet the state's statutory greenhouse gas limits and environmental requirements as the state develops and uses energy resources;

(g) Build on the advantage provided by the state's clean regional electrical grid by expanding and integrating additional carbon-free and carbon‑neutral generation, and improving the transmission capacity serving the state;

(h) Make state government a model for energy efficiency, use of clean and renewable energy, and greenhouse gas-neutral operations; and

(i) Maintain and enhance our state's existing energy infrastructure.

(2) The department ((~~shall~~)) must:

(a) During energy shortage emergencies, give priority in the allocation of energy resources to maintaining the public health, safety, and welfare of the state's citizens and industry in order to minimize adverse impacts on their physical, social, and economic well-being;

(b) Develop and disseminate impartial and objective energy information and analysis, while taking full advantage of the capabilities of the state's institutions of higher education, national laboratory, and other organizations with relevant expertise and analytical capabilities;

(c) Actively seek to maximize federal and other nonstate funding and support to the state for energy efficiency, renewable energy, emerging energy technologies, and other activities of benefit to the state's overall energy future; and

(d) Monitor the actions of all agencies of the state for consistent implementation of the state's energy policy including applicable statutory policies and goals relating to energy supply and use.

**Sec.**  RCW 80.50.020 and 2010 c 152 s 1 are each reenacted and amended to read as follows:

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

(1) "Alternative energy resource" includes energy facilities of the following types: (a) Wind; (b) solar energy; (c) geothermal energy; (d) landfill gas; (e) wave or tidal action; or (f) biomass energy based on solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(2) "Applicant" means any person who makes application for a site certification pursuant to the provisions of this chapter.

(3) "Application" means any request for approval of a particular site or sites filed in accordance with the procedures established pursuant to this chapter, unless the context otherwise requires.

(4) "Associated facilities" means storage, transmission, handling, or other related and supporting facilities connecting an energy plant with the existing energy supply, processing, or distribution system, including, but not limited to, communications, controls, mobilizing or maintenance equipment, instrumentation, and other types of ancillary transmission equipment, off-line storage or venting required for efficient operation or safety of the transmission system and overhead, and surface or subsurface lines of physical access for the inspection, maintenance, and safe operations of the transmission facility and new transmission lines constructed to operate at nominal voltages of at least 115,000 volts to connect a thermal power plant or alternative energy facilities to the northwest power grid. However, common carrier railroads or motor vehicles ((~~shall~~)) are not ((~~be~~)) included.

(5) "Biofuel" has the same meaning as defined in RCW 43.325.010.

(6) "Certification" means a binding agreement between an applicant and the state which ((~~shall embody~~)) embodies compliance to the siting guidelines, in effect as of the date of certification, which have been adopted pursuant to RCW 80.50.040 as now or hereafter amended as conditions to be met prior to or concurrent with the construction or operation of any energy facility.

(7) "Construction" means on-site improvements, excluding exploratory work, which cost in excess of two hundred fifty thousand dollars.

(8) "Council" means the energy facility site evaluation council created by RCW 80.50.030.

(9) "Counsel for the environment" means an assistant attorney general or a special assistant attorney general who ((~~shall~~)) represents the public in accordance with RCW 80.50.080.

(10) "Electrical transmission facilities" means electrical power lines and related equipment.

(11) "Energy facility" means an energy plant or transmission facilities: PROVIDED, That the following are excluded from the provisions of this chapter:

(a) Facilities for the extraction, conversion, transmission or storage of water, other than water specifically consumed or discharged by energy production or conversion for energy purposes; and

(b) Facilities operated by and for the armed services for military purposes or by other federal authority for the national defense.

(12) "Energy plant" means the following facilities together with their associated facilities:

(a) Any nuclear power facility where the primary purpose is to produce and sell electricity;

(b) Any nonnuclear stationary thermal power plant with generating capacity of three hundred fifty thousand kilowatts or more, measured using maximum continuous electric generating capacity, less minimum auxiliary load, at average ambient temperature and pressure, and floating thermal power plants of one hundred thousand kilowatts or more suspended on the surface of water by means of a barge, vessel, or other floating platform;

(c) Facilities which will have the capacity to receive liquefied natural gas in the equivalent of more than one hundred million standard cubic feet of natural gas per day, which has been transported over marine waters;

(d) Facilities which will have the capacity to receive more than an average of fifty thousand barrels per day of crude or refined petroleum or liquefied petroleum gas which has been or will be transported over marine waters, except that the provisions of this chapter ((~~shall~~)) do not apply to storage facilities unless occasioned by such new facility construction;

(e) Any underground reservoir for receipt and storage of natural gas as defined in RCW 80.40.010 capable of delivering an average of more than one hundred million standard cubic feet of natural gas per day; and

(f) Facilities capable of processing more than twenty-five thousand barrels per day of petroleum or biofuel into refined products except where such biofuel production is undertaken at existing industrial facilities.

(13) "Independent consultants" means those persons who have no financial interest in the applicant's proposals and who are retained by the council to evaluate the applicant's proposals, supporting studies, or to conduct additional studies.

(14) "Land use plan" means a comprehensive plan or land use element thereof adopted by a unit of local government pursuant to chapter 35.63, 35A.63, 36.70, or 36.70A RCW, or as otherwise designated by chapter 325, Laws of 2007.

(15) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

(16) "Preapplicant" means a person considering applying for a site certificate agreement for any transmission facility.

(17) "Preapplication process" means the process which is initiated by written correspondence from the preapplicant to the council, and includes the process adopted by the council for consulting with the preapplicant and with cities, towns, and counties prior to accepting applications for all transmission facilities.

(18) "Secretary" means the secretary of the United States department of energy.

(19) "Site" means any proposed or approved location of an energy facility, alternative energy resource, or electrical transmission facility.

(20) "Small modular reactor" means a scalable nuclear power plant using reactors that each have a gross power output no greater than three hundred megawatts electric, and where each reactor is designed for factory manufacturing and ease of transport, such as by truck, rail, or barge.

(21) "Thermal power plant" means, for the purpose of certification, any electrical generating facility using any fuel for distribution of electricity by electric utilities.

((~~(21)~~)) (22) "Transmission facility" means any of the following together with their associated facilities:

(a) Crude or refined petroleum or liquid petroleum product transmission pipeline of the following dimensions: A pipeline larger than six inches minimum inside diameter between valves for the transmission of these products with a total length of at least fifteen miles;

(b) Natural gas, synthetic fuel gas, or liquefied petroleum gas transmission pipeline of the following dimensions: A pipeline larger than fourteen inches minimum inside diameter between valves, for the transmission of these products, with a total length of at least fifteen miles for the purpose of delivering gas to a distribution facility, except an interstate natural gas pipeline regulated by the United States federal power commission.

((~~(22)~~)) (23) "Zoning ordinance" means an ordinance of a unit of local government regulating the use of land and adopted pursuant to chapter 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state Constitution, or as otherwise designated by chapter 325, Laws of 2007.

NEW SECTION. **Sec.**  A new section is added to chapter 80.50 RCW to read as follows:

The council must amend Title 463 WAC to provide a process for expediting certification of nuclear power facilities that use small modular reactors.

**Sec.**  RCW 80.52.030 and 2002 c 190 s 1 are each amended to read as follows:

The definitions ((~~set forth~~)) in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Public agency" means a public utility district, joint operating agency, city, county, or any other state governmental agency, entity, or political subdivision.

(2) "Major public energy project" means a plant or installation capable, or intended to be capable, of generating electricity in an amount greater than three hundred fifty megawatts, measured using maximum continuous electric generating capacity, less minimum auxiliary load, at average ambient temperature and pressure. Where two or more such plants are located within the same geographic site, each plant ((~~shall be~~)) is considered a major public energy project. An addition to an existing facility is not deemed to be a major energy project unless the addition itself is capable, or intended to be capable, of generating electricity in an amount greater than three hundred fifty megawatts. A project which is under construction on July 1, 1982, ((~~shall~~)) is not ((~~be~~)) considered a major public energy project unless the official agency budget or estimate for total construction costs for the project as of July 1, 1982, is more than two hundred percent of the first official estimate of total construction costs as specified in the senate energy and utilities committee WPPSS inquiry report, volume one, January 12, 1981, and unless, as of July 1, 1982, the projected remaining cost of construction for that project exceeds two hundred million dollars. A plant or installation that generates electricity through the use of a small modular reactor is not a major public energy project.

(3) "Cost of construction" means the total cost of planning and building a major public energy project and placing it into operation, including, but not limited to, planning cost, direct construction cost, licensing cost, cost of fuel inventory for the first year's operation, interest, and all other costs incurred prior to the first day of full operation, whether or not incurred prior to July 1, 1982.

(4) "Cost of acquisition" means the total cost of acquiring a major public energy project from another party, including, but not limited to, principal and interest costs.

(5) "Bond" means a revenue bond, a general obligation bond, or any other indebtedness issued by a public agency or its assignee.

(6) "Applicant" means a public agency, or the assignee of a public agency, requesting the secretary of state to conduct an election pursuant to this chapter.

(7) "Cost-effective" means that a project or resource is forecast:

(a) To be reliable and available within the time it is needed; and

(b) To meet or reduce the electric power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.

(8) "System cost" means an estimate of all direct costs of a project or resource over its effective life, including, if applicable, the costs of distribution to the consumer, and, among other factors, waste disposal costs, end-of-cycle costs, and fuel costs (including projected increases), and such quantifiable environmental costs and benefits as are directly attributable to the project or resource.

(9) "Small modular reactor" means a scalable nuclear power plant using reactors that each have a gross power output no greater than three hundred megawatts electric, and where each reactor is designed for factory manufacturing and ease of transport, such as by truck, rail, or barge.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference contained in (section 11, chapter . . ., Laws of 2018) (section 11 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to create or retain jobs, as indicated in RCW 82.32.808(2)(c).

(3) It is the legislature's specific public policy objective to retain or increase the number of jobs in the small modular reactor industry in Washington. It is the legislature's intent to exempt from the tax levied by RCW 82.04.240, 82.04.250, and 82.04.270, the manufacture or sale at wholesale or retail of small modular reactors, thereby increasing the ability of such firms to invest in and expand their Washington operations, thereby increasing the number of jobs in the small modular reactor industry in Washington.

(4) If a review finds that the number of jobs in the small modular reactor industry in Washington has increased by ten percent compared to the number of those jobs at the time of enactment, then the legislature intends to extend the expiration date of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to:

(a) The annual tax performance report that a taxpayer reporting under the tax rate provided in section 11, chapter . . ., Laws of 2018 (section 11 of this act) must file with the department of revenue; and

(b) Employment data available from the employment security department.

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

(1) This chapter does not apply to any person engaging within this state in the business of: (a) Manufacturing small modular reactors; or (b) making sales at wholesale or retail of small modular reactors manufactured by that person.

(2) This chapter does not apply to any person engaging within this state in the business of: (a) Manufacturing any item that is designed to be a component or part of a small modular reactor; or (b) making sales at wholesale or retail of an item designed to be a component or part of a small modular reactor, when such item is manufactured by that person.

(3) For the purposes of this section, "small modular reactor" means a scalable nuclear power plant using reactors that each have a gross power output no greater than three hundred megawatts electric, and where each reactor is designed for factory manufacturing and ease of transport, such as by truck, rail, or barge.

(3) The expiration date provisions of RCW 82.32.805(1)(a) do not apply to this section.

**Sec.**  RCW 82.85.010 and 2017 3rd sp.s. c 37 s 801 are each amended to read as follows:

(1) Businesses that invest capital create jobs and generate economic activity that supports a healthy Washington economy. The legislature finds that these investments result in future revenues that support schools and our communities. Therefore, the legislature ((~~finds that a pilot program must be conducted to evaluate the effectiveness of~~)) establishes a program that invests business taxes from new investments into workforce training programs that support manufacturing businesses in the state of Washington thereby creating jobs and capital investments in the state for the benefit of its citizens.

(2)(a) This subsection is the tax preference performance statement for the sales and use tax deferral provided in RCW 82.85.040 on expenditures made to build or expand qualified investment projects and purchases of machinery and equipment. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(b) The legislature categorizes the tax preference as one intended to create or retain jobs and to provide funding to support job readiness training, professional development, or apprenticeship programs in manufacturing or production occupations, as indicated in RCW 82.32.808(2) (c) and (f).

(c) It is the legislature's specific public policy objective to provide a ((~~pilot program that would provide a~~)) sales tax deferral on the construction and expenditure costs of ((~~up to two new manufacturing facilities per calendar year, one of which must be located in eastern Washington and one of which must be located in western Washington~~)) new, renovated, or expanded manufacturing facilities. When deferred taxes are repaid, the deferred taxes are reinvested to support job readiness training, professional development, or apprenticeship programs in manufacturing or production occupations.

(d) To measure the effectiveness of the deferral provided in this part in achieving the specific public policy objective described in (c) of this subsection, the joint legislative audit and review committee should refer to information available from the employment security department and department of revenue. If a review finds that each eligible investment project generated at least twenty full-time jobs and increased training opportunities for manufacturing and production jobs, then the legislature intends for the legislative auditor to recommend extending the expiration date of the tax preference. For purposes of this subsection (2)(d), the term full-time jobs include both temporary construction jobs and permanent full-time employment positions created at the eligible investment project within one year of the date that the facility became operationally complete as determined by the department of revenue.

(3) This section expires January 1, ((~~2026~~)) 2028.

**Sec.**  RCW 82.85.020 and 2017 3rd sp.s. c 37 s 802 are each amended to read as follows:

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

(a) "Applicant" means a person applying for a tax deferral under this chapter.

(b) "Eligible investment project" means an investment project for qualified buildings and machinery and equipment on ((~~two~~)) new, renovated, or expanded manufacturing operations ((~~per calendar year, one of which must be located east of the crest of the Cascade mountains and one of which must be located west of the crest of the Cascade mountains~~)). Eligible investment projects that utilize or produce small modular reactors or other green technologies are encouraged. The deferral provided in this section only applies to the state and local sales and use taxes due on the first ten million dollars in costs for qualified buildings and machinery and equipment.

(c) "Initiation of construction" has the same meaning as in RCW 82.63.010.

(d) "Investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project.

(e) "Manufacturing" has the same meaning as provided in RCW 82.04.120.

(f) "Person" has the same meaning as provided in RCW 82.04.030.

(g) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity, used for manufacturing, including plant offices and warehouses or other buildings for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing. If a qualified building is used partly for manufacturing and partly for other purposes, the applicable tax deferral must be determined by apportionment of the costs of construction under rules adopted by the department.

(h) "Qualified machinery and equipment" means all new industrial fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control, monitor, or operate the machinery.

(i) "Recipient" means a person receiving a tax deferral under this chapter.

(j) "Small modular reactor" means a scalable nuclear power plant using reactors that each have a gross power output no greater than three hundred megawatts electric, and where each reactor is designed for factory manufacturing and ease of transport, such as by truck, rail, or barge.

(2) This section expires January 1, ((~~2026~~)) 2028.

**Sec.**  RCW 82.85.030 and 2015 3rd sp.s. c 6 s 403 are each amended to read as follows:

The lessor or owner of a qualified building is not eligible for a deferral unless:

(1) The underlying ownership of the building, machinery, and equipment vests exclusively in the same person; or

(2)(a) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

(b) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual ((~~survey~~)) tax performance report required under RCW ((~~82.32.585~~)) 82.32.534; and

(c) The economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee.

(3) This section expires January 1, 2028.

**Sec.**  RCW 82.85.040 and 2017 3rd sp.s. c 37 s 803 are each amended to read as follows:

(1) Application for deferral of taxes under this chapter must be made before initiation of the construction of the investment project or acquisition of equipment or machinery. The application must be made to the department in a form and manner prescribed by the department. ((~~The deferrals are available on a first-in-time basis.~~)) The application must contain information regarding the location of the investment project, the applicant's average employment in the state for the prior year, estimated or actual new employment related to the project, estimated or actual wages of employees related to the project, estimated or actual costs, time schedules for completion and operation, and other information required by the department. The department must rule on the application within sixty days.

(2) ((~~The department may not approve applications for more than two eligible investment projects per calendar year.~~

~~(3)~~)) This section expires January 1, ((~~2026~~)) 2028.

**Sec.**  RCW 82.85.050 and 2015 3rd sp.s. c 6 s 405 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, the department must issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, 82.14, and 81.104 RCW on each eligible investment project.

(2) No certificate may be issued for an investment project that has already received a deferral under this ((~~part [chapter]~~)) chapter or chapter 82.60 RCW.

(3) The department must keep a running total of all deferrals granted under this chapter during each fiscal biennium.

(4) This section expires January 1, 2028.

**Sec.**  RCW 82.85.080 and 2015 3rd sp.s. c 6 s 408 are each amended to read as follows:

(1) Each recipient of a deferral of taxes granted under this chapter must file a complete annual ((~~survey~~)) tax preference report with the department under RCW ((~~82.32.585~~)) 82.32.534. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.85.030, the lessee must file a complete annual ((~~survey~~)) tax preference report, and the applicant is not required to file a complete annual ((~~survey~~)) tax preference report.

(2) If, on the basis of a ((~~survey~~)) tax preference report under RCW ((~~82.32.585~~)) 82.32.534 or other information, the department finds that an investment project is not eligible for tax deferral under this chapter due to the fact the investment project is no longer used for qualified activities, the amount of deferred taxes outstanding for the investment project is immediately due and payable.

(3) If the economic benefits of a tax deferral under this chapter are passed to a lessee as provided in RCW 82.85.030, the lessee is responsible for payment to the extent the lessee has received the economic benefit.

**--- END ---**