S-1538.2

SECOND SUBSTITUTE SENATE BILL 5116

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, Liias, Hunt, Saldaña, Darneille, and Billig; by request of Governor Inslee)

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

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

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

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

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

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

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

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

(6) The legislature recognizes and finds that the public interest includes, but is not limited to: The equitable distribution of

benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health, economic, and environmental benefits, costs, and risks; and energy security and resiliency. It is the intent of the legislature that in achieving this policy for Washington, there should not be an increase in environmental health impacts to highly impacted communities.

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

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

(2) "Alternative compliance payment" means the payment established in section 8(2) of this act.

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

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

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

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

(6) "Carbon dioxide emissions content inherent in electricity" means the carbon dioxide generated by the production of electricity from fossil fuels.

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

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

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

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

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

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

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

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

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

(14) "Distributed energy resource" means a nonemitting resource that provides electric energy, capacity, or ancillary services to an electric utility and that is located on the distribution system, any subsystem of the distribution system, or behind the customer meter, including conservation and energy efficiency.

(15) "Electric utility" means a consumer-owned utility or an investor-owned utility.

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

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

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

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

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

(19)(a) "Energy transformation project" means a project or program that provides energy-related goods or services, other than the generation of electricity, and that results in a reduction of fossil fuel consumption and in a reduction of the emission of greenhouse gases attributable to that consumption, which provides benefits to the customers of an electric utility.

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

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

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

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

(B) Incentives for car dealers to sell electric vehicles;

(C) Incentives for property owners to install charging equipment for electric vehicles; and

(D) Incentives for the electrification of vehicle fleets;

(iii) Investment in distributed energy resources;

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

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

(vi) Projects and programs that achieve energy efficiency and emission reductions in the agricultural sector, including bioenergy and biogas projects.

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

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

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

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

(24) "Highly impacted communities" are those communities designated by the agencies based on cumulative impact analyses in section 24 of this act and census tracts that are fully or partially on "Indian country" as defined in 18 U.S.C. Sec. 1151.

(25) "Investor-owned utility" means a company owned by investors that meets the definition of "corporation" in RCW 80.04.010 and is

engaged in distributing electricity to more than one retail electric customer in the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(38) "Unbundled renewable energy credit" means a renewable energy credit that is sold, delivered, or purchased separately from

electricity. All thermal renewable energy credits are considered unbundled renewable energy credits.

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

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

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

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

NEW SECTION. **Sec. 3.** (1) On or before December 31, 2025, all electric utilities must eliminate coal-fired resources from their allocation of electricity. This does not include costs associated with decommissioning and remediation of these facilities. The commission shall allow in electric rates all decommissioning and remediation costs prudently incurred by an electric utility for a coal-fired facility.

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

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

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

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

(4) An electric utility that fails to comply with the requirements of subsection (1) of this section must pay the administrative penalty established under section 8(1) of this act.

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

(a) By January 1, 2030, and each year thereafter through December 31, 2044, an electric utility must demonstrate its compliance with this standard using a combination of nonemitting electric generation and electricity from renewable resources and resources that reduce greenhouse gas emissions. To achieve compliance with this standard, an electric utility must: (i) Pursue all cost-effective, reliable, and feasible conservation and efficiency resources to reduce or manage retail electric load, using the methodology established in RCW 19.285.040, if applicable; and (ii) use electricity from renewable resources and nonemitting electric generation in an amount equal to one hundred percent of the utility's average annual retail electric load.

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

(i) Making an alternative compliance payment under section 8(2) of this act;

(ii) Using unbundled renewable energy credits, including unbundled renewable energy credits used for compliance with RCW 19.285.040. Renewable energy credits used for compliance with this section may be banked and used for compliance within three years of being generated;

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

(iv) Use electricity from an energy recovery facility using municipal solid waste as the principal fuel source, where the

facility was constructed prior to 1992, and the facility is operated in compliance with federal and state air quality standards.

(c) The department must adopt rules providing for the measuring and tracking of thermal renewable energy credits that may be used for compliance under (b)(ii) of this subsection.

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

(e) In meeting the targets established under this section, hydroelectric generation may not include new diversions, new impoundments, new bypass reaches, or expansion of existing reservoirs constructed after the effective date of this section unless the diversions, bypass reaches, or reservoir expansions are necessary for the operation of a pumped storage facility that: (i) Does not conflict with existing state or federal fish recovery plans; and (ii) complies with all local, state, and federal laws and regulations.

(f) Nothing in (e) of this subsection precludes an electric utility that owns and operates hydroelectric generating facilities from making efficiency or other improvements to its hydroelectric generating facilities existing as of the effective date of this section or installing hydroelectric generation in pipes, culverts, irrigation canals, and other manmade waterways, as long as those changes do not create conflicts with existing state or federal fish recovery plans and comply with all local, state, and federal laws and regulations.

(g) Nonemitting electric generation resources used to meet an electric utility's compliance obligation under (a) of this subsection must be generated during the compliance year and must be verified by documentation that the electric utility owns the nonpower attributes of the electricity generated by the nonemitting resource.

(h) Nothing in this section prohibits an electric utility from purchasing or exchanging power from the Bonneville power administration.

(2) Investments in energy transformation projects used to satisfy an alternative compliance option provided under subsection (1)(b) of this section must use criteria developed by the department of ecology, in consultation with the department and the commission. For the purpose of crediting an energy transformation project toward the

standard in subsection (1)(a) of this section, the department of ecology must establish a conversion factor consistent with the emission factors for unspecified electricity or, if the department has not adopted an emissions factor for unspecified electricity, 0.437 metric tons of carbon dioxide per megawatt-hour of electricity. Emissions reductions from energy transformation projects must be:

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

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

(c) Enforceable by the state of Washington;

(d) Verifiable;

(e) Not required by another statute, rule, or other legal requirement in place as of the effective date of this section; and

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

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

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

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

(6) The department shall implement rule making, in consultation with the commission and the department of ecology, to establish the guidelines for utilities to implement energy transformation project investments including, but not limited to, verification procedures, reporting standards, and other logistical issues as necessary.

(7) The commission, after a hearing, must adopt, reject, or adopt with conditions, by order, interim targets and a clean energy implementation plan for each investor-owned utility. Interim targets and clean energy implementation plans must be informed by the clean energy action plans submitted under RCW 19.280.030 and must be adopted no later than six months after the clean energy action plan has been submitted pursuant to RCW 19.280.030. Initial interim targets must be adopted by December 31, 2022. The commission must, at a minimum, adopt interim targets for energy efficiency, demand response, and renewable energy. The commission may adopt more stringent targets and periodically adjust or expedite timelines if it can be demonstrated that levels of attainment can be achieved in a manner consistent with the following:

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

(b) Planning to meet the standard at the lowest reasonable cost, considering risk;

(c) Ensuring that all customers are benefiting from the transition to clean energy, including: An equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits, costs, and risks; and energy security and resiliency; and

(d) Ensuring that no customer or class of customers are unreasonably harmed by resulting increases in the cost of utility-supplied electricity necessary to comply with the standard established under subsection (1) of this section.

(8) The governing body of a consumer-owned utility must, after a public meeting, adopt interim targets and a clean energy implementation plan, informed by the clean energy action plan submitted under RCW 19.280.030. Interim targets and clean energy implementation plans must be submitted to the auditor and made available to the public. The governing body must, at a minimum, adopt interim targets for energy efficiency, demand response, and renewable energy. The governing body may adopt more stringent targets and periodically adjust or expedite timelines if it can be demonstrated that levels of attainment can be achieved in a manner consistent with the following:

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

(b) Planning to meet the standard at the lowest reasonable cost, considering risk;

(c) Ensuring that all customers are benefiting from the transition to clean energy, including: An equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits, costs, and risks; and energy security and resiliency; and

(d) Ensuring that no customer or class of customers are unreasonably harmed by resulting increases in the cost of utility-supplied electricity necessary to comply with the standard established under subsection (1) of this section.

(9)(a) In meeting interim targets established under this section, an electric utility must, consistent with the requirements of RCW 19.285.040, if applicable, pursue all cost-effective, reliable, and feasible conservation and efficiency resources, and demand response. In making new investments, an electric utility must, to the maximum extent feasible:

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

(ii) Consider acquisition of existing renewable resources; and

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

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

(10) An electric utility that fails to meet the requirements of this section must pay the administrative penalty established under section 8(1) of this act.

(11) In complying with this section, an electric utility must, consistent with the requirements of RCW 19.280.030 and section 24 of this act, seek to maximize equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits, costs, and risks; and energy security and resiliency.

(12) Customers who become market customers after the effective date of this section must comply with the obligations of this section.

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

NEW SECTION. **Sec. 5.** (1) It is the policy of the state that nonemitting electric generation and electricity from renewable resources supply one hundred percent of all sales of electricity to Washington retail electric customers by January 1, 2045.

(2) Each electric utility must incorporate subsection (1) of this section into all relevant planning and resource acquisition practices.

(3) Customers who become market customers after the effective date of this section are subject to the requirements of this section to the same extent as the electric utility to which they are interconnected. This requirement does not apply to any market customer that purchases electricity exclusively from carbon-free electric generation and renewable resources pursuant to a special contract approved by the commission or the governing body on or before the effective date of this section.

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

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

(b) Consider acquisition of existing renewable resources; and

(c) In the acquisition of new resources constructed after the effective date of this section, rely on renewable resources and

energy storage, insofar as doing so is consistent with (a) of this subsection.

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

(6)(a) In satisfying the requirements of this section, hydroelectric generation may not include new diversions, new impoundments, new bypass reaches, or expansion of existing reservoirs constructed after the effective date of this section unless the diversions, bypass reaches, or reservoir expansions are necessary for the operation of a pumped storage facility that: (i) Does not conflict with existing state or federal fish recovery plans; and (ii) complies with all local, state, and federal laws and regulations.

(b) Nothing in (a) of this subsection precludes an electric utility that owns and operates hydroelectric generating facilities from making efficiency or other improvements to its hydroelectric generating facilities existing as of the effective date of this section or installing hydroelectric generation in pipes, culverts, irrigation canals, and other manmade waterways as long as those changes do not create conflicts with existing state or federal fish recovery plans and comply with all local, state, and federal laws and regulations.

(7) Nothing in this section prohibits an electric utility from purchasing or exchanging power from the Bonneville power administration.

(8) Nothing in this section prohibits an electric utility from purchasing power from an energy recovery facility using municipal solid waste as the principal fuel source, where the facility was constructed prior to 1992, and the facility is operated in compliance with federal and state air quality standards.

(9) Customers who become new market customers as of the effective date of this section must comply with the obligations of this section.

(10) Any market customer that purchases electricity exclusively from carbon-free resources and eligible renewable resources, as defined in RCW 19.285.030 as of January 1, 2019, pursuant to a special contract with an investor-owned utility approved, prior to the effective date of this section, by order of the commission is

subject to the requirements of such an order and not to the standards established in this section. For the purposes of interpreting such a special contract, chapter 19.285 RCW, as in effect on January 1, 2019, is not, either directly or indirectly, amended or supplemented.

NEW SECTION. **Sec. 6.** (1) Each electric utility must disclose its greenhouse gas content calculation in conformance with this section. A utility's disclosure must be consistent with the fuel sources that it reports and discloses in compliance with chapter 19.29A RCW. The department must by rule incorporate the carbon content disclosure into the power source or fuel mix disclosure required under chapter 19.29A RCW.

(2) For unspecified electricity, the utility must use an emissions rate determined, and periodically updated, by the department by rule.

(3) For the purposes of this section, the Bonneville power administration may exclude from its fuel mix reported to the department any purchases of electric generation that are made for the purpose of serving load outside of the state of Washington.

NEW SECTION. **Sec. 7.** (1) By January 1, 2021, and at least every two years thereafter and in compliance with RCW 43.01.036, the commission and the department shall submit a joint report to the legislature. The joint report must include the following:

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

(b)(i) An evaluation, produced in consultation with electric utilities, transmission operators in Washington, the reliability coordinator for electric utilities, and any regional planning organization serving electric utilities, identifying the potential benefits, impacts, and risks on system reliability associated with achieving the standards described in sections 4 and 5 of this act. The evaluation must assess whether electric utilities have sufficient electric generation resources to meet forecasted retail electric load in addition to adequate transmission capability to implement sections 3 through 5 of this act.

(ii) If the evaluation finds insufficient generation resources or inadequate transmission capability, the evaluation must also identify

the mitigation and investments necessary to correct those deficiencies at the lowest reasonable cost.

(c) An evaluation identifying the nature of any anticipated financial costs and benefits to electric, gas, and water utilities, including customer rate impacts and benefits including, but not limited to:

(i) Rates of electric utilities;

(ii) Greenhouse gas emissions of electric utilities;

(iii) The allocation of risk between customers and electric utilities;

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

(v) The timing of cost recovery for the generation of electricity generated by nonemitting electric generation or renewable resources;

(vi) The resource procurement process of electric utilities; and

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

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

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

(2) If the joint report indicates adverse system reliability impacts from implementation of sections 4 and 5 of this act, then the governor, consistent with the emergency powers inherent in RCW 43.21G.040, may suspend or delay implementation of this chapter until system reliability impacts can be addressed. Adverse system reliability impacts may include, but are not limited to, the inability of electric utilities or transmission operators to meet reliability standards mandated by law and required by prudent utility practices.

NEW SECTION. **Sec. 8.** (1) An electric utility that fails to comply with sections 3 and 4 of this act shall pay an administrative penalty to the state of Washington in the amount of sixty dollars for each megawatt-hour of electric generation used to meet load that is not electricity from a renewable resource or nonemitting electric generation. Beginning in 2027, this penalty must be adjusted on a

biennial basis according to the rate of change of the inflation indicator, gross domestic product implicit price deflator, as published by the bureau of economic analysis of the United States department of commerce or its successor. Beginning in 2040, the commission may by rule increase this penalty for investor-owned utilities if the commission determines that doing so will accelerate utilities' compliance with the standards established under this chapter and that doing so is in the public interest.

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

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

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

(ii) The investor-owned utility is unable to comply with the standards established in sections 3 and 4 of this act due to reasons beyond the reasonable control of the investor-owned utility, as set forth in subsection (8) of this section.

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

(i) Notwithstanding the standards established in sections 3 and 4 of this act, temporarily exempting the investor-owned utility from the requirements of section 4 of this act for an amount of time sufficient to allow the investor-owned utility to achieve full compliance with the standard;

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

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

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

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

(5)(a) The attorney general may, at the recommendation of the auditor and, in accordance with the findings of the joint report to the legislature submitted pursuant to section 7 of this act, relieve a consumer-owned utility of its administrative penalty obligation under subsection (1) of this section if the attorney general finds that:

(i) The consumer-owned utility's compliance with this chapter is likely to result in conflicts with or compromises to its obligation to comply with the mandatory and enforceable reliability standards of the North American electric reliability corporation, violate prudent utility practice for assuring resource adequacy, or compromise the power quality or integrity of its system;

(ii) The consumer-owned utility is unable to comply with the standards established in sections 3 and 4 of this act due to reasons beyond the reasonable control of the utility, as set forth in subsection (8) of this section and based on documentation submitted by the governing body of the consumer-owned utility.

(b) Notwithstanding the standards established in sections 3 and 4 of this act, the attorney general may issue a finding:

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

(ii) Directing the consumer-owned utility to file a progress report to the attorney general on achieving full compliance with the standard within six months after issuing the finding, or within an amount of time determined to be reasonable by the attorney general; and

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

(c) A consumer-owned utility may request an extension of a temporary exemption granted under this section.

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

(6) Upon petition by an investor-owned utility, and after a hearing, the commission may issue an order relieving the utility of the requirements of this section if it finds that the utility had no choice but to use electric generation that is not electricity from a renewable resource or nonemitting electric generation to maintain the reliability and safety of the grid. The commission may use its standard practices and procedures to make a reliability determination under this subsection.

(7) The attorney general may relieve a consumer-owned utility of the requirements of this section if the auditor finds that the utility had no choice but to use electric generation that is not electricity from a renewable resource or nonemitting electric generation to maintain reliability and safety of the grid based on documentation submitted by the governing body of the consumer-owned utility.

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

(a) Weather-related damage;

(b) Natural disasters;

(c) Mechanical or resource failure;

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

(e) Actions of governmental authorities that adversely affect the generation, transmission, or distribution of nonemitting electric generation or renewable resources under contract to an electric utility;

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

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

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

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

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

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

(13) At a request of an investor-owned or consumer-owned utility, the governor may exempt an electric utility from paying the administrative penalty in this chapter when the governor declares an energy emergency pursuant to RCW 43.21G.040.

(14) A utility shall be deemed to be in compliance with section 4(1) of this act if it complies with the following:

(a) A clean energy implementation plan adopted pursuant to section 4 (7) and (8) of this act must: (i) Be informed by the utility's clean energy action plans submitted under RCW 19.280.030; and (ii) identify specific actions to be taken by the utility over the next four years, consistent with the long-range integrated resource plan and resource adequacy requirements, to meet the interim targets ordered by the commission and other compliance obligations established in sections 4 and 5 of this act. The average annual incremental cost of compliance with sections 4 and 5 of this act for each year during the implementation period identified in the clean energy implementation plan may not exceed a three percent increase of the investor-owned utility's weather-adjusted sales to customers for electric operations reported by the investor-owned utility in its most recent commission basis report filed with the commission. All costs included in the determination of rate impact must be directly

attributable to actions necessary to comply with section 4 or 5 of this act.

(b) The governing body of a consumer-owned utility must adopt a clean energy implementation plan developed pursuant to RCW 19.280.030 for the consumer-owned utility. The clean energy implementation plan must: (i) Be informed by the consumer-owned utility's clean energy action plans developed under RCW 19.280.030; and (ii) identify specific actions to be taken by the consumer-owned utility over the next four years, consistent with the long-range integrated resource plan and resource adequacy requirements, to meet the interim targets adopted by the governing body and other compliance obligations established in sections 4 and 5 of this act. The average annual incremental cost of compliance with sections 4 and 5 of this act for each year during the implementation period identified in the consumer-owned utility's clean energy implementation plan may not exceed a three percent increase of the consumer-owned utility's retail revenue requirement above the previous year.

(c) If an electric utility relies on (a)(ii) or (b)(ii) of this subsection as a basis for compliance with the standards in sections 4 and 5 of this act, it must demonstrate that it has maximized investments in renewable and nonemitting resources prior to using alternative compliance options allowed under section 4(1)(b) of this act.

(d) The commission, for investor-owned utilities, or the auditor, for consumer-owned utilities, must consider an electric utility to be in compliance with the interim targets adopted pursuant to section 4 (7) and (8) of this act if the electric utility demonstrates compliance with its clean energy implementation plan.

(e) The commission, for investor-owned utilities, or the auditor, for consumer-owned utilities, must also consider an electric utility to be in compliance with RCW 19.285.040(2) if the electric utility demonstrates it has achieved the limit on the incremental cost of compliance established in (a)(ii) or (b)(ii) of this subsection.

(f) The commission for investor-owned utilities and the department for consumer-owned utilities shall adopt rules establishing the methodology for calculating the incremental cost of compliance with this chapter, as compared to the cost of an alternative lowest reasonable cost portfolio of investments that are reasonably available.

(15) Notwithstanding subsection (1) of this section, for a consumer-owned electric utility with fewer than two hundred fifty thousand customers and that owns a natural gas-fired generation facility located in the state as of January 1, 2019, the auditor shall consider the electric utility to be in compliance with both section 4(1) of this act and RCW 19.285.040(2) if the electric utility demonstrates that its incremental cost of compliance exceeds five percent of the utility's annual retail revenue in a given year. The auditor shall determine the utility's incremental cost of compliance by comparing the cost of selected renewable and nonemitting resource portfolio with the lowest cost alternative portfolio of resources that are reasonably available to the utility.

(16) Beginning January 1, 2030, a qualifying utility is considered to be in compliance with an annual target in RCW 19.285.040(2)(a) if the utility uses electricity from renewable resources, nonemitting electric generation, and renewable energy credits as defined in RCW 19.285.030, in an amount equal to one hundred percent of the utility's average annual retail electric load. Nothing in this subsection relieves the requirements of a qualifying utility to comply with RCW 19.285.040(1).

NEW SECTION. **Sec. 9.** (1) The department must adopt rules establishing reporting requirements for electric utilities to demonstrate compliance with this chapter. The requirements must, to the extent practicable, be consistent with the disclosures required under chapter 19.29A RCW.

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

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

NEW SECTION. **Sec. 10.** (1) It is the intent of this chapter that the commission and department adopt rules to streamline the implementation of this act with chapter 19.285 RCW to simplify compliance and avoid duplicative processes. The commission may adopt rules to ensure the proper implementation and enforcement of this chapter as it applies to investor-owned utilities.

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

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

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

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

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

NEW SECTION. **Sec. 11.** (1) The requirements of sections 3 through 8 of this act do not replace or modify the requirements established under chapter 19.285 RCW. All utility activities to comply with the requirements established under chapter 19.285 RCW also qualify for compliance with the requirements contained in this chapter.

(2) Any market customer that purchases electricity exclusively from carbon-free resources and eligible renewable resources, as defined in RCW 19.285.030 as of January 1, 2019, pursuant to a special contract with an investor-owned utility approved, prior to the effective date of this section, by order of the commission is subject to the requirements of such an order and not to sections 4 and 5 of this act. For the purposes of interpreting such a special contract, chapter 19.285 RCW, as in effect on January 1, 2019, is not, either directly or indirectly, amended or supplemented.

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

(2) An electric utility must make funding available for energy assistance to low-income households by July 31, 2021. Each utility must demonstrate progress on energy assistance pursuant to the assessment and plans in subsection (4) of this section. To the extent practicable, priority must be given to low-income households with a higher energy burden.

(3) Beginning July 31, 2020, each retail supplier must disclose the following information on energy assistance and energy assistance

need in their service territory. The disclosure must be updated biennially and submitted to the department. The disclosure must include, but is not limited to:

(a) The number of low-income households in the utility's service territory;

(b) The level of energy assistance need in the utility's service territory; and

(c) The amount and type of energy assistance and the number and type of households served in the electric utility's most recent completed budget period.

(4) In addition to the disclosures required in subsection (3) of this section, each electric utility must submit biennially to the department an assessment and plans to improve:

(a) The mechanisms used to reduce energy burden including, but not limited to, a low-income specific rate class and the effectiveness of those mechanisms in both short-term and sustained energy burden reductions;

(b) The outreach strategies used to maximize participation of all eligible households, including consultation with community-based organizations and Indian tribes as appropriate, and comprehensive enrollment campaigns that are language and culturally appropriate to the vulnerable populations in their service territory to inform and enroll more difficult to reach eligible households; and

(c) Current and prospective funding mechanisms including, but not limited to, customer rates, system benefits charges, public funds, and private funds needed to meet sixty percent of the energy assistance need or a fifteen percent increase over 2020 levels, whichever is greater, by 2030, and ninety percent of the energy assistance need by 2050.

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

(6) The commission, for investor-owned utilities, and department, for consumer-owned utilities, shall adopt rules to implement this section including, but not limited to, a shared definition and calculation of energy burden and energy assistance need. The governing boards for consumer-owned utilities is solely responsible for enforcement of this chapter for consumer-owned utilities.

(7) The commission and department must submit biennially to the legislature a report aggregating utility disclosures into a statewide summary of energy assistance programs, energy burden, and energy assistance need, and identifying and sharing optimal mechanisms for energy assistance.

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

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

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

(2) To assist in its examination of the issues identified in this section, as well as any other issues pertinent to its review, the work group must, at a minimum, consist of light and power businesses, gas distribution businesses, the Bonneville power administration, and other agencies.

(3) The work group must prepare a report to the legislature of its findings and recommendations to improve the carbon transparency and market liquidity in electricity markets and submit the report, in compliance with RCW 43.01.036, by December 1, 2020. The department and the department of ecology must provide necessary data and other support to the work group.

(4) This section expires June 30, 2021.

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

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

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

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

(b) An assessment of commercially available conservation and efficiency resources, as informed, as applicable, by the ten-year assessment for cost-effective conservation potential under RCW 19.285.040. Such assessment may include, as appropriate, opportunities for development of combined heat and power as an energy and capacity resource, demand response and load management programs, and currently employed and new policies and programs needed to obtain the conservation and efficiency resources;

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

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

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

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

(g) A determination of load loss probability under different resource acquisition scenarios for implementing sections 3 through 5 of this act;

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

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

(j) The integration of the demand forecasts ((~~and~~)), resource evaluations, and resource adequacy requirement into a long-range assessment describing the mix of supply side generating resources and conservation and efficiency resources that will meet current and

projected needs, including mitigating overgeneration events and implementing sections 3 through 5 of this act, at the lowest reasonable cost and risk to the utility and its ((~~ratepayers~~)) customers, while maintaining and protecting the safety, reliable operation, and balancing of its electric system; ((~~and~~

~~(g)~~)) (k) An assessment of energy and nonenergy benefits and reductions of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits, costs, and risks; and energy security and risk; informed by the cumulative impact analysis performed by the department of health pursuant to section 24 of this act;

(l) A ((~~short-term~~)) ten-year clean energy action plan proposing interim targets for implementing sections 3 and 4 of this act at the lowest reasonable cost, and at an acceptable resource adequacy standard; and a four-year clean energy implementation plan identifying the specific actions to be taken by the utility consistent with the long-range integrated resource plan; and

(m) A twenty-year clean energy transformation plan identifying the lowest reasonable cost pathways to implement section 5 of this act.

(2) For an investor-owned utility, the clean energy action plan and clean energy implementation plan must: (a) Propose interim targets for meeting the requirement in section 4 of this act; (b) identify and be informed by the utility's ten-year cost-effective conservation potential assessment as determined under RCW 19.285.040, if applicable; (c) establish a resource adequacy requirement; (d) identify the potential cost-effective demand response and load management programs that may be acquired; (e) identify renewable resources, nonrenewable resources, and distributed energy resources that may be acquired and evaluate how each identified resource may be expected to contribute to meeting the utility's resource adequacy requirement; (f) identify any need to develop new, or expand or upgrade existing, transmission and distribution facilities; and (g) identify the nature and possible extent to which the utility may need to rely on alternative compliance options under section 4(1)(b) of this act, if appropriate.

(3)(a) An electric utility shall consider the social cost of greenhouse gas emissions, as determined by the commission for investor-owned utilities pursuant to section 15 of this act and the department for consumer-owned utilities, when developing integrated

resource plans and clean energy action plans. An electric utility must incorporate the social cost of greenhouse gas emissions as a cost adder when:

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

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

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

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

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

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

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

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

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

(d) By December 31, 2020, identifies how the utility plans over a ten-year period to meet the standard in section 4 of this act and by December 31, 2025, identifies how the utility plans over a twenty-year period to implement section 5 of this act.

((~~(3)~~)) (6) Assessments for demand side resources included in an integrated resource plan may include combined heat and power systems as one of the measures in a conservation supply curve. The value of

recoverable waste heat resulting from combined heat and power must be reflected in analyses of cost-effectiveness under this subsection.

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

((~~(5) Resource~~)) (8) Plans developed under this section must be updated on a regular basis, at a minimum on intervals of two years.

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

((~~(7)~~)) (10) Each electric utility shall publish its final plan either as part of an annual report or as a separate document available to the public. The report may be in an electronic form.

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

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

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

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

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

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

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

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

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

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

(4) The joint legislative audit and review committee is not required to perform a tax preference review under chapter 43.136 RCW for the tax preferences contained in sections 18 and 19, chapter . . ., Laws of 2019 (sections 18 and 19 of this act) and it is the intent of the legislature to allow the tax preferences to expire upon their scheduled expiration dates.

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

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

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

(c) Beginning January 1, 2020, through December 31, 2030, the purchaser is entitled to an exemption, in the form of a remittance, under this subsection (1)(c) in an amount equal to:

(i) Fifty percent of the state and local sales tax paid, if the department of labor and industries certifies that the project includes procurement from and contracts with women, minority, or veteran-owned businesses, includes procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations, apprenticeship utilization, and preferred entry for workers living in the area where the project is being constructed. In the event that a project is built without one or more of these standards and a project developer or its designated principle contractor demonstrates it has made all good faith efforts to meet the standards but was unable to comply due to lack of availability of qualified businesses or local hires, the department of labor and industries may certify that the developer complied with that standard;

(ii) Seventy-five percent of the state and local sales tax paid, if the department of labor and industries certifies that the project complies with (c)(i) of this subsection and compensates workers at prevailing wage rates determined by local collective bargaining as determined by the department of labor and industries; or

(iii) One hundred percent of the state and local sales tax paid, if the department of labor and industries certifies that the project is developed under a community workforce agreement or project labor agreement.

(d) In order to qualify for the remittance under (c) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than January 1, 2020, and be completed by December 31, 2030.

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

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

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

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

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

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

(c)(i) "Machinery and equipment" means fixtures, devices, and support facilities that are integral and necessary to the generation

of electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust.

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

((~~(3)~~)) (d) "Project labor agreement" and "community workforce agreement" means a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. Sec. 158(f).

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

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

((~~(4)~~)) (5)(a)(i) A purchaser claiming an exemption in the form of a remittance under subsection (1)(b) or (c) of this section must pay the tax imposed by RCW 82.08.020 and all applicable local sales taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The purchaser may then apply to the department for remittance in a form and manner prescribed by the department. A purchaser may not apply for a remittance under this section more frequently than once per quarter. The purchaser must specify the amount of exempted tax

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

(ii) The application for remittance must include a copy of the certificate issued for the project by the department of labor and industries under subsection (2) of this section.

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

((~~(5)~~)) (6) The exemption provided by this section expires September 30, 2017, as it applies to: (a) Machinery and equipment that is used directly in the generation of electricity using solar energy and capable of generating no more than five hundred kilowatts of electricity; or (b) sales of or charges made for labor and services rendered in respect to installing such machinery and equipment.

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

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

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

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

((~~(2)~~)) (c) Beginning on January 1, 2020, through December 31, 2030, the consumer is entitled to an exemption, in the form of a remittance, under this subsection (1)(c) in an amount equal to:

(i) Fifty percent of the state and local sales use tax paid, if the department of labor and industries certifies that the project includes procurement from and contracts with women, minority, or veteran-owned businesses, includes procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations, apprenticeship utilization, and preferred entry for workers living in the area where the project is being constructed. In the event that a project is built without one or more of these standards and a project developer or its designated principle contractor demonstrates it has made all good faith efforts to meet the standards but was unable to comply due to lack of availability of qualified businesses or local hires, the department of labor and industries may certify that the developer complied with that standard;

(ii) Seventy-five percent of the state and local sales use tax paid, if the department of labor and industries certifies that the project complies with (c)(i) of this subsection and compensates workers at prevailing wage rates determined by local collective bargaining as determined by the department of labor and industries; or

(iii) One hundred percent of the state and local sales use tax paid, if the project is developed under a community workforce agreement or project labor agreement.

(d) In order to qualify for the remittance under subsection (1) of this section, installation of the qualifying machinery and equipment must commence no earlier than January 1, 2020, and be completed by December 31, 2030.

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

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

(b) Set requirements for all good faith efforts under subsection (1)(c)(i) and (ii) of this section, as well as documentation requirements and a certification process. Requirements for all good faith efforts must be designed to maximize the likelihood that the project is completed with said standards and could include proactive

outreach to firms that are women, minority, and veteran-owned businesses, advertising in local community publications and publications appropriate to identified firms, participating in community job fairs, conferences, and trade shows, and other measures. The certification process and timeline must be designed to prevent undue delay to project development.

(3)(a)(i) A person claiming an exemption in the form of a remittance under subsection (1)(b) of this section must pay the tax imposed by RCW 82.12.020 and all applicable local use taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The consumer may then apply to the department for remittance in a form and manner prescribed by the department. A consumer may not apply for a remittance under this section more frequently than once per quarter. The consumer must specify the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The consumer must retain, in adequate detail, records to enable the department to determine whether the consumer is entitled to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) An electrical company may account for and defer for later consideration by the commission costs incurred in connection with major projects in the electrical company's clean energy implementation plan pursuant to RCW 19.280.030(1)(l), or selected in the electrical company's solicitation of bids for delivering electric capacity, energy, or capacity and energy, or conservation. The deferral in this subsection begins with the date on which the resource begins commercial operation or the effective date of the power purchase agreement and continues for a period not to exceed twenty-four months. However, if during such a period the electrical company files a general rate case or other proceeding for the recovery of such costs, deferral ends on the effective date of the final decision by the commission in such a proceeding. Creation of such a deferral account does not by itself determine the actual costs of the resource or power purchase agreement, whether recovery of any or all of these costs is appropriate, or other issues to be decided by the commission in a general rate case or other proceeding.

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

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

(b) For the duration of a power purchase agreement, a rate of return of no less than the authorized cost of debt and no greater than the authorized rate of return of the electrical company.

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

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

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

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

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

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

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

(f) One person recommended by public utility districts;

(g) One person recommended by rural electrical cooperatives;

(h) One person recommended by industrial energy users;

(i) One person recommended by commercial energy users;

(j) One person recommended by agricultural energy users;

(k) One person recommended by the association of Washington cities;

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

(m) One person recommended by Washington Indian tribes;

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

(o) One person recommended by labor unions;

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

(q) Two persons recommended by environmental organizations;

(r) One person representing independent power producers;

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec. 24.** By December 31, 2020, the department of health must develop a cumulative impact analysis to designate the communities highly impacted by fossil fuel pollution and climate change in Washington. The cumulative impact analysis may integrate with and build upon other concurrent cross-agency efforts in developing a cumulative impact analysis and population tracking resources used by the department of health and analysis performed by the University of Washington department of environmental and occupational health sciences. By December 31, 2021, the department of commerce and the utilities and transportation commission shall adopt rules establishing the requirements for incorporating the cumulative impact analysis into the criteria for developing clean energy action plans and clean energy transformation plans, as required in RCW 19.280.030.

NEW SECTION. **Sec. 25.** (1) The legislature finds that based on current technology, there will likely need to be upgrades to electricity transmission and distribution infrastructure across the state to meet the goals specified in this act. These facilities require a significant planning horizon to deliver electricity generation sites to retail electric load. Pursuant to RCW 80.50.040, the energy facility site evaluation council chair shall convene a transmission corridors work group and report its findings to the governor and the appropriate committees of the legislature by December 31, 2020.

(2) The work group must include one representative from each of the following state agencies: The department of commerce, the utilities and transportation commission, the department of ecology, the department of fish and wildlife, the department of natural resources, the department of transportation, the department of archaeology and historic preservation, and the state military department. The work group shall also include two representatives designated by the association of Washington cities, one from central or eastern Washington and one from western Washington; two representatives designated by the Washington state association of counties, one from central or eastern Washington and one from western Washington; two members designated by sovereign tribal governments; one member representing affected utility industries; one member representing public utility districts; and two members representing statewide environmental organizations. The energy facility site evaluation council chair shall invite the Bonneville power administration and the United States department of defense to each appoint an ex officio work group member.

(3) The work group shall:

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

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

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

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

(5) This section expires January 1, 2021.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) "Eligible renewable resource" means:

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

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

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

(d) Qualified biomass energy;

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

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

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

(iii) The facility must demonstrate that the incremental electricity resulted from the capital investment, which does not

include expenditures on operation and maintenance in the normal course of business, through direct or calculated measurement;

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

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

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

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

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

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

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

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

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

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

(20) "Renewable energy credit" means a tradable certificate of proof, except as provided in RCW 19.285.040(2)(m), of at least one megawatt-hour of an eligible renewable resource where, except as provided in subsection (12)(h) of this section, the generation facility is not powered by freshwater. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity, and the certificate is verified by a renewable energy credit tracking system selected by the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) Renewable energy credits allocated under RCW 19.285.030(12)(h) may not be transferred or sold to another qualifying utility for compliance under this chapter.

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

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

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

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

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