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HOUSE BILL 1589

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State of Washington

68th Legislature

2023 Regular Session

By Representatives Doglio and Fitzgibbon

1 AN ACT Relating to supporting Washington's clean energy economy  
2 and transitioning to a clean, affordable, and reliable energy future;  
3 amending RCW 80.28.010; adding a new chapter to Title 80 RCW; and  
4 declaring an emergency.

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

6 **Sec. 1.** RCW 80.28.010 and 2011 c 214 s 11 are each amended to  
7 read as follows:

8 (1) All charges made, demanded, or received by any gas company,  
9 electrical company, wastewater company, or water company for gas,  
10 electricity or water, or for any service rendered or to be rendered  
11 in connection therewith, shall be just, fair, reasonable and  
12 sufficient. Reasonable charges necessary to cover the cost of  
13 administering the collection of voluntary donations for the purposes  
14 of supporting the development and implementation of evergreen  
15 community management plans and ordinances under RCW 80.28.300 must be  
16 deemed as prudent and necessary for the operation of a utility.

17 (2) (a) Every gas company, electrical company, wastewater company,  
18 and water company shall furnish and supply such service,  
19 instrumentalities and facilities as shall be safe, adequate and  
20 efficient, and in all respects just and reasonable.

1 (b) No large gas company that serves more than 500,000 retail  
2 natural gas customers in the state of Washington on June 30, 2023,  
3 may furnish or supply gas service, instrumentalities, and facilities  
4 to any commercial or residential location that did not receive gas  
5 service or have filed applications for gas service as of June 30,  
6 2023.

7 (3) All rules and regulations issued by any gas company,  
8 electrical company, wastewater company, or water company, affecting  
9 or pertaining to the sale or distribution of its product or service,  
10 must be just and reasonable.

11 (4) Utility service for residential space heating shall not be  
12 terminated between November 15<sup>th</sup> through March 15<sup>th</sup> if the customer:

13 (a) Notifies the utility of the inability to pay the bill,  
14 including a security deposit. This notice should be provided within  
15 five business days of receiving a payment overdue notice unless there  
16 are extenuating circumstances. If the customer fails to notify the  
17 utility within five business days and service is terminated, the  
18 customer can, by paying reconnection charges, if any, and fulfilling  
19 the requirements of this section, receive the protections of this  
20 chapter;

21 (b) Provides self-certification of household income for the prior  
22 twelve months to a grantee of the department of commerce, which  
23 administers federally funded energy assistance programs. The grantee  
24 shall determine that the household income does not exceed the maximum  
25 allowed for eligibility under the state's plan for low-income energy  
26 assistance under 42 U.S.C. 8624 and shall provide a dollar figure  
27 that is seven percent of household income. The grantee may verify  
28 information provided in the self-certification;

29 (c) Has applied for home heating assistance from applicable  
30 government and private sector organizations and certifies that any  
31 assistance received will be applied to the current bill and future  
32 utility bills;

33 (d) Has applied for low-income weatherization assistance to the  
34 utility or other appropriate agency if such assistance is available  
35 for the dwelling;

36 (e) Agrees to a payment plan and agrees to maintain the payment  
37 plan. The plan will be designed both to pay the past due bill by the  
38 following October 15<sup>th</sup> and to pay for continued utility service. If  
39 the past due bill is not paid by the following October 15<sup>th</sup>, the  
40 customer is not eligible for protections under this chapter until the

1 past due bill is paid. The plan may not require monthly payments in  
2 excess of seven percent of the customer's monthly income plus one-  
3 twelfth of any arrearage accrued from the date application is made  
4 and thereafter during November 15<sup>th</sup> through March 15<sup>th</sup>. A customer  
5 may agree to pay a higher percentage during this period, but shall  
6 not be in default unless payment during this period is less than  
7 seven percent of monthly income plus one-twelfth of any arrearage  
8 accrued from the date application is made and thereafter. If  
9 assistance payments are received by the customer subsequent to  
10 implementation of the plan, the customer shall contact the utility to  
11 reformulate the plan; and

12 (f) Agrees to pay the moneys owed even if he or she moves.

13 (5) The utility shall:

14 (a) Include in any notice that an account is delinquent and that  
15 service may be subject to termination, a description of the  
16 customer's duties in this section;

17 (b) Assist the customer in fulfilling the requirements under this  
18 section;

19 (c) Be authorized to transfer an account to a new residence when  
20 a customer who has established a plan under this section moves from  
21 one residence to another within the same utility service area;

22 (d) Be permitted to disconnect service if the customer fails to  
23 honor the payment program. Utilities may continue to disconnect  
24 service for those practices authorized by law other than for  
25 nonpayment as provided for in this subsection. Customers who qualify  
26 for payment plans under this section who default on their payment  
27 plans and are disconnected can be reconnected and maintain the  
28 protections afforded under this chapter by paying reconnection  
29 charges, if any, and by paying all amounts that would have been due  
30 and owing under the terms of the applicable payment plan, absent  
31 default, on the date on which service is reconnected; and

32 (e) Advise the customer in writing at the time it disconnects  
33 service that it will restore service if the customer contacts the  
34 utility and fulfills the other requirements of this section.

35 (6) A payment plan implemented under this section is consistent  
36 with RCW 80.28.080.

37 (7) Every gas company and electrical company shall offer  
38 residential customers the option of a budget billing or equal payment  
39 plan. The budget billing or equal payment plan shall be offered low-  
40 income customers eligible under the state's plan for low-income

1 energy assistance prepared in accordance with 42 U.S.C. 8624(C)(1)  
2 without limiting availability to certain months of the year, without  
3 regard to the length of time the customer has occupied the premises,  
4 and without regard to whether the customer is the tenant or owner of  
5 the premises occupied.

6 (8) Every gas company, electrical company, wastewater company,  
7 and water company shall construct and maintain such facilities in  
8 connection with the manufacture and distribution of its product, or  
9 provision of its services, as will be efficient and safe to its  
10 employees and the public.

11 (9) An agreement between the customer and the utility, whether  
12 oral or written, does not waive the protections afforded under this  
13 chapter.

14 (10) In establishing rates or charges for water service, water  
15 companies as defined in RCW 80.04.010 may consider the achievement of  
16 water conservation goals and the discouragement of wasteful water use  
17 practices.

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

21 (1) "Alternative energy resource" means biogas, renewable natural  
22 gas, renewable syngas, renewable hydrogen, carbon dioxide removal,  
23 carbon-free district energy, any electrification programs approved as  
24 part of an electrification plan pursuant to section 4 of this act,  
25 and any carbon-neutral fuel as defined in statute.

26 (2) "Carbon dioxide equivalent" has the same meaning as defined  
27 in RCW 70A.65.010.

28 (3) "Carbon dioxide removal" has the same meaning as defined in  
29 RCW 70A.65.010.

30 (4) "Combination utility" means a public service company that is  
31 both an electrical company and a large gas company.

32 (5) "Commission" means the utilities and transportation  
33 commission.

34 (6) "Cost target" means: (a) With respect to a gas  
35 decarbonization plan for a large gas company, the cost target  
36 identified in section 6(1) of this act; and (b) with respect to an  
37 electrification plan for a combination utility, the cost target  
38 identified in section 6(2) of this act.

1 (7) "Costs of greenhouse gas emissions" means the costs of  
2 greenhouse gas emissions established in RCW 80.28.395.

3 (8) "Deep energy retrofit" means the installation of any measure  
4 or combination of measures, including air sealing and addressing  
5 thermal bridges and envelopes, that under normal weather and  
6 operating conditions can reasonably be expected to reduce a  
7 building's calculated design load to 10 or fewer British thermal  
8 units per hour per square foot of conditioned floor area.

9 (9) "Carbon-free district energy" means a network of hot water  
10 pipes and cold water pipes used to provide thermal energy to multiple  
11 buildings that does not result in the emissions of greenhouse gases.

12 (10) "Electrical company" has the same meaning as defined in  
13 RCW 80.04.010.

14 (11) "Electrification" means the installation by a combination  
15 utility of electric end-use equipment provided that installation: (a)  
16 Will result in a net reduction in statewide greenhouse gas emissions  
17 over the life of the equipment as compared to the most efficient  
18 commercially available natural gas or alternative energy resource  
19 alternative; and (b) is installed and operated in a manner that does  
20 not negatively impact the load factor of the electrical company that  
21 serves the customer, and reduces the sales of natural gas by the  
22 large gas company. Electrification programs of a combination utility  
23 may include, but are not limited to, programs that facilitate deep  
24 energy retrofits or the installation of electric air-source heat  
25 pumps with gas backups in existing buildings. However, electric air-  
26 source heat pumps with gas backups may not be part of any plan filed  
27 after 2030.

28 (12) "Emissions baseline" means the actual cumulative greenhouse  
29 gas emissions of a large gas company, calculated pursuant to chapter  
30 173-441 WAC, for the five-year period beginning January 1, 2018, and  
31 ending December 31, 2022.

32 (13) "Emissions reduction period" means one of four periods of  
33 five calendar years each, with the four periods beginning on  
34 January 1st of calendar years 2030, 2035, 2040, and 2050,  
35 respectively.

36 (14) "Gas company" has the same meaning as defined in  
37 RCW 80.04.010.

38 (15) "Greenhouse gas" has the same meaning as defined in  
39 RCW 70A.45.010.

1 (16) "Highly impacted community" has the same meaning as defined  
2 in RCW 19.405.020.

3 (17) "Large gas company" means a gas company that serves more  
4 than 500,000 retail natural gas customers in the state of Washington  
5 on June 30, 2023.

6 (18) "Renewable hydrogen" has the same meaning as defined in RCW  
7 19.405.020.

8 (19) "Low-income" has the same meaning as defined in  
9 RCW 19.405.020.

10 (20) "Multiyear rate plan" means a multiyear rate plan of a gas  
11 company filed with the commission pursuant to RCW 80.28.425.

12 (21) "Natural gas" has the same meaning as defined in  
13 RCW 19.405.020.

14 (22) "Renewable natural gas" has the same meaning as defined in  
15 RCW 19.405.020.

16 (23) "Renewable resource" has the same meaning as defined in RCW  
17 19.405.020.

18 (24) "Renewable syngas" means any fuel derived by processing:

19 (a) Manure of agricultural livestock, including litter, wood  
20 shavings, straw, rice hulls, bedding material, and other materials  
21 incidentally collected with the manure;

22 (b) Any nonhazardous, cellulosic, or other organic agricultural  
23 or food industry byproduct or waste material that is derived from:

24 (i) Biomass;

25 (ii) Harvesting residues;

26 (iii) Wastes or byproducts from fermentation processes, ethanol  
27 production, biodiesel production, slaughter of agricultural  
28 livestock, food production, food processing, or food service; or

29 (iv) Other organic wastes, byproducts, or sources;

30 (c) Solid wood waste materials, including waste pallets, crates,  
31 dunnage, manufacturing and construction wood wastes, and landscape or  
32 right-of-way tree trimmings;

33 (d) Landfill waste, sewage waste treatment materials, or other  
34 organic materials; or

35 (e) Carbon dioxide removal processes.

36 NEW SECTION. **Sec. 3.** (1) A large gas company shall file a gas  
37 decarbonization plan as part of any multiyear rate plan filed on or  
38 after January 1, 2026, and every four years thereafter, that would

1 aim to achieve the gas company's proportional share of emissions  
2 reductions required under RCW 70A.45.020.

3 (2) A gas decarbonization plan filed pursuant to this  
4 section must:

5 (a) Include proposed programs to advance gas decarbonization  
6 measures for customers;

7 (b) Include programs targeted to low-income customers, vulnerable  
8 populations, and highly impacted communities;

9 (c) Include outreach plans for engagement with low-income  
10 customers, vulnerable populations, and highly impacted communities to  
11 develop programs to support those customers in every phase of the  
12 programs in the large gas company's gas decarbonization plan,  
13 including through incentives offered to multifamily buildings  
14 occupied in full or in part by low-income households;

15 (d) Prioritize investments that benefit low-income customers,  
16 vulnerable populations, and highly impacted communities from the  
17 investments made to implement the gas decarbonization plan;

18 (e) Set forth portfolios that the large gas company will use to  
19 reduce greenhouse gas emissions to meet the emissions reduction  
20 target identified in the applicable gas decarbonization plan. The  
21 large gas company shall present:

22 (i) A portfolio of resources that uses alternative energy  
23 resources to the maximum practicable extent, that meets the  
24 requirements of the applicable cost target, that may include leak  
25 reductions approved by the commission, and that may or may not meet  
26 one or more of the emissions reduction targets identified in the  
27 applicable gas decarbonization plan but that demonstrates reductions  
28 in greenhouse gas emissions;

29 (ii) Other portfolios at the large gas company's discretion; and

30 (iii) Other portfolios as directed by the commission;

31 (f) Quantify projected cumulative greenhouse gas emissions  
32 reductions for each emissions reduction period resulting from each  
33 portfolio presented in the gas decarbonization plan;

34 (g) Propose program budgets resulting from each portfolio  
35 presented in the gas decarbonization plan;

36 (h) Quantify the cost of implementing each portfolio presented in  
37 the gas decarbonization plan;

38 (i) Project annual greenhouse gas emissions reductions that would  
39 result if each portfolio presented in the gas decarbonization plan  
40 were extended through 2050;

1 (j) Describe the effects of the actions and investments of each  
2 portfolio presented in the gas decarbonization plan on the safety,  
3 reliability, and resilience of the large gas company's gas service;

4 (k) Identify potential changes to depreciation schedules or other  
5 actions to align the large gas company's cost recovery with statewide  
6 policy goals, including reducing greenhouse gas emissions, minimizing  
7 costs, and minimizing risks to the large gas company and its  
8 customers;

9 (l) Explain the large gas company's analysis of the costs and  
10 benefits of an array of alternatives, including the costs of  
11 greenhouse gas emissions in the cost-benefit calculations;

12 (m) Describe the monitoring and verification methodology to be  
13 used in reporting; and

14 (n) Include any other information required by the commission.

15 NEW SECTION. **Sec. 4.** On or after January 1, 2026, a combination  
16 utility shall file with the commission an electrification plan as  
17 part of a gas decarbonization plan filed pursuant to section 3 of  
18 this act for commission approval. Electrification plans may be  
19 combined with other demand-side management strategic issues or  
20 transportation electrification plans, as applicable, but an  
21 electrification plan must include, at a minimum:

22 (1) Proposed programs to advance electrification for customers;

23 (2) Programs targeted to low-income customers, vulnerable  
24 populations, and highly impacted communities;

25 (3) Outreach plans for engagement with low-income customers,  
26 vulnerable populations, and highly impacted communities to develop  
27 programs to support those customers in every phase of the combination  
28 utility's electrification programs, including through incentives  
29 offered to multifamily buildings occupied in full or in part by low-  
30 income households;

31 (4) Budgets; targeted numbers of installations; projected fuel  
32 savings; projected cost-effectiveness calculations, including the  
33 costs of greenhouse gas emissions; projected reductions in greenhouse  
34 gas emissions; and other information deemed relevant by the  
35 commission for the plan as a whole and for each program included in  
36 the plan;

37 (5) Documentation and data to show that the combination utility's  
38 electrification plan is consistent with maintaining the reliability  
39 of the electric grid; and



1 (6) Incentives to facilitate electrification, which may include  
2 programs targeted toward new and existing building markets. Products  
3 eligible for incentives must be certified under an energy star  
4 program established by section 324A of the energy policy and  
5 conservation act, 42 U.S.C. Sec. 6294a, as amended, or a successor  
6 program if that certification is available, in product categories for  
7 which such certification exists.

8 NEW SECTION. **Sec. 5.** (1) Large gas companies and combination  
9 utilities must include the following in calculating their emissions  
10 baseline and projected cumulative emissions for an emissions  
11 reduction period, consistent with chapter 173-441 WAC:

12 (a) Methane leaked from the transportation and delivery of gas  
13 from the gas distribution and service pipelines from the city gate to  
14 customer end use;

15 (b) Greenhouse gas emissions resulting from the combustion of gas  
16 by customers not otherwise subject to federal greenhouse gas  
17 emissions reporting and excluding all transport customers; and

18 (c) Emissions of methane resulting from leakage from delivery of  
19 gas to other gas companies.

20 (2) In calculating an emissions reduction target, a large gas  
21 company or combination utility must show its emissions baseline and  
22 projected cumulative greenhouse gas emissions for the applicable  
23 emissions reduction period separately and must show that the total  
24 emissions reductions are projected to make progress toward the  
25 achievement of the emissions reduction targets identified in the  
26 applicable gas decarbonization plan. The final calculation must be  
27 presented on a carbon dioxide equivalent basis.

28 (3) All emissions are metric tons of carbon dioxide equivalent as  
29 reported to the federal environmental protection agency pursuant to  
30 40 C.F.R. 98, either subpart W (methane) or subpart NN (carbon  
31 dioxide), or successor reporting requirements.

32 NEW SECTION. **Sec. 6.** (1) The commission shall establish a cost  
33 target for a gas decarbonization plan that is 2.5 percent of the gas  
34 revenue requirement approved by the commission for the large gas  
35 company for each year of the multiyear rate plan. For the purposes of  
36 this subsection, the commission shall calculate the gas revenue  
37 requirement for any combination utility net of the program budget for

1 any electrification plan filed by the combination utility as part of  
2 its gas decarbonization plan.

3 (2) If a combination utility includes an electrification plan as  
4 part of a gas decarbonization plan, the commission shall establish a  
5 cost target for the electrification plan that is 2.5 percent of the  
6 electric revenue requirement approved by the commission for the  
7 combination for each year of the multiyear rate plan. For the  
8 purposes of this subsection, the commission shall calculate the  
9 electric revenue requirement for any combination utility net of the  
10 program budget for the gas decarbonization plan filed by the  
11 combination utility.

12 NEW SECTION. **Sec. 7.** (1) The commission shall approve a gas  
13 decarbonization or electrification plan if the commission finds it to  
14 be in the public interest. The commission may modify a proposed gas  
15 decarbonization or electrification plan if the modifications are  
16 necessary to ensure that the plan is in the public interest.

17 (2) In evaluating whether a proposed gas decarbonization or  
18 electrification plan is in the public interest, the commission shall  
19 take into account the following factors:

20 (a) Whether the gas decarbonization or electrification plan  
21 achieves reductions in greenhouse gas emissions for each emissions  
22 reduction period;

23 (b) Whether the gas decarbonization or electrification plan  
24 demonstrates progress toward meeting the emissions reduction targets  
25 identified in the applicable gas decarbonization plan through  
26 maximizing the use of alternative energy resources;

27 (c) Whether investments in the gas decarbonization or  
28 electrification plan prioritize serving low-income customers,  
29 vulnerable populations, and highly impacted communities;

30 (d) Whether the gas decarbonization or electrification plan  
31 results in a reasonable cost to customers; and

32 (e) Whether the gas decarbonization or electrification plan  
33 maintains system reliability.

34 (3)(a) The commission must require a large gas company to achieve  
35 the maximum level of greenhouse gas emissions reductions practicable  
36 using alternative energy resources at or below the applicable cost  
37 target.

38 (b) The commission may approve, or amend and approve, a gas  
39 decarbonization plan with costs greater than the cost target

1 identified in section 6 (1) of this act or an electrification plan  
2 with costs greater than the cost target identified in section 6 (2)  
3 of this act only if it finds that the plan is in the public interest,  
4 costs to customers are reasonable, the plan includes mitigation of  
5 rate increases for low-income customers, and the benefits of the  
6 plan, including the costs of greenhouse gas emissions, exceed the  
7 costs.

8 (4) Notwithstanding any other provision of law, any procurement  
9 by a combination utility with an electrification plan approved by the  
10 commission under this section is subject to the following  
11 requirements:

12 (a) 40 percent of the total capacity and energy necessary to meet  
13 the requirements of chapter 19.405 RCW must be supplied through the  
14 execution of power purchase agreements with third parties pursuant to  
15 which the combination utility purchases energy, capacity, and  
16 environmental attributes from resources owned and operated by  
17 entities that are not affiliated with the combination utility and  
18 that commit to allow the combination utility rights to dispatch,  
19 operate, and control the solicited resource in the same manner as the  
20 combination utility's own generating resources;

21 (b) 60 percent of the total capacity and energy necessary to meet  
22 the requirements of chapter 19.405 RCW must be supplied from  
23 resources owned and operated by the combination utility or an  
24 affiliate of the combination utility.

25 (5) Upon commission approval of a power purchase agreement for  
26 acquisition of resources by a combination utility with an  
27 electrification plan approved by the commission under this section,  
28 the combination utility is allowed to: (a) Recover the cost of  
29 purchases of energy, capacity, and environmental attributes from  
30 renewable resources under the power purchase agreement; and (b) earn  
31 a return on such purchases in an amount that is the product of the  
32 following equation: (i) A rate of return that is no less than the  
33 authorized cost of debt and no greater than the authorized rate of  
34 return of the combination company, multiplied by (ii) the operating  
35 expense incurred by the combination utility under the power purchase  
36 agreement.

37 NEW SECTION. **Sec. 8.** (1) In any multiyear rate plan filed by a  
38 combination utility pursuant to RCW 80.28.425, the commission must  
39 adopt depreciation schedules for any gas plant in service as of the

1 effective date of the depreciation schedules of the multiyear rate  
2 plan such that the incremental depreciation for each year of such a  
3 multiyear rate plan resulting from the depreciation is equal to one  
4 percent of the gas revenue requirement for the preceding year.

5 (2) If the ratio of the rate base for gas operations of a  
6 combination company to the combined rate bases for gas and electric  
7 operations of the combination company is less than or equal to 0.2,  
8 then the combination utility may propose, and the commission shall  
9 adopt, in the next multiyear rate plan of a combination utility filed  
10 after the achievement of such a ratio, a merger of the rate bases  
11 supporting gas and electric operations of the combination utility  
12 into a single energy rate base and the adoption of rates for electric  
13 and gas service that support the recovery of such a merged energy  
14 rate base.

15 NEW SECTION. **Sec. 9.** For any project in a gas decarbonization  
16 or electrification plan that is part of a competitive solicitation  
17 and with a cost of more than \$1,000,000, the large gas company must  
18 certify to the commission that any work associated with such a  
19 project will be constructed by a prime contractor and its  
20 subcontractors in a way that includes community workforce agreements  
21 or project labor agreements and the payment of area standard  
22 prevailing wages and apprenticeship utilization requirements,  
23 provided the following apply:

24 (1) The large gas company and the prime contractor and all of its  
25 subcontractors regardless of tier have the absolute right to select  
26 any qualified and responsible bidder for the award of contracts on a  
27 specified project without reference to the existence or nonexistence  
28 of any agreements between such a bidder and any party to such a  
29 project labor agreement, and only when such a bidder is willing,  
30 ready, and able to become a party to, signs a letter of assent, and  
31 complies with such an agreement or agreements, should it be  
32 designated the successful bidder; and

33 (2) It is understood that this is a self-contained, stand-alone  
34 agreement, and that by virtue of having become bound to such an  
35 agreement or agreements, neither the prime contractor nor the  
36 subcontractors are obligated to sign any other local, area, or  
37 national agreement.

1        NEW SECTION.    **Sec. 10.**    Electrical companies, municipal electric  
2 utilities,    public utility districts,    irrigation districts,  
3 cooperatives,    and mutual corporations providing retail electric  
4 service are encouraged to:

5            (1) Work with large gas companies providing gas service within  
6 their service areas to identify opportunities for electrification and  
7 the provision of energy peaking service by the large gas company;

8            (2) Account for the costs of greenhouse gas emissions, set total  
9 energy savings and greenhouse gas emissions reduction goals, and  
10 develop and implement electrification programs in collaboration with  
11 large gas companies providing gas service in service areas; and

12            (3) Include an electrification plan or transportation  
13 electrification program as part of a clean energy plan.

14        NEW SECTION.    **Sec. 11.**    This chapter may be known and cited as  
15 the Washington decarbonization act for large gas companies and  
16 combination utilities.

17        NEW SECTION.    **Sec. 12.**    Sections 2 through 11 of this act  
18 constitute a new chapter in Title 80 RCW.

19        NEW SECTION.    **Sec. 13.**    If any provision of this act or its  
20 application to any person or circumstance is held invalid, the  
21 remainder of the act or the application of the provision to other  
22 persons or circumstances is not affected.

23        NEW SECTION.    **Sec. 14.**    This act is necessary for the immediate  
24 preservation of the public peace, health, or safety, or support of  
25 the state government and its existing public institutions, and takes  
26 effect immediately.

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