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**SUBSTITUTE HOUSE BILL 2283**

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**State of Washington**

**65th Legislature**

**2018 Regular Session**

**By** House Technology & Economic Development (originally sponsored by Representatives DeBolt, Smith, Orcutt, and Condotta)

READ FIRST TIME 02/02/18.

1 AN ACT Relating to encouraging investment in and reducing the  
2 costs of transitioning to the clean energy future; amending RCW  
3 19.285.030, 19.285.040, and 82.16.055; adding new sections to chapter  
4 19.285 RCW; adding a new section to chapter 82.04 RCW; adding a new  
5 section to chapter 82.16 RCW; adding a new section to chapter 82.63  
6 RCW; adding a new section to chapter 84.36 RCW; creating new  
7 sections; and providing expiration dates.

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

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

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

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

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

20 (3)(a) "Biomass energy" includes: (i) Organic by-products of  
21 pulping and the wood manufacturing process; (ii) animal manure; (iii)

1 solid organic fuels from wood; (iv) forest or field residues; (v)  
2 untreated wooden demolition or construction debris; (vi) food waste  
3 and food processing residuals; (vii) liquors derived from algae;  
4 (viii) dedicated energy crops; and (ix) yard waste.

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

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

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

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

16 (7) "Cost-effective" has the same meaning as defined in RCW  
17 80.52.030.

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

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

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

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

28 (12) "Eligible renewable resource" means:

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

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

1 (c) Hydroelectric generation from a project completed after March  
2 31, 1999, where the generation facility is located in irrigation  
3 pipes, irrigation canals, water pipes whose primary purpose is for  
4 conveyance of water for municipal use, and wastewater pipes located  
5 in Washington where the generation does not result in new water  
6 diversions or impoundments;

7 (d) Qualified biomass energy;

8 (e) For a qualifying utility that serves customers in other  
9 states, electricity from a generation facility powered by a renewable  
10 resource other than freshwater that commences operation after March  
11 31, 1999, where: (i) The facility is located within a state in which  
12 the qualifying utility serves retail electrical customers; and (ii)  
13 the qualifying utility owns the facility in whole or in part or has a  
14 long-term contract with the facility of at least twelve months or  
15 more; ((~~or~~))

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

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

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

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

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

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

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

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

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

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

27 (17) "Public facility" has the same meaning as defined in RCW  
28 39.35C.010.

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

36 (19) "Qualifying utility" means an electric utility, as the term  
37 "electric utility" is defined in RCW 19.29A.010, that serves more  
38 than twenty-five thousand customers in the state of Washington. The  
39 number of customers served may be based on data reported by a utility

1 in form 861, "annual electric utility report," filed with the energy  
2 information administration, United States department of energy.

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

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

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

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

21 (24) "Carbon reduction investment" means an investment in support  
22 of eligible projects or actions that reduce, prevent, or remove from  
23 the atmosphere the emissions of greenhouse gases in the state. An  
24 eligible project or action includes, but is not limited to,  
25 investment in the following: (a) Installation of electric vehicle  
26 chargers and related infrastructure and other transportation  
27 electrification measures; (b) demand side management of electricity  
28 consumption; (c) energy storage technologies; and (d) carbon  
29 sequestration programs, including forest health investments.

30 (25) "Clean energy resource" includes: (a) A resource that emits  
31 no greenhouse gas pollution as part of its generation activity; or  
32 (b) a renewable resource.

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

35 (27) "Greenhouse gas" means carbon dioxide, methane, nitrogen  
36 trifluoride, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons,  
37 perfluorocarbons, and other fluorinated greenhouse gases.

38 (28) "New energy or capacity need" means any electricity  
39 generation needed by an electric utility, as the term "electric  
40 utility" is defined in RCW 19.29A.010, to meet any of the following:

- 1       (a) Electricity load growth;
- 2       (b) Changes in capacity needs;
- 3       (c) Changes in ancillary services needs;
- 4       (d) Changes in reliability needs;
- 5       (e) Changes in flexibility needs;
- 6       (f) Needs arising due to replacing electricity generation; or
- 7       (g) Needs arising due to replacing expiring electricity resource
- 8 contracts.

9       (29) "North American electric reliability corporation" means the  
10 electricity reliability organization designated by the federal energy  
11 regulatory commission to ensure legal compliance with mandatory  
12 electricity reliability standards in accordance with the energy  
13 policy act of 2005 (119 Stat. 941; 16 U.S.C. Sec. 824o).

14       (30) "Tier 1 contract" means a power sales contract between an  
15 electric utility and the Bonneville power administration under which  
16 the utility purchases power from the Bonneville power administration  
17 at rates established in accordance with the Bonneville power  
18 administration's tiered rate methodology.

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

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

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

36       (b) Beginning January 2010, each qualifying utility (~~shall~~)  
37 must establish and make publicly available a biennial acquisition  
38 target for cost-effective conservation consistent with its  
39 identification of achievable opportunities in (a) of this subsection,

1 and meet that target during the subsequent two-year period. At a  
2 minimum, each biennial target must be no lower than the qualifying  
3 utility's pro rata share for that two-year period of its cost-  
4 effective conservation potential for the subsequent ten-year period.

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

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

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

35 (d) In meeting its conservation targets, a qualifying utility may  
36 count high-efficiency cogeneration owned and used by a retail  
37 electric customer to meet its own needs. High-efficiency cogeneration  
38 is the sequential production of electricity and useful thermal energy  
39 from a common fuel source, where, under normal operating conditions,  
40 the facility has a useful thermal energy output of no less than

1 thirty-three percent of the total energy output. The reduction in  
2 load due to high-efficiency cogeneration (~~shall~~) must be: (i)  
3 Calculated as the ratio of the fuel chargeable to power heat rate of  
4 the cogeneration facility compared to the heat rate on a new and  
5 clean basis of a best-commercially available technology  
6 combined-cycle natural gas-fired combustion turbine; and (ii) counted  
7 towards meeting the biennial conservation target in the same manner  
8 as other conservation savings.

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

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

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

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

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

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

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

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

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



1 retail revenue requirement that year on eligible renewable resources,  
2 renewable energy credits, or a combination of both.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (l) Beginning January 1, 2018, a qualifying utility may use  
25 eligible renewable resources as identified under RCW 19.285.030(12)  
26 (g) and (h) to meet its compliance obligations under this subsection  
27 (2). A qualifying utility may not transfer or sell these eligible  
28 renewable resources to another utility for compliance purposes under  
29 this chapter.

30 (m) Renewable energy credits allocated under RCW  
31 19.285.030(12)(h) may not be transferred or sold to another  
32 qualifying utility for compliance under this chapter.

33 (n)(i) Beginning January 1, 2020, a qualifying utility is in  
34 compliance with an annual target in (a) of this subsection if: (A)  
35 The utility uses any combination of eligible renewable resources and  
36 clean energy resources that are not eligible renewable resources to  
37 serve one hundred percent of its load; and (B) the utility makes  
38 carbon reduction investments in a dollar amount that is at least  
39 equal to the incremental cost of complying with the annual target in  
40 (a) of this subsection, as calculated pursuant to RCW 19.285.050.

1        (ii) In using the compliance pathway established in (n)(i) of  
2 this subsection, a qualifying utility may not count the same resource  
3 as both a clean energy resource and a carbon reduction investment.

4        (iii) Except as provided in RCW 19.285.030(15)(b), any tradable  
5 certificate of proof of a clean energy resource, including but not  
6 limited to a renewable energy credit, associated with the portion of  
7 any resource or resources used to satisfy the requirements of the  
8 compliance pathway established in (n)(i) of this subsection must be  
9 retired for the purposes of this section and cannot be sold,  
10 transferred, or used for other purposes. A qualifying utility may not  
11 use a tradable certificate or proof of a clean energy resource,  
12 including but not limited to a renewable energy credit, to meet the  
13 requirements of this section if the associated energy or capacity has  
14 been sold, transferred, or otherwise used separately.

15        (3) Utilities that become qualifying utilities after December 31,  
16 2006, (~~shall~~) must meet the requirements in this section on a time  
17 frame comparable in length to that provided for qualifying utilities  
18 as of December 7, 2006.

19        NEW SECTION. Sec. 3. A new section is added to chapter 19.285  
20 RCW to read as follows:

21        (1) Beginning January 1, 2020, each electric utility must use  
22 clean energy resources to meet any new energy or capacity need.

23        (2)(a) The requirement established under subsection (1) of this  
24 section applies, at a minimum, to: (i) Any new or increased ownership  
25 interest in a new or existing electricity generation facility or  
26 unit; and (ii) any new or increased contractual commitment that  
27 obligates or allows an electric utility to purchase a specified  
28 amount of megawatts or megawatt-hours from an electricity generation  
29 facility or unit, or a specified percentage of an electricity  
30 generation facility or unit.

31        (b) An electric utility may not enter into a contract for  
32 electricity generation to meet new energy or capacity needs if the  
33 contract does not specify the sources or origins of the electricity  
34 generation.

35        (3) Except as provided in RCW 19.285.030(15)(b), any tradable  
36 certificate of proof of a clean energy resource, including but not  
37 limited to a renewable energy credit, associated with the portion of  
38 any resource or resources used to meet new energy or capacity needs  
39 under this section must be retired for the purposes of this section

1 and cannot be sold, transferred, or used for other purposes. An  
2 electric utility may not use a tradable certificate or proof of a  
3 clean energy resource, including but not limited to a renewable  
4 energy credit, to meet the requirements of this section if the  
5 associated energy or capacity has been sold, transferred, or  
6 otherwise used separately.

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

9 (a) An electric utility's allocation of Bonneville power  
10 administration tier 1 power, pursuant to the utility's tier 1  
11 contract with the Bonneville power administration;

12 (b) Short-term spot market purchases;

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

16 (d) Coal transition power;

17 (e) Generation resources owned as of the effective date of this  
18 section by an electric utility and used by that utility to meet the  
19 needs of its customers, until the generation resources are at the end  
20 of the facility's useful life, are retired, or cease operations;

21 (f) Increased megawatt-hours from a generation facility that is  
22 owned by an electric utility as of the effective date of this section  
23 where the utility uses the increased megawatt-hours to serve the  
24 utility's customers and where the utility's ownership interest in the  
25 facility does not increase; and

26 (g) Electricity generation that is found by the commission, in  
27 accordance with section 3 of this act, or the utility's governing  
28 board, in accordance with section 4 of this act, to be required to  
29 maintain reliable service and comply with applicable standards of the  
30 North American electric reliability corporation or its successor.

31 (5) An electric utility may procure one or more natural gas-fired  
32 generation units if such natural gas-fired generation is necessary to  
33 avoid potential conflicts with or compromises to the electric  
34 utility's obligation to comply with the mandatory and enforceable  
35 reliability standards of the North American electric reliability  
36 corporation.

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

39 (a) "Short-term spot market purchase" means: (i) The purchase of  
40 energy on the spot market for immediate delivery; or (ii) a contract

1 for the purchase of electricity on the spot market that is for a term  
2 of one month or less.

3 (b) "Spot market" means a public financial market in which  
4 electricity is bought, sold, or traded for immediate delivery.

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

7 (1) Upon its own motion or at the request of an investor-owned  
8 utility, the commission may open an investigation to determine  
9 whether an investor-owned utility's compliance with the requirements  
10 of section 3 of this act is likely to result in conflicts with or  
11 compromises to the investor-owned utility's obligation to comply with  
12 the mandatory and enforceable reliability standards of the North  
13 American electric reliability corporation, or compromises to the  
14 integrity of the investor-owned utility's electrical system. An  
15 investor-owned utility making a request under this subsection must  
16 submit an application to the commission that includes:

17 (a) An explanation of the reliability or integrity issue and how  
18 a temporary exemption from complying with the requirements of section  
19 3 of this act will avoid the reliability or integrity issue; and

20 (b) A plan and timeline to achieve full compliance with the  
21 requirements of section 3 of this act.

22 (2) In applying for a temporary exemption under this section, an  
23 investor-owned utility has the burden of demonstrating that  
24 compliance with the requirements of section 3 of this act is likely  
25 to result in:

26 (a) Conflicts with or compromises to the investor-owned utility's  
27 obligation to comply with the mandatory and enforceable reliability  
28 standards of the North American electric reliability corporation; or

29 (b) Compromises to the integrity of the investor-owned utility's  
30 electrical system.

31 (3) After opportunity for public comment and adjudication if  
32 deemed necessary, the commission must approve, approve with  
33 modifications, or deny the plan and timeline submitted in subsection  
34 (1)(b) of this section.

35 (4) If the commission determines under this section that  
36 compliance with the requirements of section 3 of this act is likely  
37 to result in conflicts with or compromises to an investor-owned  
38 utility's obligation to comply with the mandatory and enforceable  
39 reliability standards of the North American electric reliability

1 corporation, or compromises to the integrity of the investor-owned  
2 utility's electrical system, the commission must issue an order:

3 (a) Temporarily exempting the investor-owned utility from the  
4 requirements of section 3 of this act for an amount of time  
5 sufficient to allow the investor-owned utility to achieve full  
6 compliance with the requirements of section 3 of this act;

7 (b) Allowing the investor-owned utility to meet all or a portion  
8 of its new energy or capacity needs with electricity produced by a  
9 generating facility that burns natural gas as the primary fuel source  
10 as long as the facility: (i) Is operating as of the effective date of  
11 this section; and (ii) does not exist as a result of a conversion  
12 that occurs after the effective date of this section from a different  
13 fuel source to a generation source that is not a renewable resource;

14 (c) Directing the investor-owned utility to file a progress  
15 report within six months after an order granting an exemption is  
16 issued, or within an amount of time determined to be reasonable by  
17 the commission, on achieving full compliance with the requirements of  
18 section 3 of this act; and

19 (d) Directing the investor-owned utility to take specific actions  
20 to achieve full compliance with the requirements of section 3 of this  
21 act.

22 (5) An investor-owned utility may request an extension of a  
23 temporary exemption granted under this section and must report to the  
24 commission at least once every six months as to its progress in  
25 resolving its reliability or system integrity issues.

26 (6) This section does not permanently relieve an investor-owned  
27 utility of its obligation to comply with the requirements of section  
28 3 of this act.

29 NEW SECTION. **Sec. 5.** A new section is added to chapter 19.285  
30 RCW to read as follows:

31 (1) Upon its own motion or at the request of a consumer-owned  
32 utility, the governing board of a consumer-owned utility may open an  
33 investigation to determine whether the consumer-owned utility's  
34 compliance with the requirements of section 3 of this act is likely  
35 to result in conflicts with or compromises to the consumer-owned  
36 utility's obligation to comply with the mandatory and enforceable  
37 reliability standards of the North American electric reliability  
38 corporation, or compromises to the integrity of the consumer-owned

1 utility's electrical system. At a minimum, the governing board must  
2 consider in one or more publicly noticed meetings:

3 (a) An explanation of the reliability or integrity issue and how  
4 a temporary exemption from complying with the requirements of section  
5 3 of this act will avoid the reliability or integrity issue; and

6 (b) A plan and timeline to achieve full compliance with the  
7 requirements of section 3 of this act.

8 (2) After opportunity for public comment and hearings if deemed  
9 necessary, the governing board must approve, approve with  
10 modifications, or deny the plan and timeline considered in subsection  
11 (1)(b) of this section.

12 (3) If the governing board determines under this section that  
13 compliance with the requirements of section 3 of this act is likely  
14 to result in conflicts with or compromises to the consumer-owned  
15 utility's obligation to comply with the mandatory and enforceable  
16 reliability standards of the North American electric reliability  
17 corporation, or compromises to the integrity of the consumer-owned  
18 utility's electrical system, the governing board must issue an order:

19 (a) Temporarily exempting the consumer-owned utility from the  
20 requirements of section 3 of this act for an amount of time  
21 sufficient to allow the consumer-owned utility to achieve full  
22 compliance with the requirements of section 3 of this act;

23 (b) Providing evidence to support the temporary exemption granted  
24 in (a) of this subsection;

25 (c) Allowing the consumer-owned utility to meet all or a portion  
26 of its new energy or capacity needs with electricity produced by a  
27 generating facility that burns natural gas as the primary fuel source  
28 as long as the facility: (i) Is operating as of the effective date of  
29 this section; and (ii) does not exist as a result of a conversion  
30 that occurs after the effective date of this section from a different  
31 fuel source to a generation source that is not a renewable resource;

32 (d) Directing the consumer-owned utility to file a progress  
33 report within six months after an order granting an exemption is  
34 issued on achieving full compliance with the requirements of section  
35 3 of this act; and

36 (e) Directing the consumer-owned utility to take specific actions  
37 to achieve full compliance with the requirements of section 3 of this  
38 act.

39 (4) A consumer-owned utility may request an extension of a  
40 temporary exemption granted under this section and must report to the

1 governing board in a publicly noticed meeting at least once every six  
2 months as to its progress in resolving its reliability or system  
3 integrity issues.

4 (5) This section does not permanently relieve a consumer-owned  
5 utility of its obligation to comply with the requirements of section  
6 3 of this act.

7 NEW SECTION. **Sec. 6.** (1) This section is the tax preference  
8 performance statement for the tax preferences established in sections  
9 7 through 11, chapter . . . , Laws of 2018 (sections 7 through 11 of  
10 this act). This performance statement is only intended to be used for  
11 subsequent evaluation of the tax preferences. It is not intended to  
12 create a private right of action by any party or be used to determine  
13 eligibility for preferential tax treatment.

14 (2) The legislature categorizes the tax preferences created under  
15 sections 7 through 11, chapter . . . , Laws of 2018 (sections 7  
16 through 11 of this act) as intended to induce certain designated  
17 behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

18 (3) It is the legislature's specific public policy objective to  
19 reduce the cost of transitioning to electric generation sources that  
20 have very low or zero carbon dioxide emissions. It is the intent of  
21 the legislature to provide a suite of tax preferences in order to  
22 reduce the cost to ratepayers of constructing and operating new  
23 renewable energy generation capacity equal to or greater than  
24 necessary to serve projected Washington electricity load growth, as  
25 measured by projections in the most recently adopted Northwest power  
26 and conservation council power plan.

27 (4) The legislature does not intend to extend the expiration date  
28 of the tax preferences contained in this act.

29 (5) Because the tax preferences contained in this act are not for  
30 the primary purpose of creating or retaining jobs or attracting or  
31 attaining businesses, and because the legislature does not intend to  
32 extend the expiration of the tax preferences, the legislature does  
33 not intend for a review by the joint legislative audit and review  
34 committee.

35 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.04  
36 RCW to read as follows:

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



1 (a) "Carbon reduction investment" means an investment in support  
2 of eligible projects or actions that reduce, prevent, or remove from  
3 the atmosphere the emissions of greenhouse gases in the state. An  
4 eligible project or action includes, but is not limited to,  
5 investment in the following: (i) Installation of electric vehicle  
6 chargers and related infrastructure and other transportation  
7 electrification measures; (ii) demand side management of electricity  
8 consumption; (iii) energy storage technologies; and (iv) carbon  
9 sequestration programs, including forest health investments.

10 (b) "Greenhouse gas" means carbon dioxide, methane, nitrogen  
11 trifluoride, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons,  
12 perfluorocarbons, and other fluorinated greenhouse gases.

13 (2) In computing the tax imposed under this chapter, a credit is  
14 authorized for persons who reduce their own greenhouse gas emissions  
15 through carbon reduction investment projects.

16 (3)(a) The credit is equal to the total amount of carbon  
17 reduction investment project expenditures of a person.

18 (b) Credit may be earned by a person for multiple carbon  
19 reduction investment projects.

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

23 (4) No application is necessary for the tax credit. The person  
24 must keep records necessary for the department to verify eligibility  
25 under this section. The person is subject to all of the requirements  
26 of chapter 82.32 RCW. No refunds may be granted for credits under  
27 this section.

28 (5) If at any time the department finds that a person is not  
29 eligible for the tax credit under this section, the amount of taxes  
30 for which a credit has been claimed is immediately due. The  
31 department must assess interest, but not penalties, on the taxes for  
32 which the person is not eligible. The interest must be assessed at  
33 the rate provided for delinquent excise taxes under chapter 82.32  
34 RCW, is retroactive to the date the tax credit was taken, and accrues  
35 until the taxes for which a credit has been used are repaid.

36 (6) A person claiming the credit under this section must file a  
37 complete annual report with the department under RCW 82.32.534.

38 (7) This section expires January 1, 2029.

1       **Sec. 8.** RCW 82.16.055 and 1980 c 149 s 3 are each amended to  
2 read as follows:

3       (1) In computing tax under this chapter there ~~((shall be))~~ is  
4 deducted from the gross income:

5       (a) An amount equal to the cost of production at the plant for  
6 consumption within the state of Washington of:

7       (i) Electrical energy produced or generated from ~~((cogeneration))~~  
8 combined heat and power as defined in RCW ~~((82.35.020))~~ 19.280.020;  
9 and

10       (ii) Electrical energy or gas produced or generated from  
11 renewable ~~((energy))~~ resources ~~((such as solar energy, wind energy,~~  
12 ~~hydroelectric energy, geothermal energy, wood, wood wastes, municipal~~  
13 ~~wastes, agricultural products and wastes, and end use waste heat))~~ as  
14 defined in RCW 19.285.030; and

15       (b) Those amounts expended to improve consumers' efficiency of  
16 energy end use or to otherwise reduce the use of electrical energy or  
17 gas by the consumer.

18       (2) This section applies only to the following facilities:

19       (a) New facilities for the production or generation of energy  
20 from ~~((cogeneration or renewable energy resources))~~ combined heat and  
21 power or renewable resources or measures to improve the efficiency of  
22 energy end use on which construction or installation is begun after  
23 June 12, 1980, and before January 1, 1990; and

24       (b) New facilities for the production or generation of  
25 electricity from renewable resources on which construction or  
26 installation is begun after January 1, 2020, and before January 1,  
27 2028.

28       (3) Deductions under subsection (1)(a) of this section ~~((shall~~  
29 ~~be))~~ are allowed for a period not to exceed thirty years after the  
30 project is placed in operation.

31       (4) Measures or projects encouraged under this section ~~((shall))~~  
32 at the time they are placed in service must be reasonably expected to  
33 save, produce, or generate energy at a total incremental system cost  
34 per unit of energy delivered to end use which is less than or equal  
35 to the incremental system cost per unit of energy delivered to end  
36 use from similarly available conventional energy resources which  
37 utilize nuclear energy or fossil fuels and which the gas or electric  
38 utility could acquire to meet energy demand in the same time period.

39       (5) The department of revenue, after consultation with the  
40 utilities and transportation commission in the case of investor-owned

1 utilities and the governing bodies of locally regulated utilities,  
2 (~~shall~~) must determine the eligibility of individual projects and  
3 measures for deductions under this section.

4 (6) This section expires January 1, 2029.

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

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

9 (a) "Carbon reduction investment" means an investment in support  
10 of eligible projects or actions that reduce, prevent, or remove from  
11 the atmosphere the emissions of greenhouse gases in the state. An  
12 eligible project or action includes, but is not limited to,  
13 investment in the following: (i) Installation of electric vehicle  
14 chargers and related infrastructure and other transportation  
15 electrification measures; (ii) demand side management of electricity  
16 consumption; (iii) energy storage technologies; and (iv) carbon  
17 sequestration programs, including forest health investments.

18 (b) "Greenhouse gas" means carbon dioxide, methane, nitrogen  
19 trifluoride, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons,  
20 perfluorocarbons, and other fluorinated greenhouse gases.

21 (2) In computing the tax imposed under this chapter, a credit is  
22 authorized for persons who reduce their own greenhouse gas emissions  
23 through carbon reduction investment projects.

24 (3)(a) The credit is equal to the total amount of carbon  
25 reduction investment project expenditures of a person.

26 (b) Credit may be earned by a person for multiple carbon  
27 reduction investment projects.

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

31 (4) No application is necessary for the tax credit. The person  
32 must keep records necessary for the department to verify eligibility  
33 under this section. The person is subject to all of the requirements  
34 of chapter 82.32 RCW. No refunds may be granted for credits under  
35 this section.

36 (5) If at any time the department finds that a person is not  
37 eligible for the tax credit under this section, the amount of taxes  
38 for which a credit has been claimed is immediately due. The  
39 department must assess interest, but not penalties, on the taxes for

1 which the person is not eligible. The interest must be assessed at  
2 the rate provided for delinquent excise taxes under chapter 82.32  
3 RCW, is retroactive to the date the tax credit was taken, and accrues  
4 until the taxes for which a credit has been used are repaid.

5 (6) A person claiming the credit under this section must file a  
6 complete annual report with the department under RCW 82.32.534.

7 (7) This section expires January 1, 2029.

8 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.63  
9 RCW to read as follows:

10 (1)(a) Except as otherwise provided in this section, the  
11 department must issue a sales and use tax deferral certificate for  
12 state and local sales and use taxes due under chapters 82.08, 82.12,  
13 82.14, and 81.104 RCW on each eligible renewable energy investment  
14 project.

15 (b) The amount of tax imposed under chapters 82.08 and 82.12 RCW  
16 eligible for a deferral under a certificate issued pursuant to this  
17 section is limited to one million dollars per eligible renewable  
18 energy investment project per person. Once a person reaches the one  
19 million dollar limit in this subsection (1)(b), the person may no  
20 longer defer under this chapter any state or local sales or use taxes  
21 due on the eligible renewable energy investment project.

22 (2) The department may not issue deferral certificates under this  
23 section until January 1, 2020.

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

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

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

36 (4) This section expires January 1, 2028.

37 NEW SECTION. **Sec. 11.** A new section is added to chapter 84.36  
38 RCW to read as follows:

1 (1) All buildings, machinery, equipment, and other personal  
2 property that are used primarily for the generation of electricity  
3 from renewable resources, the land upon which this property is  
4 located, and the land that is reasonably necessary in the generation  
5 of electricity from renewable resources, which together comprise a  
6 new renewable energy generation facility or an addition to an  
7 existing generation facility, are exempt from property taxation for  
8 the ten assessment years following the date on which the facility or  
9 the addition to the facility becomes operational.

10 (2) Claims for exemptions authorized by this section must be  
11 filed with the county assessor on forms prescribed by the department  
12 of revenue and furnished by the assessor. Once filed, the exemption  
13 is valid for ten years and may not be renewed. The assessor must  
14 verify and approve claims as the assessor determines to be justified  
15 and in accordance with this section. No claims may be filed after  
16 January 1, 2028.

17 (3) The department of revenue may adopt such rules, pursuant to  
18 chapter 34.05 RCW, as necessary to properly administer this section.

19 (4) For the purposes of this section, "renewable resource" means:  
20 (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e)  
21 landfill gas; (f) wave, ocean, or tidal power; (g) gas from sewage  
22 treatment facilities; or (h) biomass energy.

23 (5) This section expires January 1, 2029.

24 NEW SECTION. **Sec. 12.** This act may be known and cited as the  
25 carbon free Washington act.

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