
HOUSE BILL 1211

State of Washington

66th Legislature

2019 Regular Session

By Representatives Tarleton, Doglio, Pollet, Stanford, Chapman, Peterson, Jinkins, Hudgins, Orwall, Wylie, Fitzgibbon, Valdez, Dolan, Sells, Ryu, Senn, Callan, Ortiz-Self, Fey, Morris, Slatter, Walen, Macri, Tharinger, Goodman, Kloba, Riccelli, and Robinson; by request of Governor Inslee

Read first time 01/16/19. Referred to Committee on Environment & Energy.

1 AN ACT Relating to supporting Washington's clean energy economy
2 and transitioning to a clean, affordable, and reliable energy future;
3 amending RCW 19.280.030, 82.08.962, 82.12.962, 80.04.250, and
4 43.21F.090; adding a new chapter to Title 19 RCW; creating new
5 sections; prescribing penalties; providing expiration dates; and
6 declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington
9 must address the impacts of climate change by leading the transition
10 to a clean energy economy. One way in which Washington must lead this
11 transition is by transforming its energy supply, modernizing its
12 electricity system, and ensuring that the benefits of this transition
13 are broadly shared throughout the state.

14 (2) With our wealth of carbon-free hydropower, Washington has
15 some of the cleanest electricity in the United States. But
16 electricity remains a large source of emissions in our state. We are
17 at a critical juncture for transforming our electricity system. By
18 eliminating coal-fired electricity, and transitioning the state's
19 electricity supply to one hundred percent carbon neutral by 2030, we
20 can achieve an entirely carbon free electricity supply by 2045.

1 (3) The transition to one hundred percent clean energy is
2 underway, but must happen faster than our current policies can
3 deliver. Absent significant and swift reductions in greenhouse gas
4 emissions, climate change poses immediate significant threats to our
5 economy, health, safety, and national security. The prices of clean
6 energy technologies continue to fall, and are, in many cases,
7 competitive or even cheaper than conventional energy sources.

8 (4) The legislature finds that Washington can accomplish the
9 goals of this act while promoting energy independence, creating high-
10 quality jobs in the clean energy sector, continuing to electrify the
11 transportation sector, maintaining stable and affordable rates for
12 all customers, and protecting clean air and water in the Pacific
13 Northwest. Clean energy creates more jobs per unit of energy produced
14 than fossil fuel sources, so this transition will contribute to job
15 growth in Washington while addressing our climate crisis head on. Our
16 abundance of renewable energy and our strong clean tech sector make
17 Washington well-positioned to be at the forefront of the transition
18 to one hundred percent clean electricity.

19 (5) The legislature declares that utilities in the state have an
20 important role to play in this transition, and must be fully
21 empowered, through regulatory tools and incentives, to achieve the
22 goals of this policy. In combination with new technology and emerging
23 opportunities for customers, this policy will spur transformational
24 change in the utility industry. Given these changes, the legislature
25 recognizes and finds that the utilities and transportation
26 commission's statutory grant of authority for rate making includes
27 consideration and implementation of performance and incentive-based
28 regulation, multiyear rate plans, and other flexible regulatory
29 mechanisms where appropriate to achieve fair, just, reasonable, and
30 sufficient rates and its public interest objectives.

31 NEW SECTION. **Sec. 2.** The definitions in this section apply
32 throughout this chapter unless the context clearly requires
33 otherwise.

34 (1) "Alternative compliance payment" means the payment
35 established in section 7(2) of this act.

36 (2) "Attorney general" means the Washington state office of the
37 attorney general.

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

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

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

9 (4) "Carbon adder" means a calculation of the economic and
10 societal impacts associated with an incremental increase in carbon
11 dioxide emissions in a calendar year. For calendar year 2019, the
12 carbon adder must be equal to the alternative compliance payment. The
13 carbon adder must be increased each January 1st by one and three-
14 quarter percent, rounded to the nearest dollar.

15 (5) "Coal-fired resource" means a facility that uses coal-fired
16 generating units, or that uses units fired in whole or in part by
17 coal as feedstock, to generate electricity.

18 (6) "Commission" means the Washington utilities and
19 transportation commission.

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

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

30 (9) "Demand response" means changes in electric usage by demand-
31 side resources from their normal consumption patterns in response to
32 changes in the price of electricity over time, or to incentive
33 payments designed to induce lower electricity use at times of high
34 wholesale market prices or when system reliability is jeopardized.

35 (10) "Department" means the department of commerce.

36 (11) "Distributed energy resource" means a nonemitting resource
37 that provides electric energy, capacity, or ancillary services to an
38 electric utility and that is located on the distribution system, any
39 subsystem of the distribution system, or behind the customer meter.

1 (12) "Electric utility" means a consumer-owned utility or an
2 investor-owned utility.

3 (13) "Emitting electric generation" means electricity from a
4 generating resource that is not a renewable resource that provides
5 electric energy, capacity, or ancillary services to an electric
6 utility and that is produced by a generating facility that emits
7 greenhouse gases as a by-product of energy generation at that
8 facility.

9 (14) "Energy transformation project" means a project or program
10 that provides energy-related goods or services other than the
11 generation of electricity and that results in a reduction in fossil
12 fuel consumption by the customers of an electric utility and in the
13 emission of greenhouse gases attributable to that consumption.
14 "Energy transformation project" may include but is not limited to:
15 Home weatherization or other energy efficiency measures; support for
16 electric vehicles or related infrastructure; and infrastructure for
17 the storage of renewable energy on the electric grid.

18 (15) "Fossil fuel" means natural gas, petroleum, coal, or any
19 form of solid, liquid, or gaseous fuel derived from such material.

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

25 (17) "Greenhouse gas" includes carbon dioxide, methane, nitrous
26 oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and
27 any other gas or gases designated by the department of ecology by
28 rule under RCW 70.235.010.

29 (18) "Highly impacted communities" means communities designated
30 under the cumulative impacts analysis in section 18 of this act.

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

35 (20) "Low-income" means household incomes as defined by the
36 department or commission, provided that the definition may not exceed
37 the higher of eighty percent of area median household income or two
38 hundred percent of the federal poverty level, adjusted for household
39 size.

1 (21) (a) "Natural gas" means naturally occurring mixtures of
2 hydrocarbon gases and vapors consisting principally of methane,
3 whether in gaseous or liquid form, including methane clathrate.

4 (b) "Natural gas" does not include renewable natural gas.

5 (22) (a) "New large hydroelectric generation" means hydroelectric
6 generation that requires new diversions, new impoundments, new bypass
7 reaches, or expansion of existing reservoirs, constructed after the
8 effective date of this section, unless the diversions, bypass
9 reaches, or reservoir expansions are necessary for the operation of a
10 pumped storage facility that: (i) Does not conflict with existing
11 state or federal fish recovery plans; and (ii) complies with all
12 local, state, and federal laws and regulations.

13 (b) "New large hydroelectric generation" does not include
14 hydroelectric generation resulting from efficiency or other
15 improvements made to hydroelectric generating facilities existing as
16 of the effective date of this section.

17 (23) "Nonemitting electric generation" means electricity from a
18 generating facility or a resource, including a distributed energy
19 resource, that provides electric energy, capacity, or ancillary
20 services to an electric utility and that does not emit greenhouse
21 gases as a by-product of energy generation. For the purposes of
22 sections 4 and 5 of this act, "nonemitting electric generation" does
23 not include new large hydroelectric generation.

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

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

1 (25) "Renewable energy credit" means a tradable certificate of
2 proof of one megawatt-hour of a renewable resource. The certificate
3 includes all of the nonpower attributes associated with that one
4 megawatt-hour of electricity, and the certificate is verified by a
5 renewable energy credit tracking system selected by the department.

6 (26) "Renewable natural gas" means a methane-rich gas derived
7 from organic feedstocks that has been conditioned to meet standards
8 for natural gas derived from fossil fuel sources.

9 (27) "Renewable resource" means: (a) Water, except for new large
10 hydroelectric generation; (b) wind; (c) solar energy; (d) geothermal
11 energy; (e) landfill gas; (f) wave, ocean, or tidal power; (g) gas
12 from sewage treatment facilities; (h) biodiesel fuel that is not
13 derived from crops raised on land cleared from old-growth or first
14 growth forests; or (i) biomass energy.

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

17 (29) "Retail electric load" means the amount of megawatt-hours of
18 weather-adjusted electricity delivered in a given calendar year by an
19 electric utility to its Washington retail electric customers.

20 (30) "Unbundled renewable energy credit" means a renewable energy
21 credit that is sold, delivered, or purchased separately from
22 electricity.

23 (31) "Unspecified electricity" means an electricity source for
24 which the fuel attribute is unknown or has been separated from the
25 energy.

26 (32) "Vulnerable communities" includes communities designated
27 under the cumulative impacts analysis conducted under section 18 of
28 this act.

29 NEW SECTION. **Sec. 3.** (1) On or before December 31, 2025, all
30 electric utilities must eliminate from electric rates all costs
31 associated with delivering electricity to Washington customers that
32 is generated from a coal-fired resource. This does not include costs
33 associated with decommissioning and remediation of these facilities.

34 (2) The commission must accelerate depreciation schedules for any
35 coal-fired resource owned by investor-owned utilities to a date no
36 later than December 31, 2025.

37 (3) The commission may not extend the depreciation schedule for
38 any generating resource that generates electricity through the
39 combustion or oxidation of a fossil fuel.

1 (4) An electric utility that fails to comply with the
2 requirements of this section must pay the administrative penalty
3 established under section 7(1) of this act.

4 NEW SECTION. **Sec. 4.** (1) It is the policy of the state that all
5 retail sales of electricity to Washington customers be greenhouse gas
6 neutral by January 1, 2030.

7 (a) By January 1, 2030, and each year thereafter through December
8 31, 2044, an electric utility must demonstrate its compliance with
9 this target using a combination of nonemitting electric generation
10 and renewable resources and other technologies that reduce greenhouse
11 gas emissions. To achieve compliance with this target, an electric
12 utility must: (i) Use all cost-effective, reliable, and feasible
13 conservation and efficiency resources and demand response resources
14 to reduce or manage retail electric load; and (ii) use renewable
15 resources in an amount equal to one hundred percent of the utility's
16 average annual retail electric load minus any nonemitting electric
17 generation in operation on the effective date of this section.

18 (b) Through December 31, 2039, an electric utility may satisfy up
19 to twenty percent of its compliance obligation under (a) of this
20 subsection with an alternative compliance option consistent with this
21 section. Beginning January 1, 2040, and through December 31, 2044, an
22 electric utility may satisfy up to ten percent of its compliance
23 obligation under (a) of this subsection with an alternative
24 compliance option consistent with this section. An alternative
25 compliance option may include any combination of the following:

26 (i) Making an alternative compliance payment under section 7(2)
27 of this act;

28 (ii) Using unbundled renewable energy credits; or

29 (iii) Investing in energy transformation projects, provided such
30 projects meet the requirements of subsection (2) of this section and
31 are not credited as resources used to meet the standard under (a) of
32 this subsection.

33 (c) Renewable resources used to meet an electric utility's
34 compliance obligation under (a) of this subsection must be verified
35 by the retirement of renewable energy credits. Renewable energy
36 credits must be tracked and retired in the tracking system selected
37 by the department.

38 (d) Nonemitting electric generation resources used to meet an
39 electric utility's compliance obligation under (a) of this subsection

1 must be generated during the compliance year and must be verified by
2 documentation that the electric utility owns the nonpower attributes
3 of the electricity generated by the nonemitting resource.

4 (2) Investments in energy transformation projects used to satisfy
5 an alternative compliance option provided under subsection (1)(b) of
6 this section must use criteria developed by the department of
7 ecology, in consultation with the department of commerce. Energy
8 transformation projects must demonstrate standards of quality,
9 including:

10 (a) Measurable impacts that can be demonstrated to result in or
11 facilitate real net reductions in fossil fuel use or greenhouse gas
12 reductions through an approved protocol;

13 (b) Nonreversible impacts that are permanent;

14 (c) Impacts that are additional to what would have occurred but
15 for the investment through the energy transformation project as
16 demonstrated by the following: (i) The impacts can be shown to result
17 from the investment itself and not result solely from market forces
18 existing at the time of the investment; (ii) the investment or energy
19 transformation project is not otherwise required by law or
20 regulation, is not used as a compliance mechanism for other federal,
21 state, or local laws or regulations, or is not required as a result
22 of a legal settlement or other legal action or court order binding on
23 the recipient or grantor of the funds; and (iii) any other test for
24 additionality that is identified in an approved protocol for the
25 energy transformation project type; and

26 (d) Verifiable impacts that allow for the rigorous auditing of
27 quantification methodologies, calculations, and results by state
28 agencies and third-party verifiers in accordance with procedures
29 defined in approved protocols; or

30 (e) Any other standard included in an approved protocol for the
31 energy transformation project type.

32 (3) Energy transformation projects must be associated with the
33 consumption of energy in Washington and must not create a new use of
34 fossil fuels in Washington that results in a net increase of fossil
35 fuel usage.

36 (4) The compliance eligibility of energy transformation projects
37 may be scaled or prorated by an approved protocol in order to
38 distinguish effects related to reductions in electricity usage from
39 reductions in fossil fuel usage.

1 (5) Any compliance obligation fulfilled through an investment in
2 an energy transformation project is eligible for use only by the
3 electric utility that makes the investment.

4 (6) The department shall implement rule making, in consultation
5 with the commission and the department of ecology, to establish the
6 guidelines for utilities to implement energy transformation project
7 investments. This rule making must establish:

8 (a) An initial list of eligible energy transformation project
9 types;

10 (b) A procedure with opportunity for public input and
11 consultation in order to adapt, adopt, or create protocols for each
12 eligible energy project transformation type; and

13 (c) Verification procedures, reporting standards, and other
14 logistical issues as necessary.

15 (7) In approving annual targets established by investor-owned
16 utilities under subsection (1) of this section, the commission, after
17 a hearing, must adopt by order interim targets for each investor-
18 owned utility, informed by the utility's clean energy action plans
19 submitted under RCW 19.280.030. The commission must, at a minimum,
20 adopt interim targets for energy efficiency, demand response, and
21 renewable energy.

22 (8) In establishing annual targets under subsection (1) of this
23 section, the governing body of a consumer-owned utility must adopt
24 interim targets, informed by the utility's clean energy action plans
25 submitted under RCW 19.280.030. The governing body must, at a
26 minimum, adopt interim targets for energy efficiency, demand
27 response, and renewable energy.

28 (9) In meeting annual targets established under subsection (1) of
29 this section, an electric utility must demonstrate that it has
30 achieved all cost-effective, reliable, and feasible conservation and
31 efficiency resources, reductions in demand, and demand management
32 prior to making new investments to meet projected demand, and to the
33 maximum extent feasible must:

34 (a) Achieve targets at the lowest reasonable cost; and

35 (b) In the acquisition of new resources constructed after the
36 effective date of this section:

37 (i) Maximize the creation of family wage jobs, insofar as doing
38 so is consistent with (a) of this subsection; and

39 (ii) Rely on renewable resources and energy storage, insofar as
40 doing so is consistent with (a) of this subsection.

1 (10) An electric utility that fails to meet the requirements of
2 this section must pay the administrative penalty established under
3 section 7(1) of this act.

4 NEW SECTION. **Sec. 5.** (1) It is the policy of the state that
5 nonemitting electric generation and renewable resources supply one
6 hundred percent of all retail sales of electricity to Washington
7 customers by January 1, 2045. By January 1, 2045, and each year
8 thereafter, an electric utility must supply one hundred percent of
9 its retail electric sales using nonemitting electric generation and
10 renewable resources, or pay the administrative penalty established
11 under section 7(1) of this act.

12 (2) Each electric utility must incorporate the policy established
13 under subsection (1) of this section into all relevant planning and
14 procurement practices and demonstrate compliance with this section
15 annually, beginning January 1, 2046.

16 (3) An electric utility must comply with the standard established
17 under subsection (1) of this section in a manner consistent with the
18 following:

19 (a) Maintaining and protecting the safety, reliable operation,
20 and balancing of the electric system;

21 (b) Planning to meet the standard at the lowest reasonable cost;
22 and

23 (c) Ensuring that all customers are benefiting from the
24 transition to clean energy.

25 (4) In meeting annual targets established under subsection (1) of
26 this section, an electric utility must demonstrate that it has
27 achieved all cost-effective, reliable, and feasible conservation and
28 efficiency resources, reductions in demand, and demand management
29 prior to making new investments to meet projected demand, and to the
30 maximum extent feasible must:

31 (a) Achieve targets at the lowest reasonable cost; and

32 (b) In the acquisition of new resources constructed after the
33 effective date of this section:

34 (i) Maximize the creation of family wage jobs, insofar as doing
35 so is consistent with (a) of this subsection; and

36 (ii) Rely on renewable resources and energy storage, insofar as
37 doing so is consistent with (a) of this subsection.

1 (5) An electric utility that fails to meet the requirements of
2 this section must pay the administrative penalty established under
3 section 7(1) of this act.

4 (6) The commission, the department, the energy facility site
5 evaluation council, the department of ecology, and all other state
6 agencies shall incorporate the policy established under subsection
7 (1) of this section into all relevant planning and utilize all
8 programs authorized by statute to achieve the policy.

9 NEW SECTION. **Sec. 6.** By January 1, 2021, and at least every two
10 years thereafter and in compliance with RCW 43.01.036, the commission
11 and the department shall submit a joint report to the legislature.
12 The joint report must include the following:

13 (1) A review of the policies described in sections 4 and 5 of
14 this act focused on technologies, forecasts, and existing
15 transmission, and an evaluation of safety, environmental and public
16 safety protection, affordability, and system reliability.

17 (2) An evaluation identifying the potential benefits and impacts
18 on system reliability associated with achieving the policies
19 described in sections 4 and 5 of this act.

20 (3) An evaluation identifying the nature of any anticipated
21 financial costs and benefits to electric, gas, and water utilities,
22 including customer rate impacts and benefits.

23 (4) An assessment of the impacts of the policies described in
24 sections 4 and 5 of this act on low-income customers and vulnerable
25 communities.

26 (5) The barriers to, and benefits of, achieving the policies
27 described in sections 4 and 5 of this act.

28 NEW SECTION. **Sec. 7.** (1) An electric utility that fails to
29 comply with the standards established in sections 3 through 5 of this
30 act shall pay an administrative penalty to the state of Washington in
31 the amount of one hundred dollars for each megawatt-hour of emitting
32 or unspecified electric generation used to meet the utility's retail
33 electric load. Beginning in 2027, this penalty must be adjusted on a
34 biennial basis according to the rate of change of the inflation
35 indicator, gross domestic product-implicit price deflator, as
36 published by the bureau of economic analysis of the United States
37 department of commerce or its successor. Beginning in 2040, the
38 commission may by rule increase this penalty for investor-owned

1 utilities if the commission determines that doing so will accelerate
2 utilities' compliance with the standards established under this act
3 and that doing so is in the public interest.

4 (2) Consistent with the requirements of section 4(1)(b) of this
5 act, a utility may opt to make a payment in the amount of the
6 administrative penalty as an alternative compliance payment, without
7 incurring a penalty for noncompliance.

8 (3) Upon petition by an investor-owned utility, and after a
9 hearing, the commission may issue an order relieving the utility of
10 its administrative penalty obligation under subsection (1) of this
11 section if it finds that the utility had no choice but to use
12 emitting electric generation to maintain the reliability and safety
13 of the grid. The commission may use its standard practice and
14 procedures to make a reliability determination under this subsection.

15 (4) The attorney general may relieve a consumer-owned utility of
16 its administrative penalty obligation under subsection (1) of this
17 section if the attorney general finds that the utility had no choice
18 but to use emitting electric generation to maintain reliability and
19 safety of the grid based on documentation submitted by the governing
20 body of the consumer-owned utility.

21 (5) An electric utility must incorporate the administrative
22 penalty established under subsection (1) of this section as a cost
23 adder when:

24 (a) Evaluating and selecting conservation policies, programs, and
25 targets;

26 (b) Developing integrated resource plans and clean energy action
27 plans under RCW 19.280.030; and

28 (c) Evaluating and selecting resource options.

29 (6) An electric utility must notify its retail electric customers
30 in published form within three months of paying the administrative
31 penalty established under subsection (1) of this section.

32 (7) Moneys collected under this section must be deposited into
33 the low-income weatherization and structural rehabilitation
34 assistance account created in RCW 70.164.030.

35 (8) For an investor-owned utility, the commission shall determine
36 compliance with the requirements of this chapter.

37 (9) For consumer-owned utilities, the Washington state auditor's
38 office is responsible for auditing compliance with this chapter and
39 rules adopted under this chapter that apply to those utilities, and
40 the attorney general is responsible for enforcing that compliance.

1 NEW SECTION. **Sec. 8.** (1) On or before December 31, 2026, and
2 annually thereafter, each electric utility must report to the
3 department on its progress in the preceding year in meeting the
4 standards established in sections 3 through 5 of this act, including
5 the following:

6 (a) Expected electricity savings from conservation and efficiency
7 resources;

8 (b) Expenditures on conservation and efficiency resources;

9 (c) Actual electricity savings results;

10 (d) The utility's annual retail electric load for the prior five
11 years;

12 (e) The amount of megawatt-hours of each type of resource
13 acquired;

14 (f) The type, amount, and cost associated with renewable energy
15 credits retired;

16 (g) An assessment of the impacts of the standards on low-income
17 customers and vulnerable communities in the utility's service area;
18 and

19 (h) Actions taken in other sectors to reduce greenhouse gas
20 emissions while reducing greenhouse gas emissions in the electricity
21 sector.

22 (2) An investor-owned utility must also report all information
23 required in subsection (1) of this section to the commission.

24 (3) An electric utility must also make reports required in this
25 section available to its retail electric customers.

26 (4) The department shall ensure that the disclosures required
27 under chapter 19.29A RCW are consistent with the reporting
28 requirements of this act.

29 NEW SECTION. **Sec. 9.** (1) The commission may adopt rules to
30 ensure the proper implementation and enforcement of this chapter as
31 it applies to investor-owned utilities.

32 (2) The department may adopt rules to ensure the proper
33 implementation and enforcement of this chapter as it applies to
34 consumer-owned utilities. Nothing in this subsection may be construed
35 to restrict the rate-making authority of the governing body of a
36 consumer-owned utility as otherwise provided by law.

37 (3) The commission and department may coordinate in developing
38 rules related to process, timelines, and documentation that are
39 necessary for implementation of this chapter.

1 (4) The commission and department may consult with other state
2 agencies in the development of rules under this chapter.

3 (5) Pursuant to the administrative procedure act, chapter 34.05
4 RCW, rules needed for the implementation of this chapter must be
5 adopted by January 1, 2021. These rules may be revised as needed to
6 carry out the intent and purposes of this chapter.

7 NEW SECTION. **Sec. 10.** The requirements of sections 3 through 9
8 of this act do not replace or modify the requirements established
9 under chapter 19.285 RCW.

10 **Sec. 11.** RCW 19.280.030 and 2015 3rd sp.s. c 19 s 9 are each
11 amended to read as follows:

12 Each electric utility must develop a plan consistent with this
13 section.

14 (1) Utilities with more than twenty-five thousand customers that
15 are not full requirements customers shall develop or update an
16 integrated resource plan by September 1, 2008. At a minimum, progress
17 reports reflecting changing conditions and the progress of the
18 integrated resource plan must be produced every two years thereafter.
19 An updated integrated resource plan must be developed at least every
20 four years subsequent to the 2008 integrated resource plan. The
21 integrated resource plan, at a minimum, must include:

22 (a) A range of forecasts, for at least the next ten years or
23 longer, of projected customer demand which takes into account
24 econometric data and customer usage;

25 (b) An assessment of commercially available conservation and
26 efficiency resources. Such assessment may include, as appropriate,
27 opportunities for development of combined heat and power as an energy
28 and capacity resource, demand response and load management programs,
29 and currently employed and new policies and programs needed to obtain
30 the conservation and efficiency resources;

31 (c) An assessment of commercially available, utility scale
32 renewable and nonrenewable generating technologies including a
33 comparison of the benefits and risks of purchasing power or building
34 new resources;

35 (d) A comparative evaluation of renewable and nonrenewable
36 generating resources, including transmission and distribution
37 delivery costs, and conservation and efficiency resources using
38 "lowest reasonable cost" as a criterion;

1 (e) An assessment of methods, commercially available
2 technologies, or facilities for integrating renewable resources, and
3 addressing overgeneration events, if applicable to the utility's
4 resource portfolio;

5 (f) The integration of the demand forecasts and resource
6 evaluations into a long-range assessment describing the mix of supply
7 side generating resources and conservation and efficiency resources
8 that will meet current and projected needs, including mitigating
9 overgeneration events and meeting the standards established in
10 sections 3 through 5 of this act, at the lowest reasonable cost and
11 risk to the utility and its ratepayers; (~~and~~)

12 (g) A short-term plan identifying the specific actions to be
13 taken by the utility consistent with the long-range integrated
14 resource plan;

15 (h) By December 31, 2020, and in each subsequent plan, a ten-year
16 clean energy action plan, which identifies an action plan and
17 proposed interim targets for meeting the standard in section 4 of
18 this act; and

19 (i) By December 31, 2025, and in each subsequent plan, a twenty-
20 year clean energy action plan, which identifies an action plan and
21 proposed interim targets for meeting the standard in section 5 of
22 this act.

23 (2) All other utilities may elect to develop a full integrated
24 resource plan as set forth in subsection (1) of this section or, at a
25 minimum, shall develop a resource plan that:

26 (a) Estimates loads for the next five and ten years;

27 (b) Enumerates the resources that will be maintained and/or
28 acquired to serve those loads; (~~and~~)

29 (c) Explains why the resources in (b) of this subsection were
30 chosen and, if the resources chosen are not: (i) Renewable resources;
31 (ii) methods, commercially available technologies, or facilities for
32 integrating renewable resources, including addressing any
33 overgeneration event; or (iii) conservation and efficiency resources,
34 why such a decision was made;

35 (d) By December 31, 2020, and in each subsequent plan, includes a
36 ten-year clean energy action plan, which identifies an action plan
37 and proposed interim targets for meeting the standard in section 4 of
38 this act; and

39 (f) By December 31, 2025, and in each subsequent plan, includes a
40 twenty-year clean energy action plan, which identifies an action plan

1 and proposed interim targets for meeting the standard in section 5 of
2 this act.

3 (3) Assessments for demand side resources included in an
4 integrated resource plan may include combined heat and power systems
5 as one of the measures in a conservation supply curve. The value of
6 recoverable waste heat resulting from combined heat and power must be
7 reflected in analyses of cost-effectiveness under this subsection.

8 (4) An electric utility that is required to develop a resource
9 plan under this section must complete its initial plan by September
10 1, 2008.

11 (5) Resource plans developed under this section must be updated
12 on a regular basis, at a minimum on intervals of two years.

13 (6) Plans shall not be a basis to bring legal action against
14 electric utilities.

15 (7) Each electric utility shall publish its final plan either as
16 part of an annual report or as a separate document available to the
17 public. The report may be in an electronic form.

18 NEW SECTION. **Sec. 12.** This section is the tax preference
19 performance statement for the tax preferences contained in sections
20 13 and 14, chapter . . ., Laws of 2019 (sections 13 and 14 of this
21 act). This performance statement is only intended to be used for
22 subsequent evaluation of the tax preference. It is not intended to
23 create a private right of action by any party or be used to determine
24 eligibility for preferential tax treatment.

25 (1) The legislature categorizes this tax preference as one
26 intended to induce certain designated behavior by taxpayers, as
27 indicated in RCW 82.32.808(2) (a).

28 (2) It is the legislature's specific public policy objective to
29 reduce the amount of carbon dioxide emissions in Washington. It is
30 the legislature's intent to extend the expiration date of the
31 existing sales and use tax exemption for machinery and equipment used
32 directly in generating certain types of alternative energy, in order
33 to reduce the price charged to customers for that machinery and
34 equipment, thereby inducing some customers to buy machinery and
35 equipment for alternative energy when they might not otherwise,
36 thereby displacing electricity from fossil-fueled generating
37 resources, thereby reducing the amount of carbon dioxide emissions in
38 Washington.

1 (3) The joint legislative audit and review committee is not
2 required to perform a tax preference review under chapter 43.136 RCW
3 for the tax preferences contained in sections 13 and 14,
4 chapter . . ., Laws of 2019 (sections 13 and 14 of this act) and it
5 is the intent of the legislature to allow the tax preferences to
6 expire upon their scheduled expiration dates.

7 **Sec. 13.** RCW 82.08.962 and 2018 c 164 s 5 are each amended to
8 read as follows:

9 (1) (a) (~~Except as provided in RCW 82.08.963,~~) Purchasers who
10 have paid the tax imposed by RCW 82.08.020 on machinery and equipment
11 used directly in generating electricity using fuel cells, wind, sun,
12 biomass energy, tidal or wave energy, geothermal resources, or
13 technology that converts otherwise lost energy from exhaust, as the
14 principal source of power, or to sales of or charges made for labor
15 and services rendered in respect to installing such machinery and
16 equipment, are eligible for an exemption as provided in this section,
17 but only if the purchaser develops with such machinery, equipment,
18 and labor a facility capable of generating not less than one thousand
19 watts of electricity.

20 (b) Beginning on July 1, 2011, through January 1, ~~((2020))~~ 2030,
21 the amount of the exemption under this subsection (1) is equal to
22 seventy-five percent of the state and local sales tax paid. The
23 purchaser is eligible for an exemption under this subsection (1)(b)
24 in the form of a remittance.

25 (2) For purposes of this section and RCW 82.12.962, the following
26 definitions apply:

27 (a) "Biomass energy" includes: (i) By-products of pulping and
28 wood manufacturing process; (ii) animal waste; (iii) solid organic
29 fuels from wood; (iv) forest or field residues; (v) wooden demolition
30 or construction debris; (vi) food waste; (vii) liquors derived from
31 algae and other sources; (viii) dedicated energy crops; (ix)
32 biosolids; and (x) yard waste. "Biomass energy" does not include wood
33 pieces that have been treated with chemical preservatives such as
34 creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old
35 growth forests; or municipal solid waste.

36 (b) "Fuel cell" means an electrochemical reaction that generates
37 electricity by combining atoms of hydrogen and oxygen in the presence
38 of a catalyst.

1 (c) (i) "Machinery and equipment" means fixtures, devices, and
2 support facilities that are integral and necessary to the generation
3 of electricity using fuel cells, wind, sun, biomass energy, tidal or
4 wave energy, geothermal resources, or technology that converts
5 otherwise lost energy from exhaust.

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

14 (3) (a) Machinery and equipment is "used directly" in generating
15 electricity by wind energy, solar energy, biomass energy, tidal or
16 wave energy, geothermal resources, or technology that converts
17 otherwise lost energy from exhaust if it provides any part of the
18 process that captures the energy of the wind, sun, biomass energy,
19 tidal or wave energy, geothermal resources, or technology that
20 converts otherwise lost energy from exhaust, converts that energy to
21 electricity, and stores, transforms, or transmits that electricity
22 for entry into or operation in parallel with electric transmission
23 and distribution systems.

24 (b) Machinery and equipment is "used directly" in generating
25 electricity by fuel cells if it provides any part of the process that
26 captures the energy of the fuel, converts that energy to electricity,
27 and stores, transforms, or transmits that electricity for entry into
28 or operation in parallel with electric transmission and distribution
29 systems.

30 (4) (a) A purchaser claiming an exemption in the form of a
31 remittance under subsection (1) (b) of this section must pay the tax
32 imposed by RCW 82.08.020 and all applicable local sales taxes imposed
33 under the authority of chapters 82.14 and 81.104 RCW. The purchaser
34 may then apply to the department for remittance in a form and manner
35 prescribed by the department. A purchaser may not apply for a
36 remittance under this section more frequently than once per quarter.
37 The purchaser must specify the amount of exempted tax claimed and the
38 qualifying purchases for which the exemption is claimed. The
39 purchaser must retain, in adequate detail, records to enable the
40 department to determine whether the purchaser is entitled to an

1 exemption under this section, including: Invoices; proof of tax paid;
2 and documents describing the machinery and equipment.

3 (b) The department must determine eligibility under this section
4 based on the information provided by the purchaser, which is subject
5 to audit verification by the department. The department must on a
6 quarterly basis remit exempted amounts to qualifying purchasers who
7 submitted applications during the previous quarter.

8 (5) The exemption provided by this section expires September 30,
9 2017, as it applies to: (a) Machinery and equipment that is used
10 directly in the generation of electricity using solar energy and
11 capable of generating no more than five hundred kilowatts of
12 electricity; or (b) sales of or charges made for labor and services
13 rendered in respect to installing such machinery and equipment.

14 (6) This section expires January 1, (~~(2020)~~) 2030.

15 **Sec. 14.** RCW 82.12.962 and 2018 c 164 s 7 are each amended to
16 read as follows:

17 (1) (a) (~~(Except as provided in RCW 82.12.963,)~~) Consumers who
18 have paid the tax imposed by RCW 82.12.020 on machinery and equipment
19 used directly in generating electricity using fuel cells, wind, sun,
20 biomass energy, tidal or wave energy, geothermal resources, or
21 technology that converts otherwise lost energy from exhaust, or to
22 sales of or charges made for labor and services rendered in respect
23 to installing such machinery and equipment, are eligible for an
24 exemption as provided in this section, but only if the purchaser
25 develops with such machinery, equipment, and labor a facility capable
26 of generating not less than one thousand watts of electricity.

27 (b) Beginning on July 1, 2011, through January 1, (~~(2020)~~) 2030,
28 the amount of the exemption under this subsection (1) is equal to
29 seventy-five percent of the state and local sales tax paid. The
30 consumer is eligible for an exemption under this subsection (1)(b) in
31 the form of a remittance.

32 (2) (a) A person claiming an exemption in the form of a remittance
33 under subsection (1)(b) of this section must pay the tax imposed by
34 RCW 82.12.020 and all applicable local use taxes imposed under the
35 authority of chapters 82.14 and 81.104 RCW. The consumer may then
36 apply to the department for remittance in a form and manner
37 prescribed by the department. A consumer may not apply for a
38 remittance under this section more frequently than once per quarter.
39 The consumer must specify the amount of exempted tax claimed and the

1 qualifying purchases or acquisitions for which the exemption is
2 claimed. The consumer must retain, in adequate detail, records to
3 enable the department to determine whether the consumer is entitled
4 to an exemption under this section, including: Invoices; proof of tax
5 paid; and documents describing the machinery and equipment.

6 (b) The department must determine eligibility under this section
7 based on the information provided by the consumer, which is subject
8 to audit verification by the department. The department must on a
9 quarterly basis remit exempted amounts to qualifying consumers who
10 submitted applications during the previous quarter.

11 (3) Purchases exempt under RCW 82.08.962 are also exempt from the
12 tax imposed under RCW 82.12.020.

13 (4) The definitions in RCW 82.08.962 apply to this section.

14 (5) The exemption provided in subsection (1) of this section does
15 not apply:

16 (a) To machinery and equipment used directly in the generation of
17 electricity using solar energy and capable of generating no more than
18 five hundred kilowatts of electricity, or to sales of or charges made
19 for labor and services rendered in respect to installing such
20 machinery and equipment, when first use within this state of such
21 machinery and equipment, or labor and services, occurs after
22 September 30, 2017; and

23 (b) To any other machinery and equipment described in subsection
24 (1)(a) of this section, or to sales of or charges made for labor and
25 services rendered in respect to installing such machinery or
26 equipment, when first use within this state of such machinery and
27 equipment, or labor and services, occurs after December 31, ((2019))
28 2029.

29 (6) This section expires January 1, ((2020)) 2030.

30 **Sec. 15.** RCW 80.04.250 and 2011 c 214 s 9 are each amended to
31 read as follows:

32 (1) The provisions of this section are necessary to ensure that
33 the commission has sufficient flexible authority to determine the
34 value of utility property for rate making purposes and to implement
35 the requirements and full intent of this act.

36 (2) The commission has power upon complaint or upon its own
37 motion to ascertain and determine the fair value for rate making
38 purposes of the property of any public service company used and
39 useful for service in this state by or during the rate effective

1 period and shall exercise such power whenever it deems such valuation
2 or determination necessary or proper under any of the provisions of
3 this title. ~~((In determining what property is used and useful for
4 providing electric, gas, wastewater company services, or water
5 service, the commission may include the reasonable costs of
6 construction work in progress to the extent that the commission finds
7 that inclusion is in the public interest.~~

8 ~~(2))~~ The valuation may include consideration of any property of
9 the public service company acquired or constructed by or during the
10 rate effective period, including the reasonable costs of construction
11 work in progress, to the extent that the commission finds that such
12 an inclusion is in the public interest and will yield fair, just,
13 reasonable, and sufficient rates.

14 (3) The commission may provide changes to rates under this
15 section for up to forty-eight months after the rate effective date
16 using any standard, formula, method, or theory of valuation
17 reasonably calculated to arrive at fair, just, reasonable, and
18 sufficient rates. The commission must establish an appropriate
19 process to identify, review, and approve public service company
20 property that becomes used and useful for service in this state after
21 the rate effective date.

22 (4) The commission has the power to make revaluations of the
23 property of any public service company from time to time.

24 ~~((3))~~ (5) The commission shall, before any hearing is had,
25 notify the complainants and the public service company concerned of
26 the time and place of such hearing by giving at least thirty days'
27 written notice thereof, specifying that at the time and place
28 designated a hearing will be held for the purpose of ascertaining the
29 value of the company's property, used and useful as aforesaid, which
30 notice must be sufficient to authorize the commission to inquire into
31 and pass upon the matters designated in this section.

32 (6) Nothing in this section limits the commission's authority to
33 consider and implement performance and incentive-based regulation,
34 multiyear rate plans, and other flexible regulatory mechanisms.

35 (7)(a) Electrical companies and gas companies shall use the
36 carbon adder for planning, evaluating, and acquiring all resources,
37 both supply-side and demand-side resources.

38 (b) For the purposes of this subsection, gas consisting largely
39 of methane and other hydrocarbons derived from the decomposition of

1 organic material in landfills, wastewater treatment facilities, and
2 anaerobic digesters must be considered a nonemitting resource.

3 **Sec. 16.** RCW 43.21F.090 and 1996 c 186 s 106 are each amended to
4 read as follows:

5 (1) The department shall review the state energy strategy ((as
6 developed under section 1, chapter 201, Laws of 1991, periodically
7 with the guidance of an advisory committee. For each review, an
8 advisory committee shall be established with a membership resembling
9 as closely as possible the original energy strategy advisory
10 committee specified under section 1, chapter 201, Laws of 1991.)) by
11 December 31, 2020, and at least once every eight years thereafter,
12 subject to funding provided for this purpose, for the purpose of
13 aligning the state energy strategy with the requirements of sections
14 1 through 10 of this act, RCW 43.21F.088, and the emission reduction
15 targets recommended by the department of ecology under RCW
16 70.235.040. The department must establish an energy strategy advisory
17 committee for each review to provide guidance to the department in
18 conducting the review. The membership of the energy strategy advisory
19 committee must consist of the following:

20 (a) One person recommended by investor-owned electric utilities;

21 (b) One person recommended by investor-owned natural gas
22 utilities;

23 (c) One person employed by or recommended by a natural gas
24 pipeline serving the state;

25 (d) One person recommended by suppliers of petroleum products;

26 (e) One person recommended by municipally owned electric
27 utilities;

28 (f) One person recommended by public utility districts;

29 (g) One person recommended by industrial energy users;

30 (h) One person recommended by commercial energy users;

31 (i) One person recommended by agricultural energy users;

32 (j) One person recommended by the association of Washington
33 cities;

34 (k) One person recommended by the Washington association of
35 counties;

36 (l) One person recommended by Washington Indian tribes;

37 (m) One person recommended by businesses in the clean energy
38 industry;

39 (n) One person recommended by labor unions;

1 (o) Two persons recommended by civic organizations, one of which
2 must be a representative of a civic organization that represents
3 vulnerable communities;

4 (p) Two persons recommended by environmental organizations;

5 (q) The chair of the energy facility site evaluation council or
6 the chair's designee;

7 (r) One of the representatives of the state of Washington to the
8 Pacific Northwest electric power and conservation planning council
9 selected by the governor;

10 (s) The chair of the utilities and transportation commission or
11 the chair's designee;

12 (t) One member from each of the two largest caucuses of the house
13 of representatives selected by the speaker of the house of
14 representatives; and

15 (u) One member from each of the two largest caucuses of the
16 senate selected by the majority leader of the senate.

17 (2) The chair of the advisory committee must be appointed by the
18 governor from citizen members. The director may establish technical
19 advisory groups as necessary to assist in the development of the
20 strategy. The director shall provide for extensive public involvement
21 throughout the development of the strategy.

22 (3) Upon completion of a public hearing regarding the advisory
23 committee's advice and recommendations for revisions to the energy
24 strategy, a written report shall be conveyed by the department to the
25 governor and the appropriate legislative committees. ((Any)) The
26 energy strategy advisory committee established under this section
27 ((shall)) must be dissolved within three months after their written
28 report is conveyed.

29 NEW SECTION. Sec. 17. (1) By January 1, 2020, the department of
30 commerce must convene an energy and climate policy advisory committee
31 to develop recommendations to the legislature for the coordination of
32 existing resources, or the establishment of new ones, for the
33 purposes of:

34 (a) Examining the costs and benefits of energy-related policies,
35 programs, functions, activities, and incentives, including but not
36 limited to: (i) Those that reduce greenhouse gas emissions from the
37 electric power generation, transmission, and distribution sector of
38 the economy; and (ii) the standards established in sections 3 through
39 5 of this act; and

1 (b) Conducting other energy-related studies and analyses as may
2 be directed by the legislature.

3 (2) The advisory committee convened under this section must
4 consist of, at minimum, representatives of each the state's public
5 four-year institutions of higher education, the Pacific Northwest
6 National Laboratory, and the Washington state institute for public
7 policy.

8 (3) Subject to the availability of amounts appropriated for this
9 specific purpose, and in compliance with RCW 43.01.036, the
10 department of commerce must submit its recommendations in a report to
11 the legislature by December 31, 2020.

12 NEW SECTION. **Sec. 18.** By December 31, 2019, the department of
13 health must conduct a cumulative impact analysis to designate the
14 communities highly impacted by fossil fuel pollution and climate
15 change in Washington. The cumulative impact analysis may integrate
16 with and build upon other population tracking resources used by the
17 department of health and analysis performed by the University of
18 Washington department of environmental and occupational health
19 sciences.

20 NEW SECTION. **Sec. 19.** This chapter may be known and cited as
21 the Washington clean energy transformation act.

22 NEW SECTION. **Sec. 20.** Sections 1 through 10 and 19 of this act
23 constitute a new chapter in Title 19 RCW.

24 NEW SECTION. **Sec. 21.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

28 NEW SECTION. **Sec. 22.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of
30 the state government and its existing public institutions, and takes
31 effect immediately.

--- END ---