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**SUBSTITUTE HOUSE BILL 1330**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By** House Technology & Economic Development (originally sponsored by Representatives Manweller, Tarleton, Fey, and Young)

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; providing an effective date; and declaring an emergency.

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 of this act. This performance statement is only intended to be used  
10 for subsequent evaluation of the tax preference. It is not intended  
11 to create a private right of action by any party or be used to  
12 determine eligibility for preferential tax treatment.

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

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

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

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

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

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

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

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

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

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

36 (1) This chapter does not apply to any person in respect to a  
37 business activity with respect to which tax liability is specifically  
38 imposed under the provisions of chapter 82.16 RCW including amounts  
39 derived from activities for which a deduction is allowed under RCW

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

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

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

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

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

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

28 (4) Until January 1, 2028, this chapter does not apply to amounts  
29 received by any person in the form of credits against power contracts  
30 with the Bonneville power administration, or funds provided by the  
31 Bonneville power administration, for the purpose of implementing  
32 energy conservation programs or demand-side management programs, so  
33 long as the amount that would otherwise be owed under this chapter is  
34 used for purposes of low-income ratepayer assistance. The funds  
35 generated for low-income ratepayer assistance under this subsection  
36 must be additive to and not supplant any existing funds used by the  
37 utility for low-income ratepayer assistance.

38 NEW SECTION. Sec. 3. This act is necessary for the immediate  
39 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes  
2 effect July 1, 2017.

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