

Chapter 82.16 RCW
PUBLIC UTILITY TAX

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RCW 82.16.010 Definitions. For the purposes of this chapter, unless otherwise required by the context:

(1) "Express business" means the business of carrying property for public hire on the line of any common carrier operated in this state, when such common carrier is not owned or leased by the person engaging in such business.

(2) "Gas distribution business" means the business of operating a plant or system for the production or distribution for hire or sale of gas, whether manufactured or natural.

(3) "Gross income" means the value proceeding or accruing from the performance of the particular public service or transportation business involved, including operations incidental thereto, but without any deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

(4) "Light and power business" means the business of operating a plant or system for the generation, production or distribution of electrical energy for hire or sale and/or for the wheeling of electricity for others.

(5) "Log transportation business" means the business of transporting logs by truck, except when such transportation meets the definition of urban transportation business or occurs exclusively upon private roads.

(6) "Motor transportation business" means the business (except urban transportation business) of operating any motor propelled vehicle by which persons or property of others are conveyed for hire, and includes, but is not limited to, the operation of any motor propelled vehicle as an auto transportation company (except urban transportation business), common carrier, or contract carrier as defined by RCW 81.68.010 and 81.80.010. However, "motor transportation business" does not mean or include: (a) A log transportation business; or (b) the transportation of logs or other forest products exclusively upon private roads or private highways.

(7) (a) "Public service business" means any of the businesses defined in subsections (1), (2), (4), (6), (8), (9), (10), (12), and (13) of this section or any business subject to control by the state, or having the powers of eminent domain and the duties incident thereto, or any business hereafter declared by the legislature to be of a public service nature, except telephone business and low-level radioactive waste site operating companies as redefined in RCW 81.04.010. It includes, among others, without limiting the scope

hereof: Airplane transportation, boom, dock, ferry, pipe line, toll bridge, toll logging road, water transportation and wharf businesses.

(b) The definitions in this subsection (7)(b) apply throughout this subsection (7).

(i) "Competitive telephone service" has the same meaning as in RCW 82.04.065.

(ii) "Network telephone service" means the providing by any person of access to a telephone network, telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. "Network telephone service" includes the provision of transmission to and from the site of an internet provider via a telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. "Network telephone service" does not include the providing of competitive telephone service, the providing of cable television service, the providing of broadcast services by radio or television stations, nor the provision of internet access as defined in RCW 82.04.297, including the reception of dial-in connection, provided at the site of the internet service provider.

(iii) "Telephone business" means the business of providing network telephone service. It includes cooperative or farmer line telephone companies or associations operating an exchange.

(iv) "Telephone service" means competitive telephone service or network telephone service, or both, as defined in (b)(i) and (ii) of this subsection.

(8) "Railroad business" means the business of operating any railroad, by whatever power operated, for public use in the conveyance of persons or property for hire. It shall not, however, include any business herein defined as an urban transportation business.

(9) "Railroad car business" means the business of operating stock cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any other kinds of cars used for transportation of property or persons upon the line of any railroad operated in this state when such railroad is not owned or leased by the person engaging in such business.

(10) "Telegraph business" means the business of affording telegraphic communication for hire.

(11) "Tugboat business" means the business of operating tugboats, towboats, wharf boats or similar vessels in the towing or pushing of vessels, barges or rafts for hire.

(12) "Urban transportation business" means the business of operating any vehicle for public use in the conveyance of persons or property for hire, insofar as (a) operating entirely within the corporate limits of any city or town, or within five miles of the corporate limits thereof, or (b) operating entirely within and between cities and towns whose corporate limits are not more than five miles apart or within five miles of the corporate limits of either thereof. Included herein, but without limiting the scope hereof, is the business of operating passenger vehicles of every type and also the business of operating cartage, pickup, or delivery services, including in such services the collection and distribution of property arriving from or destined to a point within or without the state, whether or not such collection or distribution be made by the person performing a local or interstate line-haul of such property.

(13) "Water distribution business" means the business of operating a plant or system for the distribution of water for hire or sale.

(14) The meaning attributed, in chapter 82.04 RCW, to the term "tax year," "person," "value proceeding or accruing," "business," "engaging in business," "in this state," "within this state," "cash discount" and "successor" shall apply equally in the provisions of this chapter. [2015 3rd sp.s. c 6 § 702. Prior: (2010 c 106 § 224 expired June 30, 2013); 2009 c 535 § 1110; (2009 c 469 § 701 expired June 30, 2013); 2007 c 6 § 1023; 1996 c 150 § 1; 1994 c 163 § 4; 1991 c 272 § 14; 1989 c 302 § 203; prior: 1989 c 302 § 102; 1986 c 226 § 1; 1983 2nd ex.s. c 3 § 32; 1982 2nd ex.s. c 9 § 1; 1981 c 144 § 2; 1965 ex.s. c 173 § 20; 1961 c 293 § 12; 1961 c 15 § 82.16.010; prior: 1959 ex.s. c 3 § 15; 1955 c 389 § 28; 1949 c 228 § 10; 1943 c 156 § 10; 1941 c 178 § 12; 1939 c 225 § 20; 1937 c 227 § 11; 1935 c 180 § 37; Rem. Supp. 1949 § 8370-37.]

Tax preference performance statement—2015 3rd sp.s. c 6 §§ 702 and 703: "This section is the tax preference performance statement for the tax preference contained in sections 702 and 703 of this act. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2)(e).

(2) It is the legislature's specific public policy objective to support the forest products industry due in part to the industry's efforts to support the local economy by focusing on Washington state based resources thereby reducing global environmental impacts through the manufacturing and use of wood. It is the legislature's intent to provide the forest products industry permanent tax relief by lowering the public utility tax rate attributable to log transportation businesses. Because this reduced public utility rate is intended to be permanent, the reduced rate established in this Part VII is not subject to the ten-year expiration provision in RCW 82.32.805(1)(a)." [2015 3rd sp.s. c 6 § 701.]

Effective date—2015 3rd sp.s. c 6 §§ 702 and 703: "Part VII of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect August 1, 2015." [2015 3rd sp.s. c 6 § 2302.]

Expiration date—2010 c 106 § 224: "Section 224 of this act expires June 30, 2013." [2010 c 106 § 410.]

Effective date—2010 c 106: See note following RCW 35.102.145.

Intent—Construction—2009 c 535: See notes following RCW 82.04.192.

Expiration date—2009 c 469 §§ 701 and 702: "Sections 701 and 702 of this act expire June 30, 2013." [2009 c 469 § 905.]

Effective date—2009 c 469: See note following RCW 82.08.962.

Part headings not law—Savings—Effective date—Severability—2007 c 6: See notes following RCW 82.32.020.

Findings—Intent—2007 c 6: See note following RCW 82.14.390.

Effective date—1996 c 150: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 25, 1996]." [1996 c 150 § 3.]

Effective dates—1991 c 272: See RCW 81.108.901.

Finding, purpose—1989 c 302: See note following RCW 82.04.120.

Effective date—1986 c 226: "This act shall take effect July 1, 1986." [1986 c 226 § 3.]

Construction—Severability—Effective dates—1983 2nd ex.s. c 3: See notes following RCW 82.04.255.

Effective date—1982 2nd ex.s. c 9: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect August 1, 1982." [1982 2nd ex.s. c 9 § 4.]

Intent—1981 c 144: "The legislature recognizes that there have been significant changes in the nature of the telephone business in recent years. Once solely the domain of regulated monopolies, the telephone business has now been opened up to competition with respect to most of its services and equipment. As a result of this competition, the state and local excise tax structure in the state of Washington has become discriminatory when applied to regulated telephone company transactions that are similar in nature to those consummated by nonregulated competitors. Telephone companies are forced to operate at a significant state and local tax disadvantage when compared to these nonregulated competitors.

To remedy this situation, it is the intent of the legislature to place telephone companies and nonregulated competitors of telephone companies on an equal excise tax basis with regard to the providing of similar goods and services. Therefore competitive telephone services shall for excise tax purposes only, unless otherwise provided, be treated as retail sales under the applicable state and local business and occupation and sales and use taxes. This shall not affect any requirement that regulated telephone companies have under Title 80 RCW, unless otherwise provided.

Nothing in this act affects the authority and responsibility of the Washington utilities and transportation commission to set fair, just, reasonable, and sufficient rates for telephone service." [1981 c 144 § 1.]

Severability—1981 c 144: "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." [1981 c 144 § 12.]

Effective date—1981 c 144: "This act shall take effect on January 1, 1982." [1981 c 144 § 13.]

Effective date—1965 ex.s. c 173: See note following RCW 82.04.050.

RCW 82.16.020 Public utility tax imposed—Additional tax imposed—Deposit of moneys. (1) There is levied and collected from every person a tax for the act or privilege of engaging within this state in any one or more of the businesses herein mentioned. The tax is equal to the gross income of the business, multiplied by the rate set out after the business, as follows:

(a) Express, sewerage collection, and telegraph businesses: Three and six-tenths percent;

(b) Light and power business: Three and sixty-two one-hundredths percent;

(c) Gas distribution business: Three and six-tenths percent;

(d) Urban transportation business: Six-tenths of one percent;

(e) Vessels under sixty-five feet in length, except tugboats, operating upon the waters within the state: Six-tenths of one percent;

(f) Motor transportation, railroad, railroad car, and tugboat businesses, and all public service businesses other than ones mentioned above: One and eight-tenths of one percent;

(g) Water distribution business: Four and seven-tenths percent;

(h) Log transportation business: One and twenty-eight one-hundredths percent. The reduced rate established in this subsection (1)(h) is not subject to the ten-year expiration provision in RCW 82.32.805(1)(a).

(2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section.

(3) Twenty percent of the moneys collected under subsection (1) of this section on water distribution businesses and sixty percent of the moneys collected under subsection (1) of this section on sewerage collection businesses must be deposited in the education legacy trust account created in RCW 83.100.230 from July 1, 2013, through June 30, 2023, and thereafter in the public works assistance account created in RCW 43.155.050. [2017 3rd sp.s. c 10 § 14; 2015 3rd sp.s. c 6 § 703; 2013 2nd sp.s. c 9 § 7; 2011 1st sp.s. c 48 § 7033; 2011 1st sp.s. c 48 § 7032; (2009 c 469 § 702 expired June 30, 2013); 1996 c 150 § 2; 1989 c 302 § 204; 1986 c 282 § 14; 1985 c 471 § 10; 1983 2nd ex.s. c 3 § 13; 1982 2nd ex.s. c 5 § 1; 1982 1st ex.s. c 35 § 5; 1971 ex.s. c 299 § 12; 1967 ex.s. c 149 § 24; 1965 ex.s. c 173 § 21; 1961 c 293 § 13; 1961 c 15 § 82.16.020. Prior: 1959 ex.s. c 3 § 16; 1939 c 225 § 19; 1935 c 180 § 36; RRS § 8370-36.]

Effective date—Tax preference performance statement—2015 3rd sp.s. c 6 §§ 702 and 703: See notes following RCW 82.16.010.

Intent—Effective dates—2013 2nd sp.s. c 9: See notes following RCW 28A.150.220.

Effective date—2011 1st sp.s. c 48: See note following RCW 39.35B.050.

Effective date—2009 c 469: See note following RCW 82.08.962.

Expiration date—2009 c 469 §§ 701 and 702: See note following RCW 82.16.010.

Effective date—1996 c 150: See note following RCW 82.16.010.

Finding, purpose—1989 c 302: See note following RCW 82.04.120.

Severability—Effective date—1985 c 471: See notes following RCW 82.04.260.

Construction—Severability—Effective dates—1983 2nd ex.s. c 3: See notes following RCW 82.04.255.

Effective date—1982 2nd ex.s. c 5: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect August 1, 1982." [1982 2nd ex.s. c 5 § 2.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Effective dates—Severability—1971 ex.s. c 299: See notes following RCW 82.04.050.

RCW 82.16.023 Tax preferences—Expiration dates. See RCW 82.32.805 for the expiration date of new tax preferences for the tax imposed under this chapter. [2013 2nd sp.s. c 13 § 1708.]

Effective date—2013 2nd sp.s. c 13: See note following RCW 82.04.43393.

RCW 82.16.030 Taxable under each schedule if within its purview. Every person engaging in businesses which are within the purview of two or more of schedules of RCW 82.16.020(1), shall be taxable under each schedule applicable to the businesses engaged in. [1989 c 302 § 205; 1982 1st ex.s. c 35 § 6; 1961 c 15 § 82.16.030. Prior: 1935 c 180 § 38; RRS § 8370-38.]

Finding, purpose—1989 c 302: See note following RCW 82.04.120.

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

RCW 82.16.040 Exemption. The provisions of this chapter shall not apply to persons engaging in one or more businesses taxable under this chapter whose total gross income is less than two thousand

dollars for a monthly period or portion thereof. Any person claiming exemption under this section may be required to file returns even though no tax may be due. If the total gross income for a taxable monthly period is two thousand dollars, or more, no exemption or deductions from the gross operating revenue is allowed by this provision. [1996 c 111 § 4; 1961 c 15 § 82.16.040. Prior: 1959 ex.s. c 3 § 17; 1959 c 197 § 27; 1935 c 180 § 39; RRS § 8370-39.]

Findings—Purpose—Effective date—1996 c 111: See notes following RCW 82.32.030.

RCW 82.16.0421 Exemptions—Sales to electrolytic processing businesses. (Expires July 1, 2029.) (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Chlor-alkali electrolytic processing business" means a person who is engaged in a business that uses more than ten average megawatts of electricity per month in a chlor-alkali electrolytic process to split the electrochemical bonds of sodium chloride and water to make chlorine and sodium hydroxide. A "chlor-alkali electrolytic processing business" does not include direct service industrial customers or their subsidiaries that contract for the purchase of power from the Bonneville power administration as of June 10, 2004.

(b) "Sodium chlorate electrolytic processing business" means a person who is engaged in a business that uses more than ten average megawatts of electricity per month in a sodium chlorate electrolytic process to split the electrochemical bonds of sodium chloride and water to make sodium chlorate and hydrogen. A "sodium chlorate electrolytic processing business" does not include direct service industrial customers or their subsidiaries that contract for the purchase of power from the Bonneville power administration as of June 10, 2004.

(2) Effective July 1, 2004, the tax levied under this chapter does not apply to sales of electricity made by a light and power business to a chlor-alkali electrolytic processing business or a sodium chlorate electrolytic processing business for the electrolytic process if the contract for sale of electricity to the business contains the following terms:

(a) The electricity to be used in the electrolytic process is separately metered from the electricity used for general operations of the business;

(b) The price charged for the electricity used in the electrolytic process will be reduced by an amount equal to the tax exemption available to the light and power business under this section; and

(c) Disallowance of all or part of the exemption under this section is a breach of contract and the damages to be paid by the chlor-alkali electrolytic processing business or the sodium chlorate electrolytic processing business are the amount of the tax exemption disallowed.

(3) The exemption provided for in this section does not apply to amounts received from the remarketing or resale of electricity originally obtained by contract for the electrolytic process.

(4) In order to claim an exemption under this section, the chlor-alkali electrolytic processing business or the sodium chlorate electrolytic processing business must provide the light and power business with an exemption certificate in a form and manner prescribed by the department.

(5) A person receiving the benefit of the exemption provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(6) (a) This section does not apply to sales of electricity made after December 31, 2028.

(b) This section expires July 1, 2029. [2018 c 146 § 2; 2017 c 135 § 34; 2010 c 114 § 133; 2009 c 434 § 1; 2004 c 240 § 1.]

Tax preference performance statement—2018 c 146: "(1) This section is the tax preference performance statement for the tax preference contained in section 2, chapter 146, Laws of 2018. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to create or retain jobs and improve industry competitiveness as indicated in RCW 82.32.808(2) (b) and (c).

(3) It is the legislature's specific public policy objective to maintain the industry competitiveness of electrolytic processing businesses in Washington created under the existing tax exemption in RCW 82.16.0421 and thereby enable such businesses to continue to provide family-wage jobs in our state. The legislature recognizes that since 2004 when the public utility tax exemption in RCW 82.16.0421 was initially enacted, electrolytic processing businesses receiving the exemption have demonstrated the ability to successfully apply their tax savings towards maintaining competitiveness, while still providing family-wage jobs. It is the legislature's intent to extend the expiration date of the existing public utility tax exemption under RCW 82.16.0421 for chlor-alkali electrolytic processing businesses and sodium chlorate electrolytic processing businesses in order to:

(a) Maintain industry competitiveness for such electrolytic processing businesses, who rely on electricity as a primary manufacturing input. The legislature recognizes that these businesses face uncertain electric energy costs and that offsetting tax advantages are available to competing firms outside of Washington; and

(b) Support manufacturing and a skilled workforce by retaining existing family-wage jobs and creating new family-wage jobs in Washington by enabling electrolytic processing businesses to maintain production of chlor-alkali and sodium chlorate at a level that preserves the jobs that were on the payroll of electrolytic processing businesses as of June 7, 2018.

(4) To measure the effectiveness of the tax preference provided in section 2, chapter 146, Laws of 2018 in achieving the specific public policy objective described in subsection (3) of this section, the joint legislative audit and review committee must review the impact of the preference on electricity costs and whether electrolytic processing businesses in the state receive tax treatment similar to the treatment of competing firms in other states. The review must also include an analysis of the number of employees in family-wage jobs employed in electrolytic processing in the state.

(5) The legislature intends to extend the expiration date of the tax exemption in RCW 82.16.0421, if the joint legislative audit and review committee finds that:

(a) Electricity costs are reduced and that Washington electrolytic processing businesses receive similar tax treatment as provided in other states; or

(b) Family-wage jobs in electrolytic processing businesses have been preserved compared to the levels for such jobs as of June 7, 2018.

(6) The joint legislative audit and review committee must make recommendations on how the tax preference can be improved to accomplish the legislative objectives, if the joint legislative audit and review committee finds that:

(a) Electricity costs have not been reduced or that similar tax treatment as provided in other states has not been maintained; or

(b) The number of electrolytic processing business family-wage jobs in Washington has been maintained at less than the levels as of June 7, 2018.

(7) For the purposes of measuring the performance of the tax preference in section 2, chapter 146, Laws of 2018, "family-wage jobs" means jobs paying a wage equal to at least the average manufacturing wage in the county in which the jobs are located.

(8) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to data provided to the department of revenue and the employment security department." [2018 c 146 § 1.]

Effective date—2017 c 135: See note following RCW 82.32.534.

Application—Finding—Intent—2010 c 114: See notes following RCW 82.32.534.

RCW 82.16.045 Exemptions and credits—Pollution control facilities. See chapter 82.34 RCW.

RCW 82.16.046 Exemptions—Operation of state route No. 16. The provisions of this chapter do not apply to amounts received from operating state route number 16 corridor transportation systems and facilities constructed and operated under chapter 47.46 RCW. [1998 c 179 § 5.]

Finding—1998 c 179: See note following RCW 35.21.718.

RCW 82.16.047 Exemptions—Ride sharing. This chapter does not apply to any funds received in the course of ride sharing or ride sharing for persons with special transportation needs in accordance with RCW 46.74.010. [2021 c 135 § 8; 1999 c 358 § 12; 1979 c 111 § 18.]

Effective date—2021 c 135: See note following RCW 46.18.285.

Effective date—1999 c 358 §§ 1 and 3-21: See note following RCW 82.04.3651.

Severability—1979 c 111: See note following RCW 46.74.010.

RCW 82.16.0491 Credit—Contributions to an electric utility rural economic development revolving fund.

(1) The following definitions apply to this section:

(a) "Qualifying project" means a project designed to achieve job creation or business retention, to add or upgrade nonelectrical infrastructure, to add or upgrade health and safety facilities, to accomplish energy and water use efficiency improvements, including renewable energy development, or to add or upgrade emergency services in any designated qualifying rural area.

(b) "Qualifying rural area" means:

(i) A rural county as defined in RCW 82.14.370; or

(ii) Any geographic area in the state that receives electricity from a light and power business with twelve thousand or fewer customers.

(c) "Electric utility rural economic development revolving fund" means a fund devoted exclusively to funding qualifying projects in qualifying rural areas.

(d) "Local board" is (i) a board of directors with at least, but not limited to, three members representing local businesses and community groups who have been appointed by the sponsoring electric utility to oversee and direct the activities of the electric utility rural economic development revolving fund; or (ii) a board of directors of an existing associate development organization serving the qualifying rural area who have been designated by the sponsoring electrical utility to oversee and direct the activities of the electric utility rural economic development revolving fund.

(2) A light and power business shall be allowed a credit against taxes due under this chapter in an amount equal to fifty percent of contributions made in any fiscal year directly to an electric utility rural economic development revolving fund. The credit shall be taken in a form and manner as required by the department. The credit under this section shall not exceed twenty-five thousand dollars per fiscal year per light and power business. The credit may not exceed the tax that would otherwise be due under this chapter. Refunds shall not be granted in the place of credits. Expenditures not used to earn a credit in one fiscal year may not be used to earn a credit in subsequent years, except that this limitation does not apply to expenditures made between January 1, 2004, and March 31, 2004, which expenditures may be used to earn a credit through December 30, 2004.

(3) The right to earn tax credits under this section expires June 30, 2011.

(4) To qualify for the credit in subsection (2) of this section, the light and power business shall establish, or have a local board establish with the business's contribution, an electric utility rural economic development revolving fund which is governed by a local board whose members shall reside or work in the qualifying rural area served by the light and power business. Expenditures from the electric utility rural economic development revolving fund shall be made solely on qualifying projects, and the local board shall have authority to determine all criteria and conditions for the expenditure of funds from the electric utility rural economic development revolving fund, and for the terms and conditions of repayment.

(5) Any funds repaid to the electric utility rural economic development revolving fund by recipients shall be made available for additional qualifying projects.

(6) If at any time the electric utility rural economic development revolving fund is dissolved, any moneys claimed as a tax credit under this section shall either be granted to a qualifying project or refunded to the state within two years of termination.

(7) The total amount of credits that may be used in any fiscal year shall not exceed three hundred fifty thousand dollars in any fiscal year. The department shall allow the use of earned credits on a first-come, first-served basis. Unused earned credits may be carried over to subsequent years.

(8) The following provisions apply to expenditures under subsection (2) of this section made between January 1, 2004, and March 31, 2004:

(a) Credits earned from such expenditures are not considered in computing the statewide limitation set forth in subsection (7) of this section for the period July 1, 2004, through December 31, 2004; and

(b) For the fiscal year ending June 30, 2005, the credit allowed under this section for light and power businesses making expenditures is limited to thirty-seven thousand five hundred dollars. [2008 c 131 § 4; 2004 c 238 § 1; 1999 c 311 § 402.]

Effective date—2008 c 131: See note following RCW 43.160.020.

Finding—2004 c 238: "(1) The legislature finds that accountability and effectiveness are important aspects of setting tax policy. In order to make policy choices regarding the best use of limited state resources the legislature needs information to evaluate whether the stated goals of legislation were achieved.

(2) The goal of the tax credit available to light and power businesses for contributing to an electric utility rural economic development revolving fund in RCW 82.16.0491 is to support qualifying projects that create or retain jobs, add or upgrade health and safety facilities, facilitate energy and water conservation, or develop renewable sources of energy in a qualified area. The goal of this tax credit is achieved when the investment of the revolving funds established under RCW 82.16.0491 have generated capital investment in an amount of four million seven hundred fifty thousand dollars or more within a five-year period." [2004 c 238 § 2.]

Effective date—2004 c 238: "This act takes effect July 1, 2004." [2004 c 238 § 3.]

Findings—Intent—1999 c 311: "The legislature finds that it is necessary to employ multiple approaches to revitalize the economy of Washington state's rural areas. The legislature also finds that where possible, Washington state should develop programs which can complement other private, state, and federal programs. It is the intent of section 402 of this act to complement such rural economic development efforts by creating a public utility tax offset program to help establish locally based electric utility revolving fund programs to be used for economic development and job creation." [1999 c 311 § 401.]

**Part headings and subheadings not law—Effective date—
Severability—1999 c 311:** See notes following RCW 82.14.370.

RCW 82.16.0495 Credit—Electricity sold to a direct service industrial customer. (1) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Direct service industrial customer" means a person who is an industrial customer that contracts for the purchase of power from the Bonneville Power Administration for direct consumption as of May 8, 2001. "Direct service industrial customer" includes a person who is a subsidiary that is more than fifty percent owned by a direct service industrial customer and who receives power from the Bonneville Power Administration pursuant to the parent's contract for power.

(b) "Facility" means a gas turbine electrical generation facility that does not exist on May 8, 2001.

(c) "Average annual employment" means the total employment in this state for a calendar year at the direct service industrial customer's location where electricity from the facility will be consumed.

(2) Effective July 1, 2001, a credit is allowed against the tax due under this chapter on sales of electricity made from a facility to a direct service industrial customer if the contract for sale of electricity to a direct service industrial customer contains the following terms:

(a) Sales of electricity from the facility to the direct service industrial customer will be made for ten consecutive years or more;

(b) The price charged for the electricity will be reduced by an amount equal to the tax credit; and

(c) Disallowance of all or part of the credit under subsection (5) of this section is a breach of contract and the damages to be paid by the direct service industrial customer to the facility are the amount of tax credit disallowed.

(3) The credit is equal to the gross proceeds from the sale of the electricity to a direct service industrial customer multiplied by the rate in effect at the time of the sale for the public utility tax on light and power businesses under RCW 82.16.020. The credit may be used each reporting period for sixty months following the first month electricity is sold from a facility to a direct service industrial customer. Credit under this section is limited to the amount of tax imposed under this chapter. Refunds shall not be given in place of credits and credits may not be carried over to subsequent calendar years.

(4) Application for credit shall be made before the first sale of electricity from a facility to a direct service industrial customer. The application shall be in a form and manner prescribed by the department and shall include but is not limited to information regarding the location of the facility, identification of the direct service industrial customer who will receive electricity from the facility, the projected date of the first sale of electricity to a direct service industrial customer, the date construction is projected to begin or did begin, and the average annual employment in the state of the direct service industrial customer who will receive electricity from the facility for the six calendar years immediately preceding the year in which the application is made. A copy of the contract for sale

of electricity must be attached to the application. The department shall rule on the application within thirty days of receipt.

(5) All or part of the credit shall be disallowed and must be paid if the average of the direct service industrial customer's average annual employment for the five calendar years subsequent to the calendar year containing the first month of sale of electricity from a facility to a direct service industrial customer is less than the six-year average annual employment stated on the application for credit under this section. The direct service industrial customer shall certify to the department and to the facility by June 1st of the sixth calendar year following the calendar year in which the month of first sale occurs the average annual employment for each of the five prior calendar years. All or part of the credit that shall be disallowed and must be paid is commensurate with the decrease in the five-year average of average annual employment as follows:

<u>Decrease in Average Annual Employment Over Five-Year Period</u>	<u>% of Credit to be Paid</u>
Less than 10%	10%
10% or more but less than 25%	25%
25% or more but less than 50%	50%
50% or more but less than 75%	75%
75% or more	100%

(6) (a) Payments on credit that is disallowed shall begin in the sixth calendar year following the calendar year in which the month following the first month of sale of electricity from a facility to a direct service industrial customer occurs. The first payment will be due on or before December 31st with subsequent annual payments due on or before December 31st of the following four years according to the schedule in this subsection.

<u>Payment Year</u>	<u>% of Credit to be Paid</u>
1	10%
2	15%
3	20%
4	25%
5	30%

(b) The department may authorize an accelerated payment schedule upon request of the taxpayer.

(c) Interest shall not be charged on the credit that is disallowed for the sixty-month period the credit may be taken, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed. The debt for credit that is disallowed and must be paid will not be extinguished by insolvency or other failure of the taxpayer. Transfer of ownership of the facility does not affect eligibility for this credit. However, the credit is available to the successor only if the eligibility conditions of this section are met.

(7) The employment security department shall make, and certify to the department of revenue, all determinations of employment under this section as requested by the department. [2001 c 214 § 11.]

Severability—Effective date—2001 c 214: See notes following RCW 80.50.010.

Findings—2001 c 214: See note following RCW 39.35.010.

RCW 82.16.0496 Credit—Clean alternative fuel commercial vehicles—Alternative fuel vehicle infrastructure. (1) (a) (i) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter according to the gross vehicle weight rating of the vehicle and the incremental cost of the vehicle purchased above the purchase price of a comparable conventionally fueled vehicle. The credit is limited, as set forth in the table below, to the lesser of the incremental cost amount or the maximum credit amount per vehicle purchased, and subject to a maximum annual credit amount per vehicle class.

Gross Vehicle Weight	Incremental Cost Amount	Maximum Credit Amount Per Vehicle	Maximum Annual Credit Per Vehicle Class
Up to 14,000 pounds	75% of incremental cost	\$25,000	\$2,000,000
14,001 to 26,500 pounds	75% of incremental cost	\$50,000	\$2,000,000
Above 26,500 pounds	75% of incremental cost	\$100,000	\$2,000,000

(ii) A person who is taxable under this chapter is allowed a credit against the tax imposed in this chapter for up to 50 percent of the cost to purchase alternative fuel vehicle infrastructure, tangible personal property that will become a component of alternative fuel vehicle infrastructure, and installation and construction of alternative fuel vehicle infrastructure, but excluding the cost of property acquisition and site improvement related to the installation of alternative fuel vehicle infrastructure. The credit is subject to a maximum annual credit amount of \$2,000,000.

(b) On September 1st of each year, any unused credits from any category identified in (a) of this subsection must be made available to applicants applying for credits under any other category identified in (a) of this subsection, subject to the maximum annual and total credit amounts identified in this subsection. The credit established in this section and RCW 82.04.4496 is subject to a maximum annual credit amount of \$6,000,000, and a maximum total credit amount of \$32,500,000 beginning July 15, 2015.

(c) The credit provided in (a) (i) of this subsection is available for the lease of a vehicle. The credit amount for a leased vehicle is equal to the credit in (a) (i) of this subsection multiplied by the lease reduction factor. The person claiming the credit for a leased vehicle must be the lessee as identified in the lease contract.

(2) A person who is taxable under this chapter is allowed, subject to the maximum annual credit per category in subsection (1) (a) of this section, a credit against the tax imposed in this chapter for the lesser of \$25,000 or 50 percent of the costs of converting a commercial vehicle to be principally powered by a clean alternative fuel with a United States environmental protection agency certified conversion.

(3) The total credits under subsection (1) (a) (i) of this section may not exceed the lesser of \$250,000 or 25 vehicles per person per calendar year.

(4) A person may not receive credit under this section for amounts claimed as credits under chapter 82.04 RCW.

(5) Credits are available on a first-in-time basis.

(a) The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section, and RCW 82.04.4496, during any calendar year to exceed \$6,000,000. The department must provide notification on its website monthly on the amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide annual limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(b) The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed beginning July 15, 2015, under this section and RCW 82.04.4496 to exceed \$32,500,000. The department must provide notification on its website monthly on the total amount of credits that have been applied for, the amount issued, and the amount remaining before the statewide limit is reached. In addition, the department must provide written notice to any person who has applied to claim tax credits in excess of the limitation in this subsection.

(6) For the purposes of the limits provided in this section, a credit must be counted against such limits for the calendar year in which the credit is earned.

(7) 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. No refunds may be granted for credits under this section.

(8) To claim a credit under this section, the person applying must:

(a) Complete an application for the credit which must include:

(i) The name, business address, and tax identification number of the applicant;

(ii) A quote or unexecuted copy of the purchase requisition or order for the vehicle, infrastructure, infrastructure components, infrastructure construction, or infrastructure installation;

(iii) The type of alternative fuel to be used by the vehicle or supported by the infrastructure;

(iv) The incremental cost of the alternative fuel system for vehicle credits;

(v) The anticipated delivery date of the vehicle, the anticipated delivery date of the infrastructure or infrastructure components, the anticipated construction completion date of the infrastructure, or the anticipated installation completion date of the infrastructure;

(vi) The estimated annual fuel use of the vehicle in the anticipated duties or the estimated annual fuel to be supplied by the infrastructure;

(vii) The gross weight of each vehicle for vehicle credits;

(viii) For leased vehicles, a copy of the lease contract that includes the gross capitalized cost, residual value, and name of the lessee; and

(ix) Any other information deemed necessary by the department to support administration or reporting of the program.

(b) Within 15 days of notice of credit availability from the department, provide notice of intent to claim the credit including:

(i) A copy of the order for the vehicle or infrastructure-related item, including the total cost for the vehicle or infrastructure-related item;

(ii) The anticipated delivery date of the vehicle or infrastructure or infrastructure component, which must be within one year of acceptance of the credit;

(iii) The anticipated construction or installation completion date of the infrastructure, which must be within two years of acceptance of the credit; and

(iv) Any other information deemed necessary by the department to support administration or reporting of the program.

(c) Provide final documentation within 30 days of receipt of the vehicle or infrastructure or infrastructure components or of completion of construction or installation of the infrastructure, including:

(i) A copy of the final invoice for the vehicle or infrastructure-related items;

(ii) A copy of the factory build sheet or equivalent documentation;

(iii) The vehicle identification number of each vehicle;

(iv) The incremental cost of the alternative fuel system for vehicle credits;

(v) Attestations signed by both the seller and purchaser of the vehicle attesting that the incremental cost of the alternative fuel system includes only the costs necessary for the vehicle to run on alternative fuel and no other vehicle options, equipment, or costs; and

(vi) Any other information deemed necessary by the department to support administration or reporting of the program.

(9) A person applying for credit under subsection (8) of this section may apply for multiple vehicles on the same application, but the application must include the required information for each vehicle included in the application. A separate application is required for infrastructure-related items, but all infrastructure-related items at a single location may be included in a single application provided the required information for each infrastructure-related item is included in the application.

(10) To administer the credits, the department must, at a minimum:

(a) Provide notification on its website monthly of the amount of credits that have been applied for, claimed, and the amount remaining before the statewide annual limit and total limit are reached;

(b) Within 15 days of receipt of the application, notify persons applying of the availability of tax credits in the year in which the vehicles or infrastructure applied for are anticipated to be delivered, constructed, or installed;

(c) Within 15 days of receipt of the notice of intent to claim the tax credit, notify the applicant of the approval, denial, or missing information in their notice; and

(d) Within 15 days of receipt of final documentation, review the documentation and notify the person applying of the acceptance of their final documentation.

(11) If a person fails to supply the information as required in subsection (8) of this section, the department must deny the application.

(12)(a) Taxpayers are only eligible for a credit under this section based on:

(i) Sales or leases of new commercial vehicles and qualifying used commercial vehicles with propulsion units that are principally powered by a clean alternative fuel;

(ii) Costs to modify a commercial vehicle, including sales of tangible personal property incorporated into the vehicle and labor or service expenses incurred in modifying the vehicle, to be principally powered by a clean alternative fuel; or

(iii) Sales of alternative fuel vehicle infrastructure or infrastructure components, or the cost of construction or installation of alternative fuel vehicle infrastructure.

(b) A credit is earned when the purchaser or the lessee takes receipt of the qualifying commercial vehicle or infrastructure-related item, the vehicle conversion is complete, or the construction or installation of the infrastructure is complete.

(13) The definitions in RCW 82.04.4496 apply to this section.

(14) A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year.

(15) Credits may be earned under this section from January 1, 2016, until the maximum total credit amount in subsection (1)(b) of this section is reached, except for credits for leased vehicles, which may be earned from July 1, 2016, until the maximum total credit amount in subsection (1)(b) of this section is reached. [2022 c 182 § 308; 2019 c 287 § 13; 2017 c 116 § 2; 2016 c 29 § 2; 2015 3rd sp.s. c 44 § 412.]

Intent—Effective date—2022 c 182: See notes following RCW 70A.65.240.

Effective date—2019 c 287 §§ 8 and 13: See note following RCW 82.04.4496.

Tax preference performance statement—2019 c 287 §§ 8-14: See note following RCW 82.04.4496.

Findings—Intent—2019 c 287: See note following RCW 28B.30.903.

Effective date—2017 c 116: See note following RCW 82.04.4496.

Effective date—2015 3rd sp.s. c 44: See note following RCW 46.68.395.

Short title—Findings—Tax preference performance statement—2015 3rd sp.s. c 44 §§ 411 and 412: See note following RCW 82.04.4496.

RCW 82.16.0497 Credit—Light and power business, gas distribution business. (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Base credit" means the maximum amount of credit against the tax imposed by this chapter that each light and power business or gas distribution business may take each fiscal year as calculated by the department. The base credit is equal to the proportionate share that the total grants received by each light and power business or gas distribution business in the prior fiscal year bears to the total grants received by all light and power businesses and gas distribution businesses in the prior fiscal year multiplied by five million five hundred thousand dollars for fiscal year 2007, and two million five

hundred thousand dollars for all other fiscal years before and after fiscal year 2007.

(b) "Billing discount" means a reduction in the amount charged for providing service to qualifying persons in Washington made by a light and power business or a gas distribution business. Billing discount does not include grants received by the light and power business or a gas distribution business.

(c) "Grant" means funds provided to a light and power business or gas distribution business by the department of commerce or by a qualifying organization.

(d) "Low-income home energy assistance program" means energy assistance programs for low-income households as defined on December 31, 2000, in the low-income home energy assistance act of 1981 as amended August 1, 1999, 42 U.S.C. Sec. 8623 et seq.

(e) "Qualifying person" means a Washington resident who applies for assistance and qualifies for a grant regardless of whether that person receives a grant.

(f) "Qualifying contribution" means money given by a light and power business or a gas distribution business to a qualifying organization, exclusive of money received in the prior fiscal year from its customers for the purpose of assisting other customers.

(g) "Qualifying organization" means an entity that has a contractual agreement with the department of commerce to administer in a specified service area low-income home energy assistance funds received from the federal government and such other funds that may be received by the entity.

(2) Subject to the limitations in this section, a light and power business or a gas distribution business may take a credit each fiscal year against the tax imposed under this chapter.

(a) (i) A credit may be taken for qualifying contributions if the dollar amount of qualifying contributions for the fiscal year in which the tax credit is taken is greater than one hundred twenty-five percent of the dollar amount of qualifying contributions given in fiscal year 2000.

(ii) If no qualifying contributions were given in fiscal year 2000, a credit is allowed for the first fiscal year that qualifying contributions are given. Thereafter, credit is allowed if the qualifying contributions given exceed one hundred twenty-five percent of qualifying contributions given in the first fiscal year.

(iii) The amount of credit is fifty percent of the dollar amount of qualifying contributions given in the fiscal year in which the tax credit is taken.

(b) (i) A credit may be taken for billing discounts if the dollar amount of billing discounts for the fiscal year in which the tax credit is taken is greater than one hundred twenty-five percent of the dollar amount of billing discounts given in fiscal year 2000.

(ii) If no billing discounts were given in fiscal year 2000, a credit is allowed in the first fiscal year that billing discounts are given. Thereafter, credit is allowed if the dollar amount of billing discounts given exceeds one hundred twenty-five percent of billing discounts given in the first fiscal year.

(iii) The amount of credit is fifty percent of the dollar amount of the billing discounts given in the fiscal year in which the tax credit is taken.

(c) The total amount of credit that may be taken for qualifying contributions and billing discounts in a fiscal year is limited to the base credit for the same fiscal year.

(3) (a) (i) Except as provided in (a) (ii) of this subsection, the total amount of credit, statewide, that may be taken in any fiscal year may not exceed two million five hundred thousand dollars.

(ii) The total amount of credit, statewide, that may be taken in fiscal year 2007 may not exceed five million five hundred thousand dollars.

(b) By May 1st of each year starting in 2002, the department of commerce must notify the department of revenue in writing of the grants received in the current fiscal year by each light and power business and gas distribution business.

(4) (a) Not later than June 1st of each year beginning in 2002, the department must publish the base credit for each light and power business and gas distribution business for the next fiscal year.

(b) Not later than July 1st of each year beginning in 2002, application for credit must be made to the department including but not limited to the following information: Billing discounts given by the applicant in fiscal year 2000; qualifying contributions given by the applicant in the prior fiscal year; the amount of money received in the prior fiscal year from customers for the purpose of assisting other customers; the base credit for the next fiscal year for the applicant; the qualifying contributions anticipated to be given in the next fiscal year; and billing discounts anticipated to be given in the next fiscal year. No credit under this section will be allowed to a light and power business or gas distribution business that does not file the application by July 1st.

(c) Not later than August 1st of each year beginning in 2002, the department must notify each applicant of the amount of credit that may be taken in that fiscal year.

(d) The balance of base credits not used by other light and power businesses and gas distribution businesses must be ratably distributed to applicants under the formula in subsection (1)(a) of this section. The total amount of credit that may be taken by an applicant is the base credit plus any ratable portion of unused base credit.

(5) The credit taken under this section is limited to the amount of tax imposed under this chapter for the fiscal year. The credit must be claimed in the fiscal year in which the billing reduction is made. Any unused credit expires. Refunds may not be given in place of credits.

(6) No credit may be taken for billing discounts made before July 1, 2001. Within two weeks of May 8, 2001, the department of commerce must notify the department of revenue in writing of the grants received in fiscal year 2001 by each light and power business and gas distribution business. Within four weeks of May 8, 2001, the department of revenue must publish the base credit for each light and power business and gas distribution business for fiscal year 2002. Within eight weeks of May 8, 2001, application to the department must be made showing the information required in subsection (4)(b) of this section. Within twelve weeks of May 8, 2001, the department must notify each applicant of the amount of credit that may be taken in fiscal year 2002. [2020 c 139 § 26; 2006 c 213 § 1; 2001 c 214 § 13.]

Effective date—2006 c 213: "This act takes effect July 1, 2006."
[2006 c 213 § 2.]

Severability—Effective date—2001 c 214: See notes following RCW 80.50.010.

Findings—2001 c 214: See note following RCW 39.35.010.

RCW 82.16.0498 Credit—Sales of electricity or gas to an aluminum smelter. (1) A person who is subject to tax under this chapter on gross income from sales of electricity, natural gas, or manufactured gas made to an aluminum smelter is eligible for an exemption from the tax in the form of a credit, if the contract for sale of electricity or gas to the aluminum smelter specifies that the price charged for the electricity or gas will be reduced by an amount equal to the credit.

(2) The credit is equal to the gross income from the sale of the electricity or gas to an aluminum smelter multiplied by the corresponding rate in effect at the time of the sale for the public utility tax under RCW 82.16.020.

(3) The exemption provided for in this section does not apply to amounts received from the remarketing or resale of electricity originally obtained by contract for the smelting process.

(4) For the purposes of this section, "aluminum smelter" has the same meaning as provided in RCW 82.04.217. [2004 c 24 § 13.]

Intent—Effective date—2004 c 24: See notes following RCW 82.04.2909.

RCW 82.16.050 Deductions in computing tax. In computing tax there may be deducted from the gross income the following items:

(1) Amounts derived by municipally owned or operated public service businesses, directly from taxes levied for the support or maintenance thereof. This subsection may not be construed to exempt service charges which are spread on the property tax rolls and collected as taxes;

(2) Amounts derived from the sale of commodities to persons in the same public service business as the seller, for resale as such within this state. This deduction is allowed only with respect to water distribution, gas distribution or other public service businesses which furnish water, gas or any other commodity in the performance of public service businesses;

(3) Amounts actually paid by a taxpayer to another person taxable under this chapter as the latter's portion of the consideration due for services furnished jointly by both, if the total amount has been credited to and appears in the gross income reported for tax by the former;

(4) The amount of cash discount actually taken by the purchaser or customer;

(5) The amount of bad debts, as that term is used in 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003, on which tax was previously paid under this chapter;

(6) Amounts derived from business which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(7) Amounts derived from the distribution of water through an irrigation system, for irrigation purposes other than the irrigation of cannabis as defined under RCW 69.50.101;

(8) Amounts derived from the transportation of commodities from points of origin in this state to final destination outside this

state, or from points of origin outside this state to final destination in this state, with respect to which the carrier grants to the shipper the privilege of stopping the shipment in transit at some point in this state for the purpose of storing, manufacturing, milling, or other processing, and thereafter forwards the same commodity, or its equivalent, in the same or converted form, under a through freight rate from point of origin to final destination;

(9) Amounts derived from the transportation of commodities from points of origin in the state to an export elevator, wharf, dock or ship side on tidewater or its navigable tributaries to be forwarded, without intervening transportation, by vessel, in their original form, to interstate or foreign destinations. No deduction is allowed under this subsection when the point of origin and the point of delivery to the export elevator, wharf, dock, or ship side are located within the corporate limits of the same city or town;

(10) Amounts derived from the transportation of agricultural commodities, not including manufactured substances or articles, from points of origin in the state to interim storage facilities in this state for transshipment, without intervening transportation, to an export elevator, wharf, dock, or ship side on tidewater or its navigable tributaries to be forwarded, without intervening transportation, by vessel, in their original form, to interstate or foreign destinations. If agricultural commodities are transshipped from interim storage facilities in this state to storage facilities at a port on tidewater or its navigable tributaries, the same agricultural commodity dealer must operate both the interim storage facilities and the storage facilities at the port.

(a) The deduction under this subsection is available only when the person claiming the deduction obtains a certificate from the agricultural commodity dealer operating the interim storage facilities, in a form and manner prescribed by the department, certifying that:

(i) More than ninety-six percent of all of the type of agricultural commodity delivered by the person claiming the deduction under this subsection and delivered by all other persons to the dealer's interim storage facilities during the preceding calendar year was shipped by vessel in original form to interstate or foreign destinations; and

(ii) Any of the agricultural commodity that is transshipped to ports on tidewater or its navigable tributaries will be received at storage facilities operated by the same agricultural commodity dealer and will be shipped from such facilities, without intervening transportation, by vessel, in their original form, to interstate or foreign destinations.

(b) As used in this subsection, "agricultural commodity" has the same meaning as agricultural product in RCW 82.04.213;

(11) Amounts derived from the production, sale, or transfer of electrical energy for resale within or outside the state or for consumption outside the state;

(12) Amounts derived from the distribution of water by a nonprofit water association and used for capital improvements by that nonprofit water association;

(13) Amounts paid by a sewerage collection business taxable under RCW 82.16.020(1)(a) to a person taxable under chapter 82.04 RCW for the treatment or disposal of sewage;

(14) Amounts derived from fees or charges imposed on persons for transit services provided by a public transportation agency. For the

purposes of this subsection, "public transportation agency" means a municipality, as defined in RCW 35.58.272, and urban public transportation systems, as defined in RCW 47.04.082. Public transportation agencies must spend an amount equal to the reduction in tax provided by this tax deduction solely to adjust routes to improve access for citizens using food banks and senior citizen services or to extend or add new routes to assist low-income citizens and seniors. [2022 c 16 § 162; 2014 c 140 § 25; 2007 c 330 § 1; 2006 c 336 § 1; 2004 c 153 § 308; 2000 c 245 § 1; 1994 c 124 § 12; 1989 c 302 § 103; 1987 c 207 § 1; 1982 2nd ex.s. c 9 § 3; 1977 ex.s. c 368 § 1; 1967 ex.s. c 149 § 25; 1965 ex.s. c 173 § 22; 1961 c 15 § 82.16.050. Prior: 1959 ex.s. c 3 § 18; 1949 c 228 § 11; 1937 c 227 § 12; 1935 c 180 § 40; Rem. Supp. 1949 § 8370-40.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Retroactive effective date—Effective date—2004 c 153: See note following RCW 82.08.0293.

Effective date—Application—2000 c 245 § 1: "(1) Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 31, 2000].

(2) Section 1 of this act applies to all amounts due prior to and after March 31, 2000." [2000 c 245 § 3.]

Finding, purpose—1989 c 302: See note following RCW 82.04.120.

Effective date—1982 2nd ex.s. c 9: See note following RCW 82.16.010.

RCW 82.16.053 Deductions in computing tax—Light and power businesses. (1) In computing tax under this chapter, a light and power business may deduct from gross income the lesser of the amounts determined under subsections (2) through (4) of this section.

(2)(a) Fifty percent of wholesale power cost paid during the reporting period, if the light and power business has fewer than five and one-half customers per mile of line.

(b) Forty percent of wholesale power cost paid during the reporting period, if the light and power business has more than five and one-half but less than eleven customers per mile.

(c) Thirty percent of the wholesale power cost paid during the reporting period, if the light and power business has more than eleven but less than seventeen customers per mile of line.

(d) Zero if the light and power business has more than seventeen customers per mile of line.

(3) Wholesale power cost multiplied by the percentage by which the average retail electric power rates for the light and power business exceed the state average electric power rate. If more than fifty percent of the kilowatt-hours sold by a light and power business are sold to irrigators, then only sales to nonirrigators shall be used to calculate the average electric power rate for that light and power business. For purposes of this subsection, the department shall determine state average electric power rate each year based on the

most recent available data and shall inform taxpayers of its determination.

(4) Four hundred thousand dollars per month. [1996 c 145 § 1; 1994 c 236 § 1.]

Effective date—1996 c 145: "This act shall take effect July 1, 1996." [1996 c 145 § 2.]

Effective date—1994 c 236: "This act shall take effect July 1, 1994." [1994 c 236 § 2.]

RCW 82.16.055 Deductions relating to energy conservation or production from renewable resources. (1) In computing tax under this chapter there must be deducted from the gross income:

(a) An amount equal to the cost of production at the plant for consumption within the state of Washington of:

(i) Electrical energy produced or generated from cogeneration as defined in RCW 82.35.020, as existing on June 30, 2006; and

(ii) Electrical energy or gas produced or generated from renewable energy resources such as solar energy, wind energy, hydroelectric energy, geothermal energy, wood, wood wastes, municipal wastes, agricultural products and wastes, and end-use waste heat; and

(b) Those amounts expended to improve consumers' efficiency of energy end use or to otherwise reduce the use of electrical energy or gas by the consumer.

(2) This section applies only to new facilities for the production or generation of energy from cogeneration or renewable energy resources or measures to improve the efficiency of energy end use on which construction or installation is begun after June 12, 1980, and before January 1, 1990.

(3) Deductions under subsection (1)(a) of this section must be allowed for a period not to exceed thirty years after the project is placed in operation.

(4) Measures or projects encouraged under this section must at the time they are placed in service be reasonably expected to save, produce, or generate energy at a total incremental system cost per unit of energy delivered to end use which is less than or equal to the incremental system cost per unit of energy delivered to end use from similarly available conventional energy resources which utilize nuclear energy or fossil fuels and which the gas or electric utility could acquire to meet energy demand in the same time period.

(5) The department of revenue, after consultation with the utilities and transportation commission in the case of investor-owned utilities and the governing bodies of locally regulated utilities, must determine the eligibility of individual projects and measures for deductions under this section. [2020 c 139 § 27; 1980 c 149 § 3.]

Legislative finding—1980 c 149: See RCW 80.28.024.

Utility rate structures encouraging energy conservation and production from renewable resources: RCW 80.28.025.

RCW 82.16.060 May be taxed under other chapters. Nothing herein shall be construed to exempt persons taxable under the provisions of

this chapter from tax under any other chapters of this title with respect to activities other than those specifically within the provisions of this chapter. [1961 c 15 § 82.16.060. Prior: 1935 c 180 § 41; RRS § 8370-41.]

RCW 82.16.080 Administration. All of the provisions contained in chapter 82.32 RCW shall have full force and application with respect to taxes imposed under the provisions of this chapter. [1961 c 15 § 82.16.080. Prior: 1935 c 180 § 43; RRS § 8370-43.]

RCW 82.16.090 Light or power and gas distribution businesses— Information required on customer billings. (1) Any customer billing issued by a light or power business or gas distribution business that serves a total of more than twenty thousand customers and operates within the state shall include the following information:

(a) The rates and amounts of taxes paid directly by the customer upon products or services rendered by the light and power business or gas distribution business;

(b) The rate, origin and approximate amount of each tax levied upon the revenue of the light and power business or gas distribution business and added as a component of the amount charged to the customer. Taxes based upon revenue of the light and power business or gas distribution business to be listed on the customer billing need not include taxes levied by the federal government or taxes levied under chapters 54.28, 80.24, or 82.04 RCW; and

(c) The total amount of kilowatt-hours of electricity consumed for the most recent twelve-month period or other information that provides the customer with information regarding their energy usage over a twelve-month period.

(2) A light or power business or gas distribution business that serves a total of more than twenty thousand customers and operates within the state may include information regarding rates over the most recent twelve-month period on any customer billing. [2019 c 235 § 5; 1988 c 228 § 1.]

Effective date—1988 c 228: "This act shall take effect on January 1, 1989." [1988 c 228 § 2.]

RCW 82.16.100 Solid waste business not subject to chapter. The business of collection, receipt, transfer, including transportation between any locations, storage, or disposal of solid waste is not subject to this chapter. Any such business activities are subject to taxation under the classification in RCW 82.04.290(2). "Solid waste" for purposes of this section is defined in RCW 82.18.010. [2001 c 320 § 8.]

Effective date—2001 c 320: See note following RCW 11.02.005.

RCW 82.16.110 Renewable energy system cost recovery— Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administrator" means an owner and assignee of a community solar project as defined in subsection (2)(a)(i) of this section that is responsible for applying for the investment cost recovery incentive on behalf of the other owners and performing such administrative tasks on behalf of the other owners as may be necessary, such as receiving investment cost recovery incentive payments, and allocating and paying appropriate amounts of such payments to the other owners.

(2)(a) "Community solar project" means:

(i) A solar energy system that is capable of generating up to seventy-five kilowatts of electricity and is owned by local individuals, households, nonprofit organizations, or nonutility businesses that is placed on the property owned by a cooperating local governmental entity that is not in the light and power business or in the gas distribution business;

(ii) A utility-owned solar energy system that is capable of generating up to seventy-five kilowatts of electricity and that is voluntarily funded by the utility's ratepayers where, in exchange for their financial support, the utility gives contributors a payment or credit on their utility bill for the value of the electricity produced by the project; or

(iii) A solar energy system, placed on the property owned by a cooperating local governmental entity that is not in the light and power business or in the gas distribution business, that is capable of generating up to seventy-five kilowatts of electricity, and that is owned by a company whose members are each eligible for an investment cost recovery incentive for the same customer-generated electricity as provided in RCW 82.16.120.

(b) For the purposes of "community solar project" as defined in (a) of this subsection:

(i) "Company" means an entity that is:

(A) (I) A limited liability company;

(II) A cooperative formed under chapter 23.86 RCW; or

(III) A mutual corporation or association formed under chapter 24.06 RCW; and

(B) Not a "utility" as defined in this subsection (2)(b); and

(ii) "Nonprofit organization" means an organization exempt from taxation under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended, as of January 1, 2009; and

(iii) "Utility" means a light and power business, an electric cooperative, or a mutual corporation that provides electricity service.

(3) "Customer-generated electricity" means a community solar project or the alternating current electricity that is generated from a renewable energy system located in Washington and installed on an individual's, businesses', or local government's real property that is also provided electricity generated by a light and power business. Except for community solar projects, a system located on a leasehold interest does not qualify under this definition. Except for utility-owned community solar projects, "customer-generated electricity" does not include electricity generated by a light and power business with greater than one thousand megawatt-hours of annual sales or a gas distribution business.

(4) "Economic development kilowatt-hour" means the actual kilowatt-hour measurement of customer-generated electricity multiplied by the appropriate economic development factor.

(5) "Local governmental entity" means any unit of local government of this state including, but not limited to, counties,

cities, towns, municipal corporations, quasi-municipal corporations, special purpose districts, and school districts.

(6) "Photovoltaic cell" means a device that converts light directly into electricity without moving parts.

(7) "Renewable energy system" means a solar energy system, an anaerobic digester as defined in RCW 82.08.900, or a wind generator used for producing electricity.

(8) "Solar energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.

(9) "Solar inverter" means the device used to convert direct current to alternating current in a solar energy system.

(10) "Solar module" means the smallest nondivisible self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output.

(11) "Stirling converter" means a device that produces electricity by converting heat from a solar source utilizing a stirling engine. [2011 c 179 § 2. Prior: 2010 c 202 § 1; 2010 c 106 § 225; 2009 c 469 § 504; 2005 c 300 § 2.]

Effective date—2010 c 106: See note following RCW 35.102.145.

Effective date—2009 c 469: See note following RCW 82.08.962.

Findings—Intent—2005 c 300: "The legislature finds that the use of renewable energy resources generated from local sources such as solar and wind power benefit our state by reducing the load on the state's electric energy grid, by providing nonpolluting sources of electricity generation, and by the creation of jobs for local industries that develop and sell renewable energy products and technologies.

The legislature finds that Washington state has become a national and international leader in the technologies related to the solar electric markets. The state can support these industries by providing incentives for the purchase of locally made renewable energy products. Locally made renewable technologies benefit and protect the state's environment. The legislature also finds that the state's economy can be enhanced through the creation of incentives to develop additional renewable energy industries in the state.

The legislature intends to provide incentives for the greater use of locally created renewable energy technologies, support and retain existing local industries, and create new opportunities for renewable energy industries to develop in Washington state." [2005 c 300 § 1.]

Effective date—2005 c 300: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005." [2005 c 300 § 8.]

RCW 82.16.120 Renewable energy system cost recovery—Application to light/power business—Certification—Limitations. (1) (a) Any individual, business, local governmental entity, not in the light and power business or in the gas distribution business, or a participant in a community solar project may apply to the light and power business serving the situs of the system, each fiscal year beginning on July 1,

2005, and ending June 30, 2017, for an investment cost recovery incentive for each kilowatt-hour from a customer-generated electricity renewable energy system.

(b) In the case of a community solar project as defined in RCW 82.16.110(2)(a)(i), the administrator must apply for the investment cost recovery incentive on behalf of each of the other owners.

(c) In the case of a community solar project as defined in RCW 82.16.110(2)(a)(iii), the company owning the community solar project must apply for the investment cost recovery incentive on behalf of each member of the company.

(2)(a) Before submitting for the first time the application for the incentive allowed under subsection (4) of this section, the applicant must submit to the department of revenue and to the climate and rural energy development center at the Washington State University, established under RCW 28B.30.642, a certification in a form and manner prescribed by the department that includes, but is not limited to, the information described in (c) of this subsection.

(b) The department may not accept certifications submitted to the department under (a) of this subsection after September 30, 2017.

(c) The certification must include:

(i) The name and address of the applicant and location of the renewable energy system.

(A) If the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), the certification must also include the name and address of each of the owners of the community solar project.

(B) If the applicant is a company that owns a community solar project as defined in RCW 82.16.110(2)(a)(iii), the certification must also include the name and address of each member of the company;

(ii) The applicant's tax registration number;

(iii) That the electricity produced by the applicant meets the definition of "customer-generated electricity" and that the renewable energy system produces electricity with:

(A) Any solar inverters and solar modules manufactured in Washington state;

(B) A wind generator powered by blades manufactured in Washington state;

(C) A solar inverter manufactured in Washington state;

(D) A solar module manufactured in Washington state;

(E) A stirling converter manufactured in Washington state; or

(F) Solar or wind equipment manufactured outside of Washington state;

(iv) That the electricity can be transformed or transmitted for entry into or operation in parallel with electricity transmission and distribution systems; and

(v) The date that the renewable energy system received its final electrical inspection from the applicable local jurisdiction.

(d) Within thirty days of receipt of the certification the department of revenue must notify the applicant by mail, or electronically as provided in RCW 82.32.135, whether the renewable energy system qualifies for an incentive under this section. The department may consult with the climate and rural energy development center to determine eligibility for the incentive. System certifications and the information contained therein are not confidential tax information under RCW 82.32.330 and are subject to disclosure.

(3) (a) By August 1st of each year through August 1, 2017, the application for the incentive must be made to the light and power business serving the situs of the system by certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system.

(A) If the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), the application must also include the name and address of each of the owners of the community solar project.

(B) If the applicant is a company that owns a community solar project as defined in RCW 82.16.110(2)(a)(iii), the application must also include the name and address of each member of the company;

(ii) The applicant's tax registration number;

(iii) The date of the notification from the department of revenue stating that the renewable energy system is eligible for the incentives under this section; and

(iv) A statement of the amount of kilowatt-hours generated by the renewable energy system in the prior fiscal year.

(b) Within sixty days of receipt of the incentive certification the light and power business serving the situs of the system must notify the applicant in writing whether the incentive payment will be authorized or denied. The business may consult with the climate and rural energy development center to determine eligibility for the incentive payment. Incentive certifications and the information contained therein are not confidential tax information under RCW 82.32.330 and are subject to disclosure.

(c) (i) Persons, administrators of community solar projects, and companies receiving incentive payments must keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of incentive applied for and received. Such records must be open for examination at any time upon notice by the light and power business that made the payment or by the department. If upon examination of any records or from other information obtained by the business or department it appears that an incentive has been paid in an amount that exceeds the correct amount of incentive payable, the business may assess against the person for the amount found to have been paid in excess of the correct amount of incentive payable and must add thereto interest on the amount. Interest is assessed in the manner that the department assesses interest upon delinquent tax under RCW 82.32.050.

(ii) If it appears that the amount of incentive paid is less than the correct amount of incentive payable the business may authorize additional payment.

(4) Except for community solar projects, the investment cost recovery incentive may be paid fifteen cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power business. For community solar projects, the investment cost recovery incentive may be paid thirty cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power business. For the purposes of this section, the rate paid for the investment cost recovery incentive may be multiplied by the following factors:

(a) For customer-generated electricity produced using solar modules manufactured in Washington state or a solar stirling converter manufactured in Washington state, two and four-tenths;

(b) For customer-generated electricity produced using a solar or a wind generator equipped with an inverter manufactured in Washington state, one and two-tenths;

(c) For customer-generated electricity produced using an anaerobic digester, or by other solar equipment or using a wind generator equipped with blades manufactured in Washington state, one; and

(d) For all other customer-generated electricity produced by wind, eight-tenths.

(5) (a) No individual, household, business, or local governmental entity is eligible for incentives provided under subsection (4) of this section for more than five thousand dollars per year.

(b) Except as provided in (c) through (e) of this subsection (5), each applicant in a community solar project is eligible for up to five thousand dollars per year.

(c) Where the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), each owner is eligible for an incentive but only in proportion to the ownership share of the project, up to five thousand dollars per year.

(d) Where the applicant is a company owning a community solar project that has applied for an investment cost recovery incentive on behalf of its members, each member of the company is eligible for an incentive that would otherwise belong to the company but only in proportion to each ownership share of the company, up to five thousand dollars per year. The company itself is not eligible for incentives under this section.

(e) In the case of a utility-owned community solar project, each ratepayer that contributes to the project is eligible for an incentive in proportion to the contribution, up to five thousand dollars per year.

(6) The climate and rural energy development center at Washington State University energy program may establish guidelines and standards for technologies that are identified as Washington manufactured and therefore most beneficial to the state's environment.

(7) The environmental attributes of the renewable energy system belong to the applicant, and do not transfer to the state or the light and power business upon receipt of the investment cost recovery incentive.

(8) No incentive may be paid under this section for kilowatt-hours generated before July 1, 2005, or after June 30, 2017, except as provided in subsections (10) through (12) of this section.

(9) Beginning October 1, 2017, program management, technical review, and tracking responsibilities of the department under this section are transferred to the Washington State University extension energy program. At the earliest date practicable and no later than September 30, 2017, the department must transfer all records necessary for the administration of the remaining incentive payments due under this section to the Washington State University extension energy program.

(10) Participants in the renewable energy investment cost recovery program under this section will continue to receive payments for electricity produced through June 30, 2020, at the same rates their utility paid to participants for electricity produced between July 1, 2015, and June 30, 2016.

(11) In order to continue to receive the incentive payment allowed under subsection (4) of this section, a person or community solar project administrator who has, by September 30, 2017, submitted a complete certification to the department under subsection (2) of this section must apply to the Washington State University extension energy program by April 30, 2018, for a certification authorizing the utility serving the situs of the renewable energy system to annually remit the incentive payment allowed under subsection (4) of this section for each kilowatt-hour generated by the renewable energy system through June 30, 2020.

(12)(a) The Washington State University extension energy program must establish an application process and form by which to collect the system operation data described in RCW 82.16.165(7)(a)(iii) from each person or community solar project administrator applying for a certification under subsection (11) of this section. The Washington State University extension energy program must notify any applicant that providing this data is a condition of certification and that any certification issued pursuant to this section is void as of June 30, 2018, if the applicant has failed to provide the data by that date.

(b) Beginning July 1, 2018, the Washington State University extension energy program must, in a form and manner that is consistent with the roles and processes established under RCW 82.16.165 (19) and (20), calculate for the year and provide to the utility the amount of the incentive payment due to each participant under subsection (11) of this section. [2017 3rd sp.s. c 36 § 3; 2011 c 179 § 3. Prior: 2010 c 202 § 2; 2010 c 106 § 103; 2009 c 469 § 505; 2007 c 111 § 101; 2005 c 300 § 3.]

Findings—Intent—Effective date—2017 3rd sp.s. c 36: See notes following RCW 82.16.130.

Effective date—2010 c 106: See note following RCW 35.102.145.

Effective date—2009 c 469: See note following RCW 82.08.962.

Part headings not law—2007 c 111: "Part headings used in this act are not any part of the law." [2007 c 111 § 401.]

Findings—Intent—Effective date—2005 c 300: See notes following RCW 82.16.110.

RCW 82.16.130 Renewable energy system cost recovery—Light/power business tax credit. (Expires June 30, 2033.) (1) A light and power business is allowed a credit against taxes due under this chapter in an amount equal to:

(a) Incentive payments made in any fiscal year under RCW 82.16.120 and 82.16.165; and

(b) Any fees a utility is allowed to recover pursuant to RCW 82.16.165(5).

(2) The credits must be taken in a form and manner as required by the department. The credit taken under this section for the fiscal year may not exceed one and one-half percent of the business's taxable Washington power sales generated in calendar year 2014 and due under RCW 82.16.020(1)(b) or two hundred fifty thousand dollars, whichever is greater, for incentive payments made for the following:

(a) Renewable energy systems, other than community solar projects, that are certified for an incentive payment as of June 30, 2020; and

(b) Community solar and shared commercial projects that are under precertification status under RCW 82.16.165(7)(b) as of June 30, 2020, and that are certified for an incentive payment in accordance with the terms of that precertification by June 30, 2022.

(3) The credit may not exceed the tax that would otherwise be due under this chapter. Refunds may not be granted in the place of credits. Expenditures not used to earn a credit in one fiscal year may not be used to earn a credit in subsequent years.

(4) For any business that has claimed credit for amounts that exceed the correct amount of the incentive payable under RCW 82.16.120, the amount of tax against which credit was claimed for the excess payments is immediately due and payable. The department may deduct amounts due from future credits claimed by the business.

(a) Except as provided in (b) of this subsection, the department must assess interest but not penalties on the taxes against which the credit was claimed. Interest must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the credit was claimed, and accrues until the taxes against which the credit was claimed are repaid.

(b) A business is not liable for excess payments made in reliance on amounts reported by the Washington State University extension energy program as due and payable as provided under RCW 82.16.165(20), if such amounts are later found to be abnormal or inaccurate due to no fault of the business.

(5) The amount of credit taken under this section is not confidential taxpayer information under RCW 82.32.330 and is subject to disclosure.

(6) The right to earn tax credits for incentive payments made under RCW 82.16.120 expires June 30, 2020. Credits may not be claimed after June 30, 2021.

(7)(a) The right to earn tax credits for incentive payments made under RCW 82.16.165 for the following expires June 30, 2029:

(i) Renewable energy systems, other than community solar projects, that are certified for an incentive payment as of June 30, 2020; and

(ii) Community solar and shared commercial projects that are under precertification status under RCW 82.16.165(7)(b) as of June 30, 2020, and that are certified for an incentive payment in accordance with the terms of that precertification by June 30, 2022.

(b) Credits may not be claimed after June 30, 2030.

(8) This section expires June 30, 2033. [2022 c 212 § 2; 2017 3rd sp.s. c 36 § 4; 2010 c 202 § 3; 2009 c 469 § 506; 2005 c 300 § 4.]

Findings—Intent—Tax preference performance statement exemption—Effective date—2022 c 212: See notes following RCW 82.16.183.

Finding—Intent—2017 3rd sp.s. c 36: "The legislature finds and declares that stimulating local investment in distributed renewable energy generation is an important part of a state energy strategy, helping to increase energy independence from fossil fuels, promote economic development, hedge against the effects of climate change, and attain environmental benefits. The legislature intends to increase the effectiveness of the existing renewable energy investment cost

recovery program by reducing the maximum incentive rate provided for each kilowatt-hour of electricity generated by a renewable energy system over the period of the program and by creating opportunities for broader participation by low-income individuals and others who may not own the premises where a renewable energy system may be installed. The legislature intends to provide an incentive sufficient to promote installation of systems through 2021, at which point the legislature expects that the state's renewable energy industry will be capable of sustained growth and vitality without the cost recovery incentive. The legislature intends for the program to balance the deployment of community solar and shared commercial solar projects in order to support participation in renewable energy generation, and that deployment of community solar projects is balanced among eligible utilities, nonprofits, and local housing authorities, as doing so will support maximum deployment of renewable energy generation throughout the state." [2017 3rd sp.s. c 36 § 1.]

Effective date—2017 3rd sp.s. c 36: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [July 7, 2017]." [2017 3rd sp.s. c 36 § 19.]

Effective date—2009 c 469: See note following RCW 82.08.962.

Findings—Intent—Effective date—2005 c 300: See notes following RCW 82.16.110.

RCW 82.16.150 Light and power business—Liability. Owners of a community solar project as defined in RCW 82.16.110(2)(a) (i) and (iii) must agree to hold harmless the light and power business serving the situs of the system, including any employee, for the good faith reliance on the information contained in an application or certification submitted by an administrator or company. In addition, the light and power business and any employee is immune from civil liability for the good faith reliance on any misstatement that may be made in such application or certification. Should a light and power business or employee prevail upon the defense provided in this section, it is entitled to recover expenses and reasonable attorneys' fees incurred in establishing the defense. [2010 c 202 § 5.]

RCW 82.16.155 Tax preference performance statement—Joint legislative audit and review committee review—Washington State University data collection. (1) This section is the tax preference performance statement for the tax preference and incentives created under RCW 82.16.130 and section 6, chapter 36, Laws of 2017 3rd sp. sess. This performance statement is only intended to be used for subsequent evaluation of the tax preference and incentives. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes the tax preference created under RCW 82.16.130 and incentive payments authorized in section 6, chapter 36, Laws of 2017 3rd sp. sess. as intended to:

(a) Induce participating utilities to make incentive payments to utility customers who invest in renewable energy systems; and

(b) By inducing utilities, nonprofit organizations, and utility customers to acquire and install renewable energy systems, retain jobs in the clean energy sector and create additional jobs.

(3) The legislature's public policy objectives are to:

(a) Increase energy independence from fossil fuels; and

(b) Promote economic development through increasing and improving investment in, development of, and use of clean energy technology in Washington; and

(c) Increase the number of jobs in and enhance the sustainability of the clean energy technology industry in Washington.

(4) It is the legislature's intent to provide the incentives in section 6, chapter 36, Laws of 2017 3rd sp. sess. and RCW 82.16.130 in order to ensure the sustainable job growth and vitality of the state's renewable energy sector. The purpose of the incentive is to reduce the costs associated with installing and operating solar energy systems by persons or entities receiving the incentive.

(5) As part of its 2021 tax preference reviews, the joint legislative audit and review committee must review the tax preferences and incentives in section 6, chapter 36, Laws of 2017 3rd sp. sess. and RCW 82.16.130. The legislature intends for the legislative auditor to determine that the incentive has achieved its desired outcomes if the following objectives are achieved:

(a) Installation of one hundred fifteen megawatts of solar photovoltaic capacity by participants in the incentive program between July 1, 2017, and June 30, 2021; and

(b) Growth of solar-related employment from 2015 levels, as evidenced by:

(i) An increased per capita rate of solar energy-related jobs in Washington, which may be determined by consulting a relevant trade association in the state; or

(ii) Achievement of an improved national ranking for solar energy-related employment and per capita solar energy-related employment, as reported in a nationally recognized report.

(6) In order to obtain the data necessary to perform the review, the joint legislative audit and review committee may refer to data collected by the Washington State University extension energy program and may obtain employment data from the employment security department.

(7) The Washington State University extension energy program must collect, through the application process, data from persons claiming the tax credit under RCW 82.16.130 and persons receiving the incentive payments created in RCW 82.16.165, as necessary, and may collect data from other interested persons as necessary to report on the performance of chapter 36, Laws of 2017 3rd sp. sess.

(8) All recipients of tax credits or incentive payments awarded under this chapter must provide data necessary to evaluate the tax preference performance objectives in this section as requested by the Washington State University extension energy program or the joint legislative audit and review committee. Failure to comply may result in the loss of a tax credit award or incentive payment in the following year. [2017 3rd sp.s. c 36 § 2.]

Findings—Intent—Effective date—2017 3rd sp.s. c 36: See notes following RCW 82.16.130.

RCW 82.16.160 Definitions—Renewable energy tax incentives. The definitions in this section apply throughout this section and RCW 82.16.165, 82.16.170, and 82.16.175 unless the context clearly requires otherwise.

(1) "Administrator" means the utility, nonprofit, or other local housing authority that organizes and administers a community solar project as provided in RCW 82.16.165 and 82.16.170.

(2) "Certification" means the authorization issued by the Washington State University extension energy program establishing a person's eligibility to receive annual incentive payments from the person's utility for the program term.

(3) "Commercial-scale system" means a renewable energy system or systems other than a community solar project or a shared commercial solar project with a combined nameplate capacity greater than twelve kilowatts that meets the applicable system eligibility requirements established in RCW 82.16.165.

(4) "Community solar project" means a solar energy system that has a direct current nameplate generating capacity that is no larger than one thousand kilowatts and meets the applicable eligibility requirements established in RCW 82.16.165 and 82.16.170.

(5) "Consumer-owned utility" has the same meaning as in RCW 19.280.020.

(6) "Customer-owner" means the owner of a residential-scale or commercial-scale renewable energy system, where such owner is not a utility and such owner is a customer of the utility and either owns the premises where the renewable energy system is installed or occupies the premises.

(7) "Electric utility" or "utility" means a consumer-owned utility or investor-owned utility as those terms are defined in RCW 19.280.020.

(8) "Governing body" has the same meaning as provided in RCW 19.280.020.

(9) "Person" means any individual, firm, partnership, corporation, company, association, agency, or any other legal entity.

(10) "Program term" means: (a) For community solar projects, eight years or until cumulative incentive payments for electricity produced by the project reach fifty percent of the total system price, including applicable sales tax, whichever occurs first; and (b) for other renewable energy systems, including shared commercial solar projects, eight years or until cumulative incentive payments for electricity produced by a system reach fifty percent of the total system price, including applicable sales tax, whichever occurs first.

(11) "Renewable energy system" means a solar energy system, including a community solar project, an anaerobic digester as defined in RCW 82.08.900, or a wind generator used for producing electricity.

(12) "Residential-scale system" means a renewable energy system or systems located at a single situs with combined nameplate capacity of twelve kilowatts or less that meets the applicable system eligibility requirements established in RCW 82.16.165.

(13) "Shared commercial solar project" means a solar energy system, owned or administered by an electric utility, with a combined nameplate capacity of greater than one megawatt and not more than five megawatts and meets the applicable eligibility requirements established in RCW 82.16.165 and 82.16.175. [2017 3rd sp.s. c 36 § 5.]

Findings—Intent—Effective date—2017 3rd sp.s. c 36: See notes following RCW 82.16.130.

RCW 82.16.165 Annual production incentive certification. (1) Beginning July 1, 2017, the following persons may submit a one-time application to the Washington State University extension energy program to receive a certification authorizing the utility serving the situs of a renewable energy system in the state of Washington to remit an annual production incentive for each kilowatt-hour of alternating current electricity generated by the renewable energy system:

(a) The utility's customer who is the customer-owner of a residential-scale or commercial-scale renewable energy system;

(b) An administrator of a community solar project meeting the eligibility requirements outlined in RCW 82.16.170 and applies for certification on behalf of each of the project participants; or

(c) A utility or a business under contract with a utility that administers a shared commercial solar project that meets the eligibility requirements in RCW 82.16.175 and applies for certification on behalf of each of the project participants.

(2) No person, business, or household is eligible to receive incentive payments provided under subsection (1) of this section of more than five thousand dollars per year for residential systems or community solar projects, twenty-five thousand dollars per year for commercial-scale systems, or thirty-five thousand dollars per year for shared commercial solar projects.

(3) (a) No new certification may be issued under this section to an applicant who submits a request for or receives an annual incentive payment for a renewable energy system that was certified under RCW 82.16.120, or for a renewable energy system served by a utility that has elected not to participate in the incentive program, as provided in subsection (4) of this section.

(b) The Washington State University extension energy program may issue a new certification for an additional system installed at a situs with a previously certified system so long as the new system meets the requirements of this section and its production can be measured separately from the previously certified system.

(c) The Washington State University extension energy program may issue a recertification for a residential-scale or commercial-scale system if a customer makes investments resulting in an expansion of the system's nameplate capacity. Such recertification expires on the same day as the original certification for the residential-scale or commercial-scale system and applies to the entire system the incentive rates and program rules in effect as of the date of the recertification.

(4) A utility's participation in the incentive program provided in this section is voluntary.

(a) A utility electing to participate in the incentive program must notify the Washington State University extension energy program of such election in writing.

(b) The utility may terminate its voluntary participation in the production incentive program by providing notice in writing to the Washington State University extension energy program to cease issuing new certifications for renewable energy systems that would be served by that utility.

(c) Such notice of termination of participation is effective after fifteen days, at which point the Washington State University extension energy program may not accept new applications for certification of renewable energy systems that would be served by that utility.

(d) Upon receiving a utility's notice of termination of participation in the incentive program, the Washington State University extension energy program must report on its website that customers of that utility are no longer eligible to receive new certifications under the program.

(e) A utility's termination of participation does not affect the utility's obligation to continue to make annual incentive payments for electricity generated by systems that were certified prior to the effective date of the notice. The Washington State University extension energy program must continue to process and issue certifications for renewable energy systems that were received by the Washington State University extension energy program before the effective date of the notice of termination.

(f) A utility that has terminated participation in the program may resume participation upon filing notice with the Washington State University extension energy program.

(5) (a) The Washington State University extension energy program may certify a renewable energy system that is connected to equipment capable of measuring the electricity production of the system and interconnecting with the utility's system in a manner that allows the utility, or the customer at the utility's option, to measure and report to the Washington State University extension energy program the total amount of electricity produced by the renewable energy system.

(b) The Washington State University extension energy program must establish a reporting and fee-for-service system to accept electricity production data from the utility or the customer that is not reported electronically and with the reporting entity selected at the utility's option as described in subsection (19) of this section. The fee-for-service agreement must allow for electronic reporting or reporting by mail, may be specific to individual utilities, and must recover only the program's costs of obtaining the electricity production data and incorporating it into an electronic format. A statement of the amount due for the fee-for-service must be provided to the utility by the Washington State University extension energy program with the report provided to the utility pursuant to subsection (20) (a) of this section. The utility may determine how to assess and remit the fee, and the utility may be allowed a credit for fees paid under this subsection (5) against taxes due, as provided in RCW 82.16.130(1).

(6) The Washington State University extension energy program may issue a certification authorizing annual incentive payments up to the following annual dollar limits:

(a) For community solar projects, five thousand dollars per project participant;

(b) For residential-scale systems, five thousand dollars;

(c) For commercial-scale systems, twenty-five thousand dollars;

and

(d) For shared commercial solar projects, up to thirty-five thousand dollars a year per participant, as determined by the terms of subsection (15) of this section.

(7) (a) To obtain certification under this section, a person must submit to the Washington State University extension energy program an application, including:

(i) A signed statement that the applicant has not previously received a notice of eligibility from the department under RCW 82.16.120 entitling the applicant to receive annual incentive payments for electricity generated by the renewable energy system at the same meter location;

(ii) A signed statement of the total price, including applicable sales tax, paid by the applicant for the renewable energy system;

(iii) System operation data including global positioning system coordinates, tilt, estimated shading, and azimuth;

(iv) Any other information the Washington State University extension energy program deems necessary in determining eligibility and incentive levels, administering the program, tracking progress toward achieving the limits on program participation established in RCW 82.16.130, or facilitating the review of the performance of the tax preferences by the joint legislative audit and review committee, as described in RCW 82.16.155; and

(v) (A) Except as provided in (a) (v) (B) of this subsection (7), the date that the renewable energy system received its final electrical inspection from the applicable local jurisdiction, as well as a copy of the permit or, if the permit is available online, the permit number;

(B) The Washington State University extension energy program may waive the requirement in (a) (v) (A) of this subsection (7), accepting an application and granting provisional certification prior to proof of final electrical inspection. Provisional certification expires one hundred eighty days after issuance, unless the applicant submits proof of the final electrical inspection from the applicable local jurisdiction or the Washington State University extension energy program extends the certification, for a term or terms of thirty days, due to extenuating circumstances; and

(b) (i) Prior to obtaining certification under this subsection, a community solar project or shared commercial solar project must apply for precertification against the remaining funds available for incentive payments under subsection (13) (d) of this section in order to be guaranteed an incentive payment under this section;

(ii) A project applicant of a community solar project or shared commercial solar project must complete an application for certification with the Washington State University extension energy program within less than one year to retain the precertification status described in this subsection; and

(iii) The Washington State University extension energy program may design a reservation or precertification system for an applicant of a residential-scale or commercial-scale renewable energy system.

(8) No incentive payments may be authorized or accrued until the final electrical inspection and executed interconnection agreement are submitted to the Washington State University extension energy program.

(9) Within thirty days of receipt of the application for certification, the Washington State University extension energy program must notify the applicant and, except when a utility is the applicant, the utility serving the situs of the renewable energy system, by mail or electronically, whether certification has been granted. The certification notice must state the rate to be paid per kilowatt-hour of electricity generated by the renewable energy system, as provided in subsection (12) of this section, subject to any applicable cap on total annual payment provided in subsection (6) of this section.

(10) Certification is valid for the program term and entitles the applicant or, in the case of a community solar project or shared commercial solar project, the participant, to receive incentive payments for electricity generated from the date the renewable energy system commences operation, or the date the system is certified, whichever date is later. For purposes of this subsection, the Washington State University extension energy program must define when a renewable energy system commences operation and provide notice of such date to the recipient and the utility serving the situs of the system. Certification may not be retroactively changed except to correct later discovered errors that were made during the original application or certification process.

(11)(a) System certification follows the system if the following conditions are met using procedures established by the Washington State University extension energy program:

(i) The renewable energy system is transferred to a new owner who notifies the Washington State University extension energy program of the transfer; and

(ii) The new owner provides an executed interconnection agreement with the utility serving the premises.

(b) In the event that a community solar project participant terminates their participation in a community solar project, the system certification follows the system and participation may be transferred to a new participant. The administrator of a community solar project must provide notice to the Washington State University extension energy program of any changes or transfers in project participation.

(12) The Washington State University extension energy program must determine the total incentive rate for a new renewable energy system certification by adding to the base rate any applicable made-in-Washington bonus rate. A made-in-Washington bonus rate is provided for a renewable energy system or a community solar project with solar modules made in Washington or with a wind turbine or tower that is made in Washington. Both the base rates and bonus rate vary, depending on the fiscal year in which the system is certified and the type of renewable energy system being certified, as provided in the following table:

Fiscal year of system certification	Base rate - residential-scale	Base rate - commercial-scale	Base rate - community solar	Base rate - shared commercial solar	Made in Washington bonus
2018	\$0.16	\$0.06	\$0.16	\$0.06	\$0.05
2019	\$0.14	\$0.04	\$0.14	\$0.04	\$0.04
2020	\$0.12	\$0.02	\$0.12	\$0.02	\$0.03
2021	\$0.10	\$0.02	\$0.10	\$0.02	\$0.02

(13) The Washington State University extension energy program must cease to issue new certifications:

(a) For community solar projects and shared commercial solar projects in any fiscal year for which the Washington State University extension energy program estimates that fifty percent of the remaining funds for credit available to a utility for renewable energy systems certified under this section as of July 1, 2017, have been allocated to community solar projects and shared commercial solar projects combined;

(b) For commercial-scale systems in any fiscal year for which the Washington State University extension energy program estimates that

twenty-five percent of the remaining funds for credit available to a utility for renewable energy systems certified under this section as of July 1, 2017, have been allocated to commercial-scale systems;

(c) For any renewable energy system served by a utility, if certification is likely to result in incentive payments by that utility, including payments made under RCW 82.16.120, exceeding the utility's available funds for credit under RCW 82.16.130; and

(d) For any renewable energy system, if certification is likely to result in total incentive payments under this section exceeding one hundred ten million dollars.

(14) If the Washington State University extension energy program ceases issuing new certifications during a fiscal year or biennium as provided in subsection (13) of this section, in the following fiscal year or biennium, or when additional funds are available for credit such that the thresholds described in subsection (13) of this section are no longer exceeded, the Washington State University extension energy program must resume issuing new certifications using a method of awarding certifications that results in equitable and orderly allocation of benefits to applicants.

(15) A customer who is a participant in a shared commercial solar project may not receive incentive payments associated with the project greater than the difference between the levelized cost of energy output of the system over its production life and the retail rate for the rate class to which the customer belongs. The levelized cost of the output of the energy must be determined by the utility that administers the shared commercial solar project and must be disclosed, along with an explanation of the limitations on incentive payments contained in this subsection (15), in the contractual agreement with the shared commercial solar project participants.

(16) In order to begin to receive annual incentive payments, a person who has been issued a certification for the incentive as provided in subsection (9) of this section must obtain an executed interconnection agreement with the utility serving the situs of the renewable energy system.

(17) The Washington State University extension energy program must establish a list of equipment that is eligible for the bonus rates described in subsection (12) of this section. The Washington State University extension energy program must, in consultation with the department of commerce, develop technical specifications and guidelines to ensure consistent and predictable determination of eligibility. A solar module is made in Washington for purposes of receiving the bonus rate only if the lamination of the module takes place in Washington. A wind turbine is made in Washington only if it is powered by a turbine or built with a tower manufactured in Washington.

(18) The manufacturer of a renewable energy system component subject to a bonus rate under subsection (12) of this section may apply to the Washington State University extension energy program to receive a determination of eligibility for such bonus rates. The Washington State University extension energy program must publish a list of components that have been certified as eligible for such bonus rates. The Washington State University extension energy program may assess an equipment certification fee to recover its costs. The Washington State University extension energy program must deposit all revenue generated by this fee into the state general fund.

(19) Annually, the utility must report electronically to the Washington State University extension energy program the amount of

gross kilowatt-hours generated by each renewable energy system since the prior annual report. For the purposes of this section, to report electronically means to submit statistical or factual information in alphanumeric form through a website established by the Washington State University extension energy program or in a list, table, spreadsheet, or other nonnarrative format that can be digitally transmitted or processed. The utility may instead opt to report by mail or require program participants to report individually, but if the utility exercises one or more of these options it must negotiate with the Washington State University extension energy program the fee-for-service arrangement described in subsection (5)(b) of this section.

(20)(a) The Washington State University extension energy program must calculate for the year and provide to the utility the amount of the incentive payment due to each participant and the total amount of credit against tax due available to the utility under RCW 82.16.130 that has been allocated as annual incentive payments. Upon notice to the Washington State University extension energy program, a utility may opt to directly perform this calculation and provide its results to the Washington State University extension energy program.

(b) If the Washington State University extension energy program identifies an abnormal production claim, it must notify the utility, the department of revenue, and the applicant, and must recommend withholding payment until the applicant has demonstrated that the production claim is accurate and valid. The utility is not liable to the customer for withholding payments pursuant to such recommendation unless and until the Washington State University extension energy program notifies the utility to resume incentive payments.

(21)(a) The utility must issue the incentive payment within ninety days of receipt of the information required under subsection (20)(a) of this section from the Washington State University extension energy program. The utility must resume the incentive payments withheld under subsection (20)(b) of this section within thirty days of receiving notice from the Washington State University extension energy program that the claim has been demonstrated accurate and valid and payment should be resumed.

(b) A utility is not liable for incentive payments to a customer-owner if the utility has disconnected the customer due to a violation of a customer service agreement, such as nonpayment of the customer's bill, or a violation of an interconnection agreement.

(22) Beginning January 1, 2018, the Washington State University extension energy program must post on its website and update at least monthly a report, by utility, of:

(a) The number of certifications issued for renewable energy systems, including estimated system sizes, costs, and annual energy production and incentive yields for various system types; and

(b) An estimate of the amount of credit that has not yet been allocated for incentive payments under each utility's credit limit and remains available for new renewable energy system certifications.

(23) Persons receiving incentive payments under this section must keep and preserve, for a period of five years for the duration of the consumer contract, suitable records as may be necessary to determine the amount of incentive payments applied for and received. The Washington State University extension energy program may direct a utility to cease issuing incentive payments if the records are not made available for examination upon request. A utility receiving such

a directive is not liable to the applicant for any incentive payments or other damages for ceasing payments pursuant to the directive.

(24) The nonpower attributes of the renewable energy system belong to the utility customer who owns or hosts the system or, in the case of a community solar project or a shared commercial solar project, the participant, and can be kept, sold, or transferred at the utility customer's discretion unless, in the case of a utility-owned community solar or shared commercial solar project, a contract between the customer and the utility clearly specifies that the attributes will be retained by the utility.

(25) All lists, technical specifications, determinations, and guidelines developed under this section must be made publicly available online by the Washington State University extension energy program.

(26) No certification may be issued under this section after June 30, 2021.

(27) The Washington State University extension energy program must collect a one-time fee for applications submitted under subsection (1) of this section of one hundred twenty-five dollars per applicant. The Washington State University extension energy program must deposit all revenue generated by this fee into the state general fund. The Washington State University extension energy program must administer and budget for the program established in RCW 82.16.120, this section, and RCW 82.16.170 in a manner that ensures its administrative costs through June 30, 2022, are completely met by the revenues from this fee. If the Washington State University extension energy program determines that the fee authorized in this subsection is insufficient to cover the administrative costs through June 30, 2022, the Washington State University extension energy program must report to the legislature on costs incurred and fees collected and demonstrate why a different fee amount or funding mechanism should be authorized.

(28) The Washington State University extension energy program may, through a public process, develop any program requirements, policies, and processes necessary for the administration or implementation of this section, RCW 82.16.120, 82.16.155, and 82.16.170. The department is authorized, in consultation with the Washington State University extension energy program, to adopt any rules necessary for administration or implementation of the program established under this section and RCW 82.16.170.

(29) Applications, certifications, requests for incentive payments under this section, and the information contained therein are not deemed tax information under RCW 82.32.330 and are subject to disclosure.

(30) (a) By November 1, 2019, and in compliance with RCW 43.01.036, the Washington State University extension energy program must submit a report to the legislature that includes the following:

(i) The number and types of renewable energy systems that have been certified under this section as of July 1, 2019, both statewide and per participating utility;

(ii) The number of utilities that are approaching or have reached the credit limit established under RCW 82.16.130(2) or the thresholds established under subsection (13) of this section;

(iii) The share of renewable energy systems by type that contribute to each utility's threshold under subsection (13) of this section;

(iv) An assessment of the deployment of community solar projects in the state, including but not limited to the following:

(A) An evaluation of whether or not community solar projects are being deployed in low-income and moderate-income communities, as those terms are defined in RCW 43.63A.510, including a description of any barriers to project deployment in these communities;

(B) A description of the share of community solar projects by administrator type that contribute to each utility's threshold under subsection (13)(a) of this section; and

(C) A description of any barriers to participation by nonprofits and local housing authorities in the incentive program established under this section and under RCW 82.16.170;

(v) The total dollar amount of incentive payments that have been made to participants in the incentive program established under this section to date; and

(vi) The total number of megawatts of solar photovoltaic capacity installed to date by participants in the incentive program established under this section.

(b) By December 31, 2019, the legislature must review the report submitted under (a) of this subsection and determine whether the credit limit established under RCW 82.16.130(2) should be increased to two percent of a light and power business' taxable power sales generated in calendar year 2014 and due under RCW 82.16.020(1)(b) or two hundred fifty thousand dollars, whichever is greater, in order to achieve the legislative intent under section 1, chapter 36, Laws of 2017 3rd sp. sess. [2017 3rd sp.s. c 36 § 6.]

Findings—Intent—Effective date—2017 3rd sp.s. c 36: See notes following RCW 82.16.130.

RCW 82.16.170 Community solar programs—Organization and administration—Certification for incentive payments. (Expires June 30, 2038.)

(1) The purpose of community solar programs is to facilitate broad, equitable community investment in and access to solar power. Beginning July 1, 2017, a community solar administrator may organize and administer a community solar project as provided in this section.

(2) In order to receive certification for the incentive payment provided under RCW 82.16.165(1) by June 30, 2021, a community solar project must have a direct current nameplate capacity that is no more than one thousand kilowatts and must have at least ten participants or at least one participant for every ten kilowatts of direct current nameplate capacity, whichever is greater. A community solar project that has a direct current nameplate capacity greater than five hundred kilowatts must be subject to a standard interconnection agreement with the utility serving the situs of the community solar project. Except for community solar projects authorized under subsection (10) of this section, each participant must be a customer of the utility providing service at the situs of the community solar project.

(3) In order to receive certification for the incentive payment provided under RCW 82.16.183 beginning July 1, 2022, a community solar project must meet the following requirements:

(a) The administrator of the community solar project must be a utility, nonprofit, or tribal housing authority that administers a community solar project on tribal lands or lands held in trust for a

federally recognized tribe by the United States for subscribers who are tribal members, or other local housing authority. The administrator of the community solar project must apply for precertification under RCW 82.16.183 on or after July 1, 2022;

(b) The community solar project must have a direct current nameplate capacity that is greater than 12 kilowatts but no greater than 199 kilowatts, and must have at least two subscribers or one low-income service provider subscriber;

(c) The administrator of the community solar project must provide a verified list of qualifying subscribers;

(d) Verification that an individual household subscriber meets the definition of low-income must be provided to the administrator by an entity with authority to maintain the confidentiality of the income status of the low-income subscriber. If the providing entity incurs costs to verify a subscriber's income status, the administrator must provide reimbursement of those costs;

(e) Except for community solar projects authorized under subsection (10) of this section, each subscriber must be a customer of the utility providing service at the site of the community solar project;

(f) In the event that a low-income subscriber in a community solar project certified under RCW 82.16.183 moves within 120 months of system certification from the household premises of the subscriber's current subscription to another, the subscriber may continue the subscription, provided that the new household premises is served by the utility providing service at the site of the community solar project. In the event that a subscriber is no longer served by that utility or the subscriber terminates participation in a community solar project certified under RCW 82.16.183, the certification follows the system and participation must be transferred by the administrator to a new qualifying subscriber as specified in RCW 82.16.183;

(g) The administrator must include in the application for precertification a project prospectus that demonstrates how the administrator intends to provide direct benefits to qualifying subscribers for the duration of their subscription to the community solar project; and

(h) The length of the subscription term for low-income subscribers must be the same length as for other subscribers, if applicable.

(4) The administrator of a community solar project must administer the project in a transparent manner that allows for fair and nondiscriminatory opportunity for participation by utility customers.

(5) The administrator of a community solar project may establish a reasonable fee to cover costs incurred in organizing and administering the community solar project. Project participants, prior to making the commitment to participate in the project, must be given clear and conspicuous notice of the portion of the incentive payment that will be used for this purpose.

(6) The administrator of a community solar project must maintain and update annually through June 30, 2030, the following information for each project it operates or administers:

(a) Ownership information;

(b) Contact information for technical management questions;

(c) Business address;

(d) Project design details, including project location, output capacity, equipment list, and interconnection information; and

(e) Subscription information, including rates, fees, terms, and conditions.

(7) The administrator of a community solar project must provide the information required in subsection (6) of this section to the Washington State University extension energy program at the time it submits the applications allowed under RCW 82.16.165(1) and 82.16.183.

(8) The administrator of a community solar project must provide each project participant with a disclosure form containing all material terms and conditions of participation in the project, including but not limited to the following:

(a) Plain language disclosure of the terms under which the project participant's share of any incentive payment will be calculated by the Washington State University extension energy program;

(b) Contract provisions regulating the disposition or transfer of the project participant's interest in the project, including any potential costs associated with such a transfer;

(c) All recurring and nonrecurring charges;

(d) A description of the billing and payment procedures;

(e) A description of any compensation to be paid in the event of project underperformance;

(f) Current production projections and a description of the methodology used to develop the projections;

(g) Contact information for questions and complaints; and

(h) Any other terms and conditions of the services provided by the administrator.

(9) A utility may not adopt rates, terms, conditions, or standards that unduly or unreasonably discriminate between utility-administered community solar projects and those administered by another entity.

(10) A public utility district that is engaged in distributing electricity to more than one retail electric customer in the state and a joint operating agency organized under chapter 43.52 RCW on or before January 1, 2017, may enter into an agreement with each other to construct and own a community solar project that is located on property owned by a joint operating agency or on property that receives electric service from a participating public utility district. Each participant of a community solar project under this subsection must be a customer of at least one of the public utility districts that is a party to the agreement with a joint operating agency to construct and own a community solar project.

(11) The Washington utilities and transportation commission must publish, without disclosing proprietary information, a list of the following:

(a) Entities other than utilities, including affiliates or subsidiaries of utilities, that organize and administer community solar projects; and

(b) Community solar projects and related programs and services offered by investor-owned utilities.

(12) If a consumer-owned utility opts to provide a community solar program or contracts with a nonutility administrator to offer a community solar program, the governing body of the consumer-owned utility must publish, without disclosing proprietary information, a list of the nonutility administrators contracted by the utility as part of its community solar program.

(13) Except for parties engaged in actions and transactions regulated under laws administered by other authorities and exempted

under RCW 19.86.170, a violation of this section constitutes an unfair or deceptive act in trade or commerce in violation of chapter 19.86 RCW, the consumer protection act. Acts in violation of chapter 36, Laws of 2017 3rd sp. sess. are not reasonable in relation to the development and preservation of business, and constitute matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(14) Nothing in this section may be construed as intending to preclude persons from investing in or possessing an ownership interest in a community solar project, or from applying for and receiving federal investment tax credits.

(15) This section expires June 30, 2038. [2022 c 212 § 6; 2017 3rd sp.s. c 36 § 7.]

Findings—Intent—Tax preference performance statement exemption—Effective date—2022 c 212: See notes following RCW 82.16.183.

Findings—Intent—Effective date—2017 3rd sp.s. c 36: See notes following RCW 82.16.130.

RCW 82.16.175 Shared commercial solar projects—Organization and administration. (1) The purpose of a shared commercial solar project is to provide an entry point in solar utilization by large load customers in a manner that achieves economies of scale and maximizes system performance without limitations posed by on-site systems where sun exposure is not optimal or structural and other site deficiencies preclude solar development.

(2) Beginning July 1, 2017, a utility may, at its discretion, organize and administer a shared commercial solar project as provided in this section.

(3) A shared commercial solar project must have a direct current nameplate capacity greater than one megawatt and no more than five megawatts and must have at least five participants. To receive incentive payments under RCW 82.16.165, each participant must be a customer of the utility providing service at the situs of the shared commercial solar project and must be located in the state of Washington.

(4) The administrator of a shared commercial solar project must administer the project in a transparent manner.

(5) The administrator of a shared commercial solar project may establish a reasonable fee to cover costs incurred in organizing and administering the shared commercial solar project. Project participants, prior to making the commitment to participate in the project, must be given clear and conspicuous notice of the fees charged by the administrator as authorized under this subsection.

(6) The administrator of a shared commercial solar project must submit to the Washington State University extension energy program at the time it submits an application allowed under RCW 82.16.165(1) project design details, including project location, output capacity, equipment list, and interconnection information.

(7) The administrator of a shared commercial solar project must provide each project participant with a disclosure form containing all material terms and conditions of participation in the project, including but not limited to the following:

(a) All recurring and nonrecurring charges;

- (b) A description of the billing and payment procedures;
 - (c) Production projections and a description of the methodology used to develop the projections;
 - (d) An estimate of the project participant's share of any incentive payment over the life of the contract;
 - (e) A description of contract terms that relate to project underperformance;
 - (f) Contract provisions regulating the disposition or transfer of the project participant's interest in the project, including any potential costs associated with such a transfer;
 - (g) Contact information for questions and complaints; and
 - (h) Any other terms and conditions of the services provided by the administrator.
- (8) If a utility opts to contract with a nonutility administrator to offer a shared commercial solar program, the utility must publish, without disclosing proprietary information, the name of the nonutility administrator contracted by the utility as part of its shared commercial solar program.
- (9) In order to meet the intent of chapter 36, Laws of 2017 3rd sp. sess. of promoting a sustainable, local renewable energy industry, the legislature prefers award of the majority of the installation of shared commercial solar projects be given to contractors based in Washington state. In the event the majority of the installation of a shared commercial solar project is awarded to out-of-state contractors, the administrator must submit to the Washington State University extension energy program the reasons for using out-of-state contractors, the percentage of installation work performed by out-of-state contractors, and a cost comparison of the installation services performed by out-of-state contractors against the same services performed by Washington-based contractors. [2017 3rd sp.s. c 36 § 8.]

Findings—Intent—Effective date—2017 3rd sp.s. c 36: See notes following RCW 82.16.130.

RCW 82.16.180 Solar modules—Sale and installation tax incentives. (1) Any person who sells a solar module to a customer-owner, or who receives compensation from a customer-owner in exchange for installing a solar module for use in a residential-scale system or commercial-scale system in Washington must provide to the customer-owner current information regarding the tax incentives available to the customer-owner under Washington law, including the scheduled expiration date of any tax incentives and the maximum period of time during which the customer-owner may benefit from any tax incentives, based on the law as it existed on the date of sale or installation of the solar module.

(2) The definitions in RCW 82.16.160 apply to this section.

(3) For the purposes of this section, "solar module" has the same meaning as provided in RCW 82.16.110.

(4) The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this section is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act or practice in the conduct of trade or commerce and an unfair method of competition. Violations of this section may be enforced by

the attorney general under the consumer protection act, chapter 19.86 RCW. [2017 3rd sp.s. c 36 § 9.]

Findings—Intent—Effective date—2017 3rd sp.s. c 36: See notes following RCW 82.16.130.

RCW 82.16.182 Community solar projects—Definitions. (Expires June 30, 2038.) (1) The definitions in this section apply throughout this section and RCW 82.16.183 unless the context clearly requires otherwise.

(a) (i) "Administrator" means the utility, nonprofit, tribal housing authority as provided in (a) (ii) of this subsection, or other local housing authority that organizes and administers a community solar project as provided in RCW 82.16.183 and 82.16.170.

(ii) A tribal housing authority may only administer a community solar project on tribal lands or lands held in trust for a federally recognized tribe by the United States for subscribers who are tribal members.

(b) "Certification" means the authorization issued by the Washington State University extension energy program establishing a community solar project administrator's eligibility to receive a low-income community solar incentive payment from the electric utility serving the site of the community solar project, on behalf of, and for the purpose of providing direct benefits to, its low-income subscribers, low-income service provider subscribers, and tribal and public agency subscribers.

(c) (i) "Community solar project" means a solar energy system that:

(A) Has a direct current nameplate capacity that is greater than 12 kilowatts but no greater than 199 kilowatts;

(B) Has, at minimum, either two subscribers or one low-income service provider subscriber; and

(C) Meets the applicable eligibility requirements in RCW 82.16.183.

(ii) A community solar project may include a storage system with a solar energy system.

(d) "Consumer-owned utility" has the same meaning as in RCW 19.280.020.

(e) "Electric utility" or "utility" means a consumer-owned utility or investor-owned utility as those terms are defined in RCW 19.280.020.

(f) "Energy assistance" has the same meaning as provided in RCW 19.405.020.

(g) "Energy burden" has the same meaning as provided in RCW 19.405.020.

(h) "Governing body" has the same meaning as provided in RCW 19.280.020.

(i) (i) "Installed cost" includes only the renewable energy system components and fees that are integral and necessary for the generation and storage of electricity. Components and fees include:

(A) Solar modules and inverters;

(B) Battery systems;

(C) Balance of system, such as racking, wiring, switch gears, and meter bases;

(D) Nonhardware costs incurred up to the date of the final electrical inspection, such as fees associated with engineering, permitting, interconnection, and application;

(E) Labor; and

(F) Sales tax.

(ii) "Installed cost" does not include structures and fixtures that are not integral and necessary to the generation or storage of electricity, such as carports and roofing.

(j) "Interconnection customer" means the person, corporation, partnership, government agency, or other entity that proposes to interconnect, or has executed an interconnection agreement, with the electric utility.

(k) "Low-income" has the same meaning as provided in RCW 19.405.020.

(l) "Low-income service provider" includes, but is not limited to, a local community action agency or local community service agency designated by the department of commerce under chapter 43.63A RCW, local housing authority, tribal housing authority, low-income tribal housing program, affordable housing provider, food bank, or other nonprofit organization that provides services to low-income households as part of their core mission.

(m) "Multifamily residential building" means a building containing more than two sleeping units or dwelling units where occupants are primarily permanent in nature.

(n) "Person" means an individual, firm, partnership, corporation, company, association, agency, or any other legal entity.

(o) "Preferred sites" means rooftops, structures, existing impervious surfaces, landfills, brownfields, previously developed sites, irrigation canals and ponds, stormwater collection ponds, industrial areas, dual-use solar projects that ensure ongoing agricultural operations, and other sites that do not displace critical habitat or productive farmland as defined by state and county planning processes.

(p) "Public agency" means any political subdivision of the state including, but not limited to, municipal and county governments, special purpose districts, and local housing authorities, but does not include state agencies.

(q) (i) Except as otherwise provided in (q) (ii) of this subsection, "qualifying subscriber" means a low-income subscriber, low-income service provider subscriber, tribal agency subscriber, or public agency subscriber.

(ii) For tribal agency subscribers and public agency subscribers, only the portion of their subscription to a community solar project that is demonstrated to benefit low-income beneficiaries, including low-income service providers and services provided to low-income citizens or households, is to be considered a qualifying subscriber.

(r) "Retail electric customer" has the same meaning as in RCW 80.60.010.

(s) "Subscriber" means a retail electric customer of an electric utility who owns or is the beneficiary of one or more units of a community solar project directly interconnected with that same utility.

(t) "Subscription" means an agreement between a subscriber and the administrator of a community solar project.

(2) This section expires June 30, 2038. [2022 c 212 § 4.]

**Findings—Intent—Tax preference performance statement exemption—
Effective date—2022 c 212:** See notes following RCW 82.16.183.

RCW 82.16.183 Community solar projects. (Expires June 30, 2038.)

(1) Beginning July 1, 2022, through June 30, 2033, an administrator of a community solar project meeting the eligibility requirements described in this section and RCW 82.16.170(3) may submit an application to the Washington State University extension energy program to receive a precertification for a community solar project. Projects with precertification applications approved by the Washington State University extension energy program have two years to complete their projects and apply for certification. Projects that have not completed certification within two years may apply to the Washington State University extension energy program for an extension of their precertification status for an additional 180 days if they can demonstrate significant progress during the time they were in precertification status. By certifying qualified projects pursuant to the requirements of this section and RCW 82.16.170(3), the Washington State University extension energy program authorizes the utility serving the site of a community solar project in the state of Washington to remit a one-time low-income community solar incentive payment to the community solar project administrator, who accepts the payment on behalf of, and for the purpose of providing direct benefits to, the project's qualifying subscribers.

(2) A one-time low-income community solar incentive payment remitted to a community solar project administrator for a project certified under this section equals the sum of the following:

(a) An amount, not to exceed \$20,000 per community solar project, equal to the community solar project's administrative costs related to the administrative start-up of the project for qualifying subscribers; and

(b) An amount that does not exceed 100 percent of the proportional cost of the installed cost of the share of the community solar project that provides direct benefits to qualifying subscribers, taking into account any federal tax credits or other federal or nonfederal grants or incentives that the program is benefiting from.

(3) No new certification may be issued under this section for a community solar project that was certified under RCW 82.16.120 or 82.16.165, or for a community solar project served by a utility that has elected not to participate in the incentive program provided in this section.

(4) Community solar projects that are under precertification status under RCW 82.16.165 as of June 30, 2020, may not apply for precertification of that same project for the one-time low-income community solar incentive payment provided in this section.

(5)(a) In addition to the one-time low-income community solar incentive payment under subsection (2) of this section, a participating utility must also provide the following compensation for the generation of electricity from the certified project:

(i) For a community solar project that has an alternating current nameplate capacity no greater than 100 kilowatts, and that is connected behind the electric service meter, compensation must be determined in accordance with RCW 80.60.020 and provided to the retail electric customer receiving service at the situs of the meter.

(ii) For all other community solar projects for which the administrator is not a utility, compensation paid to the interconnection customer must be determined in a written agreement between the interconnection customer and the utility.

(iii) For all other community solar projects for which the administrator is a utility, compensation must be provided directly to subscribers in accordance with subsection (8)(a)(i) of this section.

(iv)(A) When the administrator of a community solar project receives compensation for the generation of electricity from a participating utility, interconnection customer, or from the retail electric customer that is the host for the community solar project, the administrator must provide all of that compensation as a direct benefit to the project subscribers, except as described in (iv)(B) of this subsection.

(B) An administrator may deduct ongoing administrative and maintenance costs from compensation they provide to subscribers from power generation, provided those costs are identified in the subscription agreement or justified to the Washington State University extension energy program. The Washington State University extension energy program shall review any such administrative and maintenance costs justifications for reasonableness and approve, reject, or negotiate changes to the proposal. An administrator may request a change in the deduction for administrative and maintenance costs to the Washington State University extension energy program only if the subscription agreement includes language notifying the subscriber that administrative and maintenance fees are subject to change.

(b) For 10 years after certification, and by March 1st of each year following certification, the administrator must provide the Washington State University extension energy program with signed statements of the following for the preceding year:

(i) The energy production for the period for which compensation is to be provided;

(ii) Each subscriber's units of the project;

(iii) The amount disbursed to each subscriber for the period; and

(iv) The date and amount disbursed to each subscriber.

(6) A utility's participation in the incentive program provided in this section is voluntary.

(a) The utility may terminate its voluntary participation in the program by providing notice in writing to the Washington State University extension energy program to cease accepting new applications for precertification for community solar projects that would be served by that utility. Such notice of termination of participation is effective after 15 days, at which point the Washington State University extension energy program may not accept new applications for precertification for community solar projects that would be served by that utility.

(b) Upon receiving a utility's notice of termination of participation in the incentive program, the Washington State University extension energy program must report on its website that community solar project customers of that utility are no longer eligible to receive new certifications under the program.

(c) A utility that has terminated participation in the program may resume participation upon filing a notice with the Washington State University extension energy program.

(7)(a) The Washington State University extension energy program may issue certifications authorizing incentive payments under this

section in a total statewide amount not to exceed \$100,000,000, and subject to the following biennial dollar limits:

- (i) For fiscal year 2023, \$300,000; and
- (ii) For each biennium beginning on or after July 1, 2023, \$25,000,000.

(b) The Washington State University extension energy program must attempt to equitably distribute incentive funds throughout the state. Considerations for equitable fund distribution, based on precertification applications received from administrators served by utilities voluntarily participating in the program, may include measures to reserve or allocate available funds based on the proportion of public utility taxes collected, the proportion of the state's low-income customers served by each utility based on low-income home energy assistance program data at the department of commerce, measures to achieve an equitable geographic distribution of community solar installations and a diversity of administrative models for community solar projects, and the amount of energy burden reduction for qualifying subscribers relative to the project's cost. If an equitable distribution of funds is not feasible due to a lack of precertification applications, the Washington State University extension energy program may allocate funds based on (a) of this subsection on a first-come, first-served basis.

(c) The Washington State University extension energy program must ensure that at least \$2,000,000 of the statewide total for the entire program is used to support nonprofit organizations' innovative approaches to allocating benefits to subscribers, defining and valuing benefits to be provided to subscribers or other aspects of the subscriber, administrator, system host, and utility relationship.

(d) The Washington State University extension energy program must also ensure that at least \$2,000,000 of the statewide total for the entire program is available to tribal governments and their designated subdivisions and agencies.

(e) The Washington State University extension energy program shall regularly publish and update guidelines for how it manages the allocation of available funding, based on the evaluation of applications and the factors specified in (b) of this subsection.

(f) Beginning in fiscal year 2026, the Washington State University extension energy program may waive the requirements in (c) or (d) of this subsection if it fails to receive applications that meet the criteria of (c) or (d) of this subsection sufficient to result in the full allocation of incentives.

(8) (a) Prior to obtaining certification under this section, the administrator of a community solar project must apply for precertification against the funds available for incentive payments under subsection (7) of this section in order to be guaranteed an incentive payment under this section. The application for precertification must include, at a minimum:

- (i) A demonstration of how the project will deliver continuing direct benefits to low-income subscribers. A direct benefit can include credit for the power generation for the community solar project or other mechanisms that lower the energy burden of a low-income subscriber; and

- (ii) Any other information the Washington State University extension energy program deems necessary in determining eligibility for precertification.

(b) The administrator of a community solar project must complete an application for certification in accordance with the requirements

of subsection (9) of this section within less than two years of being approved for precertification status. The administrator must submit a project update to the Washington State University extension energy program after one year in precertification status.

(9) To obtain certification for the one-time community solar incentive payment provided under this section, a project administrator must submit to the Washington State University extension energy program an application, including, at a minimum:

(a) A signed statement that the applicant has not previously received a notice of eligibility from the department under RCW 82.16.120 or the Washington State University extension energy program under RCW 82.16.165 entitling the applicant to receive annual incentive payments for electricity generated by the community solar project at the same meter location;

(b) A signed statement of the costs paid by the administrator related to administering the project for qualifying subscribers;

(c) A signed statement of the total project costs, including the proportional cost of the share of the community solar project that provides direct benefits to qualifying subscribers;

(d) A signed statement describing the amount of the upfront incentive and the timing, method, and distribution of estimated benefits to qualifying subscribers. The statement must describe any estimated energy burden reduction associated with the direct benefits;

(e) Available system operation data, such as global positioning system coordinates, tilt, estimated shading, and azimuth;

(f) Any other information the Washington State University extension energy program deems necessary in determining eligibility and incentive levels or administering the program;

(g) (i) Except as provided in (g) (ii) of this subsection (9), the date that the community solar project received its final electrical inspection from the applicable local jurisdiction, as well as a copy of the permit or, if the permit is available online, the permit number or other documentation deemed acceptable by the Washington State University extension energy program;

(ii) The Washington State University extension energy program may waive the requirement in (g) (i) of this subsection (9), accepting an application and granting provisional certification prior to proof of final electrical inspection. Provisional certification expires 180 days after issuance, unless the applicant submits proof of the final electrical inspection from the applicable local jurisdiction or the Washington State University extension energy program extends certification, for a term or terms of 30 days, due to extenuating circumstances;

(h) Confirmation of the number of qualifying subscribers;

(i) A copy of the executed agreement describing how benefits will be determined and distributed from the retail electric customer or interconnection customer to the administrator if the administrator and the retail electric customer or interconnection customer are not the same. The Washington State University extension energy program must review the executed agreement to determine that benefits are being fairly determined and that there is an adequate plan for distributing the benefits; and

(j) Any other information the Washington State University extension energy program deems necessary in determining eligibility and incentive levels or administering the program.

(10) No incentive payments may be authorized or accrued until the final electrical inspection and executed interconnection agreement are submitted to the Washington State University extension energy program.

(11) (a) The Washington State University extension energy program must review each project for which an application for certification is submitted in accordance with subsection (8) of this section for reasonable cost and financial structure, with a targeted installed cost for the solar energy system of \$2 per watt direct current for systems over 200 kilowatts and \$2.25 per watt direct current for systems equal to or under 200 kilowatts. For solar energy systems that include storage systems, the targeted installed cost of the storage system is \$600 per kilowatt-hour of storage capacity.

(b) The Washington State University extension energy program may approve an application for a project that costs more or less than the targeted installed costs under (a) of this subsection based on a review of the project, documents submitted by the project applicant, and available data. Project cost evaluations may include costs associated with energy storage systems and electrical system improvements to permit grid-independent operation. Applicants may petition the Washington State University extension energy program to approve a higher cost per watt or per kilowatt-hour for unusual circumstances.

(c) The Washington State University extension energy program may review the cost per watt target under (a) of this subsection prior to each fiscal biennium and is authorized to determine a new cost per watt target.

(12) (a) Within 30 days of receipt of an application for certification, the Washington State University extension energy program must notify the applicant and, except when a utility is the applicant, the utility serving the site of the community solar project, by mail or electronically, whether certification has been granted. The certification notice must state the total dollar amount of the low-income community solar incentive payment for which the applicant is eligible under this section.

(b) Within 60 days of receipt of a notification under (a) of this subsection, the utility serving the site of the community solar project must remit the applicable one-time low-income community solar incentive payment to the project administrator, who accepts the payment on behalf of, and for the purpose of providing direct benefits to, the project's qualifying subscribers.

(13) (a) Certification follows the community solar project if the following conditions are met using procedures established by the Washington State University extension energy program:

(i) The community solar project is transferred to a new owner who notifies the Washington State University extension energy program of the transfer;

(ii) The new owner provides an executed interconnection agreement with the utility serving the site of the community solar project; and

(iii) The new owner agrees to provide equivalent ongoing benefits to qualifying subscribers as the current owner.

(b) In the event that a qualifying subscriber terminates their participation in a community solar project during the first 120 months after project certification, the system certification follows the project and participation must be transferred to a new qualifying subscriber.

(14) Beginning January 1, 2023, the Washington State University extension energy program must post on its website and update at least monthly a report, by utility, of:

(a) The number of certifications issued for community solar projects; and

(b) An estimate of the amount of credit that has not yet been allocated for low-income community solar incentive payments and that remains available for new community solar project certifications in the state.

(15) Persons receiving incentive payments under this section must keep and preserve, for a period of five years for the duration of the consumer contract, suitable records as may be necessary to determine the amount of incentive payments applied for and received.

(16) The nonpower attributes of the community solar project must be retired on behalf of the subscribers unless, in the case of a utility-owned community solar project, a contract between the subscriber that benefits the subscriber clearly states that the attributes will be retained and retired by the utility.

(17) All lists, technical specifications, determinations, and guidelines developed under this section must be made publicly available online by the Washington State University extension energy program.

(18) The Washington State University extension energy program may, through a public process, develop program requirements, policies, and processes necessary for the administration or implementation of this section.

(19) Applications, certifications, requests for incentive payments under this section, and the information contained therein are not deemed tax information under RCW 82.32.330 and are subject to disclosure.

(20) No certification may be issued under this section by the Washington State University extension energy program for a community solar project after June 30, 2035.

(21) Community solar projects certified under this section must be sited on preferred sites to protect natural and working lands as determined by the Washington State University extension energy program.

(22) This section expires June 30, 2038. [2022 c 212 § 5.]

Findings—Intent—2022 c 212: "The legislature finds and declares that stimulating local investment in community solar projects continues to be an important part of a state energy strategy by helping to increase energy independence from fossil fuels, promote economic development, hedge against the effects of climate change, and attain environmental benefits. The legislature finds that although previous community solar programs were successful in stimulating these benefits, the programs failed to provide an adequate framework for low-income participation and long-term market certainty. The legislature finds that the vast majority of Washingtonians still do not have access to the benefits of solar energy. The legislature intends to stimulate the deployment of community solar projects for the benefit of all Washingtonians by funding the renewable energy production incentive program for community solar projects and by creating opportunities for broader participation, especially by low-income households and low-income service providers. As of December 2021, the state is 10.3 megawatts short of the 115 megawatts of solar

photovoltaic capacity established as a goal under RCW 82.16.155. The legislature therefore intends to provide an incentive sufficient to promote installation of community solar projects through June 30, 2033, at which point the legislature expects to review the effectiveness of enhancing access to community solar projects." [2022 c 212 § 1.]

Tax preference performance statement exemption—2022 c 212: "RCW 82.32.808 does not apply to this act." [2022 c 212 § 7.]

Effective date—2022 c 212: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 30, 2022]." [2022 c 212 § 8.]

RCW 82.16.184 Credit—Community solar projects. (Expires June 30, 2038.) (1) Beginning July 1, 2022, a light and power business is allowed a credit against taxes due under this chapter in an amount equal to incentive payments made in any fiscal year under RCW 82.16.183.

(2) The credits must be taken in a form and manner as required by the department. The credit taken under this section for the fiscal year may not exceed 1.5 percent of the business's taxable Washington power sales generated in calendar year 2014 and due under RCW 82.16.020(1)(b) or \$250,000, whichever is greater, for incentive payments made for community solar projects that submit an application for precertification under RCW 82.16.183 on or after July 1, 2022, and that are certified for an incentive payment in accordance with the terms of that precertification by June 30, 2033.

(3) The credit may not exceed the tax that would otherwise be due under this chapter. Refunds may not be granted in the place of credits.

(4) For any business that has claimed credit for amounts that exceed the correct amount of the incentive payable under RCW 82.16.183, the amount of tax against which credit was claimed for the excess payments is immediately due and payable. The department may deduct amounts from future credits claimed by the business.

(a) Except as provided in (b) of this subsection, the department must assess interest but not penalties on the taxes against which the credit was claimed. Interest may be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the credit was claimed, and accrues until the taxes against which the credit was claimed are repaid.

(b) A business is not liable for excess payments made in reliance on amounts reported by the Washington State University extension energy program as due and payable as provided under RCW 82.16.183, if such amounts are later found to be abnormal or inaccurate due to no fault of the business.

(5) The amount of credit taken under this section is not confidential taxpayer information under RCW 82.32.330 and is subject to disclosure.

(6) The right to earn tax credits for incentive payments made under RCW 82.16.183 expires June 30, 2036. Credits may not be claimed under this section after June 30, 2037.

(7) This section expires June 30, 2038. [2022 c 212 § 3.]

Findings—Intent—Tax preference performance statement exemption—
Effective date—2022 c 212: See notes following RCW 82.16.183.

RCW 82.16.185 Credit—State energy performance standard—Early adoption incentive program. (Expires June 30, 2032.) (1) Subject to the requirements of this section, a light and power business or a gas distribution business is allowed a credit against taxes due under this chapter in an amount equal to:

(a) Incentive payments made in any calendar year under RCW 19.27A.220; and

(b) Documented administrative cost not to exceed eight percent of the incentive payments.

(2) The credit must be taken in a form and manner as required by the department.

(3) Credit must be claimed against taxes due under this chapter for the incentive payments made and administrative expenses incurred. Credit earned in one calendar year may not be carried backward but may be claimed against taxes due under this chapter during the same calendar year and for the following two calendar years. The credit may not exceed the tax that would otherwise be due under this chapter. Refunds may not be granted in the place of a credit.

(4) (a) Except as provided in (c) of this subsection, any business that has claimed credit in excess of the amount of credit the business earned under subsection (1) of this section must repay the amount of tax against which the excess credit was claimed.

(b) The department must assess interest on the taxes due under this subsection. Interest must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the credit was claimed, and accrues until the taxes against which the credit was claimed are repaid. The department must provide written notice of the amount due under this subsection and that the amount due must be paid within thirty days of the date of the notice. The department may not impose penalties as provided in chapter 82.32 RCW on taxes due under this subsection unless the amount due is not paid in full by the due date in the notice.

(c) A business is not liable for excess credits claimed in reliance on amounts reported to the business by the department of commerce as due and payable as provided under RCW 19.27A.220, if such amounts are later found to be abnormal or inaccurate due to no fault of the business.

(5) The amount of credit taken under this section and the identity of a business that takes the credit is not confidential taxpayer information under RCW 82.32.330 and is subject to disclosure.

(6) This section expires June 30, 2032. [2019 c 285 § 8.]

Tax preference performance statement—2019 c 285 § 8: "This section is the tax preference performance statement for the tax preference contained in section 8, chapter 285, Laws of 2019. This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to induce implementation of building energy efficiency measures, as indicated in RCW 19.27A.220.

(2) It is the legislature's specific public policy objective to increase energy efficiency and the use of renewable fuels that reduce the amount of greenhouse gas emissions in Washington. It is the legislature's intent to provide a credit against the taxes owing by utilities under chapter 82.16 RCW for the incentives provided for the implementation by eligible building owners of energy efficiency and renewable energy measures.

(3) If a review finds that measurable energy savings have increased in covered commercial buildings for which building owners are receiving an incentive payment from a qualifying utility, then the legislature intends to extend the expiration date of the tax preference.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the joint legislative audit and review committee may refer to the number of building owners receiving an incentive payment from qualifying utilities taking the public utility tax preference under RCW 82.16.185, the amount of the incentive payment, and the energy use intensity reduction of the buildings as a result of the incentive program, as reported by the department of commerce." [2019 c 285 § 7.]

RCW 82.16.187 Credit—Alternative jet fuel. (Effective July 1, 2024.) (1) (a) Subject to the limits and provisions of this section, a credit is allowed against the tax otherwise due under this chapter for persons engaged in the use of alternative jet fuel.

(b) Except as provided in (c) of this subsection, the credit under this section is equal to \$1 for each gallon of alternative jet fuel that has at least 50 percent less carbon dioxide equivalent emissions than conventional petroleum jet fuel and is purchased during the prior calendar year by a business for use as alternative jet fuel for flights departing in this state.

(c) The credit amount under (b) of this subsection must increase by 2 cents for each additional one percent reduction in carbon dioxide equivalent emissions beyond 50 percent, not to exceed \$2 for each gallon of alternative jet fuel.

(d) The credit under this section is calculated only on the portion of jet fuel that is considered alternative jet fuel and does not include conventional petroleum jet fuel when such fuels are blended or otherwise used in a jet fuel mixture.

(e) A credit under this section may not be claimed until the department of ecology verifies that there are one or more facilities operating in this state with cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year and has provided such notice to the department.

(2) A person may not receive credit under this section for amounts claimed as credits under chapter 82.04 RCW.

(3) 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.

(4) To claim a credit under this section, the person applying must:

(a) Complete an application for the credit which must include:

(i) The name, business address, and tax identification number of the applicant;

(ii) Documentation of the amount of alternative jet fuel purchased by the business in the prior calendar year;

(iii) Documentation sufficient for the department to verify that the alternative jet fuel for which the credit is being claimed meets the definition in RCW 82.04.287(3) and the carbon intensity reduction benchmarks under subsection (1)(b) and (c) of this section, as certified by the department of ecology under chapter 70A.535 RCW; and

(iv) Any other information deemed necessary by the department to support administration or reporting of the program.

(b) Obtain a carbon intensity score from the department of ecology prior to submitting an application to the department.

(5) The department must notify applicants of credit approval or denial within 60 days of receipt of a final application and documentation.

(6) If a person fails to supply the information as required in subsection (4) of this section, the department must deny the application.

(7)(a) The credit under this section may be used against any tax due under this chapter.

(b) A credit earned during one calendar year may be carried over and claimed against taxes incurred for the next subsequent calendar year but may not be carried over for any calendar year thereafter.

(c) No refunds may be granted for credits under this section.

(8) The definitions in RCW 82.04.4361 apply to this section.

(9)(a) Credits may be earned beginning on the first day of the first calendar quarter following the month in which notice under subsection (1)(e) of this section was received by the department.

(b) Credits may not be earned beginning nine calendar years after the close of the calendar year in which the credit may be earned, as provided in (a) of this subsection.

(10) A person claiming the credit provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534. [2023 c 232 § 12.]

Tax preference performance statement—Effective date—2023 c 232 §§ 9-12: See notes following RCW 82.04.287.

Intent—2023 c 232: See note following RCW 70A.535.010.

Automatic expiration date exemption—2023 c 232: See note following RCW 82.04.287.

RCW 82.16.305 Exemptions—Joint municipal utility services authorities. This chapter does not apply to any payments between, or any transfer of assets to or from, a joint municipal utility services authority created under chapter 39.106 RCW and any of its members. [2011 c 258 § 14.]

Short title—Purpose—Intent—2011 c 258: See RCW 39.106.010.

RCW 82.16.310 Exemptions—Sales by a gas distribution business.
(1) The provisions of this chapter do not apply to sales by a gas distribution business of:

(a) Compressed natural gas or liquefied natural gas, where the compressed natural gas or liquefied natural gas is to be sold or used as transportation fuel;

(b) Natural gas from which the buyer manufactures compressed natural gas or liquefied natural gas, where the compressed natural gas or liquefied natural gas is to be sold or used as transportation fuel; or

(c) Renewable natural gas.

(2) The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) For the purposes of this section, "transportation fuel" means fuel for the generation of power to propel a motor vehicle as defined in RCW 46.04.320, a vessel as defined in RCW 88.02.310, or a locomotive or railroad car.

(4) For the purpose of this section, "renewable natural gas" has the same meaning as provided in RCW 54.04.190. [2019 c 202 § 1; 2014 c 216 § 301.]

Automatic expiration date and tax preference performance

statement exemption—2019 c 202: "The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act." [2019 c 202 § 4.]

Effective date—Findings—Tax preference performance statement—2014 c 216: See notes following RCW 82.38.030.

RCW 82.16.315 Exemptions—Sales of electricity or gas to silicon smelters. (Contingent expiration date.) (1) A person who is subject to tax under this chapter on gross income from sales of electricity, natural gas, or manufactured gas made to a silicon smelter is eligible for an exemption from the tax in the form of a credit, if the contract for sale of electricity or gas to the silicon smelter specifies that the price charged for the electricity or gas will be reduced by an amount equal to the credit.

(2) The credit is equal to the gross income from the sale of the electricity or gas to a silicon smelter multiplied by the corresponding rate in effect at the time of the sale for the public utility tax under RCW 82.16.020.

(3) The exemption provided for in this section does not apply to amounts received from the remarketing or resale of electricity originally obtained by contract for the smelting process.

(4) The department must provide a separate tax reporting line for reporting credits under this section by sellers of electricity, natural gas, or manufactured gas.

(5) For purposes of the annual tax performance report required by RCW 82.32.534:

(a) The silicon smelter receiving the benefit of the credit under this section is deemed to be the taxpayer claiming the credit and is required to file the annual tax performance report; and

(b) The person selling the electricity, natural gas, or manufactured gas to the silicon smelter is not required to file the annual tax performance report.

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

(a) "Silicon smelter" means a manufacturing facility that processes silica into solar grade silicon.

(b) "Solar grade silicon" means high-purity silicon used exclusively in components of solar energy systems using photovoltaic modules to capture direct sunlight. "Solar grade silicon" does not include silicon used in semiconductors. [2017 3rd sp.s. c 37 § 703; 2017 3rd sp.s. c 37 § 702.]

Findings—Intent—Tax preference performance statement—2017 3rd sp.s. c 37 §§ 701-708: "(1) The legislature finds that an opportunity exists through a smelting process to produce silicon metal, which can be used in the production of photovoltaic cells for solar energy systems. The legislature further finds that energy is one of the largest costs for the smelting process and therefore ensuring the lowest possible energy cost is one of the key drivers of business location decisions. The legislature further finds that the silicon smelting process creates an opportunity to reduce carbon dioxide emissions used in the manufacturing of materials for solar energy systems. The legislature further finds that if the silicon smelting process occurs in Washington, the carbon footprint of the end product solar energy systems is likely to be less than if the silicon smelting occurred elsewhere. It is the legislature's specific public policy objective to promote the manufacturing of silicon for use in production of photovoltaic cells for solar energy systems. The legislature intends to provide a public utility tax credit, a business and occupation tax credit, and an exemption from the brokered natural gas use tax for silicon smelters thereby promoting the manufacture of silicon for solar energy systems, thereby reducing the cost of energy in the smelting process, and thereby stimulating economic growth and job creation in Washington's rural counties, as defined in RCW 82.14.370(5).

(2) (a) This section is the tax preference performance statement for the tax preferences contained in this part. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(b) The legislature categorizes the tax preferences in sections 702 through 707, chapter 37, Laws of 2017 3rd sp. sess. as ones intended to create jobs, as indicated in RCW 82.32.808(2)(c) and to provide tax relief for certain businesses or individuals as indicated in RCW 82.32.808(2)(e).

(c) To measure the effectiveness of this part in achieving the specific public policy objective described in (b) of this subsection, the joint legislative audit and review committee must, at minimum, evaluate the following:

(i) The number of businesses who are claiming the tax preferences in sections 702 through 707, chapter 37, Laws of 2017 3rd sp. sess., and the total relief provided to them, as reported to the department of revenue on an annual basis;

(ii) The volume of solar grade silicon made in Washington compared to years prior to October 19, 2017;

(iii) Specifically assess the number of employment positions for each silicon smelter claiming or receiving the benefit of the preferences in sections 702 through 707, chapter 37, Laws of 2017 3rd sp. sess., using data provided by the department of revenue;

(iv) Estimate the cost per job based on the amount of tax preferences taken by each silicon smelter;

(v) Estimate the number of solar energy systems, and the power output of those systems, that were likely produced using Washington state solar grade silicon based on the volume of silicon smelted in Washington at each silicon smelter utilizing the incentive; and

(vi) Determine, utilizing the finalized 2015 county wage data from the census of employment and wages as reported by the employment security department:

(A) The number of jobs at each eligible silicon smelter paying above the county average annual wage in the county in which the facility is located; and

(B) The proportion of jobs paying above the county average annual wage represented by the jobs provided by each eligible silicon smelter utilizing the incentive.

(d) In addition to the data sources described under this section, the joint legislative audit and review committee may use any other data it deems necessary in performing the evaluation under (c) of this subsection." [2017 3rd sp.s. c 37 § 701.]

Contingent expiration date—2017 3rd sp.s. c 37 §§ 701-708: See note following RCW 82.32.537.

Effective date—2017 3rd sp.s. c 37 §§ 101-104, 403, 503, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 703, 705, 707, and 801-803: See note following RCW 82.04.2404.

RCW 82.16.320 Exemptions—Qualifying grants—National emergency or state of emergency. (1) This chapter does not apply to any person with respect to the value proceeding or accruing from a qualifying grant received on or after February 29, 2020.

(2) For purposes of this section, "qualifying grant" means an amount received, or relief from debt or other legal obligation received, that:

(a) Is received under a government-funded program either directly from a government entity, or through a nongovernmental third-party entity authorized by a government entity to distribute the program funds, or, in the case of relief from debt or other legal obligation, is received from a private entity under circumstances where, in exchange for providing the relief, the private entity receives some form of direct financial benefit from a government entity;

(b) Is provided to address the impacts of conditions giving rise to an official proclamation of a national emergency by the president of the United States or an official proclamation of a state of emergency by the governor of this state; and

(c) Is not an amount received:

(i) Under a contract, including a sole source contract, for the acquisition of specific goods or services, or both, by purchase, lease, or barter, that was solicited and established in accordance with procurement laws or regulations; or

(ii) When the amount received or accrued during a tax reporting period is determined based on the amount of business actually conducted during that tax reporting period, such as the quantity, volume, or weight of products sold or transported, or the number of passengers transported. For purposes of this subsection (2)(c)(ii),

"products" has the same meaning as in RCW 82.32.023 and includes electrical energy, water, natural gas, manufactured gas, and transporting persons or property.

(3) For purposes of a grant awarded to address the impacts of conditions giving rise to a national emergency or state of emergency, the exemption under this section applies only if the legislation authorizing the grant or the associated legislative history, public records created by the grantor, or the terms of the underlying grant agreement between the grantor and grantee, clearly indicate that the grant was established to address the impacts of conditions giving rise to a national emergency or state of emergency.

(4) For purposes of this section, "government" means any national, tribal, state, or local government. [2021 c 4 § 2.]

Retroactive application—Automatic expiration date and tax preference performance statement exemption—Effective date—2021 c 4: See notes following RCW 82.04.767.

RCW 82.16.325 Exemptions—Services for farms. (1) This chapter shall not apply to any person hauling agricultural products or farm machinery or equipment for a farmer or for a person performing custom farming services, when the person providing the hauling and the farmer or person performing custom farming services are related.

(2) The exemption provided by this section shall not apply to the hauling of any substances or articles manufactured from agricultural products. For the purposes of this subsection, "manufactured" has the same meaning as "to manufacture" in RCW 82.04.120.

(3) The definitions in RCW 82.04.213 and 82.04.758 apply to this section. [2022 c 119 § 2.]

Tax preference performance statement—Tax preference automatic expiration date exemption—Tax preference metrics exemption—Effective date—2022 c 119: See notes following RCW 82.04.758.