

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5116

66th Legislature
2019 Regular Session

Passed by the Senate April 22, 2019
Yeas 29 Nays 20

President of the Senate

Passed by the House April 11, 2019
Yeas 56 Nays 42

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5116** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5116

AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By Senate Ways & Means (originally sponsored by Senators Carlyle, Palumbo, McCoy, Pedersen, Wellman, Das, Rolfes, Frockt, Wilson, C., Kuderer, Nguyen, Keiser, Lias, Hunt, Saldaña, Darneille, and Billig; by request of Governor Inslee)

READ FIRST TIME 02/21/19.

1 AN ACT Relating to supporting Washington's clean energy economy
2 and transitioning to a clean, affordable, and reliable energy future;
3 amending RCW 19.280.030, 80.84.010, 82.08.962, 82.12.962, 80.04.250,
4 43.21F.090, 19.285.030, and 19.285.040; adding new sections to
5 chapter 80.28 RCW; adding a new chapter to Title 19 RCW; creating new
6 sections; prescribing penalties; providing expiration dates; and
7 declaring an emergency.

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

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

15 (2) With our wealth of carbon-free hydropower, Washington has
16 some of the cleanest electricity in the United States. But
17 electricity remains a large source of emissions in our state. We are
18 at a critical juncture for transforming our electricity system. It is
19 the policy of the state to eliminate coal-fired electricity,
20 transition the state's electricity supply to one hundred percent
21 carbon-neutral by 2030, and one hundred percent carbon-free by 2045.

1 In implementing this chapter, the state must prioritize the
2 maximization of family wage job creation, seek to ensure that all
3 customers are benefiting from the transition to a clean energy
4 economy, and provide safeguards to ensure that the achievement of
5 this policy does not impair the reliability of the electricity system
6 or impose unreasonable costs on utility customers.

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

14 (4) The legislature finds that Washington can accomplish the
15 goals of this act while: Promoting energy independence; creating
16 high-quality jobs in the clean energy sector; maximizing the value of
17 hydropower, our principal renewable resource; continuing to encourage
18 and provide incentives for clean alternative energy sources,
19 including providing electricity for the transportation sector;
20 maintaining safe and reliable electricity to all customers at stable
21 and affordable rates; and protecting clean air and water in the
22 Pacific Northwest. Clean energy creates more jobs per unit of energy
23 produced than fossil fuel sources, so this transition will contribute
24 to job growth in Washington while addressing our climate crisis head
25 on. Our abundance of renewable energy and our strong clean technology
26 sector make Washington well positioned to be at the forefront of the
27 transition to one hundred percent clean electricity.

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

1 (6) The legislature recognizes and finds that the public interest
2 includes, but is not limited to: The equitable distribution of energy
3 benefits and reduction of burdens to vulnerable populations and
4 highly impacted communities; long-term and short-term public health,
5 economic, and environmental benefits and the reduction of costs and
6 risks; and energy security and resiliency. It is the intent of the
7 legislature that in achieving this policy for Washington, there
8 should not be an increase in environmental health impacts to highly
9 impacted communities.

10 (7) It is the intent of the legislature to provide flexible tools
11 to address the variability of hydropower for compliance under this
12 act.

13 NEW SECTION. **Sec. 2.** The definitions in this section apply
14 throughout this chapter unless the context clearly requires
15 otherwise.

16 (1) "Allocation of electricity" means, for the purposes of
17 setting electricity rates, the costs and benefits associated with the
18 resources used to provide electricity to an electric utility's retail
19 electricity consumers that are located in this state.

20 (2) "Alternative compliance payment" means the payment
21 established in section 9(2) of this act.

22 (3) "Attorney general" means the Washington state office of the
23 attorney general.

24 (4) "Auditor" means: (a) The Washington state auditor's office or
25 its designee for utilities under its jurisdiction under this chapter
26 that are consumer-owned utilities; or (b) an independent auditor
27 selected by a utility that is not under the jurisdiction of the state
28 auditor and is not an investor-owned utility.

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

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

1 (6) "Carbon dioxide equivalent" has the same meaning as defined
2 in RCW 70.235.010.

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

6 (b) (i) "Coal-fired resource" does not include an electric
7 generating facility that is included as part of a limited duration
8 wholesale power purchase, not to exceed one month, made by an
9 electric utility for delivery to retail electric customers that are
10 located in this state for which the source of the power is not known
11 at the time of entry into the transaction to procure the electricity.

12 (ii) "Coal-fired resource" does not include an electric
13 generating facility that is subject to an obligation to meet the
14 standards contained in RCW 80.80.040(3)(c).

15 (8) "Commission" means the Washington utilities and
16 transportation commission.

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

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

27 (11) "Demand response" means changes in electric usage by demand-
28 side resources from their normal consumption patterns in response to
29 changes in the price of electricity, or to incentive payments
30 designed to induce lower electricity use, at times of high wholesale
31 market prices or when system reliability is jeopardized. "Demand
32 response" may include measures to increase or decrease electricity
33 production on the customer's side of the meter in response to
34 incentive payments.

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

36 (13) "Distributed energy resource" means a nonemitting electric
37 generation or renewable resource or program that reduces electric
38 demand, manages the level or timing of electricity consumption, or
39 provides storage, electric energy, capacity, or ancillary services to
40 an electric utility and that is located on the distribution system,

1 any subsystem of the distribution system, or behind the customer
2 meter, including conservation and energy efficiency.

3 (14) "Electric utility" or "utility" means a consumer-owned
4 utility or an investor-owned utility.

5 (15) "Energy assistance" means a program undertaken by a utility
6 to reduce the household energy burden of its customers.

7 (a) Energy assistance includes, but is not limited to,
8 weatherization, conservation and efficiency services, and monetary
9 assistance, such as a grant program or discounts for lower income
10 households, intended to lower a household's energy burden.

11 (b) Energy assistance may include direct customer ownership in
12 distributed energy resources or other strategies if such strategies
13 achieve a reduction in energy burden for the customer above other
14 available conservation and demand-side measures.

15 (16) "Energy assistance need" means the amount of assistance
16 necessary to achieve a level of household energy burden established
17 by the department or commission.

18 (17) "Energy burden" means the share of annual household income
19 used to pay annual home energy bills.

20 (18)(a) "Energy transformation project" means a project or
21 program that: Provides energy-related goods or services, other than
22 the generation of electricity; results in a reduction of fossil fuel
23 consumption and in a reduction of the emission of greenhouse gases
24 attributable to that consumption; and provides benefits to the
25 customers of an electric utility.

26 (b) "Energy transformation project" may include but is not
27 limited to:

28 (i) Home weatherization or other energy efficiency measures,
29 including market transformation for energy efficiency products, in
30 excess of: The target established under RCW 19.285.040(1), if
31 applicable; other state obligations; or other obligations in effect
32 on the effective date of this section;

33 (ii) Support for electrification of the transportation sector
34 including, but not limited to:

35 (A) Equipment on an electric utility's transmission and
36 distribution system to accommodate electric vehicle connections, as
37 well as smart grid systems that enable electronic interaction between
38 the electric utility and charging systems, and facilitate the
39 utilization of vehicle batteries for system needs;

1 (B) Incentives for the sale or purchase of electric vehicles,
2 both battery and fuel cell powered, as authorized under state or
3 federal law;

4 (C) Incentives for the installation of charging equipment for
5 electric vehicles;

6 (D) Incentives for the electrification of vehicle fleets
7 utilizing a battery or fuel cell for electric supply;

8 (E) Incentives to install and operate equipment to produce or
9 distribute renewable hydrogen; and

10 (F) Incentives for renewable hydrogen fueling stations;

11 (iii) Investment in distributed energy resources and grid
12 modernization to facilitate distributed energy resources and improved
13 grid resilience;

14 (iv) Investments in equipment for renewable natural gas
15 processing, conditioning, and production, or equipment or
16 infrastructure used solely for the purpose of delivering renewable
17 natural gas for consumption or distribution;

18 (v) Contributions to self-directed investments in the following
19 measures to serve the sites of large industrial gas and electrical
20 customers: (A) Conservation; (B) new renewable resources; (C) behind-
21 the-meter technology that facilitates demand response cooperation to
22 reduce peak loads; (D) infrastructure to support electrification of
23 transportation needs, including battery and fuel cell
24 electrification; or (E) renewable natural gas processing,
25 conditioning, or production; and

26 (vi) Projects and programs that achieve energy efficiency and
27 emission reductions in the agricultural sector, including bioenergy
28 and renewable natural gas projects.

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

31 (20) "Governing body" means: The council of a city or town; the
32 commissioners of an irrigation district, municipal electric utility,
33 or public utility district; or the board of directors of an electric
34 cooperative or mutual association that has the authority to set and
35 approve rates.

36 (21) "Greenhouse gas" includes carbon dioxide, methane, nitrous
37 oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and
38 any other gas or gases designated by the department of ecology by
39 rule under RCW 70.235.010.

1 (22) "Greenhouse gas content calculation" means a calculation
2 expressed in carbon dioxide equivalent and made by the department of
3 ecology, in consultation with the department, for the purposes of
4 determining the emissions from the complete combustion or oxidation
5 of fossil fuels and the greenhouse gas emissions in electricity for
6 use in calculating the greenhouse gas emissions content in
7 electricity.

8 (23) "Highly impacted community" means a community designated by
9 the department of health based on cumulative impact analyses in
10 section 24 of this act or a community located in census tracts that
11 are fully or partially on "Indian country" as defined in 18 U.S.C.
12 Sec. 1151.

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

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

22 (26)(a) "Market customer" means a nonresidential retail electric
23 customer of an electric utility that: (i) Purchases electricity from
24 an entity or entities other than the utility with which it is
25 directly interconnected; or (ii) generates electricity to meet one
26 hundred percent of its own needs.

27 (b) An "affected market customer" is a customer of an investor-
28 owned utility who becomes a market customer after the effective date
29 of this section.

30 (27)(a) "Natural gas" means naturally occurring mixtures of
31 hydrocarbon gases and vapors consisting principally of methane,
32 whether in gaseous or liquid form, including methane clathrate.

33 (b) "Natural gas" does not include renewable natural gas or the
34 portion of renewable natural gas when blended into other fuels.

35 (28)(a) "Nonemitting electric generation" means electricity from
36 a generating facility or a resource that provides electric energy,
37 capacity, or ancillary services to an electric utility and that does
38 not emit greenhouse gases as a by-product of energy generation.

39 (b) "Nonemitting electric generation" does not include renewable
40 resources.

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

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

18 (30) "Qualified transmission line" means an overhead transmission
19 line that is: (a) Designed to carry a voltage in excess of one
20 hundred thousand volts; (b) owned in whole or in part by an investor-
21 owned utility; and (c) primarily or exclusively used by such an
22 investor-owned utility as of the effective date of this section to
23 transmit electricity generated by a coal-fired resource.

24 (31) "Renewable energy credit" means a tradable certificate of
25 proof of one megawatt-hour of a renewable resource. The certificate
26 includes all of the nonpower attributes associated with that one
27 megawatt-hour of electricity and the certificate is verified by a
28 renewable energy credit tracking system selected by the department.

29 (32) "Renewable hydrogen" means hydrogen produced using renewable
30 resources both as the source for the hydrogen and the source for the
31 energy input into the production process.

32 (33) "Renewable natural gas" means a gas consisting largely of
33 methane and other hydrocarbons derived from the decomposition of
34 organic material in landfills, wastewater treatment facilities, and
35 anaerobic digesters.

36 (34) "Renewable resource" means: (a) Water; (b) wind; (c) solar
37 energy; (d) geothermal energy; (e) renewable natural gas; (f)
38 renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel
39 fuel that is not derived from crops raised on land cleared from old
40 growth or first growth forests; or (i) biomass energy.

1 (35) (a) "Retail electric customer" means a person or entity that
2 purchases electricity from any electric utility for ultimate
3 consumption and not for resale.

4 (b) "Retail electric customer" does not include, in the case of
5 any electric utility, any person or entity that purchases electricity
6 exclusively from carbon-free and eligible renewable resources, as
7 defined in RCW 19.285.030 as of January 1, 2019, pursuant to a
8 special contract with an investor-owned utility approved by an order
9 of the commission prior to the effective date of this section.

10 (36) "Retail electric load" means the amount of megawatt-hours of
11 electricity delivered in a given calendar year by an electric utility
12 to its Washington retail electric customers. "Retail electric load"
13 does not include:

14 (a) Megawatt-hours delivered from qualifying facilities under the
15 federal public utility regulatory policies act of 1978, P.L. 95-617,
16 in operation prior to the effective date of this section, provided
17 that no entity other than the electric utility can make a claim on
18 delivery of the megawatt-hours from those resources; or

19 (b) Megawatt-hours delivered to an electric utility's system from
20 a renewable resource through a voluntary renewable energy purchase by
21 a retail electric customer of the utility in which the renewable
22 energy credits associated with the megawatt-hours delivered are
23 retired on behalf of the retail electric customer.

24 (37) "Thermal renewable energy credit" means, with respect to a
25 facility that generates electricity using biomass energy that also
26 generates thermal energy for a secondary purpose, a renewable energy
27 credit that is equivalent to three million four hundred twelve
28 thousand British thermal units of energy used for such secondary
29 purpose.

30 (38) "Unbundled renewable energy credit" means a renewable energy
31 credit that is sold, delivered, or purchased separately from
32 electricity. All thermal renewable energy credits are considered
33 unbundled renewable energy credits.

34 (39) "Unspecified electricity" means an electricity source for
35 which the fuel attribute is unknown or has been separated from the
36 energy delivered to retail electric customers.

37 (40) "Vulnerable populations" means communities that experience a
38 disproportionate cumulative risk from environmental burdens due to:

1 (a) Adverse socioeconomic factors, including unemployment, high
2 housing and transportation costs relative to income, access to food
3 and health care, and linguistic isolation; and

4 (b) Sensitivity factors, such as low birth weight and higher
5 rates of hospitalization.

6 NEW SECTION. **Sec. 3.** (1)(a) On or before December 31, 2025,
7 each electric utility must eliminate coal-fired resources from its
8 allocation of electricity. This does not include costs associated
9 with decommissioning and remediation of these facilities.

10 (b) The commission shall allow in electric rates all
11 decommissioning and remediation costs prudently incurred by an
12 investor-owned utility for a coal-fired resource.

13 (2) The commission must accelerate depreciation schedules for any
14 coal-fired resource to a date no later than December 31, 2025. The
15 commission may accelerate the depreciation schedule for any qualified
16 transmission line owned by an investor-owned utility when the
17 commission finds the qualified transmission line is no longer used
18 and useful and there is no reasonable likelihood that the qualified
19 transmission line will be utilized in the future. The adjusted
20 depreciation schedule must require such a qualified transmission line
21 to be fully depreciated on or before December 31, 2025.

22 (3) The commission must allow in rates, directly or indirectly,
23 amounts on an investor-owned utility's books of account that the
24 commission finds represent prudently incurred undepreciated
25 investment in a fossil fuel generating resource that has been retired
26 from service when:

27 (a) The retirement is due to ordinary wear and tear, casualties,
28 acts of God, acts of governmental authority, inability to procure or
29 use fuel, termination or expiration of any ownership, or a operation
30 agreement affecting such a fossil fuel generating resource; or

31 (b) The commission finds that the retirement is in the public
32 interest.

33 (4) An electric utility that fails to comply with the
34 requirements of subsection (1) of this section must pay the
35 administrative penalty established under section 9(1) of this act,
36 except as otherwise provided in this chapter.

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

4 (a) For the four-year compliance period beginning January 1,
5 2030, and for each multiyear compliance period thereafter through
6 December 31, 2044, an electric utility must demonstrate its
7 compliance with this standard using a combination of nonemitting
8 electric generation and electricity from renewable resources, or
9 alternative compliance options, as provided in this section. To
10 achieve compliance with this standard, an electric utility must: (i)
11 Pursue all cost-effective, reliable, and feasible conservation and
12 efficiency resources to reduce or manage retail electric load, using
13 the methodology established in RCW 19.285.040, if applicable; and
14 (ii) use electricity from renewable resources and nonemitting
15 electric generation in an amount equal to one hundred percent of the
16 utility's retail electric loads over each multiyear compliance
17 period. An electric utility must achieve compliance with this
18 standard for the following compliance periods: January 1, 2030,
19 through December 31, 2033; January 1, 2034, through December 31,
20 2037; January 1, 2038, through December 31, 2041; and January 1,
21 2042, through December 31, 2044.

22 (b) Through December 31, 2044, an electric utility may satisfy up
23 to twenty percent of its compliance obligation under (a) of this
24 subsection with an alternative compliance option consistent with this
25 section. An alternative compliance option may include any combination
26 of the following:

27 (i) Making an alternative compliance payment under section 9(2)
28 of this act;

29 (ii) Using unbundled renewable energy credits, provided that
30 there is no double counting of any nonpower attributes associated
31 with renewable energy credits within Washington or programs in other
32 jurisdictions, as follows:

33 (A) Unbundled renewable energy credits produced from eligible
34 renewable resources, as defined under RCW 19.285.030, which may be
35 used by the electric utility for compliance with RCW 19.285.040 and
36 this section as provided under RCW 19.285.040(2)(e); and

37 (B) Unbundled renewable energy credits, other than those included
38 in (b)(ii)(A) of this subsection, that represent electricity
39 generated within the compliance period;

1 (iii) Investing in energy transformation projects, including
2 additional conservation and efficiency resources beyond what is
3 otherwise required under this section, provided the projects meet the
4 requirements of subsection (2) of this section and are not credited
5 as resources used to meet the standard under (a) of this subsection;
6 or

7 (iv) Using electricity from an energy recovery facility using
8 municipal solid waste as the principal fuel source, where the
9 facility was constructed prior to 1992, and the facility is operated
10 in compliance with federal laws and regulations and meets state air
11 quality standards. An electric utility may only use electricity from
12 such an energy recovery facility if the department and the department
13 of ecology determine that electricity generation at the facility
14 provides a net reduction in greenhouse gas emissions compared to any
15 other available waste management best practice. The determination
16 must be based on a life-cycle analysis comparing the energy recovery
17 facility to other technologies available in the jurisdiction in which
18 the facility is located for the waste management best practices of
19 waste reduction, recycling, composting, and minimizing the use of a
20 landfill.

21 (c) Electricity from renewable resources used to meet the
22 standard under (a) of this subsection must be verified by the
23 retirement of renewable energy credits. Renewable energy credits must
24 be tracked and retired in the tracking system selected by the
25 department.

26 (d) Hydroelectric generation used by an electric utility in
27 meeting the standard under (a) of this subsection may not include new
28 diversions, new impoundments, new bypass reaches, or expansion of
29 existing reservoirs constructed after the effective date of this
30 section unless the diversions, bypass reaches, or reservoir
31 expansions are necessary for the operation of a pumped storage
32 facility that: (i) Does not conflict with existing state or federal
33 fish recovery plans; and (ii) complies with all local, state, and
34 federal laws and regulations.

35 (e) Nothing in (d) of this subsection precludes an electric
36 utility that owns and operates hydroelectric generating facilities,
37 or the owner of a hydroelectric generating facility whose energy
38 output is marketed by the Bonneville power administration, from
39 making efficiency or other improvements to its hydroelectric
40 generating facilities existing as of the effective date of this

1 section or from installing hydroelectric generation in pipes,
2 culverts, irrigation canals, and other manmade waterways, as long as
3 those changes do not create conflicts with existing state or federal
4 fish recovery plans and comply with all local, state, and federal
5 laws and regulations.

6 (f) Nonemitting electric generation used to meet the standard
7 under (a) of this subsection must be generated during the compliance
8 period and must be verified by documentation that the electric
9 utility owns the nonpower attributes of the electricity generated by
10 the nonemitting electric generation resource.

11 (g) Nothing in this section prohibits an electric utility from
12 purchasing or exchanging power from the Bonneville power
13 administration.

14 (2) Investments in energy transformation projects used to satisfy
15 an alternative compliance option provided under subsection (1)(b) of
16 this section must use criteria developed by the department of
17 ecology, in consultation with the department and the commission. For
18 the purpose of crediting an energy transformation project toward the
19 standard in subsection (1)(a) of this section, the department of
20 ecology must establish a conversion factor of emissions reductions
21 resulting from energy transformation projects to megawatt-hours of
22 electricity from nonemitting electric generation that is consistent
23 with the emission factors for unspecified electricity, or for energy
24 transformation projects in the transportation sector, consistent with
25 default emissions or conversion factors established by other
26 jurisdictions for clean alternative fuels. Emissions reductions from
27 energy transformation projects must be:

28 (a) Real, specific, identifiable, and quantifiable;

29 (b) Permanent: The department of ecology must look to other
30 jurisdictions in setting this standard and make a reasonable
31 determination on length of time;

32 (c) Enforceable by the state of Washington;

33 (d) Verifiable;

34 (e) Not required by another statute, rule, or other legal
35 requirement; and

36 (f) Not reasonably assumed to occur absent investment, or if an
37 investment has already been made, not reasonably assumed to occur
38 absent additional funding in the near future.

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

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

8 (5) Any compliance obligation fulfilled through an investment in
9 an energy transformation project is eligible for use only: (a) By the
10 electric utility that makes the investment; (b) if the investment is
11 made by the Bonneville power administration, by electric utilities
12 that are preference customers of the Bonneville power administration;
13 or (c) if the investment is made by a joint operating agency
14 organized under chapter 43.52 RCW, by a member of the joint operating
15 agency. An electric utility making an investment in partnership with
16 another electric utility or entity may claim credit proportional to
17 its share invested in the total project cost.

18 (6)(a) In meeting the standard under subsection (1) of this
19 section, an electric utility must, consistent with the requirements
20 of RCW 19.285.040, if applicable, pursue all cost-effective,
21 reliable, and feasible conservation and efficiency resources, and
22 demand response. In making new investments, an electric utility must,
23 to the maximum extent feasible:

24 (i) Achieve targets at the lowest reasonable cost, considering
25 risk;

26 (ii) Consider acquisition of existing renewable resources; and

27 (iii) In the acquisition of new resources constructed after the
28 effective date of this section, rely on renewable resources and
29 energy storage, insofar as doing so is consistent with (a)(i) of this
30 subsection.

31 (b) Electric utilities subject to RCW 19.285.040 must demonstrate
32 pursuit of all conservation and efficiency resources through
33 compliance with the requirements in RCW 19.285.040.

34 (7) An electric utility that fails to meet the requirements of
35 this section must pay the administrative penalty established under
36 section 9(1) of this act, except as otherwise provided in this
37 chapter.

38 (8) In complying with this section, an electric utility must,
39 consistent with the requirements of RCW 19.280.030 and section 24 of
40 this act, ensure that all customers are benefiting from the

1 transition to clean energy: Through the equitable distribution of
2 energy and nonenergy benefits and reduction of burdens to vulnerable
3 populations and highly impacted communities; long-term and short-term
4 public health and environmental benefits and reduction of costs and
5 risks; and energy security and resiliency.

6 (9) Affected market customers must comply with the standard
7 established under subsection (1) of this section.

8 (10) A market customer that purchases electricity exclusively
9 from carbon-free resources and eligible renewable resources, as
10 defined in RCW 19.285.030 as of January 1, 2019, pursuant to a
11 special contract with an investor-owned utility approved, prior to
12 the effective date of this section, by order of the commission is
13 subject to the requirements of such an order and not to the standard
14 established in this section. For purposes of interpreting any such
15 special contract, chapter 19.285 RCW, as in effect on January 1,
16 2019, is not, either directly or indirectly, amended or supplemented.

17 (11) To reduce costs for utility customers or avoid exceeding the
18 cost impact limit in section 6(3)(a) of this act, a multistate
19 electric utility with fewer than two hundred fifty thousand customers
20 in Washington may apply the total amount of megawatt-hours of coal-
21 fired resources eliminated from the utility's allocation of
22 electricity before December 31, 2025, as an equivalent amount of
23 megawatt-hours of nonemitting electric generation or electricity from
24 renewable resources required to comply with subsection (1)(a) of this
25 section. The utility must demonstrate that for every megawatt-hour of
26 early action compliance credit there is a real, permanent reduction
27 in greenhouse gas emissions in the western interconnection directly
28 associated with that credit. A multistate electric utility must
29 request to use early action compliance credit in its clean energy
30 implementation plan that is submitted under section 6 of this act.
31 The multistate electric utility must specify in its clean energy
32 implementation plan the compliance years to which the early action
33 compliance credit will apply, but in no event may the multistate
34 electric utility use the early action compliance credits beyond 2035.
35 The commission must establish conditions for use of early action
36 compliance credits, including a determination of whether action
37 constitutes early action, before the multistate electric utility's
38 use of early action compliance credits in a clean energy
39 implementation plan.

1 NEW SECTION. **Sec. 5.** (1) It is the policy of the state that
2 nonemitting electric generation and electricity from renewable
3 resources supply one hundred percent of all sales of electricity to
4 Washington retail electric customers by January 1, 2045. By January
5 1, 2045, and each year thereafter, each electric utility must
6 demonstrate its compliance with this standard using a combination of
7 nonemitting electric generation and electricity from renewable
8 resources.

9 (2) Each electric utility must incorporate subsection (1) of this
10 section into all relevant planning and resource acquisition practices
11 including, but not limited to: Resource planning under chapter 19.280
12 RCW; the construction or acquisition of property, including electric
13 generating facilities; and the provision of electricity service to
14 retail electric customers.

15 (3) In planning to meet projected demand consistent with the
16 requirements of subsection (2) of this section and RCW 19.285.040, if
17 applicable, an electric utility must pursue all cost-effective,
18 reliable, and feasible conservation and efficiency resources, and
19 demand response. In making new investments, an electric utility must,
20 to the maximum extent feasible:

21 (a) Achieve targets at the lowest reasonable cost, considering
22 risk;

23 (b) Consider acquisition of existing renewable resources; and

24 (c) In the acquisition of new resources constructed after the
25 effective date of this section, rely on renewable resources and
26 energy storage, insofar as doing so is consistent with (a) of this
27 subsection.

28 (4) The commission, department, energy facility site evaluation
29 council, department of ecology, and all other state agencies must
30 incorporate this section into all relevant planning and utilize all
31 programs authorized by statute to achieve subsection (1) of this
32 section.

33 (5) (a) Hydroelectric generation used by an electric utility to
34 satisfy the requirements of this section may not include new
35 diversions, new impoundments, new bypass reaches, or expansion of
36 existing reservoirs constructed after the effective date of this
37 section unless the diversions, bypass reaches, or reservoir
38 expansions are necessary for the operation of a pumped storage
39 facility that: (i) Does not conflict with existing state or federal

1 fish recovery plans; and (ii) complies with all local, state, and
2 federal laws and regulations.

3 (b) Nothing in (a) of this subsection precludes an electric
4 utility that owns and operates hydroelectric generating facilities,
5 or the owner of a hydroelectric generating facility whose energy
6 output is marketed by the Bonneville power administration, from
7 making efficiency or other improvements to its hydroelectric
8 generating facilities existing as of the effective date of this
9 section or from installing hydroelectric generation in pipes,
10 culverts, irrigation canals, and other manmade waterways as long as
11 those changes do not create conflicts with existing state or federal
12 fish recovery plans and comply with all local, state, and federal
13 laws and regulations.

14 (6) Nothing in this section prohibits an electric utility from
15 purchasing or exchanging power from the Bonneville power
16 administration.

17 (7) Affected market customers must comply with the obligations of
18 this section.

19 (8) Any market customer that purchases electricity exclusively
20 from carbon-free resources and eligible renewable resources, as
21 defined in RCW 19.285.030 as of January 1, 2019, pursuant to a
22 special contract with an investor-owned utility approved, prior to
23 the effective date of this section, by order of the commission is
24 subject to the requirements of such an order and not to the standards
25 established in this section. For the purposes of interpreting such a
26 special contract, chapter 19.285 RCW, as in effect on January 1,
27 2019, is not, either directly or indirectly, amended or supplemented.

28 NEW SECTION. **Sec. 6.** (1)(a) By January 1, 2022, and every four
29 years thereafter, each investor-owned utility must develop and submit
30 to the commission:

31 (i) A four-year clean energy implementation plan for the
32 standards established under sections 4(1) and 5(1) of this act that
33 proposes specific targets for energy efficiency, demand response, and
34 renewable energy; and

35 (ii) Proposed interim targets for meeting the standard under
36 section 4(1) of this act during the years prior to 2030 and between
37 2030 and 2045.

38 (b) An investor-owned utility's clean energy implementation plan
39 must:

1 (i) Be informed by the investor-owned utility's clean energy
2 action plan developed under RCW 19.280.030;

3 (ii) Be consistent with subsection (3) of this section; and

4 (iii) Identify specific actions to be taken by the investor-owned
5 utility over the next four years, consistent with the utility's long-
6 range integrated resource plan and resource adequacy requirements,
7 that demonstrate progress toward meeting the standards under sections
8 4(1) and 5(1) of this act and the interim targets proposed under
9 (a)(i) of this subsection. The specific actions identified must be
10 informed by the investor-owned utility's historic performance under
11 median water conditions and resource capability and by the investor-
12 owned utility's participation in centralized markets. In identifying
13 specific actions in its clean energy implementation plan, the
14 investor-owned utility may also take into consideration any
15 significant and unplanned loss or addition of load it experiences.

16 (c) The commission, after a hearing, must by order approve,
17 reject, or approve with conditions an investor-owned utility's clean
18 energy implementation plan and interim targets. The commission may,
19 in its order, recommend or require more stringent targets than those
20 proposed by the investor-owned utility. The commission may
21 periodically adjust or expedite timelines if it can be demonstrated
22 that the targets or timelines can be achieved in a manner consistent
23 with the following:

24 (i) Maintaining and protecting the safety, reliable operation,
25 and balancing of the electric system;

26 (ii) Planning to meet the standards at the lowest reasonable
27 cost, considering risk;

28 (iii) Ensuring that all customers are benefiting from the
29 transition to clean energy: Through the equitable distribution of
30 energy and nonenergy benefits and the reduction of burdens to
31 vulnerable populations and highly impacted communities; long-term and
32 short-term public health and environmental benefits and reduction of
33 costs and risks; and energy security and resiliency; and

34 (iv) Ensuring that no customer or class of customers is
35 unreasonably harmed by any resulting increases in the cost of
36 utility-supplied electricity as may be necessary to comply with the
37 standards.

38 (2) (a) By January 1, 2022, and every four years thereafter, each
39 consumer-owned utility must develop and submit to the department a

1 four-year clean energy implementation plan for the standards
2 established under sections 4(1) and 5(1) of this act that:

3 (i) Proposes interim targets for meeting the standard under
4 section 4(1) of this act during the years prior to 2030 and between
5 2030 and 2045, as well as specific targets for energy efficiency,
6 demand response, and renewable energy;

7 (ii) Is informed by the consumer-owned utility's clean energy
8 action plan developed under RCW 19.280.030(1) or other ten-year plan
9 developed under RCW 19.280.030(5);

10 (iii) Is consistent with subsection (4) of this section; and

11 (iv) Identifies specific actions to be taken by the consumer-
12 owned utility over the next four years, consistent with the utility's
13 long-range resource plan and resource adequacy requirements, that
14 demonstrate progress towards meeting the standards under sections
15 4(1) and 5(1) of this act and the interim targets proposed under
16 (a)(i) of this subsection. The specific actions identified must be
17 informed by the consumer-owned utility's historic performance under
18 median water conditions and resource capability and by the consumer-
19 owned utility's participation in centralized markets. In identifying
20 specific actions in its clean energy implementation plan, the
21 consumer-owned utility may also take into consideration any
22 significant and unplanned loss or addition of load it experiences.

23 (b) The governing body of the consumer-owned utility must, after
24 a public meeting, adopt the consumer-owned utility's clean energy
25 implementation plan. The clean energy implementation plan must be
26 submitted to the department and made available to the public. The
27 governing body may adopt more stringent targets than those proposed
28 by the consumer-owned utility and periodically adjust or expedite
29 timelines if it can be demonstrated that such targets or timelines
30 can be achieved in a manner consistent with the following:

31 (i) Maintaining and protecting the safety, reliable operation,
32 and balancing of the electric system;

33 (ii) Planning to meet the standards at the lowest reasonable
34 cost, considering risk;

35 (iii) Ensuring that all customers are benefiting from the
36 transition to clean energy: Through the equitable distribution of
37 energy and nonenergy benefits and reduction of burdens to vulnerable
38 populations and highly impacted communities; long-term and short-term
39 public health and environmental benefits and reduction of costs and
40 risks; and energy security and resiliency; and

1 (iv) Ensuring that no customer or class of customers is
2 unreasonably harmed by any resulting increases in the cost of
3 utility-supplied electricity as may be necessary to comply with the
4 standards.

5 (3) (a) An investor-owned utility must be considered to be in
6 compliance with the standards under sections 4(1) and 5(1) of this
7 act if, over the four-year compliance period, the average annual
8 incremental cost of meeting the standards or the interim targets
9 established under subsection (1) of this section equals a two percent
10 increase of the investor-owned utility's weather-adjusted sales
11 revenue to customers for electric operations above the previous year,
12 as reported by the investor-owned utility in its most recent
13 commission basis report. All costs included in the determination of
14 cost impact must be directly attributable to actions necessary to
15 comply with the requirements of sections 4 and 5 of this act.

16 (b) If an investor-owned utility relies on (a) of this subsection
17 as a basis for compliance with the standard under section 4(1) of
18 this act, then it must demonstrate that it has maximized investments
19 in renewable resources and nonemitting electric generation prior to
20 using alternative compliance options allowed under section 4(1)(b) of
21 this act.

22 (4) (a) A consumer-owned utility must be considered to be in
23 compliance with the standards under sections 4(1) and 5(1) of this
24 act if, over the four-year compliance period, the average annual
25 incremental cost of meeting the standards or the interim targets
26 established under subsection (2) of this section meets or exceeds a
27 two percent increase of the consumer-owned utility's retail revenue
28 requirement above the previous year. All costs included in the
29 determination of cost impact must be directly attributable to actions
30 necessary to comply with the requirements of sections 4 and 5 of this
31 act.

32 (b) If a consumer-owned utility relies on (a) of this subsection
33 as a basis for compliance with the standard under section 4(1) of
34 this act, and it has not met eighty percent of its annual retail
35 electric load using electricity from renewable resources and
36 nonemitting electric generation, then it must demonstrate that it has
37 maximized investments in renewable resources and nonemitting electric
38 generation prior to using alternative compliance options allowed
39 under section 4(1)(b) of this act.

1 (5) The commission, for investor-owned utilities, and the
2 department, for consumer-owned utilities, must adopt rules
3 establishing the methodology for calculating the incremental cost of
4 compliance under this section, as compared to the cost of an
5 alternative lowest reasonable cost portfolio of investments that are
6 reasonably available.

7 NEW SECTION. **Sec. 7.** (1) Each electric utility must provide to
8 the department, in the case of a consumer-owned utility, or to the
9 commission, in the case of an investor-owned utility, its greenhouse
10 gas content calculation in conformance with this section. A utility's
11 greenhouse gas content calculation must be based on the fuel sources
12 that it reports and discloses in compliance with chapter 19.29A RCW.
13 An investor-owned utility must also report the information required
14 in this subsection to the department.

15 (2) For unspecified electricity, the utility must use an
16 emissions rate determined, and periodically updated, by the
17 department of ecology by rule. The department of ecology must adopt
18 an emissions rate for unspecified electricity consistent with the
19 emissions rate established for other markets in the western
20 interconnection. If the department of ecology has not adopted an
21 emissions rate for unspecified electricity, the emissions rate that
22 applies for the purposes of this chapter is 0.437 metric tons of
23 carbon dioxide per megawatt-hour of electricity.

24 (3) For the purposes of this act, the fuel mix calculated for the
25 Bonneville power administration may exclude any purchases of electric
26 generation that are not associated with load in the state of
27 Washington.

28 NEW SECTION. **Sec. 8.** By January 1, 2024, and at least every
29 four years thereafter and in compliance with RCW 43.01.036, the
30 department must submit a report to the legislature. The report must
31 include the following:

32 (1) A review of the standards described in sections 3 through 5
33 of this act focused on technologies, forecasts, and existing
34 transmission, and an evaluation of safety, environmental and public
35 safety protection, affordability, and system reliability.

36 (2)(a) An evaluation, produced in consultation with the
37 commission, electric utilities, transmission operators in Washington,
38 the reliability coordinator for electric utilities, any regional

1 planning organization serving electric utilities, public interest and
2 environmental organizations, and the regional entity for the western
3 interconnection identifying the potential benefits, impacts, and
4 risks on system reliability associated with achieving the standards
5 described in sections 4 and 5 of this act. The evaluation must assess
6 whether electric utilities have sufficient electric generation
7 resources to meet forecasted retail electric load in addition to
8 adequate transmission capability to implement sections 3 through 5 of
9 this act without: (i) Violating mandatory and enforceable reliability
10 standards of the North American electric reliability corporation;
11 (ii) violating prudent utility practice for assuring resource
12 adequacy; or (iii) compromising the power quality or integrity of the
13 electricity system. Subject to funding appropriated for this purpose,
14 the department must consult with a national laboratory with expertise
15 in grid reliability, security, and resilience.

16 (b) The evaluation should assess the anticipated financial costs
17 and benefits of investments necessary to correct those deficiencies
18 at the lowest reasonable costs as identified by electric utilities,
19 transmission operators in Washington, the regional entity for the
20 western interconnection, or any regional planning organization
21 serving electric utilities. The assessment of these investments in
22 the report is not deemed to be approval of such investments for rate
23 recovery by any authorizing entity.

24 (3) An evaluation identifying the nature of any anticipated
25 financial costs and benefits to electric utilities, including
26 customer rate impacts and benefits including, but not limited to:

27 (a) Greenhouse gas emissions of electric utilities;

28 (b) The allocation of risk between customers and electric
29 utilities;

30 (c) The allocation of financial costs among electric utilities in
31 the state and whether retail electric customers are equitably bearing
32 the financial costs of implementing sections 3 through 5 of this act;

33 (d) The timing of cost recovery for electricity generated by
34 nonemitting electric generation or renewable resources;

35 (e) The resource procurement process of electric utilities; and

36 (f) The barriers to, and benefits of, implementing sections 4 and
37 5 of this act.

38 (4) An evaluation of new or emerging technologies that could be
39 considered to be a renewable resource.

1 (5) An assessment of the impacts of sections 3 through 5 of this
2 act on middle-income families, small businesses, and manufacturers in
3 Washington.

4 NEW SECTION. **Sec. 9.** (1)(a) An electric utility or an affected
5 market customer that fails to meet the standards established under
6 sections 3(1) and 4(1) of this act must pay an administrative penalty
7 to the state of Washington in the amount of one hundred dollars,
8 times the following multipliers, for each megawatt-hour of electric
9 generation used to meet load that is not electricity from a renewable
10 resource or nonemitting electric generation:

11 (i) 1.5 for coal-fired resources;

12 (ii) 0.84 for gas-fired peaking power plants; and

13 (iii) 0.60 for gas-fired combined-cycle power plants.

14 (b) Beginning in 2027, this penalty must be adjusted on a
15 biennial basis according to the rate of change of the inflation
16 indicator, gross domestic product implicit price deflator, as
17 published by the bureau of economic analysis of the United States
18 department of commerce or its successor. Beginning in 2040, the
19 commission may by rule increase this penalty for investor-owned
20 utilities if the commission determines that doing so will accelerate
21 utilities' compliance with the standards established under this
22 chapter and that doing so is in the public interest.

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

27 (3)(a) Upon its own motion or at the request of an investor-owned
28 utility, and after a hearing, the commission may issue an order
29 relieving the utility of its administrative penalty obligation under
30 subsection (1) of this section if it finds that:

31 (i) After taking all reasonable measures, the investor-owned
32 utility's compliance with this chapter is likely to result in
33 conflicts with or compromises to its obligation to comply with the
34 mandatory and enforceable reliability standards of the North American
35 electric reliability corporation, violate prudent utility practice
36 for assuring resource adequacy, or compromise the power quality or
37 integrity of its system; or

38 (ii) The investor-owned utility is unable to comply with the
39 standards established in section 3(1) or 4(1) of this act due to

1 reasons beyond the reasonable control of the investor-owned utility,
2 as set forth in subsection (6) of this section.

3 (b) If the commission issues an order pursuant to (a) of this
4 subsection that relieves an investor-owned utility of its
5 administrative penalty obligation under subsection (1) of this
6 section, the commission may issue an order:

7 (i) Temporarily exempting the investor-owned utility from the
8 requirements of section 4(1) of this act for an amount of time
9 sufficient to allow the investor-owned utility to achieve full
10 compliance with the standard;

11 (ii) Directing the investor-owned utility to file a progress
12 report to the commission on achieving full compliance with the
13 standard within six months after issuing the order, or within an
14 amount of time determined to be reasonable by the commission; and

15 (iii) Directing the investor-owned utility to take specific
16 actions to achieve full compliance with the requirements of this
17 chapter.

18 (c) An investor-owned utility may request an extension of a
19 temporary exemption granted under this section. An investor-owned
20 utility that requests an extension must request an update to the
21 order issued by the commission under (b) of this subsection.

22 (4) Subsection (3) of this section does not permanently relieve
23 an investor-owned utility of its obligation to comply with the
24 requirements of this chapter.

25 (5)(a) The governing body of a consumer-owned utility may
26 authorize a temporary exemption from the standard established under
27 section 4(1) of this act, for an amount of time sufficient to allow
28 the consumer-owned utility to achieve full compliance with the
29 standard, if the governing body finds that:

30 (i) The consumer-owned utility's compliance with the standard is
31 likely to: Result in conflicts with or compromises to its obligation
32 to comply with the mandatory and enforceable reliability standards of
33 the North American electric reliability corporation; violate prudent
34 utility practice for assuring resource adequacy; or compromise the
35 power quality or integrity of its system; or

36 (ii) The consumer-owned utility is unable to comply with the
37 standard due to reasons beyond the reasonable control of the utility,
38 as set forth in subsection (6) of this section; and

39 (iii) The consumer-owned utility has provided to the department a
40 plan demonstrating how it plans to achieve full compliance with the

1 standard, consistent with the findings of the report submitted to the
2 legislature under section 8 of this act.

3 (b) Upon request by the governing body of a consumer-owned
4 utility, a consumer-owned utility must be relieved of its
5 administrative penalty obligation under subsection (1) of this
6 section if the auditor issues a finding that:

7 (i) The governing body of the consumer-owned utility has properly
8 issued a temporary exemption under (a) of this subsection for a
9 period of time not to exceed six months; and

10 (ii) The governing body of the consumer-owned utility has
11 submitted to the department a plan to take specific actions to
12 achieve full compliance with the standard, consistent with the
13 findings of the report submitted to the legislature under section 8
14 of this act.

15 (c) Upon issuance of a finding by the auditor, the consumer-owned
16 utility must submit a progress report to the department on achieving
17 full compliance with the standard within the term authorized in the
18 temporary exemption.

19 (d) A consumer-owned utility may request an extension of a
20 temporary exemption granted under this subsection, subject to the
21 same requirements as provided in (a) through (c) of this subsection.

22 (e) The attorney general may bring a civil action in the name of
23 the state for any appropriate civil remedy including, but not limited
24 to, injunctive relief, penalties, costs, and attorneys' fees, to
25 enforce compliance with this chapter:

26 (i) Upon the failure of the governing body of a consumer-owned
27 utility to comply with the conditions of a temporary exemption found
28 by the auditor to be properly adopted or extended; or

29 (ii) Upon failure of the governing body of a consumer-owned
30 utility to comply with a finding by the auditor that a temporary
31 exemption is not properly granted.

32 (f) This subsection does not permanently relieve a consumer-owned
33 utility of its obligation to comply with the requirements of this
34 chapter.

35 (6) To the extent an event or circumstance cannot be reasonably
36 foreseen and ameliorated, such events or circumstances beyond the
37 reasonable control of an electric utility may include but are not
38 limited to:

39 (a) Weather-related damage;

40 (b) Natural disasters;

1 (c) Mechanical or resource failure;

2 (d) Failure of a third party to meet contractual obligations to
3 the electric utility;

4 (e) Actions of governmental authorities that adversely affect the
5 generation, transmission, or distribution of nonemitting electric
6 generation or renewable resources owned or under contract to an
7 electric utility, including condemnation actions by municipal
8 electric utilities, public utility districts, or irrigation districts
9 that adversely affect an investor-owned utility's ability to meet the
10 standard established in sections 3(1) and 4(1) of this act;

11 (f) Inability to acquire sufficient transmission to transmit
12 electricity from nonemitting electric generation or renewable
13 resources to load; and

14 (g) Substantial limitations, restrictions, or prohibitions on
15 nonemitting electric generation or renewable resources.

16 (7) An electric utility must notify its retail electric customers
17 in published form within three months of paying the administrative
18 penalty established under subsection (1) of this section. An electric
19 utility is not required to notify its retail electric customers when
20 making a payment in the amount of the administrative penalty as an
21 alternative compliance payment consistent with the requirements of
22 section 4(1)(b) of this act.

23 (8) Moneys collected under this section must be deposited into
24 the low-income weatherization and structural rehabilitation
25 assistance account created in RCW 70.164.030.

26 (9) For an investor-owned utility, the commission must determine
27 compliance with the requirements of this chapter.

28 (10) For consumer-owned utilities, the auditor is responsible for
29 auditing compliance with this chapter and rules adopted under this
30 chapter that apply to those utilities and the attorney general is
31 responsible for enforcing that compliance.

32 (11) If the report submitted under section 8 of this act
33 demonstrates adverse system reliability impacts from the
34 implementation of sections 4 and 5 of this act, the governor,
35 consistent with the emergency powers under RCW 43.21G.040, may
36 suspend or delay implementation of this chapter, or exempt an
37 electric utility from paying the administrative penalty under this
38 section, until system reliability impacts can be addressed. Adverse
39 system reliability impacts may include, but are not limited to, the
40 inability of electric utilities or transmission operators to meet

1 reliability standards mandated by federal or state law and required
2 by prudent utility practices.

3 (12) Notwithstanding RCW 54.16.020, the fair market value
4 compensation for an asset that is condemned by a municipal electric
5 utility, public utility district, or irrigation district and that is
6 either demonstrated in an electric utility's clean energy action plan
7 or clean energy implementation plan to be used or acquired after the
8 effective date of this section to meet the requirements of sections 4
9 and 5 of this act, or an asset that generates electricity from
10 renewable resources or nonemitting electric generation, must include
11 but not be limited to a replacement value approach. Additionally, the
12 electric utility may seek, and the court may award, damages
13 attributable to the severance, separation, replacement, or relocation
14 of utility assets. The trier of fact may also consider other damages,
15 as well as offsetting benefits, that it finds just and equitable.

16 (13) An entity that establishes or extends service to the
17 premises of a customer who is being served by an electric utility or
18 was served by an electric utility prior to the effective date of this
19 section must serve those premises in a manner that complies with the
20 requirements of this act and with chapter 19.285 RCW, if applicable.
21 An electric utility or other entity that fails to comply with the
22 requirements of this subsection must pay the administrative penalty
23 under subsection (1) of this section for each megawatt-hour of
24 electric generation used to serve load that does not meet the terms
25 of this subsection.

26 NEW SECTION. **Sec. 10.** (1) It is the intent of this chapter that
27 the commission and department adopt rules to streamline the
28 implementation of this act with chapter 19.285 RCW to simplify
29 compliance and avoid duplicative processes. It is the intent of the
30 legislature that the commission and the department coordinate in
31 developing rules related to process, timelines, and documentation
32 that are necessary for the implementation of this chapter.

33 (2) The commission may adopt rules to ensure the proper
34 implementation and enforcement of this chapter as it applies to
35 investor-owned utilities.

36 (3) The department may adopt rules to ensure the proper
37 implementation and enforcement of this chapter as it applies to
38 consumer-owned utilities. Nothing in this subsection may be construed

1 to restrict the rate-making authority of the governing body of a
2 consumer-owned utility as otherwise provided by law.

3 (4) The department must adopt rules establishing reporting
4 requirements for electric utilities to demonstrate compliance with
5 this chapter. The requirements must, to the extent practicable, be
6 consistent with the disclosures required under chapter 19.29A RCW.

7 (5) An investor-owned utility must also report all information
8 required in subsection (4) of this section to the commission.

9 (6) An electric utility must also make reports required in this
10 section available to its retail electric customers.

11 (7) The department of ecology must adopt rules, in consultation
12 with the commission and the department of commerce, to establish
13 requirements for energy transformation project investments including,
14 but not limited to, verification procedures, reporting standards, and
15 other logistical issues as necessary.

16 (8) The department must adopt rules providing for the measuring
17 and tracking of thermal renewable energy credits that may be used for
18 compliance under section 4 of this act.

19 (9) Pursuant to the administrative procedure act, chapter 34.05
20 RCW, rules needed for the implementation of this chapter must be
21 adopted by January 1, 2021, unless specified otherwise elsewhere in
22 this chapter. These rules may be revised as needed to carry out the
23 intent and purposes of this chapter.

24 NEW SECTION. **Sec. 11.** The requirements of sections 3 through 9
25 of this act do not replace or modify the requirements established
26 under chapter 19.285 RCW. All utility activities to comply with the
27 requirements established under chapter 19.285 RCW also qualify for
28 compliance with the requirements contained in this chapter, insofar
29 as those activities meet the requirements of this act.

30 NEW SECTION. **Sec. 12.** (1) It is the intent of the legislature
31 to demonstrate progress toward making energy assistance funds
32 available to low-income households consistent with the policies
33 identified in this section.

34 (2) An electric utility must make programs and funding available
35 for energy assistance to low-income households by July 31, 2021. Each
36 utility must demonstrate progress in providing energy assistance
37 pursuant to the assessment and plans in subsection (4) of this

1 section. To the extent practicable, priority must be given to low-
2 income households with a higher energy burden.

3 (3) Beginning July 31, 2020, the department must collect and
4 aggregate data estimating the energy burden and energy assistance
5 need and reported energy assistance for each electric utility, in
6 order to improve agency and utility efforts to serve low-income
7 households with energy assistance. The department must update the
8 aggregated data on a biennial basis, make it publicly accessible on
9 its internet web site and, to the extent practicable, include
10 geographic attributes.

11 (a) The aggregated data published by the department must include,
12 but is not limited to:

13 (i) The estimated number and demographic characteristics of
14 households served by energy assistance for each utility and the
15 dollar value of the assistance;

16 (ii) The estimated level of energy burden and energy assistance
17 need among customers served, accounting for household income and
18 other drivers of energy burden;

19 (iii) Housing characteristics including housing type, home
20 vintage, and fuel types; and

21 (iv) Energy efficiency potential.

22 (b) Each utility must disclose information to the department for
23 use under this subsection, including:

24 (i) The amount and type of energy assistance and the number and
25 type of households, if applicable, served for programs administered
26 by the utility;

27 (ii) The amount of money passed through to third parties that
28 administer energy assistance programs; and

29 (iii) Subject to availability, any other information related to
30 the utility's low-income assistance programs that is requested by the
31 department.

32 (c) The information required by (b) of this subsection must be
33 from the electric utility's most recent completed budget period and
34 in a form, timeline, and manner as prescribed by the department.

35 (4)(a) In addition to the requirements under subsection (3) of
36 this section, each electric utility must submit biennially to the
37 department an assessment of:

38 (i) The programs and mechanisms used by the utility to reduce
39 energy burden and the effectiveness of those programs and mechanisms
40 in both short-term and sustained energy burden reductions;

1 (ii) The outreach strategies used to encourage participation of
2 eligible households, including consultation with community-based
3 organizations and Indian tribes as appropriate, and comprehensive
4 enrollment campaigns that are linguistically and culturally
5 appropriate to the customers they serve in vulnerable populations;
6 and

7 (iii) A cumulative assessment of previous funding levels for
8 energy assistance compared to the funding levels needed to meet: (A)
9 Sixty percent of the current energy assistance need, or increasing
10 energy assistance by fifteen percent over the amount provided in
11 2018, whichever is greater, by 2030; and (B) ninety percent of the
12 current energy assistance need by 2050.

13 (b) The assessment required in (a) of this subsection must
14 include a plan to improve the effectiveness of the assessed
15 mechanisms and strategies toward meeting the energy assistance need.

16 (5) A consumer-owned utility may enter into an agreement with a
17 public university, community-based organization, or joint operating
18 agency organized under chapter 43.52 RCW to aggregate the disclosures
19 required in this section and submit the assessment required in
20 subsections (3) and (4) of this section.

21 (6)(a) The department must submit a biennial report to the
22 legislature that:

23 (i) Aggregates information into a statewide summary of energy
24 assistance programs, energy burden, and energy assistance need;

25 (ii) Identifies and quantifies current expenditures on low-income
26 energy assistance; and

27 (iii) Evaluates the effectiveness of additional optimal
28 mechanisms for energy assistance including, but not limited to,
29 customer rates, a low-income specific discount, system benefits
30 charges, and public and private funds.

31 (b) The department must also assess mechanisms to prioritize
32 energy assistance towards low-income households with a higher energy
33 burden.

34 (7) Nothing in this section may be construed to restrict the
35 rate-making authority of the commission or the governing body of a
36 consumer-owned utility as otherwise provided by law.

37 NEW SECTION. **Sec. 13.** (1) The department and the commission
38 must convene a stakeholder work group to examine the:

1 (a) Efficient and consistent integration of this act and
2 transactions with carbon and electricity markets outside the state;
3 and

4 (b) Compatibility of the requirements under this act relative to
5 a linked cap-and-trade program.

6 (2) To assist in its examination of the issues identified in this
7 section, as well as any other issues pertinent to its review, the
8 work group must, at a minimum, consist of electric utilities, gas
9 companies, the Bonneville power administration, public interest and
10 environmental organizations, and other agencies.

11 (3) The department and the commission must adopt rules by June
12 30, 2022, defining requirements, including appropriate specification,
13 verification, and reporting requirements, for the following: (a)

14 Retail electric load met with market purchases and the western energy
15 imbalance market or other centralized market administered by a market
16 operator for the purposes of sections 3 through 5 of this act; and

17 (b) to address the prohibition on double counting of nonpower
18 attributes under section 4(1) of this act that could occur under
19 other programs. With respect to purchases from the western energy
20 imbalance market or other centralized market, the department and the
21 commission must consult with the market operator and market
22 participants to consider options that support the objectives of this
23 chapter and the efficient dispatch of the generation resources
24 dispatched by those markets.

25 **Sec. 14.** RCW 19.280.030 and 2015 3rd sp.s. c 19 s 9 are each
26 amended to read as follows:

27 Each electric utility must develop a plan consistent with this
28 section.

29 (1) Utilities with more than twenty-five thousand customers that
30 are not full requirements customers (~~shall~~) must develop or update
31 an integrated resource plan by September 1, 2008. At a minimum,
32 progress reports reflecting changing conditions and the progress of
33 the integrated resource plan must be produced every two years
34 thereafter. An updated integrated resource plan must be developed at
35 least every four years subsequent to the 2008 integrated resource
36 plan. The integrated resource plan, at a minimum, must include:

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

1 (b) An assessment of commercially available conservation and
2 efficiency resources, as informed, as applicable, by the assessment
3 for conservation potential under RCW 19.285.040 for the planning
4 horizon consistent with (a) of this subsection. Such assessment may
5 include, as appropriate, opportunities for development of combined
6 heat and power as an energy and capacity resource, demand response
7 and load management programs, and currently employed and new policies
8 and programs needed to obtain the conservation and efficiency
9 resources;

10 (c) An assessment of commercially available, utility scale
11 renewable and nonrenewable generating technologies including a
12 comparison of the benefits and risks of purchasing power or building
13 new resources;

14 (d) A comparative evaluation of renewable and nonrenewable
15 generating resources, including transmission and distribution
16 delivery costs, and conservation and efficiency resources using
17 "lowest reasonable cost" as a criterion;

18 (e) An assessment of methods, commercially available
19 technologies, or facilities for integrating renewable resources,
20 including but not limited to battery storage and pumped storage, and
21 addressing overgeneration events, if applicable to the utility's
22 resource portfolio;

23 (f) An assessment and ten-year forecast of the availability of
24 regional generation and transmission capacity on which the utility
25 may rely to provide and deliver electricity to its customers;

26 (g) A determination of resource adequacy metrics for the resource
27 plan consistent with the forecasts;

28 (h) A forecast of distributed energy resources that may be
29 installed by the utility's customers and an assessment of their
30 effect on the utility's load and operations;

31 (i) An identification of an appropriate resource adequacy
32 requirement and measurement metric consistent with prudent utility
33 practice in implementing sections 3 through 5 of this act;

34 (j) The integration of the demand forecasts ((and)), resource
35 evaluations, and resource adequacy requirement into a long-range
36 assessment describing the mix of supply side generating resources and
37 conservation and efficiency resources that will meet current and
38 projected needs, including mitigating overgeneration events and
39 implementing sections 3 through 5 of this act, at the lowest
40 reasonable cost and risk to the utility and its ((ratepayers))

1 customers, while maintaining and protecting the safety, reliable
2 operation, and balancing of its electric system; ((and
3 (g)) (k) An assessment, informed by the cumulative impact
4 analysis conducted under section 24 of this act, of: Energy and
5 nonenergy benefits and reductions of burdens to vulnerable
6 populations and highly impacted communities; long-term and short-term
7 public health and environmental benefits, costs, and risks; and
8 energy security and risk; and

9 (1) A ((short-term plan identifying)) ten-year clean energy
10 action plan for implementing sections 3 through 5 of this act at the
11 lowest reasonable cost, and at an acceptable resource adequacy
12 standard, that identifies the specific actions to be taken by the
13 utility consistent with the long-range integrated resource plan.

14 (2) For an investor-owned utility, the clean energy action plan
15 must: (a) Identify and be informed by the utility's ten-year cost-
16 effective conservation potential assessment as determined under RCW
17 19.285.040, if applicable; (b) establish a resource adequacy
18 requirement; (c) identify the potential cost-effective demand
19 response and load management programs that may be acquired; (d)
20 identify renewable resources, nonemitting electric generation, and
21 distributed energy resources that may be acquired and evaluate how
22 each identified resource may be expected to contribute to meeting the
23 utility's resource adequacy requirement; (e) identify any need to
24 develop new, or expand or upgrade existing, bulk transmission and
25 distribution facilities; and (f) identify the nature and possible
26 extent to which the utility may need to rely on alternative
27 compliance options under section 4(1)(b) of this act, if appropriate.

28 (3)(a) An electric utility shall consider the social cost of
29 greenhouse gas emissions, as determined by the commission for
30 investor-owned utilities pursuant to section 15 of this act and the
31 department for consumer-owned utilities, when developing integrated
32 resource plans and clean energy action plans. An electric utility
33 must incorporate the social cost of greenhouse gas emissions as a
34 cost adder when:

35 (i) Evaluating and selecting conservation policies, programs, and
36 targets;

37 (ii) Developing integrated resource plans and clean energy action
38 plans; and

39 (iii) Evaluating and selecting intermediate term and long-term
40 resource options.

1 (b) For the purposes of this subsection (3): (i) Gas consisting
2 largely of methane and other hydrocarbons derived from the
3 decomposition of organic material in landfills, wastewater treatment
4 facilities, and anaerobic digesters must be considered a nonemitting
5 resource; and (ii) qualified biomass energy must be considered a
6 nonemitting resource.

7 (4) To facilitate broad, equitable, and efficient implementation
8 of this act, a consumer-owned energy utility may enter into an
9 agreement with a joint operating agency organized under chapter 43.52
10 RCW or other nonprofit organization to develop and implement a joint
11 clean energy action plan in collaboration with other utilities.

12 (5) All other utilities may elect to develop a full integrated
13 resource plan as set forth in subsection (1) of this section or, at a
14 minimum, shall develop a resource plan that:

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

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

18 (c) Explains why the resources in (b) of this subsection were
19 chosen and, if the resources chosen are not: (i) Renewable resources;
20 (ii) methods, commercially available technologies, or facilities for
21 integrating renewable resources, including addressing any
22 overgeneration event; or (iii) conservation and efficiency resources,
23 why such a decision was made; and

24 (d) By December 31, 2020, and in every resource plan thereafter,
25 identifies how the utility plans over a ten-year period to implement
26 sections 4 and 5 of this act.

27 ~~((3))~~ (6) Assessments for demand side resources included in an
28 integrated resource plan may include combined heat and power systems
29 as one of the measures in a conservation supply curve. The value of
30 recoverable waste heat resulting from combined heat and power must be
31 reflected in analyses of cost-effectiveness under this subsection.

32 ~~((4))~~ (7) An electric utility that is required to develop a
33 resource plan under this section must complete its initial plan by
34 September 1, 2008.

35 ~~((5) Resource)~~ (8) Plans developed under this section must be
36 updated on a regular basis, on intervals approved by the commission
37 or the department, or at a minimum on intervals of two years.

38 ~~((6))~~ (9) Plans shall not be a basis to bring legal action
39 against electric utilities.

1 ~~((7))~~ (10)(a) To maximize transparency, the commission, for
2 investor-owned utilities, or the governing body, for consumer-owned
3 utilities, may require an electric utility to make the utility's data
4 input files available in a native format. Each electric utility shall
5 publish its final plan either as part of an annual report or as a
6 separate document available to the public. The report may be in an
7 electronic form.

8 (b) Nothing in this subsection limits the protection of records
9 containing commercial information under RCW 80.04.095.

10 (11) By December 31, 2021, the department and the commission must
11 adopt rules establishing the requirements for incorporating the
12 cumulative impact analysis developed under section 24 of this act
13 into the criteria for developing clean energy action plans under this
14 section.

15 NEW SECTION. Sec. 15. A new section is added to chapter 80.28
16 RCW to read as follows:

17 For the purposes of this act, the cost of greenhouse gas
18 emissions resulting from the generation of electricity, including the
19 effect of emissions, is equal to the cost per metric ton of carbon
20 dioxide equivalent emissions, using the two and one-half percent
21 discount rate, listed in table 2, technical support document:
22 Technical update of the social cost of carbon for regulatory impact
23 analysis under Executive Order No. 12866, published by the
24 interagency working group on social cost of greenhouse gases of the
25 United States government, August 2016. The commission must adjust the
26 costs established in this section to reflect the effect of inflation.

27 **Sec. 16.** RCW 80.84.010 and 2016 c 220 s 1 are each amended to
28 read as follows:

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

31 (1) "Eligible coal plant" means a coal-fired electric generation
32 facility that: (a) ~~((Had two or fewer generating units as of January~~
33 ~~1, 1980, and four generating units as of January 1, 2016; (b))~~ Is
34 owned in whole or in part by more than one electrical company as of
35 January 1, 2016; and ~~((e))~~ (b) provides, as a portion of the load
36 served by the coal-fired electric generation facility, electricity
37 paid for in rates by customers in the state of Washington.

1 (2) "Eligible coal unit" means any generating unit of an eligible
2 coal plant.

3 NEW SECTION. **Sec. 17.** This section is the tax preference
4 performance statement for the tax preferences contained in sections
5 18 and 19, chapter . . ., Laws of 2019 (sections 18 and 19 of this
6 act). This performance statement is only intended to be used for
7 subsequent evaluation of the tax preference. It is not intended to
8 create a private right of action by any party or be used to determine
9 eligibility for preferential tax treatment.

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

13 (2) It is the legislature's specific public policy objective to
14 reduce the amount of carbon dioxide emissions in Washington. It is
15 the legislature's intent to extend the expiration date of and expand
16 the existing sales and use tax exemption for machinery and equipment
17 used directly in generating certain types of alternative energy, in
18 order to reduce the price charged to customers for that machinery and
19 equipment, thereby inducing some customers to buy machinery and
20 equipment for alternative energy when they might not otherwise,
21 thereby displacing electricity from fossil-fueled generating
22 resources, thereby reducing the amount of carbon dioxide emissions in
23 Washington. It is also the intent of the legislature to maximize cost
24 savings associated with clean energy construction for Washington
25 electric customers by encouraging development of these resources in
26 time for projects to benefit from both this incentive and expiring
27 federal incentives.

28 (3) It is also the legislature's specific public policy objective
29 to provide an incentive for more of the projects that meet the
30 objectives of subsection (2) of this section to be constructed with
31 high labor standards, including family level wages and providing
32 benefits including health care and pensions, as well as maximizing
33 access to economic benefits from such projects for local workers and
34 diverse businesses.

35 (4) The joint legislative audit and review committee is not
36 required to perform a tax preference review under chapter 43.136 RCW
37 for the tax preferences contained in sections 18 and 19,
38 chapter . . ., Laws of 2019 (sections 18 and 19 of this act) and it

1 is the intent of the legislature to allow the tax preferences to
2 expire upon their scheduled expiration dates.

3 **Sec. 18.** RCW 82.08.962 and 2018 c 164 s 5 are each amended to
4 read as follows:

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

20 (b) Beginning on July 1, 2011, through (~~January 1, 2020~~)
21 December 31, 2019, the amount of the exemption under this subsection
22 (1)(b) is equal to seventy-five percent of the state and local sales
23 tax paid. The purchaser is eligible for an exemption under this
24 subsection (1)(b) in the form of a remittance.

25 (c) Beginning January 1, 2020, through December 31, 2029, the
26 purchaser is entitled to an exemption, in the form of a remittance,
27 under this subsection (1)(c) in an amount equal to:

28 (i) Fifty percent of the state and local sales tax paid, if:

29 (A) The exempt purchase is for machinery and equipment or labor
30 and services rendered in respect to installing such machinery and
31 equipment in (a) of this subsection, excluding qualified purchases
32 under subsection (c)(i)(B) of this subsection, and the department of
33 labor and industries certifies that the project includes: Procurement
34 from and contracts with women, minority, or veteran-owned businesses;
35 procurement from and contracts with entities that have a history of
36 complying with federal and state wage and hour laws and regulations;
37 apprenticeship utilization; and preferred entry for workers living in
38 the area where the project is being constructed. In the event that a
39 project is built without one or more of these standards, and a

1 project developer or its designated principal contractor demonstrates
2 that it has made all good faith efforts to meet the standards but was
3 unable to comply due to lack of availability of qualified businesses
4 or local hires, the department of labor and industries may certify
5 that the developer complied with that standard; or

6 (B) The exempt purchase is for machinery and equipment that is
7 used directly in the generation of electricity by a solar energy
8 system capable of generating more than one hundred kilowatts AC but
9 no more than five hundred kilowatts AC of electricity, and labor and
10 services rendered in respect to installing such machinery and
11 equipment, and the department of labor and industries certifies that
12 the project has met the requirements of (c)(i)(A) of this subsection,
13 and the purchaser provides the following documentation to the
14 department as part of the application for a remittance:

15 (I) A copy of the contractor's certificate of registration in
16 compliance with chapter 18.27 RCW;

17 (II) The contractor's current state unified business identifier
18 number;

19 (III) A copy of the contractor's proof of industrial insurance
20 coverage for the contractor's employees working in Washington as
21 required in Title 51 RCW; employment security department number as
22 required in Title 50 RCW; and a state excise tax registration number
23 as required in Title 82 RCW; and

24 (IV) Documentation of the contractor's history of compliance with
25 federal and state wage and hour laws and regulations, consistent with
26 (e)(ii)(D) of this subsection;

27 (ii) Seventy-five percent of the state and local sales tax paid,
28 if the department of labor and industries certifies that the project
29 complies with (c)(i)(A) and (B) of this subsection and compensates
30 workers at prevailing wage rates determined by local collective
31 bargaining as determined by the department of labor and industries.
32 This subsection (1)(c)(ii) does not apply with respect to solar
33 energy systems described in (c)(i)(B) of this subsection; or

34 (iii) One hundred percent of the state and local sales tax paid,
35 if the department of labor and industries certifies that the project
36 is developed under a community workforce agreement or project labor
37 agreement. This subsection (1)(c)(iii) does not apply with respect to
38 solar energy systems described in (c)(i)(B) of this subsection.

39 (d) In order to qualify for the remittance under (c) of this
40 subsection, installation of the qualifying machinery and equipment

1 must commence no earlier than January 1, 2020, and be completed by
2 December 31, 2029.

3 (e) Beginning July 1, 2019, and through December 31, 2029, the
4 purchaser is entitled to an exemption under this subsection (1)(e) in
5 an amount equal to one hundred percent of the state and local sales
6 tax due on:

7 (i) Machinery and equipment that is used directly in the
8 generation of electricity by a solar energy system that is capable of
9 generating no more than one hundred kilowatts AC of electricity; or

10 (ii) Labor and services rendered in respect to installing
11 machinery and equipment exempt under (e)(i) of this subsection, and
12 the seller meets the following requirements at the time of the sale
13 for which the exemption is claimed:

14 (A) Has obtained a certificate of registration in compliance with
15 chapter 18.27 RCW;

16 (B) Has obtained a current state unified business identifier
17 number;

18 (C) Possesses proof of industrial insurance coverage for the
19 contractor's employees working in Washington as required in Title 51
20 RCW; employment security department number as required in Title 50
21 RCW; and a state excise tax registration number as required in Title
22 82 RCW; and

23 (D) Has had no findings of violation of federal or state wage and
24 hour laws and regulations in a final and binding order by an
25 administrative agency or court of competent jurisdiction in the past
26 twenty-four months.

27 (f) Purchasers claiming an exemption under (e) of this subsection
28 must provide the seller with an exemption certificate in a form and
29 manner prescribed by the department.

30 (g) In order to qualify for the exemption under (e)(ii) of this
31 subsection, installation of the qualifying machinery and equipment
32 must commence no earlier than July 1, 2019, and be completed by
33 December 31, 2029.

34 (2)(a) The department of labor and industries must adopt
35 emergency and permanent rules to:

36 (i) Define and set minimum requirements for all labor standards
37 identified in subsection (1)(c) of this section; and

38 (ii) Set requirements for all good faith efforts under subsection
39 (1)(c)(i) and (ii) of this section, as well as documentation
40 requirements and a certification process. Requirements for all good

1 faith efforts must be designed to maximize the likelihood that the
2 project is completed with said standards and could include: Proactive
3 outreach to firms that are women, minority, and veteran-owned
4 businesses; advertising in local community publications and
5 publications appropriate to identified firms; participating in
6 community job fairs, conferences, and trade shows; and other
7 measures. The certification process and timeline must be designed to
8 prevent undue delay to project development.

9 (b) Emergency rules must be adopted by December 1, 2019, and take
10 effect January 1, 2020.

11 (3) For purposes of this section and RCW 82.12.962, the following
12 definitions apply:

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

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

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

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

38 ~~((3))~~ (d) "Project labor agreement" and "community workforce
39 agreement" means a prehire collective bargaining agreement with one
40 or more labor organizations that establishes the terms and conditions

1 of employment for a specific construction project and is an agreement
2 described in 29 U.S.C. Sec. 158(f).

3 (4)(a) Machinery and equipment is "used directly" in generating
4 electricity by wind energy, solar energy, biomass energy, tidal or
5 wave energy, geothermal resources, or technology that converts
6 otherwise lost energy from exhaust if it provides any part of the
7 process that captures the energy of the wind, sun, biomass energy,
8 tidal or wave energy, geothermal resources, or technology that
9 converts otherwise lost energy from exhaust, converts that energy to
10 electricity, and stores, transforms, or transmits that electricity
11 for entry into or operation in parallel with electric transmission
12 and distribution systems.

13 (b) Machinery and equipment is "used directly" in generating
14 electricity by fuel cells if it provides any part of the process that
15 captures the energy of the fuel, converts that energy to electricity,
16 and stores, transforms, or transmits that electricity for entry into
17 or operation in parallel with electric transmission and distribution
18 systems.

19 ~~((4))~~ (5)(a)(i) A purchaser claiming an exemption in the form
20 of a remittance under subsection (1)(b) or (c) of this section must
21 pay the tax imposed by RCW 82.08.020 and all applicable local sales
22 taxes imposed under the authority of chapters 82.14 and 81.104 RCW.
23 The purchaser may then apply to the department for remittance in a
24 form and manner prescribed by the department. A purchaser may not
25 apply for a remittance under this section more frequently than once
26 per quarter. The purchaser must specify the amount of exempted tax
27 claimed and the qualifying purchases for which the exemption is
28 claimed. The purchaser must retain, in adequate detail, records to
29 enable the department to determine whether the purchaser is entitled
30 to an exemption under this section, including: Invoices; proof of tax
31 paid; and documents describing the machinery and equipment.

32 (ii) The application for remittance must include a copy of the
33 certificate issued for the project by the department of labor and
34 industries as prescribed by rule under subsection (2) of this
35 section.

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

1 ~~((5) The exemption provided by this section expires September~~
2 ~~30, 2017, as it applies to: (a))~~ (6) (a) Except as otherwise provided
3 in (c) of this subsection, from October 1, 2017, through December 31,
4 2019, the exemption provided by this section does not apply to: (i)
5 Machinery and equipment that is used directly in the generation of
6 electricity using solar energy and capable of generating no more than
7 five hundred kilowatts AC of electricity; or ~~((b))~~ (ii) sales of or
8 charges made for labor and services rendered in respect to installing
9 such machinery and equipment.

10 (b) The exemption provided by this section is reinstated for
11 machinery and equipment for solar energy systems capable of
12 generating more than one hundred kilowatts AC but no more than five
13 hundred kilowatts AC of electricity, or sales of or charges made for
14 labor and services rendered in respect to installing such machinery
15 and equipment, if installation of the machinery and equipment
16 commences on or after January 1, 2020.

17 (c) The exemption provided by this section is reinstated for
18 machinery and equipment for solar energy systems capable of
19 generating no more than one hundred kilowatts AC of electricity, or
20 sales of or charges made for labor and services rendered in respect
21 to installing such machinery and equipment, if installation of the
22 machinery and equipment commences on or after July 1, 2019.

23 ~~((6))~~ (7) This section expires January 1, ((2020)) 2030.

24 **Sec. 19.** RCW 82.12.962 and 2018 c 164 s 7 are each amended to
25 read as follows:

26 (1) (a) ~~((Except as provided in RCW 82.12.963, consumers who have~~
27 ~~paid))~~ Subject to the requirements of this section, the tax imposed
28 by RCW 82.12.020 ((~~en~~)) does not apply to machinery and equipment
29 used directly in generating electricity using fuel cells, wind, sun,
30 biomass energy, tidal or wave energy, geothermal resources, or
31 technology that converts otherwise lost energy from exhaust, or to
32 ((sales of or charges made for)) labor and services rendered in
33 respect to installing such machinery and equipment, ((are eligible
34 for an exemption as provided in this section,)) but only if the
35 purchaser develops with such machinery, equipment, and labor a
36 facility capable of generating not less than one thousand watts AC of
37 electricity. Except as otherwise provided in this section, the
38 consumer must pay the state and local use tax on the use of such

1 machinery and equipment and labor and services, and apply to the
2 department for a remittance of the tax paid.

3 (b) Beginning on July 1, 2011, through ~~((January 1, 2020))~~
4 December 31, 2019, the amount of the exemption under this subsection
5 (1) is equal to seventy-five percent of the state and local ~~((sales))~~
6 use tax paid. The consumer is eligible for an exemption under this
7 subsection (1)(b) in the form of a remittance.

8 ~~((+2))~~ (c) Beginning January 1, 2020, through December 31, 2029,
9 the purchaser is entitled to an exemption, in the form of a
10 remittance, under this subsection (1)(c) in an amount equal to:

11 (i) Fifty percent of the state and local use tax paid, if:

12 (A) The exempt purchase is for machinery and equipment or labor
13 and services rendered in respect to installing such machinery and
14 equipment in (a) of this subsection, excluding qualified purchases
15 under (c)(i)(B) of this subsection, and the department of labor and
16 industries certifies that the project includes: Procurement from and
17 contracts with women, minority, or veteran-owned businesses;
18 procurement from and contracts with entities that have a history of
19 complying with federal and state wage and hour laws and regulations;
20 apprenticeship utilization; and preferred entry for workers living in
21 the area where the project is being constructed. In the event that a
22 project is built without one or more of these standards, and a
23 project developer or its designated principal contractor demonstrates
24 that it has made all good faith efforts to meet the standards but was
25 unable to comply due to lack of availability of qualified businesses
26 or local hires, the department of labor and industries may certify
27 that the developer complied with that standard; or

28 (B) The exempt purchase is for machinery and equipment that is
29 used directly in the generation of electricity by a solar energy
30 system capable of generating more than one hundred kilowatts AC but
31 no more than five hundred kilowatts AC of electricity, or labor and
32 services rendered in respect to installing such machinery and
33 equipment, and the department of labor and industries certifies that
34 the project has met the requirements of (c)(i)(A) of this subsection,
35 and the purchaser has provided the following documentation to the
36 department as part of the application for a remittance:

37 (I) A copy of the contractor's certificate of registration in
38 compliance with chapter 18.27 RCW;

39 (II) The contractor's current state unified business identifier
40 number;

1 (III) A copy of the contractor's proof of industrial insurance
2 coverage for the contractor's employees working in Washington as
3 required in Title 51 RCW; employment security department number as
4 required in Title 50 RCW; and a state excise tax registration number
5 as required in Title 82 RCW; and

6 (IV) Documentation of the contractor's history of compliance with
7 federal and state wage and hour laws and regulations, consistent with
8 (e)(ii)(D) of this subsection;

9 (ii) Seventy-five percent of the state and local use tax paid, if
10 the department of labor and industries certifies that the project
11 complies with (c)(i)(A) of this subsection and compensates workers at
12 prevailing wage rates determined by local collective bargaining as
13 determined by the department of labor and industries. This subsection
14 (1)(c)(ii) does not apply with respect to solar energy systems
15 described in (c)(i)(B) of this subsection; or

16 (iii) One hundred percent of the state and local use tax paid, if
17 the department of labor and industries certifies that the project is
18 developed under a community workforce agreement or project labor
19 agreement. This subsection (1)(c)(iii) does not apply with respect to
20 solar energy systems described in (c)(i)(B) of this subsection.

21 (d) In order to qualify for the remittance under (c) of this
22 subsection, installation of the qualifying machinery and equipment
23 must commence no earlier than January 1, 2020, and be completed by
24 December 31, 2029.

25 (e) Beginning July 1, 2019, and through December 31, 2029, the
26 consumer is entitled to an exemption under this subsection (1)(e) in
27 an amount equal to one hundred percent of the state and local use tax
28 due on:

29 (i) Machinery and equipment that is used directly in the
30 generation of electricity by a solar energy system that is capable of
31 generating no more than one hundred kilowatts AC of electricity; or

32 (ii) Labor and services rendered in respect to installing
33 machinery and equipment exempt under (e)(i) of this subsection, and
34 the seller meets the following requirements at the time of the
35 purchase for which the exemption is claimed:

36 (A) Has obtained a certificate of registration in compliance with
37 chapter 18.27 RCW;

38 (B) Has obtained a current state unified business identifier
39 number;

1 (C) Possesses proof of industrial insurance coverage for the
2 contractor's employees working in Washington as required in Title 51
3 RCW; employment security department number as required in Title 50
4 RCW; and a state excise tax registration number as required in Title
5 82 RCW; and

6 (D) Has had no findings of violations of federal or state wage
7 and hour laws and regulations in a final and binding order by an
8 administrative agency or court of competent jurisdiction in the past
9 twenty-four months.

10 (f) In order to qualify for the exemption under (e)(ii) of this
11 subsection, installation of the qualifying machinery and equipment
12 must commence no earlier than July 1, 2019, and be completed by
13 December 31, 2029.

14 (2) The department of labor and industries must initiate an
15 emergency rule making on the effective date of this section to be
16 completed by December 1, 2019, to:

17 (a) Define and set minimum requirements for all labor standards
18 identified in subsection (1)(c) of this section; and

19 (b) Set requirements for all good faith efforts under subsection
20 (1)(c)(i) and (ii) of this section, as well as documentation
21 requirements and a certification process. Requirements for all good
22 faith efforts must be designed to maximize the likelihood that the
23 project is completed with said standards and could include: Proactive
24 outreach to firms that are women, minority, and veteran-owned
25 businesses; advertising in local community publications and
26 publications appropriate to identified firms; participating in
27 community job fairs, conferences, and trade shows; and other
28 measures. The certification process and timeline must be designed to
29 prevent undue delay to project development.

30 (3)(a)(i) A person claiming an exemption in the form of a
31 remittance under subsection (1)(b) and (c) of this section must pay
32 the tax imposed by RCW 82.12.020 and all applicable local use taxes
33 imposed under the authority of chapters 82.14 and 81.104 RCW. The
34 consumer may then apply to the department for remittance in a form
35 and manner prescribed by the department. A consumer may not apply for
36 a remittance under this section more frequently than once per
37 quarter. The consumer must specify the amount of exempted tax claimed
38 and the qualifying purchases or acquisitions for which the exemption
39 is claimed. The consumer must retain, in adequate detail, records to
40 enable the department to determine whether the consumer is entitled

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

3 (ii) The application for remittance must include a copy of the
4 certificate issued for the project by the department of labor and
5 industries under subsection (1) of this section.

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

12 ~~((3))~~ (4) Purchases exempt under RCW 82.08.962 are also exempt
13 from the tax imposed under RCW 82.12.020.

14 ~~((4))~~ (5) The definitions in RCW 82.08.962 apply to this
15 section.

16 ~~((5))~~ (6) The exemption provided in subsection (1) of this
17 section does not apply:

18 (a) To machinery and equipment used directly in the generation of
19 electricity using solar energy and capable of generating no more than
20 five hundred kilowatts AC of electricity, or to sales of or charges
21 made for labor and services rendered in respect to installing such
22 machinery and equipment, when first use within this state of such
23 machinery and equipment, or labor and services, occurs after
24 September 30, 2017, and before January 1, 2020, except as otherwise
25 provided in subsection (7) of this section; and

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

32 ~~((6))~~ (7)(a) The exemption provided by this section is
33 reinstated for machinery and equipment for solar energy systems
34 capable of generating more than one hundred kilowatts AC but no more
35 than five hundred kilowatts AC of electricity, or sales of or charges
36 made for labor and services rendered in respect to installing such
37 machinery and equipment, if first use within the state of the
38 machinery and equipment commences on or after January 1, 2020.

39 (b) The exemption provided by this section is reinstated for
40 machinery and equipment for solar energy systems capable of

1 generating no more than one hundred kilowatts AC of electricity, or
2 sales of or charges made for labor and services rendered in respect
3 to installing such machinery and equipment, if first use within the
4 state of the machinery and equipment commences on or after July 1,
5 2019.

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

7 **Sec. 20.** RCW 80.04.250 and 2011 c 214 s 9 are each amended to
8 read as follows:

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

13 (2) The commission has power upon complaint or upon its own
14 motion to ascertain and determine the fair value for rate making
15 purposes of the property of any public service company used and
16 useful for service in this state by or during the rate effective
17 period and shall exercise such power whenever it deems such valuation
18 or determination necessary or proper under any of the provisions of
19 this title. ~~((In determining what property is used and useful for~~
20 ~~providing electric, gas, wastewater company services, or water~~
21 ~~service, the commission may include the reasonable costs of~~
22 ~~construction work in progress to the extent that the commission finds~~
23 ~~that inclusion is in the public interest.~~

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

30 (3) The commission may provide changes to rates under this
31 section for up to forty-eight months after the rate effective date
32 using any standard, formula, method, or theory of valuation
33 reasonably calculated to arrive at fair, just, reasonable, and
34 sufficient rates. The commission must establish an appropriate
35 process to identify, review, and approve public service company
36 property that becomes used and useful for service in this state after
37 the rate effective date.

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

1 (~~(3)~~) (5) The commission shall, before any hearing is had,
2 notify the complainants and the public service company concerned of
3 the time and place of such hearing by giving at least thirty days'
4 written notice thereof, specifying that at the time and place
5 designated a hearing will be held for the purpose of ascertaining the
6 value of the company's property, used and useful as aforesaid, which
7 notice must be sufficient to authorize the commission to inquire into
8 and pass upon the matters designated in this section.

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

12 NEW SECTION. Sec. 21. A new section is added to chapter 80.28
13 RCW to read as follows:

14 (1) An electrical company may account for and defer for later
15 consideration by the commission costs incurred in connection with
16 major projects in the electrical company's clean energy action plan
17 pursuant to RCW 19.280.030(1)(1), or selected in the electrical
18 company's solicitation of bids for delivering electric capacity,
19 energy, capacity and energy, or conservation. The deferral in this
20 subsection begins with the date on which the resource begins
21 commercial operation or the effective date of the power purchase
22 agreement and continues for a period not to exceed thirty-six months.
23 However, if during such a period the electrical company files a
24 general rate case or other proceeding for the recovery of such costs,
25 deferral ends on the effective date of the final decision by the
26 commission in such a proceeding. Creation of such a deferral account
27 does not by itself determine the actual costs of the resource or
28 power purchase agreement, whether recovery of any or all of these
29 costs is appropriate, or other issues to be decided by the commission
30 in a general rate case or other proceeding.

31 (2) The costs that an electrical company may account for and
32 defer for later consideration by the commission pursuant to
33 subsection (1) of this section include all operating and maintenance
34 costs, depreciation, taxes, cost of capital associated with the
35 applicable resource or the execution of a power purchase agreement.
36 Such costs of capital include:

37 (a) The electrical company's authorized return on equity for any
38 resource acquired or developed by the electrical company; or

1 (b) For the duration of a power purchase agreement, a rate of
2 return of no less than the authorized cost of debt and no greater
3 than the authorized rate of return of the electrical company, which
4 would be multiplied by the operating expense incurred by the
5 electrical company under the power purchase agreement.

6 **Sec. 22.** RCW 43.21F.090 and 1996 c 186 s 106 are each amended to
7 read as follows:

8 (1) The department shall review the state energy strategy ((as
9 developed under section 1, chapter 201, Laws of 1991, periodically
10 with the guidance of an advisory committee. For each review, an
11 advisory committee shall be established with a membership resembling
12 as closely as possible the original energy strategy advisory
13 committee specified under section 1, chapter 201, Laws of 1991.)) by
14 December 31, 2020, and at least once every eight years thereafter,
15 subject to funding provided for this purpose, for the purpose of
16 aligning the state energy strategy with the requirements of RCW
17 43.21F.088 and chapters 19.285 and 19.--- RCW (the new chapter
18 created in section 27 of this act), and the emission reduction
19 targets recommended by the department of ecology under RCW
20 70.235.040. The department must establish an energy strategy advisory
21 committee for each review to provide guidance to the department in
22 conducting the review. The membership of the energy strategy advisory
23 committee must consist of the following:

- 24 (a) One person recommended by investor-owned electric utilities;
- 25 (b) One person recommended by investor-owned natural gas
26 utilities;
- 27 (c) One person employed by or recommended by a natural gas
28 pipeline serving the state;
- 29 (d) One person recommended by suppliers of petroleum products;
- 30 (e) One person recommended by municipally owned electric
31 utilities;
- 32 (f) One person recommended by public utility districts;
- 33 (g) One person recommended by rural electrical cooperatives;
- 34 (h) One person recommended by industrial energy users;
- 35 (i) One person recommended by commercial energy users;
- 36 (j) One person recommended by agricultural energy users;
- 37 (k) One person recommended by the association of Washington
38 cities;

1 (l) One person recommended by the Washington association of
2 counties;

3 (m) One person recommended by Washington Indian tribes;

4 (n) One person recommended by businesses in the clean energy
5 industry;

6 (o) One person recommended by labor unions;

7 (p) Two persons recommended by civic organizations, one of which
8 must be a representative of a civic organization that represents
9 vulnerable populations;

10 (q) Two persons recommended by environmental organizations;

11 (r) One person representing independent power producers;

12 (s) The chair of the energy facility site evaluation council or
13 the chair's designee;

14 (t) One of the representatives of the state of Washington to the
15 Pacific Northwest electric power and conservation planning council
16 selected by the governor;

17 (u) The chair of the utilities and transportation commission or
18 the chair's designee;

19 (v) One member from each of the two largest caucuses of the house
20 of representatives selected by the speaker of the house of
21 representatives; and

22 (w) One member from each of the two largest caucuses of the
23 senate selected by the president of the senate.

24 (2) The chair of the advisory committee must be appointed by the
25 governor from citizen members. The director may establish technical
26 advisory groups as necessary to assist in the development of the
27 strategy. The director shall provide for extensive public involvement
28 throughout the development of the strategy.

29 (3) Upon completion of a public hearing regarding the advisory
30 committee's advice and recommendations for revisions to the energy
31 strategy, a written report shall be conveyed by the department to the
32 governor and the appropriate legislative committees. ((Any)) The
33 energy strategy advisory committee established under this section
34 ((shall)) must be dissolved within three months after their written
35 report is conveyed.

36 NEW SECTION. Sec. 23. (1) By January 1, 2020, the department of
37 commerce must convene an energy and climate policy advisory committee
38 to develop recommendations to the legislature for the coordination of
39 existing resources, or the establishment of new ones, for the

1 purposes of examining the costs and benefits of energy-related
2 policies, programs, functions, activities, and incentives on an on-
3 going basis and conducting other energy-related studies and analyses
4 as may be directed by the legislature.

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

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

14 (4) This section expires January 1, 2021.

15 NEW SECTION. **Sec. 24.** By December 31, 2020, the department of
16 health must develop a cumulative impact analysis to designate the
17 communities highly impacted by fossil fuel pollution and climate
18 change in Washington. The cumulative impact analysis may integrate
19 with and build upon other concurrent cross-agency efforts in
20 developing a cumulative impact analysis and population tracking
21 resources used by the department of health and analysis performed by
22 the University of Washington department of environmental and
23 occupational health sciences.

24 NEW SECTION. **Sec. 25.** (1) The legislature finds that based on
25 current technology, there will likely need to be upgrades to
26 electricity transmission and distribution infrastructure across the
27 state to meet the goals specified in this act. These facilities
28 require a significant planning horizon to deliver electricity
29 generation sites to retail electric load. Pursuant to RCW 80.50.040,
30 the energy facility site evaluation council chair shall convene a
31 transmission corridors work group and report its findings to the
32 governor and the appropriate committees of the legislature by
33 December 31, 2022.

34 (2) The work group must include one representative from each of
35 the following state agencies: The department of commerce, the
36 utilities and transportation commission, the department of ecology,
37 the department of fish and wildlife, the department of natural
38 resources, the department of transportation, the department of

1 archaeology and historic preservation, and the state military
2 department. The work group shall also include two representatives
3 designated by the association of Washington cities, one from central
4 or eastern Washington and one from western Washington; two
5 representatives designated by the Washington state association of
6 counties, one from central or eastern Washington and one from western
7 Washington; two members designated by sovereign tribal governments;
8 one member representing affected utility industries; one member
9 representing public utility districts; and two members representing
10 statewide environmental organizations. The energy facility site
11 evaluation council chair shall invite the Bonneville power
12 administration and the United States department of defense to each
13 appoint an ex officio work group member.

14 (3) The work group shall:

15 (a) Review the need for upgraded and new electricity transmission
16 and distribution facilities to improve reliability, relieve
17 congestion, and enhance the capability of the transmission and
18 distribution facilities in the state to deliver electricity from
19 electric generation, nonemitting electric generation, or renewable
20 resources to retail electric load;

21 (b) Identify areas where transmission and distribution facilities
22 may need to be enhanced or constructed; and

23 (c) Identify environmental review options that may be required to
24 complete the designation of such corridors and recommend ways to
25 expedite review of transmission projects without compromising
26 required environmental protection.

27 (4) The energy facility site evaluation council may contract
28 services to assist in the work group efforts.

29 (5) This section expires January 1, 2023.

30 NEW SECTION. **Sec. 26.** This chapter may be known and cited as
31 the Washington clean energy transformation act.

32 NEW SECTION. **Sec. 27.** Sections 1 through 13 and 26 of this act
33 constitute a new chapter in Title 19 RCW.

34 **Sec. 28.** RCW 19.285.030 and 2017 c 315 s 1 are each amended to
35 read as follows:

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

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

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

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

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

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

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

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

25 (7) "Cost-effective" has the same meaning as defined in RCW
26 80.52.030.

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

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

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

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

37 (12) "Eligible renewable resource" means:

38 (a) Electricity from a generation facility powered by a renewable
39 resource other than freshwater that commences operation after March
40 31, 1999, where: (i) The facility is located in the Pacific

1 Northwest; or (ii) the electricity from the facility is delivered
2 into Washington state on a real-time basis without shaping, storage,
3 or integration services;

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

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

15 (d) Qualified biomass energy;

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

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

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

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

38 (g) That portion of incremental electricity produced as a result
39 of efficiency improvements completed after March 31, 1999,
40 attributable to a qualifying utility's share of the electricity

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

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

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

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

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

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

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

35 (17) "Public facility" has the same meaning as defined in RCW
36 39.35C.010.

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

1 facility that is directly interconnected with electricity facilities
2 that are owned by a qualifying utility and capable of carrying
3 electricity at transmission voltage.

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

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

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

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

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

28 **Sec. 29.** RCW 19.285.040 and 2017 c 315 s 2 are each amended to
29 read as follows:

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

32 (a) By January 1, 2010, using methodologies consistent with those
33 used by the Pacific Northwest electric power and conservation
34 planning council in the most recently published regional power plan
35 as it existed on June 12, 2014, or a subsequent date as may be
36 provided by the department or the commission by rule, each qualifying
37 utility shall identify its achievable cost-effective conservation
38 potential through 2019. Nothing in the rule adopted under this
39 subsection precludes a qualifying utility from using its utility

1 specific conservation measures, values, and assumptions in
2 identifying its achievable cost-effective conservation potential. At
3 least every two years thereafter, the qualifying utility shall review
4 and update this assessment for the subsequent ten-year period.

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

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

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

32 (iii) Beginning January 1, 2012, and until December 31, 2017, a
33 qualifying utility with an industrial facility located in a county
34 with a population between ninety-five thousand and one hundred
35 fifteen thousand that is directly interconnected with electricity
36 facilities that are capable of carrying electricity at transmission
37 voltage may use cost-effective conservation from that industrial
38 facility in excess of its biennial acquisition target to help meet
39 the immediately subsequent two biennial acquisition targets, such
40 that no more than twenty-five percent of any biennial target may be

1 met with excess conservation savings allowed under all of the
2 provisions of this section combined.

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

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

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

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

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

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

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

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

37 (c) In meeting the annual targets in (a) of this subsection, a
38 qualifying utility shall calculate its annual load based on the
39 average of the utility's load for the previous two years.

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

12 ~~(e) ((The requirements of this section may be met for any given~~
13 ~~year with renewable energy credits produced during that year, the~~
14 ~~preceding year, or the subsequent year. Each renewable energy credit~~
15 ~~may be used only once to meet the requirements of this section))~~ A
16 qualifying utility may use renewable energy credits to meet the
17 requirements of this section, subject to the limitations of this
18 subsection.

19 (i) A renewable energy credit from electricity generated by a
20 resource other than freshwater may be used to meet a requirement
21 applicable to the year in which the credit was created, the year
22 before the year in which the credit was created, or the year after
23 the year in which the credit was created.

24 (ii) A renewable energy credit from electricity generated by
25 freshwater:

26 (A) May only be used to meet a requirement applicable to the year
27 in which the credit was created; and

28 (B) Must be acquired by the qualifying utility through ownership
29 of the generation facility or through a transaction that conveyed
30 both the electricity and the nonpower attributes of the electricity.

31 (iii) A renewable energy credit transferred to an investor-owned
32 utility pursuant to the Bonneville power administration's residential
33 exchange program may not be used by any utility other than the
34 utility receiving the credit from the Bonneville power
35 administration.

36 (iv) Each renewable energy credit may only be used once to meet
37 the requirements of this section and must be retired using procedures
38 of the renewable energy credit tracking system.

39 (f) In complying with the targets established in (a) of this
40 subsection, a qualifying utility may not count:

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

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

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

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

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

18 (B) Where the developer of the facility used apprenticeship
19 programs approved by the council during facility construction.

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

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

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

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

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

15 (l) Beginning January 1, 2020, a qualifying utility may use
16 eligible renewable resources as identified under RCW 19.285.030(12)
17 (g) and (h) to meet its compliance obligation under this subsection
18 (2). A qualifying utility may not transfer or sell these eligible
19 renewable resources to another utility for compliance purposes under
20 this chapter.

21 (m) Beginning January 1, 2030, a qualifying utility is considered
22 to be in compliance with an annual target in (a) of this subsection
23 if the utility uses electricity from: (i) Renewable resources and
24 renewable energy credits as defined in RCW 19.285.030; and (ii)
25 nonemitting electric generation as defined in section 2 of this act,
26 in an amount equal to one hundred percent of the utility's average
27 annual retail electric load. Nothing in this subsection relieves the
28 requirements of a qualifying utility to comply with subsection (1) of
29 this section.

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

34 NEW SECTION. Sec. 30. If any provision of this act or its
35 application to any person or circumstance is held invalid, the
36 remainder of the act or the application of the provision to other
37 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 31.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of
3 the state government and its existing public institutions, and takes
4 effect immediately.

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