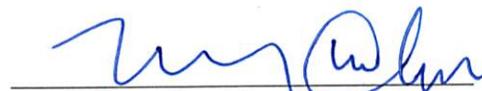
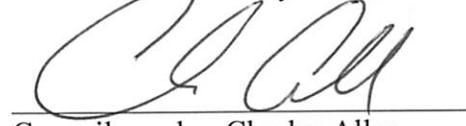
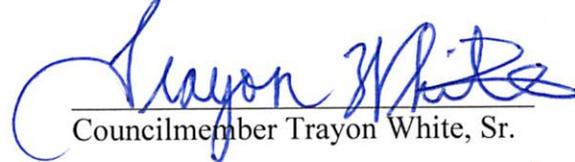


1   
2 Chairman Phil Mendelson

  
Councilmember Mary M. Cheh

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5 Councilmember Brianne K. Nadeau

  
Councilmember Charles Allen

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10 Councilmember Trayon White, Sr.

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14 A BILL

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17  
18 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
19  
20 \_\_\_\_\_  
21

22 To amend the Renewable Portfolio Standard Act of 2004 to increase the Renewable Portfolio  
23 Standard to 100% by 2032, to establish a solar energy standard after 2032, to require that  
24 electricity suppliers obtain a certain percentage of their energy from long-term purchase  
25 agreements with renewable generators, and to clarify the factors that the Office of the  
26 People’s Counsel and the Public Service Commission must consider in making decisions;  
27 to amend the Clean and Affordable Energy Act of 2008 to remove restrictions on the  
28 types of energy efficiency measures that the Sustainable Energy Utility must offer, to  
29 increase the Sustainable Energy Trust Fund fee assessments, to add an assessment on fuel  
30 oil, and to expand the uses of the Sustainable Energy Trust Fund; to establish a building  
31 energy performance standard program at the Department of Energy and Environment; to  
32 amend The Green Building Act of 2006 to expand the Department of Energy and  
33 Environment’s benchmarking program to include buildings of 10,000 square feet or more  
34 by 2024; to authorize the Mayor to commit the District to participation in regional  
35 programs with the purpose of limiting greenhouse gas emissions; to require the  
36 Department of Motor Vehicles to issue regulations tying the vehicle excise tax to fuel  
37 efficiency  
38

39 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
40 act may be cited as the “CleanEnergy DC Omnibus Amendment Act of 2018”.

41 SUBTITLE I. RENEWABLE ENERGY AMENDMENTS

42           Sec. 101. The Renewable Energy Portfolio Standard Act of 2004, effective April 12,  
43 2005 (D.C. Law 15-340; D.C. Official Code § 34-1431 *et seq.*), is amended as follows:

44           (a) Section 3 (D.C. Official Code § 34-1431) is amended as follows:

45                   (1) A new paragraph (7A) is added to read as follows:

46                   “(7A) “Long-term purchase agreement” means an agreement between an electricity  
47 supplier and an electricity generator for the purchase of electricity or renewable energy credits  
48 over a term of at least 7 years.”

49                   (2) Paragraph (10) is amended by striking the phrase “PJM Interconnection region  
50 or within a state that is adjacent to the PJM Interconnection region” and inserting the phrase  
51 “PJM Interconnection region” in its place.

52           (b) Section 4 (D.C. Official Code § 34-1432) is amended as follows:

53                   (1) Subsection (c)(9), (10), (11), (12), (13), (14) (15), (16), (17), (18), (19), (20),  
54 (21), and (22) are amended to read as follows:

55                   “(9) In 2019, not less than 17.5% from tier one renewable sources, 0.5% from tier  
56 two renewable sources, and not less than 1.5% from solar energy;

57                   “(10) In 2020, not less than 20% from tier one renewable sources, 0% from tier  
58 two renewable sources, and not less than 1.7% from solar energy;

59                   “(11) In 2021, not less than 26.25% from tier one renewable sources, 0% from tier  
60 two renewable sources, and not less than 1.85% from solar energy;

61                   “(12) In 2022, not less than 32.5% from tier one renewable sources, 0% from tier  
62 two renewable sources, and not less than 2.175% from solar energy;

63                   “(13) In 2023, not less than 38.75% from tier one renewable sources, 0% from tier  
64 two renewable sources, and not less than 2.5% from solar energy;

65           “(14) In 2024, not less than 45.0% from tier one renewable sources, 0% from tier  
66 two renewable sources, and not less than 2.6% from solar energy;

67           “(15) In 2025, not less than 51.25% from tier one renewable sources, 0% from tier  
68 two renewable sources, and not less than 2.85% from solar energy;

69           “(16) In 2026, not less than 57.5% from tier one renewable sources, 0% from tier  
70 two renewable sources, and not less than 3.15% from solar energy;

71           “(17) In 2027, not less than 63.75% from tier one renewable sources, 0% from tier  
72 two renewable sources, and not less than 3.45% from solar energy;

73           “(18) In 2028, not less than 70% from tier one renewable sources, 0% from tier  
74 two renewable sources, and not less than 3.75% from solar energy;

75           “(19) In 2029, not less than 76.25% from tier one renewable sources, 0% from tier  
76 two renewable sources, and not less than 4.1% from solar energy;

77           “(20) In 2030, not less than 82.5% from tier one renewable sources, 0% from tier  
78 two renewable sources, and not less than 4.5% from solar energy;

79           “(21) In 2031, not less than 88.75% from tier one renewable sources, 0% from tier  
80 two renewable sources, and not less than 4.75% from solar energy; and

81           “(22) In 2032, not less than 95% from tier one renewable sources, 0% from tier  
82 two renewable sources, and not less than 5.0% from solar energy.”.

83           (2) A new subsection (c-1) is added to read as follows:

84           “(c-1)(1) Notwithstanding subsection (c) of this section, beginning in 2020, if the solar  
85 energy achieved in a given year exceeds the solar energy standard in that year, the solar energy  
86 standard of the subsequent year shall increase by one plus the percentage difference between the  
87 solar energy standard in that year and the actual percentage of solar achieved for that year,

88 multiplied by the subsequent year’s solar energy standard; provided, that the solar energy  
89 standard shall not exceed a percentage that equates to a total installed capacity of 1.68 gigawatts.

90 “(2) Beginning in 2033, the solar energy standard of each year shall be  
91 determined by multiplying the actual percentage of solar energy achieved in the year 2 years  
92 prior multiplied by one plus the average percentage increase in solar energy capacity added in  
93 the prior 2 years; provided, that the solar energy standard shall not exceed a percentage that  
94 equates to a total installed capacity of 1.68 gigawatts.

95 “(3) For every year that the solar energy standard in a given year exceeds 5%, the  
96 tier one renewable sources standard for that year shall be reduced by the same amount that the  
97 solar energy standard exceeds 5%.”

98 (3) A new subsection (d-1) is added to read as follows:

99 “(d-1) Beginning January 1, 2022, an electricity supplier shall meet its renewable  
100 portfolio standard by obtaining at least 70% of its renewable energy credits from renewable  
101 sources with which the supplier has a long-term purchase agreement.

102 (c) Section 6 (D.C. Official Code § 34-1434) is amended by adding a new section (c-1) to  
103 read as follows:

104 “(c-1) Any payment of a compliance fee due pursuant to subsection (c) shall be submitted  
105 to DOEE for deposit into the Fund by November 1 of the calendar year following the year of  
106 compliance.”

107 (d) Section 11(b) (D.C. Official Code § 34-1439(b)) is amended by striking the phrase  
108 “credits generated by the utilities meeting the requirements of section 4, and” and inserting the  
109 phrase “credits generated by the utilities meeting the requirements of section 4, the estimated  
110 total amount of alternative compliance fees to be paid by electricity suppliers, the aggregate

111 amount of the District’s electric supply that is or will be exempted pursuant to section 4 of the  
112 Renewable Energy Portfolio Standard Expansion Amendment Act of 2016, effective October 8,  
113 2016 (D.C. Law 21-154; 63 DCR 10138), that year and annually through 2022, and” in its place.

114 Sec. 102. Section 109(c) of The Retail Electric Competition and Consumer Protection  
115 Act of 1999, effective May 9, 2000 (D. C. Law 13-107; D.C. Official Code § 34-1509(c)) is  
116 amended as follows:

117 (a) Paragraph (3) is amended by striking the phrase “; and” and inserting a semicolon in  
118 its place.

119 (b) Paragraph (4) is amended by striking the period at the end an inserting the phrase “;  
120 and” in its place; and

121 (c) New paragraphs (5), (6), and (7) are added to read as follows:

122 “(5) Beginning January 1, 2020, a requirement that at least 26% of the supplier’s  
123 electric supply be obtained pursuant to a long-term power purchase agreement with a tier one  
124 renewable source, as those terms are defined in section 3 of The Renewable Energy Portfolio  
125 Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code § 34-  
126 1431).

127 “(6) Beginning January 1, 2021, a requirement that at least 52% of the supplier’s  
128 electric supply be obtained pursuant to a long-term power purchase agreement with a tier one  
129 renewable source, as those terms are defined in section 3 of The Renewable Energy Portfolio  
130 Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code § 34-  
131 1431).

132 “(7) Beginning January 1, 2022, and each year thereafter, a requirement that at  
133 least 80% of the supplier’s electric supply be obtained pursuant to a long-term power purchase

134 agreement with a tier one renewable source, as those terms are defined in Section 3 of The  
135 Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340;  
136 D.C. Official Code § 34-1431).”.

137           Sec. 103. Section 1(b) of An Act To provide a People’s Counsel for the Public Service  
138 Commission in the District of Columbia, and for other purposes, approved January 2, 1975 (88  
139 Stat. 1975; D.C. Official Code § 34-804(e)), is amended by striking the phrase, “and the  
140 preservation of environmental quality” and inserting the phrase “and the preservation of  
141 environmental quality, including effects on global climate change and the District’s public  
142 climate commitments” in its place.

143           Sec. 104. Section 8(97B) of An Act Making appropriations to provide for the expenses of  
144 the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen  
145 hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 974; D.C.  
146 Official Code §34-808.02), is amended by striking the phrase, “and the preservation of  
147 environmental quality” and inserting the phrase “and the preservation of environmental quality,  
148 including effects on global climate change and the District’s public climate commitments” in its  
149 place.

150           SUBTITLE II. SUSTAINABLE ENERGY TRUST FUND EXPANSION

151           Sec. 201. The Clean and Affordable Energy Act of 2008, effective October 22, 2008  
152 (D.C. Law 17-250; D.C. Official Code § 8-1773.01 *et seq.*), is amended as follows:

153           (a) Section 202 (D.C. Official Code § 8-1774.02) is amended as follows:

154                   (1) Subsection (h) is repealed.

155                   (2) Subsection (i) is repealed.

156                   (3) Subsection (j) is repealed.

157 (b) Section 210 (D.C. Official Code § 8-1774.10) is amended as follows:

158 (1) Subsection (b) is amended as follows:

159 (A) Paragraph (1) is amended as follows:

160 (i) Subparagraph (D) is amended by striking the phrase “and each  
161 year thereafter.” and inserting the phrase “through fiscal year 2019;” in its place.

162 (ii) A new subparagraph (E) is added to read as follows:

163 “(E) The amount of \$.04515 in fiscal year 2020 and each year thereafter.”.

164 (B) Paragraph (2) is amended as follows:

165 (i) Subparagraph (D) is amended by striking the phrase “and each  
166 year thereafter.” and inserting the phrase “through fiscal year 2019;” in its place.

167 (ii) New subparagraphs (E), (F), (G), (H), (I), (J), (K), (L), (M),  
168 (N), (O), (P) and (Q) are added to read as follows:

169 “(E) The amount of \$.0029016 in fiscal year 2020;

170 “(F) The amount of \$.00279279 in fiscal year 2021;

171 “(G) The amount of \$.0027001 in fiscal year 2022;

172 “(H) The amount of \$.00259935 in fiscal year 2023;

173 “(I) The amount of \$.0024986 in fiscal year 2024;

174 “(J) The amount of \$.00239785 in fiscal year 2025;

175 “(K) The amount of \$.0022971 in fiscal year 2026;

176 “(L) The amount of \$.00219635 in fiscal year 2027;

177 “(M) The amount of \$.0020956 in fiscal year 2028;

178 “(N) The amount of \$.00199485 in fiscal year 2029;

179 “(O) The amount of \$.0018942 in fiscal year 2030;

180 “(P) The amount of \$.00179335 in fiscal year 2031;

181 “(Q) The amount of \$.001612 in fiscal year 2032 and each year  
182 thereafter.”.

183 (C) A new paragraph (2A) is added to read as follows:

184 “(2A) There is imposed upon a person who delivers heating oil or fuel oil to an  
185 end-user in the District, whether for industrial, commercial, or residential use, an assessment of  
186 \$.084 per gallon, calculated on sales.”

187 (2) Subsection (c) is amended as follows:

188 (A) Paragraph (2) is amended by striking the phrase “development of” and  
189 inserting the phrase “development and implementation of” in its place.

190 (B) Paragraph (10) is repealed.

191 (C) New paragraphs (11), (12), (13), (14), and (15) are added to read as  
192 follows:

193 “(11) In Fiscal Year 2020 and each year thereafter, at least 20% of the funds  
194 generated by the increases to assessments included in the Clean Energy DC Omnibus  
195 Amendment Act of 2018, as introduced on July 10, 2018, (Bill 22-XXX), shall be used by DOEE  
196 or the Sustainable Energy Utility to benefit low-income residents, which may include energy bill  
197 assistance, energy efficiency, weatherization, and fuel-switching programs, including programs  
198 making improvements to commercial and institutional buildings serving low-income residents.

199 “(12) Implementation of the Building Energy Performance Standard program  
200 required by section 301 of the Clean Energy DC Omnibus Amendment Act of 2018, as  
201 introduced on July 10, 2018 (Bill 22-XXX)

202                   “(13) In Fiscal Year 2020, transferring \$15 million to the Green Finance  
203 Authority to support sustainable projects and programs, if such transfer is included in an  
204 approved budget and financial plan.

205                   “(14) In Fiscal Year 2021, transferring \$15 million to the Green Finance  
206 Authority to support sustainable projects and programs, if such transfer is included in an  
207 approved budget and financial plan.

208                   “(15) In Fiscal Years 2022, 2023, 2024, and 2025, transferring \$10 million to the  
209 Green Finance Authority to support sustainable projects and programs, if such transfer is  
210 included in an approved budget and financial plan.

211                   **TITLE III. BUILDING ENERGY PERFORMANCE STANDARDS AND**  
212 **BENCHMARKING**

213                   **Sec. 301. Establishment of a Building Energy Performance Standard Program**

214                   **(a) This section shall apply to:**

215                   **(1) Beginning January 1, 2020, all privately-owned buildings with at least 50,000**  
216 **square feet of gross floor area and all District-owned or District instrumentality-owned buildings**  
217 **with at least 10,000 square feet of gross floor area;**

218                   **(2) Beginning January 1, 2023, all privately-owned buildings with at least 25,000**  
219 **square feet of gross floor area; and**

220                   **(3) Beginning January 1, 2026, all privately-owned buildings with at least 10,000**  
221 **square feet of gross floor area.**

222                   **(b)(1) No later than January 1, 2020, and every 5 years thereafter, DOEE shall conduct a**  
223 **building energy performance assessment of all buildings to which this section applies and, no**

224 later than March 1, 2018, and every five years thereafter, DOEE shall establish property types  
225 and building energy performance standards for each property type.

226 (2) The building energy performance standard shall be no lower than the District  
227 median ENERGY STAR score for buildings of each property type.

228 (3) DOEE shall establish reporting and data verification requirements for each  
229 five-year compliance cycle.

230 (c) All buildings with a verified ENERGY STAR score below the building energy  
231 performance standard for its property type shall have five years to meet the building energy  
232 performance requirements established by DOEE.

233 (d) DOEE may establish multiple compliance pathways for buildings to meet the building  
234 energy performance requirements, including:

235 (1) A performance pathway for buildings to achieve compliance by demonstrating  
236 a greater than 20% site energy use intensity decrease over the previous five years;

237 (2) A prescriptive pathway for buildings to achieve compliance by implementing  
238 cost-effective energy efficiency measures; and

239 (3) Other compliance pathways established by DOEE.

240 (e) DOEE shall establish exemption criteria for qualifying buildings to delay compliance  
241 with the building energy performance requirements for up to 3 years if they demonstrate  
242 financial distress, change of ownership, vacancy, major renovation, pending demolition, or other  
243 circumstances determined by DOEE.

244 (f) DOEE shall coordinate with the Sustainability Energy Utility and Green Finance  
245 Authority to establish an incentive and financial assistance program for qualifying building  
246 owners and affordable housing providers to meet building energy performance requirements.

247 (g) Buildings failing to comply with the building energy performance requirements at the  
248 end of the 5-year compliance period shall pay an alternative compliance penalty established by  
249 DOEE.

250 (h) By January 1, 2023, DOEE shall publish a report assessing whether the building  
251 energy performance standard should be revised to a standard based on reducing contribution to  
252 greenhouse gas emissions, and recommending a method and timeline for doing so, including any  
253 statutory changes needed.

254 (i) DOEE may impose civil infraction penalties, fines, and fees as sanctions for any  
255 violation of this section or a regulation issued pursuant to this section, pursuant to the  
256 Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October  
257 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.*).

258 (j) The Attorney General for the District of Columbia may commence a civil action in  
259 the Superior Court of the District of Columbia or any other court of competent jurisdiction for  
260 damages, cost recovery, reasonable attorney and expert witness fees, and injunctive or other  
261 appropriate relief to enforce compliance with this section or the regulations adopted pursuant to  
262 this section.

263 Sec. 302. Section 4(c)(2)(B) of The Green Building Act of 2006, effective March 8, 2007  
264 (D.C. Law 16-234; D.C. Official Code § 6-1451.034(c)(2)(B)), is amended as follows:

265 (a) Sub-paragraph (B) is amended as follows:

266 (1) Sub-sub-paragraph (iii) is amended by striking the phrase “; and” and inserting  
267 a semicolon in its place.

268 (2) Sub-sub-paragraph (iv) is amended by striking the period at the end and  
269 inserting the phrase “; and” in its place.

270 (3) New sub-subparagraphs (v) and (vi) are added to read as follows:

271 “(v) January 1, 2021, for a building with 25,000 square feet of  
272 gross floor area, or more; and

273 “(vi) January 1, 2024, for a building with 10,000 square feet of  
274 gross floor area, or more.”.

275 (b) A new subparagraph (F) is added to read as follows:

276 “(F) Every 3 years the owner or, the owner’s designee, shall perform a  
277 third-party verification of its benchmark and ENERGY STAR statements in accordance with  
278 requirements specified by DOEE.”.

279 SUBTITLE IV. TRANSPORTATION INITIATIVES

280 Sec. 401. Authorization to participate in regional programs limiting greenhouse gas  
281 emissions

282 (a) The Mayor may commit the District to participation or membership in any regional  
283 governmental initiative, agreement, or compact for the purpose of limiting greenhouse gas  
284 emissions from the transportation sector.

285 (b) Provided that Maryland or Virginia impose a state-wide greenhouse gas emissions fee  
286 on motor fuel sales or distribution, the Mayor may impose a similar fee of up to an equal amount.

287 Sec. 402. Section 6(j) of The District of Columbia Traffic Act, 1925, approved March 3,  
288 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(j)(3)(Q)), is amended as follows:

289 (a) A new paragraph (1A) is added to read as follows:

290 “(1A)(A) By January 1, 2020, the Department of Motor Vehicles, in consultation  
291 with the Department of Energy and Environment, and the Office of Tax and Revenue, shall issue

292 rules revising the calculation of the vehicle excise tax such that the fee amount shall be applied  
293 as either an increase or decrease to the excise tax amount as described in this paragraph.

294 (B) The increase or decrease to the excise tax amount shall be based on the  
295 difference between the fuel efficiency of the vehicle for which the title is being sought, using  
296 window label vehicle fuel efficiency figures, and a benchmark standard.

297 (C) Vehicles seeking a title with a fuel efficiency below the benchmark  
298 standard shall pay an increased excise tax amount, with the amount of increased tax increasing  
299 based on how far below the benchmark standards the vehicle is.

300 (D) Vehicles seeking a title with a fuel efficiency above the benchmark  
301 standard shall pay a decreased excise tax amount, or receive an excise tax rebate, with the  
302 amount of decreased tax decreasing based on how far above the benchmark standards the vehicle  
303 is.

304 (E) Changes to the vehicle excise tax made pursuant to this paragraph  
305 shall be revenue neutral, whereby total expenditures on excise tax decreases to vehicles with fuel  
306 efficiencies above the benchmark standards shall equal the total revenue raised by excise tax  
307 increases to vehicles with fuel efficiencies below the benchmark standards.

308 (F) The Department of Motor Vehicles shall publish and maintain publicly  
309 available information to help residents understand the vehicle excise tax described in this  
310 paragraph, and how it might affect the cost of obtaining a title in the District.

311 (G) The modification of the vehicle excise tax described in this paragraph  
312 shall not apply to:

313 (i) Vehicles owned by individuals who demonstrate their eligibility  
314 for the federal Earned Income Tax Credit, or

315 (ii) Trailers.”

316 (b) Paragraph (3)(J) is amended to read as follows:

317 “(J) Electric vehicles.”

318 SUBTITLE V. RULES; APPLICABILITY; AND EFFECTIVE DATE

319 Sec. 501. Rulemaking.

320 The Department of Energy and Environment, pursuant to Title I of the District of  
321 Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C.  
322 Official Code § 2-501 et seq.), may issue rules to implement the provisions of this title, including  
323 rules that increase the minimum size of the solar zone for particular classes of residential  
324 buildings.

325 Sec. 502. Applicability.

326 (a) This act shall apply upon the date of inclusion of its fiscal effect in an approved  
327 budget and financial plan.

328 (b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in  
329 an approved budget and financial plan, and provide notice to the Budget Director of the Council  
330 of the certification.

331 (c)(1) The Budget Director shall cause the notice of the certification to be published in  
332 the District of Columbia Register.

333 (2) The date of publication of the notice of the certification shall not affect the  
334 applicability of this act.

335 Sec. 503. Fiscal impact statement.

336           The Council adopts the fiscal impact statement in the committee report as the fiscal  
337 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
338 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

339           Sec. 504. Effective date.

340           This act shall take effect following approval of the Mayor (or in the event of veto by the  
341 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
342 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
343 24, 1973 (87 Stat. 813; D.C Official Code § 1-206.22(c)(1)), and publication in the District of  
344 Columbia Register.