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HOUSE BILL 2995

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State of Washington                      65th Legislature                      2018 Regular Session

By Representatives Tarleton, Doglio, and Pollet

Read first time 02/21/18. Referred to Committee on Finance.

1            AN ACT Relating to Washington's clean, affordable, and reliable  
2 energy future; amending RCW 19.285.030, 19.285.040, 19.285.060,  
3 19.285.070, and 19.285.080; adding a new section to chapter 19.285  
4 RCW; adding a new section to chapter 82.08 RCW; adding a new section  
5 to chapter 82.12 RCW; adding new sections to chapter 82.16 RCW;  
6 creating a new section; and prescribing penalties.

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

8            NEW SECTION.    **Sec. 1.**    (1) The legislature finds that Washington  
9 is the nation's leading producer of electricity from hydroelectric  
10 sources. The legislature finds that the residents, businesses, and  
11 industries of the state have benefited from the relatively low  
12 operating costs and reliability of this abundant, renewable energy  
13 resource. This legacy of clean hydroelectricity is the foundation  
14 upon which the state has built a diverse, vibrant clean technology  
15 sector that includes research and development in breakthrough  
16 technologies, as well as investment in other renewable energy  
17 resources. The legislature finds that Washington should continue its  
18 leadership in conservation, renewable energy, and climate change  
19 mitigation by increasing energy efficiency across the state and  
20 encouraging investment in the state's clean energy future.

1 (2) By building on the state's foundation of renewable  
2 hydroelectric generation with additional conservation and renewable  
3 energy resources, the legislature declares that Washington can:  
4 Promote energy independence; create high-quality jobs in the clean  
5 technology sector; maintain stable and affordable electric rates for  
6 all customers; and protect clean air and water in the Pacific  
7 Northwest.

8 **Sec. 2.** RCW 19.285.030 and 2017 c 315 s 1 are each amended to  
9 read as follows:

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

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

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

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

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

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

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

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

36 (7) "Cost-effective" has the same meaning as defined in RCW  
37 80.52.030.

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

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

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

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

9 (12) "Eligible renewable resource" means:

10 (a) Electricity from a generation facility powered by a renewable  
11 resource other than freshwater that commences operation after March  
12 31, 1999, where: (i) The facility is located in the Pacific Northwest  
13 or anywhere within the region of the western interconnection; or (ii)  
14 the electricity from the facility is delivered into Washington state  
15 on a real-time basis without shaping, storage, or integration  
16 services;

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

22 (c) Hydroelectric generation from a project completed after March  
23 31, 1999, where the generation facility is located in irrigation  
24 pipes, irrigation canals, water pipes whose primary purpose is for  
25 conveyance of water for municipal use, and wastewater pipes located  
26 in Washington where the generation does not result in new water  
27 diversions or impoundments;

28 (d) Qualified biomass energy;

29 (e) For a qualifying utility that serves customers in other  
30 states, electricity from a generation facility powered by a renewable  
31 resource other than freshwater that commences operation after March  
32 31, 1999, where: (i) The facility is located within a state in which  
33 the qualifying utility serves retail electrical customers; and (ii)  
34 the qualifying utility owns the facility in whole or in part or has a  
35 long-term contract with the facility of at least twelve months or  
36 more; ((~~or~~))

37 (f) Beginning January 1, 2018, the portion of incremental  
38 electricity produced as a result of efficiency improvements completed  
39 after March 31, 1999, attributable to a qualifying utility's  
40 Washington share of electricity output from hydroelectric generation

1 projects whose energy output is marketed by the Bonneville power  
2 administration, where the additional generation does not result in  
3 water diversions or impoundments; or

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

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

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

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

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

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

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

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

5 (17) "Public facility" has the same meaning as defined in RCW  
6 39.35C.010.

7 (18) "Qualified biomass energy" means electricity produced from a  
8 biomass energy facility that: (a) Commenced operation before March  
9 31, 1999; (b) contributes to the qualifying utility's load; and (c)  
10 is owned either by: (i) A qualifying utility; or (ii) an industrial  
11 facility that is directly interconnected with electricity facilities  
12 that are owned by a qualifying utility and capable of carrying  
13 electricity at transmission voltage.

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

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

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

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

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

38 (24) "Consumer-owned utility" has the same meaning as defined in  
39 RCW 19.29A.010.

1 (25) "Consumer-owned qualifying utility" means a qualifying  
2 utility that is a consumer-owned utility.

3 (26) "Investor-owned qualifying utility" means a qualifying  
4 utility that is an investor-owned utility.

5 (27) "Low-income" means household incomes as defined by the  
6 department or commission, provided that the definition may not exceed  
7 the higher of eighty percent of area median household income or two  
8 hundred percent of the federal poverty level, adjusted for household  
9 size.

10 (28) "Market customer" means a nonresidential customer of a  
11 qualifying utility or a small utility that: (a) Purchases electricity  
12 from an entity or entities other than the utility with which it is  
13 directly interconnected; or (b) generates electricity to meet its own  
14 needs.

15 (29) "New energy or capacity need" means any electricity  
16 generation needed by a qualifying utility, small utility, or market  
17 customer after July 1, 2020, to meet any of the following:

18 (a) Electricity load growth;

19 (b) Changes in capacity needs;

20 (c) Changes in ancillary services needs;

21 (d) Changes in reliability needs;

22 (e) Changes in flexibility needs;

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

24 (g) Needs arising due to replacing expiring electricity resource  
25 contracts.

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

29 (31) "Small utility" has the same meaning as defined in RCW  
30 19.29A.010.

31 (32) "Spot market" means a special purpose independent entity  
32 through which electricity is bought, sold, or traded for immediate  
33 delivery or for short-term delivery.

34 (33) "Washington share" means the portion of the federal Columbia  
35 river power system generation attributable to the Washington load of  
36 hydroelectric efficiency upgrades that the Bonneville power  
37 administration provides to: (a) Each consumer-owned utility serving  
38 load located in Washington, pursuant to a contract; (b) each joint  
39 operating agency with retail electric utility members serving load  
40 located in Washington, pursuant to a contract; and (c) each investor-

1 owned utility participating in the residential exchange program that  
2 serves load located in Washington.

3 **Sec. 3.** RCW 19.285.040 and 2017 c 315 s 2 are each amended to  
4 read as follows:

5 (1) Each qualifying utility and small utility shall pursue all  
6 available conservation that is cost-effective, reliable, and  
7 feasible.

8 (a) By January 1, 2010, using methodologies consistent with those  
9 used by the Pacific Northwest electric power and conservation  
10 planning council in the most recently published regional power plan  
11 as it existed on June 12, 2014, or a subsequent date as may be  
12 provided by the department or the commission by rule, each qualifying  
13 utility shall identify its achievable cost-effective conservation  
14 potential through 2019. Nothing in the rule adopted under this  
15 subsection precludes a qualifying utility from using its utility  
16 specific conservation measures, values, and assumptions in  
17 identifying its achievable cost-effective conservation potential. At  
18 least every two years thereafter, the qualifying utility shall review  
19 and update this assessment for the subsequent ten-year period.

20 (b) Beginning January 2010, each qualifying utility shall  
21 establish and make publicly available a biennial acquisition target  
22 for cost-effective conservation consistent with its identification of  
23 achievable opportunities in (a) of this subsection, and meet that  
24 target during the subsequent two-year period. At a minimum, each  
25 biennial target must be no lower than the qualifying utility's pro  
26 rata share for that two-year period of its cost-effective  
27 conservation potential for the subsequent ten-year period.

28 (c) Beginning January 1, 2020, each small utility shall  
29 biennially set a target for conservation and meet that target during  
30 the subsequent two-year period. At a minimum, each biennial target  
31 must be no lower than the small utility's pro rata share for that  
32 two-year period of its cost-effective conservation potential for the  
33 subsequent ten-year period.

34 (d)(i) Except as provided in ~~((e))~~ (d)(ii) and (iii) of this  
35 subsection, beginning on January 1, 2014, ~~((cost-effective))~~ for  
36 qualifying utilities or January 1, 2020, for small utilities,  
37 conservation achieved by a qualifying utility or small utility in  
38 excess of its biennial acquisition target may be used to help meet  
39 the immediately subsequent two biennial acquisition targets, such

1 that no more than twenty percent of any biennial target may be met  
2 with excess conservation savings.

3 (ii) Beginning January 1, 2014, for a qualifying utilities or  
4 January 1, 2020, for small utilities, a qualifying utility or small  
5 utility may use single large facility conservation savings in excess  
6 of its biennial target to meet up to an additional five percent of  
7 the immediately subsequent two biennial acquisition targets, such  
8 that no more than twenty-five percent of any biennial target may be  
9 met with excess conservation savings allowed under all of the  
10 provisions of this section combined. For the purposes of this  
11 subsection ~~(1)((e)(ii))~~ (d)(iii), "single large facility  
12 conservation savings" means cost-effective conservation savings  
13 achieved in a single biennial period at the premises of a single  
14 customer of a qualifying utility whose annual electricity consumption  
15 prior to the conservation savings exceeded five average megawatts.

16 (iii) Beginning January 1, 2012, and until December 31, 2017, a  
17 qualifying utility with an industrial facility located in a county  
18 with a population between ninety-five thousand and one hundred  
19 fifteen thousand that is directly interconnected with electricity  
20 facilities that are capable of carrying electricity at transmission  
21 voltage may use cost-effective conservation from that industrial  
22 facility in excess of its biennial acquisition target to help meet  
23 the immediately subsequent two biennial acquisition targets, such  
24 that no more than twenty-five percent of any biennial target may be  
25 met with excess conservation savings allowed under all of the  
26 provisions of this section combined.

27 ~~((d))~~ (e) In meeting its conservation targets, a qualifying  
28 utility or small utility may count high-efficiency cogeneration owned  
29 ~~((and))~~ or used by a retail electric customer to meet its own needs.  
30 High-efficiency cogeneration is the sequential production of  
31 electricity and useful thermal energy from a common fuel source,  
32 where, under normal operating conditions, the facility has a useful  
33 thermal energy output of no less than thirty-three percent of the  
34 total energy output. The reduction in load due to high-efficiency  
35 cogeneration shall be: (i) Calculated as the ratio of the fuel  
36 chargeable to power heat rate of the cogeneration facility compared  
37 to the heat rate on a new and clean basis of a best-commercially  
38 available technology combined-cycle natural gas-fired combustion  
39 turbine; and (ii) counted towards meeting the biennial conservation  
40 target in the same manner as other conservation savings.



1        ~~((e))~~ (f) Each market customer shall pay a per kilowatt-hour  
2 delivered charge to the utility with which it is directly  
3 interconnected to help fund utility conservation programs under this  
4 section. The commission shall determine the appropriate per kilowatt-  
5 hour delivered charge for a market customer of an investor-owned  
6 utility and the governing board shall determine the appropriate per  
7 kilowatt-hour charge for a market customer of a consumer-owned  
8 utility. The commission or the governing board shall approve a  
9 methodology for allocating conservation costs to market customers  
10 that is equitable with regard to other utility customers. This  
11 methodology must consider, at a minimum, past contributions made by  
12 each market customer toward funding a utility's conservation program.  
13 Nothing in this section precludes a market customer from receiving  
14 financial or other incentives for conservation acquisition from the  
15 utility with which it is directly interconnected.

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

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

21        (i) The commission may establish a mechanism to incentivize an  
22 investor-owned utility whose conservation acquisition exceeds its  
23 biennial conservation target approved by the commission, provided  
24 that such conservation acquisition is not also used to meet  
25 subsequent biennial conservation targets under this section.

26        (j)(i) The commission and department may adopt rules requiring  
27 qualifying utilities and small utilities to meet biennial  
28 conservation targets through programs that serve all customer  
29 segments, including programs specifically for low-income residential  
30 customers.

31        (ii) On or before July 1, 2020, and annually thereafter, each  
32 qualifying utility and small utility shall report to the commission,  
33 in the case of an investor-owned utility, or to the department, in  
34 the case of a consumer-owned utility, on its progress in the  
35 preceding year in meeting biennial conservation targets through  
36 programs that serve all customer segments, including programs  
37 specifically for low-income residential customers.

38        (iii) Qualifying utilities and small utilities must leverage  
39 state and federal dollars such that conservation measures for low-  
40 income customers and any associated costs are fully funded, in

1 accordance with guidelines to be established by the commission, for  
2 investor-owned utilities, or by the department, for consumer-owned  
3 utilities.

4 (2)(a) Except as provided in ~~((+j))~~ (1) of this subsection, each  
5 consumer-owned qualifying utility shall use eligible renewable  
6 resources or acquire equivalent renewable energy credits, or any  
7 combination of them, to meet the following annual targets:

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

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

12 (iii) At least fifteen percent of its load by January 1, 2020~~((+  
13 and each year thereafter))~~ ; and

14 (iv) Beginning January 1, 2021, and each year thereafter, at  
15 least fifteen percent of the average of its 2019 and 2020 loads.

16 (b) Except as provided in (1) of this subsection, each investor-  
17 owned qualifying utility shall use eligible renewable resources or  
18 acquire equivalent renewable energy credits, or any combination of  
19 them, to meet the following annual targets:

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

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

24 (iii) At least fifteen percent of its load by January 1, 2020,  
25 and each year thereafter through December 31, 2024;

26 (iv) At least twenty percent of its load by January 1, 2025, and  
27 each year thereafter through December 31, 2029;

28 (v) At least thirty percent of its load by January 1, 2030, and  
29 each year thereafter through December 31, 2034;

30 (vi) At least forty percent of its load by January 1, 2035, and  
31 each year thereafter through December 31, 2039; and

32 (vii) At least fifty percent of its load by January 1, 2040, and  
33 each year thereafter.

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

39 ~~((+e))~~ (d) In meeting the annual targets in (a) or (b) of this  
40 subsection, except as provided in (a)(iv) of this subsection, a

1 qualifying utility shall calculate its annual load based on the  
2 average of the utility's load for the previous two years.

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

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

20 ~~((f))~~ (g) In complying with the targets established in (a) or  
21 (b) of this subsection, a qualifying utility may not count:

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

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

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

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

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

39 (B) Where the developer of the facility used apprenticeship  
40 programs in which at least thirty percent of the trainees qualify as

1 low-income. The apprenticeship program must be approved by the  
2 council during facility construction.

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

6 ~~((+i))~~ (j) A qualifying utility that acquires an eligible  
7 renewable resource or renewable energy credit may count that  
8 acquisition at one and one-half times its base value:

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

11 (B) Where one hundred percent of the output over the first twenty  
12 years of the facility's operation is used to offset utility bills of  
13 low-income customers.

14 (k) A qualifying utility shall be considered in compliance with  
15 an annual target in (a) or (b) of this subsection if events beyond  
16 the reasonable control of the utility that could not have been  
17 reasonably anticipated or ameliorated prevented it from meeting the  
18 renewable energy target. Such events include weather-related damage,  
19 mechanical failure, strikes, lockouts, and actions of a governmental  
20 authority that adversely affect the generation, transmission, or  
21 distribution of an eligible renewable resource under contract to a  
22 qualifying utility.

23 ~~((+j))~~ (l)(i) Beginning January 1, 2016, only a qualifying  
24 utility that owns or is directly interconnected to a qualified  
25 biomass energy facility may use qualified biomass energy to meet its  
26 compliance obligation under this subsection.

27 (ii) A qualifying utility may no longer use electricity and  
28 associated renewable energy credits from a qualified biomass energy  
29 facility if the associated industrial pulping or wood manufacturing  
30 facility ceases operation other than for purposes of maintenance or  
31 upgrade.

32 ~~((+k))~~ (m) An industrial facility that hosts a qualified biomass  
33 energy facility may only transfer or sell renewable energy credits  
34 associated with qualified biomass energy generated at its facility to  
35 the qualifying utility with which it is directly interconnected with  
36 facilities owned by such a qualifying utility and that are capable of  
37 carrying electricity at transmission voltage. The qualifying utility  
38 may only use an amount of renewable energy credits associated with  
39 qualified biomass energy that are equivalent to the proportionate  
40 amount of its annual targets under (a)~~((+ii) and (+iii))~~ or (b) of

1 this subsection that was created by the load of the industrial  
2 facility. A qualifying utility that owns a qualified biomass energy  
3 facility may not transfer or sell renewable energy credits associated  
4 with qualified biomass energy to another person, entity, or  
5 qualifying utility.

6 (n) Beginning January 1, 2018, a qualifying utility or small  
7 utility may use eligible renewable resources as identified in RCW  
8 19.285.030(12)(f) to meet its compliance obligations under this  
9 section. A qualifying utility may not transfer or sell these eligible  
10 renewable resources to another utility for compliance purposes under  
11 this chapter.

12 (3) Utilities that become qualifying utilities after December 31,  
13 2006, shall meet the requirements in this section on a time frame  
14 comparable in length to that provided for qualifying utilities as of  
15 December 7, 2006.

16 (4) The department and the commission must convene a work group  
17 to examine the costs and benefits associated with the annual targets  
18 established in subsection (2)(b)(iv) through (vii) of this section.  
19 The work group must assess the potential impacts of these annual  
20 targets on: Resource adequacy and reliability; and electricity  
21 markets within the state and transactions with markets outside of the  
22 state, including the market operated by the California independent  
23 system operator. To assist in its assessment, the work group must, at  
24 a minimum, consist of electric utilities, stakeholders, and other  
25 agencies. The work group must prepare a report of its findings and  
26 recommendations and submit the report, in compliance with RCW  
27 43.01.036, to the appropriate committees of the legislature by  
28 December 1, 2020.

29 (5)(a) The commission must submit a report to the appropriate  
30 committees of the legislature examining the feasibility of applying  
31 the following conservation targets to natural gas utilities while  
32 maintaining the lowest reasonable cost for customers:

33 (i) At least seven-tenths of one percent of a natural gas  
34 utility's retail load by January 1, 2020;

35 (ii) At least one percent of a natural gas utility's retail load  
36 by January 1, 2022; and

37 (iii) At least one and one-half percent of a natural gas  
38 utility's retail load by January 1, 2025.

39 (b) The report must include recommendations for legislative  
40 adoption of annual energy conservation targets for natural gas

1 utilities that escalate over a twenty-year time frame, as well as a  
2 description of the implementation actions necessary to achieve the  
3 targets.

4 (c) The commission must submit the report, in compliance with RCW  
5 43.01.036, by December 31, 2018.

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

8 (1) Except as otherwise provided in subsection (4) of this  
9 section, each consumer-owned qualifying utility, small utility, or  
10 market customer may not use electricity from any of the following  
11 resources to meet new energy or capacity needs:

12 (a) Coal-fired generation;

13 (b) Natural-gas fired generation;

14 (c) Oil or diesel generation; or

15 (d) Waste incineration, in which electricity is derived from  
16 burning solid or liquid wastes from businesses, households,  
17 municipalities, or waste treatment operations.

18 (2)(a) The requirements of subsection (1) of this section apply,  
19 at a minimum, to any new or increased:

20 (i) Ownership interest after July 1, 2020, in a new or existing  
21 electricity generation facility or unit; and

22 (ii) Contractual commitment after July 1, 2020, that obligates or  
23 allows a consumer-owned qualifying utility, small utility, or market  
24 customer to purchase a specified amount of megawatts or megawatt-  
25 hours from an electricity generation facility or unit, or a specified  
26 percentage of an electricity generation facility or unit.

27 (b) A consumer-owned qualifying utility, small utility, or market  
28 customer may not enter into a contract for electricity generation to  
29 meet new energy or capacity needs if the contract does not specify  
30 the sources or origins of the electricity generation.

31 (3) Except as provided in RCW 19.285.030(15)(b), any tradable  
32 certificate of proof of the nonpower attributes of a renewable  
33 resource, including but not limited to a renewable energy credit,  
34 associated with the portion of any resource or resources used to meet  
35 new energy or capacity needs under this section must be retired for  
36 the purposes of this section and cannot be sold, transferred, or used  
37 for other purposes. A consumer-owned qualifying utility, small  
38 utility, or market customer may not use a tradable certificate of  
39 proof of the nonpower attributes of a renewable resource, including

1 but not limited to a renewable energy credit, to meet the  
2 requirements of this section if the associated energy or capacity has  
3 been sold, transferred, or otherwise used separately.

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

6 (a) Renewable resources and eligible renewable resources, as  
7 defined in RCW 19.285.030, that are not used to meet the requirements  
8 of RCW 19.285.040;

9 (b) Short-term spot market purchases;

10 (c) Contracts between a consumer-owned qualifying utility or a  
11 small utility and the Bonneville power administration;

12 (d) Renewal or extension of contracts in effect as of the  
13 effective date of this section, where the renewal or extension does  
14 not lead to any increases in the energy or capacity provided;

15 (e) Coal transition power through 2025;

16 (f) Electricity generation from a natural gas-fired generation  
17 facility that has been converted from a coal-fired baseload facility  
18 in Washington that emitted more than one million tons of greenhouse  
19 gases in any calendar year prior to 2008;

20 (g) Generation resources owned as of the effective date of this  
21 section by a market customer and used by that market customer to meet  
22 its own needs, until the generation resources are at the end of the  
23 facility's useful life, are retired, or cease operations;

24 (h) Generation resources owned as of the effective date of this  
25 section by a consumer-owned qualifying utility or small utility and  
26 used by that utility to meet the needs of its customers, until the  
27 generation resources are at the end of the facility's useful life,  
28 are retired, or cease operations;

29 (i) Increased megawatt-hours from a generation facility that is  
30 owned by a consumer-owned qualifying utility or a small utility as of  
31 the effective date of this section, where the consumer-owned  
32 qualifying utility or small utility uses the increased megawatt-hours  
33 to serve the utility's customers and where the utility's ownership  
34 interest in the facility does not increase;

35 (j) Increased megawatt-hours from a generation facility that is  
36 owned by a market customer as of the effective date of this section,  
37 where the market customer uses the increased megawatt-hours to meet  
38 its own needs and where the market customer's ownership interest in  
39 the facility does not increase; and

1 (k) Electricity generation from a natural gas-fired generation  
2 facility that is in operation as of the effective date of this  
3 section where the total amount of natural gas generation acquired  
4 from all additions does not exceed five percent of the utility's or  
5 market customer's retail load for each year.

6 (5) The requirements of this section do not replace or modify the  
7 requirements established under RCW 19.285.040 for a consumer-owned  
8 qualifying utility, small utility, or market customer. A consumer-  
9 owned qualifying utility, small utility, or market customer must  
10 comply with the requirements of this section in addition to the  
11 requirements imposed elsewhere in this chapter. As provided in  
12 subsection (3) of this section, the portion of any resource or  
13 resources used to meet new energy or capacity needs under this  
14 section may not be used for compliance with the requirements under  
15 RCW 19.285.040.

16 (6) In meeting the requirements under subsection (1) of this  
17 section, a consumer-owned qualifying utility, small utility, or  
18 market customer shall, to the maximum extent feasible:

19 (a) Meet the requirements at the lowest possible costs;

20 (b) Demonstrate that all feasible conservation measures or  
21 investments, reductions in demand, and demand management investments  
22 have been achieved prior to making new investments to meet projected  
23 demand; and

24 (c) In the construction of new resources:

25 (i) Maximize the creation of family wage jobs; and

26 (ii) Rely on renewable resources and storage.

27 **Sec. 5.** RCW 19.285.060 and 2015 c 225 s 22 are each amended to  
28 read as follows:

29 (1) Except as provided in subsection (2) of this section, a  
30 qualifying utility that fails to comply with the energy conservation  
31 or renewable energy targets established in RCW 19.285.040 shall pay  
32 an administrative penalty to the state of Washington in the amount of  
33 fifty dollars for each megawatt-hour of shortfall. Beginning in 2007,  
34 this penalty shall be adjusted annually according to the rate of  
35 change of the inflation indicator, gross domestic product-implicit  
36 price deflator, as published by the bureau of economic analysis of  
37 the United States department of commerce or its successor.

38 (2) A qualifying utility that does not meet an annual renewable  
39 energy target established in RCW 19.285.040(2) is exempt from the



1 administrative penalty in subsection (1) of this section for that  
2 year if the commission for investor-owned utilities or the auditor  
3 for all other qualifying utilities determines that the utility  
4 complied with RCW 19.285.040(2) (~~((d) or (i))~~) (e) or (k) or  
5 19.285.050(1).

6 (3) A small utility that fails to comply with the energy  
7 conservation targets established in RCW 19.285.040 shall pay the  
8 administrative penalty in subsection (1) of this section.

9 (4) A consumer-owned qualifying utility, small utility, or market  
10 customer that fails to comply with the requirements regarding new  
11 energy or capacity needs established in section 4 of this act shall  
12 pay an administrative penalty to the state of Washington of fifty  
13 dollars for each megawatt-hour of energy or megawatt of capacity from  
14 a generation resource listed in section 4(1) of this act that was  
15 used to meet new energy or capacity needs. This penalty must be  
16 adjusted annually according to the rate of change of the inflation  
17 indicator, gross domestic product-implicit price deflator, as  
18 published by the bureau of economic analysis of the United States  
19 department of commerce or its successor.

20 (5) A qualifying utility or small utility must notify its retail  
21 electric customers in published form within three months of incurring  
22 a penalty regarding the size of the penalty and the reason it was  
23 incurred.

24 (~~((4))~~) (6) The commission shall determine if an investor-owned  
25 utility may recover the cost of this administrative penalty in  
26 electric rates, and may consider providing positive incentives for an  
27 investor-owned utility to exceed the targets established in RCW  
28 19.285.040.

29 (~~((5))~~) (7) Administrative penalties collected under this chapter  
30 shall be deposited into the energy independence act special account  
31 which is hereby created. All receipts from administrative penalties  
32 collected under this chapter must be deposited into the account.  
33 Expenditures from the account may be used only for the purchase of  
34 renewable energy credits or for energy conservation projects at  
35 public facilities, local government facilities, community colleges,  
36 or state universities. The state shall own and retire any renewable  
37 energy credits purchased using moneys from the account. Only the  
38 director of enterprise services or the director's designee may  
39 authorize expenditures from the account. The account is subject to

1 allotment procedures under chapter 43.88 RCW, but an appropriation is  
2 not required for expenditures.

3 ~~((6))~~ (8) For ~~((a qualifying utility that is))~~ an investor-  
4 owned utility, the commission shall determine compliance with the  
5 provisions of this chapter and assess penalties for noncompliance as  
6 provided in subsection (1) of this section.

7 ~~((7))~~ (9) For ~~((qualifying utilities that are not investor-  
8 owned utilities))~~ a consumer-owned utility, the auditor is  
9 responsible for auditing compliance with this chapter and rules  
10 adopted under this chapter that apply to those utilities and the  
11 attorney general is responsible for enforcing that compliance.

12 (10) For a market customer, the attorney general is responsible  
13 for enforcing compliance with this chapter, except that the  
14 commission is responsible for enforcing compliance with RCW  
15 19.285.040 for a market customer of an investor-owned utility.

16 **Sec. 6.** RCW 19.285.070 and 2007 c 1 s 7 are each amended to read  
17 as follows:

18 (1) On or before June 1, 2012, and annually thereafter, each  
19 qualifying utility shall report to the department on its progress in  
20 the preceding year in meeting the targets established in RCW  
21 19.285.040, including expected electricity savings from the biennial  
22 conservation target, expenditures on conservation, actual electricity  
23 savings results, market customers' aggregated conservation  
24 expenditures and savings if applicable, the utility's annual load for  
25 the prior two years, the amount of megawatt-hours needed to meet the  
26 annual renewable energy target, the amount of megawatt-hours of each  
27 type of eligible renewable resource acquired, the type and amount of  
28 renewable energy credits acquired, and the percent of its total  
29 annual retail revenue requirement invested in the incremental cost of  
30 eligible renewable resources and the cost of renewable energy  
31 credits. For each year that a qualifying utility elects to  
32 demonstrate alternative compliance under RCW 19.285.040(2) ~~((d) or~~  
33 ~~(i))~~ (e) or (k) or 19.285.050(1), it must include in its annual  
34 report relevant data to demonstrate that it met the criteria in that  
35 section. A qualifying utility may submit its report to the department  
36 in conjunction with its annual obligations in chapter 19.29A RCW.

37 (2) ~~((A qualifying utility that is an))~~ On or before June 1,  
38 2022, and annually thereafter, each small utility shall report to the  
39 department on its progress in the preceding year in meeting the

1 conservation targets established in RCW 19.285.040, including  
2 expected electricity savings from the biennial conservation target,  
3 expenditures on conservation, actual electricity savings results,  
4 market customers' aggregated conservation expenditures and savings if  
5 applicable, and the utility's annual load for the prior two years.

6 (3) On or before July 1, 2021, and annually thereafter, each  
7 consumer-owned qualifying utility, small utility, and market customer  
8 shall report to the department on the electricity resources used to  
9 meet any new energy or capacity needs in accordance with section 4 of  
10 this act, including but not limited to the amount of megawatt-hours  
11 or megawatts needed, and the amount of megawatt-hours or megawatts of  
12 each type of resource acquired, including those resources exempted  
13 from compliance under section 4(4) of this act.

14 (4) Each investor-owned utility shall also report all information  
15 required in subsection (1) of this section to the commission, and  
16 ~~((all other qualifying utilities))~~ each consumer-owned utility shall  
17 also make all information required in subsection (1) of this section  
18 available to the auditor.

19 ~~((+3))~~ (5) A qualifying utility and small utility shall also  
20 make reports required in this section available to its customers.

21 (6) Each market customer shall make all information required in  
22 subsection (3) of this section available to the office of the  
23 attorney general.

24 **Sec. 7.** RCW 19.285.080 and 2017 c 315 s 3 are each amended to  
25 read as follows:

26 (1) The commission may adopt rules to ensure the proper  
27 implementation and enforcement of this chapter as it applies to  
28 investor-owned utilities.

29 (2) The department shall adopt rules concerning only process,  
30 timelines, and documentation to ensure the proper implementation of  
31 this chapter as it applies to ~~((qualifying utilities that are not~~  
32 ~~investor-owned))~~ consumer-owned utilities. Those rules include, but  
33 are not limited to, rules associated with a qualifying utility's or a  
34 small utility's development of conservation targets under RCW  
35 19.285.040(1); a qualifying utility's decision to pursue alternative  
36 compliance in RCW 19.285.040(2) ~~((+d) or (+i))~~ (e) or (k) or  
37 19.285.050(1); the format and content of reports required in RCW  
38 19.285.070; and the development of a methodology for calculating  
39 baseline levels of generation under RCW 19.285.030(12) ~~((+f))~~ (g).

1 Nothing in this subsection may be construed to restrict the rate-  
2 making authority of the commission, a small utility, or a qualifying  
3 utility as otherwise provided by law.

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

7 (4) Pursuant to the administrative procedure act, chapter 34.05  
8 RCW, rules needed for the implementation of this chapter must be  
9 adopted by December 31, 2007. These rules may be revised as needed to  
10 carry out the intent and purposes of this chapter.

11 (5) The department must adopt rules to ensure proper  
12 implementation of this chapter as it applies to market customers. The  
13 rules must include, but are not limited to, rules associated with a  
14 market customer's acquisition of resources in accordance with section  
15 4 of this act and the format and content of reports required under  
16 RCW 19.285.070.

17 NEW SECTION. Sec. 8. A new section is added to chapter 82.08  
18 RCW to read as follows:

19 (1) Subject to the limitations in this section, a person who has  
20 paid the tax imposed by RCW 82.08.020 is eligible for an exemption  
21 from the full amount of state tax in the form of a remittance for  
22 charges made for labor and services rendered by any person in respect  
23 to the constructing, expanding, upgrading, or improving of an  
24 eligible renewable energy investment project, or to sales of tangible  
25 personal property that becomes an ingredient or component of an  
26 eligible renewable energy investment project.

27 (2) The exemption in this section is available in the form of a  
28 remittance. The total amount of remittance a person may receive under  
29 this section and section 9 of this act is limited to one million  
30 dollars per eligible renewable energy investment project.

31 (3) A person may claim the exemption by submitting a remittance  
32 application, in a form and manner as required by the department,  
33 specifying the amount of exempted tax claimed and the qualifying  
34 purchases for which the exemption is claimed. A person may not apply  
35 for a remittance more frequently than once per quarter. The person  
36 must retain, in adequate detail to enable the department to determine  
37 whether the purchases meet the criteria under this section: Invoices;  
38 proof of tax paid; documents describing the location and size of new  
39 structures; and construction invoices and documents.

1 (4) The department must determine eligibility under this section  
2 based on information provided by the person claiming the remittance  
3 and through audit and other administrative records. The department  
4 must on a quarterly basis remit exempted amounts to a person  
5 submitting remittance applications during the previous quarter.

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

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

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

18 (6) This section applies to state sales taxes billed to a person  
19 claiming the remittance on or after January 1, 2019.

20 (7) The exemption under this section expires January 1, 2029. The  
21 department may not approve any remittance claimed after December 31,  
22 2029.

23 (8) The legislature intends for the tax preference in this  
24 section to expire; therefore, this section is not subject to the  
25 provisions of RCW 82.32.805 and 82.32.808.

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

28 (1) Subject to the limitations in this section, a person who has  
29 paid the tax imposed by RCW 82.12.020 is eligible for an exemption  
30 from the full amount of state tax in the form of a remittance for the  
31 use of tangible personal property that becomes an ingredient or  
32 component of an eligible renewable energy investment project.

33 (2) The exemption in this section is available in the form of a  
34 remittance. The total amount of remittance a person may receive under  
35 this section and section 8 of this act is limited to one million  
36 dollars per eligible renewable energy investment project.

37 (3) A person may claim the exemption by submitting a remittance  
38 application, in a form and manner as required by the department,  
39 specifying the amount of exempted tax claimed and the qualifying

1 purchases for which the exemption is claimed. A person may not apply  
2 for a remittance more frequently than once per quarter. The person  
3 must retain, in adequate detail to enable the department to determine  
4 whether the purchases meet the criteria under this section: Invoices;  
5 proof of tax paid; documents describing the location and size of new  
6 structures; and construction invoices and documents.

7 (4) The department must determine eligibility under this section  
8 based on information provided by the person claiming the remittance  
9 and through audit and other administrative records. The department  
10 must on a quarterly basis remit exempted amounts to a person  
11 submitting remittance applications during the previous quarter.

12 (5) The definitions in section 8 of this act apply to this  
13 section.

14 (6) This section applies to tangible personal property acquired  
15 on or after January 1, 2019.

16 (7) The exemption under this section expires January 1, 2029. The  
17 department may not approve any remittance claimed after December 31,  
18 2029.

19 (8) The legislature intends for the tax preference in this  
20 section to expire; therefore, this section is not subject to the  
21 provisions of RCW 82.32.805 and 82.32.808.

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

24 The definitions in this section apply throughout this section and  
25 sections 11, 12, and 13 of this act, unless the context clearly  
26 requires otherwise.

27 (1) "Commission" means the utilities and transportation  
28 commission.

29 (2) "Consumer-owned energy utility" means any consumer-owned gas  
30 distribution business or consumer-owned light and power business.

31 (3) "Consumer-owned gas distribution business" means any gas  
32 distribution business not subject to regulation by the commission of  
33 the rates, tolls, rentals, contracts or charges, or service rendered,  
34 or the adequacy or sufficiency of the facilities, equipment,  
35 instrumentalities, or buildings, or the reasonableness of rules or  
36 regulations made, furnished, used, supplied, or in force affecting  
37 any gas plant owned and operated by such gas distribution business.

38 (4) "Consumer-owned light and power business" means any light and  
39 power business not subject to regulation by the commission of the

1 rates, tolls, rentals, contracts or charges, or service rendered, or  
2 the adequacy or sufficiency of the facilities, equipment,  
3 instrumentalities, or buildings, or the reasonableness of rules or  
4 regulations made, furnished, used, supplied, or in force affecting  
5 any electric plant owned and operated by such light and power  
6 business.

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

8 (6) "Gas distribution business" has the same meaning as provided  
9 in RCW 82.16.010.

10 (7) "Investor-owned energy utility" means any investor-owned gas  
11 distribution business or investor-owned light and power business.

12 (8) "Investor-owned gas distribution business" means any gas  
13 distribution business subject to regulation by the commission of the  
14 rates, tolls, rentals, contracts or charges, or service rendered, or  
15 the adequacy or sufficiency of the facilities, equipment,  
16 instrumentalities, or buildings, or the reasonableness of rules or  
17 regulations made, furnished, used, supplied, or in force affecting  
18 any gas plant owned and operated by such gas distribution business.

19 (9) "Investor-owned light and power business" means any light and  
20 power business subject to regulation by the commission of the rates,  
21 tolls, rentals, contracts or charges, or service rendered, or the  
22 adequacy or sufficiency of the facilities, equipment,  
23 instrumentalities, or buildings, or the reasonableness of rules or  
24 regulations made, furnished, used, supplied, or in force affecting  
25 any electric plant owned and operated by such light and power  
26 business.

27 (10) "Light and power business" has the same meaning as provided  
28 in RCW 82.16.010.

29 (11) "Low-income" means an annual income, adjusted for household  
30 size, that is at or below the greater of: (a) Eighty percent of the  
31 area median income; or (b) two hundred percent of the federal poverty  
32 level.

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

35 (1)(a) Beginning July 1, 2019, an investor-owned energy utility  
36 or a consumer-owned energy utility is allowed a credit against taxes  
37 due under this chapter in an amount equal to the total amount of  
38 clean energy investment expenditures approved pursuant to this  
39 section.

1 (b) The total amount of credit statewide that may be taken in any  
2 fiscal biennium shall not exceed ten million dollars.

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

6 (2)(a) To be eligible for the credit under this section, an  
7 investor-owned energy utility must, as of the date the credit is  
8 claimed, have received approval by the commission of a clean energy  
9 investment plan pursuant to section 12 of this act.

10 (b) Each investor-owned energy utility claiming a credit under  
11 this section must establish and maintain a separate clean energy  
12 investment account into which it must deposit amounts equal to the  
13 credit taken under this section. Moneys in the clean energy  
14 investment account must be deposited in an interest-bearing account  
15 in a financial institution as defined by RCW 30A.22.040 that is  
16 separate from other accounts and that credits all interest earned on  
17 the funds to that account. Moneys in the clean energy investment  
18 account may only be expended for the purposes identified in this  
19 chapter.

20 (c) An investor-owned energy utility may not earn a rate of  
21 return from the portion of investments paid for with moneys from the  
22 clean energy investment account.

23 (d) Moneys in the separate clean energy investment account are  
24 considered gross operating revenue for the purposes of RCW 80.24.010,  
25 and may not be considered gross income for the purposes of this  
26 chapter and chapter 82.04 RCW.

27 (3)(a) To be eligible for the credit under this section, a  
28 consumer-owned energy utility must, as of the date the credit is  
29 claimed, have a plan, developed pursuant to section 13 of this act  
30 and approved by the governing body of the consumer-owned utility, to  
31 reinvest an equivalent amount of revenues collected from customers  
32 during that year, the preceding year, or any of the three subsequent  
33 years.

34 (b) Each consumer-owned energy utility claiming a credit under  
35 this section must establish and maintain a separate clean energy  
36 investment account into which it must deposit amounts equal to the  
37 credit taken under this section. Moneys in this account must be kept  
38 separate from other accounts, and may only be expended for the  
39 purposes identified in this chapter. Interest accrued on this account  
40 must be expended only for purposes identified in this chapter.



1 (c) Moneys retained in the separate clean energy investment  
2 account are not considered gross income for the purposes of this  
3 chapter.

4 (4) Credits may not be earned under this section after December  
5 31, 2029. Credits must be claimed under this section by December 31,  
6 2030.

7 (5) The legislature intends for the tax preference in this  
8 section to expire; therefore, this section is not subject to the  
9 provisions of RCW 82.32.805 and 82.32.808.

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

12 (1) To be eligible for the tax credit under section 11 of this  
13 act, an investor-owned energy utility must develop and maintain an  
14 approved clean energy investment plan, which identifies approved  
15 funding for clean energy investments over a ten-year period, pursuant  
16 to subsections (4) and (6) of this section, as part of the investor-  
17 owned energy utility's integrated resource plan required under  
18 chapter 19.280 RCW or WAC 480-90-238.

19 (2) When developing and updating its clean energy investment  
20 plan, an investor-owned energy utility must solicit public input  
21 through public processes under the oversight of the commission.

22 (3) Beginning July 1, 2019, an investor-owned energy utility  
23 seeking a credit under section 11 of this act must submit:

24 (a) A clean energy investment plan as part of its integrated  
25 resource plan;

26 (b) A summary of the public input received during development of  
27 the plan; and

28 (c) A schedule for independent evaluation of activities financed  
29 through the clean energy investment plan, including verification of  
30 carbon emissions reductions. The reasonable costs of such independent  
31 evaluations may be included in a utility's clean energy investment  
32 plan and paid for from a utility's clean energy investment account.

33 (4) Each clean energy investment plan must include the following:

34 (a) A demonstration that the portfolio of funded activities will  
35 achieve significant reductions in carbon dioxide emissions at a  
36 reasonable cost over the shortest reasonable time frame;

37 (b) An estimate of the cost per ton of emissions reductions for  
38 the portfolio of projects in the clean energy investment plan;

1 (c) A demonstration that expenditures in the clean energy  
2 investment plan will be additional to expenditures necessary to meet  
3 other emissions reduction, energy conservation, low-income programs,  
4 or renewable energy requirements; and

5 (d) Sufficient funding, as determined by the commission, to  
6 mitigate increases in electric costs to qualifying low-income  
7 customers as a result of the annual renewable energy targets  
8 established under RCW 19.285.040 for investor-owned qualifying  
9 utilities, if applicable. Such moneys must be additional to other  
10 funding for low-income energy assistance.

11 (5) Each clean energy investment plan may include the following:

12 (a) A customer education and outreach program to promote  
13 widespread participation by consumers and businesses; and

14 (b) Up to ten percent of the expenditures in the clean energy  
15 investment account established pursuant to section 11 of this act may  
16 be dedicated for research and development by the investor-owned  
17 energy utility that will promote energy conservation or the  
18 deployment of zero-emission energy resources.

19 (6)(a) A clean energy investment plan must include programs for  
20 investments or expenditures that are incremental to investments or  
21 expenditures required by existing regulations on the effective date  
22 of this section; and

23 (i) Reduce greenhouse gas emissions of the investor-owned energy  
24 utility; or

25 (ii) Advance market transformation, educate consumers, invest in  
26 forest health, develop new low carbon fuels such as renewable natural  
27 gas, increase participation in programs that incentivize consumers to  
28 choose low carbon alternatives, or increase carbon sequestration.

29 (b) Eligible investments may include contributions in aid of  
30 construction or expenditures for the following:

31 (i) Additional conservation in excess of the targets established  
32 under RCW 19.285.040, other state obligations, or other obligations  
33 established by the commission in effect on the effective date of this  
34 section;

35 (ii) Market transformation for energy efficiency products;

36 (iii) Eligible renewable resources as defined in RCW 19.285.030,  
37 in excess of the targets established under RCW 19.285.040 in effect  
38 on the effective date of this section;

39 (iv) Low-income weatherization;

1 (v) Measures to support electrification of the transportation  
2 sector;

3 (vi) Investment in clean distributed energy resources and grid  
4 modernization to facilitate distributed energy resources and improved  
5 grid resiliency;

6 (vii) Research and development that will promote energy  
7 conservation, or the deployment of zero-emission energy resources;

8 (viii) Investments in renewable natural gas production, including  
9 equipment to collect or condition biogas, or equipment used solely  
10 for the purpose of delivering biogas for consumption;

11 (ix) Incentives for small businesses to support energy efficiency  
12 and the replacement of equipment; and

13 (x) Contributions to self-directed investments in the following  
14 measures to serve the sites of large industrial gas and electrical  
15 customers: Conservation; new renewable energy resources; behind-the-  
16 meter technology that facilitates demand response cooperation to  
17 reduce peak loads; infrastructure to support electrification of  
18 transportation needs and heating loads; or renewable natural gas  
19 production, including gas conditioning equipment for biogas.

20 (7) Funds from a clean energy investment account may be expended  
21 by an investor-owned energy utility to replace all or part of the  
22 debt financing portion of capital projects identified in the  
23 utility's approved clean energy investment plan, if the commission  
24 determines that such treatment would reduce the overall cost of the  
25 project to customers, and is otherwise consistent with the purposes  
26 of this section.

27 (8) Investments in new infrastructure or facilities to process or  
28 liquefy fossil fuels are not eligible for inclusion in a clean energy  
29 investment plan.

30 (9) Upon approval of a clean energy investment plan, an investor-  
31 owned energy utility must expend moneys from its clean energy  
32 investment account in accordance with the clean energy investment  
33 plan approved by the commission.

34 (10) In order to maintain eligibility for the tax credit under  
35 section 9 of this act and to retain authority to expend money from a  
36 clean energy investment account, an investor-owned energy utility  
37 must submit and receive approval of an updated clean energy  
38 investment plan every two years, and submit annual reports to the  
39 commission, including:

1 (a) The status of projects approved in the previous clean energy  
2 investment plan;

3 (b) Demonstration that the plan has met performance standards  
4 established by the commission by rule or order;

5 (c) An accounting of verified emissions reductions, and the cost  
6 per ton of emissions reductions compared to estimates of the cost per  
7 ton in emissions reductions contained in the clean energy investment  
8 plan; and

9 (d) An updated estimate of future emissions reductions and the  
10 estimated cost per ton.

11 (11) If the commission determines that the plan or any project in  
12 the plan did not meet performance standards, the commission may  
13 require the utility to remit remaining tax moneys dedicated for the  
14 nonperforming plan or project to the department of revenue.

15 (12) The commission must annually provide the department of  
16 revenue a report summarizing which investor-owned energy utilities  
17 are entitled to the credit, over what timeline, any required  
18 adjustments to credit previously issued, and any further information  
19 required to assist the department of revenue in administering the  
20 credit allowed under section 11 of this act.

21 (13) By July 1, 2019, the commission must adopt rules concerning  
22 the process, timelines, reporting, and documentation required to  
23 ensure proper implementation of this section. Such rules must also  
24 establish requirements for review, approval, performance standards,  
25 and independent monitoring and evaluation of clean energy investment  
26 plans of investor-owned energy utilities.

27 NEW SECTION. **Sec. 13.** A new section is added to chapter 82.16  
28 RCW to read as follows:

29 (1) To be eligible for the tax credit under section 11 of this  
30 act, a consumer-owned energy utility must develop and maintain a  
31 clean energy investment plan that is approved by its governing body  
32 as part of its integrated resource plan or other resource plan  
33 required under chapter 19.280 RCW, if applicable.

34 (2) When developing and updating its clean energy investment  
35 plan, a consumer-owned energy utility must solicit public input  
36 through public processes under the oversight of its governing body.

37 (3) Each clean energy investment plan must include:

38 (a) A summary of the public input received during development of  
39 the plan; and

1 (b) A schedule for independent evaluation of activities financed  
2 through the clean energy investment plan, including verification of  
3 carbon emissions reductions. The reasonable costs of such independent  
4 evaluations may be included in a utility's clean energy investment  
5 plan and paid for from a utility's clean energy investment account.

6 (4) A clean energy investment plan must include:

7 (a) Programs for investments or expenditures that:

8 (i) Are incremental to investments or expenditures required by  
9 existing regulations on the effective date of this section; and

10 (ii)(A) Reduce carbon dioxide emissions of the utility; or

11 (B) Advance market transformation, educate consumers, invest in  
12 forest health, develop new low carbon fuels such as renewable natural  
13 gas, increase participation in programs that incentivize consumers to  
14 choose low carbon alternatives, or increase carbon sequestration;

15 (b) A demonstration that the portfolio of funded activities can  
16 reasonably be expected to achieve reductions in greenhouse gas  
17 emissions;

18 (c) An estimate of the metric tons of emissions reductions and  
19 the cost per metric ton of emissions reductions for the portfolio of  
20 projects in the clean energy investment plan;

21 (d) A demonstration that expenditures in the clean energy  
22 investment plan will be additional to expenditures necessary to meet  
23 other emissions reduction, energy conservation, or renewable energy  
24 requirements;

25 (e) A customer education and outreach program; and

26 (f) Sufficient funding, as determined by the department, to  
27 mitigate increases in electric costs to qualifying low-income  
28 customers as a result of the annual renewable energy targets  
29 established under RCW 19.285.040 and the resource acquisition  
30 requirements established under section 4 of this act for consumer-  
31 owned qualifying utilities and small utilities, if applicable. Such  
32 moneys must be additional to other funding for low-income energy  
33 assistance.

34 (5) A clean energy investment plan may only include the following  
35 types of investments or expenditures:

36 (a) Additional conservation in excess of the targets established  
37 under RCW 19.285.040, or other state obligations;

38 (b) Market transformation of energy efficiency products;

39 (c) Eligible renewable resources as defined in RCW 19.285.030, in  
40 excess of the targets established under RCW 19.285.040;

1 (d) Low-income weatherization;

2 (e) Measures to support electrification of the transportation  
3 sector;

4 (f) Investments in forest health and increased carbon  
5 sequestration;

6 (g) Investments in clean distributed energy resources and grid  
7 modernization to facilitate distributed energy resources and improved  
8 grid resiliency;

9 (h) Research and development that will promote energy  
10 conservation or the deployment of zero-emission energy resources;

11 (i) Investments in renewable natural gas production, including  
12 gas conditioning equipment for biogas;

13 (j) Investments in the following measures to serve the sites of  
14 large industrial gas and electrical customers: Conservation; new  
15 renewable energy resources; behind-the-meter technology that  
16 facilitates demand response cooperation to reduce peak loads;  
17 infrastructure to support electrification of transportation needs and  
18 heating loads; or renewable natural gas production, including gas  
19 conditioning equipment for biogas;

20 (k) Investments in zero-carbon emission resources, including  
21 installing generation capacity at levies, irrigation canals, and  
22 existing unpowered dams that comply with all federal and state  
23 permitting requirements;

24 (l) Investments that lower net emissions through fuel switching;

25 (m) Incentives for small businesses to support energy efficiency  
26 and the replacement of equipment;

27 (n) Other measures as determined by the governing body to meet  
28 the requirements of this section; and

29 (o) The reasonable costs of administration of the clean energy  
30 investment program.

31 (6) In order to maintain eligibility for the tax credit under  
32 section 9 of this act and to continue to retain authority to expend  
33 money from the utility's clean energy investment account, a consumer-  
34 owned energy utility must submit and receive approval from its  
35 governing body of an updated clean energy investment plan every two  
36 years.

37 (7)(a) A consumer-owned energy utility may enter into an  
38 agreement with a joint operating agency organized under chapter 43.52  
39 RCW on or before January 1, 2017, to aggregate claims for the credit  
40 allowed under section 11 of this act and to develop and implement a

1 joint clean energy investment plan. Implementation of a joint clean  
2 energy investment plan may not begin until the governing bodies of  
3 all member utilities have approved the plan through a public process.

4 (b) A consumer-owned energy utility that is not a member of a  
5 joint operating agency may enter into an agreement with a nonprofit  
6 organization to aggregate claims for the credit allowed under section  
7 11 of this act and to develop and implement a joint clean energy  
8 investment plan. Implementation of a joint clean energy investment  
9 plan may not begin until the governing bodies of all participating  
10 utilities have approved the plan through a public process.

11 (c) Each utility that enters into an agreement authorized under  
12 (a) or (b) of this subsection must empower the joint operating agency  
13 or nonprofit organization to, on their behalf, claim the credit  
14 allowed under section 11 of this act. The joint operating agency or  
15 nonprofit organization must establish and maintain a separate clean  
16 energy investment account and deposit into that account amounts equal  
17 to the credits taken under this subsection. Moneys in this account  
18 must be kept separate from other accounts, and may only be expended  
19 for the purposes identified in this chapter.

20 (8) A consumer-owned energy utility must submit annual reports to  
21 the department including, but not limited to:

22 (a) The status of projects approved in the previous clean energy  
23 investment plan; and

24 (b) Using performance metrics established by the department:

25 (i) An accounting of greenhouse gas emissions reductions achieved  
26 and the cost per metric ton of emissions reductions compared to  
27 estimates of the cost per metric ton in emissions reductions  
28 contained in the clean energy investment plan; and

29 (ii) An updated estimate of future greenhouse gas emissions  
30 reductions and the estimated cost per metric ton.

31 (9) The state auditor is responsible for auditing compliance with  
32 the approved plan for consumer-owned energy utilities that are  
33 subject to the jurisdiction of the state auditor and the attorney  
34 general is responsible for enforcing that compliance. An independent  
35 auditor selected by a consumer-owned energy utility that is not  
36 subject to the jurisdiction of the state auditor is responsible for  
37 auditing compliance with the approved plan and the attorney general  
38 is responsible for enforcing that compliance.

39 (10) If the department determines that the plan or any project in  
40 the plan did not meet performance metrics, the department must notify

1 the department of revenue. The department of revenue may require the  
2 utility to remit remaining tax moneys dedicated for the nonperforming  
3 plan or project.

4 (11) By July 1, 2019, the department must adopt rules concerning  
5 only the process, timelines, reporting, documentation, and  
6 performance metrics required to ensure the proper implementation of  
7 this section. Such rules may include rules associated with the  
8 development, implementation, and evaluation of clean energy  
9 investment plans. The department and the commission must, to the  
10 extent practicable, adopt rules that are similar enough to ensure  
11 coordinated and consistent implementation of this section and section  
12 12 of this act for consumer-owned and investor-owned energy  
13 utilities.

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