
HOUSE BILL 2997

State of Washington

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2018 Regular Session

By Representatives Doglio and Tarleton

1 AN ACT Relating to Washington's clean, affordable, and reliable
2 energy future; adding new sections to chapter 19.285 RCW; adding a
3 new section to chapter 82.08 RCW; adding a new section to chapter
4 82.12 RCW; adding new sections to chapter 82.16 RCW; creating a new
5 section; prescribing penalties; and providing an expiration date.

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

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

20 (2) By building on the state's foundation of renewable
21 hydroelectric generation with additional conservation and renewable

1 energy resources, the legislature declares that Washington can:
2 Promote energy independence; create high-quality jobs in the clean
3 technology sector; maintain stable and affordable electric rates for
4 all customers; and protect clean air and water in the Pacific
5 Northwest.

6 NEW SECTION. **Sec. 2.** The definitions in this section apply
7 throughout sections 3 through 6 of this act unless the context
8 clearly requires otherwise.

9 (1) "Coal-fired resource" means a facility that uses coal-fired
10 generating units, or that uses units fired in whole or in part by
11 coal as feedstock, to generate electricity.

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

14 (3) "Electric utility" has the same meaning as defined in RCW
15 19.29A.010.

16 (4) "Fossil fuel" means petroleum products that are intended for
17 combustion, including natural gas, crude oil, petroleum, coal, or
18 coke of any kind, or any form of solid, liquid, or gaseous fuel
19 derived from these products including but not limited to motor
20 vehicle fuel, special fuel, aircraft fuel, marine fuel, still gas,
21 propane, and petroleum residuals such as bunker fuel.

22 (5) "Fossil fuel generating resource" is an electric generating
23 unit that generates electricity from the combustion or oxidation of
24 fossil fuels.

25 (6) "Low-income" means household income as defined by the
26 department or commission, provided that the definition may not exceed
27 eighty percent of area median household income, adjusted for
28 household size.

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

33 (8) "Natural gas" means naturally occurring mixtures of
34 hydrocarbon gases and vapors consisting principally of methane,
35 whether in gaseous or liquid form, including methane clathrate.

36 (9) "Petroleum product" has the same meaning as defined in RCW
37 82.23A.010.

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

4 NEW SECTION. **Sec. 3.** (1)(a) On or before January 1, 2030, all
5 electric utilities must eliminate from electric rates all costs
6 associated with delivering electricity to Washington customers that
7 is generated from a coal-fired resource. This does not include costs
8 associated with decommissioning and remediation of these facilities.

9 (b) The commission may accelerate depreciation schedules for any
10 coal-fired resource owned by investor-owned utilities to a date no
11 later than January 1, 2030.

12 (2) The commission may not extend the depreciation schedule for
13 any fossil fuel generating resource.

14 (3) Electric utilities and market customers must demonstrate that
15 they have reduced the total number of megawatt hours from fossil fuel
16 generating resources delivered to Washington customers compared to a
17 2017 baseline approved by the commission, for investor-owned
18 utilities and market customers of investor-owned utilities, and the
19 department, for consumer-owned utilities and market customers of
20 consumer-owned utilities, used to serve the utility's load by the
21 following annual targets:

22 (a) At least a twenty-five percent reduction from 2017 levels by
23 January 1, 2030, and each year thereafter through December 31, 2034;

24 (b) At least a fifty percent reduction from 2017 levels by
25 January 1, 2035, and each year thereafter through December 31, 2039;

26 (c) At least a seventy-five percent reduction from 2017 levels by
27 January 1, 2040, and each year thereafter through December 31, 2044;
28 and

29 (d) One hundred percent reduction by January 1, 2045, and each
30 year thereafter.

31 (4) In order to achieve the targets under subsection (3) of this
32 section, electric utilities and market customers shall demonstrate
33 that they have achieved all feasible conservation measures or
34 investments, reductions in demand, and demand management prior to
35 making new investments to meet projected demand; and, to the maximum
36 extent feasible, shall:

37 (a) Achieve the targets under subsection (3) of this section at
38 the lowest reasonable cost;

1 (b) Avoid the imposition of the pollution mitigation charge under
2 section 4(1)(a) of this act; and

3 (c) In the construction of new resources:

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

6 (ii) Rely on renewable resources and storage.

7 (5) Any resource for which the environmental attribute or
8 attributes have been sold, transferred, or used for other purposes,
9 except for an electric utility's own compliance with the annual
10 renewable energy targets under RCW 19.285.040, is considered a fossil
11 fuel generating resource for the purposes of this act.

12 (6) Hydroelectric generation may not include new diversions, new
13 impoundments, new bypass reaches, or expansion of existing reservoirs
14 constructed after the effective date of this section unless the
15 diversions, bypass reaches, or reservoir expansions are necessary for
16 the operation of a pumped storage facility that: (a) Does not
17 conflict with existing state or federal fish recovery plans; and (b)
18 complies with all local, state, and federal laws and regulations.

19 NEW SECTION. **Sec. 4.** (1)(a) An electric utility or market
20 customer shall pay a pollution mitigation charge to the department
21 for fossil fuel megawatt hours in excess of limits established in
22 section 3(3) of this act. This charge must be set per megawatt hour
23 and increase according to the following schedule:

Year	Pollution mitigation charge (Dollars per megawatt-hour)
2030	Fifty dollars/MWh
2040	Seventy-five dollars/MWh
2045	One hundred dollars/MWh

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29 (b) All dollar amounts set forth in (a) of this subsection are in
30 2018 dollars. Beginning on the effective date of this section, this
31 charge must be adjusted annually according to the rate of change of
32 the inflation indicator, gross domestic product-implicit price
33 deflator, as published by the bureau of economic analysis of the
34 United States department of commerce or its successor.

35 (2)(a) For an investor-owned utility, the commission shall
36 determine compliance with the provisions of this chapter and assess
37 charges as provided in subsection (1) of this section.

1 (b) For a consumer-owned utility, the department is responsible
2 for assessing charges as provided in subsection (1) of this section.
3 The auditor shall determine compliance with the provisions of this
4 chapter and the attorney general is responsible for enforcing
5 compliance.

6 (c) For a market customer, the auditor shall determine compliance
7 with this chapter and the attorney general is responsible for
8 enforcing compliance, except that the commission shall determine
9 compliance with section 3 of this act for a market customer of an
10 investor-owned utility.

11 (3)(a) By June 1, 2025, and annually thereafter, each electric
12 utility and market customer shall report to the department on
13 progress towards the reduction in the total number of megawatt hours
14 from fossil fuel generating resources under section 3 of this act.

15 (b) Each investor-owned utility shall also report all information
16 required in (a) of this subsection to the commission.

17 (c) All electric utilities shall also make reports required in
18 this section available to its customers and each market customer
19 shall make all information required in this subsection available to
20 the attorney general.

21 (4) Moneys collected from electric utilities and market customers
22 pursuant to subsection (1)(a) of this section must be expended by the
23 department to assist electric utilities and market customers in
24 eliminating future payments of the pollution mitigation charge in the
25 following manner:

26 (a) One-third of revenue must be expended on projects that reduce
27 energy spending by low-income electricity customers, with priority
28 for distributed generation and conservation projects in excess of
29 existing requirements; and

30 (b) The remaining funds must be expended for projects that assist
31 electric utilities and market customers in meeting the fossil fuel
32 reduction requirements in section 3 of this act including, but not
33 limited to: (i) Smart grid and grid modernization projects; (ii)
34 research and deployment of renewable resources with capacity factors
35 above fifty percent; and (iii) forest health and carbon
36 sequestration.

37 NEW SECTION. **Sec. 5.** (1)(a) The legislature finds and declares
38 all of the following:

1 (i) There is insufficient information available to fully realize
2 the potential of solar photovoltaic energy generation to serve low-
3 income customers, including those in disadvantaged communities.

4 (ii) There is insufficient understanding of the barriers to
5 access for low-income customers to all forms of renewable energy
6 being generated in the state.

7 (iii) There is insufficient understanding of the barriers to
8 access for low-income customers to energy efficiency investments.

9 (iv) There is insufficient understanding of the barriers to
10 access for low-income customers to zero emission and near-zero
11 emission transportation options.

12 (b) By January 1, 2019, the department, with input from relevant
13 state agencies and the public, shall develop and publish a study on:

14 (i) Barriers for low-income customers, including those in
15 disadvantaged communities, to energy efficiency and weatherization
16 investments, as well as recommendations on how to increase access to
17 energy efficiency and weatherization investments to low-income
18 customers; and

19 (ii) Barriers for low-income customers, including those in
20 disadvantaged communities, to zero emission and near-zero emission
21 transportation options, as well as recommendations on how to increase
22 access to zero emission and near-zero emission transportation options
23 to low-income customers, including those in disadvantaged
24 communities.

25 (2) By January 1, 2025, the department, with input from relevant
26 state agencies and the public, shall develop and publish a study on:

27 (a) The impact of this act on utility rates as it affects
28 individuals of varying income levels, ethnic backgrounds, and racial
29 backgrounds; and

30 (b) Projected and current worker hours in construction,
31 manufacturing, operations, and maintenance created as a result of
32 compliance with the requirements of this act. The study shall also
33 include estimates of direct, indirect, and induced job creation. The
34 study must be repeated every five years.

35 (3) The definitions in RCW 19.285.030 apply throughout this
36 section.

37 (4) This section expires July 1, 2026.

38 NEW SECTION. **Sec. 6.** The commission, in the case of investor-
39 owned utilities, and the department, in the case of consumer-owned

1 utilities, shall adopt rules to implement sections 3 and 4 of this
2 act.

3 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.08
4 RCW to read as follows:

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

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

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

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

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

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

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

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

6 (7) The exemption under this section expires January 1, 2029. The
7 department may not approve any remittance claimed after December 31,
8 2029.

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

12 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.12
13 RCW to read as follows:

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

19 (2) The exemption in this section is available in the form of a
20 remittance. The total amount of remittance a person may receive under
21 this section and section 7 of this act is limited to one million
22 dollars per eligible renewable energy investment project.

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

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

37 (5) The definitions in section 7 of this act apply to this
38 section.

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

3 (7) The exemption under this section expires January 1, 2029. The
4 department may not approve any remittance claimed after December 31,
5 2029.

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

9 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.16
10 RCW to read as follows:

11 The definitions in this section apply throughout this section and
12 sections 10, 11, and 12 of this act, unless the context clearly
13 requires otherwise.

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

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

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

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

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

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

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

38 (8) "Investor-owned gas distribution business" means any gas
39 distribution business subject to regulation by the commission of the

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

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

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

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

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

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

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

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

32 (2)(a) To be eligible for the credit under this section, an
33 investor-owned energy utility must, as of the date the credit is
34 claimed, have received approval by the commission of a clean energy
35 investment plan pursuant to section 11 of this act.

36 (b) Each investor-owned energy utility claiming a credit under
37 this section must establish and maintain a separate clean energy
38 investment account into which it must deposit amounts equal to the
39 credit taken under this section. Moneys in the clean energy

1 investment account must be deposited in an interest-bearing account
2 in a financial institution as defined by RCW 30A.22.040 that is
3 separate from other accounts and that credits all interest earned on
4 the funds to that account. Moneys in the clean energy investment
5 account may only be expended for the purposes identified in this
6 chapter.

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

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

14 (3)(a) To be eligible for the credit under this section, a
15 consumer-owned energy utility must, as of the date the credit is
16 claimed, have a plan, developed pursuant to section 12 of this act
17 and approved by the governing body of the consumer-owned utility, to
18 reinvest an equivalent amount of revenues collected from customers
19 during that year, the preceding year, or any of the three subsequent
20 years.

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

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

31 (4) Credits may not be earned under this section after December
32 31, 2029. Credits must be claimed under this section by December 31,
33 2030.

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

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

1 (1) To be eligible for the tax credit under section 10 of this
2 act, an investor-owned energy utility must develop and maintain an
3 approved clean energy investment plan, which identifies approved
4 funding for clean energy investments over a ten-year period, pursuant
5 to subsections (4) and (6) of this section, as part of the investor-
6 owned energy utility's integrated resource plan required under
7 chapter 19.280 RCW or WAC 480-90-238.

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

11 (3) Beginning July 1, 2019, an investor-owned energy utility
12 seeking a credit under section 10 of this act must submit:

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

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

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

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

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

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

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

32 (d) Sufficient funding, as determined by the commission, to
33 mitigate increases in electric costs to qualifying low-income
34 customers as a result of complying with the requirements of sections
35 3 and 4 of this act. Such moneys must be additional to other funding
36 for low-income energy assistance.

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

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

1 (b) Up to ten percent of the expenditures in the clean energy
2 investment account established pursuant to section 10 of this act may
3 be dedicated for research and development by the investor-owned
4 energy utility that will promote energy conservation or the
5 deployment of zero-emission energy resources.

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

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

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

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

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

22 (ii) Market transformation for energy efficiency products;

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

26 (iv) Low-income weatherization;

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

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

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

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

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

39 (x) Contributions to self-directed investments in the following
40 measures to serve the sites of large industrial gas and electrical

1 customers: Conservation; new renewable energy resources; behind-the-
2 meter technology that facilitates demand response cooperation to
3 reduce peak loads; infrastructure to support electrification of
4 transportation needs and heating loads; or renewable natural gas
5 production, including gas conditioning equipment for biogas.

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

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

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

20 (10) In order to maintain eligibility for the tax credit under
21 section 8 of this act and to retain authority to expend money from a
22 clean energy investment account, an investor-owned energy utility
23 must submit and receive approval of an updated clean energy
24 investment plan every two years, and submit annual reports to the
25 commission, including:

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

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

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

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

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

1 (12) The commission must annually provide the department of
2 revenue a report summarizing which investor-owned energy utilities
3 are entitled to the credit, over what timeline, any required
4 adjustments to credit previously issued, and any further information
5 required to assist the department of revenue in administering the
6 credit allowed under section 10 of this act.

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

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

15 (1) To be eligible for the tax credit under section 10 of this
16 act, a consumer-owned energy utility must develop and maintain a
17 clean energy investment plan that is approved by its governing body
18 as part of its integrated resource plan or other resource plan
19 required under chapter 19.280 RCW, if applicable.

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

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

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

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

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

32 (a) Programs for investments or expenditures that:

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

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

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

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

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

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

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

12 (f) Sufficient funding, as determined by the department, to
13 mitigate increases in electric costs to qualifying low-income
14 customers as a result of meeting the requirements of sections 3 and 4
15 of this act. Such moneys must be additional to other funding for low-
16 income energy assistance.

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

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

21 (b) Market transformation of energy efficiency products;

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

24 (d) Low-income weatherization;

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

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

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

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

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

36 (j) Investments in the following measures to serve the sites of
37 large industrial gas and electrical customers: Conservation; new
38 renewable energy resources; behind-the-meter technology that
39 facilitates demand response cooperation to reduce peak loads;
40 infrastructure to support electrification of transportation needs and

1 heating loads; or renewable natural gas production, including gas
2 conditioning equipment for biogas;

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

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

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

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

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

14 (6) In order to maintain eligibility for the tax credit under
15 section 8 of this act and to continue to retain authority to expend
16 money from the utility's clean energy investment account, a consumer-
17 owned energy utility must submit and receive approval from its
18 governing body of an updated clean energy investment plan every two
19 years.

20 (7)(a) A consumer-owned energy utility may enter into an
21 agreement with a joint operating agency organized under chapter 43.52
22 RCW on or before January 1, 2017, to aggregate claims for the credit
23 allowed under section 10 of this act and to develop and implement a
24 joint clean energy investment plan. Implementation of a joint clean
25 energy investment plan may not begin until the governing bodies of
26 all member utilities have approved the plan through a public process.

27 (b) A consumer-owned energy utility that is not a member of a
28 joint operating agency may enter into an agreement with a nonprofit
29 organization to aggregate claims for the credit allowed under section
30 10 of this act and to develop and implement a joint clean energy
31 investment plan. Implementation of a joint clean energy investment
32 plan may not begin until the governing bodies of all participating
33 utilities have approved the plan through a public process.

34 (c) Each utility that enters into an agreement authorized under
35 (a) or (b) of this subsection must empower the joint operating agency
36 or nonprofit organization to, on their behalf, claim the credit
37 allowed under section 10 of this act. The joint operating agency or
38 nonprofit organization must establish and maintain a separate clean
39 energy investment account and deposit into that account amounts equal
40 to the credits taken under this subsection. Moneys in this account

1 must be kept separate from other accounts, and may only be expended
2 for the purposes identified in this chapter.

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

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

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

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

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

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

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

27 (11) By July 1, 2019, the department must adopt rules concerning
28 only the process, timelines, reporting, documentation, and
29 performance metrics required to ensure the proper implementation of
30 this section. Such rules may include rules associated with the
31 development, implementation, and evaluation of clean energy
32 investment plans. The department and the commission must, to the
33 extent practicable, adopt rules that are similar enough to ensure
34 coordinated and consistent implementation of this section and section
35 11 of this act for consumer-owned and investor-owned energy
36 utilities.

37 NEW SECTION. **Sec. 13.** Sections 2 through 6 of this act are each
38 added to chapter 19.285 RCW.

1 NEW SECTION. **Sec. 14.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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