H-5076.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE HOUSE BILL 2995**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2018 Regular Session**

**By** House Finance (originally sponsored by Representatives Tarleton, Doglio, and Pollet)

AN ACT Relating to Washington's clean, affordable, and reliable energy future; adding new sections to chapter 19.285 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding new sections to chapter 82.16 RCW; creating new sections; prescribing penalties; and providing expiration dates.

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

NEW SECTION. **Sec.**  (1) The legislature finds that Washington is the nation's leading producer of electricity from hydroelectric sources. The legislature finds that the residents, businesses, and industries of the state have benefited from the relatively low operating costs and reliability of this abundant, renewable energy resource. This legacy of clean hydroelectricity is the foundation upon which the state has built a diverse, vibrant clean technology sector that includes research and development in breakthrough technologies, as well as investment in other renewable energy resources. The legislature finds that Washington should continue its leadership in conservation, renewable energy, and climate change mitigation by: Increasing energy efficiency across the state; encouraging investment in the state's clean, nonpolluting, sustainable, and renewable energy future; and achieving reductions in the use of fossil fuels in the generation of electricity.

(2) By building on the state's foundation of renewable hydroelectric generation with additional conservation and renewable energy resources, the legislature declares that Washington can: Promote energy independence; create high-quality jobs in the clean technology sector; maintain stable and affordable electric rates for all customers; and protect clean air and water in the Pacific Northwest.

NEW SECTION. **Sec.**  The definitions in this section apply throughout sections 3 through 6 of this act unless the context clearly requires otherwise.

(1) "Attorney general" has the same meaning as provided in RCW 19.285.030.

(2) "Auditor" has the same meaning as provided in RCW 19.285.030.

(3) "Coal-fired resource" means a facility that uses coal-fired generating units, or that uses units fired in whole or in part by coal as feedstock, to generate electricity.

(4) "Commission" means the Washington state utilities and transportation commission.

(5) "Conservation" has the same meaning as provided in RCW 19.285.030.

(6) "Consumer-owned utility" has the same meaning as provided in RCW 19.29A.010.

(7) "Customer" has the same meaning as provided in RCW 19.285.030.

(8) "Department" means the department of commerce or its successor.

(9) "Electric utility" has the same meaning as provided in RCW 19.29A.010.

(10) "Emission" has the same meaning as provided in RCW 70.94.030.

(11) "Fossil fuel" means petroleum products that are intended for combustion, including natural gas, crude oil, petroleum, coal, or coke of any kind, or any form of solid, liquid, or gaseous fuel derived from these products including but not limited to motor vehicle fuel, special fuel, aircraft fuel, marine fuel, still gas, propane, and petroleum residuals such as bunker fuel.

(12) "Fossil fuel generating resource" is an electric generating unit that generates electricity from the combustion or oxidation of fossil fuels.

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

(14) "Low-income" means household income as defined by the department or commission, provided that the definition may not exceed eighty percent of area median household income, or two hundred percent of the federal poverty level, whichever is greater, adjusted for household size.

(15) "Market customer" means a nonresidential customer of an electric utility that: (a) Purchases electricity from an entity or entities other than the electric utility with which it is directly interconnected; or (b) generates electricity to meet its own needs.

(16) "Natural gas" means naturally occurring mixtures of hydrocarbon gases and vapors consisting principally of methane, whether in gaseous or liquid form, including methane clathrate.

(17) "Petroleum product" has the same meaning as provided in RCW 82.23A.010.

(18) "Renewable resource" has the same meaning as provided in RCW 19.285.030.

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

NEW SECTION. **Sec.**  (1)(a) On or before January 1, 2030, all electric utilities must eliminate from electric rates all costs associated with delivering electricity to Washington customers that is generated from a coal-fired resource. This does not include costs associated with decommissioning and remediation of these facilities.

(b) The commission may accelerate depreciation schedules for any coal-fired resource owned by investor-owned utilities to a date no later than January 1, 2030.

(2) The commission may not extend the depreciation schedule for any fossil fuel generating resource.

(3) Electric utilities and market customers must demonstrate that they have reduced the total number of megawatt hours from fossil fuel generating resources delivered to Washington customers compared to a 2017 baseline approved by the commission, for investor-owned utilities and market customers of investor-owned utilities, and the department, for consumer-owned utilities and market customers of consumer-owned utilities, used to serve the utility's load by the following annual targets:

(a) At least a twenty-five percent reduction from 2017 levels by January 1, 2030, and each year thereafter through December 31, 2034;

(b) At least a fifty percent reduction from 2017 levels by January 1, 2035, and each year thereafter through December 31, 2039;

(c) At least a seventy-five percent reduction from 2017 levels by January 1, 2040, and each year thereafter through December 31, 2044; and

(d) One hundred percent reduction by January 1, 2045, and each year thereafter. The commission, in the case of an investor-owned utility, or the department, in the case of a consumer-owned utility, may extend this deadline to a date no later than January 1, 2050, if doing so is found to be beneficial for ensuring reliability or reducing long-term costs to ratepayers.

(4) In order to achieve the targets under subsection (3) of this section, electric utilities and market customers must demonstrate that they have achieved all feasible conservation measures or investments, reductions in demand, and demand management prior to making new investments to meet projected demand; and, to the maximum extent feasible, must:

(a) Achieve the targets under subsection (3) of this section at the lowest reasonable cost; and

(b) In the construction of new resources:

(i) Maximize the creation of family wage jobs, insofar as doing so is consistent with (a) of this subsection; and

(ii) Rely on renewable resources and storage.

(5) Any resource for which the environmental attribute or attributes have been sold, transferred, or used for other purposes, except for an electric utility's own compliance with the annual renewable energy targets under RCW 19.285.040, is considered a fossil fuel generating resource for the purposes of this act.

(6) Hydroelectric generation may not include new diversions, new impoundments, new bypass reaches, or expansion of existing reservoirs constructed after the effective date of this section unless the diversions, bypass reaches, or reservoir expansions are necessary for the operation of a pumped storage facility that: (a) Does not conflict with existing state or federal fish recovery plans; and (b) complies with all local, state, and federal laws and regulations.

NEW SECTION. **Sec.**  (1)(a) For an investor-owned utility, the commission must determine compliance with the provisions of this act and enforce rules established under section 6 of this act.

(b) For a consumer-owned utility, the department must determine, and the attorney general must enforce, compliance with the provisions of this act consistent with the rules established under section 6 of this act.

(c) For a market customer, the auditor must determine compliance with chapter . . ., Laws of 2018 (this act) and the attorney general is responsible for enforcing compliance, except that the commission must determine compliance with section 3 of this act for a market customer of an investor-owned utility.

(2)(a) By June 1, 2025, and annually thereafter, each electric utility and market customer must report to the department on progress towards the reduction in the total number of megawatt hours and emissions from fossil fuel generating resources under section 3 of this act.

(b) Each investor-owned utility must also report all information required in (a) of this subsection to the commission.

(c) All electric utilities must also make reports required in this section available to its customers and each market customer must make all information required in this subsection available to the attorney general.

NEW SECTION. **Sec.**  (1)(a) The legislature finds and declares all of the following:

(i) There is insufficient information available to fully realize the potential of solar photovoltaic energy generation to serve low-income customers, including those in disadvantaged communities.

(ii) There is insufficient understanding of the barriers to access for low-income customers to all forms of renewable energy being generated in the state.

(iii) There is insufficient understanding of the barriers to access for low-income customers to energy efficiency investments.

(iv) There is insufficient understanding of the barriers to access for low-income customers to zero emission and near-zero emission transportation options.

(b) By January 1, 2019, the department, with input from relevant state agencies and the public, must develop and publish a study on:

(i) Barriers for low-income customers, including those in disadvantaged communities, to energy efficiency and weatherization investments, as well as recommendations on how to increase access to energy efficiency and weatherization investments to low-income customers; and

(ii) Barriers for low-income customers, including those in disadvantaged communities, to zero emission and near-zero emission transportation options, as well as recommendations on how to increase access to zero emission and near-zero emission transportation options to low-income customers, including those in disadvantaged communities.

(2) By January 1, 2025, the department, with input from relevant state agencies and the public, must develop and publish a study on:

(a) The impact of this act on utility rates as it affects individuals of varying income levels, ethnic backgrounds, and racial backgrounds; and

(b) Projected and current worker hours in construction, manufacturing, operations, and maintenance created as a result of compliance with the requirements of this act. The study must also include estimates of direct, indirect, and induced job creation. The study must be repeated every five years.

(3) By January 1, 2038, the commission and the department must jointly evaluate: (a) Whether the resource requirements established in section 3 of this act are expected to be met by each electric utility; and (b) the technology and other changes necessary to meet the requirements by 2045.

(4) The definitions in RCW 19.285.030 apply throughout this section.

(5) This section expires July 1, 2038.

NEW SECTION. **Sec.**  The commission, in the case of investor-owned utilities, and the department, in the case of consumer-owned utilities, must adopt rules by 2025 to implement sections 3 and 4 of this act. In adopting the rules, the commission and the department must include, but not be limited to, provisions sufficient to achieve successful implementation of this act, penalties that ensure compliance with this act, temporary flexibility mechanisms to ensure reliable electric service, and appropriate mechanisms for monitoring fossil fuel use.

NEW SECTION. **Sec.**  A new section is added to chapter 82.08 RCW to read as follows:

(1) Subject to the limitations in this section, a person who has paid the tax imposed by RCW 82.08.020 is eligible for an exemption from the full amount, but not to exceed the cap established in subsection (2) of this section, of state tax in the form of a remittance for charges made for labor and services rendered by any person in respect to the constructing, expanding, upgrading, or improving of an eligible renewable energy investment project, or to sales of tangible personal property that becomes an ingredient or component of an eligible renewable energy investment project.

(2) The exemption in this section is available in the form of a remittance. The total amount of remittance a person may receive under this section and section 8 of this act is limited to one million dollars per person per fiscal biennium. The total amount of remittance statewide that may be taken in any fiscal biennium under this section and section 8 of this act may not exceed ten million dollars.

(3) Application for an exemption as a remittance under this section must be made before initiation of an eligible renewable energy investment project. The application must be made to the department in a form and manner prescribed by the department. The application must contain information regarding the location of the investment project, estimated or actual costs, time schedules for completion and operation, and other information required by the department. The department must rule on the application within sixty days. Applications must be approved on a first-in-time basis.

(4) A person may claim the exemption by submitting a remittance application, in a form and manner as required by the department, specifying the amount of exempted tax claimed and the qualifying purchases for which the exemption is claimed. A person may not apply for a remittance more frequently than once per quarter. The person must retain, in adequate detail to enable the department to determine whether the purchases meet the criteria under this section: Invoices; proof of tax paid; documents describing the location and size of new structures; and construction invoices and documents.

(5) The department must determine eligibility under this section based on information provided by the person claiming the remittance and through audit and other administrative records. The department must on a quarterly basis remit exempted amounts to a person submitting remittance applications during the previous quarter.

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

(a) "Eligible renewable energy investment project" means an investment project that either initiates a new renewable energy generation facility or expands, upgrades, or improves a current renewable energy generation facility by increasing its energy efficiency or energy capacity, and includes new or upgraded transmission and distribution infrastructure necessary to connect the project to the electrical grid.

(b) "Renewable energy generation facility" means an electric generation facility powered by a renewable resource, as that term is defined in RCW 19.285.030.

(7) This section applies to state sales taxes paid by a person on labor and services or tangible personal property received by the buyer on or after January 1, 2021.

(8) The department may not approve any remittance claimed after December 31, 2029.

(9) This section is exempt from the provisions of RCW 82.32.808.

(10) This section expires January 1, 2030.

NEW SECTION. **Sec.**  A new section is added to chapter 82.12 RCW to read as follows:

(1) Subject to the limitations in this section, a person who has paid the tax imposed by RCW 82.12.020 is eligible for an exemption from the full amount, but not to exceed the cap established in subsection (2) of this section, of state tax in the form of a remittance for the use of tangible personal property that becomes an ingredient or component of an eligible renewable energy investment project.

(2) The exemption in this section is available in the form of a remittance. The total amount of remittance a person may receive under this section and section 7 of this act is limited to one million dollars per person per fiscal biennium. The total amount of remittance statewide that may be taken in any fiscal biennium under this section and section 7 of this act may not exceed ten million dollars.

(3) Application for an exemption as a remittance under this section must be made before initiation of an eligible renewable energy investment project. The application must be made to the department in a form and manner prescribed by the department. The application must contain information regarding the location of the investment project, estimated or actual costs, time schedules for completion and operation, and other information required by the department. The department must rule on the application within sixty days. Applications must be approved on a first-in-time basis.

(4) A person may claim the exemption by submitting a remittance application, in a form and manner as required by the department, specifying the amount of exempted tax claimed and the qualifying purchases for which the exemption is claimed. A person may not apply for a remittance more frequently than once per quarter. The person must retain, in adequate detail to enable the department to determine whether the purchases meet the criteria under this section: Invoices; proof of tax paid; documents describing the location and size of new structures; and construction invoices and documents.

(5) The department must determine eligibility under this section based on information provided by the person claiming the remittance and through audit and other administrative records. The department must on a quarterly basis remit exempted amounts to a person submitting remittance applications during the previous quarter.

(6) The definitions in section 7 of this act apply to this section.

(7) This section applies to tangible personal property acquired on or after January 1, 2021.

(8) The department may not approve any remittance claimed after December 31, 2029.

(9) This section is exempt from the provisions of RCW 82.32.808.

(10) This section expires January 1, 2030.

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

The definitions in this section apply throughout this section and section 10 of this act, unless the context clearly requires otherwise.

(1) "Clean energy investment expenditure" means expenditures for the purpose of receiving tax credits pursuant to this act which are consistent with the priorities and limitations of section 3(4) of this act.

(2) "Commission" means the utilities and transportation commission.

(3) "Consumer-owned energy utility" means any consumer-owned gas distribution business or consumer-owned light and power business.

(4) "Consumer-owned gas distribution business" means any gas distribution business not subject to regulation by the commission of the rates, tolls, rentals, contracts or charges, or service rendered, or the adequacy or sufficiency of the facilities, equipment, instrumentalities, or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied, or in force affecting any gas plant owned and operated by such gas distribution business.

(5) "Consumer-owned light and power business" means any light and power business not subject to regulation by the commission of the rates, tolls, rentals, contracts or charges, or service rendered, or the adequacy or sufficiency of the facilities, equipment, instrumentalities, or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied, or in force affecting any electric plant owned and operated by such light and power business.

(6) "Gas distribution business" has the same meaning as provided in RCW 82.16.010.

(7) "Investor-owned energy utility" means any investor-owned gas distribution business or investor-owned light and power business.

(8) "Investor-owned gas distribution business" means any gas distribution business subject to regulation by the commission of the rates, tolls, rentals, contracts or charges, or service rendered, or the adequacy or sufficiency of the facilities, equipment, instrumentalities, or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied, or in force affecting any gas plant owned and operated by such gas distribution business.

(9) "Investor-owned light and power business" means any light and power business subject to regulation by the commission of the rates, tolls, rentals, contracts or charges, or service rendered, or the adequacy or sufficiency of the facilities, equipment, instrumentalities, or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied, or in force affecting any electric plant owned and operated by such light and power business.

(10) "Light and power business" has the same meaning as provided in RCW 82.16.010.

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

(1)(a) Beginning July 1, 2019, an investor-owned energy utility or a consumer-owned energy utility is allowed a credit against taxes due under this chapter in an amount equal to the total amount of clean energy investment expenditures, not to exceed one million dollars per person per fiscal biennium.

(b) The department must keep a running total of all credits approved under this section. The department may not approve any credits that would cause the total amount of approved credits statewide to exceed ten million dollars in any fiscal biennium.

(c) Application for tax credits under this section must be submitted to the department before making clean energy investment expenditures. The application must be in a form and manner prescribed by the department. The application must include a description and dollar amount of the proposed clean energy investment expenditures. Applications must be approved on a first-in-time basis.

(d) Credit earned under this section may equal or exceed the tax otherwise due under this chapter for the tax reporting period. No refunds may be granted for unused credits.

(e) To claim a credit under this section, a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. Any return, form, or information required to be filed in an electronic format under this section is not filed until received by the department in an electronic format. As used in this subsection, "returns" has the same meaning as "return" in RCW 82.32.050.

(2) Credits may not be earned under this section after December 31, 2029. Credits must be claimed under this section by December 31, 2030.

(3) This section is exempt from the provisions of RCW 82.32.808.

(4) This section expires January 1, 2031.

NEW SECTION. **Sec.**  (1) The legislature finds that a transition to one hundred percent fossil fuel free electricity is necessary to protect Washingtonians from undue risk, desired by the public, and technically feasible, but that the implementation of this act would benefit from deeper engagement with stakeholders and additional analysis to minimize costs, ensure reliability, and benefit Washington state, its residents, and businesses.

(2) The department of commerce and the Washington utilities and transportation commission must jointly convene a clean energy transition work group. The work group must have no more than nineteen members, named, except as otherwise provided, by the governor. At minimum, the work group must include:

(a) One representative of an investor-owned utility;

(b) One representative of a consumer-owned utility;

(c) One representative of a statewide environmental organization focused on climate change and greenhouse gas emissions reduction;

(d) An expert in, or developer of, clean energy technologies;

(e) Public counsel or an advocate for electric utility ratepayers designated by public counsel;

(f) One representative of a statewide labor organization that represents a broad cross-section of workers, or such an organization's designee;

(g) One representative of a statewide labor organization that represents workers in the electricity sector;

(h) The chair of the Washington utilities and transportation commission, or the chair's designee;

(i) The director of the department of commerce, or the director's designee;

(j) The governor, or the governor's designee;

(k) One member and an alternate from each major caucus of the house of representatives, appointed by the speaker of the house of representatives;

(l) One member and an alternate from each major caucus of the senate, appointed by the president of the senate;

(m) One representative of the Pacific Northwest national laboratory; and

(n) One representative of an institution of higher education.

(3) The clean energy transition work group must provide a report to the governor and the appropriate committees of the legislature, in compliance with RCW 43.01.036, by December 15, 2018. The report must include recommendations on:

(a) Enforcement mechanisms to achieve the intent of this act;

(b) Flexibility mechanisms to ensure reliable service and minimize the cost of the clean energy transition to utility customers, including, if necessary, temporary alternative compliance mechanisms;

(c) Analysis of the feasibility of achieving the intent of this act with currently available technologies, as well as technologies under development;

(d) Policies or programs to accelerate development and deployment of new technologies to facilitate the transition to fossil fuel free electricity generation; and

(e) Potential legislation to achieve the goals of this act at the lowest reasonable cost to utility ratepayers.

(4) In developing the report required under subsection (3) of this section, the clean energy transition work group may request that the Washington utilities and transportation commission and the department of commerce contract with additional persons who have specific technical expertise if such expertise is necessary to carry out the mandates of the report. The work group may also interview experts and take other actions as necessary to gather information, provide recommendations, and complete the report required under subsection (3) of this section.

(5) The department of commerce and the Washington utilities and transportation commission must cooperate with and provide support to the clean energy transition work group.

(6) This section expires July 1, 2019.

NEW SECTION. **Sec.**  Sections 2 through 6 of this act constitute a new chapter in Title 19 RCW.

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

**--- END ---**