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HOUSE BILL 2477

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By Representatives Nixon, Crouse, Jarrett, Anderson, Ericksen, Shabro, Benson and Talcott

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1 AN ACT Relating to an energy resource portfolio standard; amending  
2 RCW 82.08.02567 and 82.12.02567; adding a new section to chapter 82.16  
3 RCW; adding a new section to chapter 82.08 RCW; adding a new chapter to  
4 Title 80 RCW; and providing expiration dates.

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

6 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

7 (1) Washington's utilities have been historical leaders in  
8 developing cost-effective renewable hydropower energy and investing in  
9 cost-effective energy efficiency, and the state economy has greatly  
10 benefited from the strong foundation of low-cost hydropower generation  
11 as well as forward-looking investments in energy efficiency, that have  
12 stimulated economic development, reduced operating costs for  
13 businesses, made industries more competitive, made homes more  
14 comfortable and efficient, reduced the energy burden of low-income  
15 households, and protected the environment;

16 (2) The western energy crisis of 2000-2001 demonstrated the  
17 vulnerability of an energy system reliant on transmission of  
18 electricity from distant load centers, increasingly strained water  
19 resources, and natural gas impacted by volatile market prices;

1 (3) Washington electric ratepayers benefit from resource planning  
2 and acquisition that hedges against future fuel price risk by assisting  
3 utilities in developing a diverse portfolio of resources to meet  
4 customer needs;

5 (4) Fuel diversity, economic, and environmental benefits from  
6 renewable energy and efficiency resources accrue to the public at  
7 large, and therefore all consumers and utilities should support  
8 consistent development of these resources to meet the state's electric  
9 demand and stabilize electricity prices through tax incentives for  
10 renewable resource and energy efficiency investments.

11 **Sec. 2.** RCW 82.08.02567 and 2001 c 213 s 1 are each amended to  
12 read as follows:

13 (1) The tax levied by RCW 82.08.020 (~~shall~~) does not apply to  
14 sales of machinery and equipment used directly in generating  
15 electricity using fuel cells, wind, sun, or landfill gas as the  
16 principal source of power, or (~~to sales of or charges made for labor~~  
17 ~~and services rendered in respect to installing such machinery and~~  
18 ~~equipment~~) another eligible renewable resource, except a dedicated  
19 resource, but only if the purchaser:

20 (a) Develops with (~~such~~) the machinery, and equipment (~~, and~~  
21 ~~labor~~) a facility capable of generating not less than two hundred  
22 watts of electricity and;

23 (b) Provides the seller with an exemption certificate in a form and  
24 manner prescribed by the department, and the department with a  
25 duplicate of the certificate or a summary of exempt sales as the  
26 department may require; and

27 (c) If the purchaser is an electric utility, has entered into an  
28 agreement with the department of revenue under section 5 or 6 of this  
29 act. The seller shall retain a copy of the certificate for the  
30 seller's files.

31 (2) For purposes of this section and RCW 82.12.02567:

32 (a) "Landfill gas" means biomass fuel of the type qualified for  
33 federal tax credits under 26 U.S.C. Sec. 29 collected from a landfill.  
34 "Landfill" means a landfill as defined under RCW 70.95.030;

35 (b) "Machinery and equipment" means industrial fixtures, devices,  
36 and support facilities that are integral and necessary to the

1 generation of electricity using wind, sun, or landfill gas as the  
2 principal source of power(~~(+~~

3 ~~(c) "Machinery and equipment")~~ or other renewable resources; but  
4 does not include: (i) Hand-powered tools; (ii) property with a useful  
5 life of less than one year; (iii) repair parts required to restore  
6 machinery and equipment to normal working order; (iv) replacement parts  
7 that do not increase productivity, improve efficiency, or extend the  
8 useful life of machinery and equipment; (v) buildings; or (vi) building  
9 fixtures that are not integral and necessary to the generation of  
10 electricity that are permanently affixed to and become a physical part  
11 of a building;

12 ~~((+d))~~ (c) Machinery and equipment is "used directly" in  
13 generating electricity ((with)) by a fuel cell((s)) or by wind energy,  
14 solar energy, ((or)) landfill gas power, or another eligible renewable  
15 resource if it provides any part of the process that captures the  
16 energy of the wind, sun, ((or)) landfill gas or from another renewable  
17 resource, converts that energy to electricity, and stores, transforms,  
18 or transmits that electricity for entry into or operation in parallel  
19 with electric transmission and distribution systems;

20 ~~((+e))~~ (d) "Fuel cell" means an electrochemical reaction that  
21 generates electricity by combining atoms of hydrogen and oxygen in the  
22 presence of a catalyst and does not use hydrogen that is reformed on-  
23 site from a fossil fuel.

24 (e) "Electric utility" has the meaning in section 4 of this act.

25 (f) "Eligible renewable resource" has the meaning in section 4 of  
26 this act.

27 (g) "Renewable resource" has the meaning in section 4 of this act.

28 (h) "Dedicated resource" has the meaning in section 4 of this act.

29 (3) The department of revenue, after consultation with the  
30 utilities and transportation commission in the case of electrical  
31 companies and the department of community, trade, and economic  
32 development in the case of consumer-owned utilities, determines the  
33 eligibility of individual projects and measures for deductions under  
34 this section and compliance with sections 5 and 6 of this act.

35 (4) This section expires June 30, ((2009)) 2023.

36 **Sec. 3.** RCW 82.12.02567 and 2003 c 5 s 6 are each amended to read  
37 as follows:

1 (1) The provisions of this chapter (~~shall~~) do not apply with  
2 respect to machinery and equipment used directly in generating not less  
3 than two hundred watts of electricity using wind, sun, or landfill gas  
4 as the principal source of power, or (~~to the use of labor and services~~  
5 ~~rendered in respect to installing such machinery and equipment~~) from  
6 a fuel cell or eligible renewable resource other than a dedicated  
7 resource, if the user provides the department with:

8 (a) An exemption certificate in a form and manner prescribed by the  
9 department within sixty days of the first use of the machinery and  
10 equipment in this state; or

11 (b) An annual summary listing the machinery and equipment by  
12 January 31st of the year following the calendar year in which the  
13 machinery and equipment is first used in this state; and

14 (c) If the user is an electric utility, has entered into a  
15 renewable energy acquisition agreement with the department of revenue  
16 under section 5 or 6 of this act.

17 (2) The definitions in RCW 82.08.02567 apply to this section.

18 (3) The department of revenue, after consultation with the  
19 utilities and transportation commission in the case of electrical  
20 companies and the department of community, trade, and economic  
21 development in the case of consumer-owned utilities, determines the  
22 eligibility of individual projects and measures for deductions under  
23 this section and compliance with sections 5 and 6 of this act.

24 (4) This section expires June 30, (~~2009~~) 2023.

25 NEW SECTION. Sec. 4. The definitions in this section apply  
26 throughout this chapter unless the context clearly requires otherwise.

27 (1) "Agreement effective date" means the calendar year in which an  
28 electric utility begins to acquire electrical energy or capacity under  
29 a renewable energy acquisition agreement with the department of  
30 revenue.

31 (2) "Base year" means the calendar year in which an electric  
32 utility entered into an energy efficiency acquisition agreement with  
33 the department of revenue.

34 (3) "Cogeneration" means the sequential generation, in either  
35 order, of electrical energy and useful thermal energy, such as heat or  
36 steam, from the same primary energy source or fuel in which the useful

1 thermal energy is used in a manufacturing process, space heating, or  
2 cooling.

3 (4) "Cogeneration facility" means any machinery, equipment,  
4 structure, process, or property, or any part thereof, installed or  
5 acquired for the purpose of cogeneration.

6 (5) "Commission" means the Washington state utilities and  
7 transportation commission.

8 (6) "Conservation" means any reduction in electric power  
9 consumption as a result of increases in the efficiency of energy use,  
10 production, transmission, or distribution without reducing the level of  
11 energy service.

12 (7) "Consumer-owned utility" includes a municipality, public  
13 utility district, irrigation district, cooperative association, port  
14 district, or water-sewer district engaged in the business of  
15 distributing electricity to one or more retail electric customers in  
16 the state.

17 (8) "Conventional resource" means hydroelectric generation, natural  
18 gas generation, or coal generation, as defined in RCW 19.29A.010.

19 (9) "Cooperative association" means a cooperative association or  
20 mutual corporation or association organized under chapter 23.86 or  
21 24.06 RCW.

22 (10) "Cost-effective" has the meaning in RCW 80.52.030.

23 (11) "Dedicated resource" means a qualified conventional resource  
24 used by an electric utility to shape and firm electrical output from an  
25 eligible renewable resource so that resource will mimic the capacity  
26 factor and operational characteristics of a combined cycle combustion  
27 turbine. A dedicated resource includes a stated quantity of electric  
28 generation capacity or energy tied directly to a specific generation  
29 facility or set of facilities either through ownership or contractual  
30 purchase, or a contractual right to a stated quantity of electric  
31 generation capacity or energy from a specific generation facility or  
32 set of facilities. A dedicated resource is an eligible renewable  
33 resource under this chapter only for the amount of electrical capacity  
34 used to shape and firm the electrical output of an eligible renewable  
35 resource that is not a qualified conventional resource.

36 (12) "Department" means the department of community, trade, and  
37 economic development.

1 (13) "Electric utility" means any electrical company or consumer-  
2 owned utility.

3 (14) "Electrical company" means a company that meets the definition  
4 in RCW 80.04.010 and is owned by investors.

5 (15) "Eligible net-metered generation" means an electricity  
6 generation system that meets the criteria of a net metering system as  
7 defined in RCW 80.60.010 and uses as its fuel a renewable resource.

8 (16) "Eligible renewable resources" means a renewable resource that  
9 supplies electricity to electric utilities in Washington from the  
10 following:

11 (a) A nonhydropower renewable resource that began operation after  
12 April 1, 1999, and any subsequent additions to those facilities;

13 (b) Additional power produced, above original design  
14 specifications, by hydropower facilities that were operating on April  
15 1, 1999, are located in the Pacific Northwest, and that were improved  
16 or upgraded after April 1, 1999, to increase capacity or efficiency;

17 (c) Hydropower facilities that operate with a head of twenty meters  
18 or less and that began operation after April 1, 1999;

19 (d) Additions to hydropower generating capacity operating on April  
20 1, 1999, in irrigation pipes and canals located in the Pacific  
21 Northwest, that result from upgrades or improvements made after April  
22 1, 1999, and do not result in any new water diversions;

23 (e) Dedicated resources;

24 (f) Eligible net-metered generation; or

25 (g) High-efficiency cogeneration.

26 (17) "Full requirements consumer-owned utility" means a consumer-  
27 owned utility that has contracted with the Bonneville Power  
28 Administration for resources sufficient to meet its firm power load.

29 (18) "Governing body" means the board of directors, council,  
30 commission, or board that is legally responsible for the management of  
31 a consumer-owned utility.

32 (19) "High efficiency cogeneration" means a cogeneration facility  
33 that achieves at least a doubling of previous energy resource  
34 utilization by the facility owner or operator, or that has a combined  
35 fuel conversion efficiency of at least eighty percent.

36 (20) "Incremental retail load growth" means an electric utility's  
37 forecasted retail load growth to serve retail electric customers in

1 Washington for any twenty-five year period beginning after April 1,  
2 1999.

3 (21) "Irrigation district" means a district formed under chapter  
4 87.03 RCW.

5 (22) "Low income" means a household meeting the income eligibility  
6 guidelines determined by the department.

7 (23) "Low-income energy efficiency services" include energy-related  
8 repairs, weatherization, installation of energy-efficient appliances  
9 and fixtures for low-income residences, and investment in new  
10 construction of low-income households that exceed the state energy  
11 code, as well as energy education, for the purpose of enhancing energy  
12 efficiency.

13 (24) "Municipality" means a city or town that is authorized to own  
14 or operate an electric utility under chapter 35.92 RCW.

15 (25) "New eligible renewable resource" means a nonhydropower  
16 renewable resource that began operation after July 1, 2004, and any  
17 subsequent additions to those facilities.

18 (26) "Pacific Northwest" has the meaning in section 3 of the  
19 Pacific Northwest electric power planning and conservation act, P.L.  
20 96-501 (16 U.S.C. Sec. 389a; 94 Stat. 2698).

21 (27) "Port district" means a port district within which an  
22 industrial development district has been established as authorized by  
23 Title 53 RCW.

24 (28) "Public utility district" means a district formed under  
25 chapter 54.04 RCW.

26 (29) "Qualified conventional resource" means (a) qualified  
27 hydropower; or (b) natural gas generation, as defined in RCW  
28 19.29A.010, that has mitigated its emissions of carbon dioxide pursuant  
29 to the laws of this or any other state in the Pacific Northwest.

30 (30) "Qualified hydropower" means (a) a hydropower generating  
31 facility that has been issued a license by the federal energy  
32 regulatory commission pursuant to the federal power act (16 U.S.C. Sec.  
33 791 et seq.) after enactment of the electric consumers protection act  
34 of 1986, P.L. 99-495, which afforded equal consideration to power and  
35 nonpower values in the determination of the federal energy regulatory  
36 commission of whether or not to issue a license for a hydropower  
37 project; and (b) firming and shaping products purchased from a federal

1 power marketing agency and supported by hydropower facilities owned and  
2 operated by agencies of the federal government.

3 (31) "Renewable energy credit" means a tradable certificate of  
4 proof of one megawatt-hour of electricity generated from a tradable  
5 renewable resource if the credit is obtained after July 1, 2001.

6 (32) "Renewable resources" means electricity generation facilities  
7 fueled by: (a) Water; (b) wind; (c) hydrogen; (d) solar energy; (e)  
8 geothermal energy; (f) landfill gas; (g) biomass energy based on animal  
9 waste or solid organic fuels from wood, forest, or field residues, or  
10 dedicated energy crops that do not include wood pieces treated with  
11 chemical preservatives such as creosote, pentachlorophenol, or  
12 copper-chrome-arsenic; (h) wave or tidal action; or (i) gas from sewage  
13 treatment facilities.

14 (33) "Retail electric customer" means a person or entity in  
15 Washington that purchases electricity for ultimate consumption and not  
16 for resale.

17 (34) "Retail load" means the number of kilowatt-hours of  
18 electricity delivered by an electric utility to its Washington retail  
19 customers.

20 (35) "Small utility" means a small utility as defined in RCW  
21 19.29A.010.

22 (36) "Tradable renewable resource" means: (a) An eligible  
23 renewable resource other than a dedicated resource; and (b) any  
24 nonhydropower renewable resource located within the jurisdiction of the  
25 western energy coordinating council, or its successor entity, that  
26 commenced operation or made additions to the facilities after April 1,  
27 1999.

28 (37) "Water-sewer district" means a district formed under Title 57  
29 RCW.

30 NEW SECTION. **Sec. 5.** (1) To claim a tax deduction or exemption  
31 under RCW 82.08.02567, 82.12.02567, or section 7 (1) or (2) of this act  
32 an electric utility must enter into a renewable energy acquisition  
33 agreement with the department of revenue and comply with the  
34 requirements of this section.

35 (2)(a) Before entering into an agreement with the department of  
36 revenue, an electric utility must prepare a prospective incremental  
37 load growth forecast for a twenty year period. An electrical company



1 must prepare and update its forecast pursuant to rules adopted by the  
2 commission. A consumer-owned utility must prepare and update its  
3 forecast pursuant to rules adopted by the department. The department  
4 shall develop guidelines for, and provide assistance to, full  
5 requirements consumer-owned utilities in the development of the  
6 incremental load forecasts required under this subsection. The purpose  
7 of the guidelines and assistance is to reduce the administrative burden  
8 of preparing the forecasts. These guidelines may provide for load  
9 forecasting by small utilities that relies on historical load growth.

10 (b) An electric utility must conduct a resource cost analysis  
11 before it acquires any new eligible renewable resource under a  
12 renewable energy acquisition agreement with the department of revenue.  
13 When an electric utility initiates a process to acquire electric  
14 generation capacity or energy, the electric utility must quantify the  
15 cost of new conventional resources and the cost of new eligible  
16 renewable resources to determine the availability of cost-effective new  
17 renewable resources. To quantify the costs of these resources, an  
18 electric utility may either identify the cost of developing the  
19 resources itself, or issue a request for proposals to identify the  
20 market cost of new conventional resources and new eligible renewable  
21 resources. Full requirements consumer-owned utilities may use the  
22 published rates of the Bonneville Power Administration for firm  
23 supplies as a substitute for the cost analysis required for new  
24 conventional resources.

25 (c) The cost analysis must identify for a period of at least twenty  
26 years: (i) All costs associated with owning and operating new  
27 conventional resources and new eligible renewable resources, and  
28 purchasing the resources through contract; (ii) all costs associated  
29 with integrating a new eligible renewable resource within the utility's  
30 system including, but not limited to, shaping and firming the resource,  
31 if necessary; (iii) the cost or value of transmission capacity or  
32 rights needed to convey electrical energy from a new conventional  
33 resource or new eligible renewable resource to the contractual or  
34 operational point of delivery onto the utility's distribution system;  
35 and (iv) the estimated value of tax incentives available under RCW  
36 82.08.02567, 82.12.02567, or section 7 (1) or (2) of this act.

37 (d) If the cost analysis shows that the cost of the lowest cost new  
38 eligible renewable resource, without considering the estimated value of

1 tax incentives under RCW 82.08.02567, 82.12.02567, or section 7 (1) or  
2 (2) of this act, is less than or equal to the cost of the lowest cost  
3 new conventional resource, then the tax incentives under RCW  
4 82.08.02567, 82.12.02567, or section 7 (1) or (2) of this act are not  
5 available to the electric utility for the acquisition of the new  
6 eligible renewable resource. Even though a new eligible renewable  
7 resource may not qualify for the tax incentives under RCW 82.08.02567,  
8 82.12.02567, or section 7 (1) or (2) of this act, the new eligible  
9 renewable resource, if acquired by the electric utility, will still  
10 count toward the renewable energy standard in this section.

11 (e) The commission, in the case of an investor-owned utility, and  
12 the department, in the case of a consumer-owned utility, shall adopt  
13 comparable rules to govern the cost analysis, including, but not  
14 limited to, criteria under which the results of the analysis will be  
15 verified by the commission and the department.

16 (4) An electric utility that enters into a renewable energy  
17 acquisition agreement with the department of revenue under this section  
18 is subject to the following renewable energy standard:

19 (a) Within five years of the agreement's effective date, the  
20 utility must acquire on an annual average an amount of electric  
21 generation capacity or energy from eligible renewable resources, or  
22 renewable energy credits equivalent to fifteen percent of its  
23 incremental retail load growth, if the utility has forecasted any  
24 incremental growth load.

25 (b) Within ten years of the agreement's effective date, the utility  
26 must acquire on an annual average an amount of electric generation  
27 capacity or energy from eligible renewable resources, or renewable  
28 energy credits equivalent to twenty-five percent of its incremental  
29 retail load growth, if the utility has forecasted any incremental  
30 growth load.

31 (c) Within fifteen years of the agreement's effective date, the  
32 utility must acquire on an annual average an amount of electric  
33 generation capacity or energy from eligible renewable resources, or  
34 renewable energy credits equivalent to thirty-five percent of its  
35 incremental retail load growth, if the utility has forecasted any  
36 incremental growth load.

37 (5) An eligible renewable resource acquired by an electric utility

1 between April 1, 1999, and the agreement's effective date counts toward  
2 the renewable energy standard.

3 (6) Nothing in this section limits an electric utility from  
4 exceeding the renewable energy standard under this section. Nothing in  
5 this section requires an electric utility to have any forecasted  
6 incremental load growth to enter into a renewable energy acquisition  
7 agreement under this section.

8 (7) No electrical company may purchase eligible renewable resources  
9 through contract from an affiliated interest of the electrical company  
10 as defined in RCW 80.16.010 unless it has issued a request for  
11 proposals from other suppliers based upon the same terms and conditions  
12 that would apply to a contract with an affiliated interest and the  
13 commission determines the proposal from its affiliated interest is the  
14 lowest cost option.

15 (8) The commission, in the case of an electrical company, and the  
16 department, in the case of a consumer-owned utility, determines the  
17 date by which an electric utility is deemed to begin to acquire  
18 electric generation capacity for the purpose of subsection (3) of this  
19 section.

20 (9) If at any time after an agreement's effective date, the utility  
21 determines that an insufficient amount of cost-effective renewable  
22 resources is available for it to comply with the renewable energy  
23 standard in this section, the utility may petition the commission, in  
24 the case of an electrical company, or the department, in the case of a  
25 consumer-owned utility, for a lesser renewable energy standard which  
26 may be applied retroactively. The lesser standard adopted under this  
27 subsection must take into account results of any and all cost analyses  
28 conducted by an electric utility under this section. The department of  
29 revenue must amend its agreement with the affected electric utility to  
30 reflect any change made to the utility's renewable energy standard.

31 (10) The commission has sole authority to approve criteria, program  
32 implementation guidelines and schedules, and goals for electrical  
33 companies.

34 NEW SECTION. **Sec. 6.** (1) To claim a tax deduction under section  
35 7(3) of this act, an electric utility must enter into an energy  
36 efficiency acquisition agreement with the department of revenue and  
37 comply with the energy efficiency standard of this section.

1 (2) Before entering into an energy efficiency acquisition agreement  
2 with the department of revenue, an electric utility must calculate the  
3 amount it expended on energy efficiency programs in 2003 and quantify,  
4 as may be practicable, the amount of energy savings achieved by those  
5 expenditures as a percentage of the utility's retail electric load in  
6 2003.

7 (3) The following baseline energy efficiency standard is  
8 established:

9 (a) Within five years of entering into an agreement with the  
10 department of revenue, the electric utility must on average annually  
11 acquire cost-effective electricity savings directly attributable to  
12 conservation programs serving its Washington retail electric customers  
13 sufficient to meet an amount equal to seventy-five one-hundredths of  
14 one percent of the utility's base year retail load. After five years  
15 from the utility's base year, the electricity savings acquired from the  
16 conservation programs implemented during the preceding five-year period  
17 must equal at least three and seventy-five one-hundredths of one  
18 percent of the utility's base year retail load.

19 (b) Within ten years of the utility's base year, the utility must  
20 on average annually acquire cost-effective electricity savings directly  
21 attributable to conservation programs serving its Washington retail  
22 electric customers sufficient to meet an amount equal to eighty-five  
23 one-hundredths of one percent of the utility's retail load in the five  
24 years after the base year. After ten years of the base year, the  
25 electricity savings acquired from the conservation programs implemented  
26 during the preceding three-year period will meet at least two and  
27 fifty-five one-hundredths of one percent of the utility's retail load  
28 in the year five years after the base year.

29 (c) The utility must continue to comply with the standard  
30 established in (b) of this subsection for each subsequent three-year  
31 period.

32 (d) The amount of conservation the utility needs to acquire to meet  
33 the standard will be based on that utility's base year retail load.

34 (4) Before entering into an energy efficiency acquisition  
35 agreement, an electric utility may petition the commission, in the case  
36 of an electrical company, or the department, in the case of a consumer-  
37 owned utility, for the establishment of a lesser energy efficiency  
38 standard to that provided under subsection (3) of this section. The

1 commission and department will establish a lesser energy efficiency  
2 standard based upon a showing that a lower standard is more appropriate  
3 for the unique load characteristics of the electric utility. An  
4 alternative energy efficiency standard established under this  
5 subsection for an electric utility shall be incorporated into the  
6 utility's energy efficiency acquisition agreement with the department  
7 of revenue.

8 (5) Nothing in this section limits an electric utility from  
9 exceeding the energy efficiency standard under this section.

10 (6) The utility must meet at least five percent of its annual  
11 energy efficiency standard requirement under this section with  
12 low-income energy efficiency services, unless it can demonstrate to the  
13 commission in the case of an electrical company or the department in  
14 the case of a consumer-owned utility that sufficient cost-effective  
15 opportunities do not exist within its service territory for conserving  
16 energy in low-income households.

17 (7) The utility must pursue energy conservation opportunities in  
18 each customer class to achieve energy savings that are not  
19 independently captured by consumer acquisition and that are  
20 economically feasible for consumers, taking into account incentives  
21 provided by the utility. All energy savings resulting from  
22 appropriately targeted energy efficiency programs shall be applied  
23 towards satisfying the energy efficiency standard. The portfolio of  
24 energy conservation programs used to meet the efficiency standard must  
25 be cost-effective. A conservation program implemented by an electrical  
26 company is cost-effective if it passes the total resource cost test as  
27 defined by the commission.

28 (8) The utility must use practices generally accepted in the  
29 Pacific Northwest to measure accrued energy savings from conservation,  
30 including monitoring and verification of those savings.

31 (9) In meeting the energy efficiency standard, the utility may  
32 count conservation even if it also receives credit or funding for that  
33 conservation from the Bonneville Power Administration.

34 (10) An electric utility contributing to the northwest energy  
35 efficiency alliance on its own or through its Bonneville Power  
36 Administration rates may count its share of annual accrued energy  
37 savings as determined by the northwest energy efficiency alliance

1 towards the energy efficiency standard under this section. The credit  
2 taken under this subsection may not exceed twenty percent of the  
3 utility's annual energy efficiency standard requirement.

4 (11)(a) For electrical companies, the commission must develop  
5 criteria for cost-effective conservation that qualifies toward the  
6 energy efficiency standard and program implementation guidelines,  
7 including verifying and monitoring savings. The commission must  
8 consider all existing and appropriate criteria and guidelines where  
9 applicable, and may rely on work of regional power planning committees  
10 in determining criteria and guidelines.

11 (b) For consumer-owned utilities, the department must develop  
12 criteria for cost-effective conservation that qualifies toward the  
13 energy efficiency standard and program implementation guidelines,  
14 including verifying and monitoring savings. The department must  
15 consider all existing and appropriate criteria and guidelines where  
16 applicable, and may rely on work of regional power planning committees  
17 in determining criteria and guidelines.

18 (12) If an electric utility can demonstrate to the commission in  
19 the case of an electrical company or the department in the case of a  
20 consumer-owned utility that it is unable to meet the energy efficiency  
21 standard created under this section due to a lack of sufficient  
22 opportunities for acquiring cost-effective conservation, the commission  
23 or department will adopt a lesser standard for the utility. The lesser  
24 standard may be retroactive.

25 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.16 RCW  
26 to read as follows:

27 (1) In computing the tax under this chapter, a light and power  
28 business may deduct from gross income an amount equal to:

29 (a) The cost of production of electrical energy produced or  
30 generated from an eligible renewable resource other than a dedicated  
31 resource, built and owned by a light and power business on or after  
32 July 1, 2004, and used for consumption within the state;

33 (b) The amount paid by a light and power business to purchase  
34 energy or capacity from an eligible renewable resource other than a  
35 dedicated resource, by contract entered into after July 1, 2004, and  
36 used for consumption within the state; and

1 (c) The amount paid by a light and power business to purchase  
2 renewable energy credits after July 1, 2001.

3 (2) In computing the tax under this chapter, a light and power  
4 business may deduct from gross income an amount equal to the cost or  
5 value of transmission capacity or rights acquired by the business after  
6 July 1, 2004, and needed to convey electrical energy from an eligible  
7 renewable resource to the contractual or operational point of delivery  
8 into the distribution system of the light and power business.

9 (3) In computing the tax under this chapter, a light and power  
10 business may deduct from gross income an amount equal to amounts  
11 expended, less an amount equal to the amount expended by the light and  
12 power business in the base year of the agreement, to improve consumers'  
13 efficiency of energy end use or to otherwise reduce the use of  
14 electrical energy or gas by the consumer.

15 (4) Deductions under subsection (1) of this section are allowed for  
16 a period not more than thirty years after the project is placed in  
17 operation.

18 (5) For the purpose of this section:

19 (a) When a light and power business purchases renewable energy by  
20 contract, "the cost of production at the plant" means the purchase  
21 price for electrical energy or capacity under the contract;

22 (b) "Renewable energy credit" has the meaning in section 4 of this  
23 act;

24 (c) "Eligible renewable resource" has the meaning in section 4 of  
25 this act; and

26 (d) "Dedicated resource" has the meaning in section 4 of this act.

27 (6) The department of revenue, after consultation with the  
28 utilities and transportation commission in the case of electrical  
29 companies and the department of community, trade, and economic  
30 development in the case of consumer-owned utilities, determines the  
31 eligibility of individual projects and measures for deductions under  
32 this section. No light and power business may take a deduction under  
33 this section unless it has entered into a renewable energy acquisition  
34 agreement or energy efficiency acquisition agreement with the  
35 department of revenue.

36 (7) No new deduction may be taken under this section after June 30,  
37 2023.

38 (8) This section expires July 1, 2023.

1        NEW SECTION.    **Sec. 8.** (1)(a) An electric utility may receive  
2 additional credit toward meeting the renewable energy standard under  
3 section 5 of this act and may claim an additional tax exemption under  
4 section 9 of this act if it acquires eligible renewable resources other  
5 than dedicated resources, physically located in Washington state if:

6        (i) Construction began after December 31, 2003; and

7        (ii) The electric utility purchased or contracted for the eligible  
8 renewable resource by December 31, 2007.

9        (b) An electric utility that acquires energy from an eligible  
10 renewable resource that meets the criteria of this section may count  
11 that resource above its base value in meeting the renewable energy  
12 standard as follows:

13        (i) Energy purchased or contracted by December 31, 2004, can be  
14 counted at one and one-tenth times its base value;

15        (ii) Energy purchased or contracted by December 31, 2005, can be  
16 counted at one and nine-hundredths times its base value;

17        (iii) Energy purchased or contracted by December 31, 2006, can be  
18 counted at one and eight-hundredths times its base value; or

19        (iv) Energy purchased or contracted by December 31, 2007, can be  
20 counted at one and seven-hundredths times its base value.

21        (2)(a) An electric utility may receive additional credit toward  
22 meeting the renewable energy standard if it acquires eligible renewable  
23 resources other than dedicated resources, physically located in  
24 Washington state or renewable energy credits from an eligible renewable  
25 resource physically located in Washington state if:

26        (i) Construction began after December 31, 2003; and

27        (ii) The renewable energy developer used apprenticeship programs  
28 during construction of the eligible renewable resources.

29        (b) The apprenticeship programs must be approved by the  
30 apprenticeship council under its authority in chapter 49.04 RCW, and  
31 minimum levels of apprenticeship programs must be:

32        (i) Ten percent of total labor hours for projects beginning  
33 construction after December 31, 2007;

34        (ii) Twelve and one-half percent of total labor hours for projects  
35 beginning construction after December 31, 2014; and

36        (iii) Fifteen percent of total labor hours for projects beginning  
37 construction after December 31, 2021.



1 (c) The apprenticeship council will determine compliance with (b)  
2 of this subsection.

3 (d) An electric utility that acquires energy or renewable energy  
4 credits from an eligible renewable resource other than a dedicated  
5 resource that meets the criteria under this subsection may count that  
6 resource at one and two-tenths times its base value in meeting the  
7 renewable energy standard.

8 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.08 RCW  
9 to read as follows:

10 (1) The tax levied by RCW 82.08.020 does not apply to labor or  
11 services rendered in respect to installing machinery and equipment used  
12 directly in generating electricity from a fuel cell or eligible  
13 renewable resource other than a dedicated resource, but only if the  
14 purchaser has entered into a renewable energy acquisition agreement  
15 with the department of revenue as provided in section 5 of this act,  
16 develops with the labor a facility capable of generating at least two  
17 hundred kilowatts of electricity and provides the seller with an  
18 exemption certificate in a form and manner prescribed by the department  
19 by rule, and the purchaser provides the department with a duplicate of  
20 the certificate or a summary of exempt sales as the department may  
21 require. The seller shall retain a copy of the certificate for the  
22 seller's files.

23 (2) For the purposes of this section:

24 (a) "Eligible renewable resource" has the meaning in section 4 of  
25 this act.

26 (b) "Electric utility" has the meaning in section 4 of this act.

27 (c) "Fuel cell" has the meaning in RCW 82.08.02567.

28 (d) "Machinery and equipment" has the meaning in RCW 82.08.02567.

29 (e) "Renewable resource" has the meaning in section 4 of this act.

30 (f) "Dedicated resource" has the meaning in section 4 of this act.

31 (3) This section expires June 30, 2023.

32 NEW SECTION. **Sec. 10.** An electric utility may receive credit  
33 towards meeting the energy efficiency or renewable energy standards  
34 under this chapter when it also receives credit or funding for those  
35 same resources under an energy efficiency or renewable energy standard  
36 established by federal legislation. However, an electric utility may

1 not receive credit towards meeting the energy efficiency or renewable  
2 energy standards when it also receives credit or funding for those same  
3 resources under an energy efficiency or renewable energy standard  
4 established by legislation in another state.

5 NEW SECTION. **Sec. 11.** (1) The department may adopt rules  
6 applicable to consumer-owned utilities for the purposes of: (a)  
7 Verifying load resource balance; (b) verifying a lack of sufficient  
8 opportunities for cost-effective renewable resources; (c) verifying a  
9 lack of sufficient opportunities for cost-effective conservation; (d)  
10 establishing a lesser renewable energy standard; (e) establishing a  
11 lesser energy efficiency standard; (f) determining the  
12 cost-effectiveness of eligible renewable resources; and (g) verifying  
13 compliance with the renewable energy and energy efficiency standards.

14 (2) The commission may adopt rules applicable to electrical  
15 companies for the purposes of: (a) Verifying load resource balance;  
16 (b) verifying a lack of sufficient opportunities for cost-effective  
17 renewable resources; (c) verifying a lack of sufficient opportunities  
18 for cost-effective conservation; (d) establishing a lesser renewable  
19 energy standard; (e) establishing a lesser energy efficiency standard;  
20 (f) determining the cost-effectiveness of eligible renewable resources;  
21 and (g) verifying compliance with the renewable energy and energy  
22 efficiency standards.

23 (3) Any rules adopted pursuant to this section must be adopted  
24 before an electric utility may enter into an agreement with the  
25 department of revenue under sections 5 and 6 of this act.

26 (4) The department must convene a group of stakeholders, including  
27 the commission, to advise it on the establishment of a new or selection  
28 of an existing system of renewable energy credits that may be used to  
29 comply with the renewable energy standard under section 5 of this act.  
30 The department will consider all existing and appropriate systems and  
31 organizations that facilitate renewable energy credit trading  
32 westernwide or nationally.

33 NEW SECTION. **Sec. 12.** (1) On or before June 1, 2008, and annually  
34 thereafter, an electric utility that has entered into an agreement  
35 under section 5 or 6 of this act must demonstrate progress in meeting  
36 the energy efficiency and renewable energy standards in this chapter

1 for the annual period ending the previous December 31st. The  
2 department and commission may share this information with each other.  
3 Each report must include at least the following: (a) The amount of  
4 electricity generated or acquired from eligible renewable resources;  
5 (b) the amount of renewable energy credits acquired, sold, or traded;  
6 (c) the annual retail load for an electric utility or the annual  
7 electricity consumption data; and (d) the amount of conservation  
8 annually acquired. Each electrical company will report to the  
9 commission and each consumer-owned utility will report to the  
10 department.

11 (2) Reports submitted to the commission and department shall also  
12 be provided to the department of revenue, which may conduct an  
13 independent audit of the records submitted by electric utilities.

14 (3) On or before December 1, 2010, and biennially thereafter, the  
15 department and commission shall submit a report to the legislature on  
16 the accomplishments of the energy efficiency and renewable energy  
17 standards voluntarily entered into by electric utilities under this  
18 act.

19 (4) On or before December 1, 2010, and biennially thereafter, the  
20 department of revenue shall submit a report to the legislature on the  
21 amount or value of tax deductions and exemptions claimed pursuant to  
22 this act.

23 NEW SECTION. **Sec. 13.** If any provision of this act or its  
24 application to any person or circumstance is held invalid, the  
25 remainder of the act or the application of the provision to other  
26 persons or circumstances is not affected.

27 NEW SECTION. **Sec. 14.** Sections 3 through 6, 8, and 10 through 12  
28 of this act constitute a new chapter in Title 80 RCW.

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