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**SENATE BILL 5904**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senator Hargrove

AN ACT Relating to providing a public utilities tax credit for forest derived biomass used to produce energy; amending RCW 82.04.4494; adding a new section to chapter 82.16 RCW; creating a new section; providing an effective date; providing expiration dates; and declaring an emergency.

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

NEW SECTION. **Sec.**  It is the intent of the legislature to utilize Washington's abundant forest resources to promote diversified renewable energy use, and to promote healthy, fire resistant forests in the state. This section is the tax preference performance statement for the tax preference contained in RCW 82.04.4494. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to promote the production of steam, heat, electricity, or biofuel using forest derived biomass that is renewable and has been deemed carbon neutral under RCW 70.235.020(3), and can thereby replace the use of fossil fuel to produce energy and thereby help with achieving the state's renewable energy and greenhouse gas emissions targets. Further, the use of forest derived biomass used to produce energy will help defray the cost of forest thinning, thus improving forest health and reducing the threat of wildfires. It is the legislature's intent to provide a forest derived biomass credit to encourage the harvesting, collection, and utilization of the more than eleven million tons of forest derived biomass available annually, which will in turn produce renewable, carbon neutral energy to help the state achieve its renewable energy targets, its greenhouse gas emissions targets, improve forest health, and reduce the threat of wildfires.

(3) If a review finds that the amount of forest derived biomass collected and utilized to produce energy between July 1, 2015, and June 30, 2024, increases by at least an average annual rate of ten percent per year, then the legislature intends to extend the expiration date of the tax preference.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the joint legislative audit and review committee may refer to the total green tons of forest derived biomass harvested data available from the department of revenue and any other data source it deems necessary.

**Sec.**  RCW 82.04.4494 and 2009 c 469 s 401 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, harvesters are allowed a credit against the amount of tax otherwise due under this chapter, as provided in this section. The credit per harvested green ton of forest derived biomass sold, transferred, or used for production of electricity, steam, heat, or biofuel is as follows:

(a) For forest derived biomass harvested October 1, 2009, through June 30, 2010, zero dollars;

(b) For forest derived biomass harvested July 1, 2010, through June 30, 2013, three dollars;

(c) For forest derived biomass harvested ((~~July 1, 2013, through June 30, 2015~~))on or after July 1, 2013, five dollars.

(2) Credit may not be claimed for forest derived biomass sold, transferred, or used before July 1, 2009. Credit is earned for the reporting period during which the forest derived biomass is harvested. The amount of credit allowed for a reporting period may not exceed the tax otherwise due under this chapter for that reporting period. Any unused ((~~excess~~)) credit in a reporting period may be carried forward to future reporting periods for a maximum of two years. Beginning October 1, 2015, the harvester may also apply unused credits against the tax imposed in chapter 82.16 RCW.

(3) ((~~For the purposes of this section, "harvested" and "harvesters" are defined in RCW 84.33.035, and "biofuel" is defined in RCW 43.325.010.~~))Harvesters claiming credit under this section must file a complete annual survey with the department under RCW 82.32.585.

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

(a) "Biofuel" has the same meaning as provided in RCW 43.325.010.

(b) "Harvested" and "harvesters" have the same meanings as provided in RCW 84.33.035.

(5) This section expires ((~~June 30, 2015~~))July 1, 2025.

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

(1) Beginning October 1, 2015, harvesters as defined in RCW 84.33.035 may apply unused credits under RCW 82.04.4494 against the tax imposed under this chapter. Such unused credits may be claimed against taxes due under this chapter for the reporting period in which the credit was earned, and any remaining unused credit may be carried forward to future reporting periods for a maximum of two years.

(2) Every taxpayer applying unused credits under RCW 82.04.4494 to the tax imposed in this chapter must file a complete annual survey with the department under RCW 82.32.585.

(3) This section expires July 1, 2025.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2015.

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