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**SENATE BILL 6172**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Senators Braun, Saldaña, and Wilson, C.

Prefiled 01/08/20. Read first time 01/13/20. Referred to Committee on Environment, Energy & Technology.

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 and weatherization; amending RCW  
5 82.04.310; creating a 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 2020 (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 and noncarbon-emitting energy resources as  
3 required under state law; and

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

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

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

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

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

37 **Sec. 2.** RCW 82.04.310 and 2019 c 202 s 2 are each amended to  
38 read as follows:

1 (1) This chapter does not apply to any person in respect to a  
2 business activity with respect to which tax liability is specifically  
3 imposed under the provisions of chapter 82.16 RCW including amounts  
4 derived from activities for which a deduction is allowed under RCW  
5 82.16.050. The exemption in this subsection does not apply to sales  
6 of natural gas, including compressed natural gas and liquefied  
7 natural gas used or sold to manufacture transportation fuel, and  
8 renewable natural gas, by a gas distribution business, if such sales  
9 are exempt from the tax imposed under chapter 82.16 RCW as provided  
10 in RCW 82.16.310.

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

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

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

26 (i) The transfer of any natural or manufactured gas as a result  
27 of the acquisition of another business, through merger or otherwise;  
28 or

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

33 (4) Until January 1, 2030, this chapter does not apply to amounts  
34 received by any person in the form of credits against power contracts  
35 with the Bonneville power administration, or funds provided by the  
36 Bonneville power administration, for the purpose of implementing  
37 energy conservation programs or demand-side management programs, so  
38 long as the amount that would otherwise be owed under this chapter is  
39 used for purposes of low-income ratepayer assistance or  
40 weatherization. The funds generated for low-income ratepayer

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

4 NEW SECTION. **Sec. 3.** This act takes effect July 1, 2020.

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