

ESSB 5735 - S AMD
By Senator

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that climate change
4 is real and that human activity may contribute to climate change. The
5 legislature further finds that climate change is impacting the state.
6 The 2008 legislature established statewide emission goals that are to
7 be achieved by 2020, 2035, and 2050, but did not enact a
8 comprehensive set of measures to ensure that the emission reductions
9 would be accomplished. The 2015 legislature further finds that action
10 should be taken to encourage and incentivize clean energy investments
11 and carbon reduction technologies.

12 **Sec. 2.** RCW 19.285.010 and 2007 c 1 s 1 are each amended to read
13 as follows:

14 This chapter concerns requirements for new energy resources and
15 carbon reduction investments. This chapter requires large utilities
16 to obtain fifteen percent of their electricity from new renewable
17 resources such as solar and wind by 2020 and undertake cost-effective
18 energy conservation.

19 **Sec. 3.** RCW 19.285.020 and 2007 c 1 s 2 are each amended to read
20 as follows:

21 Increasing energy conservation, reducing greenhouse gas
22 emissions, and the use of appropriately sited renewable energy
23 facilities builds on the strong foundation of low-cost renewable
24 hydroelectric generation in Washington state and will promote energy
25 independence in the state and the Pacific Northwest region. Making
26 the most of our plentiful local resources will stabilize electricity
27 prices for Washington residents, provide economic benefits for
28 Washington counties and farmers, create high-quality jobs in
29 Washington, provide opportunities for training apprentice workers in
30 the renewable energy field, protect clean air and water, and position

1 Washington state as a national leader in developing, deploying, and
2 integrating clean, renewable, and distributed energy technologies.
3 The reduction of greenhouse gas emissions through offset contracts,
4 credits, carbon reduction incentives, and other greenhouse gas
5 mitigation efforts is recognized by the legislature as a utility
6 purpose that confers a direct benefit on a utility's ratepayers.

7 **Sec. 4.** RCW 19.285.030 and 2014 c 45 s 1 are each amended to
8 read as follows:

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

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

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

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

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

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

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

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

35 (7) "Cost-effective" has the same meaning as defined in RCW
36 80.52.030.

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

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

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

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

9 (12) "Eligible renewable resource" means:

10 (a) Electricity from a generation facility powered by a renewable
11 resource other than freshwater that commences operation after March
12 31, 1999, where: (i) The facility is located in the Pacific
13 Northwest; or (ii) the electricity from the facility is delivered
14 into Washington state on a real-time basis without shaping, storage,
15 or integration services;

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

21 (c) Hydroelectric generation from a project completed after March
22 31, 1999, where the generation facility is located in irrigation
23 pipes, irrigation canals, water pipes whose primary purpose is for
24 conveyance of water for municipal use, and wastewater pipes located
25 in Washington where the generation does not result in new water
26 diversions or impoundments;

27 (d) Carbon reduction investments;

28 (e) Qualified biomass energy; or

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

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

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

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

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

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

25 (17) "Public facility" has the same meaning as defined in RCW
26 39.35C.010.

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

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

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

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

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

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

19 (24) "Carbon reduction investment" means an investment in support
20 of eligible projects or actions that reduce, prevent, or remove from
21 the atmosphere the emissions of greenhouse gases. An eligible project
22 or action includes, but is not limited to, investment in or purchase
23 of the emissions reductions attributable to the following: (a)
24 Conservation measures exceeding the avoided cost of power; (b)
25 installation of electric vehicle chargers and related infrastructure;
26 (c) installation of infrastructure to provide compressed natural gas,
27 liquefied natural gas, and renewable natural gas for motor vehicles,
28 locomotives, and marine vessels; (d) the fuel conversion of state
29 ferries to liquefied natural gas; (e) demand side management of
30 electricity consumption; (f) energy storage technologies; and (g)
31 carbon sequestration programs.

32 (25) "Greenhouse gas" means carbon dioxide (CO₂), methane (CH₄),
33 nitrogen trifluoride (NF₃), nitrous oxide (N₂O), sulfur hexafluoride
34 (SF₆), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other
35 fluorinated greenhouse gases.

36 **Sec. 5.** RCW 19.285.040 and 2014 c 26 s 1 are each amended to
37 read as follows:

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

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

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

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

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

1 electricity consumption prior to the conservation savings exceeded
2 five average megawatts.

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

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

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

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

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

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

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

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

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

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

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

22 (e)(i) Beginning January 1, 2016, a qualifying utility may use
23 carbon reduction investments, eligible renewable resources, or
24 renewable energy credits, or any combination of them, to comply with
25 an annual target in (a) of this subsection as specified under this
26 subsection (2)(e). For the purposes of complying with an annual
27 target in (a) of this subsection, 0.2 metric ton of carbon dioxide
28 equivalent emissions reduced, prevented, or removed from the
29 atmosphere is equal to the compliance equivalent of one renewable
30 energy credit.

31 (ii) Beginning January 1, 2016, a qualifying utility is
32 considered in compliance with an annual target in (a) of this
33 subsection if it invests at least two percent of its total annual
34 retail revenue requirement for that year in carbon reduction
35 investments as identified under this subsection (2)(e).

36 (iii) A qualifying utility may partner with other entities in
37 making joint investments in carbon reduction investments. When making
38 a joint investment, the qualifying utility will receive credit for
39 carbon reductions proportional to its share of the total invested in
40 the carbon reduction investment.

1 (iv) Any claimed reductions of carbon dioxide equivalent
2 emissions under this subsection (2)(e) must meet the following
3 criteria:

4 (A) The emission reductions must be real and verified;

5 (B) The emission reductions must start on or after January 1,
6 2016; and

7 (C) The emission reductions are not otherwise used to comply with
8 a program that reduces, prevents, or removes from the atmosphere the
9 emissions of greenhouse gases; except that emission reductions
10 achieved under federal requirements may be counted both under the
11 federal requirements and this section.

12 (v) The determination and certification of emissions reductions
13 must be measured, verified, and documented by an independent
14 qualified organization selected by the qualifying utility from a list
15 jointly maintained by the energy facility site evaluation council and
16 the department of ecology by rule; except that a utility may elect to
17 seek determination and certification from the state auditor.

18 (vi) The determination and certification of emissions reductions
19 must be based on a life-cycle assessment.

20 (vii) Each compliance equivalent certified under this subsection
21 (2)(e) must be recognized by the commission or auditor for each year
22 that the emissions reduction is certified to persist. Emissions
23 reductions that are certified to persist for longer than one year may
24 be carried forward and applied as compliance equivalents in future
25 years.

26 (viii) Carbon reduction investments may not be used to comply
27 with an annual target under subsection (1) of this section.

28 (ix) A qualifying utility that makes a carbon reduction
29 investment in the state may count the compliance equivalent at two
30 times its base value.

31 (x) A qualifying utility that makes a carbon reduction investment
32 in the state's transportation sector may count the compliance
33 equivalent at four times its base value.

34 (f) Except as provided in (e) of this subsection, the
35 requirements of this section may be met for any given year with
36 renewable energy credits produced during that year, the preceding
37 year, or the subsequent year. Each renewable energy credit may be
38 used only once to meet the requirements of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

18 **Sec. 6.** RCW 19.285.070 and 2007 c 1 s 7 are each amended to read
19 as follows:

20 (1) On or before June 1, 2012, and annually thereafter, each
21 qualifying utility shall report to the department on its progress in
22 the preceding year in meeting the targets established in RCW
23 19.285.040, including expected electricity savings from the biennial
24 conservation target, expenditures on conservation, actual electricity
25 savings results, the utility's annual load for the prior two years,
26 the amount of megawatt-hours needed to meet the annual renewable
27 energy target, the amount of megawatt-hours of each type of eligible
28 renewable resource acquired, the type and amount of renewable energy
29 credits acquired, the type and amount of any carbon reduction
30 investments, and the percent of its total annual retail revenue
31 requirement invested in the incremental cost of eligible renewable
32 resources and the cost of renewable energy credits. For each year
33 that a qualifying utility elects to demonstrate alternative
34 compliance under RCW 19.285.040(2) (d) or ~~((i))~~ (j) or
35 19.285.050(1), it must include in its annual report relevant data to
36 demonstrate that it met the criteria in that section. A qualifying
37 utility may submit its report to the department in conjunction with
38 its annual obligations in chapter 19.29A RCW.

1 (2) A qualifying utility that is an investor-owned utility shall
2 also report all information required in subsection (1) of this
3 section to the commission, and all other qualifying utilities shall
4 also make all information required in subsection (1) of this section
5 available to the auditor.

6 (3) A qualifying utility shall also make reports required in this
7 section available to its customers.

8 NEW SECTION. **Sec. 7.** (1) The joint committee on energy supply
9 and energy conservation shall study the promotion of carbon reduction
10 in the electricity sector. The study must include the following:

11 (a) The identification of alternate compliance mechanisms or
12 other modifications to existing state law that may give more
13 flexibility to utilities in complying with the requirements of
14 chapter 19.285 RCW while advancing the goals of carbon reduction;

15 (b) The identification of state statutes or regulations that may
16 discourage utility investments in carbon reduction;

17 (c) A recommendation on adjusting the compliance equivalent in
18 RCW 19.285.040(2)(e). The recommendation shall include an analysis
19 applying the life-cycle assessment criteria developed for carbon
20 reduction investments to eligible renewable resources; and

21 (d) A recommendation for new annual conservation and eligible
22 renewable targets in chapter 19.285 RCW to take effect after 2020.

23 (2) The joint committee must hold at least two public hearings to
24 gather information for the study, with at least one hearing in
25 western Washington and one hearing in eastern Washington.

26 (3) A final report must be delivered to the appropriate
27 committees of the legislature by December 14, 2016.

28 (4) The joint committee may contract with independent consultants
29 to assist in conducting the study and preparing the final report."

ESSB 5735 - S AMD
By Senator

30 On page 1, line 2 of the title, after "investments;" strike the
31 remainder of the title and insert "amending RCW 19.285.010,
32 19.285.020, 19.285.030, 19.285.040, and 19.285.070; and creating new
33 sections."

EFFECT: Adds legislative findings that action should be taken to encourage and incentivize carbon reduction technologies and that greenhouse gas mitigation efforts confer a direct benefit to utility ratepayers. Amends intent of I-937 to include the reduction of greenhouse gas (GHG) emissions. Amends the definition of "carbon reduction investment" (CRI) by clarifying the use of eligible conservation measures. Changes the ratio for the compliance equivalent of a CRI from .5 metric ton of CO₂e reduction equaling one renewable energy credit (REC) to .2 metric ton of reduction equaling one REC. The alternative compliance method for utilities investing 1 percent of total annual retail revenue in CRIs is changed to require an investment of 2 percent of total annual retail revenue in CRIs. Allows qualifying utilities to make joint investments in carbon reduction investments. Adds provisions to prevent the double-counting of GHG emission reductions and to clarify the verification and assessment of such reductions. Adds multipliers to promote in-state investments. Adds a reporting requirement concerning CRIs. Requires the Joint Committee on Energy Supply & Energy Conservation to study the promotion of carbon reductions in the electricity sector.

--- END ---