

# HOUSE BILL REPORT

## E2SSB 5116

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### As Passed House - Amended:

April 11, 2019

**Title:** An act relating to supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future.

**Brief Description:** Supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Carlyle, Palumbo, McCoy, Pedersen, Wellman, Das, Rolfes, Frockt, Wilson, C., Kuderer, Nguyen, Keiser, Lias, Hunt, Saldaña, Darneille and Billig; by request of Governor Inslee).

### Brief History:

#### Committee Activity:

Environment & Energy: 3/5/19, 3/19/19 [DPA];

Finance: 3/21/19, 4/2/19 [DPA(FIN w/o ENVI)];

Appropriations: 4/6/19, 4/8/19 [DPA(APP w/o FIN)].

#### Floor Activity:

Passed House - Amended: 4/11/19, 56-42.

### Brief Summary of Engrossed Second Substitute Bill (As Amended by House)

- Requires all electric utilities to eliminate coal-fired resources from their allocation of electricity by December 31, 2025 (Coal Elimination Standard).
- Requires that all retail sales of electricity to Washington customers be greenhouse gas neutral by January 1, 2030 (Greenhouse Gas Neutral Standard).
- Establishes a statewide policy that nonemitting and renewable resources supply 100 percent of all retail sales of electricity to Washington customers by January 1, 2045 (Clean Energy Standard).
- Requires each electric utility to demonstrate its compliance with the Clean Energy Standard by January 1, 2045, and each year thereafter using a combination of nonemitting electric generation and electricity from renewable resources.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

- Establishes an administrative penalty of \$100 per megawatt-hour of electric generation, multiplied by certain source-specific multipliers, for noncompliance with the Coal Elimination Standard or Greenhouse Gas Neutral Standard.
- Extends the expiration date for a sales and use tax exemption for certain alternative energy machinery and equipment from January 1, 2020, to January 1, 2030.
- Reinstates an expired sales and use tax exemption for solar energy systems smaller than 500 kilowatts AC in size.
- Amends the Energy Independence Act.

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## HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

**Majority Report:** Do pass as amended. Signed by 7 members: Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; Doglio, Fey, Mead, Peterson and Shewmake.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Shea, Ranking Minority Member; Dye, Assistant Ranking Minority Member; Boehnke.

**Minority Report:** Without recommendation. Signed by 1 member: Representative DeBolt.

**Staff:** Nikkole Hughes (786-7156).

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## HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass as amended by Committee on Finance and without amendment by Committee on Environment & Energy. Signed by 8 members: Representatives Tarleton, Chair; Walen, Vice Chair; Chapman, Frame, Macri, Orwall, Springer and Wylie.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Orcutt, Ranking Minority Member; Young, Assistant Ranking Minority Member; Stokesbary and Vick.

**Staff:** Richelle Geiger (786-7139).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended by Committee on Appropriations and without amendment by Committee on Finance. Signed by 19 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Cody, Dolan, Fitzgibbon, Hansen, Hudgins, Jinkins, Macri, Pettigrew, Pollet, Ryu, Senn, Springer, Stanford, Sullivan, Tarleton and Tharinger.

**Minority Report:** Do not pass. Signed by 13 members: Representatives Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant

Ranking Minority Member; Caldier, Chandler, Dye, Hoff, Kraft, Mosbrucker, Schmick, Steele, Sutherland and Ybarra.

**Staff:** Meghan Morris (786-7119).

**Background:**

The Energy Independence Act.

The Energy Independence Act (EIA) was approved by voters in 2006. The EIA requires an electric utility with more than 25,000 customers to meet targets for energy conservation and to meet a certain percent of its annual load with eligible renewable resources. Utilities that must comply with the EIA are called "qualifying utilities."

Greenhouse Gas Emissions Performance Standard.

A state greenhouse gas emissions performance standard exists for all baseload electric generation for which electric utilities enter into long-term financial commitments. "Baseload electric generation" means electric generation from a power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least 60 percent.

To meet the standard, electric generation must meet the lower of:

- 1,100 pounds of greenhouse gases per megawatt-hour (MWh); or
- the average available greenhouse gas emissions output as determined by the Department of Commerce (Commerce), which was recently lowered to 925 pounds per MWh from 970 pounds per MWh (WAC 194-26-020).

This standard does not apply to long-term financial commitments with the Bonneville Power Administration (BPA), electric generation facilities powered exclusively by renewable resources, or electric generation facilities powered by nuclear energy.

In order to update the standard, Commerce must conduct a survey every five years of new combined-cycle natural gas turbines commercially available and offered for sale by manufacturers in the United States.

Carbon Dioxide Mitigation.

Fossil-fueled thermal power plants with a generating capacity of 25 megawatts (MW) or greater must provide mitigation for 20 percent of the carbon dioxide emissions produced by the plant over a period of 30 years. This requirement applies to new power plants seeking site certification with the Energy Facility Site Evaluation Council or an order of approval after July 1, 2004, and to existing plants that increase the production of carbon dioxide emissions by 15 percent or more.

An applicant for a natural gas-fired power plant to be constructed in a county with a coal-fired power plant subject to the greenhouse gas emissions performance standard is exempt from the carbon dioxide mitigation requirement if the application is filed before December 31, 2025.

In-State Coal-Fired Electric Generation Facility.

The only coal-fired electric generation facility located in the state is the TransAlta coal plant in Centralia, Washington. In 2011 the state entered into a memorandum of agreement with

TransAlta to transition the coal-fired units away from coal, with one unit shutting down in 2020 and the second unit by December 31, 2025.

#### Transition of Eligible Coal Units.

The Utilities and Transportation Commission (UTC) is authorized to, after conducting an adjudicative proceeding, allow an investor-owned utility (IOU) to place regulatory liabilities into a retirement account to cover decommissioning and remediation costs of eligible coal units that commenced operation before January 1, 1980.

An "eligible coal plant" means a coal-fired electric generation facility that:

- had two or fewer generating units as of January 1, 1980, and four generating units as of January 1, 2016;
- has multiple owners; and
- serves retail customers in Washington with a portion of its load.

An "eligible coal unit" is any generating unit of an eligible coal plant.

Regulatory liabilities in a retirement account must:

- not be used for any purpose other than to fund and recover prudently incurred decommissioning and remediation costs for eligible coal units;
- not be reduced, altered, impaired, or limited from the date of the UTC's approval until all costs are recovered or paid in full; and
- provide that remaining funds in the retirement account be returned to the IOU's customers.

#### Energy Resource Plans.

Each electric utility must develop a resource plan. Utilities with 25,000 or more customers that are not fully served by the BPA must develop Integrated Resource Plans (IRPs).

An IRP must, at a minimum, include:

- a range of forecasts, for at least the next 10 years, of projected customer demand;
- an assessment of commercially available conservation and efficiency resources;
- an assessment of commercially available, utility-scale renewable and nonrenewable generating technologies, including a comparison of the benefits and risks of purchasing power or building new resources;
- a comparative evaluation of renewable and nonrenewable generating resources;
- an assessment of methods, commercially available technologies, or facilities for integrating renewable resources and addressing overgeneration events;
- the integration of the demand forecasts and resource evaluations into a long-range assessment describing the mix of supply-side generating resources and conservation and efficiency resources that will meet current and projected needs, including mitigating overgeneration events, at the lowest reasonable cost and risk to the utility and its ratepayers; and
- a short-term plan identifying the specific actions to be taken by the utility consistent with the long-range IRP.

Utilities with fewer than 25,000 customers or that are fully served BPA customers must complete a less-detailed Resource Plan. This Resource Plan must estimate loads for the next

five to 10 years, enumerate the resources that will be maintained or acquired to serve those loads, and explain why those resources were chosen.

### **Summary of Amended Bill:**

#### Coal Elimination Standard.

On or before December 31, 2025, each electric utility must eliminate coal-fired resources from its allocation of electricity. This does not include costs associated with decommissioning and remediation of these facilities.

For the purposes of the Coal Elimination Standard, "coal-fired resource" does not include:

- an electric generating facility that is subject to an obligation to meet the state's Greenhouse Gas Emissions Performance Standard; or
- an electric generation facility that is included as part of certain limited duration wholesale power purchases.

The Utilities and Transportation Commission (UTC) must allow in electric rates all decommissioning and remediation costs prudently incurred by an investor-owned utility for a coal-fired facility and accelerate depreciation schedules for any coal-fired resource owned by an investor-owned utility by December 31, 2025. The UTC is authorized to accelerate the depreciation schedule for any qualified transmission line owned by an investor-owned utility when the UTC finds that the qualified transmission line is no longer used and useful and that there is no reasonable likelihood that the qualified transmission line will be utilized in the future.

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

- the retirement is due to ordinary wear and tear, casualties, acts of God, acts of governmental authority, inability to procure or use fuel, termination or expiration of any ownership, or a operation agreement affecting such a fossil fuel generating resource; or
- the UTC finds that the retirement is in the public interest.

#### Greenhouse Gas Neutral Standard.

It is the policy of the state that all retail sales of electricity to Washington retail electric customers be greenhouse gas neutral by January 1, 2030. For the four-year compliance period beginning January 1, 2030, and for each multiyear compliance period thereafter through December 31, 2044, an electric utility must demonstrate its compliance with this standard using a combination of nonemitting electric generation and electricity from renewable resources or alternative compliance options.

To achieve compliance, an electric utility must:

- pursue all cost-effective, reliable, and feasible conservation and efficiency resources to reduce or manage retail electric load; and
- use electricity from renewable resources and nonemitting electric generation in an amount equal to 100 percent of the utility's retail electric loads over each multiyear compliance period.

An electric utility must achieve compliance with the Greenhouse Gas Neutral Standard for the following compliance periods:

- January 1, 2030, through December 31, 2033;
- January 1, 2034, through December 31, 2037;
- January 1, 2038, through December 31, 2041; and
- January 1, 2042, through December 31, 2044.

Through December 31, 2044, an electric utility may satisfy up to 20 percent of its compliance obligation with an alternative compliance option. An alternative compliance option may include any combination of the following:

- making an alternative compliance payment;
- using unbundled renewable energy credits, provided that there is no double counting of any nonpower attributes associated with renewable energy credits within Washington or programs in other jurisdictions, as follows:
  - unbundled renewable energy credits produced from eligible renewable resources, as defined under the Energy Independence Act (EIA), which may be used by the electric utility for compliance with both the EIA and the Greenhouse Gas Neutral Standard; and
  - unbundled renewable energy credits, other than those used for compliance with the EIA, that represent electricity generated within the applicable compliance period under the Greenhouse Gas Neutral Standard;
- investing in energy transformation projects, including additional conservation and efficiency resources beyond what is otherwise required under the Greenhouse Gas Neutral Standard; or
- using electricity from an energy recovery facility that uses municipal solid waste as the principal fuel source, where the facility was constructed prior to 1992 and the facility is operated in compliance with federal and state air quality standards.

Investments in energy transformation projects used to satisfy an alternative compliance option must use criteria to be developed by the Department of Ecology (Ecology) and must demonstrate certain quality standards. Energy transformation projects must be associated with the consumption of energy in Washington and must not create a new use of fossil fuels in Washington that results in a net increase of fossil fuel usage.

#### Clean Energy Standard.

It is the policy of the state that nonemitting electric generation and electricity from renewable resources supply 100 percent of all sales of electricity to Washington retail electric customers by January 1, 2045. By January 1, 2045, and each year thereafter, each electric utility must demonstrate its compliance with this standard using a combination of nonemitting electric generation and electricity from renewable resources.

Each electric utility must incorporate this policy into all relevant planning and resource acquisition practices, including, but not limited to:

- resource planning;
- the construction or acquisition of property, including electric generating facilities; and
- the provision of electricity service to retail electric customers.

In planning to meet projected demand, an electric utility must, consistent with any applicable requirements under the EIA, pursue all cost-effective, reliable, and feasible conservation and efficiency resources, and demand response. In making new investments, an electric utility must, to the maximum extent feasible:

- achieve targets at the lowest reasonable cost, while considering risk;
- consider acquisition of existing renewable resources; and
- in the acquisition of newly constructed resources, rely on renewable resources and energy storage.

The UTC, Department of Commerce (Commerce), Energy Facility Site Evaluation Council, Ecology, and all other state agencies must incorporate the Clean Energy Policy into all relevant planning.

#### Hydroelectric Generation and Purchases from the Bonneville Power Administration.

In complying with the Greenhouse Gas Neutral Standard and Clean Energy Standard, an electric utility may not use hydroelectric generation that requires new diversions, new impoundments, new bypass reaches, or expansion of existing reservoirs, unless otherwise required for the operation of a pumped storage facility. An electric utility that owns and operates hydroelectric generating facilities, or the owner of a hydroelectric generating facility whose energy output is marketed by the Bonneville Power Administration (BPA), may make efficiency or other requirements to its existing hydroelectric generating facilities and may install hydroelectric generation in pipes, culverts, irrigation canals, and other manmade waterways.

Nothing in the Greenhouse Gas Neutral Standard or Clean Energy Policy prohibits an electric utility from purchasing or exchanging power from the BPA.

#### Market Customers.

Customers who become market customers after the effective date of this act must comply with the obligations of the Greenhouse Gas Neutral Standard and the Clean Energy Standard. A market customer that purchases electricity exclusively from carbon-free resources and eligible renewable resources, as defined under the EIA as of January 1, 2019, pursuant to a special contract with an investor-owned utility, is subject to the requirements of that contract and not to the Greenhouse Gas Neutral Standard or Clean Energy Standard.

#### Clean Energy Implementation Plans and Incremental Cost Caps.

By January 1, 2022, and every four years thereafter, each electric utility must develop a four-year Clean Energy Implementation Plan (CEIP) for the Greenhouse Gas Neutral Standard and the Clean Energy Standard and establish interim targets for meeting the standards. The CEIP must identify specific actions to be taken by the electric utility over the next four years, consistent with the utility's long-range resource plan and resource adequacy requirements, to meet the Greenhouse Gas Neutral Standard, the Clean Energy Standard, and the utility's interim targets.

An investor-owned utility must be considered to be in compliance with the Greenhouse Gas Neutral Standard and the Clean Energy Standard if, over the four-year compliance period, the average annual incremental cost of meeting the standards or the utility's interim targets equals a 2-percent increase of the investor-owned utility's weather-adjusted sales revenue to

customers for electric operations above the previous year, as reported in its most recent basis report to the UTC. All costs included in the determination of cost impact must be directly attributable to actions necessary to comply with the standards.

A consumer-owned utility must be considered to be in compliance with the Greenhouse Gas Neutral Standard and the Clean Energy Standard if, over the four-year compliance period, the average annual incremental cost of meeting the standards or the utility's interim targets meets, but does not exceed, a 2-percent increase of the consumer-owned utility's retail revenue requirement above the previous year. All costs included in the determination of cost impact must be directly attributable to actions necessary to comply with the standards.

The UTC, for investor-owned utilities, and Commerce, for consumer-owned utilities, must adopt rules establishing the methodology for calculating the incremental cost of compliance, as compared to the cost of an alternative lowest reasonable cost portfolio of investments that are reasonably available.

#### Early Action Compliance Credits.

A multistate electric utility with fewer than 250,000 customers in Washington may apply the total amount of MWhs of coal-fired resources eliminated from the utility's allocation of electricity before December 31, 2025, as an equivalent amount of MWhs of nonemitting electric generation or electricity from renewable resources required to comply with the Greenhouse Gas Neutral Standard. The utility must demonstrate that for every MWh of early action credit there is a real, permanent reduction in greenhouse gas emissions in the Western Interconnection directly associated with that credit. A multistate electric utility must request to use early compliance credits in its CEIP. The multistate electric utility must specify in its CEIP the compliance years to which the early action compliance credit will apply, but in no event may the multistate electric utility use the early action compliance credits beyond 2035.

The UTC must establish conditions for use of early action compliance credits, including a determination of whether action constitutes early action, before the multistate electric utility's use of early action compliance credits in a CEIP.

#### Administrative Penalty and Temporary Exemptions.

An electric utility or affected market customer that fails to comply with the Coal Elimination Standard or Greenhouse Gas Neutral Standard must pay an administrative penalty in the amount of \$100, times the following multipliers, for each MWh of electric generation used to meet load that is not electricity from a renewable resource or nonemitting electric generation:

- 1.5 for coal-fired resources;
- 0.84 for gas-fired peaking power plants; and
- 0.60 for gas-fired combined-cycle power plants.

Beginning in 2027, this penalty must be adjusted on a biennial basis according to the rate of change of inflation. Beginning in 2040, the UTC may by rule increase this penalty for investor-owned utilities if the UTC determines that doing so will accelerate utilities' compliance with the standards and that doing so is in the public interest.



An electric utility may, without incurring a penalty for noncompliance, opt to make a payment in the amount of the administrative penalty as an alternative compliance payment under the Greenhouse Gas Neutral Standard.

Upon its own motion or at the request of an investor-owned utility, and after a hearing, the UTC may issue an order relieving the utility of its administrative penalty obligation if it finds that:

- after taking all reasonable measures, the investor-owned utility's compliance is likely to result in conflicts with or compromises to its obligations to comply with the mandatory and enforceable reliability standards of the North American Electric Reliability Corporation (NERC), violate prudent utility practice for assuring resource adequacy, or compromise the power quality or integrity of its system; or
- the investor-owned utility is unable to comply due to reasons beyond its reasonable control.

If the UTC issues an order that relieves the investor-owned utility of its administrative penalty obligation, the UTC may also issue an order temporarily exempting the investor-owned utility from the requirements of the Greenhouse Gas Neutral Standard for an amount of time sufficient to allow the investor-owned utility to achieve full compliance.

The governing body of a consumer-owned utility may authorize a temporary exemption from the Greenhouse Gas Neutral Standard, for an amount of time sufficient to allow the consumer-owned utility to achieve full compliance with the standard, if the governing body finds that:

- the consumer-owned utility's compliance with the standard is likely to result in conflicts with or compromises to its obligations to comply with the mandatory and enforceable reliability standards of the NERC, violate prudent utility practice for assuring resource adequacy, or compromise the power quality or integrity of its system; or
- the consumer-owned utility is unable to comply due to reasons beyond its reasonable control; and
- the consumer-owned utility has provided to Commerce a plan demonstrating how it plans to achieve full compliance with the standard.

Upon request by the governing body of a consumer-owned utility, a consumer-owned utility must be relieved of its administrative penalty obligation if the Auditor issues a finding that:

- the governing body has properly issued a temporary exemption for a period of time not to exceed six months; and
- the governing body has submitted to Commerce a plan to take specific actions to achieve full compliance.

Upon issuance of a finding by the Auditor, the consumer-owned utility must submit a progress report to Commerce on achieving full compliance with the standard within the term authorized in the temporary exemption.

The Attorney General may bring a civil action in the name of the state for an appropriate civil remedy including, but not limited to, injunctive relief, penalties, costs, and attorneys' fees, to

enforce compliance with the Coal Elimination Standard or Greenhouse Gas Neutral Standard:

- upon failure of the governing body of a consumer-owned utility to comply with the conditions of a temporary exemption found by the Auditor to be properly adopted or extended; or
- upon failure of the governing body of a consumer-owned utility to comply with a finding by the Auditor that a temporary exemption was not properly granted.

#### Reporting Requirements.

By January 1, 2024, and at least every four years thereafter, Commerce must submit a report to the Legislature that includes the following:

- a review of the Coal Elimination Standard, Greenhouse Gas Neutral Standard, and Clean Energy Standard focused on technologies, forecasts, and existing transmission, and an evaluation of safety, environmental protection, affordability, and system reliability;
- an evaluation identifying the potential benefits and impacts on system reliability associated with achieving the Greenhouse Gas Neutral Standard and the Clean Energy Standard; and
- an evaluation identifying the nature of any anticipated financial costs and benefits to electric utilities, including customer rate impacts and benefits.

If the report indicates adverse system reliability impacts from implementation of the Greenhouse Gas Neutral Standard or Clean Energy Standard, then the Governor, consistent with his or her statutory grant of emergency powers, may suspend or delay implementation of the Greenhouse Gas Neutral Standard or Clean Energy Standard until system reliability impacts can be addressed. Adverse system reliability impacts may include, but are not limited to, the inability of electric utilities or transmission operators to meet reliability standards mandated by law and required by prudent utility practices.

#### Rulemaking Authority.

The UTC may adopt rules to ensure the proper implementation and enforcement of the Coal Elimination Standard, Greenhouse Gas Neutral Standard, and Clean Energy Standard as applied to investor-owned utilities.

The Department of Commerce may adopt rules to ensure the proper implementation and enforcement of the Coal Elimination Standard, Greenhouse Gas Neutral Standard, and Clean Energy Standard as applied to consumer-owned utilities. Nothing in this authority may be construed to restrict the ratemaking authority of the governing body of a consumer-owned utility.

The Department of Commerce must adopt rules establishing reporting requirements for electric utilities to demonstrate compliance with the Coal Elimination Standard, Greenhouse Gas Neutral Standard, and Clean Energy Standard.

The Department of Ecology must adopt rules, in consultation with the UTC and Commerce, to establish requirements for energy transformation project investments including, but not limited to, verification procedures, reporting standards, and other logistical issues as necessary.

Rules must be adopted by January 1, 2021, and may be revised as needed.

Clean Energy Action Plans and Energy Resource Planning.

For electric utilities required to develop an Integrated Resource Plan (IRP), the IRP must include the following:

- an assessment and 10-year forecast of the availability of regional generation and transmission capacity on which the utility may rely to provide and deliver electricity to its customers;
- a determination of resource adequacy metrics for the resource plan consistent with the forecasts;
- a forecast of distributed energy resources that may be installed by the utility's customers and an assessment of their effect on the utility's load and operations;
- an identification of an appropriate resource adequacy requirement and measurement metric consistent with prudent utility practice in implementing the Coal Elimination Standard, Greenhouse Gas Neutral Standard, and Clean Energy Standard;
- an assessment, informed by the Department of Health's (DOH) Cumulative Impact Analysis, of energy and nonenergy benefits and reductions of burdens to vulnerable communities and highly impacted communities; and
- a 10-year Clean Energy Action Plan for implementing the Coal Elimination Standard, Greenhouse Gas Neutral Standard, and Clean Energy Standard at the lowest reasonable cost, and at an acceptable resource adequacy standard, that identifies the specific actions to be taken by the utility consistent with the long-range IRP.

An electric utility must consider the social cost of greenhouse gas emissions when developing its IRP and Clean Energy Action Plan. An electric utility must incorporate the social cost of greenhouse gas emissions as a cost adder when:

- evaluating and selecting conservation policies, programs, and targets;
- developing IRPs and Clean Energy Action Plans; and
- evaluating and selecting intermediate term and long-term resource options.

By December 31, 2020, and in every resource plan thereafter, an electric utility that is not required to develop an IPR must include in its Resource Plan how it plans to implement the Greenhouse Gas Neutral Standard and Clean Energy Standard over a 10-year period.

Low-Income Energy Assistance.

Each electric utility must make programs and funding available for energy assistance to low-income households by July 31, 2021.

Beginning July 31, 2020, Commerce must collect and aggregate data estimating the energy burden and energy assistance need and reported energy assistance for each electric utility. The Department of Commerce must update the aggregated data on a biennial basis, make it publicly accessible on its Internet website, and, to the extent practicable, include geographic attributes. Each electric utility must submit information and assessments relating to low-income energy assistance to Commerce on a biennial basis.

The Department of Commerce must submit a biennial report to the Legislature that aggregates information into a statewide summary of energy assistance programs, energy burden, and energy assistance need.

Asset Condemnation.

The fair market value compensation for an asset that is condemned by a municipal electric utility, public utility district, or irrigation district and that is either demonstrated in an electric utility's Clean Energy Action Plan or CEIP to be used or acquired after the effective date of this act to meet the requirements of the Greenhouse Gas Neutral Standard or Clean Energy Standard, or an asset that generates electricity from renewable resources or nonemitting electric generation, must include but not be limited to a replacement value approach. Additionally, the electric utility may seek, and the court may award, damages attributable to the severance, separation, replacement, or relocation of utility assets. The trier of fact may also consider other damages, as well as offsetting benefits, that it finds just and equitable.

An entity that establishes or extends service to the premises of a customer who is being served by an electric utility or was served by an electric utility prior to the effective date of this act must serve those premises in a manner that complies with the requirements of this act and with the EIA, if applicable. An electric utility or other entity that fails to comply must pay the administrative penalty.

Sales and Use Tax Exemption for Alternative Energy Machinery and Equipment.

The expiration date for a sales and use tax exemption for certain alternative energy machinery and equipment for systems greater than 500 kilowatts (kW) in size is extended from January 1, 2020, to January 1, 2030.

Beginning January 1, 2020, through December 31, 2029, the purchaser of eligible alternative energy machinery and equipment for systems greater than 500 kW is entitled to an exemption, in the form of a remittance, in an amount equal to:

- 50 percent of the state and local sales tax paid, if the Department of Labor and Industries (L&I) certifies that the project meets certain labor and procurement standards;
- 75 percent of the state and local sales tax paid, if the L&I certifies that the project meets certain labor and procurement standards and compensates workers at prevailing wage rates; or
- 100 percent of the state and local sales tax paid, if the L&I certifies that the project is developed under a community workforce agreement or project labor agreement.

Beginning January 1, 2020, through December 31, 2029, the purchaser of eligible machinery and equipment for solar energy systems greater than 100 kW but no more than 500 kW is entitled to an exemption, in the form of a remittance, in an amount equal to 50 percent of the state and local sales and use tax paid, if the L&I certifies that the project meets certain labor and procurement standards and the purchaser provides certain documentation.

In order to qualify for a remittance, installation of the eligible machinery and equipment must commence no earlier than January 1, 2020, and be completed by December 31, 2029.

Beginning July 1, 2019, through December 31, 2029, the purchaser of eligible machinery and equipment for solar energy systems smaller than 100 kW in size is entitled to an exemption in an amount equal to 100 percent of the state and local sales and use tax paid if the purchaser meets certain requirements. In order to qualify for the exemption, installation of the qualifying machinery must commence no earlier than July 1, 2019, and be completed by December 31, 2029.

The Department of Labor and Industries must adopt rules to implement the requirements for qualification by December 1, 2019.

#### Investor-Owned Utility Ratemaking and Cost Deferral.

The UTC has the power upon complaint or upon its own motion to determine the fair value, for ratemaking purposes, of the property of an investor-owned utility that is used and useful for service in the state by or during the rate effective period. The valuation may include consideration of any property of the investor-owned utility acquired or constructed by or during the rate effective period, including the reasonable costs of construction work in progress, to the extent the UTC finds that such an inclusion is in the public interest and will yield fair, just, reasonable, and sufficient rates.

The UTC may provide changes to rates for up to 48 months after the rate effective date using any standard, formula, method, or theory of valuation reasonably calculated to arrive at fair, just, reasonable, and sufficient rates. The UTC must establish an appropriate process to identify, review, and approve investor-owned utility property that becomes used and useful for service in the state after the rate effective date.

An investor-owned utility may account for and defer for later consideration by the UTC costs incurred in connection with major projects in the investor-owned utility's CEIP or selected in the utility's solicitation of bids for delivering electric capacity, energy, capacity and energy, or conservation.

#### Transition of Eligible Coal Units.

The definition of "eligible coal plant" is amended to mean a coal-fired electric generation facility that:

- is owned in whole or in part by more than one electrical company as of January 1, 2026; and
- provides, as a portion of the load served by the coal-fired electric generation facility, electricity paid for in rates by customers in the state of Washington.

#### Energy Independence Act.

Beginning January 1, 2030, a qualifying utility is considered to be in compliance with an annual renewable energy target under the EIA if the utility uses electricity from renewable resources, nonemitting electric generation, and renewable energy credits in an amount equal to 100 percent of the utility's average annual retail electric load.

The definition of "eligible renewable resource" is expanded to include federal incremental hydroelectricity.

#### State Energy Strategy.

By December 31, 2020, and at least once every eight years thereafter, Commerce must review the State Energy Strategy to align it with the requirements of the Coal Elimination Standard, Greenhouse Gas Neutral Standard, and Clean Energy Policy. The Department of Commerce must establish an Energy Strategy Advisory Committee to provide guidance for each review.

#### Studies and Analyses.

By December 31, 2020, the DOH must conduct a Cumulative Impact Analysis to designate the communities highly impacted by fossil fuel pollution and climate change in Washington.

By December 31, 2021, Commerce and the UTC must adopt rules establishing the requirements for incorporating the cumulative impact analysis into the criteria for developing Clean Energy Action Plans.

By January 1, 2020, Commerce must convene an Energy and Climate Policy Advisory Committee to develop recommendations to the Legislature for the coordination of existing resources, or the establishment of new ones, for the purposes of:

- examining the costs and benefits of energy-related policies, programs, functions, activities, and incentives; and
- conducting other energy-related studies and analyses as may be directed by the Legislature.

The Energy and Climate Policy Advisory Committee must consist of, at minimum, representatives of each of the state's public four-year institutions of higher education, the Pacific Northwest National Laboratory, and the Washington State Institute for Public Policy.

By December 31, 2022, the Energy Facility Site Evaluation Council must convene a transmission corridors work group and report its findings to the Governor and the appropriate committees of the Legislature.

#### Definitions.

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

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

"Qualified transmission line" means an overhead transmission line that is:

- designed to carry a voltage in excess of 100,000 volts;
- owned in whole or in part by an investor-owned utility; and
- primarily or exclusively used by an investor-owned utility as of the effective date of the act to transmit electricity generated by a coal-fired resource.

"Unbundled renewable energy credit" includes thermal renewable energy credits.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony (Environment & Energy):**

(In support) This bill allows hydroelectric power to count as renewable. This bill contains flexible compliance mechanisms and cost protections, which are important and critical consumer protection provisions. Utility data transparency is key to the enforcement of this legislation. The bill aligns the requirements of the Energy Independence Act with the new clean energy targets. Equity must be the cornerstone of a clean energy economy, and this bill contains protections for labor and for the most vulnerable communities. This bill addresses historic inequities in the application of the benefits from clean energy and the burdens imposed by pollution and climate change. Local governments in the state are committing to reducing their greenhouse gas emissions from the electricity sector. The final version of this bill needs to have strong interim benchmarks and a clear commitment to attain 100 percent clean energy by 2045. The tax preference in the bill should be expanded to include renewable energy systems smaller than 500 kilowatts. Washington's clean energy grid can be leveraged to decarbonize other sectors of the economy.

(Opposed) This bill is a carbon tax bill and it will be horribly expensive to the end-use customer. This bill contains exemptions and carve-outs that make the bill contradictory and unworkable. This bill would be in direct opposition to the will of the people. The labor requirements in the bill would more than offset the cost savings from the tax preference. The requirements may also be preempted by federal law. The bill effectively prohibits non-union contractors from participating in work on projects that are eligible for the tax preference.

(Other) The requirements for reporting on low-income assistance impose a burden on small cooperatives, which do not have the capacity for such in-depth data gathering and processing. There are cost protections for consumers in the bill now. There is assurance for system reliability. There is language that provides harmonization between the Energy Independence Act and the provisions of this bill. However, the bill should include a tool to provide for the appropriate management of hydropower variability, such as the ability to bank unused renewable energy credits from hydropower for use in low water years in the future. The bill should also include a way to address transactions on the Energy Imbalance Market and should provide tax parity between hydropower and other renewable resources. The issue of asset condemnation needs to be addressed. There should be more clarity around the intended use of the social cost of carbon in the bill. If a utility is able to act on the Coal Elimination Standard early, that early achievement should be able to be banked to be applied to a utility's 2030 obligations. Getting to the future envisioned in this bill will be truly transformative but not without risk. Low energy costs have been the backbone of the state's economy; this bill will cost billions more for ratepayers. Opportunities for direct access and self-generation have yet to be fully recognized in the bill.

**Staff Summary of Public Testimony (Finance):**

(In support) This bill provides a path to reduce carbon emissions for the utility sector and moves towards the type of emission reduction standards outlined in the Paris Accord Agreement. Utility providers are committed to emission reductions.

The sales and use tax exemption will keep Washington renewable energy projects competitive. The strong labor standards in the bill will ensure that the transition results in good, local jobs and improves local economies.

The emissions reduction requirements in this version of the bill have been harmonized with other emission requirements.

(Opposed) There are concerns about financial interests in the bill and the transparency of the agency process.

Any potential benefit of the sales and use tax exemption to taxpayers is offset by the increased costs associated with the prevailing wage requirements. The state would be acting as a regulator of labor and not a proprietor. This could result in federal legal challenges.

(Other) This bill is the result of a lot of work with many stakeholders. There is interest in continuing to work on and improve the bill language.

The costs of complying with the requirements in this bill vary by utility provider, and all increased costs will be embedded in customer costs. The mandate will increase prices to consumers, especially for those utility providers that are required to replace older equipment in order to comply with the requirements. If utilities were required to reach near-zero emissions, the state would receive many of the same environmental benefits and it would be more attainable and less costly to the utility companies to achieve.

There are compounding costs to comply with this and other pieces of adopted legislation.

The four-year costs caps are preferred to the eight-year caps. The eight-year caps add complexity and confusion. The costs caps across various types of energy providers are a matter of equity, fairness, and stability in the private utility industry.

Small-scale solar utility providers should receive the full sales and use tax exemption.

It will be difficult for some utilities to reach the 2030 mandate in the bill. The 2045 zero-carbon standard should be used for planning purposes and not result in penalties.

This bill has provided an opportunity to discuss grid reliability. The provisions that support grid stability improve the legislation. There are mixed feelings and concerns about the condemnation language.

Some believe that ensuring tax parity for hydropower is important. Others do not want hydropower to be subject to the same requirements as other energy sources.

The four-year adoption timeline and modifications to rulemaking have improved the bill language.



Concerns were expressed about the bundled renewable energy credit treatment.

**Staff Summary of Public Testimony (Appropriations):**

(In support) This bill would be the most significant piece of climate legislation the state has ever adopted. This is a reasonable yet ambitious bill to transition to clean energy while supporting low-income utility customers and protecting workers.

There has been an exhaustive and inclusive stakeholder process. Key policy provisions have been incorporated into the bill to make it better, including: safety, affordability, and system reliability provisions; protection of large investments; regulatory reform tools for regulators; continued value of existing resources, especially hydroelectric generation; protection of local governing bodies' authority; multi-year compliance; cost management and harmonization with Initiative 937; and protection of a neutral process regarding potential, though unlikely, condemnation actions related to this bill. These fixes, along with maintaining the 2045 target, have increased stakeholder support. However, additional changes should be made to clarify the cost-cap and deferral implementation provisions. The bill should assure that the 2045 goal will be used as a planning standard, and many are still concerned with tax parity provisions for hydropower.

(Opposed) None.

(Other) This bill has merits and will transform industry; however, that transformation presents risks. Important provisions were added providing protections for significant investments from the risk of condemnation. There are some additional structural requests for how that language is incorporated into the bill, but the changes have gone through long negotiations and may be okay. Since the bill will transform industry, perhaps in unexpected ways, a regulatory model that evolves with businesses is important.

This bill will change the fundamental operational objective of utilities in Washington. Instead of striving to minimize costs, electric utilities will prioritize the minimization of carbon emissions. Many stakeholders and legislators have worked to ensure this new mission is implemented in a way that maintains the reliable and low-cost electric system that powers Washington's robust economy and enables high quality of life.

Tax parity is a concern. The bill includes tax reductions on equipment and labor for renewable resources other than hydropower. This should be expanded to include an incentive for expenditures on hydropower assets. Hydropower is a zero-emission resource without which the goals of this legislation could not be met. Hydropower is needed to integrate renewable resources, including wind and solar to fill the gaps at night when the wind does not blow. Hydropower provides attributes that other renewables cannot match.

**Persons Testifying (Environment & Energy):** (In support) Joni Bosh, Northwest Energy Coalition; Kelly Hall, Climate Solutions; Jesse Piedfort, Sierra Club; Clifford Traisman, Washington Conservation Voters; Neil Hartman, Building and Construction Trades Council; David Mendoza, Front and Centered; Bruce Speight, Environment Washington; Celia Jackson, King County; Amanda Jashan, Renewable Northwest; Marian Dacca, Tacoma

Public Utilities; Mendy Droke, Seattle City Light; Lisa Thatcher, Clark County Public Utility District; Brad Boswell, Solar Installers of Washington; Phyllis Farrell, League of Women Voters; and Joanna Eide, Department of Natural Resources.

(Opposed) Cindy Alia, Citizens' Alliance for Property Rights; Jerry VanderWood, Associated General Contractors and Washington Construction Industry Council; Cliff Webster, Associated Builders and Contractors; and Tim Boyd, Alliance of Western Energy Consumers.

(Other) Kent Lopez, Washington Rural Electric Cooperative Association; Dave Arbaugh, Public Generating Pool; Clark McIsaac, Snohomish County Public Utility District; Kathleen Collins, Pacific Power; John Rothlin, Avista; Brandon Houskeeper, Puget Sound Energy; James Lee, Northwest Citizens Power Coalition; Kevin Tempest, Low Carbon Prosperity Institute; Nicolas Garcia, Washington Public Utility District Association; Isaac Kastama, Benton County Public Utility District and Franklin County Public Utility District; and Peter Godlewski, Association of Washington Business.

**Persons Testifying (Finance):** (In support) Senator Carlyle, prime sponsor; Zoey Burrows, Solar Installers of Washington; Marian Dacca, Tacoma Public Utilities; Amanda Jashan, Renewable Northwest; Joni Bosh, Northwest Energy Coalition; Kelly Hall, Climate Solutions; and Matthew Hepner, Washington State Buildings and Construction Trades Council.

(Opposed) Jerry Dierker; and Jerry VanderWood, Associated General Contractors.

(Other) Dave Arbaugh, Public Generating Pool; Nicolas Garcia, Washington Public Utility District Association; Lisa Thatcher, Clark Public Utilities; Clark McIsaac, Snohomish Public Utility District; Cliff Sears, Grant County Public Utility District; Kathleen Collins, Pacific Power; David Schaffert, Thurston County Chamber of Commerce; John Rothlin, Avista; Brandon Houskeeper, Puget Sound Energy; Issac Kastama, Benton Public Utility District, and Franklin Public Utility District; Tim Boyd, Alliance of Western Energy Consumers; and Elizabeth Klumpp, Bonneville Power Administration.

**Persons Testifying (Appropriations):** (In support) Brandon Houskeeper, Puget Sound Energy; Clark McIsaac, Snohomish County Public Utility District; Vlad Gutman-Britten, Climate Solutions; and Dave Arbaugh, Public Generating Pool.

(Other) John Rothlin, Avista; and Nicolas Garcia, Washington Public Utility Districts Association.

**Persons Signed In To Testify But Not Testifying (Environment & Energy):** None.

**Persons Signed In To Testify But Not Testifying (Finance):** None.

**Persons Signed In To Testify But Not Testifying (Appropriations):** None.