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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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) "Eligible renewable resource" means:

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

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

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

(d) Qualified biomass energy;

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

(f) Beginning January 1, 2018, the portion of incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, attributable to a qualifying utility's Washington share of electricity output from hydroelectric generation projects whose energy output is marketed by the Bonneville power administration, where the additional generation does not result in water diversions or impoundments; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Electricity load growth;

(b) Changes in capacity needs;

(c) Changes in ancillary services needs;

(d) Changes in reliability needs;

(e) Changes in flexibility needs;

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

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

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

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

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

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

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

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

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

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

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

(d)(i) Except as provided in ((~~(c)~~)) (d)(ii) and (iii) of this subsection, beginning on January 1, 2014, ((~~cost-effective~~)) for qualifying utilities or January 1, 2020, for small utilities, conservation achieved by a qualifying utility or small utility in excess of its biennial acquisition target may be used to help meet the immediately subsequent two biennial acquisition targets, such that no more than twenty percent of any biennial target may be met with excess conservation savings.

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

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

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

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

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

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

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

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

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

(iii) Qualifying utilities and small utilities must leverage state and federal dollars such that conservation measures for low-income customers and any associated costs are fully funded, in accordance with guidelines to be established by the commission, for investor-owned utilities, or by the department, for consumer-owned utilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

((~~(c)~~)) (d) In meeting the annual targets in (a) or (b) of this subsection, except as provided in (a)(iv) of this subsection, a qualifying utility shall calculate its annual load based on the average of the utility's load for the previous two years.

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

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

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

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

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

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

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

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

(B) Where the developer of the facility used apprenticeship programs in which at least thirty percent of the trainees qualify as low-income. The apprenticeship program must be approved by the council during facility construction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The report must include recommendations for legislative adoption of annual energy conservation targets for natural gas utilities that escalate over a twenty-year time frame, as well as a description of the implementation actions necessary to achieve the targets.

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

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

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

(a) Coal-fired generation;

(b) Natural-gas fired generation;

(c) Oil or diesel generation; or

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

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

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

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

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

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

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

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

(b) Short-term spot market purchases;

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

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

(e) Coal transition power through 2025;

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

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

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

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

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

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

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

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

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

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

(c) In the construction of new resources:

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

(ii) Rely on renewable resources and storage.

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

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

(2) A qualifying utility that does not meet an annual renewable energy target established in RCW 19.285.040(2) is exempt from the administrative penalty in subsection (1) of this section for that year if the commission for investor-owned utilities or the auditor for all other qualifying utilities determines that the utility complied with RCW 19.285.040(2) ((~~(d) or (i)~~)) (e) or (k) or 19.285.050(1).

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

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

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

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

((~~(5)~~)) (7) Administrative penalties collected under this chapter shall be deposited into the energy independence act special account which is hereby created. All receipts from administrative penalties collected under this chapter must be deposited into the account. Expenditures from the account may be used only for the purchase of renewable energy credits or for energy conservation projects at public facilities, local government facilities, community colleges, or state universities. The state shall own and retire any renewable energy credits purchased using moneys from the account. Only the director of enterprise services or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

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

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

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

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

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

(2) ((~~A qualifying utility that is an~~)) On or before June 1, 2022, and annually thereafter, each small utility shall report to the department on its progress in the preceding year in meeting the conservation targets established in RCW 19.285.040, including expected electricity savings from the biennial conservation target, expenditures on conservation, actual electricity savings results, market customers' aggregated conservation expenditures and savings if applicable, and the utility's annual load for the prior two years.

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

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

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

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

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

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

(2) The department shall adopt rules concerning only process, timelines, and documentation to ensure the proper implementation of this chapter as it applies to ((~~qualifying utilities that are not investor~~‑~~owned~~)) consumer-owned utilities. Those rules include, but are not limited to, rules associated with a qualifying utility's or a small utility's development of conservation targets under RCW 19.285.040(1); a qualifying utility's decision to pursue alternative compliance in RCW 19.285.040(2) ((~~(d) or (i)~~)) (e) or (k) or 19.285.050(1); the format and content of reports required in RCW 19.285.070; and the development of a methodology for calculating baseline levels of generation under RCW 19.285.030(12)((~~(f)~~)) (g). Nothing in this subsection may be construed to restrict the rate-making authority of the commission, a small utility, or a qualifying utility as otherwise provided by law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) "Consumer-owned light and power business" means any light and power business not subject to regulation by the commission of the rates, tolls, rentals, contracts or charges, or service rendered, or the adequacy or sufficiency of the facilities, equipment, instrumentalities, or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied, or in force affecting any electric plant owned and operated by such light and power business.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Market transformation for energy efficiency products;

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

(iv) Low-income weatherization;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Each clean energy investment plan must include:

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

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

(4) A clean energy investment plan must include:

(a) Programs for investments or expenditures that:

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

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

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

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

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

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

(e) A customer education and outreach program; and

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

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

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

(b) Market transformation of energy efficiency products;

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

(d) Low-income weatherization;

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

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

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

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

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

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

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

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

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

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

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

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

(7)(a) A consumer-owned energy utility may enter into an agreement with a joint operating agency organized under chapter 43.52 RCW on or before January 1, 2017, to aggregate claims for the credit allowed under section 11 of this act and to develop and implement a joint clean energy investment plan. Implementation of a joint clean energy investment plan may not begin until the governing bodies of all member utilities have approved the plan through a public process.

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

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

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

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

(b) Using performance metrics established by the department:

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

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

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

(10) If the department determines that the plan or any project in the plan did not meet performance metrics, the department must notify the department of revenue. The department of revenue may require the utility to remit remaining tax moneys dedicated for the nonperforming plan or project.

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

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