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**SUBSTITUTE SENATE BILL 6323**

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**State of Washington**

**65th Legislature**

**2018 Regular Session**

**By** Senate Energy, Environment & Technology (originally sponsored by Senators Hobbs and Brown)

READ FIRST TIME 02/01/18.

1 AN ACT Relating to extending the business and occupation tax  
2 exemption for amounts received as credits against contracts with or  
3 funds provided by the Bonneville power administration and used for  
4 low-income ratepayer assistance; amending RCW 82.04.310; creating a  
5 new section; and providing an effective date.

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

7 NEW SECTION. **Sec. 1.** This section is the tax preference  
8 performance statement for the tax preference contained in section 2,  
9 chapter . . . , Laws of 2018 (section 2 of this act). This performance  
10 statement is only intended to be used for subsequent evaluation of  
11 the tax preference. It is not intended to create a private right of  
12 action by any party or be used to determine eligibility for  
13 preferential tax treatment.

14 (1) The legislature categorizes this tax preference as one  
15 intended to induce certain designated behavior by taxpayers, as  
16 indicated in RCW 82.32.808(2)(a), and also to create low-income  
17 ratepayer tax and utility rate relief under RCW 82.32.808(2)(e).

18 (2) The legislature's specific public policy objectives are to:

19 (a) Increase investment in energy efficiency and conservation  
20 programs;

1 (b) Support efforts by utilities to acquire all cost-effective  
2 energy conservation as required under state law; and

3 (c) To increase funds dedicated to low-income ratepayer  
4 assistance in Washington.

5 (3) To support the objectives in subsection (2) of this section,  
6 it is the legislature's intent to make permanent the exemption from  
7 business and occupation tax amounts received by utilities in the form  
8 of credits against power contracts or received from the Bonneville  
9 power administration for energy conservation purposes, if the tax  
10 savings are used by utilities for low-income ratepayer assistance  
11 programs. This exemption will induce utilities to invest funds in  
12 energy conservation and efficiency programs, thereby reducing the  
13 amount of electric energy that such utilities must either generate or  
14 purchase, thereby reducing energy costs to utilities and customers.  
15 Further, state laws mandating utilities to acquire energy through  
16 both energy conservation and the purchase of eligible renewable  
17 resources can increase the cost of energy to ratepayers. Therefore,  
18 it is the legislature's intent that this exemption from the business  
19 and occupation tax apply only to the extent the tax amounts that  
20 would otherwise be owed on credits or refunds from the Bonneville  
21 power administration are used by a utility for low-income ratepayer  
22 assistance, and that the funds generated for low-income ratepayer  
23 assistance be additive to any existing funds used by the utility for  
24 that purpose.

25 (4) To measure the effectiveness of the exemption provided in  
26 this act in achieving the specific public policy objectives described  
27 in subsection (2) of this section, the joint legislative audit and  
28 review committee must, at a minimum:

29 (a) Evaluate the average annual investment in energy conservation  
30 projects by Washington state utilities that have power contracts with  
31 the Bonneville power administration; and

32 (b) Evaluate the average additional funds from the tax savings  
33 resulting from this act that are dedicated to low-income ratepayer  
34 assistance by Washington state utilities that have power contracts  
35 with the Bonneville power administration.

36 **Sec. 2.** RCW 82.04.310 and 2014 c 216 s 302 are each amended to  
37 read as follows:

38 (1) This chapter does not apply to any person in respect to a  
39 business activity with respect to which tax liability is specifically

1 imposed under the provisions of chapter 82.16 RCW including amounts  
2 derived from activities for which a deduction is allowed under RCW  
3 82.16.050. The exemption in this subsection does not apply to sales  
4 of natural gas, including compressed natural gas and liquefied  
5 natural gas, by a gas distribution business, if such sales are exempt  
6 from the tax imposed under chapter 82.16 RCW as provided in RCW  
7 82.16.310.

8 (2) This chapter does not apply to amounts received by any person  
9 for the sale of electrical energy for resale within or outside the  
10 state.

11 (3)(a) This chapter does not apply to amounts received by any  
12 person for the sale of natural or manufactured gas in a calendar year  
13 if that person sells within the United States a total amount of  
14 natural or manufactured gas in that calendar year that is no more  
15 than twenty percent of the amount of natural or manufactured gas that  
16 it consumes within the United States in the same calendar year.

17 (b) For purposes of determining whether a person has sold within  
18 the United States a total amount of natural or manufactured gas in a  
19 calendar year that is no more than twenty percent of the amount of  
20 natural or manufactured gas that it consumes within the United States  
21 in the same calendar year, the following transfers of gas are not  
22 considered to be the sale of natural or manufactured gas:

23 (i) The transfer of any natural or manufactured gas as a result  
24 of the acquisition of another business, through merger or otherwise;  
25 or

26 (ii) The transfer of any natural or manufactured gas accomplished  
27 solely to comply with federal regulatory requirements imposed on the  
28 pipeline transportation of such gas when it is shipped by a third-  
29 party manager of a person's pipeline transportation.

30 (4) Until January 1, 2029, this chapter does not apply to amounts  
31 received by any person in the form of credits against power contracts  
32 with the Bonneville power administration, or funds provided by the  
33 Bonneville power administration, for the purpose of implementing  
34 energy conservation programs or demand-side management programs, so  
35 long as the amount that would otherwise be owed under this chapter is  
36 used for purposes of low-income ratepayer assistance or  
37 weatherization. Utilities must give priority to uses of funds that  
38 permanently lower energy costs for low-income ratepayers. The funds  
39 generated for low-income ratepayer assistance under this subsection

1 must be additive to and not supplant any existing funds used by the  
2 utility for low-income ratepayer assistance.

3 NEW SECTION. **Sec. 3.** This act takes effect July 1, 2018.

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